Article - Business Regulation

§1–101.

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

(b) "Clerk" means the clerk of the circuit court for the county with appropriate jurisdiction.

(c) "Comptroller" means the Comptroller of the State.

(d) "Consumer member" means a nonprofessional member of a regulatory unit who is appointed from the general public.

(e) "County" means a county of the State or Baltimore City.

(f) "Department" means the Department of Labor, Licensing, and Regulation.

(g) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.

(h) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

(i) "State" means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

§1–201.

A requirement in this article that a document be under oath means that the document shall be supported by:

(1) a written statement signed by the individual making it in which the individual solemnly affirms under the penalties of perjury that the contents of the document are true to the best of the individual's knowledge, information, and belief; or

(2) a certification of an officer authorized to administer an oath that a named individual made oath that the contents of the document are true to the best of the individual's knowledge, information, and belief.

§1–202.

A false statement made under oath under this article is subject to the penalties of perjury.

§1–203.

(a) If a person fails to comply with a subpoena issued under this article, then, on complaint filed by the issuing authority, a court of competent jurisdiction may order compliance with the subpoena.

(b) If a person refuses to be sworn or to give evidence before an officer or unit authorized by this article to administer oaths, then, on complaint of the officer or unit, a court of competent jurisdiction may order the person to be sworn or to give evidence.

§1–204.

(a) This section does not apply in Baltimore City or Prince George's and Worcester counties.

(b) Except as otherwise provided in this article or Title 13, Subtitle 1 and Subtitle 3, Part I and §§ 13–205 and 16–115 of the Local Government Article, a county, municipal corporation, or other political subdivision of the State may not:

(1) require a local license in that county, municipal corporation, or political subdivision to engage in a business or occupation for which a State license is required under this article; or

(2) impose a local fee or tax to engage in a business or occupation for which a State license is required under this article.

(c) A county, municipal corporation, or other political subdivision of the State may require a local license if necessary for regulatory purposes in the interest of the public health, safety, or morals.

(d) A public local law passed after October 1, 1941, does not repeal any provision of this section unless the public local law expressly refers to and repeals the provision.

§1–205.

Before a license or permit is issued under this article to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the issuing authority:

(1) a certificate of compliance with the Maryland workers' compensation laws; or

(2) the number of a workers' compensation insurance policy or binder.

§1–206.

(a) A person who must have a license issued by the Department under this

article but does not get the license on time shall pay, in addition to the required license fee, a late fee.

(b) The late fee shall be the sum of:

(1) up to 20% of the required license fee for the calendar month following the calendar month when the required license fee is due; and

(2) up to 4% of the required license fee for each calendar month or part of a month after that.

§1–207.

(a) By August 31 of each year, the Department shall provide to the Department of Assessments and Taxation a list of the following persons issued licenses during the previous fiscal year, to assist the Department of Assessments and Taxation in identifying new businesses within the State:

(1) managers and promotors, licensed under Title 4 of this article;

(2) collection agencies, licensed under Title 7 of this article;

(3) home improvement contractors and subcontractors, licensed under Title 8 of this article;

(4) employment agencies, licensed under Title 9 of this article;

(5) heating, ventilation, air-conditioning, and refrigeration contractors with master licenses and master restricted licenses, licensed under Title 9A of this article;

(6) owners and trainers, licensed under Title 11 of this article; and

(7) secondhand precious metal object dealers and pawnbrokers, licensed under Title 12 of this article.

(b) The list provided under this section shall:

(1) be provided free of charge; and

(2) include, for each person on the list:

(i) the name and mailing address of the person; and

(ii) the federal tax identification number of the person or, if the person does not have a federal tax identification number, the Social Security number of the person.

§1–208.

(a) In this section, "license" means all or any part of permission that:

(1) is required by law to be obtained from a unit;

(2) is not required only for revenue purposes; and

(3) is in any form, including:

(i) an approval;

(ii) a certificate;

(iii) a charter;

(iv) a permit; or

(v) a registration.

(b) This section:

(1) applies only to a fee for an initial license issued for a 2-year term under Title 8, Title 9A, or Title 12 of this article;

(2) does not apply to a fee renewal of a license; and

(3) may not affect any other law that requires a unit to prorate a fee on any basis for the issuance or renewal of a license.

(c) (1) For a license issued at any time during the first year of the term of the license, the issuing authority shall charge the full amount of the fee to the license applicant.

(2) For a license issued in the second year of the term of the license, the issuing authority shall charge the license applicant:

(i) one-half of the fee, if issued in the first 6 months of the second year; or

(ii) one-quarter of the fee, if issued in the last 6 months of the second year.

§1–209.

(a) If payment of the fee for the issuance or renewal of a license, issued by the Department or by a unit within the Department, is made by a check or other negotiable instrument that is dishonored, the license for which the fee was paid shall be suspended by operation of law. Except as provided in subsections (b) and (c) of this section, the

suspension is effective beginning on the tenth business day after the day on which the notice is sent in accordance with subsection (b) of this section until the date that payment of the fee, and any late charge provided for in this article, has been made.

(b) (1) When the Department or a unit within the Department receives notice that a check or other negotiable instrument, given by an applicant in payment of a license issuance or renewal fee, has been dishonored, it shall inform the applicant by regular mail sent to the applicant's last known business address, that the license will be suspended by operation of law if within 10 business days after the date of the notice the applicant fails to make payment of the fee, and any late charge, or fails to present evidence to the Department or unit that the notice of dishonor was in error.

(2) An applicant shall be given a prompt opportunity to make payment of the fee, and any late charge, or to present evidence to the Department or unit that the notice of dishonor was in error.

(c) If a license is suspended under subsection (a) of this section, the license shall be reinstated effective the date the license was suspended if within 5 business days from the date of the suspension the applicant:

(1) pays the fee and late charge; or

(2) presents evidence to the Department or the unit that the notice of dishonor was in error.

(d) Suspension of a license under this section may not affect any otherwise valid claim under any guaranty fund made by a person who dealt in good faith with a licensee, without knowledge of the suspension.

§1–210.

(a) A license or permit is considered renewed for purposes of this section if the license or permit is issued by a unit of State government to a person for the period immediately following a period for which the person previously possessed the same or a substantially similar license.

(b) Before any license or permit may be renewed under this article, the issuing authority shall verify through the Office of the Comptroller that the applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor, Licensing, and Regulation or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection.

§1–301.

In this subtitle, "business record" includes:

(1) a book of account;

(2) a canceled check;

(3) a document;

(4) a letter;

(5) a payroll;

(6) a production report or other record that relates to equipment, personnel, or sales; and

(7) a voucher.

§1–302.

This subtitle applies to each private business, occupation, private institution, and profession, whether or not carried on for profit.

§1–303.

This subtitle does not diminish the authority of an officer of the State to allow the destruction of a business record.

§1–304.

(a) This section does not apply to:

(1) a minute book of a corporation; or

(2) a record of a sale or other transaction that involves a weapon or poison that can be used in committing a crime.

(b) Unless a specific period is set by law for the preservation of a business record that is required by the laws of this State to be kept, the business record may be destroyed 3 years after it is made.

§1–305.

(a) In this section, "reproduction" means a reproduction or durable medium for making a reproduction obtained by a photographic, photostatic, microfilm, microcard, miniature photographic, or other process that accurately reproduces or forms a durable medium for so reproducing the original.

(b) If, in the regular course of business, a person makes a reproduction of an original business record, the preservation of the reproduction complies with a requirement of a law of the State that the business record be kept.

§1–306.

This subtitle shall be construed and interpreted to effectuate its general purpose to make uniform the law of the states that enact this subtitle.

§1–307.

This subtitle is the Maryland Uniform Preservation of Private Business Records Act.

§1–401.

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

(b) "Applicant" includes an assignee, legal representative, or successor of a person who submits an application for registration of a mark under this subtitle.

(c) "Mark" means a name, symbol, word, or combination of 2 or more of these that a person:

(1) places on goods that the person sells or distributes, a container of the goods, a display associated with the goods, or a label or tag affixed to the goods to identify those goods that the person makes or sells and to distinguish them from goods that another person makes or sells; or

(2) displays or otherwise uses to advertise or sell services that the person performs to identify those services that the person performs and to distinguish them from services that another person performs.

(d) "Person" includes a governmental entity or unit or instrumentality of a governmental entity.

(e) "Registrant" includes an assignee, legal representative, or successor of a person who registers a mark under this subtitle.

(f) "Trade name" means a name, symbol, word, or combination of 2 or more of these that a person uses to identify the business or occupation of the person and to distinguish it from the business or occupation of another person.

§1–402.

This subtitle does not affect adversely a right or the enforcement of a right in a mark acquired in good faith at any time at common law.

§1–403.

The Secretary of State shall keep a public record of the marks registered under this subtitle.

§1–404.

(a) If a person uses a mark in the State, the person may register the mark in accordance with this subtitle.

(b) A person may not register a mark that:

(1) is deceptive, immoral, or scandalous;

(2) may disparage, falsely suggest a connection with, or bring into contempt or disrepute:

(i) a belief;

(ii) an individual, living or dead;

(iii) an institution; or

(iv) a national symbol;

(3) is, simulates, or includes a coat of arms, flag, or other insignia of a government;

(4) is or includes the name, portrait, or signature of a living individual, except with the written consent of the individual; or

(5) is likely, when applied to the goods or services of the person, to confuse or deceive because the mark resembles:

(i) another mark registered in the State; or

(ii) a mark or trade name that another person has used in the State and has not abandoned.

(c) (1) Unless the mark has become distinctive of the person's goods or services, a person may not register a mark that:

(i) only describes or deceptively misdescribes goods or services;

(ii) primarily describes or deceptively misdescribes the geographic origin of goods or services; or

(iii) is primarily merely a surname.

(2) As evidence that a mark has become distinctive of the goods or services of a person, the Secretary of State may accept proof that the person has used the mark as a mark in the State or elsewhere continuously for at least 5 years immediately before the day on which the person applies for registration.

(d) A person may not register a trade name that is not a mark.

§1–405.

(a) For convenience of administration of this subtitle, the general classes of goods under this subtitle are:

(1) raw or partly prepared materials.

(2) receptacles.

(3) baggage, animal equipments, portfolios, and pocketbooks.

(4) abrasives and polishing materials.

(5) adhesives.

(6) chemicals and chemical compositions.

(7) cordage.

(8) smokers' articles, not including tobacco products.

(9) explosives, firearms, equipments, and projectiles.

(10) fertilizers.

(11) inks and inking materials.

(12) construction materials.

(13) hardware and plumbing and steam-fitting supplies.

(14) metals and metal castings and forgings.

(15) oils and greases.

(16) paints and painters' materials.

(17) tobacco products.

(18) medicines and pharmaceutical preparations.

(19) vehicles.

(20) linoleum and oiled cloth.

(21) electrical apparatus, machines, and supplies.

(22) games, toys, and sporting goods.

(23) cutlery, machinery, and tools, and parts thereof.

(24) laundry appliances and machines.

(25) locks and safes.

(26) measuring and scientific appliances.

(27) horological instruments.

(28) jewelry and precious metalware.

(29) brooms, brushes, and dusters.

(30) crockery, earthenware, and porcelain.

(31) filters and refrigerators.

(32) furniture and upholstery.

(33) glassware.

(34) heating, lighting, and ventilating apparatus.

(35) belting, hose, machinery packing, and nonmetallic tires.

(36) musical instruments and supplies.

(37) paper and stationery.

(38) prints and publications.

(39) clothing.

(40) fancy goods, furnishings and notions.

(41) canes, parasols, and umbrellas.

(42) knitted, netted and textile fabrics, and substitutes therefor.

(43) thread and yarn.

(44) dental, medical, and surgical appliances.

(45) soft drinks and carbonated waters.

(46) foods and ingredients of foods.

(47) wines.

(48) malt beverages and liquors.

(49) distilled alcoholic liquors.

(50) merchandise not otherwise classified.

(51) cosmetics and toilet preparations.

(52) detergents and soaps.

(b) For convenience of administration of this subtitle, the general classes of services under this subtitle are:

(53) miscellaneous.

(54) advertising and business.

(55) insurance and financial.

(56) construction and repair.

(57) communications.

(58) transportation and storage.

(59) material treatment.

(60) education and entertainment.

(c) The classification of goods and services in this section does not limit or extend the rights of an applicant or registrant.

§1–406.

(a) An applicant for registration of a mark shall:

(1) submit to the Secretary of State:

(i) an application on the form that the Secretary of State provides; and

(ii) 3 specimens or reproductions of the mark; and

(2) pay to the Secretary of State a fee of $50.

(b) An application shall be signed, under oath:

(1) for an individual, by the individual;

(2) for a partnership, by a partner; or

(3) for a corporation or association, by an officer of the corporation or association.

(c) In addition to any other information required on an application form, the form shall require:

(1) the name of the applicant;

(2) the business address of the applicant;

(3) for an applicant that is a corporation, the state of incorporation;

(4) the goods or services with which the applicant uses the mark;

(5) the way the applicant uses the mark with the goods or services;

(6) the class under § 1-405 of this subtitle to which the goods or services belong;

(7) the date when the applicant or the applicant's predecessor in business:

(i) first used the mark anywhere; and

(ii) first used the mark in the State; and

(8) a statement that:

(i) the applicant owns the mark;

(ii) another person does not have the right to use the mark in the State; and

(iii) the mark is not deceptively similar to a mark that another person has a right to use in the State.

(d) A single application for registration of a mark:

(1) may cover use of the mark with any number of goods or services in a single class; but

(2) may not cover use of the mark with goods or services in different classes.

§1–407.

(a) Before denying registration of a mark, the Secretary of State shall give the applicant an opportunity for an informal hearing before the Secretary of State or the Secretary's designee.

(b) The denial of registration of a mark is not a contested case under Title 10, Subtitle 2 of the State Government Article.

§1–409.

(a) The Secretary of State shall register the mark of and issue a certificate of registration to each applicant who meets the requirements of this subtitle.

(b) The Secretary of State shall include on each certificate of registration:

(1) the signature of the Secretary of State, under the seal of the Secretary of State;

(2) the name of the registrant;

(3) the business of the registrant;

(4) the address of the registrant;

(5) for a registrant that is a corporation, the state of incorporation;

(6) the date that the registrant claims to have first used the mark anywhere;

(7) the date that the registrant claims to have first used the mark in the State;

(8) a description of the goods or services with which the registrant uses the mark;

(9) the class under § 1-405 of this subtitle to which the goods or services belong;

(10) a reproduction of the mark;

(11) the date of registration; and

(12) the term of registration.

§1–410.

(a) Unless registration of a mark is renewed for a 10-year term as provided in this section, the registration expires on the tenth anniversary of its effective date.

(b) Within 1 year before registration of a mark expires, the Secretary of State shall mail to the registrant, at the last known address of the registrant:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current registration expires;

(ii) the date by which the Secretary of State must receive the renewal application for the renewal to be issued and mailed before the registration expires; and

(iii) the amount of the renewal fee.

(c) Before the registration of a mark expires, the registrant periodically may renew it for an additional 10-year term if, within 6 months before the expiration of the term of the registration:

(1) the registrant submits to the Secretary of State a renewal application on the form that the Secretary of State provides;

(2) the registrant states in the renewal application that the mark is still in use in the State;

(3) the mark otherwise is entitled to be registered; and

(4) the registrant pays to the Secretary of State a renewal fee of $50.

