

HOUSE BILL 30

Q4, E2
HB 147/13 – ECM

(PRE-FILED)

4lr1023

By: **Delegate McDermott**

Requested: November 15, 2013

Introduced and read first time: January 8, 2014

Assigned to: Economic Matters

A BILL ENTITLED

AN ACT concerning

Contraband Tobacco Products and Conveyances – Seizures and Disposition

FOR the purpose of altering the manner in which seized contraband tobacco products or certain conveyances are processed following seizure; authorizing the Comptroller to destroy, or authorize a political subdivision to destroy, contraband tobacco products or certain conveyances seized and forfeited under certain circumstances; requiring the Comptroller to remove or authorize a political subdivision to destroy certain seized contraband tobacco products and conveyances on or before a certain date; and generally relating to the disposition of seized contraband tobacco products and conveyances.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 13–836(b) and 13–841

Annotated Code of Maryland

(2010 Replacement Volume and 2013 Supplement)

BY adding to

Article – Tax – General

Section 13–836(d)

Annotated Code of Maryland

(2010 Replacement Volume and 2013 Supplement)

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

Article – Tax – General

13–836.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(b) (1) A police officer who seizes a conveyance used to transport contraband alcoholic beverages promptly shall notify the Comptroller of the seizure.

(2) A police officer who seizes any contraband tobacco products or conveyance used to transport contraband tobacco products **PROMPTLY** shall [deliver the seized cigarettes or other tobacco products and conveyance to] **NOTIFY** the Comptroller **OF THE SEIZURE**.

(3) A police officer who seizes any contraband motor fuel shall:

(i) deliver the seized contraband motor fuel and conveyance to the Comptroller; or

(ii) if the seized conveyance is operated by a common carrier, regulated by either the Maryland Public Service Commission or the Interstate Commerce Commission, and transports motor fuel for another person, for a fee, direct the operator of the conveyance to take it to a location that the Comptroller designates.

(D) FOR SEIZED CONTRABAND TOBACCO PRODUCTS OR A SEIZED CONVEYANCE USED TO TRANSPORT CONTRABAND TOBACCO PRODUCTS, THE COMPTROLLER SHALL:

(1) (I) REMOVE THE CONTRABAND 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 AS EVIDENCE; AND

(II) DISPOSE OF THE CONTRABAND OR CONVEYANCE IN THE MANNER AUTHORIZED UNDER § 13-841 OF THIS SUBTITLE; OR

(2) AUTHORIZE THE POLITICAL SUBDIVISION EXERCISING JURISDICTION OVER THE CONTRABAND OR CONVEYANCE TO DESTROY THE CONTRABAND OR CONVEYANCE.

13-841.

(a) (1) Contraband alcoholic beverages that are seized under this title and forfeited may be disposed of or destroyed in the manner allowed under Article 2B, § 1-201(f)(5) and (6) and (g) of the Code.

(2) The Comptroller shall sell at public auction a conveyance that is seized under this title in connection with contraband alcoholic beverages and forfeited.

(b) (1) **(I) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE** Comptroller shall sell contraband tobacco products seized

under this title and forfeited to a State institution, a nonprofit charitable institution, a licensed cigarette wholesaler, or a licensed cigarette manufacturer in the manner the Comptroller determines.

(II) IF PROHIBITED FROM SELLING OR UNABLE TO MAKE A PROFIT FROM SELLING THE SEIZED AND FORFEITED TOBACCO PRODUCTS IN THE STATE, THE COMPTROLLER MAY:

1. DESTROY CONTRABAND TOBACCO PRODUCTS SEIZED AND FORFEITED UNDER THIS TITLE; OR

2. AUTHORIZE A POLITICAL SUBDIVISION TO DESTROY CONTRABAND TOBACCO PRODUCTS SEIZED AND FORFEITED UNDER THIS TITLE.

(2) (I) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE Comptroller shall sell at public auction a conveyance that is seized under this title in connection with contraband tobacco products and forfeited.

(II) IF PROHIBITED FROM SELLING OR UNABLE TO MAKE A PROFIT FROM SELLING THE SEIZED AND FORFEITED CONVEYANCE IN THE STATE, THE COMPTROLLER MAY:

1. DESTROY THE CONVEYANCE SEIZED AND FORFEITED UNDER THIS TITLE; OR

2. AUTHORIZE A POLITICAL SUBDIVISION TO DESTROY THE CONVEYANCE SEIZED AND FORFEITED UNDER THIS TITLE.

(c) (1) If either the Comptroller or, on appeal, a court determines that seized conveyance or motor fuel is not subject to forfeiture:

(i) the Comptroller is not required to return the motor fuel seized to the owner or other interested person who filed the claim for return of the property, but may, at the option of the Comptroller, pay to the person an amount equal to the value of the motor fuel as determined by the average wholesale value on the date of seizure for the Baltimore Terminal as reported by a nationally recognized oil price reporting service on the date of seizure; and

(ii) the Comptroller shall return the conveyance to the registered owner and shall have no further liability to the registered owner.

(2) If a seized conveyance or motor fuel is forfeited, the Comptroller shall:

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or

- (i) 1. use the contraband motor fuel for any public purpose;

- 2. sell the contraband motor fuel to any person; and

- (ii) sell the seized conveyance to any person.

(d) In the manner required under Title 2 of this article for distributions of revenue, the Comptroller shall distribute the net proceeds from the sale of any conveyance or other property under this section after paying:

- (1) the costs incurred in conjunction with the seizure and disposal of the property;

- (2) the cost of the sale; and

- (3) any bona fide lien against the conveyance.

SECTION 2. AND BE IT FURTHER ENACTED, That on or before December 1, 2014, the Comptroller shall 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 contraband tobacco products and conveyances or authorize the political subdivision exercising jurisdiction over the seized contraband tobacco products and conveyances to dispose of the contraband tobacco products and conveyances.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.