

SENATE BILL 973

E1, C2

0lr2765

By: **Senator Madaleno**

Introduced and read first time: February 19, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Flavored Cigars – Prohibition on Sale**

3 FOR the purpose of prohibiting a person from selling or distributing or offering to sell
4 or distribute a cigar or component part of a cigar that contains a certain
5 constituent; providing for the scope of the Act; establishing penalties for a
6 violation of this Act; authorizing the Comptroller to deny a license to a certain
7 applicant, reprimand a certain licensee, or suspend or revoke a certain license if
8 the applicant or licensee sells or distributes cigars in violation of a certain
9 provision of this Act; providing that certain cigars may continue to be sold until
10 a certain date, notwithstanding the provisions of this Act; and generally
11 relating to the sale and distribution of tobacco products.

12 BY adding to
13 Article – Criminal Law
14 Section 10–106.1
15 Annotated Code of Maryland
16 (2002 Volume and 2009 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article – Business Regulation
19 Section 16–210
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2009 Supplement)

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

24 **Article – Criminal Law**

25 **10–106.1.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) THIS SECTION DOES NOT APPLY TO A ROLL OF TOBACCO, WRAPPED**
2 **IN LEAF TOBACCO, THAT IS:**

3 **(1) COMPLETELY HANDMADE;**

4 **(2) LONG FILLER; AND**

5 **(3) SELLS AT RETAIL FOR AT LEAST \$2.**

6 **(B) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
7 **MEANINGS INDICATED.**

8 **(2) “CHARACTERIZING FLAVOR” MEANS A DISTINGUISHABLE**
9 **TASTE OR AROMA, OTHER THAN TOBACCO OR MENTHOL, IMPARTED PRIOR TO**
10 **OR DURING CONSUMPTION.**

11 **(3) “COMPONENT PART” INCLUDES THE TOBACCO, FILTER, AND**
12 **PAPER IN A CIGAR.**

13 **(4) (I) “CONSTITUENT” MEANS ANY INGREDIENT, SUBSTANCE,**
14 **CHEMICAL, OR COMPOUND, OTHER THAN TOBACCO, WATER, OR**
15 **RECONSTITUTED TOBACCO SHEET, THAT IS ADDED BY THE MANUFACTURER TO**
16 **THE TOBACCO, PAPER, OR FILTER OF A CIGAR DURING THE PROCESSING,**
17 **MANUFACTURE, OR PACKING OF THE CIGAR.**

18 **(II) “CONSTITUENT” INCLUDES A SMOKE CONSTITUENT.**

19 **(5) “SMOKE CONSTITUENT” MEANS ANY CHEMICAL OR CHEMICAL**
20 **COMPOUND IN MAINSTREAM OR SIDESTREAM TOBACCO SMOKE THAT:**

21 **(I) IS TRANSFERRED FROM ANY COMPONENT PART OF THE**
22 **CIGAR TO THE SMOKE; OR**

23 **(II) IS FORMED BY THE COMBUSTION OR HEATING OF**
24 **TOBACCO, ADDITIVES, OR OTHER COMPONENT PART OF THE TOBACCO**
25 **PRODUCT.**

26 **(C) A PERSON MAY NOT SELL OR DISTRIBUTE OR OFFER TO SELL OR**
27 **DISTRIBUTE A CIGAR OR COMPONENT PART OF A CIGAR THAT CONTAINS A**
28 **NATURAL OR ARTIFICIAL CONSTITUENT THAT IMPARTS A CHARACTERIZING**
29 **FLAVOR TO THE TOBACCO OR THE SMOKE OF THE CIGAR.**

30 **(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
31 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF \$500.**

1 **Article – Business Regulation**

2 16–210.

3 (a) Subject to the hearing provisions of § 16–211 of this subtitle, the
4 Comptroller may deny a license to an applicant, reprimand a licensee, or suspend or
5 revoke a license if the applicant or licensee:

6 (1) fraudulently or deceptively obtains or attempts to obtain a license
7 for the applicant or licensee or for another person;

8 (2) fraudulently or deceptively uses a license;

9 (3) fails to comply with the Maryland Cigarette Sales Below Cost Act
10 or regulations adopted under that Act;

11 (4) fails to comply with the provisions of Title 11, Subtitle 5A of the
12 Commercial Law Article;

13 (5) buys cigarettes for resale:

14 (i) in violation of a license; or

15 (ii) from a person who is not a licensed cigarette manufacturer,
16 licensed subwholesaler, licensed vending machine operator, or licensed wholesaler;

17 (6) is convicted, under the laws of the United States or of any other
18 state, of:

19 (i) a felony; or

20 (ii) a misdemeanor that is a crime of moral turpitude and is
21 directly related to the fitness and qualification of the applicant or licensee; [or]

22 (7) has not paid a tax due before October 1 of the year after the tax
23 became due; OR

24 **(8) SELLS OR DISTRIBUTES CIGARS IN VIOLATION OF § 10–106.1**
25 **OF THE CRIMINAL LAW ARTICLE.**

26 (b) Subject to the hearing provisions of § 16–211 of this subtitle, the
27 Comptroller may suspend or revoke a license if the licensee violates:

28 (1) Title 12 of the Tax – General Article, or regulations adopted under
29 that title; or

1 (2) this title or regulations adopted under this title.

2 (c) Subject to the hearing provisions of § 16–211 of this subtitle, the
3 Comptroller shall deny a license to any applicant who has had a license revoked under
4 this section until:

5 (1) 1 year has passed since the license was revoked; and

6 (2) it satisfactorily appears to the Comptroller that the applicant will
7 comply with this title and any regulations adopted under this title.

8 (d) Prior to the issuance or renewal of any license, the Comptroller shall
9 conduct an investigation with regard to:

10 (1) the applicant;

11 (2) the business to be operated; and

12 (3) the facts set forth in the application.

13 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any
14 other provision of this Act, cigars for which the tobacco tax has been paid on or before
15 June 30, 2010, may continue to be sold until December 31, 2010.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 July 1, 2010.