(d) The Secretary of State shall renew the registration of and issue a renewal certificate to each registrant who meets the requirements of this section.

§1–411.

(a) A mark and its registration may be assigned with:

(1) the good will of the business that uses the mark; or

(2) that part of the good will of the business connected with the mark.

(b) The assignment shall be by a written, signed instrument.

(c) A person may record the assignment of registration of a mark by:

(1) submitting the instrument of assignment to the Secretary of State; and

(2) paying to the Secretary of State a fee of $10.

(d) The Secretary of State shall record an assignment of the registration of a mark and issue a new certificate of registration in the name of the assignee to each person who meets the requirements of this section.

(e) The term of assignment is the rest of the term of registration of the mark.

(f) An assignment of the registration of a mark under this subtitle is void

against a subsequent purchaser for valuable consideration without notice of the assignment unless the assignment is recorded with the Secretary of State:

(1) within 3 months after the date of the assignment; or

(2) before the subsequent purchase.

§1–412.

(a) The Secretary of State shall cancel a registration of a mark if:

(1) the registrant asks that it be canceled;

(2) the registrant fails to renew it;

(3) a court of competent jurisdiction orders that it be canceled on any ground; or

(4) a court of competent jurisdiction finds that:

(i) the mark is abandoned;

(ii) the registrant does not own the mark;

(iii) the registration was granted improperly; or

(iv) the registration was obtained fraudulently.

(b) (1) Subject to paragraph (2) of this subsection, the Secretary of State shall cancel the registration of a mark if a court of competent jurisdiction finds the mark to be likely to confuse or deceive because it resembles a mark that:

(i) was registered by another person in the United States Patent Office before the date the registrant applied for registration under this subtitle; and

(ii) is not abandoned.

(2) The Secretary of State may not cancel the registration of a mark if the registrant proves that:

(i) the registrant holds a concurrent registration of the mark in the United States Patent Office; and

(ii) the registration in the United States Patent Office covers an area that includes the State.

§1–413.

A person who, for the person or for another, applies to register or registers a mark

under this subtitle by knowingly making a false or fraudulent representation, orally or in writing, or by other fraudulent means is liable for any damages sustained as a result of the application or registration.

§1–414.

(a) Subject to § 1-402 of this subtitle, a person may not:

(1) use, without the consent of the registrant, a reproduction or colorable imitation of a mark registered under this subtitle in connection with the sale, offering for sale, or advertising of goods or services if the use is likely to confuse or deceive about the origin of the goods or services; or

(2) reproduce or colorably imitate a mark registered under this subtitle and apply the reproduction or colorable imitation to an advertisement, label, package, print, receptacle, sign, or wrapper that is intended to be used:

(i) with goods or services; or

(ii) in conjunction with the sale or other distribution of goods or services in the State.

(b) (1) A person who violates this section is liable in a civil action to a registrant for any remedy provided in this section.

(2) A registrant may recover profits or damages from a person who violates subsection (a)(2) of this section only if the person intended that the mark be used to confuse or deceive.

(c) A registrant may sue to enjoin the display, manufacture, sale, or use of a reproduction or colorable imitation of a mark of the registrant.

(d) A court of competent jurisdiction may:

(1) grant an injunction to restrain the display, manufacture, sale, or use of a reproduction or colorable imitation of a registered mark;

(2) require the defendant to pay to the registrant for the wrongful display, manufacture, sale, or use of a reproduction or colorable imitation of a mark:

(i) any profit that the defendant derived;

(ii) any damages that the registrant suffered; or

(iii) both; and

(3) require the defendant to deliver to an officer of the court or to the registrant, for destruction, any reproduction or colorable imitation of the mark that is in the possession or under the control of the defendant.

§1–415.

(a) Except as provided in subsection (b) of this section, a person may not, with intent to defraud, do business in the State under or imitate a name, title, or trade name that is the same as, or similar to, that used by another person already doing business in the State.

(b) This section does not apply to individuals with similar names.

(c) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $100 for each day that the offense is committed.

§1–501.

It is the purpose of this subtitle to require certain reports and records of transactions involving currency where such reports and records have a high degree of usefulness in criminal investigations or proceedings that pertain to the subject of the report.

§1–502.

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

(b) "Currency" means currency and coin of the United States or any other country.

(c) "Department" means the Department of Labor, Licensing, and Regulation.

(d) "Person engaged in a trade or business" means an individual, partnership, limited liability company, firm, trust, estate, association, corporation, or other entity:

(1) engaged in vehicle sales, including motor vehicle, airplane, and boat sales;

(2) that conducts real estate closings and settlements; or

(3) engaged in the sale or pledging of jewelry.

(e) "Secretary" means the Secretary of Labor, Licensing, and Regulation.

§1–503.

(a) A person engaged in a trade or business who, in the course of that trade or business, receives more than $10,000 in currency in 1 transaction shall keep a record of the transaction and shall file with the Department within 15 days of the date of the transaction a report of the transaction.

(b) The reporting requirements of this section are complied with if the person

engaged in a trade or business files with the Department a duplicate copy of the report required by 26 U.S.C. § 6050-I.

(c) The Secretary shall adopt regulations appropriate to carry out the purposes of this subtitle and to provide for exemption of transactions that are clearly of a legitimate nature for which mandatory reporting would serve no useful purpose.

§1–504.

(a) The Department of Public Safety and Correctional Services, the Department of State Police, and the Office of the Attorney General shall have access to and shall be authorized to inspect and copy any reports filed with the Department under this article.

(b) The Department may make the contents of a report available to other criminal justice agencies only for purposes of investigation or prosecution of the subject of the report.

§1–505.

(a) (1) The Secretary may assess a civil penalty against a person engaged in a trade or business for each knowing and willful violation of this subtitle.

(2) The civil penalty may not exceed $50 for each day the violation continues.

(3) For purposes of this section, a separate violation occurs at each office, branch, or place of business where a violation occurs or continues.

(4) The total civil penalty may not exceed $1,000.

(b) In the event of the failure of a person to pay a penalty assessed under this section, a civil action for recovery of the penalty may be brought by the State against the person.

§2–101.

There is a Department of Labor, Licensing, and Regulation, established as a principal department of the State government.

§2–102.

(a) The head of the Department is the Secretary of Labor, Licensing, and Regulation, who shall be appointed by the Governor with the advice and consent of the Senate.

(b) Before taking office, the appointee shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) (1) The Secretary serves at the pleasure of the Governor and is responsible

directly to the Governor. The Secretary shall advise the Governor on all matters assigned to the Department and is responsible for carrying out the Governor's policies on those matters.

(2) The Secretary is responsible for the operation of the Department and shall establish guidelines and procedures to promote the orderly and efficient administration of the Department. The Secretary may establish, reorganize, or abolish areas of responsibility in the Office of the Secretary as necessary to fulfill the duties assigned to the Secretary.

(3) The Secretary is responsible for establishing policy to be followed by the units in the Department.

(d) The Secretary is entitled to the salary provided in the State budget.

§2–103.

(a) (1) With the approval of the Governor, the Secretary shall appoint a deputy secretary.

(2) The deputy secretary:

(i) serves at the pleasure of the Secretary;

(ii) is entitled to the salary provided in the State budget; and

(iii) has the duties provided by law or delegated by the Secretary.

(b) (1) The Secretary may employ a staff attached to the Office of the Secretary, in accordance with the State budget.

(2) Each staff assistant in the Office of the Secretary in charge of a particular area of responsibility and each professional consultant is in the executive service, management service, or is a special appointment in the State Personnel Management System and is appointed by and serves at the pleasure of the Secretary.

(3) Unless otherwise provided by law, the Secretary shall appoint and remove all other staff in the Office of the Secretary in accordance with the provisions of the State Personnel and Pensions Article.

(4) The Secretary may review any personnel action taken by any unit in the Department. The Secretary may delegate to the head or governing body of any unit in the Department the power to approve any appointment or removal.

(5) Whenever the Secretary is authorized by law to make an appointment with the approval of the Governor, the Secretary may not remove the appointee without first obtaining the approval of the Governor.

§2–104.

(a) The Secretary is responsible for the budget of the Office of the Secretary and for the budget of each unit in the Department.

(b) The Secretary shall have a seal.

(c) (1) The Secretary is responsible for the planning of activities, programs, and services of the Department.

(2) The Secretary may review and approve, disapprove, or modify the plans and proposals of the units in the Department.

(d) The Secretary may investigate or hold a hearing on any complaint about the operation of a unit in the Department and may report the findings of the Secretary to the Governor.

(e) At any time, the Secretary may call a meeting of a board or commission in the Department to consider any subject.

(f) The Secretary may not exercise or perform any power, duty, responsibility, or function granted to the Board of Appeals in §§ 8–5A–05, 8–5A–07, 8–5A–10, 8–5A–11, 8–5A–12, 8–611(j), 8–629(f), 8–638, 8–639, and 8–808(a) of the Labor and Employment Article.

§2–105.

(a) The Secretary may adopt regulations for the Office of the Secretary.

(b) Before a unit in the Department publishes a proposed regulation under § 10-112 of the State Government Article, the unit shall submit the proposed regulation to the Secretary.

(c) (1) Except as provided in subsection (d) of this section, the Secretary may approve any proposed regulation.

(2) Within 30 days after submission of a proposed regulation on a regulatory, supervisory, quasi-judicial, disciplinary, or enforcement function of a unit, the Secretary may disapprove the proposed regulation but only if the Secretary finds that it:

(i) would discourage competition within a regulated occupation or profession;

(ii) would unfairly restrict entry of applicants into a regulated occupation or profession; or

(iii) otherwise is contrary to the public interest.

(3) The Secretary may disapprove or revise any other proposed regulation.

§2–106.

(a) There is a Licensing Testing Fund for the Department.

(b) The Secretary shall ensure that each unit in the Department that collects fees for a licensing examination given by a national testing association pays all of the fees into the Licensing Testing Fund.

(c) (1) The Licensing Testing Fund shall be used to pay the money that the Department owes to a national testing association.

(2) At the end of each fiscal year, any money in the Licensing Testing Fund that is not needed under paragraph (1) of this subsection reverts to the General Fund of the State.

§2–106.1.

(a) This section applies to the following occupational and professional licensing boards:

(1) the State Board of Architects established under Title 3 of the Business Occupations and Professions Article;

(2) the State Board of Certified Interior Designers established under Title 8 of the Business Occupations and Professions Article;

(3) the State Board of Examiners of Landscape Architects established under Title 9 of the Business Occupations and Professions Article;

(4) the State Board for Professional Engineers established under Title 14 of the Business Occupations and Professions Article; and

(5) the State Board for Professional Land Surveyors established under Title 15 of the Business Occupations and Professions Article.

(b) There is a State Occupational and Professional Licensing Design Boards' Fund in the Department, which shall be a continuing, nonlapsing special fund.

(c) (1) Except as otherwise provided by law, each occupational and professional licensing board described in subsection (a) of this section shall pay all fees collected to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the Fund.

(d) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of each occupational and professional licensing board described in subsection (a) of this section.

(e) The Secretary or a designee of the Secretary shall administer the Fund.

(f) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.

§2–106.2.

(a) (1) In consultation with each board described in § 2–106.1 of this subtitle, the Secretary shall annually calculate the direct and indirect costs attributable to each board.

(2) Each board shall establish fees based on the calculations provided by the Secretary under this section.

(3) Each fee established by an individual board may not be increased annually by more than 12.5% of the existing and corresponding fee of the board.

(b) In order to establish fees that more equitably distribute the costs associated with the operation of each board among similar boards, the Secretary may average the direct and indirect costs of one or more boards provided that the boards consent to having their direct and indirect costs averaged together.

§2–106.3.

(a) (1) In this section the following words have the meanings indicated.

(2) "Commission" means the State Real Estate Commission.

(3) "Fund" means the State Real Estate Commission Fund.

(b) (1) There is a State Real Estate Commission Fund in the Department.

(2) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(c) The Fund consists of fees collected by the Commission and distributed to the Fund under § 17-213 of the Business Occupations and Professions Article.

(d) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Commission.

(e) The Secretary or a designee of the Secretary shall administer the Fund.

(f) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2-1220 of the State Government Article.

§2–106.4.

(a) In this section, "Commission" means the State Real Estate Commission.

(b) In consultation with the Commission, the Secretary shall annually calculate the direct and indirect costs attributable to the Commission.

(c) Beginning on July 1, 2007, the Commission shall establish fees based on the calculations provided by the Secretary under this section.

(d) Each fee established by the Commission may not be increased annually by more than 12.5% of the existing and corresponding fee of the Commission.

§2–106.5.

(a) (1) In this section the following words have the meanings indicated.

(2) "Board" means the State Board of Public Accountancy.

(3) "Fund" means the State Board of Public Accountancy Fund.

(b) (1) There is a State Board of Public Accountancy Fund in the Department.

(2) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(c) The Fund consists of fees collected by the Board and distributed to the Fund under § 2–209 of the Business Occupations and Professions Article.

(d) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board.

(e) The Secretary or a designee of the Secretary shall administer the Fund.

(f) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.

§2–106.6.

(a) In this section, "Board" means the State Board of Public Accountancy.

(b) In consultation with the Board, the Secretary shall annually calculate the direct and indirect costs attributable to the Board.

(c) Beginning on July 1, 2008, the Board shall establish fees based on the calculations provided by the Secretary under this section.

(d) Each fee established by the Board may not be increased annually by more than 12.5% of the existing and corresponding fee of the Board.

§2–106.7.

(a) (1) In this section the following words have the meanings indicated.

(2) "Commission" means the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors.

(3) "Fund" means the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors Fund.

(b) (1) There is a State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors Fund in the Department.

(2) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(c) The Fund consists of fees collected by the Commission and distributed to the Fund under Title 16 of the Business Occupations and Professions Article.

(d) The Fund shall be used to cover the Commission's actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Commission.

(e) The Secretary or a designee of the Secretary shall administer the Fund.

(f) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2–1220 of the State Government Article.

(g) At the end of each fiscal year, any unspent and unencumbered portion of the Fund in excess of $100,000 shall revert to the General Fund of the State.

(h) Any investment earnings of the Fund shall be credited to the General Fund.

§2–106.8.

(a) In this section, "Commission" means the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors.

(b) In consultation with the Commission, the Secretary shall calculate annually the direct and indirect costs attributable to the Commission.

(c) Beginning on July 1, 2011, the Commission shall establish fees based on the calculations provided by the Secretary under this section.

(d) Each fee established by the Commission may not be increased annually by more than 12.5% of the existing and corresponding fee of the Commission.

(e) The fees established for each profession regulated under Title 16 of the Business Occupations and Professions Article shall be set so as to produce funds to approximate the cost of regulating each profession.

§2–107.

(a) This section does not apply to a unit in the Department to the extent that

the unit is authorized by law to employ its own legal adviser or counsel.

(b) The Attorney General is legal adviser to the Department.

(c) The Attorney General shall assign to the Department the number of assistant attorneys general authorized by law for the Department and its units.

