

HOUSE BILL 88

C2

(0lr0071)

ENROLLED BILL

— *Economic Matters and Ways and Means/Finance and Budget and Taxation* —

Introduced by **Chair, Economic Matters Committee and Chair, Ways and Means Committee (By Request – Departmental – Comptroller)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Other Tobacco Products Licenses**

3 FOR the purpose of requiring a person to have an appropriate license whenever the
4 person acts in the State as an other tobacco products manufacturer, retailer,
5 storage warehouse, tobacconist, or wholesaler ~~in the State~~; providing for a
6 certain exception for certain retailers and wholesalers; requiring a license to act
7 as an other tobacco products retailer or a tobacconist for each place of business
8 of the retailer or the tobacconist; making holders of other tobacco products
9 licenses subject to certain restrictions and requirements; providing for license
10 application procedures and fees; requiring the display of a license in a certain
11 manner; prohibiting a person from reapplying for a license within a certain
12 period after the person's license was revoked; requiring the Comptroller to issue
13 other tobacco products licenses to manufacturers, storage warehouses, and
14 wholesalers in the State under certain circumstances; requiring certain clerks of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 the circuit court to issue other tobacco products licenses to retailers and
 2 tobacconists under certain circumstances; specifying the scope of the licenses;
 3 providing certain provisions for retailers defined as tobacconists and retailers
 4 that sell premium cigars and pipe tobacco; providing for the renewal of a
 5 license; authorizing the Comptroller to delegate certain powers and duties;
 6 providing for certain disciplinary actions and proceedings; authorizing the
 7 Comptroller to adopt certain regulations; granting certain rights to judicial
 8 review under certain circumstances; prohibiting a person from acting,
 9 attempting to act, or offering to act in the State as an other tobacco products
 10 manufacturer, retailer, storage warehouse, tobacconist, or wholesaler ~~in the~~
 11 ~~State~~ unless the person has an appropriate license; requiring the Comptroller to
 12 pay certain fees into the General Fund of the State; stating the intent of the
 13 General Assembly; requiring certain licensees to take certain actions and keep
 14 certain records; requiring a person who transports other tobacco products by
 15 vehicle on a public road to have certain information; authorizing the
 16 Comptroller by regulation to require a common carrier that brings other tobacco
 17 products into the State to submit certain information; prohibiting a person from
 18 shipping, importing, or selling other tobacco products into or within the State
 19 except under certain circumstances; requiring a person who ships, imports, or
 20 sells other tobacco products to take certain actions; placing certain restrictions
 21 on the sale, storage, and distribution of other tobacco products; providing for
 22 certain penalties; prohibiting certain political subdivisions from imposing a tax
 23 on other tobacco products; requiring ~~certain~~ other tobacco products licensees
 24 and certain wholesalers to file a certain tax returns return on or before a certain
 25 date and pay a certain tax; ~~altering certain requirements for payment of the~~
 26 ~~tobacco tax on cigarettes and other tobacco products~~; repealing a certain
 27 requirement that the Comptroller establish by regulation a certain system of
 28 taxing other tobacco products; authorizing the Comptroller to require an other
 29 tobacco products ~~manufacturer or~~ wholesaler to post security in a certain
 30 ~~amounts~~ amount; defining certain terms; altering certain definitions; requiring
 31 the Comptroller to adopt certain regulations; providing for a delayed effective
 32 date; requiring the Comptroller and the Administrative Office of the Courts to
 33 make a certain certification on or before a certain date; making the
 34 implementation of certain provisions of this Act contingent on the availability of
 35 funds; and generally relating to licenses for other tobacco products
 36 manufacturers, retailers, storage warehouses, tobacconists, and wholesalers in
 37 the State.

38 BY repealing

39 Article – Business Regulation

40 Section 16–217

41 Annotated Code of Maryland

42 (2004 Replacement Volume and 2009 Supplement)

43 BY repealing and reenacting, with amendments,

44 Article – Business Regulation

45 Section 16–219

1 Annotated Code of Maryland
2 (2004 Replacement Volume and 2009 Supplement)

3 BY adding to
4 Article – Business Regulation
5 Section 16A–101 through 16A–218 to be under the new title “Title 16A. Other
6 Tobacco Products Licenses”
7 Annotated Code of Maryland
8 (2004 Replacement Volume and 2009 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article – Tax – General
11 Section 12–101, 12–102, 12–103, 12–104, 12–201, 12–202, 12–301, 12–302,
12 ~~12–304(a)~~, 13–825(h), and 13–1015
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2009 Supplement)

15 BY repealing
16 Article – Tax – General
17 Section 12–306
18 Annotated Code of Maryland
19 (2004 Replacement Volume and 2009 Supplement)

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

22 **Article – Business Regulation**

23 [16–217.

24 The Comptroller by regulation may require a common carrier that brings
25 cigarettes into the State to submit to the Comptroller a copy of any freight bill relating
26 to the cigarette shipment.]

27 16–219.

28 (a) [In this section, “other tobacco products” has the meaning stated in §
29 12–101 of the Tax – General Article.

30 (b)] A person who transports cigarettes [or other tobacco products] by vehicle
31 on a public road shall have in the vehicle a delivery ticket or invoice that states:

32 (1) the name and address of the seller or consignor;

33 (2) the name and address of a buyer or consignee who is:

1 (i) a person in the State authorized by Title 12 of the
2 Tax – General Article to hold unstamped cigarettes [or other tobacco products] on
3 which the tobacco tax has not been paid; or

4 (ii) a person in another jurisdiction authorized to hold cigarettes
5 [or other tobacco products] on which the tax imposed by that jurisdiction has not been
6 paid; and

7 (3) the quantity and brands of the cigarettes [or other tobacco
8 products] that are being transported.

9 (B) THE COMPTROLLER BY REGULATION MAY REQUIRE A COMMON
10 CARRIER THAT BRINGS CIGARETTES INTO THE STATE TO SUBMIT TO THE
11 COMPTROLLER A COPY OF ANY FREIGHT BILL RELATING TO THE CIGARETTE
12 SHIPMENT.

13 **TITLE 16A. OTHER TOBACCO PRODUCTS LICENSES.**

14 **SUBTITLE 1. DEFINITIONS.**

15 **16A–101.**

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

18 (B) “COUNTY LICENSE” MEANS A LICENSE ISSUED BY THE CLERK TO
19 SELL OTHER TOBACCO PRODUCTS AT RETAIL IN A COUNTY.

20 (C) “LICENSE” MEANS:

21 (1) A LICENSE ISSUED BY THE COMPTROLLER UNDER §
22 16A–204(A) OF THIS TITLE TO:

23 (I) ACT AS ~~AN~~ A LICENSED OTHER TOBACCO PRODUCTS
24 MANUFACTURER;

25 (II) ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALER;

26 (III) ACT AS AN OTHER TOBACCO PRODUCTS STORAGE
27 WAREHOUSE; OR

28 (2) A LICENSE ISSUED BY THE CLERK UNDER § 16A–204(B) OF
29 THIS TITLE TO ACT AS AN OTHER TOBACCO PRODUCTS RETAILER OR A
30 TOBACCONIST.

1 (D) "LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER" MEANS A
2 PERSON LICENSED BY THE COMPTROLLER UNDER § 16A-204(A) OF THIS TITLE
3 ~~TO ACT AS AN OTHER TOBACCO PRODUCTS MANUFACTURER WHO:~~

4 (1) MANUFACTURES OR OTHERWISE PRODUCES OTHER TOBACCO
5 PRODUCTS IN THE STATE INTENDED FOR SALE IN THE STATE, INCLUDING
6 OTHER TOBACCO PRODUCTS INTENDED FOR SALE IN THE STATE THROUGH AN
7 IMPORTER; AND

8 (2) (I) SELLS OTHER TOBACCO PRODUCTS ON WHICH THE
9 TOBACCO TAX HAS NOT BEEN PAID TO A LICENSED OTHER TOBACCO PRODUCTS
10 WHOLESALE IN THE STATE;

11 (II) SELLS OTHER TOBACCO PRODUCTS ON WHICH THE
12 TOBACCO TAX HAS NOT BEEN PAID AND WHICH MAY LAWFULLY BE SOLD IN THE
13 STATE TO A LICENSED OTHER TOBACCO PRODUCTS WHOLESALE LOCATED
14 OUTSIDE OF THE STATE;

15 (III) UNLESS OTHERWISE PROHIBITED OR RESTRICTED
16 UNDER LOCAL LAW, THIS ARTICLE, OR THE CRIMINAL LAW ARTICLE,
17 DISTRIBUTES SAMPLE OTHER TOBACCO PRODUCTS TO CONSUMERS LOCATED IN
18 THE STATE; OR

19 (IV) STORES OTHER TOBACCO PRODUCTS IN AN OTHER
20 TOBACCO PRODUCTS WAREHOUSE IN THE STATE FOR SUBSEQUENT SHIPMENT
21 TO LICENSED WHOLESALE, FEDERAL RESERVATIONS, OR PERSONS OUTSIDE
22 OF THE STATE.

