

HOUSE BILL 1558

E1, C2

8lr2833

By: **Delegates Cardin, Burns, Harrison, Hubbard, Ivey, Krysiak, Rosenberg, Taylor, and Waldstreicher**

Introduced and read first time: February 25, 2008

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Flavored Cigars and Cigarettes – Prohibition on Sale**

3 FOR the purpose of prohibiting a person from selling or distributing or offering to sell
4 or distribute a cigarette or cigar or component part of a cigarette or cigar that
5 contains a certain constituent; establishing penalties for a violation of this Act;
6 authorizing the Comptroller to deny a license to a certain applicant, reprimand
7 a certain licensee, or suspend or revoke a certain license if the applicant or
8 licensee sells or distributes cigarettes or cigars in violation of a certain provision
9 of this Act; providing that certain cigarettes or cigars may continue to be sold
10 until a certain date, notwithstanding the provisions of this Act; and generally
11 relating to the sale and distribution of tobacco products.

12 BY adding to

13 Article – Criminal Law
14 Section 10–106.1
15 Annotated Code of Maryland
16 (2002 Volume and 2007 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Business Regulation
19 Section 16–210(a)
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2007 Supplement)

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

24 **Article – Criminal Law**

25 **10–106.1.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
2 MEANINGS INDICATED.

3 (2) “CHARACTERIZING FLAVOR” MEANS A DISTINGUISHABLE
4 TASTE OR AROMA, OTHER THAN TOBACCO, MENTHOL, COFFEE, NUTS, OR
5 PEPPERS IMPARTED PRIOR TO OR DURING CONSUMPTION.

6 (3) “COMPONENT PART” INCLUDES THE TOBACCO, FILTER, AND
7 PAPER IN A CIGARETTE OR CIGAR.

8 (4) (I) “CONSTITUENT” MEANS ANY INGREDIENT, SUBSTANCE,
9 CHEMICAL, OR COMPOUND OTHER THAN TOBACCO, WATER, OR RECONSTITUTED
10 TOBACCO SHEET, THAT IS ADDED BY THE MANUFACTURER TO THE TOBACCO,
11 PAPER, OR FILTER OF A CIGARETTE OR CIGAR DURING THE PROCESSING,
12 MANUFACTURE, OR PACKING OF THE CIGARETTE OR CIGAR.

13 (II) “CONSTITUENT” INCLUDES A SMOKE CONSTITUENT.

14 (5) “SMOKE CONSTITUENT” MEANS ANY CHEMICAL OR CHEMICAL
15 COMPOUND IN MAINSTREAM OR SIDESTREAM TOBACCO SMOKE THAT:

16 (I) IS TRANSFERRED FROM ANY COMPONENT PART OF THE
17 CIGARETTE OR CIGAR TO THE SMOKE; OR

18 (II) IS FORMED BY THE COMBUSTION OR HEATING OF
19 TOBACCO, ADDITIVES, OR OTHER COMPONENT PART OF THE TOBACCO
20 PRODUCT.

21 (B) A PERSON MAY NOT SELL OR DISTRIBUTE OR OFFER TO SELL OR
22 DISTRIBUTE A CIGARETTE OR CIGAR OR COMPONENT PART OF A CIGARETTE OR
23 CIGAR THAT CONTAINS A NATURAL OR ARTIFICIAL CONSTITUENT THAT
24 IMPARTS A CHARACTERIZING FLAVOR TO THE TOBACCO OR THE SMOKE OF THE
25 CIGARETTE OR CIGAR.

26 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
27 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF \$500.

28 Article – Business Regulation

29 16–210.

1 (a) Subject to the hearing provisions of § 16–211 of this subtitle, the
2 Comptroller may deny a license to an applicant, reprimand a licensee, or suspend or
3 revoke a license if the applicant or licensee:

4 (1) fraudulently or deceptively obtains or attempts to obtain a license
5 for the applicant or licensee or for another person;

6 (2) fraudulently or deceptively uses a license;

7 (3) fails to comply with the Maryland Cigarette Sales Below Cost Act
8 or regulations adopted under that Act;

9 (4) fails to comply with the provisions of Title 11, Subtitle 5A of the
10 Commercial Law Article;

11 (5) buys cigarettes for resale:

12 (i) in violation of a license; or

13 (ii) from a person who is not a cigarette manufacturer, licensed
14 subwholesaler, licensed vending machine operator, or licensed wholesaler;

15 (6) is convicted, under the laws of the United States or of any other
16 state, of:

17 (i) a felony; or

18 (ii) a misdemeanor that is a crime of moral turpitude and is
19 directly related to the fitness and qualification of the applicant or licensee; [or]

20 (7) has not paid a tax due before October 1 of the year after the tax
21 became due; **OR**

22 **(8) SELLS OR DISTRIBUTES CIGARS OR CIGARETTES IN**
23 **VIOLATION OF SECTION § 10–106.1 OF THE CRIMINAL LAW ARTICLE.**

24 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding any
25 other provision of this Act, cigarettes or cigars for which the tobacco tax has been paid
26 on or before June 30, 2008, may continue to be sold until December 31, 2008.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 2008.