

SENATE BILL 491

Q4

9lr1482
CF 9lr0971

By: **Senators Garagiola, Currie, Exum, Forehand, Jones, King, Lenett, Madaleno, McFadden, Muse, Peters, Pinsky, Raskin, Robey, Rosapepe, and Zirkin**

Introduced and read first time: February 4, 2009

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Tax – Tax Stamps**

3 FOR the purpose of requiring the tobacco tax stamps that are required to be affixed to
4 certain cigarettes to be capable of being read by certain technology and
5 encrypted with certain information; requiring the Comptroller to consult with
6 the Attorney General regarding certain tax stamp technology and enforcement
7 of provisions of a certain agreement; providing for a delayed effective date; and
8 generally relating to tobacco tax stamps.

9 BY repealing and reenacting, without amendments,
10 Article – Tax – General
11 Section 12–101(e)
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2008 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Tax – General
16 Section 12–304
17 Annotated Code of Maryland
18 (2004 Replacement Volume and 2008 Supplement)

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

21 **Article – Tax – General**

22 12–101.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 12-304.

5 (a) A manufacturer that pays the tobacco tax shall indicate prominently on
6 each package of cigarettes that:

7 (1) the package contains sample cigarettes that are not for sale; and

8 (2) all applicable tobacco taxes on those cigarettes have been paid.

9 (b) (1) Except as provided in subsection (c) of this section, within 72 hours
10 after receiving cigarettes in the State and before selling or attempting to sell the
11 cigarettes, a licensed wholesaler who first possesses the cigarettes shall affix, to the
12 smallest cigarette package, tax stamps:

13 (i) in a total amount that at least equals the tobacco tax due on
14 the number of cigarettes in the package; and

15 (ii) **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION**, in
16 the manner that the Comptroller requires, including placing the tax stamps on the
17 cigarette package so that the stamps are visible to a buyer.

18 **(2) THE TAX STAMPS SHALL BE GENERATED BY A TECHNOLOGY**
19 **CAPABLE OF BEING READ BY A SCANNING OR SIMILAR DEVICE AND ENCRYPTED**
20 **WITH THE FOLLOWING INFORMATION:**

21 **(I) THE NAME AND ADDRESS OF THE DISTRIBUTOR**
22 **AFFIXING THE STAMP;**

23 **(II) THE DATE THE STAMP WAS AFFIXED;**

24 **(III) THE DENOMINATED VALUE OF THE STAMP;**

25 **(IV) THE MANUFACTURER OF THE CIGARETTES;**

26 **(V) THE BRAND OF THE CIGARETTES; AND**

27 **(VI) ANY OTHER INFORMATION THAT MAY BE REQUIRED BY**
28 **THE COMPTROLLER.**

29 **(3) THE COMPTROLLER SHALL CONSULT WITH THE ATTORNEY**
30 **GENERAL REGARDING THE USE OF COUNTERFEIT-RESISTANT TAX STAMP**
31 **TECHNOLOGY IN HELPING THE STATE'S ENFORCEMENT OF PROVISIONS WITHIN**

1 **THE MASTER SETTLEMENT AGREEMENT ENTERED INTO ON NOVEMBER 23,**
2 **1998, BY THE STATE AND LEADING UNITED STATES TOBACCO PRODUCT**
3 **MANUFACTURERS.**

4 [(2)] (4) If a tax stamp has been affixed to a package of cigarettes, a
5 person may not affix the same tax stamp to another package of cigarettes.

6 (c) A licensed wholesaler is not required to affix tax stamps to:

7 (1) sample cigarettes if the cigarette package is marked in accordance
8 with subsection (a) of this section; or

9 (2) cigarettes that are segregated or marked to indicate that the
10 cigarettes:

11 (i) were received within the immediately preceding 72 hours; or

12 (ii) are being held for a sale or use that is exempt under this
13 title.

14 (d) (1) Except as provided in subsection (c)(2) of this section, a rebuttable
15 presumption exists that any unstamped cigarettes in the possession of a licensed
16 wholesaler are possessed in violation of this title.

17 (2) The licensed wholesaler who possesses unstamped cigarettes has
18 the burden of proving that the cigarettes are not possessed in violation of this title.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2010.