

**SB0728/465665/1**

BY: Committee on Ways and Means

AMENDMENTS TO SENATE BILL 728  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike in its entirety line 2 and substitute “Taxation of Online Sales – Marketplace Facilitators and Sellers of Other Tobacco Products”; in line 21, after “license;” insert “requiring certain out-of-state sellers to pay the tobacco tax on pipe tobacco or certain premium cigars under certain circumstances;”; in line 24, after “interest;” insert “making the provisions of this Act severable;”; and in line 25, after “tax” insert “and payment of the tobacco tax”.

On page 2, in line 8, strike “and 11-502.1” and substitute “11-502.1, and 12-302(e)”; and in line 14, before “and” insert “12-101”.

AMENDMENT NO. 2

On page 2, in line 26, before “REVENUES” insert “TO THE BLUEPRINT FOR MARYLAND’S FUTURE FUND ESTABLISHED UNDER § 5-219 OF THE EDUCATION ARTICLE,”; in line 27, strike “BY A MARKETPLACE FACILITATOR OR” and substitute “BY:”

(I) A MARKETPLACE FACILITATOR; OR

(II);

in line 28, after “AND” insert “WHO”; and strike beginning with “UNDER” in line 29 down through “ARTICLE” in line 32 and substitute “AS SPECIFIED IN COMAR 03.06.01.33B(5)”.

(Over)

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On page 3, in line 1, after “PAY” insert “INTO THE GENERAL FUND OF THE STATE”; in lines 2 and 3, strike “BY A MARKETPLACE FACILITATOR OR” and substitute “BY:”

**(1) A MARKETPLACE FACILITATOR; OR**

**(2)”;**

in line 4, after the first “AND” insert “WHO”; and strike beginning with “UNDER” in line 4 down through “STATE” in line 6 and substitute “AS SPECIFIED IN COMAR 03.06.01.33B(5)”.

AMENDMENT NO. 3

On page 11, after line 4, insert:

“12–101.

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

(b) “Cigarette” means any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.

(c) “Manufacturer” means a person who acts as a manufacturer as defined in § 16–201 of the Business Regulation Article or as an other tobacco products manufacturer as defined in § 16.5–101 of the Business Regulation Article.

(d) “Other tobacco product” means:

(1) any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or

(2) any other tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

(e) “Other tobacco products retailer” means a person authorized under § 16.5-205(b) of the Business Regulation Article to purchase other tobacco products on which the tobacco tax has not been paid.

**(F) “OUT-OF-STATE SELLER” MEANS A PERSON LOCATED OUTSIDE THE STATE THAT SELLS, HOLDS FOR SALE, SHIPS, OR DELIVERS PREMIUM CIGARS OR PIPE TOBACCO TO CONSUMERS IN THE STATE IF, DURING THE PREVIOUS CALENDAR YEAR OR THE CURRENT CALENDAR YEAR:**

**(1) THE PERSON’S GROSS REVENUE FROM THE SALE OF PREMIUM CIGARS OR PIPE TOBACCO IN THE STATE EXCEEDS \$100,000; OR**

**(2) THE PERSON SOLD PREMIUM CIGARS OR PIPE TOBACCO INTO THE STATE IN 200 OR MORE SEPARATE TRANSACTIONS.**

**(G) “PIPE TOBACCO” HAS THE MEANING STATED IN § 16.5-101 OF THE BUSINESS REGULATION ARTICLE.**

**(H) “PREMIUM CIGARS” HAS THE MEANING STATED IN § 16.5-101 OF THE BUSINESS REGULATION ARTICLE.**

**[(f)] (I) “Sell” means to exchange or transfer, or to make an agreement to exchange or transfer, title or possession of property, in any manner or by any means, for consideration.**

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**[(g)] (J)** “Tax stamp” means a device in the design and denomination that the Comptroller authorizes by regulation for the purpose of being affixed to a package of cigarettes as evidence that the tobacco tax is paid.

**[(h)] (K)** “Tobacconist” means a person authorized under § 16.5–205(e) of the Business Regulation Article to purchase other tobacco products on which the tobacco tax has not been paid.

**[(i)] (L)** “Unstamped cigarettes” means a package of cigarettes to which tax stamps are not affixed in the amount and manner required in § 12–304 of this title.

**[(i)] (M)** “Wholesale price” means the price for which a wholesaler buys other tobacco products, exclusive of any discount, trade allowance, rebate, or other reduction.

**[(k)] (N)** “Wholesaler” means, unless the context requires otherwise, a person who acts as a wholesaler as defined in § 16–201 of the Business Regulation Article or as an other tobacco products wholesaler as defined in § 16.5–101 of the Business Regulation Article.

12-302.

**(E) AN OUT-OF-STATE SELLER SHALL PAY THE TOBACCO TAX ON PIPE TOBACCO OR PREMIUM CIGARS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID.”**

On page 12, after line 2, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That, if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions

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or any other application of this Act that can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.”;

and in line 3, strike “4.” and substitute “5.”.