Unofficial Copy Q7 1999 Regular Session 9lr0204 CF 9lr0203

By: The Speaker (Administration) and Delegates Hixson, Frush, Marriott, R. Baker, Barkley, Benson, Bobo, Bronrott, Brown, Burns, Carlson, Conroy, Cryor, D. Davis, Dembrow, Dobson, Doory, Dypski, Finifter, Franchot, Goldwater, Grosfeld, Harrison, Healey, Hecht, Heller, Hill, Howard, Hubbard, Hurson, A. Jones, V. Jones, Kirk, Kopp, Krysiak, Mandel, McIntosh, Menes, Moe, Montague, Morhaim, Nathan-Pulliam, Paige, Patterson, Pendergrass, Petzold, Phillips, Pitkin, Sher, Shriver,

Introduced and read first time: February 1, 1999

Assigned to: Ways and Means

### A BILL ENTITLED

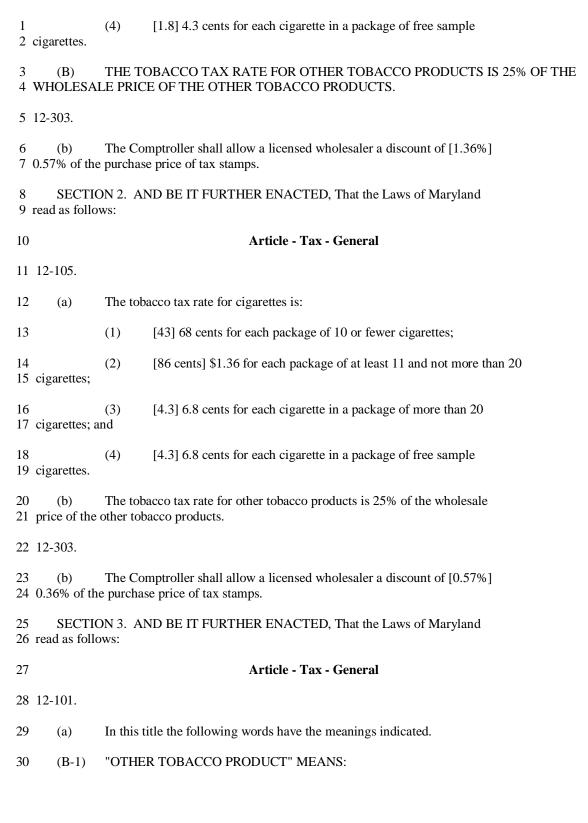
## 1 AN ACT concerning

2	Tobacco Ta	ax

Stern, Swain, Turner, Valderrama, and Zirkin

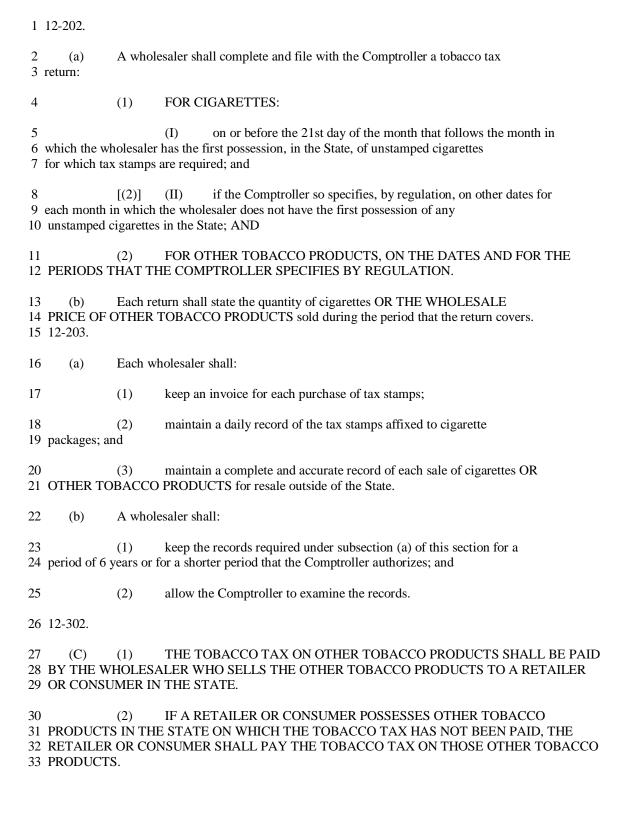
- 3 FOR the purpose of altering the tobacco tax rate for cigarettes; providing for certain
- 4 increases in the tobacco tax rate for cigarettes; altering a certain discount
- 5 provision under the tobacco tax; imposing the tobacco tax on certain tobacco
- 6 products other than cigarettes; setting the rate of the tobacco tax for other
- 7 tobacco products; defining certain terms; altering certain definitions under the
- 8 tobacco tax law; requiring the Comptroller to establish by regulation a system of
- 9 administering, collecting, and enforcing the tobacco tax on other tobacco
- products; making other tobacco products subject to certain enforcement
- provisions applicable to cigarettes; prohibiting certain acts relating to other
- 12 tobacco products; imposing certain requirements relating to certain
- transportation of other tobacco products; providing for the termination of certain
- provisions of this Act; providing for a delayed effective date for certain
- provisions of this Act; providing for the application of this Act; requiring the
- Governor to make certain appropriations in the budget for certain fiscal years;
- and generally relating to the taxation of cigarettes and other tobacco products.
- 18 BY repealing and reenacting, with amendments,
- 19 Article Tax General
- 20 Section 12-105 and 12-303(b)
- 21 Annotated Code of Maryland
- 22 (1997 Replacement Volume and 1998 Supplement)
- 23 BY repealing and reenacting, with amendments,
- 24 Article Tax General
- 25 Section 12-105 and 12-303(b)

