

SENATE BILL 361

E4, C2

71r0646
CF HB 785

By: **Senators Lenett, Forehand, Britt, Colburn, Conway, Currie, Dyson, Edwards, Frosh, Haines, Hooper, Jones, Kelley, Madaleno, McFadden, Munson, Muse, Peters, Pinsky, Pugh, Raskin, Robey, Rosapepe, Simonaire, Stone, and Zirkin**

Introduced and read first time: February 1, 2007

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 30, 2007

CHAPTER _____

1 AN ACT concerning

2 **Cigarette Fire Safety Performance Standard and Firefighter Protection Act**

3 FOR the purpose of prohibiting the manufacture, sale, or offer for sale of cigarettes in
4 the State unless the cigarettes have been tested in a certain manner and meet a
5 certain performance standard and the manufacturer has filed a certain
6 certification with the Comptroller; establishing a certain performance standard
7 for cigarettes; requiring that testing of cigarettes be conducted in a certain
8 manner; requiring laboratories that conduct testing to have certain current
9 certification and implement a certain quality control and quality assurance
10 program; providing for an alternative test method and performance standard
11 under certain circumstances; providing that additional testing is not required
12 under this Act of cigarettes that are tested in a certain manner for other
13 purposes; requiring manufacturers to retain all data from testing for a certain
14 period of time and provide certain data to the Comptroller, State Fire
15 Prevention Commission, or the Attorney General; providing for a civil penalty if
16 certain data is not provided within a certain period of time; requiring that a
17 certain subtitle be implemented in accordance with the implementation and
18 substance of the fire safety standards of a certain state; requiring

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.



1 manufacturers to submit to the Comptroller a certain written certification that
2 a cigarette has been tested and has met the performance standard; requiring
3 recertification of cigarettes after a certain period of time; requiring
4 manufacturers to retest certain altered cigarettes; requiring manufacturers to
5 mark in a certain manner cigarettes that have been certified; requiring
6 manufacturers to request approval of a proposed marking from the Comptroller;
7 requiring manufacturers to provide certain wholesalers with copies of
8 certifications and illustrations of certain markings; requiring wholesalers to
9 provide certain retailers, subwholesalers, and vending machine operators with
10 copies of certain illustrations; requiring retailers, subwholesalers, vending
11 machine operators, and wholesalers to allow the Comptroller or designee to
12 make certain inspections; providing that cigarettes sold or offered for sale in the
13 State that do not comply with a certain standard are deemed contraband;
14 authorizing the Comptroller to adopt certain regulations and establish certain
15 fees; establishing certain civil penalties for certain violations of this Act;
16 authorizing the Attorney General to enjoin acts in violation of this Act and to
17 recover certain civil penalties; requiring that certain money collected from
18 certain civil penalties be distributed to a certain fund; authorizing police officers
19 and authorized personnel to seize and destroy certain cigarettes; requiring that
20 certain holders of the trademark rights of certain cigarettes be provided the
21 opportunity to inspect certain seized cigarettes prior to destruction; altering the
22 composition of a certain fund; providing that this Act does not prohibit retailers,
23 subwholesalers, vending machine operators, and wholesalers from selling
24 existing inventory if certain tax stamps were affixed to the cigarettes before a
25 certain date under certain circumstances; providing for the construction of this
26 Act; providing that this Act preempts certain local laws, ordinances, or
27 regulations; prohibiting local governmental units from enacting and enforcing
28 certain ordinances, local laws, or regulations; requiring the Comptroller to
29 monitor certain federal actions and notify the Department of Legislative
30 Services of the adoption of a certain federal standard; defining certain terms;
31 providing for a delayed effective date; providing for the termination of this Act;
32 and generally relating to fire safety standards for cigarettes.

