

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 30 (Delegate McDermott)  
Economic Matters

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**Contraband Tobacco Products and Conveyances - Seizures and Disposition**

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This bill (1) alters the manner in which seized contraband tobacco products and/or related conveyances are processed following seizure; (2) authorizes the Comptroller to destroy, or authorize a political subdivision to destroy, contraband tobacco products seized and forfeited under specified circumstances; and (3) requires the Comptroller to remove specified seized contraband tobacco products from political subdivisions within a specified timeframe.

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**Fiscal Summary**

**State Effect:** The Comptroller advises that it already removes contraband tobacco products from local control if the political subdivision elects not to exercise its jurisdiction over the products. It is unclear to what extent additional requests for removal will be made by political subdivisions under the bill. However, to the extent that the Comptroller receives a significant number of additional requests, the Department of Legislative Services advises that additional staff and an appropriate vehicle to transport contraband tobacco products may be needed. Revenues are not affected.

**Local Effect:** For political subdivisions that exercise jurisdiction over cases related to contraband tobacco products, local government expenditures may decrease due to reduced storage and transportation costs. If a political subdivision is authorized to destroy contraband tobacco products, costs may be incurred to have such products destroyed.

**Small Business Effect:** None.

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## Analysis

**Bill Summary/Current Law:** Under current law, the Comptroller or a peace officer in the State may seize contraband tobacco products and/or a conveyance being used in the State to transport contraband tobacco products. (A “conveyance” is an aircraft, vehicle, or vessel used to transport cigarettes or other tobacco products.) A police officer who seizes any contraband tobacco products or conveyance used to transport contraband tobacco products is required to deliver the seized tobacco products and conveyance to the Comptroller. (Although in practice, field enforcement officers from the Office of the Comptroller often go to the political subdivision and take possession of any contraband tobacco products or conveyances.)

Under the bill, however, the police officer must instead *promptly notify* the Comptroller of the seizure. The bill also requires the Comptroller to either (1) remove the contraband tobacco products or conveyance from the political subdivision exercising jurisdiction over the contraband or conveyance within 60 days after the contraband or conveyance is no longer needed for evidence and dispose of the contraband or conveyance in an authorized manner or (2) authorize the political subdivision exercising jurisdiction over the contraband or conveyance to destroy the contraband or conveyance. By December 1, 2014, the Comptroller must remove any seized contraband tobacco products and conveyances that are no longer needed as evidence from the possession of a political subdivision exercising jurisdiction over the seized products and conveyances. Alternatively, by that date, the Comptroller must authorize the political subdivision to dispose of the contraband tobacco products and conveyances.

Current law specifies that, if contraband tobacco products are seized, the Comptroller or police officer must give a notice of seizure to the person from whom the property is seized at the time of seizure. In addition, the Comptroller is required to (1) where possible, give a notice of seizure to the registered owner of a seized conveyance and (2) publish a notice of seizure of the conveyance in a newspaper of general circulation in the county where the seizure occurred. A notice of seizure must state the right of an owner or other interested person (including a secured party of record) to file a claim for the return of the seized property.

The owner or another person with interest in seized property may file a claim for the return of the property (including seized tobacco products or a conveyance used for their transportation) within 30 days after the seizure or a notice of the seizure is published. If a claim for return is filed, the Comptroller (or the Comptroller’s designee) is required to (1) promptly act on the request and hold an informal hearing and (2) under specified circumstances, direct the return of the tobacco products or conveyance. The Comptroller (or the Comptroller’s designee) must grant or deny the application for return by mailing a notice of final determination to the person.

Current law further specifies that the Comptroller must sell seized and forfeited contraband tobacco products to a State institution, nonprofit charitable institution, licensed cigarette wholesaler, or licensed cigarette manufacturer. In addition, the Comptroller is required to sell at public auction a conveyance that is seized in connection with contraband tobacco products and forfeited. If either the Comptroller or (on appeal) a court determines that the seized conveyance is not subject to forfeiture, the Comptroller is required to return the conveyance to the registered owner and has no further liability to the registered owner. However, if a seized conveyance is forfeited, the Comptroller must sell the seized conveyance and distribute the net proceeds from the sale in a specified manner.

The bill leaves the above provisions intact but authorizes the Comptroller, if prohibited from selling or unable to make a profit from the selling of seized and forfeited tobacco products or a seized and forfeited conveyance in the State, to destroy, or authorize a political subdivision to destroy, the tobacco products or conveyance.

**Background:** According to the Office of the Comptroller, cigarette smuggling has become a significant problem and is often associated with organized crime. Both the Office of the Comptroller's Field Enforcement Division and several local jurisdictions (typically those that border other states) perform interdiction work to stop cigarette smuggling into or through Maryland. In most local jurisdictions, if local law enforcement authorities stop a vehicle and identify contraband tobacco products, they contact the Field Enforcement Division, which takes over the case, including seizure of any contraband tobacco products and related conveyances, investigation, and prosecution. Several jurisdictions (including Cecil, Frederick, Wicomico, and Worcester counties) conduct their own interdiction work and handle the cases themselves, including storing any contraband tobacco products and related conveyances.

If contraband tobacco products and related conveyances are seized, the owner of the property must be provided with the opportunity for a forfeiture hearing. This process can take place prior to or parallel with any criminal prosecution. Often, the court issues an order of forfeiture, which negates the need for the hearing and authorizes the Comptroller or local jurisdiction to destroy the contraband tobacco product and sell or dispose of any related conveyance. In practice, most contraband tobacco products cannot be sold, and the State must pay to destroy the products.

**Additional Comments:** Under the bill, the Comptroller may authorize a political subdivision to destroy contraband tobacco products or a related conveyance. However, the Comptroller's Office advises that this authorization could not be provided until the items have been forfeited, either through a forfeiture hearing or by a court.

## **Additional Information**

**Prior Introductions:** Similar legislation, HB 147 of 2013, was amended in the House and received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Carroll, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Comptroller's Office; Department of Legislative Services

**Fiscal Note History:** First Reader - January 27, 2014  
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