

HOUSE BILL 492

I4

11r2040

By: **Delegates Tarrant, Arora, Barnes, Branch, Burns, Cardin, Carr, Feldman, Frush, Haynes, Hucker, Ivey, Mitchell, Morhaim, Nathan-Pulliam, S. Robinson, Rosenberg, Stein, Stukes, F. Turner, and Wilson**

Introduced and read first time: February 7, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Cigars – Sales of Fewer Than Four Per Package – Prohibited**

3 FOR the purpose of prohibiting certain retailers from purchasing from certain
4 manufacturers or wholesalers, or selling, reselling, distributing, dispensing, or
5 giving away to certain persons, any cigar not contained within a sealed package
6 of at least a certain number of cigars; prohibiting certain wholesalers from
7 selling, reselling, distributing, dispensing, or giving away to certain persons any
8 cigar not contained within a sealed package of at least a certain number of
9 cigars; requiring the Comptroller to enforce this Act; requiring the Comptroller
10 to employ certain persons to enforce this Act; requiring the Comptroller to adopt
11 certain regulations; defining certain terms; providing for the application of this
12 Act; providing that this Act does not preempt a certain local law; and generally
13 relating to cigars.

14 BY adding to

15 Article – Commercial Law

16 Section 11–5B–01 through 11–5B–04 to be under the new subtitle “Subtitle 5B.
17 Cigar Sales of Fewer Than Four Per Package”

18 Annotated Code of Maryland

19 (2005 Replacement Volume and 2010 Supplement)

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

22 **Article – Commercial Law**

23 **SUBTITLE 5B. CIGAR SALES OF FEWER THAN FOUR PER PACKAGE.**

24 **11–5B–01.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (B) “CIGAR” MEANS A ROLL FOR SMOKING, OTHER THAN A CIGARETTE
4 AS DEFINED IN § 12-101 OF THE TAX – GENERAL ARTICLE, MADE IN WHOLE OR
5 IN PART OF TOBACCO.

6 (C) “RETAILER” MEANS A PERSON LOCATED IN THE STATE THAT HOLDS
7 FOR SALE OR SELLS CIGARS TO A CONSUMER IN THE STATE.

8 (D) “SELL” HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.

9 (E) “UNPACKAGED CIGAR” MEANS ANY CIGAR NOT CONTAINED WITHIN
10 A SEALED PACKAGE OF AT LEAST FOUR CIGARS.

11 (F) “WHOLESALER” MEANS A PERSON, WHETHER LOCATED IN OR
12 OUTSIDE THE STATE, THAT HOLDS FOR SALE OR SELLS CIGARS TO A RETAILER
13 IN THE STATE.

14 **11-5B-02.**

15 (A) THIS SUBTITLE DOES NOT APPLY TO A RETAIL TOBACCO BUSINESS
16 IF:

17 (1) THE PRIMARY ACTIVITY OF THE BUSINESS IS THE RETAIL
18 SALE OF TOBACCO PRODUCTS AND ACCESSORIES, OTHER THAN CIGARETTES;
19 AND

20 (2) THE SALE OF OTHER PRODUCTS IS INCIDENTAL TO THE
21 BUSINESS.

22 (B) THIS SUBTITLE DOES NOT APPLY TO A CIGAR THAT HAS A
23 WHOLESALE PRICE OF MORE THAN \$2.

24 **11-5B-03.**

25 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A RETAILER
26 MAY NOT PURCHASE FROM A TOBACCO PRODUCT MANUFACTURER OR
27 WHOLESALER, OR SELL, RESELL, DISTRIBUTE, DISPENSE, OR GIVE AWAY TO ANY
28 PERSON, AN UNPACKAGED CIGAR.

1 **(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A**
2 **WHOLESALE MAY NOT SELL, RESELL, DISTRIBUTE, DISPENSE, OR GIVE AWAY**
3 **TO ANY PERSON IN THE STATE AN UNPACKAGED CIGAR.**

4 **11-5B-04.**

5 **(A) THE COMPTROLLER SHALL ENFORCE THIS SUBTITLE.**

6 **(B) THE COMPTROLLER SHALL:**

7 **(1) EMPLOY AND DETERMINE THE DUTIES AND COMPENSATION**
8 **OF THE INSPECTORS AND OTHER PERSONNEL NECESSARY TO ENFORCE THIS**
9 **SUBTITLE; AND**

10 **(2) ADOPT REGULATIONS NECESSARY TO CARRY OUT AND**
11 **ENFORCE THE PROVISIONS OF THIS SUBTITLE.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not
13 preempt a local law that imposes restrictions, based on the number of cigars in a
14 package, on the purchase, sale, resale, distribution, dispensing, or giving away of
15 packages of cigars if the local law:

16 (1) imposes a minimum package size of four cigars; and

17 (2) is otherwise at least as restrictive as this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2011.