23 (E) "LICENSED OTHER TOBACCO PRODUCTS RETAILER" MEANS A
24 PERSON LICENSED BY THE CLERK UNDER § 16A-204(B) OF THIS TITLE TO ACT
25 AS AN OTHER TOBACCO PRODUCTS RETAILER.

26 (F) "LICENSED OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE"
27 MEANS A FACILITY LICENSED BY THE COMPTROLLER UNDER § 16A-204(A) OF
28 THIS TITLE TO ACT AS AN OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE.

29 (G) "LICENSED OTHER TOBACCO PRODUCTS WHOLESALE" MEANS A
30 PERSON LICENSED BY THE COMPTROLLER UNDER § 16A-204(A) OF THIS TITLE
31 TO ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALE.

32 (H) "LICENSED TOBACCONIST" MEANS A PERSON LICENSED BY THE
33 CLERK OF A CIRCUIT COURT UNDER § 16A-204(B) OF THIS TITLE TO ACT AS A
34 TOBACCONIST.

1 **(I)** **“OTHER TOBACCO PRODUCTS” MEANS:**

2 **(1)** **ANY CIGAR OR ROLL FOR SMOKING, OTHER THAN A**
3 **CIGARETTE, MADE IN WHOLE OR IN PART OF TOBACCO; OR**

4 **(2)** **ANY OTHER TOBACCO OR PRODUCT MADE PRIMARILY FROM**
5 **TOBACCO, OTHER THAN A CIGARETTE, THAT IS INTENDED FOR CONSUMPTION**
6 **BY SMOKING OR CHEWING OR AS SNUFF.**

7 ~~**(J)**~~ **“OTHER TOBACCO PRODUCTS MANUFACTURER” MEANS A PERSON**
8 **WHO:**

9 **(1)** **MANUFACTURES OR OTHERWISE PRODUCES OTHER TOBACCO**
10 **PRODUCTS INTENDED FOR SALE IN THIS STATE, INCLUDING OTHER TOBACCO**
11 **PRODUCTS INTENDED FOR SALE IN THE UNITED STATES THROUGH AN**
12 **IMPORTER; ~~AND~~**

13 **(2) (I)** **SELLS OTHER TOBACCO PRODUCTS ON WHICH THE**
14 **TOBACCO TAX HAS NOT BEEN PAID TO A LICENSED OTHER TOBACCO PRODUCTS**
15 **WHOLESALE IN MARYLAND;**

16 **(II)** **SELLS OTHER TOBACCO PRODUCTS ON WHICH THE**
17 **TOBACCO TAX HAS NOT BEEN PAID AND WHICH MAY LAWFULLY BE SOLD IN**
18 **MARYLAND TO A LICENSED OTHER TOBACCO PRODUCTS WHOLESALE**
19 **LOCATED OUTSIDE MARYLAND;**

20 **(III)** **UNLESS OTHERWISE PROHIBITED OR RESTRICTED**
21 **UNDER LOCAL LAW, THIS ARTICLE, OR THE CRIMINAL LAW ARTICLE,**
22 **DISTRIBUTES SAMPLE OTHER TOBACCO PRODUCTS TO CONSUMERS LOCATED IN**
23 **MARYLAND; OR**

24 **(IV)** **STORES OTHER TOBACCO PRODUCTS IN AN OTHER**
25 **TOBACCO PRODUCTS STORAGE WAREHOUSE IN MARYLAND FOR SUBSEQUENT**
26 **SHIPMENT TO LICENSED OTHER TOBACCO PRODUCTS WHOLESALE, FEDERAL**
27 **RESERVATIONS, OR PERSONS OUT OF STATE; OR**

28 **(3)** **IS A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER**
29 **UNDER THIS TITLE.**

30 ~~**(J)**~~ **(K)** **“OTHER TOBACCO PRODUCTS RETAILER” MEANS A PERSON**
31 **WHO:**

32 **(1)** **SELLS OTHER TOBACCO PRODUCTS TO CONSUMERS; OR**

1 (2) HOLDS OTHER TOBACCO PRODUCTS FOR SALE TO
2 CONSUMERS.

3 ~~(K)~~ (L) “OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE” MEANS
4 A STORAGE FACILITY IN MARYLAND OPERATED FOR THE PURPOSE OF STORING
5 OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID
6 ON BEHALF OF ~~A LICENSED~~ AN OTHER TOBACCO PRODUCTS MANUFACTURER.

7 ~~(H)~~ (M) “OTHER TOBACCO PRODUCTS WHOLESALER” MEANS A
8 PERSON WHO:

9 (1) HOLDS OTHER TOBACCO PRODUCTS FOR SALE TO ANOTHER
10 PERSON FOR RESALE; OR

11 (2) SELLS OTHER TOBACCO PRODUCTS TO ANOTHER PERSON FOR
12 RESALE.

13 ~~(M)~~ (N) (1) “PACKAGE” MEANS A PACK, BOX, CARTON, CAN, WRAP,
14 POUCH, BAG, OR CONTAINER OF ANY KIND DESIGNED FOR RETAIL
15 CONSUMPTION IN WHICH OTHER TOBACCO PRODUCTS ARE OFFERED FOR SALE,
16 SOLD, OR OTHERWISE DISTRIBUTED.

17 (2) “PACKAGE” INCLUDES NOT MORE THAN 10 CIGARS OFFERED
18 FOR SALE, SOLD, OR DISTRIBUTED AS SINGLE CIGARS.

19 (O) “PIPE TOBACCO” MEANS ANY TOBACCO THAT, BECAUSE OF ITS
20 APPEARANCE, TYPE, PACKAGING, OR LABELING, IS SUITABLE FOR USE AND
21 LIKELY TO BE OFFERED TO, OR PURCHASED BY, CONSUMERS AS TOBACCO TO
22 SMOKE IN A PIPE.

23 (P) “PREMIUM CIGARS” MEANS CIGARS THAT:

24 (1) HAVE HAND-ROLLED WRAPPERS MADE FROM WHOLE
25 TOBACCO LEAVES WHERE THE FILLER, BINDER, AND WRAPPER ARE MADE OF
26 ALL TOBACCO, AND MAY INCLUDE ADHESIVES OR OTHER MATERIALS USED TO
27 MAINTAIN SIZE, TEXTURE, OR FLAVOR; OR

28 (2) ARE DESIGNATED AS PREMIUM CIGARS BY THE
29 COMPTROLLER BY REGULATION.

30 ~~(N)~~ (Q) “SELL” MEANS TO EXCHANGE OR TRANSFER, OR TO AGREE TO
31 EXCHANGE OR TRANSFER, TITLE OR POSSESSION OF PROPERTY, IN ANY
32 MANNER OR BY ANY MEANS, FOR CONSIDERATION.

1 ~~(R)~~ (R) “SELL OTHER TOBACCO PRODUCTS AT RETAIL” MEANS TO
2 SELL OTHER TOBACCO PRODUCTS TO A CONSUMER.

3 (S) “TOBACCONIST” MEANS AN OTHER TOBACCO PRODUCTS BUSINESS
4 THAT DERIVES AT LEAST 70% OF ITS REVENUES, MEASURED BY AVERAGE DAILY
5 RECEIPTS, FROM THE SALE OF OTHER TOBACCO PRODUCTS AND
6 TOBACCO-RELATED ACCESSORIES.

7 16A-102.

8 THE COMPTROLLER MAY DELEGATE ANY POWER OR DUTY OF THE
9 COMPTROLLER UNDER THIS TITLE.

10 SUBTITLE 2. OTHER TOBACCO PRODUCTS LICENSES.

11 16A-201.

12 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
13 PERSON MUST HAVE AN APPROPRIATE LICENSE WHENEVER THE PERSON ACTS
14 AS ~~AN~~ A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER, A LICENSED
15 OTHER TOBACCO PRODUCTS RETAILER, A LICENSED OTHER TOBACCO
16 PRODUCTS STORAGE WAREHOUSE, ~~OR A LICENSED~~ OTHER TOBACCO PRODUCTS
17 WHOLESALE, OR A LICENSED TOBACCONIST IN THE STATE.