33 BY adding to

34 Article – Business Regulation

35 Section 16–601 through 16–610 to be under the new subtitle “Subtitle 6. Fire
36 Safety Performance Standard for Cigarettes” and the amended title “Title
37 16. Cigarettes”

38 Annotated Code of Maryland

39 (2004 Replacement Volume and 2006 Supplement)

40 BY repealing and reenacting, without amendments,

41 Article – Public Safety

1 Section 8-102(a) and (b)
 2 Annotated Code of Maryland
 3 (2003 Volume and 2006 Supplement)

4 BY repealing and reenacting, with amendments,
 5 Article – Public Safety
 6 Section 8-102(d)
 7 Annotated Code of Maryland
 8 (2003 Volume and 2006 Supplement)

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

11 **Article – Business Regulation**

12 Title 16. [Cigarette Licenses] **CIGARETTES.**

13 **SUBTITLE 6. FIRE SAFETY PERFORMANCE STANDARD FOR CIGARETTES.**

14 **16-601.**

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
 16 INDICATED.

17 (B) ~~(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~
 18 ~~SUBSECTION, “CIGARETTE”~~ “CIGARETTE” HAS THE MEANING STATED IN §
 19 **16-101 OF THIS TITLE.**

20 ~~(2) “CIGARETTE” INCLUDES A ROLL OF TOBACCO WRAPPED IN A~~
 21 ~~SUBSTANCE CONTAINING TOBACCO THAT BECAUSE OF ITS APPEARANCE, THE~~
 22 ~~TYPE OF TOBACCO USED IN ITS FILLER, OR ITS PACKAGING AND LABELING IS~~
 23 ~~LIKELY TO BE OFFERED TO OR PURCHASED BY A CONSUMER AS A CIGARETTE AS~~
 24 ~~DEFINED IN PARAGRAPH (1) OF THIS SUBSECTION.~~

25 (C) **“COMMISSION”** MEANS THE STATE FIRE PREVENTION
 26 COMMISSION.

27 (D) **“MANUFACTURER”** MEANS:

28 (1) A PERSON THAT MANUFACTURES OR OTHERWISE PRODUCES,
 29 OR CAUSES TO BE MANUFACTURED OR PRODUCED, CIGARETTES INTENDED FOR

1 **SALE IN THIS STATE, INCLUDING CIGARETTES INTENDED FOR SALE IN THE**
2 **UNITED STATES THROUGH AN IMPORTER;**

3 **(2) THE FIRST PURCHASER ANYWHERE THAT INTENDS TO RESELL**
4 **IN THE UNITED STATES CIGARETTES THAT THE ORIGINAL MANUFACTURER OR**
5 **MAKER DOES NOT INTEND FOR SALE IN THE UNITED STATES; OR**

6 **(3) A PERSON THAT IS A SUCCESSOR OF A PERSON LISTED IN ITEM**
7 **(1) OR (2) OF THIS SUBSECTION.**

8 **(E) “QUALITY CONTROL AND QUALITY ASSURANCE PROGRAM” MEANS**
9 **LABORATORY PROCEDURES IMPLEMENTED TO ENSURE THAT:**

10 **(1) OPERATOR BIAS, SYSTEMATIC AND NONSYSTEMATIC**
11 **METHODOLOGICAL ERRORS, AND EQUIPMENT-RELATED PROBLEMS DO NOT**
12 **AFFECT THE RESULTS OF THE TESTING; AND**

13 **(2) THE TESTING REPEATABILITY REMAINS WITHIN THE**
14 **REQUIRED REPEATABILITY VALUE FOR ANY TEST TRIAL USED TO CERTIFY**
15 **CIGARETTES UNDER THIS SUBTITLE.**

16 **(F) “REPEATABILITY” MEANS THE RANGE OF VALUES WITHIN WHICH**
17 **THE REPEAT RESULTS OF CIGARETTE TEST TRIALS FROM A SINGLE**
18 **LABORATORY FALL 95% OF THE TIME.**

19 **(G) “RETAILER” HAS THE MEANING STATED IN § 16-201 OF THIS TITLE.**

20 **(H) “SUBWHOLESALE” HAS THE MEANING STATED IN § 16-201 OF THIS**
21 **TITLE.**

22 **(I) “VENDING MACHINE OPERATOR” HAS THE MEANING STATED IN §**
23 **16-201 OF THIS TITLE.**

24 **(J) “WHOLESALE” HAS THE MEANING STATED IN § 16-201 OF THIS**
25 **TITLE.**

26 **16-602.**

27 **(A) CIGARETTES MAY NOT BE MANUFACTURED IN THIS STATE OR SOLD**
28 **OR OFFERED FOR SALE TO ANY PERSON IN THIS STATE UNLESS:**