1 Annotated Code of Maryland 2 (1997 Replacement Volume and 1998 Supplement) 3 (As enacted by Section 1 of this Act) 4 BY repealing and reenacting, without amendments, 5 Article - Tax - General Section 12-101(a) 6 Annotated Code of Maryland 7 8 (1997 Replacement Volume and 1998 Supplement) 9 BY adding to Article - Tax - General 10 Section 12-101(b-1) and (e-1), 12-302(c), and 12-306 11 Annotated Code of Maryland 12 13 (1997 Replacement Volume and 1998 Supplement) 14 BY repealing and reenacting, with amendments, 15 Article - Tax - General 16 Section 12-101(f), 12-102, 12-103, 12-104, 12-202, 12-203, 13-408, 13-834(c) 17 and (e), 13-835(a), 13-836(a)(1) and (b)(2), 13-837, 13-839, 13-841(b), 13-842, 13-1014(a), and 13-1015 18 19 Annotated Code of Maryland (1997 Replacement Volume and 1998 Supplement) 20 21 BY repealing and reenacting, with amendments, Article - Business Regulation 22 23 Section 16-219 Annotated Code of Maryland 24 25 (1998 Replacement Volume) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 26 27 MARYLAND, That the Laws of Maryland read as follows: 28 **Article - Tax - General** 29 12-105. 30 (A) The tobacco tax rate FOR CIGARETTES is: 31 (1) [18] 43 cents for each package of 10 or fewer cigarettes; 32 [36] 86 cents for each package of at least 11 and not more than 20 (2) 33 cigarettes; 34 (3) [1.8] 4.3 cents for each cigarette in a package of more than 20 35 cigarettes; and



ANY CIGAR OR ROLL FOR SMOKING, OTHER THAN A CIGARETTE, (1) 2 MADE IN WHOLE OR IN PART OF TOBACCO; OR 3 ANY OTHER TOBACCO OR PRODUCT MADE PRIMARILY FROM 4 TOBACCO, OTHER THAN A CIGARETTE, THAT IS INTENDED FOR CONSUMPTION BY 5 SMOKING OR CHEWING OR AS SNUFF. 6 "WHOLESALE PRICE" MEANS THE PRICE FOR WHICH A WHOLESALER (E-1)7 SELLS OTHER TOBACCO PRODUCTS TO A RETAILER, EXCLUSIVE OF ANY DISCOUNT, 8 TRADE ALLOWANCE, REBATE, OR OTHER REDUCTION. 9 (f) "Wholesaler" means, unless the context requires otherwise[,]: 10 (1) a person who acts as a wholesaler as defined in § 16-201 of the 11 Business Regulation Article; OR 12 (2) A PERSON WHO: HOLDS OTHER TOBACCO PRODUCTS FOR SALE TO ANOTHER 13 (I) 14 PERSON FOR RESALE; OR (II)SELLS OTHER TOBACCO PRODUCTS TO ANOTHER PERSON FOR 15 16 RESALE. 17 12-102. (a) Except as provided in § 12-104 of this title, a tax is imposed on cigarettes 19 AND OTHER TOBACCO PRODUCTS in the State. 20 (b) A county, municipal corporation, special taxing district, or other political 21 subdivision of the State may not impose a tax on cigarettes. 22 12-103. A rebuttable presumption exists that any cigarette OR OTHER TOBACCO 24 PRODUCT in the State is subject to the tobacco tax. Cigarettes OR OTHER TOBACCO PRODUCTS are contraband [cigarettes] 26 TOBACCO PRODUCTS if they: 27 are possessed or sold in the State in a manner that is not authorized 28 under this title or under Title 16 of the Business Regulation Article; or 29 are transported by vehicle in the State by a person who does not 30 have, in the vehicle, the records required by § 16-219 of the Business Regulation 31 Article for the transportation of cigarettes OR OTHER TOBACCO PRODUCTS. 32 A person who possesses cigarettes OR OTHER TOBACCO PRODUCTS has the 33 burden of proving that the cigarettes OR OTHER TOBACCO PRODUCTS are not subject 34 to the tobacco tax.

