

# SENATE BILL 1059

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By: **Chair, Finance Committee (By Request – Departmental – Comptroller)**  
Constitutional Requirements Complied with for Introduction in the last 35 Days of  
Session

Introduced and read first time: March 13, 2009

Assigned to: Rules

Re-referred to: Finance, March 18, 2009

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Committee Report: Favorable

Senate action: Adopted

Read second time: April 1, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Cigarette Business Licenses – Cigarette Manufacturers – Definitions and**  
3 **Scope of License**

4 FOR the purpose of altering the definition of “manufacturer” in connection with the  
5 licensing of cigarette businesses and certain cigarette safety standards to  
6 include certain persons who operate cigarette manufacturing plants outside the  
7 United States and certain participating manufacturers; providing that a  
8 cigarette manufacturer license authorizes the licensee to sell certain unstamped  
9 cigarettes to certain cigarette wholesalers located outside of Maryland under  
10 certain circumstances; defining a certain term; and generally relating to  
11 cigarette manufacturers and the licensing of cigarette businesses.

12 BY repealing and reenacting, with amendments,  
13 Article – Business Regulation  
14 Section 16–201, 16–206(a), and 16–601(d)  
15 Annotated Code of Maryland  
16 (2004 Replacement Volume and 2008 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Business Regulation**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 16–201.

2 (a) In this subtitle the following words have the meanings indicated.

3 (b) “License” means:

4 (1) a license issued by the Comptroller under § 16–205(a) of this  
5 subtitle to:

6 (i) act as a manufacturer;

7 (ii) act as a subwholesaler;

8 (iii) act as a vending machine operator;

9 (iv) act as a wholesaler; or

10 (v) act as a storage warehouse; or

11 (2) a license issued by the clerk under § 16–205(b) of this subtitle to  
12 act as a retailer.

13 (c) “Licensed manufacturer” means a person licensed by the Comptroller  
14 under § 16–205(a) of this subtitle to act as a manufacturer.

15 (d) “Licensed retailer” means a person licensed by the clerk under §  
16 16–205(b) of this subtitle to act as a retailer.

17 (e) “Licensed storage warehouse” means a facility licensed by the  
18 Comptroller under § 16–205(a) of this subtitle to act as a storage warehouse.

19 (f) “Licensed subwholesaler” means a person licensed by the Comptroller  
20 under § 16–205(a) of this subtitle to act as a subwholesaler.

21 (g) “Licensed vending machine operator” means a person licensed by the  
22 Comptroller under § 16–205(a) of this subtitle to act as a vending machine operator.

23 (h) “Licensed wholesaler” means a person licensed by the Comptroller under  
24 § 16–205(a) of this subtitle to act as a wholesaler.

25 (i) “Manufacturer” means a person who:

26 (1) (I) operates one or more cigarette manufacturing plants [within  
27 the United States]; **OR**

28 (II) **IS A PARTICIPATING MANUFACTURER;** and

1                   (2)   (i)    sells unstamped cigarettes to a licensed cigarette wholesaler  
2 located in Maryland;

3                               (ii)   **SELLS UNSTAMPED CIGARETTES THAT MAY LAWFULLY**  
4 **BE SOLD IN MARYLAND TO A LICENSED CIGARETTE WHOLESALER LOCATED**  
5 **OUTSIDE OF MARYLAND;**

6                               (III) unless otherwise prohibited or restricted under local law,  
7 this article, or the Criminal Law Article, distributes sample cigarettes to consumers  
8 located in Maryland; or

9                               [(iii)] (IV) stores unstamped cigarettes in a cigarette storage  
10 warehouse in Maryland for subsequent shipment to licensed wholesalers, federal  
11 reservations, or persons out of state.

12                   (J)    **“PARTICIPATING MANUFACTURER” HAS THE MEANING STATED IN §**  
13 **16-501 OF THIS TITLE.**

14                   [(j)] (K)    “Retailer” means a person who:

15                               (1)   sells cigarettes to consumers through vending machines on fewer  
16 than 40 premises;

17                               (2)   otherwise sells cigarettes to consumers; or

18                               (3)   holds cigarettes for sale to consumers.

19                   [(k)] (L)    “Stamped cigarettes” means a package of cigarettes to which  
20 tobacco tax stamps are affixed in the amount and manner required by § 12-304 of the  
21 Tax – General Article.

22                   [(l)] (M)    “Storage warehouse” means a storage facility in Maryland operated  
23 for the purpose of storing unstamped cigarettes on behalf of a licensed cigarette  
24 manufacturer.

25                   [(m)] (N)    (1)   “Subwholesaler” means a person who:

26                               (i)   holds stamped cigarettes for sale to another person for  
27 resale; or

28                               (ii)   sells stamped cigarettes to another person for resale.

29                               (2)   “Subwholesaler” does not include a person who sells unstamped  
30 cigarettes or holds unstamped cigarettes for sale.

1            [(n)] (O)     “Unstamped cigarettes” means a package of cigarettes to which  
 2 tobacco tax stamps are not affixed in the amount and manner required by § 12–304 of  
 3 the Tax – General Article.

4            [(o)] (P)     “Vending machine operator” means a person who:

5                    (1)     holds cigarettes for sale to consumers through vending machines  
 6 on 40 or more premises; or

7                    (2)     sells cigarettes to consumers through vending machines on 40 or  
 8 more premises.

9            [(p)] (Q)     “Wholesaler” means a person who:

10                   (1)     holds cigarettes for sale to another person for resale; or

11                   (2)     sells cigarettes to another person for resale.

12 16–206.

13            (a)     A manufacturer license authorizes the licensee to:

14                    (1)     sell unstamped cigarettes to:

15                            (I)     a licensed cigarette wholesaler located in Maryland; **AND**

16                            (II)    **A LICENSED CIGARETTE WHOLESALER LOCATED**  
 17 **OUTSIDE OF MARYLAND IF THE UNSTAMPED CIGARETTES MAY LAWFULLY BE**  
 18 **SOLD IN MARYLAND;**

19                    (2)     except as otherwise prohibited or restricted under local law, this  
 20 article, or the Criminal Law Article, distribute sample cigarettes to consumers located  
 21 in Maryland;

22                    (3)     store unstamped cigarettes in a licensed cigarette storage  
 23 warehouse for subsequent shipment to licensed wholesalers, federal reservations, or  
 24 persons out of state; and

25                    (4)     upon approval of the Comptroller, act as an agent of a Maryland  
 26 licensed wholesaler for stamping and distribution of cigarettes.

27 16–601.

28            (d)     “Manufacturer” [means:

1 (1) a person that manufactures or otherwise produces, or causes to be  
2 manufactured or produced, cigarettes intended for sale in this State, including  
3 cigarettes intended for sale in the United States through an importer;

4 (2) the first purchaser anywhere that intends to resell in the United  
5 States cigarettes that the original manufacturer or maker does not intend for sale in  
6 the United States; or

7 (3) a person that is a successor of a person listed in item (1) or (2) of  
8 this subsection] **HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2009.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.