1 (1) THE CIGARETTES HAVE BEEN TESTED IN ACCORDANCE WITH
2 THE TEST METHOD AND MEET THE PERFORMANCE STANDARD SPECIFIED IN
3 THIS SECTION; AND

4 (2) THE MANUFACTURER HAS FILED A WRITTEN CERTIFICATION
5 WITH THE COMPTROLLER IN ACCORDANCE WITH § 16-603 OF THIS SUBTITLE.

6 (B) THE PERFORMANCE STANDARD FOR CIGARETTES SOLD OR
7 OFFERED FOR SALE IN THE STATE INCLUDES ALL OF THE REQUIREMENTS IN
8 SUBSECTION (E) OF THIS SECTION.

9 (C) (1) TESTING OF CIGARETTES SHALL BE CONDUCTED IN
10 ACCORDANCE WITH THE AMERICAN SOCIETY OF TESTING AND MATERIALS
11 (ASTM) STANDARD E2187-04 "STANDARD TEST METHOD FOR MEASURING
12 THE IGNITION STRENGTH OF CIGARETTES".

13 (2) THE COMPTROLLER, IN CONSULTATION WITH THE
14 COMMISSION, MAY ADOPT A SUBSEQUENT ASTM STANDARD TEST METHOD FOR
15 MEASURING THE IGNITION STRENGTH OF CIGARETTES ON A FINDING THAT THE
16 SUBSEQUENT METHOD DOES NOT RESULT IN A CHANGE IN THE PERCENTAGE OF
17 FULL-LENGTH BURNS EXHIBITED BY ANY TESTED CIGARETTE WHEN COMPARED
18 TO THE PERCENTAGE OF FULL-LENGTH BURNS THE SAME CIGARETTE WOULD
19 EXHIBIT WHEN TESTED IN ACCORDANCE WITH ASTM STANDARD E2187-04 AND
20 THE PERFORMANCE STANDARD OF THIS SECTION.

21 (D) TESTING OF CIGARETTES SHALL BE CONDUCTED ON 10 LAYERS OF
22 FILTER PAPER.

23 (E) (1) NO MORE THAN 25% OF THE CIGARETTES TESTED IN A TEST
24 TRIAL SHALL EXHIBIT FULL-LENGTH BURNS.

25 (2) FORTY REPLICATE TESTS SHALL COMPRISE A COMPLETE
26 TEST TRIAL FOR EACH CIGARETTE TESTED.

27 (F) THE PERFORMANCE STANDARD REQUIRED BY THIS SECTION SHALL
28 ONLY BE APPLIED TO A COMPLETE TEST TRIAL.

29 (G) (1) EACH LABORATORY THAT CONDUCTS TESTS IN ACCORDANCE
30 WITH THIS SECTION SHALL:

1 (I) HAVE CURRENT ACCREDITATION PURSUANT TO
2 STANDARD ISO/IEC 17025 OF THE INTERNATIONAL ORGANIZATION FOR
3 STANDARDIZATION, SUBSEQUENT LABORATORY STANDARDIZATION, OR
4 ANOTHER COMPARABLE ACCREDITATION AS DETERMINED BY THE
5 COMPTROLLER; AND

6 (II) IMPLEMENT A QUALITY CONTROL AND QUALITY
7 ASSURANCE PROGRAM THAT INCLUDES A PROCEDURE TO DETERMINE THE
8 REPEATABILITY OF THE TESTING RESULTS.

9 (2) THE REPEATABILITY VALUE SHALL BE NO GREATER THAN
10 **0.19.**

11 (H) (1) EACH CIGARETTE LISTED IN A CERTIFICATION THAT USES
12 LOWERED PERMEABILITY BANDS IN THE CIGARETTE PAPER TO ACHIEVE
13 COMPLIANCE WITH THE PERFORMANCE STANDARD OF THIS SECTION SHALL
14 HAVE AT LEAST TWO NOMINALLY IDENTICAL BANDS ON THE PAPER
15 SURROUNDING THE TOBACCO COLUMN.