1	12-104.										
	(a) "Consumer" means a person who possesses cigarettes OR OTHER TOBACCO PRODUCTS for a purpose other than selling or transporting the cigarettes OR OTHER TOBACCO PRODUCTS.										
5	(b)	The tobacco tax does not apply to:									
6		(1)	cigarette	cigarettes that[:							
	(1)] a licensed wholesaler under Title 16 of the Business Regulation Article is holding for sale outside the State or to a United States armed forces exchange or commissary;										
	10 (2) OTHER TOBACCO PRODUCTS THAT A WHOLESALER IS HOLDING FOR 11 SALE OUTSIDE THE STATE OR TO A UNITED STATES ARMED FORCES EXCHANGE OR 12 COMMISSARY; OR										
13		(3) CIGARETTES OR OTHER TOBACCO PRODUCTS THAT:									
14		[(2)]	(I)	a consu	mer brings	into the State:					
15			[(i)]	1.	if the qua	ntity brought from another state does not exceed:					
	6 [1.] A. for a nonresident consumer traveling through this 7 State, OTHER TOBACCO PRODUCTS HAVING A RETAIL VALUE OF \$25 OR 1 carton OF 8 CIGARETTES; or										
19 20		RETAII	L VALUI	[2.] E OF \$5		for any other consumer, OTHER TOBACCO PRODUCTS ages OF CIGARETTES; or					
21 22	installation (	or reserva	[(ii)] ation doe	2. s not exc		antity brought from a United States armed forces					
25		BACCO			a purchase	for a consumer who is a member of an armed forces at an armed forces exchange, RETAIL VALUE OF \$50 OR 2 cartons OF					
	HAVING A armed force				OR 2 packa	for any other consumer, OTHER TOBACCO PRODUCTS ages OF CIGARETTES that were bought at an					
	[(3)] (II) a person is transporting by vehicle in the State if the person has, in the vehicle, the records required by § 16-219 of the Business Regulation Article for the transportation of cigarettes OR OTHER TOBACCO PRODUCTS; or										
33		[(4)]	(III)	are held in storage in a licensed storage warehouse.							