18 (B) A PERSON NEED NOT OBTAIN AN OTHER TOBACCO PRODUCTS
19 RETAILER LICENSE UNDER THIS SUBTITLE TO ACT AS A RETAILER AT A
20 VENDING STAND OPERATED UNDER A TRADER’S LICENSE ISSUED TO BLIND
21 INDUSTRIES AND SERVICES OF MARYLAND.

22 (C) A LICENSE TO ACT AS AN OTHER TOBACCO PRODUCTS RETAILER OR
23 A TOBACCONIST IS REQUIRED FOR EACH PLACE OF BUSINESS WHERE A PERSON
24 ACTS AS AN OTHER TOBACCO PRODUCTS RETAILER OR A TOBACCONIST.

25 (D) (1) ~~A PERSON LICENSED AS AN~~ AN OTHER TOBACCO PRODUCTS
26 MANUFACTURER, OR PERSON CONNECTED WITH THE BUSINESS OF ~~A LICENSED~~
27 AN OTHER TOBACCO PRODUCTS MANUFACTURER OR RELATED BY OWNERSHIP,
28 MAY NOT AT THE SAME TIME HOLD OR HAVE ANY FINANCIAL INTEREST IN AN
29 OTHER TOBACCO PRODUCTS WHOLESALE LICENSE OR IN ANY BUSINESS OF AN
30 OTHER TOBACCO PRODUCTS WHOLESALE.

31 (2) A PERSON LICENSED AS AN OTHER TOBACCO PRODUCTS
32 WHOLESALE, OR PERSON CONNECTED WITH THE BUSINESS OF A LICENSED
33 OTHER TOBACCO PRODUCTS WHOLESALE OR RELATED BY OWNERSHIP, MAY
34 NOT AT THE SAME TIME HOLD OR HAVE ANY FINANCIAL INTEREST IN AN OTHER

1 TOBACCO PRODUCTS MANUFACTURER LICENSE OR IN ANY BUSINESS OF AN
2 OTHER TOBACCO PRODUCTS MANUFACTURER.

3 **16A-202.**

4 (A) AN APPLICANT FOR A LICENSE TO ACT AS ~~AN~~ A LICENSED OTHER
5 TOBACCO PRODUCTS MANUFACTURER SHALL MAINTAIN IN THE STATE AN
6 ESTABLISHED PLACE OF BUSINESS FOR THE MANUFACTURE AND STORAGE OF
7 OTHER TOBACCO PRODUCTS.

8 (B) AN APPLICANT FOR A LICENSE TO ACT AS AN OTHER TOBACCO
9 PRODUCTS STORAGE WAREHOUSE SHALL MAINTAIN AN ESTABLISHED PLACE OF
10 BUSINESS FOR STORAGE OF OTHER TOBACCO PRODUCTS ON WHICH THE
11 TOBACCO TAX HAS NOT BEEN PAID.

12 (C) AN APPLICANT FOR A LICENSE TO ACT AS AN OTHER TOBACCO
13 PRODUCTS WHOLESALER SHALL MAINTAIN:

14 (1) AN ESTABLISHED PLACE OF BUSINESS, INCLUDING
15 WAREHOUSE FACILITIES, FOR THE SALE OF OTHER TOBACCO PRODUCTS; AND

16 (2) NECESSARY EQUIPMENT AND VEHICLES FOR THE STORAGE
17 AND DISTRIBUTION OF OTHER TOBACCO PRODUCTS.

18 **16A-203.**

19 (A) AN APPLICANT FOR A LICENSE TO ACT AS ~~AN~~ A LICENSED OTHER
20 TOBACCO PRODUCTS MANUFACTURER SHALL:

21 (1) SUBMIT AN APPLICATION TO THE COMPTROLLER ON THE
22 FORM AND CONTAINING THE INFORMATION THAT THE COMPTROLLER
23 REQUIRES; AND

24 (2) PAY TO THE COMPTROLLER A FEE OF \$25.

25 (B) (1) AN APPLICANT FOR A LICENSE TO ACT AS AN OTHER TOBACCO
26 PRODUCTS RETAILER OR A TOBACCONIST:

27 (I) SHALL OBTAIN A COUNTY LICENSE BY SUBMITTING TO
28 THE CLERK AN APPLICATION FOR EACH PERMANENT OR TEMPORARY PLACE OF
29 BUSINESS LOCATED IN THE SAME ENCLOSURE AND OPERATED BY THE SAME
30 APPLICANT; AND

1 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
2 **SUBSECTION, SHALL PAY TO THE CLERK A FEE OF \$15.**

3 **(2) A PERSON WHO HAS A LICENSE ISSUED UNDER TITLE 16 OF**
4 **THIS ARTICLE TO ACT AS A CIGARETTE RETAILER OR TO ACT AS A SPECIAL**
5 **CIGARETTE RETAILER IS NOT REQUIRED TO PAY THE LICENSE FEE.**

6 **(3) THE APPLICATION SHALL:**

7 **(I) BE MADE ON THE FORM THAT THE CLERK REQUIRES;**
8 **AND**

9 **(II) CONTAIN THE INFORMATION THAT THE COMPTROLLER**
10 **REQUIRES.**

11 **(C) AN APPLICANT FOR A LICENSE TO ACT AS AN OTHER TOBACCO**
12 **PRODUCTS STORAGE WAREHOUSE SHALL:**

13 **(1) SUBMIT AN APPLICATION TO THE COMPTROLLER ON THE**
14 **FORM AND CONTAINING THE INFORMATION THAT THE COMPTROLLER**
15 **REQUIRES; AND**

16 **(2) PAY TO THE COMPTROLLER A FEE OF \$25.**

17 **(D) (1) AN APPLICANT FOR A LICENSE TO ACT AS AN OTHER TOBACCO**
18 **PRODUCTS WHOLESALER SHALL:**

19 ~~**(1)**~~ **(I) SUBMIT AN APPLICATION TO THE COMPTROLLER ON**
20 **THE FORM AND CONTAINING THE INFORMATION THAT THE COMPTROLLER**
21 **REQUIRES; AND**

22 ~~**(2)**~~ **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
23 **SUBSECTION, PAY TO THE COMPTROLLER A FEE OF \$250.**

24 **(2) A PERSON WHO HAS A LICENSE ISSUED UNDER TITLE 16 OF**
25 **THIS ARTICLE TO ACT AS A CIGARETTE WHOLESALER IS NOT REQUIRED TO PAY**
26 **THE LICENSE FEE.**

27 **(E) A LICENSEE SHALL DISPLAY A LICENSE IN THE WAY THAT THE**
28 **COMPTROLLER REQUIRES BY REGULATION.**

29 **(F) IF A PERSON HAS HAD A LICENSE REVOKED UNDER § 16A-208 OF**
30 **THIS SUBTITLE, THE PERSON MAY NOT REAPPLY FOR A LICENSE WITHIN 1 YEAR**
31 **AFTER THE DATE WHEN THE PRIOR LICENSE WAS REVOKED.**

1 **16A-204.**

2 (A) THE COMPTROLLER SHALL ISSUE AN APPROPRIATE LICENSE TO
 3 EACH APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE FOR A
 4 LICENSE TO ACT AS ~~AN~~ A LICENSED OTHER TOBACCO PRODUCTS
 5 MANUFACTURER, OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE, OR
 6 OTHER TOBACCO PRODUCTS WHOLESALER.

7 (B) THE CLERK OF THE CIRCUIT COURT SHALL ISSUE TO EACH
 8 APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE A LICENSE TO
 9 ACT AS AN OTHER TOBACCO PRODUCTS RETAILER OR A TOBACCONIST.