(d) (1) The Attorney General shall designate 1 of the assistant attorneys general assigned to the Department as counsel to the Department. After the Attorney General designates the counsel to the Department, the Attorney General may not reassign the counsel without consulting the Secretary.

(2) The counsel may have no duty other than to give the legal aid, advice, and counsel required by the Secretary or any other official of the Department, to supervise the other assistant attorneys general assigned to the Department, and to perform for the Department the duties that the Attorney General assigns. The counsel shall perform these duties subject to the control and supervision of the Attorney General.

§2–108.

(a) The following units are in the Department:

(1) the Division of Labor and Industry.

(2) the Division of Employment and Training.

(3) the Commissioner of Financial Regulation.

(4) the State Board of Architects.

(5) the State Athletic Commission.

(6) the State Board of Barbers.

(7) the Board of Boiler Rules.

(8) the State Collection Agency Licensing Board.

(9) the State Board of Cosmetologists.

(10) the State Board of Master Electricians.

(11) the State Board of Stationary Engineers.

(12) the State Board for Professional Engineers.

(13) the State Board of Foresters.

(14) the State Board of Heating, Ventilation, Air Conditioning and Refrigeration Contractors.

(15) the Maryland Home Improvement Commission.

(16) the State Board of Certified Interior Designers.

(17) the State Board of Examiners of Landscape Architects.

(18) the State Board for Professional Land Surveyors.

(19) the State Board of Pilots.

(20) the State Board of Plumbing.

(21) the State Board of Public Accountancy.

(22) the State Board of Individual Tax Preparers.

(23) the State Racing Commission.

(24) the State Real Estate Commission.

(25) the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors.

(26) the Real Estate Hearing Board.

(27) the State of Maryland Deposit Insurance Fund Corporation.

(28) the Maryland Jockey Injury Compensation Fund, Inc.

(29) the State Amusement Ride Safety Advisory Board.

(30) the Occupational Safety and Health Advisory Board.

(31) the Maryland–Bred Race Fund Advisory Committee.

(32) the Maryland Standardbred Race Fund Advisory Committee.

(33) the Advisory Council on Prevailing Wage Rates.

(b) The Department also includes each other unit that is assigned to the Department.

(c) (1) Each unit created within the Department shall include at least 1 consumer member.

(2) Each consumer member of the unit:

(i) shall be a member of the general public;

(ii) may not be a licensee or otherwise be subject to regulation by the unit;

(iii) may not be required to meet the qualifications for the professional members of the unit; and

(iv) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the unit.

(3) While a member of the unit, a consumer member may not:

(i) have a financial interest in or receive compensation from a person regulated by the unit; or

(ii) grade any examination given by or for the unit.

§2–109.

(a) With the approval of the Governor, the Secretary may create advisory units.

(b) (1) Each advisory unit created under this section shall include at least 1 consumer member.

(2) Each consumer member of an advisory unit created under this section shall be a member of the general public.

(3) A consumer member of an advisory unit created under this section may not be required to meet the qualifications for the professional members of the unit.

§2–110.

(a) In this section, "license":

(1) means any grant of authority to conduct a business or to practice an occupation; and

(2) includes a certificate, permit, or registration.

(b) A unit in the Department may not require as a condition for a license an ability to communicate in English, except to the extent that the unit expressly determines that the ability is needed to engage in the business or occupation for which the license is sought.

(c) (1) If a unit in the Department determines that the use of an interpreter of a foreign language or sign language will not compromise the integrity of a testing procedure for a license, then, on request, the unit may allow an applicant to use an interpreter during that procedure.

(2) An applicant who uses an interpreter shall pay the cost of the interpreter.

§2.5–101.

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

(b) (1) "License" means any grant of authority to an individual to practice an occupation or profession.

(2) "License" includes a certificate, permit, or registration.

(c) (1) "Military spouse" means the spouse of a service member or veteran.

(2) "Military spouse" includes a surviving spouse of:

(i) a veteran; or

(ii) a service member who died within 1 year before the date on which the application for a license is submitted.

(d) "Service member" means an individual who is an active duty member of:

(1) the armed forces of the United States;

(2) a reserve component of the armed forces of the United States; or

(3) the National Guard of any state.

(e) "Unit" means a unit in the Department that is authorized to issue a license.

(f) (1) "Veteran" means a former service member who was discharged from active duty under circumstances other than dishonorable within 1 year before the date on which the application for a license is submitted.

(2) "Veteran" does not include an individual who has completed active duty and has been discharged for more than 1 year before the application for a license is submitted.

§2.5–102.

This title does not apply to licenses issued under Title 11, Subtitle 5 or Subtitle 6 of the Financial Institutions Article.

§2.5–103.

A unit may allow an individual licensee who is a member of an armed force deployed outside the State to:

(1) renew the license after the expiration of the renewal period without payment of a penalty or reinstatement fee if the late renewal is a direct result of the deployment; and

(2) complete any continuing education or continuing competency requirements for renewal within a reasonable time after renewing the license.

§2.5–104.

(a) In calculating an individual's years of practice in an occupation or a profession, each unit shall give credit to the individual for all relevant experience as a service member.

(b) Each unit shall credit any training and education provided by the military and completed by a service member toward any training or education requirements for licensure if the training or education is determined by the unit to be:

(1) substantially equivalent to the training or education required by the unit; and

(2) not otherwise contrary to any other licensing requirement.

§2.5–105.

(a) Each unit shall issue an expedited temporary license to a service member, veteran, or military spouse who meets the requirements of this section.

(b) A temporary license issued under this section is valid until the earlier of:

(1) 6 months after the date of issuance; or

(2) the date on which a license is granted or a notice to deny a license is issued by the unit.

(c) An application for a temporary license shall include the following, in the form and manner required by the unit:

(1) proof that the applicant is a service member, veteran, or military spouse;

(2) proof that the applicant holds a valid license in good standing issued in another state;

(3) if the applicant is a service member or veteran, proof that the applicant is assigned to a duty station in the State or has established legal residence in the State;

(4) if the applicant is a military spouse, proof that the applicant's spouse is assigned to a duty station in the State or has established legal residence in the State;

(5) if a criminal background check is required by the unit for licensure, proof of application for a criminal background check;

(6) proof that the applicant has submitted the full application for licensure; and

(7) payment of any application fee required by the unit.

(d) Before issuing a temporary license under this section, the unit shall determine that the requirements for licensure in the other state are substantially equivalent to, or exceed the requirements for, licensure in this State.

§2.5–106.

(a) Subject to subsections (b) and (c) of this section, a unit may issue a temporary license to a service member, veteran, or military spouse who holds a valid license in good standing issued in another state for which the requirements for licensure are not substantially equivalent to the requirements for licensure in this State.

(b) A temporary license issued under this section authorizes the service member, veteran, or military spouse, for a limited period of time, as determined by the unit, to perform services regulated by the unit while the service member, veteran, or military spouse completes additional requirements for licensure in this State.

(c) A unit may not issue a license under this section if issuance of the license would pose a risk to public health, welfare, or safety.

§2.5–107.

Each unit shall publish prominently on its Web site:

(1) the process for obtaining a temporary license under § 2.5–105 of this title and, if applicable, § 2.5–106 of this title; and

(2) the process for applying for a permanent license from the unit.

§2.5–108.

Each unit may adopt regulations to carry out this title.

§3–101.

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

(b) (1) "Amusement attraction" means:

(i) an amusement ride; or

(ii) a structure that gives amusement, excitement, pleasure, or

thrills to people who move around, over, or through the structure without the aid of a moving device integral to the structure.

(2) "Amusement attraction" does not include a structure that is devoted principally to exhibitions related to agriculture, the arts, education, industry, religion, or science.

(c) "Amusement owner" means a person, the State, or a political subdivision of the State that owns an amusement attraction or, if the amusement attraction is leased, the lessee.

(d) "Amusement park" means an area that is used principally for 1 or more permanently erected amusement attractions.

(e) "Amusement ride" means a device that is intended to give amusement, excitement, pleasure, or thrills to passengers whom the device carries:

(1) along or around a fixed or restricted course; or

(2) within a defined area.

(f) "Carnival" means an itinerant enterprise that consists principally of 1 or more temporarily located amusement attractions.

(g) "Commissioner" means the Commissioner of Labor and Industry.

(h) "Fair" means an enterprise that:

(1) is devoted principally to periodic exhibitions related to agriculture, the arts, education, industry, religion, or science; and

(2) has 1 or more amusement attractions operated along with the exhibitions.

(i) "Inflatable amusement attraction" means an air–supported amusement attraction that:

(1) incorporates a structural and mechanical system; and

(2) uses a high strength fabric or film that achieves its strength, shape, and stability by tensioning from internal air pressure.

§3–102.

(a) The General Assembly finds that:

(1) an unsafe amusement attraction is likely to cause serious and preventable injuries to members of the public; and

(2) for the welfare of the people of the State, these injuries must be prevented and the public must be protected from unsafe amusement attractions.

(b) The purpose of this title is to ensure, as far as possible, the safety of the public in the use of amusement attractions at carnivals, fairs, and amusement parks in the State by providing for:

(1) adoption of safety regulations;

(2) an effective enforcement and compliance program; and

(3) reporting procedures on the safety of amusement attractions that:

(i) help to achieve the purpose of this title; and

(ii) describe accurately the hazards of amusement attractions.

§3–103.

(a) This title does not apply to a single-passenger, coin-activated amusement ride that is electrically, manually, or mechanically operated unless admission is charged for access to the place where the amusement ride is located.

(b) This title does not repeal or modify § 21-1112 ("Medicine or patent medicine shows") or § 21-1212 ("Violation of § 21-1112") of the Health - General Article.

(c) This title does not prevent the licensing of carnivals, fairs, or amusement attractions by the State or a political subdivision of the State.

(d) This title does not repeal or modify the Maryland Occupational Safety and Health Act.

§3–104.

The purchase of a ticket to a carnival or amusement ride is not an assumption of risk by the buyer.

§3–201.

(a) The Commissioner shall administer and enforce this title.

(b) (1) The proposed budget of the Division of Labor and Industry shall include an appropriation from the Workers' Compensation Commission to cover the cost of administering and enforcing this title.

(2) The Workers' Compensation Commission shall pay the cost of administering and enforcing this title from money that the Commission receives under § 9-316 of the Labor and Employment Article.

§3–202.

The Commissioner may delegate any power or duty of the Commissioner under this title.

§3–203.

(a) The Commissioner may make an agreement with a municipal corporation or political subdivision of the State or unit of the State government to delegate the power of inspection.

(b) If a political subdivision satisfies the Commissioner that the political subdivision can make the inspections required under this title, the Commissioner shall make an agreement with the political subdivision to delegate the power of inspection.

(c) (1) The Commissioner may retain the right to monitor an inspection by a municipal corporation or political subdivision of the State or unit of the State government.

(2) The Commissioner may revoke the agreement.

§3–204.

(a) The Commissioner may administer oaths, depose witnesses, and certify to official acts.

(b) The Commissioner may issue subpoenas for the attendance of witnesses to testify or to produce evidence.

(c) In addition to any duties set forth elsewhere, the Commissioner shall establish procedures necessary for reporting and keeping records to carry out the duties of the Commissioner under this title.

§3–205.

(a) Whenever an individual who is authorized to inspect property in the State under this title is denied access to the property after making a proper request for access of the owner, tenant, or other person in charge of the property, the individual may apply to the District Court for an administrative search warrant.

(b) The application shall:

(1) state the nature, purpose, and scope of the inspection; and

(2) show that:

(i) the applicant:

1. is authorized by law to make the inspection; and

2. made a proper request for access at a reasonable time;

(ii) access was denied; and

(iii) the inspection is for a purpose related to safety or health.

(c) An application may not be submitted to the District Court unless approved by the Attorney General.

(d) On application in accordance with this section, the District Court may issue an administrative search warrant.

§3–206.

(a) A person who is adversely affected or aggrieved by an order passed or regulation adopted by the Commissioner under this title may appeal to a court of competent jurisdiction in accordance with the Maryland Rules.

(b) (1) The filing of an appeal does not stay an order or regulation of the Commissioner.

(2) However, after giving the Commissioner notice and an opportunity for a hearing, the court in which the appeal is pending may stay an order or regulation of the Commissioner on the conditions that the court considers proper.

(3) The conditions may include a requirement to post security.

(c) A court shall hear the appeal promptly.

(d) A regulation that the Commissioner adopts under this subtitle:

(1) is prima facie lawful and reasonable; and

(2) may not be held invalid because of a technical defect, if there is substantial compliance with this title.

§3–207.

(a) The Commissioner may bring an action in a court of competent jurisdiction to enforce an order passed or regulation adopted under this subtitle.

(b) Subject to § 3-302 of the State Finance and Procurement Article, on request of the Commissioner, the Attorney General may proceed in a State or federal court or before any other federal unit to enforce a decision or order of the Commissioner under this title.

(c) A court shall hear the action promptly.

(d) A regulation that the Commissioner adopts under this subtitle:

(1) is prima facie lawful and reasonable; and

(2) may not be held invalid because of a technical defect, if there is substantial compliance with this title.

§3–301.

In this subtitle, "Board" means the State Amusement Ride Safety Advisory Board.

§3–302.

In addition to any duties set forth elsewhere, the Commissioner shall adopt safety regulations for the maintenance and operation of amusement attractions.

§3–303.

There is a State Amusement Ride Safety Advisory Board in the Department.

§3–304.

(a) (1) The Board consists of 9 members appointed by the Governor with the advice and consent of the Senate.

(2) Of the 9 members of the Board:

(i) 1 shall be a mechanical engineer;

(ii) 1 shall represent owners of carnivals;

(iii) 1 shall represent the State Fair and the county fairs;

(iv) 1 shall represent amusement ride rental operators;

(v) 2 shall represent owners of amusement parks; and

(vi) 3 shall be consumer members.

(3) In choosing the members of the Board, the Governor shall make every effort to ensure that each region of the State is represented.

(4) The composition of the Board as to the race and gender of its members shall reflect the composition of the population of the State.

(b) Each consumer member of the Board shall be a member of the general public.

(c) (1) The term of a member is 4 years and begins on July 1.

(2) The terms of members are staggered as required by the terms provided for members of the Board on October 1, 1992.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(d) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§3–305.

The Governor shall designate a chairman from among the consumer members of the Board.

§3–306.

(a) The Board shall set the times and places of its hearings and meetings.

(b) Each member of the Board is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§3–307.

The Board shall advise and consult with the Commissioner on reasonable regulations to prevent conditions that are detrimental to the public in their use of amusement attractions.

§3–308.

(a) The Board shall recommend to the Commissioner any regulation that it finds necessary for the protection and safety of the public.

(b) The Commissioner may make recommendations to the Board on regulations.

§3–309.

(a) The Board shall base its recommendations for regulations on information that:

(1) the Commissioner develops or otherwise has available; or

(2) an interested person submits to the Board at a public hearing under this section.

(b) (1) The Board shall hold the public hearings needed to carry out its responsibilities under this subtitle.

(2) At least 15 days before a hearing, the Commissioner shall publish notice of the hearing in the Maryland Register.

§3–310.

The Board shall submit to the Commissioner, with each recommendation for a regulation, a report that:

(1) explains the need for the regulation; and

(2) summarizes the information available to the Board, including:

(i) testimony that was presented at any public hearing; and

(ii) technical information.

