

# SENATE BILL 794

I4  
HB 1558/10 – ECM

11r1927

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By: **Senators Benson, Currie, Jones–Rodwell, Montgomery, and Ramirez**  
Introduced and read first time: February 4, 2011  
Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Sales of Unpackaged Cigarettes – Prohibitions and**  
3 **Penalties**

4 FOR the purpose of prohibiting certain persons from purchasing, selling, reselling,  
5 distributing, dispensing, or giving away to any person in this State certain  
6 unpackaged cigarettes; prohibiting a person from making available for use by  
7 another person a tobacco product rolling machine to produce an unpackaged  
8 cigarette; providing that a person who possesses, sells, or attempts to sell  
9 certain cigarettes is in violation of a certain provision of law; establishing  
10 certain penalties for a violation of certain provisions of this Act; defining certain  
11 terms; and generally relating to the regulation of unpackaged cigarettes.

12 BY repealing and reenacting, with amendments,  
13 Article – Commercial Law  
14 Section 11–5A–01 and 11–5A–02 to be under the amended subtitle “Subtitle 5A.  
15 Sales of Unpackaged Cigarettes”  
16 Annotated Code of Maryland  
17 (2005 Replacement Volume and 2010 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article – Commercial Law  
20 Section 11–5A–03  
21 Annotated Code of Maryland  
22 (2005 Replacement Volume and 2010 Supplement)

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

25 **Article – Commercial Law**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 Subtitle 5A. [Cigarette] Sales of [Less Than 20 Per Package] **UNPACKAGED**  
2 **CIGARETTES.**

3 11-5A-01.

4 (a) In this subtitle the following words have the meanings indicated.

5 (b) “Retailer” has the meaning stated in § 11-501(i) of this title.

6 (c) “Sell” has the meaning stated in § 11-501(j) of this title.

7 **(D) “TOBACCO PRODUCT ROLLING MACHINE” MEANS A MECHANICAL**  
8 **DEVICE THAT PRODUCES CIGARETTES AND IS LOCATED ON A BUSINESS OR**  
9 **COMMERCIAL PREMISES.**

10 **(E) “UNPACKAGED CIGARETTE” MEANS ANY CIGARETTE NOT**  
11 **CONTAINED IN A SEALED PACKAGE OF 20 OR MORE CIGARETTES.**

12 **[(d)] (F) “Vending machine operator” has the meaning stated in § 11-501(k)**  
13 **of this title.**

14 **[(e)] (G) “Wholesaler” has the meaning stated in § 11-501(m) of this title.**

15 11-5A-02.

16 (a) Notwithstanding any other provision of law, a retailer or vending  
17 machine operator may not purchase from a tobacco product manufacturer or sell,  
18 resell, distribute, dispense, or give away to any person [a package of cigarettes  
19 containing less than 20 cigarettes] **AN UNPACKAGED CIGARETTE.**

20 (b) Notwithstanding any other provision of law, a wholesaler may not sell,  
21 resell, distribute, dispense, or give away to any person in this State [a package of  
22 cigarettes containing less than 20 cigarettes] **AN UNPACKAGED CIGARETTE.**

23 **(C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A**  
24 **PERSON MAY NOT SELL, RESELL, DISTRIBUTE, DISPENSE, OR GIVE AWAY TO ANY**  
25 **OTHER PERSON IN THIS STATE AS PART OF A COMMERCIAL TRANSACTION AN**  
26 **UNPACKAGED CIGARETTE PRODUCED BY A TOBACCO PRODUCT ROLLING**  
27 **MACHINE.**

28 **(2) A PERSON MAY NOT MAKE AVAILABLE FOR USE BY ANOTHER**  
29 **PERSON A TOBACCO PRODUCT ROLLING MACHINE TO PRODUCE AN**  
30 **UNPACKAGED CIGARETTE.**

1           **(3) A PERSON WHO POSSESSES, SELLS, OR ATTEMPTS TO SELL**  
2 **UNSTAMPED CIGARETTES PRODUCED BY A TOBACCO PRODUCT ROLLING**  
3 **MACHINE IS IN VIOLATION OF § 12-305(A) OF THE TAX – GENERAL ARTICLE.**

4           **(D) IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW, A**  
5 **PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON**  
6 **CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$500 OR IMPRISONMENT**  
7 **NOT EXCEEDING 3 MONTHS OR BOTH.**

8 11-5A-03.

9           (a) The State Comptroller shall enforce this subtitle.

10          (b) The State Comptroller shall:

11               (1) Employ and determine the duties and compensation of the  
12 inspectors and other personnel necessary to enforce this subtitle; and

13               (2) Adopt reasonable regulations necessary to effectuate and enforce  
14 the provisions of this subtitle.

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 June 1, 2011.