10 **16A-205.**

11 (A) AN OTHER TOBACCO PRODUCTS MANUFACTURER ~~LICENSE~~
 12 ~~AUTHORIZES THE LICENSEE TO~~ MAY:

13 (1) SELL OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO
 14 TAX HAS NOT BEEN PAID TO:

15 (I) A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER
 16 LOCATED IN MARYLAND;

17 (II) A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER
 18 LOCATED OUTSIDE MARYLAND IF THE OTHER TOBACCO PRODUCTS MAY BE
 19 SOLD LAWFULLY IN MARYLAND; OR

20 (III) A LICENSED TOBACCONIST;

21 (2) SELL PREMIUM CIGARS OR PIPE TOBACCO ON WHICH THE
 22 TOBACCO TAX HAS NOT BEEN PAID TO A LICENSED OTHER TOBACCO PRODUCTS
 23 RETAILER;

24 ~~(2)~~ (3) EXCEPT AS OTHERWISE PROHIBITED OR RESTRICTED
 25 UNDER LOCAL LAW, THIS ARTICLE, OR THE CRIMINAL LAW ARTICLE,
 26 DISTRIBUTE SAMPLE OTHER TOBACCO PRODUCTS TO CONSUMERS LOCATED IN
 27 MARYLAND; ~~AND~~

28 ~~(3)~~ (4) STORE OTHER TOBACCO PRODUCTS ON WHICH THE
 29 TOBACCO TAX HAS NOT BEEN PAID IN A LICENSED OTHER TOBACCO PRODUCTS
 30 STORAGE WAREHOUSE FOR SUBSEQUENT SHIPMENT TO LICENSED OTHER
 31 TOBACCO PRODUCTS WHOLESALERS, FEDERAL RESERVATIONS, OR PERSONS
 32 OUT OF STATE; AND

1 **(5) ON APPROVAL OF THE COMPTROLLER, ACT AS AN AGENT OF A**
2 **MARYLAND OTHER TOBACCO PRODUCTS WHOLESALER FOR DISTRIBUTION OF**
3 **OTHER TOBACCO PRODUCTS.**

4 **(B) AN OTHER TOBACCO PRODUCTS RETAILER LICENSE AUTHORIZES**
5 **THE LICENSEE TO:**

6 **(1) ACT AS AN OTHER TOBACCO PRODUCTS RETAILER; ~~AND~~**

7 **(2) BUY OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO**
8 **TAX HAS BEEN PAID FROM AN OTHER TOBACCO PRODUCTS WHOLESALER; AND**

9 **(3) BUY PREMIUM CIGARS OR PIPE TOBACCO ON WHICH THE**
10 **TOBACCO TAX HAS NOT BEEN PAID FROM AN OTHER TOBACCO PRODUCTS**
11 **MANUFACTURER.**

12 **(C) (1) AN OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE**
13 **LICENSE AUTHORIZES THE LICENSEE TO OPERATE A STORAGE FACILITY IN**
14 **MARYLAND FOR THE PURPOSE OF STORING OTHER TOBACCO PRODUCTS ON**
15 **WHICH THE TOBACCO TAX HAS NOT BEEN PAID ON BEHALF OF A LICENSED**
16 **OTHER TOBACCO PRODUCTS MANUFACTURER.**

17 **(2) IF AN OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE**
18 **LICENSEE IS A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER, THE**
19 **OTHER TOBACCO PRODUCTS STORAGE WAREHOUSE LICENSE AUTHORIZES THE**
20 **HOLDER TO STORE OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX**
21 **HAS BEEN PAID AND OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX**
22 **HAS BEEN PAID TO ANOTHER STATE.**

23 **(D) AN OTHER TOBACCO PRODUCTS WHOLESALER LICENSE**
24 **AUTHORIZES THE LICENSEE TO:**

25 **(1) ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALER;**

26 **(2) BUY OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO**
27 **TAX HAS NOT BEEN PAID DIRECTLY FROM AN OTHER TOBACCO PRODUCTS**
28 **MANUFACTURER;**

29 **(3) HOLD OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO**
30 **TAX HAS NOT BEEN PAID;**

31 **(4) TRANSPORT OTHER TOBACCO PRODUCTS ON WHICH THE**
32 **TOBACCO TAX HAS NOT BEEN PAID IN THE STATE;**

1 **(5) SELL OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO**
2 **TAX HAS NOT BEEN PAID TO ANOTHER LICENSED OTHER TOBACCO PRODUCTS**
3 **WHOLESALE IF THE COMPTROLLER SPECIFICALLY AUTHORIZES; AND**

4 **(6) STORE OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO**
5 **TAX HAS NOT BEEN PAID AT A LICENSED OTHER TOBACCO PRODUCTS STORAGE**
6 **WAREHOUSE.**

7 **(E) A TOBACCONIST LICENSE AUTHORIZES THE LICENSEE TO:**

8 **(1) ACT AS A TOBACCONIST; AND**

9 **(2) BUY OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO**
10 **TAX HAS NOT BEEN PAID FROM AN OTHER TOBACCO PRODUCTS**
11 **MANUFACTURER.**

12 **16A-206.**

13 **(A) UNLESS A LICENSE IS RENEWED FOR A 1-YEAR TERM AS PROVIDED**
14 **IN THIS SECTION, THE LICENSE EXPIRES ON THE FIRST APRIL 30 AFTER ITS**
15 **EFFECTIVE DATE.**

16 **(B) AT LEAST 1 MONTH BEFORE A LICENSE ISSUED UNDER THIS**
17 **SUBTITLE EXPIRES, THE ISSUING OFFICIAL SHALL MAIL TO THE LICENSEE, AT**
18 **THE LAST KNOWN ADDRESS OF THE LICENSEE, A RENEWAL NOTICE THAT**
19 **STATES:**

20 **(1) THE DATE ON WHICH THE CURRENT LICENSE EXPIRES; AND**

21 **(2) THE DATE BY WHICH THE ISSUING OFFICIAL MUST RECEIVE**
22 **THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND MAILED**
23 **BEFORE THE LICENSE EXPIRES.**

24 **(C) BEFORE A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES, THE**
25 **LICENSEE MAY RENEW IT FOR AN ADDITIONAL 1-YEAR TERM, IF THE LICENSEE:**

26 **(1) OTHERWISE IS ENTITLED TO BE LICENSED;**

27 **(2) SUBMITS TO THE ISSUING OFFICIAL A RENEWAL APPLICATION**
28 **ON THE FORM THAT THE ISSUING OFFICIAL REQUIRES; AND**

29 **(3) PAYS TO THE ISSUING OFFICIAL THE LICENSE FEE REQUIRED**
30 **UNDER § 16A-203 OF THIS SUBTITLE.**

1 (D) THE ISSUING OFFICIAL SHALL RENEW THE LICENSE OF EACH
2 LICENSEE WHO MEETS THE REQUIREMENTS OF THIS SECTION.

3 **16A-207.**

4 (A) (1) A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR A
5 LICENSED TOBACCONIST MAY NOT ASSIGN THE LICENSE.

6 (2) IF A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER
7 SELLS THE LICENSEE'S OTHER TOBACCO PRODUCTS BUSINESS AND PAYS TO
8 THE COMPTROLLER A LICENSE ASSIGNMENT FEE OF \$10, THE LICENSEE MAY
9 ASSIGN THE LICENSE TO THE BUYER OF THE BUSINESS, IF THE BUYER
10 OTHERWISE QUALIFIES UNDER THIS TITLE FOR AN OTHER TOBACCO PRODUCTS
11 WHOLESALER'S LICENSE.

12 (B) IF THE OTHER TOBACCO PRODUCTS BUSINESS OF A LICENSEE IS
13 TRANSFERRED BECAUSE OF BANKRUPTCY, DEATH, INCOMPETENCY,
14 RECEIVERSHIP, OR OTHERWISE BY OPERATION OF LAW, THE COMPTROLLER
15 SHALL TRANSFER THE LICENSE WITHOUT CHARGE TO THE NEW OWNER OF THE
16 LICENSEE'S BUSINESS, IF THE TRANSFEREE OTHERWISE QUALIFIES UNDER THIS
17 TITLE FOR THE LICENSE BEING TRANSFERRED.

18 (C) (1) IF A LICENSED OTHER TOBACCO PRODUCTS WHOLESALER
19 SURRENDERS THE LICENSE TO THE COMPTROLLER AND IF NO DISCIPLINARY
20 PROCEEDINGS ARE PENDING AGAINST THE LICENSEE, THE COMPTROLLER
21 SHALL REFUND A PRO RATA PART OF THE LICENSE FEE FOR THE UNEXPIRED
22 TERM OF THE LICENSE.

23 (2) A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR A
24 LICENSED TOBACCONIST IS NOT ALLOWED A REFUND FOR THE UNEXPIRED
25 TERM OF THE LICENSE.