16 (2) AT LEAST ONE COMPLETE BAND SHALL BE LOCATED AT LEAST
17 **15 MILLIMETERS FROM THE LIGHTING END OF THE CIGARETTE.**

18 (3) FOR A CIGARETTE ON WHICH THE BANDS ARE POSITIONED BY
19 DESIGN, AT LEAST TWO BANDS SHALL BE LOCATED AT LEAST **15 MILLIMETERS**
20 **FROM THE LIGHTING END AND 10 MILLIMETERS FROM THE FILTER END OF THE**
21 **TOBACCO COLUMN.**

22 (4) FOR AN UNFILTERED CIGARETTE, THE TWO COMPLETE BANDS
23 SHALL BE LOCATED AT LEAST **15 MILLIMETERS FROM THE LIGHTING END AND**
24 **10 MILLIMETERS FROM THE LABELED END OF THE TOBACCO COLUMN.**

25 (I) (1) IF THE COMPTROLLER DETERMINES THAT A CIGARETTE
26 CANNOT BE TESTED IN ACCORDANCE WITH THE TEST METHOD REQUIRED BY
27 THIS SECTION, THE MANUFACTURER OF THE CIGARETTE SHALL PROPOSE TO
28 THE COMPTROLLER A TEST METHOD AND PERFORMANCE STANDARD FOR THAT
29 CIGARETTE.

30 (2) THE COMPTROLLER, IN CONSULTATION WITH THE
31 COMMISSION, MAY APPROVE A TEST METHOD AND PERFORMANCE STANDARD

1 THAT THE COMPTROLLER DETERMINES IS EQUIVALENT TO THE REQUIREMENTS
2 OF THIS SECTION, AND THE MANUFACTURER MAY USE THAT TEST METHOD AND
3 PERFORMANCE STANDARD FOR CERTIFICATION OF A CIGARETTE IN
4 ACCORDANCE WITH § 16-603 OF THIS SUBTITLE.

5 (3) (I) THE COMPTROLLER, IN CONSULTATION WITH THE
6 COMMISSION, SHALL APPROVE A TEST METHOD AND PERFORMANCE STANDARD
7 USED IN ANOTHER STATE IF THE COMPTROLLER DETERMINES THAT:

8 1. THE ~~STATE~~ OTHER STATE HAS ENACTED A
9 REDUCED CIGARETTE IGNITION PROPENSITY STANDARD THAT INCLUDES A
10 TEST METHOD AND PERFORMANCE STANDARD THAT ARE THE SAME AS THE
11 REQUIREMENTS OF THIS SECTION; AND

12 2. THE OFFICIALS RESPONSIBLE FOR IMPLEMENTING
13 THE REQUIREMENTS IN THE OTHER STATE HAVE APPROVED OF THE
14 ALTERNATIVE TEST METHOD AND PERFORMANCE STANDARD FOR A
15 PARTICULAR CIGARETTE UNDER A LEGAL PROVISION COMPARABLE TO THIS
16 SECTION.

17 (II) A MANUFACTURER MAY USE A TEST METHOD AND
18 PERFORMANCE STANDARD APPROVED UNDER SUBPARAGRAPH (I) OF THIS
19 PARAGRAPH FOR CERTIFICATION IN ACCORDANCE WITH § 16-603 OF THIS
20 SUBTITLE OF THE CIGARETTE USED IN THE APPROVED TEST METHOD.

21 (J) THIS SECTION DOES NOT REQUIRE ADDITIONAL TESTING FOR
22 CIGARETTES THAT ARE TESTED IN A MANNER CONSISTENT WITH THE
23 REQUIREMENTS OF THIS SECTION FOR ANY OTHER PURPOSE.

24 (K) (1) EACH MANUFACTURER SHALL RETAIN ALL DATA FROM
25 TESTING CONDUCTED UNDER THIS SECTION FOR 3 YEARS.

