HOUSE BILL 327

C2 1lr0551

HB 1415/10 - ECM

By: Delegates Morhaim and Barnes

Introduced and read first time: February 2, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning 2 Tobacco Products - Manufacturer Certification - Filing Fee 3 FOR the purpose of requiring certain tobacco product manufacturers to pay a certain certification filing fee of a certain amount; and generally relating to a 4 5 certification filing fee for tobacco product manufacturers. 6 BY repealing and reenacting, with amendments, 7 Article – Business Regulation 8 Section 16–503 9 Annotated Code of Maryland (2010 Replacement Volume and 2010 Supplement) 10 11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 12 MARYLAND, That the Laws of Maryland read as follows: 13 **Article – Business Regulation** 14 16-503.15 A tobacco product manufacturer whose cigarettes are sold in this State, 16 whether directly or through a distributor, retailer or similar intermediary, shall: **(1)** 17 execute and deliver, on a form prescribed by the Attorney General, 18 a certification to the Attorney General no later than the 30th day of April each year, certifying under penalty of perjury that, as of the date of the certification, the tobacco 19 20 product manufacturer either: 21[(1)] (I) is a participating manufacturer; or 22[(2)] (II) is in full compliance with the Escrow Act; AND

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1 **(2)** PAY A CERTIFICATION FILING FEE OF \$1,000. 2 (b) A participating manufacturer shall include in its certification a list (1) 3 of its brand families. 4 **(2)** The participating manufacturer shall update the list at least 30 5 calendar days prior to any addition or modification to its brand families by executing 6 and delivering a supplemental certification to the Attorney General. 7 A nonparticipating manufacturer shall include in its certification a (c) complete list of all of its brand families. 8 9 The certification shall: (2)10 separately list each brand family of cigarettes and the (i) 11 number of units sold for each brand family that was sold in the State during the 12 preceding calendar year; 13 (ii) list each of its brand families that have been sold in the State at any time during the current calendar year; 14 15 (iii) indicate by an asterisk any brand family sold in the State during the preceding calendar year that is no longer being sold in the State as of the 16 date of such certification; and 17 identify by name and address any other manufacturer of 18 (iv) 19 such brand families in the preceding or current calendar year. 20 The nonparticipating manufacturer shall update the list at least 30 calendar days prior to any addition or modification of its brand families by executing 2122and delivering a supplemental certification to the Attorney General. 23In the case of a nonparticipating manufacturer, the certification (d) (1) 24shall further certify that the nonparticipating manufacturer: 25 is registered to do business in the State or has appointed a resident agent for service of process and provided notice of the appointment as 26 required by § 16–505 of this subtitle; 2728 has established and continues to maintain a qualified escrow 29 fund, and has executed a qualified escrow agreement that has been reviewed and 30 approved by the Attorney General and that governs the qualified escrow fund; and is in full compliance with the Escrow Act and this subtitle 31

(2) The certification shall include:

and any regulations adopted in accordance with the Escrow Act and this subtitle.

- 1 (i) the name, address and telephone number of the financial institution in which the nonparticipating manufacturer has established a qualified escrow fund required under § 16–403(a)(2) of this title (the Escrow Act) and all regulations adopted under it;
 - (ii) the account number of the qualified escrow fund and subaccount number for the State of Maryland;

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- (iii) the amount the nonparticipating manufacturer placed in the fund for cigarettes sold in the State during the preceding calendar year, the date and amount of each deposit, and any additional information the Attorney General considers necessary to confirm the information required by this subparagraph; and
- 11 (iv) the amount of and date of any withdrawal or transfer of 12 funds the nonparticipating manufacturer made at any time from the fund or from any 13 other qualified escrow fund into which the nonparticipating manufacturer made 14 escrow payments under § 16–403(a)(2) of this title (the Escrow Act) and all regulations 15 adopted under that section.
- 16 (e) (1) A tobacco product manufacturer may not include a brand family in 17 its certification unless:
- 18 (i) in the case of a participating manufacturer, the 19 participating manufacturer affirms that the brand family is deemed to be its cigarettes 20 for purposes of calculating its payments under the Master Settlement Agreement for 21 the relevant year, in the volume and shares determined in accordance with the Master 22 Settlement Agreement; and
- 23 (ii) in the case of a nonparticipating manufacturer, the 24 nonparticipating manufacturer affirms that the brand family is deemed to be its 25 cigarettes for purposes of the Escrow Act.
 - (2) Nothing in this section may be construed as limiting or otherwise affecting the State's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of the Escrow Act.
- 30 (3) The tobacco product manufacturer shall maintain all invoices and documentation of sales and any other information relied upon for its certification for a period of 5 years, unless otherwise required by law to maintain them for a greater period of time.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.