26 **16A-208.**

27 (A) SUBJECT TO THE HEARING PROVISIONS OF § 16A-209 OF THIS
28 SUBTITLE, THE COMPTROLLER MAY DENY A LICENSE TO AN APPLICANT,
29 REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE A LICENSE IF THE
30 APPLICANT OR LICENSEE:

31 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
32 OBTAIN A LICENSE FOR THE APPLICANT OR LICENSEE OR FOR ANOTHER
33 PERSON;

- 1 **(2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE;**
- 2 **(3) BUYS OTHER TOBACCO PRODUCTS FOR RESALE:**
 - 3 **(I) IN VIOLATION OF A LICENSE; OR**
 - 4 **(II) FROM A PERSON WHO IS NOT ~~A LICENSED~~ AN OTHER**
5 **TOBACCO PRODUCTS MANUFACTURER OR LICENSED OTHER TOBACCO**
6 **PRODUCTS WHOLESALER;**
- 7 **(4) IS CONVICTED, UNDER THE LAWS OF THE UNITED STATES OR**
8 **OF ANY OTHER STATE, OF:**
 - 9 **(I) A FELONY; OR**
 - 10 **(II) A MISDEMEANOR THAT IS A CRIME OF MORAL**
11 **TURPITUDE AND IS DIRECTLY RELATED TO THE FITNESS AND QUALIFICATION**
12 **OF THE APPLICANT OR LICENSEE;**
- 13 **(5) VIOLATES TITLE 12 OF THE TAX – GENERAL ARTICLE OR**
14 **REGULATIONS ADOPTED UNDER THAT TITLE; OR**
- 15 **(6) VIOLATES THIS TITLE OR TITLE 16 OF THIS ARTICLE OR**
16 **REGULATIONS ADOPTED UNDER THESE TITLES.**
- 17 **(B) SUBJECT TO THE HEARING PROVISIONS OF § 16A-209 OF THIS**
18 **SUBTITLE, THE COMPTROLLER SHALL DENY A LICENSE TO ANY APPLICANT WHO**
19 **HAS HAD A LICENSE REVOKED UNDER THIS SECTION UNTIL:**
 - 20 **(1) 1 YEAR HAS PASSED SINCE THE LICENSE WAS REVOKED; AND**
 - 21 **(2) IT SATISFACTORILY APPEARS TO THE COMPTROLLER THAT**
22 **THE APPLICANT WILL COMPLY WITH THIS TITLE AND ANY REGULATIONS**
23 **ADOPTED UNDER THIS TITLE.**
 - 24 **(C) PRIOR TO THE ISSUANCE OR RENEWAL OF ANY LICENSE, THE**
25 **COMPTROLLER SHALL CONDUCT AN INVESTIGATION WITH REGARD TO:**
 - 26 **(1) THE APPLICANT;**
 - 27 **(2) THE BUSINESS TO BE OPERATED; AND**
 - 28 **(3) THE FACTS SET FORTH IN THE APPLICATION.**

1 **16A-209.**

2 (A) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE
3 GOVERNMENT ARTICLE, BEFORE THE COMPTROLLER TAKES ANY FINAL
4 ACTION UNDER § 16A-208 OF THIS SUBTITLE, THE COMPTROLLER SHALL GIVE
5 THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY
6 FOR A HEARING BEFORE THE COMPTROLLER.

7 (B) THE COMPTROLLER SHALL GIVE NOTICE AND HOLD THE HEARING
8 IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
9 ARTICLE.

10 (C) THE COMPTROLLER MAY ADMINISTER OATHS IN A PROCEEDING
11 UNDER THIS SECTION.

12 (D) THE PERSON AGAINST WHOM THE ACTION IS CONTEMPLATED MAY
13 BE REPRESENTED AT THE HEARING BY COUNSEL.

14 (E) IF, AFTER DUE NOTICE, THE PERSON AGAINST WHOM THE ACTION IS
15 CONTEMPLATED DOES NOT APPEAR, NEVERTHELESS THE COMPTROLLER MAY
16 HEAR AND DETERMINE THE MATTER.

17 **16A-210.**

18 (A) SUBJECT TO THE NOTICE REQUIREMENT OF SUBSECTION (C) OF
19 THIS SECTION, IF A LICENSEE ENGAGES IN AN ACT OR OMISSION THAT IS A
20 GROUND FOR DISCIPLINE UNDER § 16A-208 OF THIS SUBTITLE, THE
21 COMPTROLLER MAY SUSPEND THE LICENSE FOR A CONSECUTIVE PERIOD THAT:

22 (1) FOR A FIRST OFFENSE, IS NOT LESS THAN 5 NOR MORE THAN
23 20 BUSINESS DAYS; OR

24 (2) FOR A SUBSEQUENT OFFENSE, IS NOT LESS THAN 20 BUSINESS
25 DAYS NOR MORE THAN 6 MONTHS.

26 (B) SUBJECT TO THE NOTICE REQUIREMENT UNDER SUBSECTION (C)
27 OF THIS SECTION, THE COMPTROLLER MAY REVOKE A LICENSE IF A LICENSEE:

28 (1) WILLFULLY AND PERSISTENTLY ENGAGES IN AN ACT OR
29 OMISSION THAT IS A GROUND FOR DISCIPLINE UNDER § 16A-208(A) OF THIS
30 SUBTITLE; OR

31 (2) VIOLATES THIS TITLE OR TITLE 12 OF THE TAX - GENERAL
32 ARTICLE OR REGULATIONS ADOPTED UNDER THESE TITLES.

1 **(C) IF A LICENSE IS SUSPENDED OR REVOKED UNDER THIS SECTION:**

2 **(1) THE COMPTROLLER SHALL GIVE THE LICENSEE NOTICE OF**
3 **THE SUSPENSION OR REVOCATION; AND**

4 **(2) THE SUSPENSION OR REVOCATION MAY NOT TAKE EFFECT**
5 **UNTIL AT LEAST 5 BUSINESS DAYS FOLLOWING NOTICE OF THE SUSPENSION OR**
6 **REVOCATION.**

7 **(D) THE TRANSFER, RENEWAL, OR EXPIRATION OF A LICENSE WILL NOT**
8 **BAR OR ABATE A DISCIPLINARY ACTION UNDER THIS SECTION.**

9 **(E) (1) EXCEPT FOR A VIOLATION OF § 10-107 OF THE CRIMINAL**
10 **LAW ARTICLE, WHENEVER ANY LICENSE ISSUED UNDER THE PROVISIONS OF**
11 **THIS SUBTITLE IS SUSPENDED OR REVOKED BY THE COMPTROLLER, THE**
12 **LICENSEE MAY, BEFORE THE EFFECTIVE DATE OF THE SUSPENSION OR**
13 **REVOCATION, PETITION THE COMPTROLLER FOR PERMISSION TO MAKE AN**
14 **OFFER OF COMPROMISE CONSISTING OF A SUM OF MONEY IN LIEU OF SERVING**
15 **THE SUSPENSION OR REVOCATION.**

16 **(2) MONEY PAID IN LIEU OF SUSPENSION OR REVOCATION SHALL**
17 **BE PAID INTO THE GENERAL FUND OF THE STATE.**

18 **(3) AN OFFER OF COMPROMISE MAY NOT EXCEED \$2,000 IN THE**
19 **CASE OF RETAIL LICENSEES AND MAY NOT EXCEED \$50,000 FOR OTHER**
20 **LICENSEES.**

21 **(4) THE COMPTROLLER MAY ACCEPT THE OFFER OF**
22 **COMPROMISE IF:**

23 **(I) THE PUBLIC WELFARE AND MORALS WOULD NOT BE**
24 **IMPAIRED BY ALLOWING THE LICENSEE TO OPERATE DURING THE PERIOD SET**
25 **FOR THE SUSPENSION OR REVOCATION; AND**

26 **(II) THE PAYMENT OF THE SUM OF MONEY WILL ACHIEVE**
27 **THE DESIRED DISCIPLINARY PURPOSES.**

28 **(5) THE COMPTROLLER MAY ADOPT REGULATIONS TO CARRY**
29 **OUT THIS SUBSECTION.**

30 **16A-211.**

1 A PARTY TO A PROCEEDING BEFORE THE COMPTROLLER WHO IS
2 AGGRIEVED BY A FINAL DECISION OF THE COMPTROLLER IN A CONTESTED
3 CASE, AS DEFINED IN § 10-202 OF THE STATE GOVERNMENT ARTICLE, IS
4 ENTITLED TO JUDICIAL REVIEW AS PROVIDED IN §§ 10-222 AND 10-223 OF THE
5 STATE GOVERNMENT ARTICLE.

6 **16A-212.**

7 (A) EXCEPT AS OTHERWISE PROVIDED IN § 16A-201(B) OF THIS
8 SUBTITLE, A PERSON MAY NOT ACT, ATTEMPT TO ACT, OR OFFER TO ACT AS ~~AN~~ A
9 LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER, A LICENSED OTHER
10 TOBACCO PRODUCTS RETAILER, A LICENSED OTHER TOBACCO PRODUCTS
11 STORAGE WAREHOUSE, ~~OR~~ A LICENSED OTHER TOBACCO PRODUCTS
12 WHOLESALE, OR A LICENSED TOBACCONIST IN THE STATE UNLESS THE
13 PERSON HAS AN APPROPRIATE LICENSE.

14 (B) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
15 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
16 \$1,000 OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.

17 (2) EACH DAY THAT A VIOLATION OF THIS SECTION CONTINUES IS
18 A SEPARATE OFFENSE.

19 **16A-213.**

20 (A) (1) THE COMPTROLLER SHALL PAY INTO THE GENERAL FUND OF
21 THE STATE ALL LICENSE FEES COLLECTED UNDER THIS TITLE.