26 (2) (I) ON REQUEST, THE MANUFACTURER SHALL PROVIDE
27 THE DATA RETAINED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE
28 COMPTROLLER, THE COMMISSION, OR THE ATTORNEY GENERAL WITHIN 60
29 DAYS AFTER RECEIVING THE REQUEST, FOR THE PURPOSE OF ENSURING
30 COMPLIANCE WITH THIS SECTION.

31 (II) A MANUFACTURER WHO DOES NOT PROVIDE THE DATA
32 WITHIN 60 DAYS OF A REQUEST IS SUBJECT TO A CIVIL PENALTY NOT TO

1 EXCEED \$10,000 FOR EACH DAY AFTER THE 60TH DAY THAT THE VIOLATION
2 CONTINUES.

3 (L) THIS SUBTITLE SHALL BE IMPLEMENTED IN ACCORDANCE WITH
4 THE IMPLEMENTATION AND SUBSTANCE OF THE NEW YORK FIRE SAFETY
5 STANDARDS FOR CIGARETTES.

6 **16-603.**

7 (A) (1) EACH MANUFACTURER SHALL SUBMIT TO THE
8 COMPTROLLER WRITTEN CERTIFICATION ATTESTING THAT EACH CIGARETTE
9 HAS BEEN TESTED IN ACCORDANCE WITH AND HAS MET THE PERFORMANCE
10 STANDARD REQUIRED UNDER § 16-602 OF THIS SUBTITLE.

11 (2) A CERTIFICATION UNDER PARAGRAPH (1) OF THIS
12 SUBSECTION MAY NOT LIST MORE THAN 50 CIGARETTES.

13 (B) THE DESCRIPTION OF EACH CIGARETTE LISTED IN THE
14 CERTIFICATION SHALL INCLUDE:

15 (1) THE BRAND OR TRADE NAME ON THE PACKAGE;

16 (2) THE STYLE, SUCH AS LIGHT OR ULTRA LIGHT;

17 (3) THE LENGTH IN MILLIMETERS;

18 (4) THE CIRCUMFERENCE IN MILLIMETERS;

19 (5) THE FLAVOR, SUCH AS MENTHOL OR CHOCOLATE, IF
20 APPLICABLE;

21 (6) WHETHER FILTERED OR NONFILTERED;

22 (7) A PACKAGE DESCRIPTION, SUCH AS A SOFT PACK OR BOX;

23 (8) THE MARK APPROVED IN ACCORDANCE WITH § 16-604 OF
24 THIS SUBTITLE;

1 **(9) IF DIFFERENT FROM THE MANUFACTURER, THE NAME,**
2 **ADDRESS, AND TELEPHONE NUMBER OF THE LABORATORY THAT CONDUCTED**
3 **THE TEST; AND**

4 **(10) THE DATE OF THE TESTING.**

5 **(C) THE CERTIFICATION SHALL BE MADE AVAILABLE TO:**

6 **(1) THE ATTORNEY GENERAL AND THE COMMISSION FOR**
7 **PURPOSES CONSISTENT WITH THIS SUBTITLE; AND**

8 **(2) THE COMPTROLLER FOR THE PURPOSE OF ENSURING**
9 **COMPLIANCE WITH THIS SECTION.**

10 **(D) (1) EACH CIGARETTE CERTIFIED UNDER THIS SECTION SHALL BE**
11 **RECERTIFIED EVERY 3 YEARS.**

12 **(2) IF A MANUFACTURER OF A CIGARETTE THAT HAS BEEN**
13 **CERTIFIED UNDER THIS SECTION MAKES A CHANGE THAT IS LIKELY TO ALTER**
14 **THE CIGARETTE'S COMPLIANCE WITH THE PERFORMANCE STANDARD UNDER §**
15 **16-602(E) OF THIS SUBTITLE, THAT CIGARETTE MAY NOT BE SOLD IN THIS**
16 **STATE UNTIL THE MANUFACTURER, IN ACCORDANCE WITH § 16-602 OF THIS**
17 **SUBTITLE, RETESTS AND MAINTAINS THE PROPER RECORDS OF THE TESTING.**