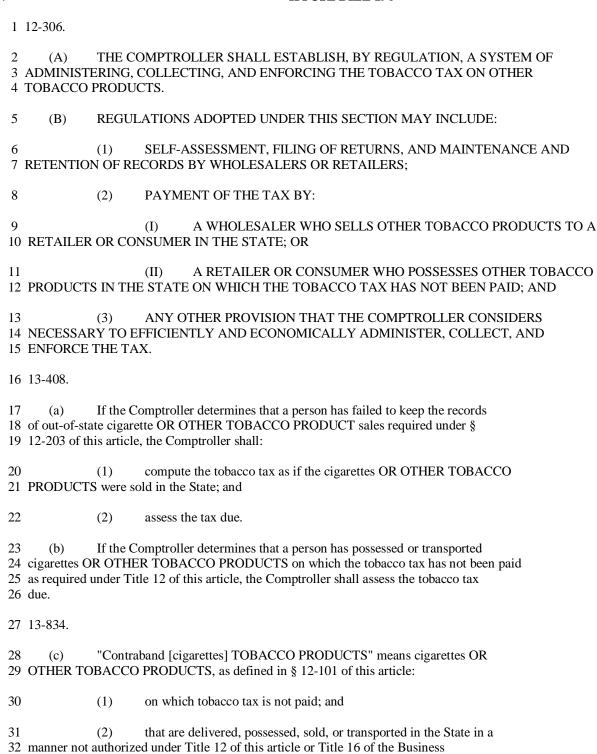


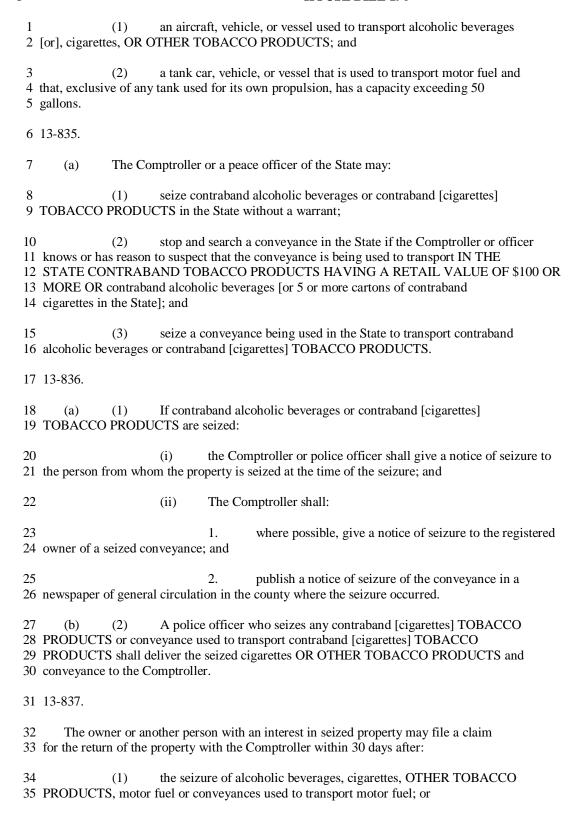
33 Regulation Article.

(e)

34

"Conveyance" means:





**HOUSE BILL 190** 1 a notice of seizure of a conveyance used to transport alcoholic (2)2 beverages [or], cigarettes, OR OTHER TOBACCO PRODUCTS is published. 3 13-839. 4 If a person files a claim for return of seized alcoholic beverages, cigarettes, (a) 5 OTHER TOBACCO PRODUCTS, or a conveyance used for their transportation under § 6 13-837 of this subtitle, the Comptroller or the Comptroller's designee shall: 7 (1)promptly act on the request and hold an informal hearing; 8 direct the return of alcoholic beverages [or], cigarettes, OR OTHER (2)9 TOBACCO PRODUCTS unless the Comptroller or Comptroller's designee has 10 satisfactory proof that the person was not in compliance with any provisions of Title 5 11 or Title 12 of this article at the time of seizure; and 12 direct the return of the conveyance if the Comptroller or 13 Comptroller's designee has satisfactory proof that the owner of the conveyance was 14 not willfully evading any provisions of Title 5 or Title 12 of this article at the time of 15 seizure. The Comptroller or Comptroller's designee shall grant or deny the 16 application for return of seized alcoholic beverages, cigarettes, OTHER TOBACCO 17 PRODUCTS, or a conveyance in accordance with subsection (a) of this section by 19 mailing the person a notice of final determination. 20 13-841. The Comptroller shall sell contraband [cigarettes] TOBACCO 21 (b) 22 PRODUCTS seized under this title and forfeited to a State institution, a nonprofit 23 charitable institution, a licensed cigarette wholesaler, or a licensed cigarette 24 manufacturer in the manner the Comptroller determines. 25 The Comptroller shall sell at public auction a conveyance that is (2) 26 seized under this title in connection with contraband [cigarettes] TOBACCO 27 PRODUCTS and forfeited. 28 13-842. 29 A person who possessed contraband alcoholic beverages, contraband 30 [cigarettes] TOBACCO PRODUCTS, or contraband motor fuel that are seized and sold 31 under this section is not relieved from any penalty under this title. 32 13-1014. 33 A person who willfully possesses, sells, or attempts to sell unstamped or 34 improperly stamped cigarettes OR OTHER TOBACCO PRODUCTS ON WHICH THE

35 TOBACCO TAX HAS NOT BEEN PAID in the State in violation of Title 12 of this article 36 is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$1,000

37 or imprisonment not exceeding 1 year or both.

1 13-1015.

- 2 A person who willfully transports in the State unstamped cigarettes OR OTHER
- 3 TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID in violation
- 4 of § 16-219 of the Business Regulation Article is guilty of a felony and, on conviction,
- 5 is subject to a fine not exceeding \$25 for each carton of cigarettes transported or
- 6 imprisonment not exceeding 1 year or both.