22 (2) ALL LICENSE FEES COLLECTED BY THE COUNTIES ARE
23 SUBJECT TO THE DISTRIBUTION PROVISIONS OF § 17-206 OF THIS ARTICLE.

24 (B) THE GENERAL ASSEMBLY INTENDS THAT THESE LICENSE FEES BE
25 USED TO ADMINISTER THIS TITLE.

26 **16A-214.**

27 (A) EACH OTHER TOBACCO PRODUCTS WHOLESALE:

28 (1) SHALL GET AN INVOICE FOR EACH PURCHASE OF OTHER
29 TOBACCO PRODUCTS;

30 (2) SHALL KEEP A RECORD OF ALL OTHER TOBACCO PRODUCTS
31 RECEIVED, TO WHICH THE OTHER TOBACCO PRODUCTS WHOLESALE SHALL
32 POST EACH DAY:

- 1 (I) THE INVOICE NUMBER;
- 2 (II) THE DATE OF RECEIPT;
- 3 (III) THE QUANTITY RECEIVED;
- 4 (IV) THE BRAND;
- 5 (V) THE MANUFACTURER; AND
- 6 (VI) THE NAME OF THE PERSON FROM WHOM THE OTHER
- 7 TOBACCO PRODUCTS ARE RECEIVED;

8 (3) FOR OTHER TOBACCO PRODUCTS SALES TO OTHER TOBACCO

9 PRODUCTS RETAILERS AND TOBACCONISTS:

10 (I) SHALL KEEP A RECORD OF THE NAME AND ADDRESS OF

11 EACH OTHER TOBACCO PRODUCTS RETAILER AND TOBACCONIST TO WHOM A

12 SALE IS MADE; AND

13 (II) EXCEPT FOR A TRANSFER OF OTHER TOBACCO

14 PRODUCTS TO RETAIL STOCK BY A WRITTEN MEMORANDUM, SHALL PREPARE

15 FOR EACH SALE AN INVOICE THAT SHOWS THE POLITICAL SUBDIVISION WHERE

16 THE OTHER TOBACCO PRODUCTS RETAILER AND EACH TOBACCONIST IS

17 LOCATED; AND

18 (4) SHALL KEEP A COMPLETE AND ACCURATE RECORD OF EACH

19 SALE OF OTHER TOBACCO PRODUCTS TO AN OUT-OF-STATE PERSON FOR

20 RESALE TO OUT-OF-STATE CONSUMERS.

21 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS

22 SUBSECTION, EACH OTHER TOBACCO PRODUCTS WHOLESALER SHALL MAKE AN

23 INVENTORY RECORD EACH MONTH OF ALL OTHER TOBACCO PRODUCTS ON THE

24 PREMISES OR UNDER THE CONTROL OF THE OTHER TOBACCO PRODUCTS

25 WHOLESALER:

26 (I) AT THE BEGINNING OR END OF THE MONTH; OR

27 (II) ON ANOTHER SPECIFIC DAY OF THE MONTH, IF THE

28 OTHER TOBACCO PRODUCTS WHOLESALER FINDS IT MORE PRACTICAL TO TAKE

29 INVENTORY ON THAT DAY AND NOTIFIES THE COMPTROLLER THAT INVENTORY

30 WILL BE TAKEN ON THAT DAY.

1 **(2) OTHER TOBACCO PRODUCTS TRANSFERRED TO RETAIL**
2 **STOCK BY WRITTEN MEMORANDUM NEED NOT BE INCLUDED IN THE INVENTORY**
3 **RECORD.**

4 **(C) EACH OTHER TOBACCO PRODUCTS WHOLESALER SHALL:**

5 **(1) KEEP THE RECORDS REQUIRED BY THIS SECTION FOR 6**
6 **YEARS OR FOR A SHORTER TIME SET BY THE COMPTROLLER; AND**

7 **(2) ALLOW THE COMPTROLLER TO EXAMINE THE RECORDS.**

8 **(D) A LICENSED OTHER TOBACCO PRODUCTS RETAILER WHO**
9 **PURCHASES PREMIUM CIGARS OR PIPE TOBACCO FROM AN OTHER TOBACCO**
10 **PRODUCTS MANUFACTURER OR A LICENSED TOBACCONIST SHALL, FOR A**
11 **PERIOD OF 2 YEARS, KEEP AND MAINTAIN AVAILABLE FOR INSPECTION AT THE**
12 **LICENSE LOCATION DURING BUSINESS HOURS:**

13 **(1) ALL INVOICES AND BILLS OF LADING; AND**

14 **(2) ALL RECORDS COVERING ALL PURCHASES AND SALES OF**
15 **OTHER TOBACCO PRODUCTS.**

16 **16A-215.**

17 **(A) A PERSON WHO TRANSPORTS OTHER TOBACCO PRODUCTS BY**
18 **VEHICLE ON A PUBLIC ROAD SHALL HAVE IN THE VEHICLE A DELIVERY TICKET**
19 **OR AN INVOICE THAT STATES:**

20 **(1) THE NAME AND ADDRESS OF THE SELLER OR CONSIGNOR;**

21 **(2) THE NAME AND ADDRESS OF A BUYER OR CONSIGNEE WHO IS:**

22 **(I) A PERSON IN THE STATE AUTHORIZED BY TITLE 12 OF**
23 **THE TAX – GENERAL ARTICLE TO HOLD OTHER TOBACCO PRODUCTS ON WHICH**
24 **THE TOBACCO TAX HAS NOT BEEN PAID; OR**

25 **(II) A PERSON IN ANOTHER JURISDICTION AUTHORIZED TO**
26 **HOLD OTHER TOBACCO PRODUCTS ON WHICH THE TAX IMPOSED BY THAT**
27 **JURISDICTION HAS NOT BEEN PAID; AND**

28 **(3) THE QUANTITY AND BRANDS OF THE OTHER TOBACCO**
29 **PRODUCTS THAT ARE BEING TRANSPORTED.**

1 **(B) THE COMPTROLLER BY REGULATION MAY REQUIRE A COMMON**
2 **CARRIER THAT BRINGS OTHER TOBACCO PRODUCTS INTO THE STATE TO**
3 **SUBMIT TO THE COMPTROLLER A COPY OF ANY FREIGHT BILL RELATING TO**
4 **THE OTHER TOBACCO PRODUCTS SHIPMENT.**

5 **16A-216.**

6 **(A) A PERSON MAY NOT SHIP, IMPORT, OR SELL INTO OR WITHIN THIS**
7 **STATE ANY OTHER TOBACCO PRODUCTS UNLESS THAT PERSON:**

8 **(1) IS THE OWNER OF THE BRAND;**

9 **(2) IS THE UNITED STATES IMPORTER FOR THE BRAND; OR**

10 **(3) IS A DESIGNATED AGENT IN MARYLAND OF:**

11 **(I) THE OWNER OF THE BRAND; OR**

12 **(II) THE UNITED STATES IMPORTER OF THE BRAND; AND**

13 **(4) HOLDS ANY LICENSE REQUIRED BY THIS SUBTITLE.**

14 **(B) A PERSON WHO SHIPS, IMPORTS, OR SELLS OTHER TOBACCO**
15 **PRODUCTS INTO OR WITHIN THIS STATE:**

16 **(1) SHALL COMPLY WITH ANY FEDERAL AND STATE**
17 **REQUIREMENTS CONCERNING THE PLACEMENT OF WARNING LABELS OR OTHER**
18 **INFORMATION ON THE CONTAINERS OR INDIVIDUAL PACKAGES OF OTHER**
19 **TOBACCO PRODUCTS; AND**

20 **(2) SHALL ENSURE THAT THE CONTAINERS OR INDIVIDUAL**
21 **PACKAGES OF OTHER TOBACCO PRODUCTS DO NOT CONTAIN ANY INFORMATION**
22 **OR MARKINGS THAT ARE FALSE, MISLEADING, OR CONTRARY TO:**

23 **(I) FEDERAL TRADEMARK OR TAX LAWS;**

24 **(II) THE TRADEMARK LAW OF THIS STATE UNDER TITLE 1,**
25 **SUBTITLE 4 OF THIS ARTICLE; OR**

26 **(III) THE TAX LAWS OF THIS STATE UNDER TITLE 12 OF THE**
27 **TAX – GENERAL ARTICLE.**

28 **(C) A PERSON WHO SHIPS, IMPORTS, OR SELLS OTHER TOBACCO**
29 **PRODUCTS INTO OR WITHIN THIS STATE IN VIOLATION OF THIS SECTION IS**

1 SUBJECT TO DISCIPLINARY ACTION BY THE COMPTROLLER UNDER § 16A-208
2 OF THIS SUBTITLE AND TO THE PENALTY SPECIFIED IN § 13-1015 OF THE
3 TAX - GENERAL ARTICLE.