§3–311.

If, after receiving a recommendation from the Board for a regulation, the Commissioner decides to adopt the regulation, the Commissioner shall publish notice of the proposed adoption in the Maryland Register.

§3–312.

The Commissioner may delay the effective date of a regulation for not more than 90 days after publication of the notice of adoption, if the Commissioner finds that the delay is needed to ensure that each manufacturer, operator, or amusement owner of an amusement attraction affected by the regulation knows about and has an opportunity to familiarize employees with the requirements of the regulation.

§3–313.

(a) The Commissioner shall:

(1) compile a set of current regulations adopted under this subtitle;

(2) keep a set of the regulations in the Office of the Commissioner; and

(3) make a copy of the regulations for anyone who asks for one.

(b) The Commissioner may set a fee to cover the cost of making and mailing a copy of the current regulations.

§3–314.

(a) An amusement owner affected by a regulation adopted under this subtitle may apply in writing to the Commissioner for a variance from the regulation.

(b) The Commissioner may grant a variance from a regulation adopted under this subtitle if:

(1) the variance is necessary to prevent undue hardship; or

(2) an existing condition makes compliance with the regulation impracticable and the Commissioner believes that the reasonable safety of the public can be ensured.

§3–315.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, §§ 3–301 and 3–303 through 3–311 of this subtitle shall terminate on July 1, 2024.

§3–401.

(a) An amusement attraction may not operate unless the amusement owner has purchased insurance for the amusement attraction in accordance with this subtitle.

(b) Except for testing and inspection, an amusement attraction may not be operated unless the Commissioner has issued a certificate of inspection for the amusement attraction.

§3–402.

(a) The Commissioner shall inspect:

(1) annually, each amusement attraction at an amusement park;

(2) annually, each inflatable amusement attraction in which, while in contact with the attraction, an individual is 4 feet or more above the ground;

(3) except for an inflatable amusement attraction, each amusement attraction, if moved, before it begins operation at another location; and

(4) each new or modified amusement attraction before it begins public

operation.

(b) (1) An amusement owner shall notify the Commissioner before operating an amusement attraction that is new, modified, or reconstructed.

(2) An owner or lessee of a carnival or fair shall:

(i) notify the Commissioner in writing at least 30 days before opening the carnival or fair at each location; and

(ii) give the Commissioner immediate notice of a change in the schedule of locations or dates if the schedule changes after notification.

(c) The Commissioner shall issue to an amusement owner a certificate of inspection for each amusement attraction at a carnival, fair, or amusement park if:

(1) after inspection the Commissioner finds that the amusement attraction complies with this title and the regulations adopted under it; and

(2) the amusement owner submits to the Commissioner a certificate of insurance for the amusement attraction as required by § 3–403 of this subtitle.

(d) (1) A certificate of inspection for an amusement attraction at an amusement park expires not more than 1 year after the date of issuance.

(2) A certificate of inspection for an amusement attraction at a fair or carnival expires not more than 30 days after the date of issuance.

(3) A certificate of inspection for an inflatable amusement attraction in which, while in contact with the attraction, an individual is 4 feet or more above the ground expires not more than 1 year after the date of issuance.

(e) The certificate of inspection shall be posted in plain view on the amusement attraction.

(f) On information or notification of an accident or complaint that involves an amusement attraction, the Commissioner shall investigate the accident or complaint and inspect the amusement attraction.

§3–403.

(a) (1) An amusement owner shall obtain insurance against liability for injury to an individual that arises out of the use of an amusement attraction.

(2) The insurance shall be in the amount of at least:

(i) $350,000 for an amusement ride that operates by mechanical means; or

(ii) $200,000 for:

1. an amusement ride that operates only by human power or gravity, including a water slide or water flume; or

2. any other amusement attraction.

(b) An amusement owner shall obtain insurance from an insurer or surety that is acceptable to the State Insurance Commissioner.

(c) (1) A county where an amusement attraction is located may buy, on behalf of a not for profit organization, the amount of insurance required under this section for the amusement attraction.

(2) A county that merely buys insurance for an amusement owner is immune from liability under § 5-516 of the Courts and Judicial Proceedings Article.

(d) (1) This subsection applies to a not for profit community service corporation that:

(i) is incorporated under Maryland law;

(ii) is authorized to collect charges or assessments by a covenant running with the land; and

(iii) has gross annual revenues of at least $15,000,000.

(2) A not for profit community service corporation complies with the insurance requirements of this section for an amusement attraction that the corporation owns and operates if the corporation is self-insured for at least $1,000,000 against liability for injury that arises out of the use of the amusement attraction:

(i) under regulations that the State Insurance Commissioner adopts; or

(ii) until the State Insurance Commissioner adopts regulations, with the approval of the State Insurance Commissioner, if the corporation is authorized by a covenant running with the land to collect a payment or charge based on the value of real property.

(3) A not for profit community service corporation that elects to self-insure shall submit periodically in writing to the State Insurance Commissioner the conditions of self-insurance.

(4) The conditions of self-insurance must:

(i) be approved by the State Insurance Commissioner; and

(ii) conform with the conditions of comprehensive liability insurance

policies available in the private market.

§3–404.

(a) Each amusement owner who operates an amusement attraction in the State shall:

(1) keep and make available to the Commissioner records about the activities of the amusement owner under this title; and

(2) keep accurate records of, and submit periodic reports to the Commissioner on, injuries to the public that occur during use of amusement attractions other than injuries that:

(i) are minor;

(ii) require only first-aid treatment; and

(iii) do not involve medical treatment or loss of consciousness.

(b) Whenever a death or serious physical injury results from the operation of an amusement attraction:

(1) the person who directly controls the operation of the amusement attraction immediately shall close the amusement attraction until it has been inspected by the Commissioner;

(2) the amusement owner shall report the incident orally or in writing to the Commissioner within 24 hours; and

(3) the Commissioner shall inspect the amusement attraction within 24 hours after receiving notice of the incident.

§3–405.

(a) The Commissioner may prohibit use of an amusement attraction if, after an inspection or investigation, the Commissioner finds that:

(1) the amusement attraction violates a regulation adopted under this title; and

(2) there is a substantial probability of death or serious physical injury from continued use of the amusement attraction.

(b) To prohibit use of an amusement attraction, the Commissioner shall give an amusement owner written notice that prohibits use of the amusement attraction.

(c) (1) The Commissioner shall post a copy of the notice on the amusement attraction.

(2) Only the Commissioner may remove the copy of the notice.

(d) The amusement attraction may not be operated until it is made safe for public use and each required safeguard is provided.

(e) (1) A person who is aggrieved by a decision of the Commissioner under this section may appeal to a court of competent jurisdiction in accordance with the Maryland Rules.

(2) (i) The filing of an appeal does not stay the decision of the Commissioner.

(ii) However, after giving the Commissioner notice and an opportunity for a hearing, the court in which the appeal is pending may stay the decision of the Commissioner on conditions that the court considers proper.

(iii) The conditions may include a requirement to post security.

§3–406.

(a) In this section, "workday" means a day that is not a Saturday, a Sunday, or a State holiday.

(b) If, after an inspection or investigation, the Commissioner finds that, within the immediately preceding 6 months, an amusement owner has violated this title or an order passed or regulation adopted under this title, the Commissioner promptly shall issue a citation to the amusement owner.

(c) Each citation shall:

(1) describe, in detail, the nature of the alleged violation;

(2) cite the provision of this title, order, or regulation that the amusement owner is alleged to have violated; and

(3) set a reasonable time for correction of the alleged violation.

(d) Within a reasonable time after issuance of a citation, the Commissioner shall send by certified mail to the amusement owner a notice that:

(1) states the proposed civil penalty, if any, that the Commissioner intends to impose under this title; and

(2) informs the amusement owner of the right to a hearing under this section.

(e) In accordance with any regulation that the Commissioner adopts under this title, an amusement owner who receives a citation shall post the citation or a copy of it conspicuously at or near each place where the citation alleges that a violation occurred.

(f) Within 15 workdays after an amusement owner receives a notice under subsection (d) of this section, the amusement owner may submit to the Commissioner a written request for a hearing on the citation or proposed civil penalty.

(g) Unless an amusement owner requests a hearing as provided in this section, a citation and a notice of a proposed civil penalty are final orders.

(h) After an opportunity for a hearing under this section, the Commissioner may pass an order that affirms or modifies a requirement of a citation for correction of a violation if the amusement owner shows that the amusement owner:

(1) has made a good faith effort to comply with the requirement; but

(2) has not complied because of a factor beyond the reasonable control of the amusement owner.

(i) An amusement owner shall correct each violation for which the Commissioner issues a citation within the time set for correction in a final order under this subtitle.

(j) If the Commissioner has reason to believe that an amusement owner has failed to correct a violation in a timely manner, the Commissioner shall send by certified mail to the amusement owner a notice that:

(1) states that the amusement owner has failed to correct the violation;

(2) states the proposed civil penalty, if any, that the Commissioner intends to impose under this title for the failure; and

(3) informs the amusement owner that, within 15 workdays after receipt of the notice, the amusement owner may submit to the Commissioner a written request for a hearing on the failure to correct the violation or proposed civil penalty.

(k) Unless an amusement owner requests a hearing as provided in this section, the notice, including any proposed civil penalty, is a final order.

(l) (1) Whenever the Commissioner receives a request for a hearing made in accordance with this section, the Commissioner shall hold a hearing.

(2) To the extent practicable, the hearing shall be held within 30 days after receipt of the request.

(m) The Commissioner shall give notice and hold the hearing under this section in accordance with Title 10, Subtitle 2 of the State Government Article.

(n) (1) If a hearing examiner or other officer is appointed to hold a hearing under this section, the officer shall prepare a record that includes testimony.

(2) The officer shall submit a report to the Commissioner and send a copy of the report to any amusement owner affected by the report.

(3) The report becomes final unless, within 10 workdays after the report, the amusement owner submits a written request for a review of the proceeding by the Commissioner.

(4) After a review of a proceeding under this subsection, with or without a hearing, the Commissioner shall pass an order based on findings of fact. The order shall affirm, modify, or vacate the citation or proposed civil penalty or direct other appropriate relief.

(5) An order of the Commissioner under paragraph (4) of this subsection is final 15 days after passage of the order.

§3–501.

(a) A person may not knowingly make a false representation or false statement in an application, plan, record, report, or other document that the person submits or is required to keep under this title.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $2,500 or imprisonment not exceeding 6 months or both.

§3–502.

If an amusement owner willfully violates this title or an order passed or regulation adopted under this title and a member of the public dies as a result of the violation, the amusement owner is guilty of a misdemeanor and, on conviction, is subject to:

(1) for a first offense, a fine not exceeding $2,500 or imprisonment not exceeding 6 months or both; or

(2) for a subsequent offense, a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

§3–503.

(a) (1) In this section the following words have the meanings indicated.

(2) "Bungee jump" means jumping or falling by an individual from a height while attached to a rope or cord that is elastic, rubber, or latex.

(3) "Bungee jumping operation" means an operation that allows an individual to bungee jump for a fee or dues.

(b) A person may not conduct a bungee jumping operation.

(c) A person who violates subsection (b) of this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $2,500 or imprisonment not exceeding 6 months or both.

§3–504.

(a) The Commissioner shall impose a civil penalty for a violation of this title only:

(1) in accordance with this section; and

(2) after issuing a citation under § 3-406 of this title for the violation.

(b) The Commissioner may impose a civil penalty, not exceeding $500 for each violation, against an amusement owner who:

(1) violates this title or an order passed or regulation adopted under this title, if the Commissioner finds that the violation is not serious; or

(2) violates a requirement for posting imposed under this title.

(c) The Commissioner may impose a civil penalty, not exceeding $500 for each day a violation continues, against an amusement owner who fails to correct the violation in the time set for its correction.

(d) The Commissioner may impose a civil penalty, not exceeding $1,000 for each violation, against an amusement owner who violates this title or an order passed or regulation adopted under this title if a substantial probability of death or serious physical injury exists because of the violation, unless the amusement owner did not know and with reasonable diligence could not have known of the violation.

(e) The Commissioner may impose a civil penalty, not exceeding $2,000 for each violation, against a person who:

(1) operates an amusement attraction without a certificate of inspection from the Commissioner; or

(2) willfully or repeatedly violates this title or an order passed or regulation adopted under this title.

(f) Before the Commissioner imposes a civil penalty, the Commissioner shall consider the appropriateness of the penalty in relation to:

(1) the size of the business of the amusement owner against whom the penalty is to be imposed;

(2) the gravity of the violation for which the penalty is to be imposed;

(3) the good faith of the amusement owner; and

(4) any previous violations by the amusement owner.

(g) Each civil penalty shall be paid into the General Fund of the State.

§4–101.

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

(b) "Boxing" includes sparring.

(c) "Commission" means the State Athletic Commission.

(d) (1) "Contest" means a boxing, kick boxing, or wrestling:

(i) competition;

(ii) exhibition;

(iii) match;

(iv) performance; or

(v) show.

(2) "Contest" includes a mixed martial arts:

(i) competition;

(ii) match;

(iii) performance; or

(iv) show.

(3) "Contest" does not include a mixed martial arts exhibition.

(e) "Contestant" means an individual who participates in a boxing, professional kick boxing, amateur kick boxing, professional mixed martial arts, or amateur mixed martial arts contest.

(f) "Mixed martial arts" means a competition in which contestants use interdisciplinary forms of fighting, including various forms of martial arts, involving:

(1) striking with the hands, feet, knees, or elbows; and

(2) grappling by take–downs, throws, submissions, or choke holds.

(g) "Mixed martial arts exhibition" means mixed martial arts where:

(1) contact to the body is permitted in only a restrained manner;

(2) contact to the head is not permitted; and

(3) no contact is permitted that may result, or is intended to result, in physical harm to an opponent.

§4–201.

There is a State Athletic Commission in the Department.

§4–202.

(a) The Commission consists of 5 members appointed by the Governor with the advice of the Secretary.

(b) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(c) (1) The term of a member is 6 years and begins on July 1.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on October 1, 1992.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(d) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Commission meetings held during any consecutive 12–month period while the member was serving on the Commission.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§4–203.

(a) The Commission shall elect a chairman from among the members of the Commission.

(b) The manner of election of the chairman and the chairman's term of office

shall be as the Commission determines.

§4–204.

(a) (1) A majority of the authorized membership of the Commission is a quorum.

(2) The Commission may not act unless a majority of the authorized membership concurs.

(b) The Commission shall set the times and places of its meetings.

(c) (1) The chairman of the Commission is entitled to:

(i) an annual salary of $6,000; and

(ii) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(2) Each other member of the Commission is entitled to:

(i) an annual salary of $4,000; and

(ii) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) While in office, each member of the Commission shall be covered by a surety bond in the form and amount required by law.

(e) The Commission may employ a staff in accordance with the State budget.

(f) The Commission shall have its general offices in Baltimore City.

§4–205.

(a) The Commission shall control and have jurisdiction over all contests held in the State.

(b) The Commission may:

(1) adopt regulations to administer its office;

(2) administer oaths; and

(3) issue subpoenas for the attendance of witnesses to testify or to produce evidence.