18 **16-604.**

19 **(A) CIGARETTES THAT HAVE BEEN CERTIFIED IN ACCORDANCE WITH §**
20 **16-603 OF THIS SUBTITLE SHALL BE MARKED IN ACCORDANCE WITH THE**
21 **REQUIREMENTS OF THIS SECTION.**

22 **(B) THE MARKING SHALL:**

23 **(1) CONSIST OF:**

24 **(I) ANY MARKING IN USE AND APPROVED FOR SALE IN NEW**
25 **YORK UNDER THE NEW YORK FIRE SAFETY STANDARDS FOR CIGARETTES; OR**

26 **(II) THE LETTERS "FSC" TO SIGNIFY FIRE STANDARDS**
27 **COMPLIANT;**

1 (2) BE IN A FONT OF AT LEAST 8 POINT TYPE; AND

2 (3) BE PERMANENTLY PRINTED, STAMPED, ENGRAVED, OR
3 EMBOSSED ON THE PACKAGE AT OR NEAR THE AREA OF THE UPC CODE, IF
4 PRESENT.

5 (C) A MANUFACTURER MAY PROPOSE AN ALTERNATIVE MARKING THAT:

6 (1) MEETS THE CRITERIA UNDER SUBSECTION (B)(2) AND (3) OF
7 THIS SECTION; AND

8 (2) CONSISTS OF A VISIBLE COMBINATION OF ALPHANUMERIC OR
9 SYMBOLIC CHARACTERS OR TEXT PERMANENTLY STAMPED, ENGRAVED,
10 EMBOSSED, OR PRINTED:

11 (I) IN CONJUNCTION WITH THE UPC CODE; OR

12 (II) ON THE CIGARETTE PACK OR CELLOPHANE WRAP.

13 (D) (1) A MANUFACTURER SHALL REQUEST APPROVAL OF A
14 PROPOSED MARKING FROM THE COMPTROLLER.

15 (2) (I) THE COMPTROLLER SHALL APPROVE A MARKING
16 SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION.

17 (II) A MARKING IS DEEMED APPROVED IF THE
18 COMPTROLLER FAILS TO ACT WITHIN 10 BUSINESS DAYS AFTER RECEIVING A
19 REQUEST FOR APPROVAL.

20 (3) A MANUFACTURER MAY NOT USE A MODIFIED MARKING
21 UNLESS THE MODIFICATION HAS BEEN APPROVED IN ACCORDANCE WITH THIS
22 SECTION.

23 (4) A MANUFACTURER SHALL USE ONLY ONE MARKING ON ALL
24 BRANDS THAT THE MANUFACTURER MARKETS.

25 (5) A MARKING OR MODIFIED MARKING APPROVED BY THE
26 COMPTROLLER SHALL BE APPLIED UNIFORMLY ON ALL BRANDS MARKETED
27 AND ON ALL PACKAGES, INCLUDING PACKS, CARTONS, AND CASES MARKETED
28 BY THAT MANUFACTURER.

1 **16-605.**

2 (A) **THE MANUFACTURER SHALL:**

3 (1) **PROVIDE A COPY OF EACH CERTIFICATION TO EACH**
4 **WHOLESALE TO WHICH THE MANUFACTURER SELLS CIGARETTES; AND**

5 (2) **PROVIDE SUFFICIENT COPIES OF AN ILLUSTRATION OF THE**
6 **PACKAGING MARKING APPROVED AND USED BY THE MANUFACTURER IN**
7 **ACCORDANCE WITH § 16-604 OF THIS SUBTITLE FOR EACH RETAILER,**
8 **SUBWHOLESALE, AND VENDING MACHINE OPERATOR THAT PURCHASES**
9 **CIGARETTES FROM THE WHOLESALE.**

10 (B) **THE WHOLESALE SHALL PROVIDE A COPY OF THE ILLUSTRATION**
11 **TO EACH RETAILER, SUBWHOLESALE, AND VENDING MACHINE OPERATOR TO**
12 **WHICH THE WHOLESALE SELLS CIGARETTES.**

13 (C) **EACH RETAILER, SUBWHOLESALE, VENDING MACHINE OPERATOR,**
14 **AND WHOLESALE SHALL ALLOW THE COMPTROLLER OR DESIGNEE OF THE**
15 **COMPTROLLER TO INSPECT THE MARKINGS ON CIGARETTE PACKAGING AT ANY**
16 **TIME.**