# 7 Article - Business Regulation

- 8 16-219.
- 9 (A) IN THIS SECTION, "OTHER TOBACCO PRODUCTS" HAS THE MEANING 10 STATED IN § 12-101 OF THE TAX GENERAL ARTICLE.
- 11 (B) A person who transports cigarettes OR OTHER TOBACCO PRODUCTS by
- 12 vehicle on a public road shall have in the vehicle a delivery ticket or invoice that
- 13 states:
- 14 (1) the name and address of the seller or consignor;
- 15 (2) the name and address of a buyer or consignee who is:
- 16 (i) a person in the State authorized by Title 12 of the Tax General
- 17 Article to hold unstamped cigarettes OR OTHER TOBACCO PRODUCTS ON WHICH THE
- 18 TOBACCO TAX HAS NOT BEEN PAID; or
- 19 (ii) a person in another jurisdiction authorized to hold cigarettes OR
- 20 OTHER TOBACCO PRODUCTS on which the tax imposed by that jurisdiction has not
- 21 been paid; and
- 22 (3) the quantity and brands of the cigarettes OR OTHER TOBACCO
- 23 PRODUCTS that are being transported.
- 24 SECTION 4. AND BE IT FURTHER ENACTED, That for fiscal year 2001 and
- 25 each fiscal year thereafter, the Governor shall include in the budget capital
- 26 appropriations for education facilities in the State in a total amount equal to the
- 27 estimated increase in State revenues for the fiscal year resulting from the enactment
- 28 of Section 2 of this Act.
- 29 SECTION 5. AND BE IT FURTHER ENACTED, That all cigarettes used,
- 30 possessed, or held in the State on or after July 1, 1999 by any person for sale or use
- 31 in the State shall be subject to the full tobacco tax of 86 cents on cigarettes imposed by
- 32 this Act. This requirement includes: (1) cigarettes in vending machines or other
- 33 mechanical dispensers; and (2) cigarettes (generally referred to as "floor stock") in
- 34 packages which already bear stamps issued by the Comptroller under the State
- 35 Tobacco Tax Act but for an amount less than the full tax imposed of 43 cents for each
- 36 10 cigarettes or fractional part thereof; all cigarettes held for sale by any person in
- 37 the State on or after July 1, 1999 that bear a tax stamp issued by the Comptroller of
- 38 a value less than 86 cents for each pack of 20 cigarettes must be stamped with the

- 1 additional stamps necessary to make the aggregate value equal to 86 cents. In lieu of
- 2 the additional stamps necessary to make the aggregate tax value equal to 86 cents,
- 3 the Comptroller may provide an alternate method of collecting the additional tax. The
- 4 revenue attributable to this requirement shall be remitted to the Comptroller by
- 5 September 30, 1999. Except as provided above, on and after July 1, 1999, no
- 6 Maryland stamp shall be used except the stamp issued by the Comptroller to evidence
- 7 the tobacco tax on cigarettes of 86 cents imposed by this Act.
- 8 SECTION 6. AND BE IT FURTHER ENACTED, That all cigarettes used,
- 9 possessed, or held in the State on or after July 1, 2000 by any person for sale or use
- 10 in the State shall be subject to the full tobacco tax of \$1.36 on cigarettes imposed by
- 11 this Act. This requirement includes: (1) cigarettes in vending machines or other
- 12 mechanical dispensers; and (2) cigarettes (generally referred to as "floor stock") in
- 13 packages which already bear stamps issued by the Comptroller under the State
- 14 Tobacco Tax Act but for an amount less than the full tax imposed of 68 cents for each
- 15 10 cigarettes or fractional part thereof; all cigarettes held for sale by any person in
- 16 the State on or after July 1, 2000 that bear a tax stamp issued by the Comptroller of
- 17 a value less than \$1.36 for each pack of 20 cigarettes must be stamped with the
- 18 additional stamps necessary to make the aggregate value equal to \$1.36. In lieu of the
- 19 additional stamps necessary to make the aggregate tax value equal to \$1.36, the
- 20 Comptroller may provide an alternate method of collecting the additional tax. The
- 21 revenue attributable to this requirement shall be remitted to the Comptroller by
- 22 September 30, 2000. Except as provided above, on and after July 1, 2000, no
- 23 Maryland stamp shall be used except the stamp issued by the Comptroller to evidence
- 24 the tobacco tax on cigarettes of \$1.36 imposed by this Act.
- 25 SECTION 7. AND BE IT FURTHER ENACTED, That the tobacco tax on
- 26 tobacco products other than cigarettes imposed by this Act shall be applicable to all
- 27 other tobacco products that are sold by a wholesaler to a retailer in the State on or
- 28 after October 1, 1999.
- 29 SECTION 8. AND BE IT FURTHER ENACTED, That Section 1 of this Act
- 30 shall remain effective for a period of 1 year and, at the end of June 30, 2000, with no
- 31 further action required by the General Assembly, Section 1 of this Act shall be of no
- 32 further force and effect.
- 33 SECTION 9. AND BE IT FURTHER ENACTED, That Section 2 of this Act
- 34 shall take effect July 1, 2000.
- 35 SECTION 10. AND BE IT FURTHER ENACTED, That Sections 1 and 3
- 36 through 8 of this Act shall take effect July 1, 1999.