(c) The Commission shall:

(1) adopt a seal;

(2) adopt regulations to carry out this subtitle and Subtitle 3 of this title;

(3) keep a record of its proceedings;

(4) keep at its general offices all its books, documents, and papers; and

(5) prepare notices and other papers for service.

§4–206.

The Commission shall pay all money that it collects into the General Fund of the State.

§4–207.

The Commission exercises its powers and duties subject to the authority of the Secretary.

§4–208.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this subtitle and Subtitle 3 of this title and all regulations adopted under this subtitle and Subtitle 3 of this title shall terminate on July 1, 2021.

§4–301.

(a) In this subtitle, "license" means a license issued by the Commission.

(b) In this subtitle, "license" includes:

(1) a license to participate as a boxer in a contest;

(2) a license to participate as a professional kick boxer in a contest;

(3) a license to participate as an amateur kick boxer in a contest;

(4) a license to participate as a wrestler in a contest;

(5) a license to participate as a professional mixed martial arts contestant in a contest;

(6) a license to participate as an amateur mixed martial arts contestant in a contest;

(7) a license to act as a manager for a contestant;

(8) a license to act as a referee in a contest;

(9) a license to act as a judge in a contest;

(10) a license to act as a second in a contest;

(11) a license to act as a matchmaker of a contest; and

(12) a license to act as a promoter of a contest.

§4–302.

(a) Except as provided in subsection (b) of this section, this subtitle does not apply to:

(1) intercollegiate, interscholastic, or intramural boxing, kick boxing, or wrestling;

(2) amateur boxing conducted under the supervision of a nationally recognized amateur organization;

(3) martial arts where:

(i) contact to the body is permitted in only a restrained manner;

(ii) contact to the head is not permitted; and

(iii) no contact is permitted that may result, or is intended to result, in physical harm to an opponent; or

(4) a mixed martial arts exhibition.

(b) Each boxer shall wear protective headgear in each amateur boxing match or exhibition.

§4–303.

(a) A person may not participate as a wrestler or contestant in a contest in the State unless the person has an appropriate license.

(b) A person may not act as a manager, referee, judge, second, matchmaker, or promoter in a contest in the State unless the person has an appropriate license.

§4–304.

(a) A licensee shall be examined by a licensed physician who is chosen by the Commission and who specializes in neurology or neurosurgery prior to the licensee's first appearance as a contestant in a kick boxing, boxing, or mixed martial arts contest following the issuance or renewal of a license.

(b) The Commission shall pay the cost of the neurological examination required

under this section from license fees collected under this subtitle.

§4–304.1.

(a) Each applicant for a license to participate as a contestant in a contest shall present documentary evidence, satisfactory to the Commission, that:

(1) within the prior 30–day period, the applicant has been tested for the presence of:

(i) antibodies to the human immunodeficiency virus (HIV);

(ii) the antigen of virus hepatitis B; and

(iii) antibodies to virus hepatitis C; and

(2) the results of all tests are negative.

(b) Whenever directed by the Commission, an individual who is licensed to participate as a contestant in a contest shall present documentary evidence, satisfactory to the Commission, that:

(1) within 30 days prior to participating in a contest, the individual has been tested for the presence of:

(i) antibodies to the human immunodeficiency virus (HIV);

(ii) the antigen of virus hepatitis B; and

(iii) antibodies to virus hepatitis C; and

(2) the results of all tests are negative.

(c) A test for the presence of HIV conducted under the provisions of this section shall be conducted in accordance with the provisions of Title 4, Subtitle 3 and § 18–336 of the Health – General Article.

(d) (1) If the Commission denies a license, suspends or revokes a license, denies renewal of a license, or does not allow an individual to participate in a contest because of the failure of the individual to comply with this section, the Commission shall keep the information confidential and may not disclose the reason for its action.

(2) A person who violates paragraph (1) of this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 for the first offense and not exceeding $5,000 for each subsequent conviction.

§4–305.

(a) An applicant for a license shall:

(1) submit to the Commission an application on the form that the Commission provides; and

(2) pay to the Commission an application fee of:

(i) $10 for a license to participate as a wrestler or contestant in a contest or to act as a second in a contest;

(ii) $15 for a license to act as a referee or judge in a contest;

(iii) $25 for a license to act as a manager of a contestant;

(iv) $25 for a license to act as a matchmaker of a contest; or

(v) $150 for a license to act as a promoter of a contest.

(b) The application shall contain the information that the Commission requires by regulation.

§4–306.

(a) An applicant for a license to act as a promoter of a contest shall execute a surety bond to be given to the State for the benefit of each person who may be interested in the payment of the expenses incurred in connection with the contest.

(b) The surety bond shall be:

(1) in the amount of:

(i) $2,000; or

(ii) any greater amount that the Commission requires;

(2) in a form that the Commission approves;

(3) with a surety that the Commission approves; and

(4) conditioned on the payment, within the time that the Commission sets, of all expenses incurred in connection with the contest.

§4–307.

The Commission shall issue a license to each applicant who meets the requirements of this subtitle.

§4–308.

(a) A boxer license authorizes the licensee to participate as a boxer in a contest.

(b) (1) A professional kick boxer license authorizes the licensee to participate as a professional kick boxer in a contest.

(2) An amateur kick boxer license authorizes the licensee to participate as an amateur kick boxer in a contest.

(c) A wrestler license authorizes the licensee to participate as a wrestler in a contest.

(d) (1) A professional mixed martial arts contestant license authorizes the licensee to participate as a professional mixed martial arts contestant in a contest.

(2) An amateur mixed martial arts contestant license authorizes the licensee to participate as an amateur mixed martial arts contestant in a contest.

(e) A manager license authorizes the licensee to act as a manager of a contestant.

(f) A referee license authorizes the licensee to act as a referee in a contest.

(g) A judge license authorizes the licensee to act as a judge in a contest.

(h) A second license authorizes the licensee to act as a second in a contest.

(i) A matchmaker license authorizes the licensee to act as a matchmaker of a contest.

(j) A promoter license authorizes the licensee to act as a promoter of a contest.

§4–309.

A license expires on the first anniversary of its effective date.

§4–310.

(a) (1) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(ii) fraudulently or deceptively uses a license;

(iii) violates this title; or

(iv) violates a regulation adopted under this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending

or revoking a license under this subsection, the Commission may impose a penalty of up to $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Commission shall consider:

1. the seriousness of the violation;

2. the good faith of the violator;

3. any previous violations;

4. the assets of the violator; and

5. the harmful effect of the violation on the general public and the sporting industry.

(b) In addition to the grounds in subsection (a) of this section, the Commission may deny a boxer, amateur kick boxer, professional kick boxer, amateur mixed martial arts contestant, or professional mixed martial arts contestant license to an applicant or suspend or revoke a boxer, amateur kick boxer, professional kick boxer, amateur mixed martial arts contestant, or professional mixed martial arts contestant license if the Commission finds that the applicant or licensee is not fit, based on the neurological examination required under §§ 4–304 and 4–314 of this subtitle and the recommendation of the physician who made the examination.

(c) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission may suspend or revoke a boxer, amateur kick boxer, professional kick boxer, amateur mixed martial arts contestant, or professional mixed martial arts contestant license and may order the boxer, amateur kick boxer, professional kick boxer, amateur mixed martial arts contestant, or professional mixed martial arts contestant to forfeit the purse or other compensation from the contest if the contestant:

(1) refuses to submit to a drug test required under § 4–315(b) of this subtitle; or

(2) submits a urine or blood sample that tests positive for the presence of a controlled dangerous substance defined in § 5–101 of the Criminal Law Article or other substance that the Commission prohibits by regulation, including human growth hormones, steroids, or other performance enhancing drugs.

(d) (1) Subject to the hearing provisions of § 4–311 of this subtitle, the Commission shall deny a promoter license to an applicant or revoke a promoter license if the applicant or licensee:

(i) fails to pay the boxing and wrestling tax required under Title 6 or Title 13 of the Tax – General Article; or

(ii) holds or participates in a fake boxing, wrestling, or mixed martial arts contest.

(2) If a person fails to pay the boxing and wrestling tax, the Commission shall:

(i) impose a penalty not exceeding $5,000; and

(ii) act to enforce the bond of the promoter.

§4–311.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Commission takes any final action under § 4-310 of this subtitle, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Commission.

(b) The Commission shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Commission may administer oaths in a proceeding under this section.

(d) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Commission may hear and determine the matter.

§4–312.

A party to a proceeding before the Commission who is aggrieved by a final decision of the Commission in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§4–313.

A person may hold a contest in the State only if it is authorized by the Commission and is in accordance with this subtitle.

§4–314.

(a) The Commission shall require an individual to be examined by a licensed physician who is chosen by the Commission and who specializes in neurology or neurosurgery before the individual may participate as a contestant in a contest in the State if:

(1) the individual has participated as a contestant in more than 12 contests in or out of the State;

(2) a ringside physician recommends the examination; or

(3) in 2 successive contests the individual:

(i) receives a technical knockout as a result of a neurological injury; or

(ii) is knocked out.

(b) The Commission shall pay the cost of the neurological examination required under this section from the license fees collected under this subtitle.

(c) On the basis of the neurological examination and the recommendation of the physician who conducts the examination, the Commission may find that the individual is not fit and may prohibit the individual from participating in a contest in the State.

§4–315.

(a) A contestant shall be allowed to enter the ring only if:

(1) a physician approved by the Commission declares the contestant to be physically fit; and

(2) the contestant has complied with § 4–304.1 of this subtitle.

(b) (1) Each contestant in a contest shall submit to:

(i) a chemical test of the urine or blood of the contestant to detect the presence of a controlled dangerous substance defined in § 5–101 of the Criminal Law Article or other substance that the Commission prohibits by regulation; and

(ii) subject to paragraph (2) of this subsection, a test of the blood or urine of the contestant to detect the presence of performance enhancing drugs, including:

1. human growth hormones; and

2. anabolic steroids.

(2) A contestant shall be required to submit to a blood or urine test under paragraph (1)(ii) of this subsection if:

(i) there is reasonable cause to believe the contestant has used a substance prohibited by regulation;

(ii) the contestant was randomly selected by lottery; or

(iii) the contestant has a documented or otherwise verified history of drug use within the 5 years immediately preceding the date of the contest.

(c) The Commission shall set the length in rounds of each contest.

(d) (1) The Commission shall adopt regulations to ensure the safety of individuals who participate in amateur or professional mixed martial arts contests.

(2) In developing the regulations, the Commission shall consider:

(i) appropriate limits on acceptable maneuvers;

(ii) time limits for contest rounds; and

(iii) rules for termination of a contest.

§4–316.

A wrestler or contestant who participates in a fake contest:

(1) for the first offense, shall be prohibited for a period of 6 months beginning immediately after the offense from participating in a contest that is held by a person licensed to act as a promoter of a contest; and

(2) for the second offense, shall be disqualified from attendance at or participation in a contest that is held by a person licensed to act as a promoter of a contest.

§4–317.

(a) To protect the general public, the promoter of a contest shall have the price of seats at the contest published in at least 2 newspapers of general circulation in the county in which the contest is held.

(b) The advertisement shall be in a space that is at least 2 inches by 3 inches.

§4–318.

A promoter may not allow the sale or exchange of a ticket or complimentary ticket for an amount that exceeds the box office price.

§4–319.

A building or other structure that is used or intended to be used, wholly or partly, for a contest shall be ventilated properly and have fire exits and escapes in conformance with local law.

§4–320.

A promoter may not allow a person who does not have an appropriate license to participate as a wrestler or contestant in a contest or to act as a manager, referee, judge, second, or matchmaker in a contest.

§4–321.

A manager, second, matchmaker, promoter, or principal may not accept money or a gift from a boxer, exhibitor of boxing, kick boxer, wrestler, or mixed martial arts contestant in return for a special privilege or for discriminating in making a match.

§4–322.

(a) A person who violates this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $2,000, six months imprisonment, or both.

(b) (1) The Commission may impose on a person who violates any provision of this title a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Commission shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Commission shall pay any penalty collected under this subsection into the General Fund of the State.

§4–323.

(a) The Commission may seek an ex parte, interlocutory, or final injunction from a circuit court if it concludes that a person:

(1) conducts or attempts to conduct a contest that is not under the control and jurisdiction of the Commission in violation of § 4-205(a) of this title; or

(2) participates or attempts to participate in a contest in the absence of a valid license issued by the Commission in violation of § 4-303 of this subtitle.

(b) The injunctive relief may be sought from the circuit court of any county in which the contest is to be held or where the individual who is alleged to be violating this subtitle resides or has its principal place of business.

(c) When seeking an injunction under this section, the Commission is not required to:

(1) file a bond; or

(2) show a lack of adequate remedy at law.

§4–401.

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

(b) (1) "Agency contract" means an agreement in which a student–athlete authorizes a person to negotiate or solicit on behalf of the student–athlete a professional–sports–services contract or an endorsement contract.

(2) "Agency contract" includes a written agreement for current or future representation in which a student–athlete authorizes a person to assess and plan for the financial benefits that may arise out of the student–athlete's professional sports career.

(c) (1) "Athlete agent" means an individual who enters into an agency contract with a student–athlete or, directly or indirectly, recruits or solicits a student–athlete to enter into an agency contract.

(2) "Athlete agent" includes an individual who:

(i) represents to the public that the individual is an athlete agent; or

(ii) facilitates or encourages a connection between a student–athlete and another athlete agent.

(3) "Athlete agent" does not include a spouse, parent, sibling, grandparent, or guardian of the student–athlete, or an individual acting solely on behalf of a professional sports team or professional sports organization.

(d) "Athletic director" means an individual responsible for administering:

(1) the overall athletic program of an educational institution; or

(2) the athletic program for males or the athletic program for females if an educational institution has separately administered athletic programs for male students and female students, as appropriate.

(e) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete to recruit or solicit the student-athlete to enter into an agency contract.

(f) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of another party for any value that the student-athlete may have due to publicity, reputation, following, or fame obtained due to athletic ability or performance.

(g) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements of a student-athlete are established by a national association for the promotion or regulation of collegiate athletics.

(h) "License" means a license issued by the Secretary to act as an athlete agent.

(i) "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency or instrumentality, public corporation, or any other legal or commercial entity.

(j) "Professional-sports-services contract" means an agreement under which an individual is employed or agrees to render services as a player on a professional sports team with a professional sports organization or as a professional athlete.

(k) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(l) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(m) (1) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport.

(2) "Student-athlete" includes an individual who is or was a member of a sports team of a high school.

(3) "Student-athlete" does not include an individual permanently ineligible to participate in a particular sport.

§4–402.

(a) By acting as an athlete agent in the State, a nonresident individual appoints the Secretary as the individual's agent for service of process in any civil action in the State related to the individual's acting as an athlete agent in the State.

(b) The Secretary may issue subpoenas for any material that is relevant to the administration of this subtitle.

§4–403.

(a) Except as otherwise provided in subsection (b) of this section, an individual may not act as an athlete agent in the State without holding a license under § 4-405 of this subtitle.

(b) Before being issued a license, an individual may act as an athlete agent in the State for all purposes except signing an agency contract if:

(1) a student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and

(2) within 7 days after an initial act as an athlete agent, the individual submits an application for a license as an athlete agent in the State.