17 **16-606.**

18 **ANY CIGARETTES SOLD OR OFFERED FOR SALE IN THE STATE THAT DO**
19 **NOT COMPLY WITH THE PERFORMANCE STANDARD REQUIRED BY § 16-602 OF**
20 **THIS SUBTITLE ARE DEEMED TO BE CONTRABAND AND SUBJECT TO §§ 13-836,**
21 **13-837, AND 13-839 OF THE TAX - GENERAL ARTICLE.**

22 **16-607.**

23 **THE COMPTROLLER:**

24 (1) **MAY ADOPT REGULATIONS NECESSARY TO CARRY OUT AND**
25 **ADMINISTER THIS SUBTITLE;**

26 (2) **IN CONSULTATION WITH THE COMMISSION, MAY ADOPT**
27 **REGULATIONS FOR THE CONDUCT OF RANDOM INSPECTIONS OF RETAILERS,**

1 SUBWHOLESALERS, VENDING MACHINE OPERATORS, AND WHOLESALERS TO
2 ENSURE COMPLIANCE WITH THIS SUBTITLE; AND

3 (3) MAY ESTABLISH A \$250 FEE FOR EACH ~~CIGARETTE LISTED IN~~
4 ~~A CERTIFICATION REQUIRED UNDER § 16-603~~ OF THIS SUBTITLE TO COVER THE
5 EXPENSES OF ADMINISTERING THIS SUBTITLE.

6 **16-608.**

7 (A) (1) A MANUFACTURER OR OTHER PERSON THAT KNOWINGLY
8 SELLS OR OFFERS FOR SALE CIGARETTES OTHER THAN BY RETAIL SALE IN
9 VIOLATION OF § 16-602 OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT
10 TO EXCEED \$100 FOR EACH PACKAGE OF CIGARETTES SOLD OR OFFERED FOR
11 SALE.

12 (2) UNDER THIS SUBSECTION, A TOTAL AMOUNT OF CIVIL
13 PENALTIES IMPOSED ON A MANUFACTURER OR OTHER PERSON MAY NOT
14 EXCEED \$100,000 DURING ANY 30-DAY PERIOD.

15 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
16 SUBSECTION, A RETAILER, SUBWHOLESALE, WHOLESALER, OR OTHER PERSON
17 THAT KNOWINGLY SELLS CIGARETTES IN VIOLATION OF § 16-602 OF THIS
18 SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT TO EXCEED \$100 FOR EACH
19 PACKAGE OF CIGARETTES SOLD.

20 (2) UNDER THIS SUBSECTION, A TOTAL AMOUNT OF CIVIL
21 PENALTIES IMPOSED ON A RETAILER MAY NOT EXCEED \$25,000 DURING ANY
22 30-DAY PERIOD.

23 (3) UNDER THIS SUBSECTION, A TOTAL AMOUNT OF CIVIL
24 PENALTIES IMPOSED ON A SUBWHOLESALE, WHOLESALER, OR OTHER PERSON
25 MAY NOT EXCEED \$100,000 DURING ANY 30-DAY PERIOD.

26 (C) A MANUFACTURER THAT KNOWINGLY MAKES A FALSE
27 CERTIFICATION UNDER § 16-603 OF THIS SUBTITLE IS SUBJECT TO A CIVIL
28 PENALTY OF AT LEAST \$75,000 AND NOT EXCEEDING \$250,000 FOR EACH FALSE
29 CERTIFICATION.

