

SB0452/113621/1

BY: Senator Madaleno

AMENDMENTS TO SENATE BILL 452, AS AMENDED
(First Reading File Bill)

AMENDMENT NO. 1

On page 1 of the Finance Committee Amendments (SB0452/817278/1), in line 9 of Amendment No. 1, after “tobacconist;” insert “establishing a direct tobacco shipper’s permit to be issued by the Comptroller; requiring a person to obtain a certain permit before the person may engage in shipping pipe tobacco or premium cigars directly to a consumer in the State; requiring an applicant to submit an application and pay a certain fee; specifying the term of a direct tobacco shipper’s permit; requiring a direct tobacco shipper to perform certain actions; requiring a direct tobacco shipper to meet certain requirements to renew the permit; authorizing the Comptroller to deny a renewal application under certain circumstances; specifying certain requirements for receiving a direct shipment of pipe tobacco or premium cigars; allowing a shipment of pipe tobacco or premium cigars to be ordered or purchased through electronic or other means; authorizing the Comptroller to adopt certain regulations; prohibiting a person without a permit from shipping pipe tobacco or premium cigars directly to consumers in the State; providing that each violation is a separate violation, subject to certain penalties; requiring certain direct tobacco shippers to complete and file with the Comptroller a certain tobacco tax return; defining certain terms; providing for the application of certain provisions of this Act;”; and in line 17, after “Provisions” insert “; and 16.7-101 through 16.7-113 to be under the new title “Title 16.7. Permits for Direct Shippers of Pipe Tobacco or Premium Cigars”.”

On page 2 of the bill, after line 32, insert:

“BY adding to

Article – Tax – General

Section 12-204

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)”.

(Over)

AMENDMENT NO. 2

On page 11 of the bill, after line 5, insert:

“TITLE 16.7. PERMITS FOR DIRECT SHIPPERS OF PIPE TOBACCO OR PREMIUM
CIGARS.

16.7-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) “DIRECT TOBACCO SHIPPER” MEANS THE HOLDER OF A DIRECT
TOBACCO SHIPPER’S PERMIT ISSUED UNDER THIS TITLE.

(C) “PIPE TOBACCO” HAS THE MEANING STATED IN § 16.5-101 OF THIS
ARTICLE.

(D) “PREMIUM CIGARS” HAS THE MEANING STATED IN § 16.5-101 OF
THIS ARTICLE.

16.7-102.

THIS TITLE DOES NOT APPLY TO A PERSON LICENSED UNDER TITLE 16 OR
TITLE 16.5 OF THIS ARTICLE.

16.7-103.

A PERSON WHO IS NOT LICENSED UNDER TITLE 16 OR TITLE 16.5 OF THIS
ARTICLE SHALL BE ISSUED A DIRECT TOBACCO SHIPPER’S PERMIT BY THE

COMPTRROLLER AS A DIRECT TOBACCO SHIPPER BEFORE THE PERSON MAY ENGAGE IN SHIPPING PIPE TOBACCO OR PREMIUM CIGARS DIRECTLY TO A CONSUMER IN THE STATE.

16.7-104.

(A) AN APPLICANT FOR A DIRECT TOBACCO SHIPPER'S PERMIT SHALL:

(1) SUBMIT TO THE COMPTRROLLER A COMPLETED APPLICATION ON A FORM THAT THE COMPTRROLLER PROVIDES; AND

(2) PAY A FEE SET BY REGULATIONS ADOPTED BY THE COMPTRROLLER FOR INITIAL ISSUANCE OF THE DIRECT TOBACCO SHIPPER'S PERMIT.

(B) THE COMPTRROLLER SHALL ISSUE A DIRECT TOBACCO SHIPPER'S PERMIT TO EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS TITLE FOR THE DIRECT TOBACCO SHIPPER'S PERMIT.

16.7-105.

A DIRECT TOBACCO SHIPPER'S PERMIT ENTITLES THE HOLDER TO SELL PIPE TOBACCO OR PREMIUM CIGARS TO A CONSUMER IN THE STATE BY RECEIVING AND FILLING ORDERS THAT THE CONSUMER TRANSMITS BY ELECTRONIC OR OTHER MEANS.

16.7-106.

THE TERM OF A DIRECT TOBACCO SHIPPER'S PERMIT IS 1 YEAR AND BEGINS ON JULY 1.

16.7-107.