(c) An agency contract resulting from conduct in violation of this section is void and the athlete agent shall return any consideration received under the contract.

§4–404.

(a) An applicant for a license shall:

(1) submit to the Secretary an application on the form the Secretary requires; and

(2) pay to the Secretary a $25 application fee.

(b) In addition to any other information required on the application, the application must be in the name of an individual and, except as otherwise provided in subsection (d) of this section, signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:

(1) the name of the applicant and the address of the applicant's principal place of business;

(2) the name of the applicant's business or employer, if applicable;

(3) any business or occupation engaged in by the applicant for 5 years before the date of the application;

(4) a description of the applicant's:

(i) formal training as an athlete agent;

(ii) practical experience as an athlete agent; and

(iii) educational background relating to the applicant's activities as an athlete agent;

(5) the names and addresses of three individuals not related to the applicant who are willing to serve as references;

(6) the name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the 5 years before the date of the application;

(7) the names and addresses of all persons who are:

(i) with respect to the athlete agent's business if it is not a

corporation, the partners, members, officers, managers, associates, or profit sharers of the business; and

(ii) with respect to a corporation employing the athlete agent, the officer's directors, and any shareholder of the corporation having an interest of 5% or greater;

(8) whether the applicant or any person named in accordance with item (7) of this subsection has been convicted of a crime that, if committed in the State, would be a crime involving moral turpitude or a felony, and identify the crime;

(9) whether there has been any administrative or judicial determination that the applicant or any person named in accordance with item (7) of this subsection has made a false, misleading, deceptive, or fraudulent representation;

(10) any instance in which the conduct of the applicant or any person named in accordance with item (7) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;

(11) any sanction, suspension, or disciplinary action taken against the applicant or any person named in accordance with item (7) of this subsection arising out of occupational or professional misconduct; and

(12) whether there has been any denial of an application for, suspension or revocation of, or refusal to renew the registration or licensure of the applicant or any person named in accordance with item (7) of this subsection as an athlete agent in any state.

(c) Notwithstanding subsection (b)(7) of this section, an applicant who is a member of the Bar of the Court of Appeals of Maryland need not provide the name and address of a person who is a partner, member, associate, or profit sharer in a law firm or professional corporation.

(d) (1) An individual who has submitted an application for, and holds a certificate of registration or licensure as an athlete agent in another state, may submit a copy of the application and certificate in lieu of submitting an application in the form required under subsection (b) of this section.

(2) The Secretary shall accept the application and the certificate from the other state as an application for a license in the State if the application to the other state:

(i) was submitted in the other state 6 months before the submission of the application in the State and the applicant certifies that the information contained in the application is current;

(ii) contains information substantially similar to or more

comprehensive than that required in an application submitted in the State; and

(iii) was signed by the applicant under penalty of perjury.

§4–405.

(a) Except as otherwise provided in subsection (b) of this section, the Secretary shall issue a license to an individual who:

(1) complies with § 4-404(a) of this subtitle or whose application has been accepted under § 4-404(d) of this subtitle; and

(2) pays to the Secretary a $1,000 license fee.

(b) (1) Subject to the hearing provisions of § 4-407 of this subtitle, the Secretary may deny a license if the Secretary determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent.

(2) In making the determination under paragraph (1) of this subsection, the Secretary may consider whether the applicant has:

(i) been convicted of a crime that, if committed in the State, would be a crime involving moral turpitude or a felony;

(ii) made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(iii) engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(iv) engaged in conduct prohibited by § 4-413 of this subtitle;

(v) had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state;

(vi) engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution;

(vii) engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity; or

(viii) failed to demonstrate financial stability.

(c) In making a determination under subsection (b) of this section, the Secretary

shall consider:

(1) how recently the conduct occurred;

(2) the nature of the conduct and the context in which it occurred; and

(3) any other relevant conduct of the applicant.

(d) (1) An athlete agent may apply to renew a license by:

(i) submitting an application for renewal in a form required by the Secretary; and

(ii) paying to the Secretary a $1,000 renewal fee.

(2) The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original application for a license.

(e) (1) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form required under subsection (d) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state.

(2) The Secretary shall accept the application for renewal from the other state as an application for renewal in the State if the application for the other state:

(i) was submitted in the other state within 6 months before the filing in the State and the applicant certifies the information contained in the application for renewal is current;

(ii) contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in the State; and

(iii) was signed by the applicant under penalty of perjury.

(f) A license or a renewal is valid for 2 years.

§4–406.

(a) Subject to the hearing provisions of § 4-407 of this subtitle, the Secretary may reprimand a licensee, suspend, or revoke a license for conduct that would have justified denial of a license under § 4-405(b) of this subtitle.

(b) (1) Instead of or in addition to reprimanding the licensee or suspending or revoking a license under subsection (a) of this section, the Secretary may assess a civil penalty under § 4-416 of this subtitle.

(2) The Secretary shall pay any penalty collected under this subsection into the General Fund of the State.

§4–407.

(a) Except as provided in § 10-226 of the State Government Article, before the Secretary takes any final action under § 4-405(b), § 4-406, or § 4-416 of this subtitle, the Secretary shall give the person against whom the action is contemplated an opportunity for a hearing before the Secretary.

(b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Secretary may administer oaths in a proceeding under this section.

(d) If, after due notice, the person against whom the action is contemplated does not appear, the Secretary may hear and determine the matter.

§4–408.

The Secretary shall pay all moneys collected under this subtitle into the General Fund of the State.

§4–409.

(a) An agency contract must be in a record signed or otherwise authenticated by the parties.

(b) An agency contract must state or contain:

(1) the amount and method of calculating the consideration to be paid by the student–athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(2) the name of any person not listed in the application for a license or renewal of a license who will be compensated because the student–athlete signed the agency contract;

(3) a description of any expenses that the student–athlete agrees to reimburse;

(4) a description of the services to be provided to the student–athlete;

(5) the duration of the contract; and

(6) the date of execution.

(c) An agency contract must contain, in close proximity to the signature of the

student–athlete, a conspicuous notice in boldface type in capital letters stating:

"WARNING TO STUDENT–ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT–ATHLETE IN YOUR SPORT;

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY."

(d) (1) An agency contract that does not conform to this section is voidable by the student–athlete.

(2) If a student–athlete voids an agency contract under this section, the student–athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student–athlete to enter into the contract.

(e) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student–athlete at the time of execution.

§4–410.

(a) Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(b) Within 72 hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled or in which the student-athlete intends to enroll that the student-athlete has entered into an agency contract.

§4–411.

(a) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

(b) A student-athlete may not waive the right to cancel an agency contract.

(c) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

§4–412.

(a) An athlete agent shall retain the following records for a period of 5 years:

(1) the name of each individual represented by the athlete agent;

(2) the address of each individual represented by the athlete agent;

(3) any agency contract entered into by the athlete agent; and

(4) any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

(b) Records required to be retained by subsection (a) of this section are open to inspection by the Secretary during normal business hours.

§4–413.

(a) An athlete agent, with the intent to induce a student–athlete to enter into an agency contract, may not:

(1) give any materially false or misleading information or make a materially false promise or representation;

(2) furnish anything of value to a student–athlete before the student–athlete enters into the agency contract;

(3) furnish anything of value to any individual other than the student–athlete or another licensed athlete agent; or

(4) solicit another individual who is not an athlete agent to commit an act on behalf of the athlete agent that is a violation of this subtitle.

(b) An athlete agent may not intentionally:

(1) initiate contact with a student–athlete unless licensed under this subtitle;

(2) refuse or fail to retain or permit inspection of the records required to be retained by § 4–412 of this subtitle;

(3) fail to obtain a license when required by § 4–403 of this subtitle;

(4) provide materially false or misleading information in an application for a license or renewal of a license;

(5) predate or postdate an agency contract; or

(6) fail to notify a student–athlete before the student–athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student–athlete ineligible to participate as a student–athlete in that sport.

(c) An athlete agent may not split a fee with or receive compensation from:

(1) a professional sports league;

(2) a professional sports franchise;

(3) a representative or employee of a professional sports league or franchise; or

(4) an employee of an educational institution in the State.

§4–414.

An athlete agent who violates § 4-413 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 1 year or both.

§4–415.

(a) (1) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by violation of this subtitle.

(2) In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

(b) Damages to an educational institution under subsection (a) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this subtitle or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

(c) A right of action under this section does not accrue until the educational institution discovers, or by the exercise of reasonable diligence would have discovered, the violation by the athlete agent or former student-athlete.

(d) Any liability of the athlete agent or the former student-athlete under this

section is several and not joint.

(e) This subtitle does not restrict rights, remedies, or defenses of any person under law or equity.

§4–416.

(a) Except as otherwise provided in this subtitle and subject to the provisions of § 4-407 of this subtitle, the Secretary may assess a civil penalty against a person who violates any provision of this subtitle not to exceed $25,000.

(b) To determine the amount of the penalty, the Secretary shall consider:

(1) the seriousness of the violation;

(2) the harm caused by the violation;

(3) the good faith of the violator;

(4) any history of previous violations by the violator; and

(5) any other relevant factors.

(c) The Secretary shall pay any penalty collected under this section into the General Fund of the State.

§4–417.

In applying and construing this subtitle, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§4–418.

The provisions of this subtitle governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

§4–419.

If any provision of this subtitle or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this subtitle which can be given effect without the invalid provision or application, and to this end the provisions of this subtitle are severable.

§4–420.

The Secretary shall adopt regulations to carry out this subtitle.

§4–421.

This subtitle is the Maryland Uniform Athlete Agents Act.

§4.5–101.

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

(b) "Consumer" means an owner or a contract purchaser.

(c) "Contract purchaser" means a person who has entered into a contract with a home builder to purchase a new home, but who has not yet settled on the purchase of the new home.

(d) "Division" means the Consumer Protection Division of the Office of the Attorney General.

(e) "Exempt lender" means a lender exempt from the requirements of registration as provided in § 4.5–501(c) of this title.

(f) "Guaranty Fund" means the Home Builder Guaranty Fund.

(g) (1) "Home builder" means a person that undertakes to erect or otherwise construct a new home.

(2) "Home builder" includes:

(i) a custom home builder as defined in § 10–501 of the Real Property Article;

(ii) a new home builder subject to § 10–301 of the Real Property Article;

(iii) the installer or retailer of a mobile home or an industrialized building intended for residential use; and

(iv) a person that enters into a contract with a consumer under which the person agrees to provide the consumer with a new home.

(3) "Home builder" does not include:

(i) an employee of a registrant who does not hold himself or herself out for hire in home building except as an employee of a registrant;

(ii) subcontractors or other vendors hired by the registrant to

perform services or supply materials for the construction of a new home who do not otherwise meet the requirements of this title;

(iii) the manufacturer of industrialized buildings intended for residential use or of mobile homes, unless the manufacturer also installs the industrialized buildings or mobile homes;

(iv) a real estate developer who does not construct, or enter into contracts with consumers to provide or construct, homes;

(v) a financial institution that lends funds for the construction or purchase of residential dwellings in the State;

(vi) except as otherwise provided in this title, a person who erects or constructs new homes solely in Montgomery County; or

(vii) a buyer's agent, as defined in § 17–530 of the Business Occupations and Professions Article, when representing a prospective buyer in the purchase of a new home.

(h) "Home builder registration number" means a registration number issued by the Unit to a registrant under this title.

(i) (1) "Home builder sales representative" means an individual employed by a home builder as the home builder's representative to consumers regarding the purchase of a new home from the home builder.

(2) "Home builder sales representative" includes individuals employed by a person who erects or constructs new homes solely in Montgomery County and is not required to register under this title.

(3) "Home builder sales representative" does not include:

(i) an individual employed by an installer or retailer of mobile homes or industrialized buildings intended for residential use; or

(ii) an employee or officer agent for a nonprofit organization, with at least a 2–year record in the State as a developer of affordable housing for persons with low to moderate incomes, in the initial sale of a home if:

1. the home is constructed or rehabilitated by the nonprofit organization; and

2. the purchaser of the home is using federal, State, or local government or other subsidized financing administered by the nonprofit organization for the purpose of assisting individuals with low to moderate incomes to purchase homes.

(j) "Industrialized building" has the meaning stated in § 12–301 of the Public Safety Article.

(k) "Install" has the meaning stated in § 12–301 of the Public Safety Article.

(l) "Mobile home" means a manufactured home as defined in § 12–301 of the Public Safety Article.

(m) (1) "New home" means each newly constructed residential dwelling unit in the State and the fixtures and structure that are made a part of a newly constructed private dwelling unit at the time of construction.

(2) "New home" includes:

(i) a custom home as defined in § 10–501(c) of the Real Property Article;

(ii) a new home to which § 10–301 of the Real Property Article applies;

(iii) an industrialized building intended for residential use; and

(iv) a mobile home.

(n) "New home contract" means an agreement between a home builder and a consumer for the sale or construction of a new home.

(o) (1) "Owner" means a person for whom a new home is built or to whom a new home is sold for occupation by:

(i) that person or the family of that person as a home; or

(ii) the successors of that person in title to the home or a mortgagor in possession.

(2) "Owner" includes a contract purchaser who contracts with a registrant for the construction and purchase of a new home.

(3) "Owner" does not include:

(i) a development company, association, or subsidiary company of a registrant; or

(ii) a person or organization to whom the home may be conveyed by the registrant for a purpose other than residential occupation by that person or organization.

(p) "Principal" means:

(1) a sole proprietor, officer, director, general partner, or limited liability company manager of an applicant or registrant;

(2) a person with at least 10 percent ownership in an applicant or registrant or a subsidiary of an applicant or registrant; and

(3) parents, spouses, and children with a combined 10 percent ownership in an applicant or registrant or a subsidiary of an applicant or registrant.

(q) "Registered sales representative" means a person registered to be a home builder sales representative under this title.

(r) "Registrant" means a person registered to build new homes.

(s) "Registration certificate" means a certificate issued to a registered sales representative by the Unit.

(t) "Registration Fund" means the Home Builder Registration Fund.

§4.5–201.

There is a Home Builder and Home Builder Sales Representative Registration Unit in the Division.

§4.5–202.

(a) The Unit shall maintain a list of all registrants and registered sales representatives.

(b) (1) The Unit shall make available to each applicant for registration as a home builder or home builder sales representative a copy of this title and other applicable laws and regulations.

(2) The Unit shall make available to each registrant and each registered sales representative any amendments to this title or other applicable laws or regulations at least 30 days before the effective date of the amendments.

(c) (1) In consultation with the home building industry, the Unit shall develop a consumer information pamphlet written in plain English that describes:

(i) the rights and remedies of consumers in the purchase of a new home; and

(ii) any other information that the Division considers reasonably necessary to assist consumers.

(2) The Division shall provide each registered home builder with a sufficient number of copies of the consumer information pamphlets as needed by the home builder.

(3) A home builder shall provide each contract purchaser with the consumer information pamphlet before entering into a contract for the initial sale of a new home.

(4) The contract purchaser shall acknowledge in writing the receipt of the consumer information pamphlet.

(5) The failure of a home builder to provide a copy of the consumer information pamphlet to a contract purchaser may not be used as a basis for invalidation of the contract for the initial sale of a new home.