30 **16-609.**

1 **(A) TO ENFORCE THIS SUBTITLE:**

2 **(1) THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENJOIN**
3 **ANY ACTS IN VIOLATION OF THIS SUBTITLE AND TO RECOVER CIVIL PENALTIES**
4 **AUTHORIZED UNDER § 16-608 OF THIS SUBTITLE; OR**

5 **(2) THE ATTORNEY GENERAL OR THE COMPTROLLER MAY**
6 **EXAMINE THE BOOKS, PAPERS, INVOICES, AND RECORDS OF A PERSON IN**
7 **POSSESSION, CONTROL, OR OCCUPANCY OF A BUILDING, STRUCTURE, OR LAND**
8 **WHERE CIGARETTES ARE PLACED, STORED, SOLD, OR OFFERED FOR SALE.**

9 **(B) MONEY COLLECTED FROM CIVIL PENALTIES RECOVERED UNDER**
10 **THIS SECTION SHALL BE DISTRIBUTED TO THE SENATOR WILLIAM H. AMOSS**
11 **FIRE, RESCUE, AND AMBULANCE FUND.**

12 **16-610.**

13 **(A) A POLICE OFFICER OR OTHER AUTHORIZED PERSONNEL AS**
14 **DETERMINED BY REGULATIONS MAY SEIZE CIGARETTES IN THE POSSESSION OF**
15 **A RETAILER, SUBWHOLESALE, VENDING MACHINE OPERATOR, OR**
16 **WHOLESALE THAT HAVE NOT BEEN MARKED IN ACCORDANCE WITH § 16-604**
17 **OF THIS SUBTITLE.**

18 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
19 **CIGARETTES SEIZED UNDER THIS SECTION SHALL BE DESTROYED.**

20 **(2) THE TRUE HOLDER OF THE TRADEMARK RIGHTS IN THE**
21 **CIGARETTE BRAND SHALL BE PROVIDED THE OPPORTUNITY TO INSPECT ANY**
22 **CIGARETTES SEIZED UNDER THIS SECTION BEFORE THE CIGARETTES ARE**
23 **DESTROYED.**

24 **Article - Public Safety**

25 **8-102.**

26 **(a) There is a Senator William H. Amoss Fire, Rescue, and Ambulance Fund.**

27 **(b) The purposes of the Fund are to promote:**

28 **(1) the delivery of effective and high quality fire protection, rescue,**
29 **and ambulance services in the State;**

1 (2) increased financial support for fire, rescue, and ambulance
2 companies by counties; and

3 (3) the continued financial viability of volunteer fire, rescue, and
4 ambulance companies given the greatly increased costs of equipment.

5 (d) The Fund consists of:

6 (1) money appropriated in the State budget to the Fund; AND

7 (2) **REVENUE DISTRIBUTED TO THE FUND UNDER § 16-609 OF**
8 **THE BUSINESS REGULATION ARTICLE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That the requirement that
10 cigarettes sold in this State must be in compliance with this Act does not prohibit
11 retailers, subwholesalers, vending machine operators, or wholesalers from selling
12 existing cigarette inventories on or after July 1, 2008, if the retailers, subwholesalers,
13 vending machine operators, or wholesalers can establish that:

14 (1) the tax stamps were affixed to the cigarettes as required by §
15 12-304 of the Tax – General Article before July 1, 2008; and

16 (2) the inventories purchased between July 1, 2007 and July 1, 2008
17 are in a quantity comparable to the inventories purchased between July 1, 2006 and
18 July 1, 2007.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act may not be
20 construed to prohibit a person from selling or offering for sale cigarettes that have not
21 been certified in accordance with § 16-603 of the Business Regulation Article, as
22 enacted by this Act, if the cigarettes are or will be stamped for sale in another state or
23 are packaged for sale outside the United States.

24 SECTION 4. AND BE IT FURTHER ENACTED, That this Act preempts any
25 local law, ordinance, or regulation that conflicts with any provision of this Act or any
26 policy of the State implemented in accordance with this Act and, notwithstanding any
27 other provision of law, a governmental unit of this State may not enact or enforce an
28 ordinance, local law, or regulation conflicting with or preempted by this Act.

29 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 2008. It shall remain effective until a federal reduced cigarette ignition
31 propensity standard is adopted and becomes effective. If a federal reduced cigarette

1 ignition propensity standard is adopted and becomes effective, with no further action
2 required by the General Assembly, this Act shall be abrogated and of no further force
3 and effect. The Comptroller shall monitor federal actions regarding the establishment
4 of fire safety standards for cigarettes and promptly forward notice of the adoption of a
5 federal reduced cigarette ignition propensity standard to the Department of
6 Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.