

HOUSE BILL 1415

C2

0lr3316

By: **Delegate Morhaim**

Introduced and read first time: February 22, 2010

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Products – Manufacturer Certification – Filing Fee**

3 FOR the purpose of requiring certain tobacco product manufacturers to pay a certain
4 certification filing fee of a certain amount; and generally relating to a
5 certification filing fee for tobacco product manufacturers.

6 BY repealing and reenacting, with amendments,
7 Article – Business Regulation
8 Section 16–503
9 Annotated Code of Maryland
10 (2004 Replacement Volume and 2009 Supplement)

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

13 **Article – Business Regulation**

14 16–503.

15 (a) A tobacco product manufacturer whose cigarettes are sold in this State,
16 whether directly or through a distributor, retailer or similar intermediary, shall:

17 **(1)** execute and deliver, on a form prescribed by the Attorney General,
18 a certification to the Attorney General no later than the 30th day of April each year,
19 certifying under penalty of perjury that, as of the date of the certification, the tobacco
20 product manufacturer either:

21 **[(1)] (I)** is a participating manufacturer; or

22 **[(2)] (II)** is in full compliance with the Escrow Act; AND

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) PAY A CERTIFICATION FILING FEE OF \$1,000.**

2 (b) (1) A participating manufacturer shall include in its certification a list
3 of its brand families.

4 (2) The participating manufacturer shall update the list at least 30
5 calendar days prior to any addition or modification to its brand families by executing
6 and delivering a supplemental certification to the Attorney General.

7 (c) (1) A nonparticipating manufacturer shall include in its certification a
8 complete list of all of its brand families.

9 (2) The certification shall:

10 (i) separately list each brand family of cigarettes and the
11 number of units sold for each brand family that was sold in the State during the
12 preceding calendar year;

13 (ii) list each of its brand families that have been sold in the
14 State at any time during the current calendar year;

15 (iii) indicate by an asterisk any brand family sold in the State
16 during the preceding calendar year that is no longer being sold in the State as of the
17 date of such certification; and

18 (iv) identify by name and address any other manufacturer of
19 such brand families in the preceding or current calendar year.

20 (3) The nonparticipating manufacturer shall update the list at least 30
21 calendar days prior to any addition or modification of its brand families by executing
22 and delivering a supplemental certification to the Attorney General.

23 (d) (1) In the case of a nonparticipating manufacturer, the certification
24 shall further certify that the nonparticipating manufacturer:

25 (i) is registered to do business in the State or has appointed a
26 resident agent for service of process and provided notice of the appointment as
27 required by § 16-505 of this subtitle;

28 (ii) has established and continues to maintain a qualified escrow
29 fund, and has executed a qualified escrow agreement that has been reviewed and
30 approved by the Attorney General and that governs the qualified escrow fund; and

31 (iii) is in full compliance with the Escrow Act and this subtitle
32 and any regulations adopted in accordance with the Escrow Act and this subtitle.

33 (2) The certification shall include:

1 (i) the name, address and telephone number of the financial
2 institution in which the nonparticipating manufacturer has established a qualified
3 escrow fund required under § 16-403(a)(2) of this title (the Escrow Act) and all
4 regulations adopted under it;

5 (ii) the account number of the qualified escrow fund and
6 subaccount number for the State of Maryland;

7 (iii) the amount the nonparticipating manufacturer placed in the
8 fund for cigarettes sold in the State during the preceding calendar year, the date and
9 amount of each deposit, and any additional information the Attorney General
10 considers necessary to confirm the information required by this subparagraph; and

11 (iv) the amount of and date of any withdrawal or transfer of
12 funds the nonparticipating manufacturer made at any time from the fund or from any
13 other qualified escrow fund into which the nonparticipating manufacturer made
14 escrow payments under § 16-403(a)(2) of this title (the Escrow Act) and all regulations
15 adopted under that section.

16 (e) (1) A tobacco product manufacturer may not include a brand family in
17 its certification unless:

18 (i) in the case of a participating manufacturer, the
19 participating manufacturer affirms that the brand family is deemed to be its cigarettes
20 for purposes of calculating its payments under the Master Settlement Agreement for
21 the relevant year, in the volume and shares determined in accordance with the Master
22 Settlement Agreement; and

23 (ii) in the case of a nonparticipating manufacturer, the
24 nonparticipating manufacturer affirms that the brand family is deemed to be its
25 cigarettes for purposes of the Escrow Act.

26 (2) Nothing in this section may be construed as limiting or otherwise
27 affecting the State's right to maintain that a brand family constitutes cigarettes of a
28 different tobacco product manufacturer for purposes of calculating payments under the
29 Master Settlement Agreement or for purposes of the Escrow Act.

30 (3) The tobacco product manufacturer shall maintain all invoices and
31 documentation of sales and any other information relied upon for its certification for a
32 period of 5 years, unless otherwise required by law to maintain them for a greater
33 period of time.

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