(d) The Unit shall collect and maintain information on the resolution of consumer complaints involving new home builders or home builder sales representatives.

§4.5–203.

(a) (1) There is a Home Builder Registration Fund.

(2) The Division shall administer the Registration Fund.

(3) The Registration Fund shall be used to cover the actual documented direct and indirect costs incurred for the administration and enforcement of the Maryland Home Builder Registration Act.

(4) The Registration Fund is a continuing, nonlapsing fund, and is subject to § 7-302 of the State Finance and Procurement Article.

(5) Unspent assets of the Registration Fund shall remain in the Registration Fund and may not revert or be transferred to the General Fund of the State.

(6) The Registration Fund may not be supported by appropriations of State funds.

(b) The Division shall pay all funds collected under §§ 4.5-303, 4.5-304, and 4.5-305 of this title to the Comptroller, who shall distribute the fees to the Registration Fund.

(c) The Office of Legislative Audits shall audit the accounts and transactions of the Registration Fund under § 2-1220 of the State Government Article.

§4.5–301.

(a) Except as otherwise provided in this title, a person may not act as a home builder in the State unless the person is registered as a home builder under this title.

(b) A person may not act as a home builder sales representative in the State

unless the person is a registered sales representative under this title.

§4.5–302.

(a) Each person that constructs new homes for sale to the public shall maintain general liability insurance for at least $100,000.

(b) If a home builder's registration has been revoked and the home builder applies for a new registration, the Unit shall, in its discretion, approve the application on the applicant's fulfillment of specified terms and conditions, including the posting of a bond for the benefit of subcontractors, suppliers, and consumers, and the payment of any judgments or awards due to any subcontractors, suppliers, and consumers, for a period of 4 years from the date of the approval of registration, after which the licensing bond shall expire and shall no longer be required to be maintained by the registered home builder.

§4.5–303.

(a) To apply for registration as a home builder or a home builder sales representative, an applicant shall:

(1) submit to the Unit under oath an application on the form provided by the Unit; and

(2) pay the nonrefundable application fee required by this subtitle.

(b) The application for registration as a home builder shall require an applicant to provide:

(1) the applicant's name;

(2) the applicant's business address, telephone number, and, if applicable, electronic mail address;

(3) in the case of an applicant who is an individual, the applicant's Social Security number;

(4) in the case of an applicant other than an individual:

(i) the applicant's federal employer identification number; and

(ii) the names and addresses of all principals of the applicant;

(5) the names of all applicants and principals who have previously applied for registration, and the disposition of all previous applications;

(6) the name of any applicant or principal that was a principal in an entity that previously applied for registration;

(7) a list of all states and other jurisdictions in which the applicant holds a similar registration or license;

(8) a list of all states and other jurisdictions in which the applicant has had a similar registration or license suspended or revoked;

(9) a statement whether any pending judgments or tax liens exist against the applicant;

(10) (i) the election made by the applicant regarding deposit moneys under § 10–301 of the Real Property Article; and

(ii) if the applicant elects to hold deposits in an escrow account, the account number and the name of the financial institution that holds the escrow account;

(11) if the applicant participates in a new home warranty security plan, the name and address of the warranty company; and

(12) the name of the insurance carrier and the policy number of the general liability coverage required under § 4.5–302 of this subtitle.

(c) The application for registration as a home builder sales representative shall require an applicant to provide:

(1) the applicant's name;

(2) the applicant's business address, telephone number, and, if applicable, electronic mail address;

(3) the applicant's Social Security number;

(4) a list of all states and other jurisdictions in which the applicant holds a similar registration or license;

(5) a list of all states and other jurisdictions in which the applicant has had a similar registration or license suspended or revoked;

(6) the applicant's employer's business name, address, telephone number, and registration number or if the employer is exempt from registration under this title, documentation that the employer erects or constructs homes solely in Montgomery County; and

(7) a statement whether any pending judgments or tax liens exist against the applicant.

§4.5–304.

(a) The Unit shall register and issue a home builder registration number to an applicant for a home builder registration that:

(1) meets the requirements of this title; and

(2) pays to the Division an initial nonrefundable 2–year registration fee of $600.

(b) A home builder registration issued under this title may not be transferred, assigned, or pledged.

(c) A valid home builder registration authorizes the registrant to act as a home builder in the State.

(d) (1) A home builder that holds a license or registration in Montgomery County may act as a home builder in that county only, unless the home builder is also registered under this title.

(2) A home builder that holds a license or registration in Montgomery County and is not registered under this title is subject to Subtitle 7 of this title.

(3) (i) In addition to the county license or registration fee, a home builder that is required to hold a license or registration only in Montgomery County shall pay to the county a Guaranty Fund administrative fee of $150.

(ii) The county shall remit the Guaranty Fund administrative fee to the Unit to be deposited in the Registration Fund.

§4.5–304.1.

(a) The Unit shall register and issue a registration certificate to an applicant for a home builder sales representative registration certificate that:

(1) meets the requirements of this title; and

(2) pays to the Division an initial nonrefundable 2–year registration fee of $200.

(b) A Unit shall include on each registration certificate that the Unit issues:

(1) that this is a registration certificate for a registered sales representative;

(2) the full name of the certificate holder;

(3) the certificate holder's employer's registration number or the name of the licensed or registered Montgomery County home builder; and

(4) the certificate holder's registration number.

(c) A registration certificate issued under this title may not be transferred, assigned, or pledged.

(d) A valid registration certificate authorizes the certificate holder to act as a home builder sales representative in the State.

(e) The Unit may issue a registration certificate to replace a lost, destroyed, or mutilated registration certificate if the certificate holder pays the registration certificate replacement fee set by the Unit.

§4.5–305.

(a) (1) Unless renewed under this section, a registration or registration certificate expires on the second anniversary of its effective date.

(2) A registrant or registered sales representative that meets the requirements of subsection (c) of this section may obtain a renewal of a registration or registration certificate before the registration or registration certificate expires for an additional 2–year term.

(3) Once expired, a registration or a registration certificate may not be renewed.

(b) At least 60 days before a registration or registration certificate expires, the Unit shall mail the registrant or registered sales representative, at the last known address of the registrant or registered sales representative:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current registration or registration certificate expires; and

(ii) the date by which the Unit must receive the renewal application for a renewal to be issued and mailed before the registration or registration certificate expires.

(c) The Unit shall renew the registration or registration certificate of each registrant or registered sales representative that:

(1) submits to the Unit a renewal application on the form provided by the Unit;

(2) would qualify for an initial registration or initial registration certificate;

(3) (i) for renewal of a registration, pays to the Division a nonrefundable renewal fee based on the number of building permits for the construction of new homes issued to the registrant in the preceding calendar year as follows:

1. 10 or fewer new homes..... $300; and

2. 11 or more new homes..... $600; or

(ii) for renewal of a registration certificate, pays to the Division a nonrefundable renewal fee of $200; and

(4) is otherwise entitled to be registered.

§4.5–306.

(a) (1) A registrant shall send the Unit written notice of any change in the information submitted under § 4.5–303(b) of this subtitle within 10 working days after the change is effective.

(2) A registered sales representative shall send the Unit written notice of any change in the information submitted under § 4.5–303(c) of this subtitle within 10 working days after the change is effective.

(b) A registrant and a registered sales representative shall comply with subsection (a) of this section for 1 year after the registrant ceases to be registered.

§4.5–307.

(a) (1) Each registrant shall display its home builder registration number conspicuously on all properties at which the registrant is performing work that requires registration under this title.

(2) If a registrant is building multiple homes in one project area or subdivision, the registrant may post its home builder registration number in one central conspicuous location in the project area or subdivision.

(b) Each registered sales representative shall display the registration certificate conspicuously at the property at which the registered sales representative primarily performs work that requires registration under this title.

(c) (1) A home builder shall provide each prospective home buyer with a disclosure that states: "The sales representative works for the home builder, which means that he or she may assist the buyer in purchasing the property, but his or her duty of loyalty is only to the home builder.".

(2) The disclosure under paragraph (1) of this subsection shall be in at least 12–point bold type and shall be included with:

(i) any written materials made available to consumers at the property at which a registered sales representative primarily performs work that requires registration under this title; and

(ii) the first agreement signed by the consumer.

§4.5–308.

(a) (1) The Unit may deny registration or a registration certificate to an applicant, reprimand a registrant or registered sales representative, suspend or revoke a registration or a registration certificate, or impose a civil penalty on a registrant or registered sales representative if the Unit determines that the applicant, registrant, or registered sales representative:

(i) fraudulently or deceptively obtained or attempted to obtain a registration or registration certificate;

(ii) fraudulently or deceptively used a registration or registration certificate;

(iii) presented or attempted to present the home builder registration number of another registrant as the applicant's or registrant's home builder registration number;

(iv) used or attempted to use an expired, suspended, or revoked home builder registration number or registration certificate;

(v) presented or attempted to present the registration certificate of another registered sales representative as the applicant's or registered sales representative's registration certificate;

(vi) impersonated or falsely represented oneself as a registered home builder or registered sales representative;

(vii) repeatedly violated this title;

(viii) engaged in a pattern of unfair or deceptive trade practices under the Consumer Protection Act, as determined by a final administrative order or judicial decision;

(ix) repeatedly violated a local building, development, or zoning permit law or regulations, or a State or federal law or regulation, including an environmental protection law or regulation, that relates to the fitness and qualification or ability of the applicant or registrant to build homes;

(x) engaged in a pattern of poor workmanship as evidenced by one or more of the following:

1. repeated unresolved building code violations;

2. repeated unsatisfied arbitration awards in favor of consumers against the applicant or registered home builder based on incomplete or

substandard work; or

3. an unsatisfied final judgment in favor of a consumer;

(xi) repeatedly engaged in fraud, deception, misrepresentation, or knowing omissions of material facts related to home building contracts;

(xii) had a similar registration, registration certificate, or license denied, suspended, or revoked in another state or jurisdiction;

(xiii) had the renewal of a similar registration, registration certificate, or license denied for any cause other than failure to pay a renewal fee; or

(xiv) in the Chesapeake and Atlantic Coastal Bays Critical Area, as defined under § 8–1802 of the Natural Resources Article, failed to comply with:

1. the terms of a State or local permit, license, or approval; or

2. any State or local law, an approved plan, or other legal requirement.

(2) The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, as established under Title 8, Subtitle 18 of the Natural Resources Article, shall notify the Unit of any applicant or registrant who fails to comply with any requirement under paragraph (1)(xiv) of this subsection.

(b) (1) The Unit may deny a registration to a nonpublicly traded applicant or suspend or revoke a registration of a nonpublicly traded registrant if a principal of the applicant or registrant, other than a financial institution or a nonprofit organization, that owns at least 10 percent of the applicant or registrant, was a principal of a home builder that had a similar registration or license denied, suspended, or revoked by the Unit or in another state or jurisdiction for any cause other than a failure to pay a renewal fee if the Unit determines that the interests of the public cannot be protected if the applicant or registrant is allowed to act as a home builder in the State.

(2) For the purposes of this subsection, the interests of a principal include interests held by the parents, spouse, or children of the principal.

(c) The Unit shall provide an applicant, registrant, or registered sales representative notice and an opportunity to request a hearing under Title 10, Subtitle 2 of the State Government Article to contest a proposed disciplinary action.

§4.5–401.

(a) The Division shall encourage the owner or buyer to pursue resolution of the dispute pursuant to the existing contract.

(b) The owner's or buyer's remedies under this subtitle shall not supersede any

consumer contractual obligations, and are in addition to any remedies the owner or buyer may have under the Consumer Protection Act or any other law.

§4.5–501.

(a) Except as otherwise provided in this title, a person may not act as, offer to act as, hold oneself out as, or impersonate a registrant or registered sales representative in the State unless the person is a registrant or registered sales representative.

(b) A person that violates this section is guilty of a misdemeanor and, on first conviction, is subject to a fine not exceeding $1,000 and on second or subsequent conviction, is subject to a fine not exceeding $5,000.

(c) The following lenders are exempt from the requirements relating to registration under this title when the lender hires a second registered home builder who would undertake to complete a first home builder's unfinished project pursuant to a default in obligations of the first home builder to the lender:

(1) a mortgage lender as defined in § 11–501(j)(1)(ii) of the Financial Institutions Article that is a licensee under Title 11, Subtitle 5 of the Financial Institutions Article;

(2) a bank, trust company, savings bank, savings and loan association, or credit union incorporated or chartered under the laws of this State or the United States that maintains its principal office in this State;

(3) an out–of–state bank as defined in § 5–1001 of the Financial Institutions Article that has a branch in this State that accepts deposits;

(4) an institution incorporated under federal law as a savings association or savings bank that does not maintain its principal office in this State but has a branch that accepts deposits in this State; and

(5) a subsidiary or affiliate of an institution described in paragraph (2), (3), or (4) of this subsection that is subject to audit or examination by a regulatory body or agency of this State, the United States, or the state where the subsidiary or affiliate maintains its principal office.

(d) An exempt lender is subject only to §§ 4.5–202(c), 4.5–401, 4.5–503, 4.5–601, 4.5–602, and 4.5–603 of this title.

§4.5–502.

(a) Subject to the notice and hearing provisions of Title 10, Subtitle 2 of the State Government Article, the Division may bring a civil administrative action against a person that violates § 4.5-501(a) of this subtitle.

(b) After a hearing, if the Division finds that a person has violated § 4.5-501(a)

of this subtitle, the Division may:

(1) order the person to cease and desist from unlawful practice; and

(2) impose a civil penalty of not more than $1,000 for each day of unlawful practice.

(c) Any party aggrieved by a decision and order of the Division under this section may file an appeal as provided under §§ 10-222 and 10-223 of the State Government Article.

§4.5–503.

A person may not advertise in any way that the person is registered under this title unless the advertisement states the home builder registration number of the person in one of the following forms:

"Maryland Home Builder Registration No. ____"; or

"MHBR No. ____".

§4.5–504.

(a) This section only applies if there is no greater criminal penalty provided under this title or other applicable law.

(b) A person who engages in repeated violations of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $2,500.

§4.5–601.

(a) Except for a building permit for construction to be performed directly by a landowner solely for the landowner's own use, the building and permits department of a county may not issue a permit for home building unless:

(1) the permit includes the home builder registration number of a registrant; and

(2) the person pays the Guaranty Fund fee required under § 4.5–704 of this title.

(b) Before issuing a permit for home building to a landowner, the building and permits department of a county shall obtain the signature of the landowner affirming that the permit is being issued solely for the purpose of the landowner performing work on the landowner's own property.

(c) Nothing in this section shall be construed to relieve a registrant from the obligation to obtain all other permits, licenses, and other authorizations for the construction of a new home.

§4.5–602.

(a) In this section, "building code" includes a code provision concerning mechanical, electrical, fire, plumbing, energy, heating, ventilation, or air-conditioning matters.

(b) A county or municipal corporation shall notify the Director of each registrant who fails to correct a violation of the applicable local or State building code within a reasonable time after the registrant receives notice of the violation.

§4.5–603.

A registrant shall include in any contract for the initial sale of a new home the information required under § 14–117(a)(3) and (i) of the Real Property Article, if applicable.

§4.5–604.