4 16A-217.

5 (A) THIS SECTION APPLIES TO A PERSON WHO IS ENGAGED IN THE
6 BUSINESS OF SELLING OR DISTRIBUTING OTHER TOBACCO PRODUCTS.

7 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
8 SUBSECTION, A PERSON COVERED UNDER THIS SECTION MAY NOT:

9 (I) SELL OR SHIP OTHER TOBACCO PRODUCTS, ORDERED
10 OR PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC
11 NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER
12 UNLICENSED RECIPIENT, DIRECTLY TO A CONSUMER OR OTHER UNLICENSED
13 RECIPIENT IN THIS STATE; OR

14 (II) CAUSE OTHER TOBACCO PRODUCTS, ORDERED OR
15 PURCHASED BY MAIL OR THROUGH A COMPUTER NETWORK, TELEPHONIC
16 NETWORK, OR OTHER ELECTRONIC NETWORK BY A CONSUMER OR OTHER
17 UNLICENSED RECIPIENT, TO BE SHIPPED DIRECTLY TO A CONSUMER OR OTHER
18 UNLICENSED RECIPIENT IN THIS STATE.

19 (2) A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR
20 LICENSED TOBACCONIST MAY DELIVER ~~NO~~ NOT MORE THAN TWO PACKAGES OF
21 OTHER TOBACCO PRODUCTS DIRECTLY TO A CONSUMER IF THE DELIVERY IS
22 MADE BY THE LICENSED OTHER TOBACCO PRODUCTS RETAILER OR LICENSED
23 TOBACCONIST OR AN EMPLOYEE OF THE LICENSED OTHER TOBACCO PRODUCTS
24 RETAILER OR LICENSED TOBACCONIST.

25 (C) (1) A LICENSEE WHO SELLS OR SHIPS OTHER TOBACCO
26 PRODUCTS IN VIOLATION OF THIS SECTION OR CAUSES OTHER TOBACCO
27 PRODUCTS TO BE SHIPPED IN VIOLATION OF THIS SECTION IS:

28 (I) SUBJECT TO DISCIPLINE BY THE COMPTROLLER UNDER
29 § 16A-208 OF THIS SUBTITLE; AND

30 (II) GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT
31 TO A FINE NOT EXCEEDING \$50 FOR EACH PACKAGE OF OTHER TOBACCO
32 PRODUCTS TRANSPORTED OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR
33 BOTH.

1 [(e)] ~~(F)~~ (G) “Tax stamp” means a device in the design and denomination that
 2 the Comptroller authorizes by regulation for the purpose of being affixed to a package
 3 of cigarettes as evidence that the tobacco tax is paid.

4 [(f)] ~~(G)~~ (H) **“TOBACCONIST” MEANS A PERSON AUTHORIZED UNDER §**
 5 **16A-205(E) OF THE BUSINESS REGULATION ARTICLE TO PURCHASE OTHER**
 6 **TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID.**

7 (I) “Unstamped cigarettes” means a package of cigarettes to which tax
 8 stamps are not affixed in the amount and manner required in § 12-304 of this title.

9 [(g)] ~~(H)~~ (J) “Wholesale price” means the price for which a wholesaler buys
 10 other tobacco products, exclusive of any discount, trade allowance, rebate, or other
 11 reduction.

12 [(h)] ~~(I)~~ (K) “Wholesaler” means, unless the context requires otherwise [:

13 (1)], a person who acts as a wholesaler as defined in § 16-201 of the
 14 Business Regulation Article]; or

15 (2) a person who:

16 (i) holds other tobacco products for sale to another person for
 17 resale; or

18 (ii) sells other tobacco products to another person for resale] **OR**
 19 **AS AN OTHER TOBACCO PRODUCTS WHOLESALER AS DEFINED IN § 16A-101 OF**
 20 **THE BUSINESS REGULATION ARTICLE.**

21 12-102.

22 (a) Except as provided in § 12-104 of this subtitle, a tax is imposed on
 23 cigarettes and other tobacco products in the State.

24 (b) A county, municipal corporation, special taxing district, or other political
 25 subdivision of the State may not impose a tax on cigarettes **OR OTHER TOBACCO**
 26 **PRODUCTS.**

27 12-103.

28 (a) A rebuttable presumption exists that any cigarette or other tobacco
 29 product in the State is subject to the tobacco tax.

30 (b) Cigarettes or other tobacco products are contraband tobacco products if
 31 they:

1 (1) are possessed or sold in the State in a manner that is not
2 authorized under this title or under Title 16 **OR TITLE 16A** of the Business
3 Regulation Article; or

4 (2) are transported by vehicle in the State by a person who does not
5 have, in the vehicle, the records required by § 16–219 **OR § 16A–215** of the Business
6 Regulation Article for the transportation of cigarettes or other tobacco products.

7 (c) A person who possesses cigarettes or other tobacco products has the
8 burden of proving that the cigarettes or other tobacco products are not subject to the
9 tobacco tax.

10 12–104.

11 (a) “Consumer” means a person who possesses cigarettes or other tobacco
12 products for a purpose other than selling or transporting the cigarettes or other
13 tobacco products.

14 (b) The tobacco tax does not apply to:

15 (1) cigarettes that a licensed wholesaler under Title 16 of the Business
16 Regulation Article is holding for sale outside the State or to a United States armed
17 forces exchange or commissary;

18 (2) other tobacco products that **[a] AN OTHER TOBACCO PRODUCTS**
19 wholesaler **LICENSED UNDER TITLE 16A OF THE BUSINESS REGULATION**
20 **ARTICLE** is holding for sale outside the State or to a United States armed forces
21 exchange or commissary; or

22 (3) cigarettes or other tobacco products that:

23 (i) a consumer brings into the State:

24 1. if the quantity brought from another state does not
25 exceed:

26 A. for a nonresident consumer traveling through this
27 State, other tobacco products having a retail value of \$25 or 1 carton of cigarettes; or

28 B. for any other consumer, other tobacco products having
29 a retail value of \$5 or 2 packages of cigarettes; or

30 2. if the quantity brought from a United States armed
31 forces installation or reservation does not exceed:

1 A. for a consumer who is a member of an armed forces
2 unit or who is entitled by law to make a purchase at an armed forces exchange, other
3 tobacco products having a retail value of \$50 or 2 cartons of cigarettes; or

4 B. for any other consumer, other tobacco products having
5 a retail value of \$5 or 2 packages of cigarettes that were bought at an armed forces
6 exchange or commissary;

7 (ii) a person is transporting by vehicle in the State if the person
8 has, in the vehicle, the records required by § 16-219 **OR § 16A-215** of the Business
9 Regulation Article for the transportation of cigarettes or other tobacco products; or

10 (iii) are held in storage in a licensed storage warehouse on behalf
11 of a licensed cigarette manufacturer **OR A LICENSED AN OTHER TOBACCO**
12 **PRODUCTS MANUFACTURER.**

13 12-201.

14 (a) A manufacturer shall complete and file with the Comptroller a tobacco
15 tax return:

16 (1) on or before the 15th day of the month that follows the month in
17 which the manufacturer distributes in the State free sample cigarettes ~~OR OTHER~~
18 ~~TOBACCO PRODUCTS~~ of the manufacturer; and

19 (2) if the Comptroller so specifies, by regulation, on other dates for
20 each month in which the manufacturer does not distribute any sample cigarettes ~~OR~~
21 ~~OTHER TOBACCO PRODUCTS.~~

22 **(B) A LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER SHALL**
23 **FILE THE INFORMATION RETURN THAT THE COMPTROLLER REQUIRES.**

24 ~~(B)~~ **(C)** A licensed storage warehouse operator **AND A LICENSED OTHER**
25 **TOBACCO PRODUCTS STORAGE WAREHOUSE OPERATOR** shall file the information
26 return that the Comptroller requires.

27 12-202.

28 (a) A wholesaler shall complete and file with the Comptroller a tobacco tax
29 return:

30 (1) for cigarettes:

31 (i) on or before the 21st day of the month that follows the
32 month in which the wholesaler has the first possession, in the State, of unstamped
33 cigarettes for which tax stamps are required; and

1 (ii) if the Comptroller so specifies, by regulation, on other dates
2 for each month in which the wholesaler does not have the first possession of any
3 unstamped cigarettes in the State; and

4 (2) for other tobacco products, [on the dates and for the periods that
5 the Comptroller specifies by regulation] **ON OR BEFORE THE 21ST DAY OF THE**
6 **MONTH THAT FOLLOWS THE MONTH IN WHICH THE WHOLESALER HAS**
7 **POSSESSION OF OTHER TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS**
8 **NOT BEEN PAID.**

9 (b) Each return shall state the quantity of cigarettes or the wholesale price of
10 other tobacco products sold during the period that the return covers.