A DIRECT TOBACCO SHIPPER SHALL:

(1) ENSURE THAT ALL PACKAGES CONTAINING PIPE TOBACCO OR PREMIUM CIGARS SHIPPED DIRECTLY TO A CONSUMER IN THE STATE ARE CONSPICUOUSLY LABELED WITH:

(I) THE NAME OF THE DIRECT TOBACCO SHIPPER;

(II) THE NAME AND ADDRESS OF THE CONSUMER WHO IS THE INTENDED RECIPIENT; AND

(III) THE WORDS “CONTAINS PIPE TOBACCO OR PREMIUM CIGARS: SIGNATURE OF PERSON AT LEAST 18 YEARS OF AGE REQUIRED FOR DELIVERY”;

(2) REPORT QUARTERLY TO THE COMPTROLLER THE TOTAL AMOUNT OF PIPE TOBACCO OR PREMIUM CIGARS SHIPPED IN THE STATE, THE PRICE CHARGED, AND THE NAME AND ADDRESS OF EACH PURCHASER;

(3) FILE A QUARTERLY TAX RETURN IN ACCORDANCE WITH § 12-204 OF THE TAX – GENERAL ARTICLE;

(4) PAY QUARTERLY TO THE COMPTROLLER ALL TOBACCO TAXES DUE ON SALES TO CONSUMERS IN THE STATE, AND CALCULATE THE TAXES AS IF THE SALE WERE MADE IN THE STATE;

(5) MAINTAIN FOR A PERIOD OF 3 YEARS COMPLETE AND ACCURATE RECORDS OF ALL INFORMATION NEEDED TO VERIFY COMPLIANCE WITH THIS TITLE;

(6) ALLOW THE COMPTROLLER TO PERFORM AN AUDIT OF THE DIRECT TOBACCO SHIPPER'S RECORDS ON REQUEST; AND

(7) CONSENT TO THE JURISDICTION OF THE COMPTROLLER OR OTHER STATE UNIT AND THE STATE COURTS CONCERNING ENFORCEMENT OF THIS SECTION AND ANY RELATED LAW.

16.7-108.

(A) A DIRECT TOBACCO SHIPPER MAY RENEW ITS DIRECT TOBACCO SHIPPER'S PERMIT EACH YEAR IF THE DIRECT TOBACCO SHIPPER:

(1) IS OTHERWISE ENTITLED TO HAVE A DIRECT TOBACCO SHIPPER'S PERMIT;

(2) PROVIDES TO THE COMPTROLLER A COPY OF ITS CURRENT PERMIT; AND

(3) PAYS TO THE COMPTROLLER A RENEWAL FEE SET BY REGULATIONS ADOPTED BY THE COMPTROLLER.

(B) THE COMPTROLLER MAY DENY A RENEWAL APPLICATION OF A DIRECT TOBACCO SHIPPER WHO FAILS TO:

(1) FILE A TAX RETURN REQUIRED UNDER THIS TITLE;

(Over)

(2) PAY A FEE OR TAX WHEN DUE; OR

(3) AFTER RECEIVING NOTICE, COMPLY WITH A PROVISION OF THIS TITLE OR A REGULATION THAT THE COMPTROLLER ADOPTS UNDER THIS TITLE.

16.7-109.

(A) TO RECEIVE A DIRECT SHIPMENT OF PIPE TOBACCO OR PREMIUM CIGARS, A CONSUMER IN THE STATE SHALL BE AT LEAST 18 YEARS OLD.

(B) A PERSON WHO RECEIVES A SHIPMENT OF PIPE TOBACCO OR PREMIUM CIGARS SHALL USE THE SHIPMENT FOR PERSONAL CONSUMPTION ONLY AND MAY NOT RESELL IT.

16.7-110.

THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY OUT THIS TITLE.

16.7-111.

A PERSON WITHOUT A DIRECT TOBACCO SHIPPER'S PERMIT MAY NOT SHIP PIPE TOBACCO OR PREMIUM CIGARS DIRECTLY TO CONSUMERS IN THE STATE.

16.7-112.

EACH VIOLATION OF THIS TITLE IS A SEPARATE VIOLATION.

16.7-113.

UNLESS OTHERWISE SPECIFIED IN THIS TITLE, A PERSON WHO VIOLATES ANY PROVISION OF THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.

Article – Tax – General

12-204.

A DIRECT TOBACCO SHIPPER THAT HOLDS A DIRECT TOBACCO SHIPPER’S PERMIT UNDER TITLE 16.7 OF THE BUSINESS REGULATION ARTICLE SHALL COMPLETE AND FILE WITH THE COMPTROLLER A TOBACCO TAX RETURN AS REQUIRED UNDER REGULATIONS ADOPTED BY THE COMPTROLLER.”.