

CHAPTER 347

(Senate Bill 1059)

AN ACT concerning

Cigarette Business Licenses – Cigarette Manufacturers – Definitions and Scope of License

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

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

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

Article – Business Regulation

16–201.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “License” means:
 - (1) a license issued by the Comptroller under § 16–205(a) of this subtitle to:
 - (i) act as a manufacturer;
 - (ii) act as a subwholesaler;
 - (iii) act as a vending machine operator;

(iv) act as a wholesaler; or

(v) act as a storage warehouse; or

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

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

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

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

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

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

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

(i) “Manufacturer” means a person who:

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

(II) IS A PARTICIPATING MANUFACTURER; and

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

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

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

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

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

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

- (1) sells cigarettes to consumers through vending machines on fewer than 40 premises;
- (2) otherwise sells cigarettes to consumers; or
- (3) holds cigarettes for sale to consumers.

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

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

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

- (i) holds stamped cigarettes for sale to another person for resale; or
- (ii) sells stamped cigarettes to another person for resale.

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

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

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

- (1) holds cigarettes for sale to consumers through vending machines on 40 or more premises; or
- (2) sells cigarettes to consumers through vending machines on 40 or more premises.

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

- (1) holds cigarettes for sale to another person for resale; or
- (2) sells cigarettes to another person for resale.

16-206.

(a) A manufacturer license authorizes the licensee to:

(1) sell unstamped cigarettes to:

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

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

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

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

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

16-601.

(d) “Manufacturer” [means:

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

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

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

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

Approved by the Governor, May 7, 2009.