11 12-301.

12 In this subtitle, "licensed wholesaler" means a wholesaler who is licensed under
13 Title 16, Subtitle 2 of the Business Regulation Article to act as a wholesaler **OR**
14 **UNDER TITLE 16A, SUBTITLE 2 OF THE BUSINESS REGULATION ARTICLE TO**
15 **ACT AS AN OTHER TOBACCO PRODUCTS WHOLESALER.**

16 12-302.

17 (a) A manufacturer of sample cigarettes ~~OR OTHER TOBACCO PRODUCTS~~
18 shall pay the tobacco tax on those cigarettes ~~OR OTHER TOBACCO PRODUCTS~~
19 distributed in the State without charge, in the manner that the Comptroller requires
20 by regulation, with the return that covers the period in which the manufacturer
21 distributed those cigarettes ~~OR OTHER TOBACCO PRODUCTS.~~

22 (b) The wholesaler who first possesses in the State unstamped cigarettes for
23 which tax stamps are required shall pay the tobacco tax on those cigarettes by buying
24 and affixing tax stamps.

25 (c) [(1)] The tobacco tax on other tobacco products shall be paid by the
26 wholesaler who sells the other tobacco products to a retailer [or consumer] in the
27 State.

28 [(2) If a retailer or consumer possesses other tobacco products in the
29 State on which the tobacco tax has not been paid, the retailer or consumer shall pay
30 the tobacco tax on those other tobacco products.]

31 **(D) (1) A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR A**
32 **LICENSED TOBACCONIST SHALL PAY THE TOBACCO TAX ON OTHER TOBACCO**
33 **PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID BY FILING A**
34 **QUARTERLY TAX RETURN, WITH ANY SUPPORTING SCHEDULES, ON FORMS**

1 PROVIDED BY THE COMPTROLLER ON THE FOLLOWING DATES COVERING TAX
 2 LIABILITIES IN THE PRECEDING QUARTER:

3 (I) JANUARY 21;

4 (II) APRIL 21;

5 (III) JULY 21; AND

6 (IV) OCTOBER 21.

7 (2) A LICENSED OTHER TOBACCO PRODUCTS RETAILER OR A
 8 LICENSED TOBACCONIST REQUIRED TO FILE A TAX RETURN UNDER PARAGRAPH
 9 (1) OF THIS SUBSECTION SHALL PAY A TOBACCO TAX AT THE RATE PROVIDED IN
 10 § 12-105(B) OF THIS TITLE BASED ON THE INVOICE AMOUNT CHARGED BY THE
 11 LICENSED OTHER TOBACCO PRODUCTS MANUFACTURER, EXCLUSIVE OF ANY
 12 DISCOUNT, TRADE ALLOWANCE, REBATE, OR OTHER REDUCTION.

13 ~~12-304.~~

14 (a) ~~A manufacturer that pays the tobacco tax shall indicate prominently on~~
 15 ~~each package of cigarettes OR OTHER TOBACCO PRODUCTS that:~~

16 (1) ~~the package contains sample cigarettes OR OTHER TOBACCO~~
 17 ~~PRODUCTS that are not for sale; and~~

18 (2) ~~all applicable tobacco taxes on those cigarettes OR OTHER~~
 19 ~~TOBACCO PRODUCTS have been paid.~~

20 [12-306.

21 (a) The Comptroller shall establish, by regulation, a system of administering,
 22 collecting, and enforcing the tobacco tax on other tobacco products.

23 (b) Regulations adopted under this section may include:

24 (1) self-assessment, filing of returns, and maintenance and retention
 25 of records by wholesalers or retailers;

26 (2) payment of the tax by:

27 (i) a wholesaler who sells other tobacco products to a retailer or
 28 consumer in the State; or

1 (ii) a retailer or consumer who possesses other tobacco products
2 in the State on which the tobacco tax has not been paid; and

3 (3) any other provision that the Comptroller considers necessary to
4 efficiently and economically administer, collect, and enforce the tax.]

5 13–825.

6 (h) (1) The Comptroller may require a person subject to the tobacco tax to
7 post security for the tax in the following amounts:

8 (i) for a ~~CIGARETTE~~ manufacturer or wholesaler:

9 1. \$10,000, plus

10 2. the amount, if any, by which the tobacco tax due for
11 any 1 month exceeds \$10,000[.];

12 (ii) for a subwholesaler or vending machine operator:

13 1. \$1,000, plus

14 2. the amount, if any, by which the tobacco tax due for
15 any 1 month exceeds \$1,000; AND

16 (III) FOR AN OTHER TOBACCO PRODUCTS ~~MANUFACTURER~~
17 ~~OR WHOLESALER~~:

18 1. \$5,000, PLUS

19 2. THE AMOUNT, IF ANY, BY WHICH THE TOBACCO
20 TAX DUE FOR ANY 1 MONTH EXCEEDS \$5,000.

21 (2) Except as provided in paragraph (5) of this subsection, the
22 Comptroller may exempt a person from posting security for the tobacco tax if the
23 person is and has been for the past 5 years:

24 (i) licensed as required under § 16–202 of the Business
25 Regulation Article to act as a wholesaler OR § 16A–201 TO ACT AS AN OTHER
26 TOBACCO PRODUCTS WHOLESALER; and

27 (ii) 1. in continuous compliance with the tobacco tax laws,
28 as determined under paragraph (3) of this subsection; and

29 2. in continuous compliance with the conditions of the
30 person's security posted under this subsection.

1 (3) For purposes of paragraph (2) of this subsection, a person is in
2 continuous compliance with the tobacco tax laws for a period if the person has not, at
3 any time during that period:

4 (i) failed to pay any tobacco tax or any tobacco tax assessment
5 when due;

6 (ii) failed to file a tobacco tax return when due; or

7 (iii) otherwise violated any of the provisions of Title 12 or Title
8 13 of this article or Title 16 **OR TITLE 16A** of the Business Regulation Article.

9 (4) (i) An exemption granted under paragraph (2) of this
10 subsection is effective only to the extent that a person's potential tobacco tax liability
11 does not exceed an amount determined by the Comptroller based on the person's
12 experience during the 5-year compliance period under paragraph (2) of this
13 subsection.

14 (ii) The Comptroller may revoke an exemption granted to a
15 person under paragraph (2) of this subsection if the person at any time fails to be in
16 continuous compliance with the tobacco tax laws, as described in paragraph (3) of this
17 subsection.

18 (iii) The Comptroller may reinstate an exemption revoked under
19 subparagraph (ii) of this paragraph if the person meets the requirements of paragraph
20 (2)(i) and (ii) of this subsection for a period of 2 years following the revocation.

21 (5) The Comptroller may not exempt a person from posting a bond or
22 other security for the tobacco tax unless the Comptroller determines that the person is
23 solvent and financially able to pay the person's potential tobacco tax liability.

24 (6) If a corporation is granted an exemption from posting a bond or
25 other security for the tobacco tax, any officer of the corporation who exercises direct
26 control over its fiscal management is personally liable for any tobacco tax, interest and
27 penalties owed by the corporation.

28 13-1015.

29 A person who willfully ships, imports, sells into or within, or transports within,
30 this State cigarettes or other tobacco products on which the tobacco tax has not been
31 paid in violation of Title 12 of this article or § 16-219 [or], § 16-222, **§ 16A-215, OR §**
32 **16A-216** of the Business Regulation Article is guilty of a felony and, on conviction, is
33 subject to a fine not exceeding \$50 for each carton of cigarettes **OR EACH PACKAGE**
34 **OF OTHER TOBACCO PRODUCTS** transported or imprisonment not exceeding 2 years
35 or both.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Comptroller shall
2 adopt regulations to carry out this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That ~~this Act shall take effect~~
4 ~~May 1, 2011, on or before January 1, 2011, the Comptroller and the Administrative~~
5 ~~Office of the Courts shall certify to the Senate Finance Committee and the House~~
6 ~~Economic Matters Committee when the Comptroller and the Administrative Office of~~
7 ~~the Courts have entered into a memorandum of understanding providing for the~~
8 ~~funding to implement the requirements of Section 1 of this Act.~~

9 SECTION 4. AND BE IT FURTHER ENACTED, That Sections 1 and 2 of this
10 Act shall take effect May 1, 2011, contingent on the successful securing of funding for
11 the implementation of the requirements of Section 1 of this Act.

12 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of
13 this Act, this Act shall take effect July 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.