A home builder who installs an industrialized building intended for residential use or a mobile home is responsible to the owner for correcting any defects in any component incorporated into the new home except for those industrialized buildings or mobile homes that are the responsibility of the manufacturer of the industrialized building and mobile home pursuant to Title 12, Subtitle 3 of the Public Safety Article.

§4.5–605.

A contract for the performance of any act for which a home builder registration number is required is not enforceable unless the home builder was registered at the time that the contract was signed by the owner.

§4.5–701.

In this subtitle, "actual loss" means:

(1) the costs of restoration, repair, replacement, or completion that arise from:

(i) the incomplete construction of a new home or the breach of an express or implied warranty, as defined in §§ 10–202 and 10–203 of the Real Property Article; or

(ii) the failure to meet standards or guidelines required in § 14–117 of the Real Property Article; or

(2) deposits or other payments made to a home builder required to be held in an escrow account or protected by a surety bond or irrevocable letter of credit under § 10–301 or § 10–504 of the Real Property Article, that are not returned to a consumer who is entitled to a return of the deposit or other payments.

§4.5–702.

This subtitle does not:

(1) limit the authority of the Division to take disciplinary action against a registrant under this subtitle;

(2) limit the availability of other remedies to a claimant; or

(3) require a claimant to exhaust administrative remedies before the Division before bringing an action to court.

§4.5–703.

(a) The Division shall:

(1) establish a Home Builder Guaranty Fund; and

(2) maintain the Guaranty Fund at a level of at least $1,000,000.

(b) (1) The Division shall deposit all money collected under § 4.5–704 of this subtitle in the Guaranty Fund.

(2) (i) The State Treasurer is the custodian of the Guaranty Fund.

(ii) The Guaranty Fund shall be invested and reinvested in the same manner as other State funds.

(iii) The State Treasurer shall deposit payments received from the Division under this section into the Guaranty Fund.

(iv) Investment earnings shall be credited to the Guaranty Fund.

(c) The Division shall administer the Guaranty Fund in accordance with this subtitle.

(d) The direct and indirect costs incurred for the administration of and enforcement related to the Guaranty Fund shall be paid from the Registration Fund established under § 4.5–203 of this title.

(e) The Office of Legislative Audits shall audit the accounts and transactions of the Guaranty Fund under § 2–1220 of the State Government Article.

§4.5–704.

(a) (1) Subject to the provisions of subsection (c) of this section, a home builder shall pay to a county or a municipal corporation a Guaranty Fund fee per home or residential unit as set by the Division under subsection (c) of this section with each application for a permit for construction of a new home or multiple–unit development.

(2) The home builder may collect the Guaranty Fund fee from the consumer.

(3) (i) Subject to the provisions of subparagraph (ii) of this paragraph, each month, a county or municipal corporation shall remit all the Guaranty Fund fees to the Division to be deposited in the Guaranty Fund.

(ii) A county or municipal corporation may retain up to 2% of the Guaranty Fund fee revenue that it collects under this subtitle to cover reasonable administrative costs for collection and processing of the Guaranty Fund fee.

(4) The Guaranty Fund fee may be deposited only in the Guaranty Fund.

(b) If a registrant fails to pay the Guaranty Fund fee, the registrant's home builder registration is suspended until the fee is paid.

(c) The Division shall set the amount of the Guaranty Fund fee required under subsection (a) of this section so as to not exceed $50 per residential unit and to maintain the Guaranty Fund level required under § 4.5–703(a) of this subtitle.

§4.5–705.

(a) Subject to this subtitle a claimant may recover compensation from the Guaranty Fund for an actual loss that results from an act or omission by a registrant as found by the Division or a court of competent jurisdiction.

(b) Before submitting a claim to the Guaranty Fund, a consumer shall:

(1) send a registrant a written notice describing the alleged defect or other claim for which the consumer intends to seek recovery; and

(2) permit the registrant access, during regular business hours, to the consumer's property to inspect, determine the cause of, and remedy the alleged defect or other claim within a reasonable period of time.

(c) (1) (i) If a consumer has a new home warranty security plan, the consumer may also seek recovery from the Guaranty Fund if the consumer has first:

1. filed a claim with the new home warranty security plan; and

2. exhausted the plan's claim process.

(ii) A consumer seeking recovery under subparagraph (i) of this paragraph may not receive more than one recovery for the same actual loss.

(2) A claimant who has also filed a claim with a new home warranty security plan shall include with the claim against the Guaranty Fund:

(i) a copy or description of the claim filed with the new home

warranty security plan;

(ii) any documents submitted by the claimant in support of the warranty claim, including engineering or inspection reports;

(iii) any documents submitted on behalf of the home builder or warranty plan in connection with the warranty claim, including engineering or inspection reports;

(iv) disclosure of any recoveries received in connection with the warranty claim; and

(v) if all or part of the warranty claim was denied, a copy of the denial.

(d) (1) The Division may deny a claim if the Division finds that the claimant unreasonably rejected good faith efforts by the registrant to resolve the claim.

(2) In determining whether a claim should be denied under paragraph (1) of this subsection, the Division shall consider whether the claimant provided the registrant with notice and a reasonable opportunity to access and inspect and repair the claimed defect as required under subsection (b) of this section.

(e) The Division may not award from the Guaranty Fund:

(1) more than $50,000 to one claimant for acts or omissions of one registrant;

(2) more than $300,000 to all claimants for acts or omissions of one registrant unless, after the Division has paid out $300,000 on account of acts or omissions of the registrant, the registrant reimburses $300,000 to the Guaranty Fund; or

(3) an amount for attorney's fees, consequential damages, court costs, interest, personal injury damages, or punitive damages.

(f) A claim against the Guaranty Fund based on the act or omission of a particular registrant may not be made by:

(1) a spouse or other immediate relative of the registrant;

(2) an employee or principal of the registrant; or

(3) an immediate relative of an employee or principal of the registrant.

(g) (1) A claimant may bring a claim against the Guaranty Fund within 2 years after the claimant discovered or, should have discovered the loss or damage or within 2 years after the expiration of the warranty under § 10–204 of the Real Property

Article, whichever occurs first.

(2) If a claimant has filed a claim with a new home warranty security plan, a claimant may bring a claim against the Guaranty Fund within 4 months after the claims process of the home warranty security plan is exhausted.

§4.5–706.

(a) To begin a proceeding to recover from the Guaranty Fund, a claimant shall submit to the Division's mediation unit a written complaint that states:

(1) the amount claimed based on the actual loss;

(2) the facts giving rise to the claim;

(3) whether there is other evidence that supports the claim, including expert reports, photographs, or videotapes and that the evidence is included with the complaint;

(4) what documents are related to the claim and that copies of the documents are attached, including the contract of sale; and

(5) any other information that the Division requires.

(b) The Division's mediation unit shall:

(1) send a copy of the complaint to the registrant alleged to be responsible for the actual loss;

(2) require a written response to the complaint within 30 days that includes:

(i) any evidence the registrant has concerning the claim, including expert reports, photographs, or videotapes; and

(ii) any other information that the Division requires;

(3) attempt to resolve the complaint through mediation, taking into consideration applicable laws, including express and implied warranties and the provisions of § 4.5–401 of this title; and

(4) refer the complaint to the Division as a claim against the Guaranty Fund if:

(i) 1. the home builder fails to respond as required by this section;

2. the mediation unit concludes that the complaint cannot be resolved through mediation; or

3. in mediation, the parties do not mutually agree to an arbitrator; and

(ii) the claimant executes a claim form prepared by the Division stating under oath that the claimant wishes to seek recovery from the Guaranty Fund.

(c) (1) If a claimant's new home contract includes a written agreement with a registrant to submit a dispute to arbitration and the agreement authorizes:

(i) the registrant to select the arbitrator or the arbitration service, the claimant may elect whether to first seek recovery from the Guaranty Fund or submit the dispute to arbitration; or

(ii) if the claimant's new home contract provides for mutual selection of the arbitration service and the claimant and registrant have mutually agreed on an arbitration service, the claimant must submit the dispute to arbitration prior to seeking recovery from the Guaranty Fund.

(2) If the claimant and the registrant submit the dispute to arbitration under the written agreement in the contract and the arbitrator makes a final judgment or final award in favor of the claimant:

(i) the claimant may make a claim against the Guaranty Fund; but

(ii) if the registrant pays the award amount to the claimant within 90 days of the final award, the Division shall dismiss the claim against the Guaranty Fund.

§4.5–707.

(a) The procedures for notice, hearings, and judicial review that apply to proceedings under Title 3, Subtitle 2 of the Courts and Judicial Proceedings Article also apply to proceedings to recover from the Guaranty Fund.

(b) On receipt of a claim, the Division shall:

(1) send a copy of the claim to the registrant alleged to be responsible for the actual loss; and

(2) require a written response to the claim within 30 days.

(c) (1) The Division:

(i) shall review the claim and any response to it; and

(ii) may refer the claim for investigation.

(2) On the basis of its review and any investigation, the Division may:

(i) set the matter for a hearing with the Office of Administrative Hearings;

(ii) dismiss the claim, if the claim is frivolous, legally insufficient, or made in bad faith; or

(iii) if the total claim against a particular registrant does not exceed $7,500, issue a proposed order to pay all or part of the claim or deny the claim.

(d) (1) The Division shall send a proposed order issued under subsection (c)(2)(iii) of this section to the claimant and the registrant, at the most recent address on record with the Division, by:

(i) personal delivery; or

(ii) both regular mail and certified mail, return receipt requested.

(2) Within 21 days after service, receipt, or attempted delivery of the proposed order, the claimant or registrant may submit to the Division:

(i) a written request for a hearing before the Division; or

(ii) a written exception to the proposed order.

(3) If the claimant or registrant submits a timely exception to the proposed order, the Division may:

(i) issue a revised proposed order;

(ii) set a hearing on the claim; or

(iii) dismiss the claim.

(4) Unless the claimant or registrant submits a timely request for a hearing or timely exception, the proposed order is final.

(e) At a hearing on a claim, the claimant has the burden of proof.

(f) A claimant and registrant may participate in a Guaranty Fund proceeding without representation by counsel.

§4.5–708.

(a) (1) The Division may join a proceeding on a claim against the Guaranty Fund with a disciplinary proceeding against a registrant under this subtitle if the disciplinary hearing is based on the same facts alleged in the claim.

(2) In a consolidated proceeding the claimant is a party, and may participate in the hearing to the extent necessary to establish the claim.

(b) (1) Notwithstanding § 4.5–702(2) of this subtitle, a claimant may not concurrently submit a claim to recover from the Guaranty Fund and bring an action in a court of competent jurisdiction against a registrant based on the same facts alleged in the claim.

(2) If, after filing a claim, the claimant brings an action in a court of competent jurisdiction based on the same facts alleged in the pending claim, the Division shall stay its proceedings on the claim until there is a final judgment and all rights to appeal are exhausted.

(3) To the extent that a final judgment or final award in arbitration is based on the same factual and legal issues alleged in a pending claim, the Division shall:

(i) approve the claim against the Guaranty Fund, if the judgment or award is decided in favor of the claimant and the registrant has failed to pay the judgment or award; or

(ii) dismiss the claim against the Guaranty Fund, if the judgment or award is decided in favor of the registrant.

§4.5–709.

A party to a proceeding before the Division who is aggrieved by a final decision of the Division in a contested case, as defined in § 10–202 of the State Government Article, may take an appeal as allowed in §§ 10–222 and 10–223 of the State Government Article.

§4.5–710.

(a) The Division may order payment of a claim against the Guaranty Fund only if:

(1) the decision or order of the Division is final in accordance with Title 10, Subtitle 2 of the State Government Article and all rights of appeal are exhausted; or

(2) the claimant provides the Division with a certified copy of a final judgment of a court of competent jurisdiction or a final award in arbitration, with all rights of appeal exhausted, in which the court or arbitrator:

(i) expressly made findings of fact that support the claimant's right to recover under § 4.5–705(a) of this subtitle; and

(ii) has found the value of the actual loss.

(b) (1) Except as otherwise provided in this subsection, the Division shall pay approved claims in the order submitted.

(2) If approved claims submitted to the Division against a registrant exceed $300,000, less the amount of unreimbursed claim payments previously made for the registrant, the Division may pay the approved claims proportionately so that each claimant receives the same percentage payment of the claims.

(3) After the Guaranty Fund is reimbursed, the Division shall pay unsatisfied approved claims.

(c) If there is not enough money in the Guaranty Fund to pay an approved claim wholly or partially, the Division shall pay the unpaid claim:

(1) when enough money is deposited in the Guaranty Fund; and

(2) in the order that each claim originally was filed with a court of competent jurisdiction or submitted to the Division.

§4.5–711.

(a) (1) After the Division pays a claim from the Guaranty Fund:

(i) the Division is subrogated to all rights of the claimant in the claim up to the amount paid;

(ii) the claimant shall assign to the Division all rights of the claimant in the claim up to the amount paid; and

(iii) the Division has a right to reimbursement of the Guaranty Fund by the registrant whom the Division finds responsible for the act or omission giving rise to the claim for:

1. the amount paid from the Guaranty Fund; and

2. interest on that amount at a rate determined by the Division so as not to exceed the legal rate of interest on a judgment in place at the time the claim is approved.

(2) All money that the Division recovers on a claim shall be deposited in the Guaranty Fund.

(b) If, within 60 days after the Division gives notice, a registrant on whose account a claim was paid does not reimburse the Guaranty Fund in full, the Division may sue the registrant in a court of competent jurisdiction for the unreimbursed amount.

(c) The Division is entitled to a judgment for the unreimbursed amount if the Division proves that:

(1) a claim was paid from the Guaranty Fund on account of the registrant;

(2) the registrant has not reimbursed the Guaranty Fund in full;

(3) the registrant was given notice and an opportunity to participate in a hearing on the claim before the Division; and

(4) (i) the Division directed payment based on a final judgment of a court of competent jurisdiction or a final award in arbitration; or

(ii) the decision or order of the Division is final in accordance with Title 10, Subtitle 2 of the State Government Article and there is no pending appeal.

(d) The Division may refer to the Central Collection Unit for collection under §§ 13–912 through 13–919 of the Tax – General Article a debt owed to the Division by a registrant on whose account a claim was paid from the Guaranty Fund and who is at least 12 months behind in reimbursement payments to the Guaranty Fund.

(e) For the purpose of excepting to a discharge of a registrant under federal bankruptcy law, the Division is a creditor of the registrant for the amount paid from the Guaranty Fund.

(f) (1) (i) If a person liable for reimbursing the Guaranty Fund under this section receives a demand for reimbursement and fails to reimburse the Guaranty Fund, the reimbursement amount and any accrued interest or costs are a lien in favor of the State on any real property of the person if the lien is recorded and indexed as provided in this subsection.

(ii) Interest shall continue at the rate of interest on a judgment as provided in § 11–107(a) of the Courts Article until the full amount due the Guaranty Fund is paid.

(2) The lien in favor of the State created by this subsection may not attach to specific property until the State Central Collection Unit records written notice of the lien in the office of the clerk of the court for the county in which the property subject to the lien or any part of the property is located.

(3) The lien in favor of the State created by this subsection does not have priority as to any specific property over any person who is a lienholder of record at the time the notice required under paragraph (2) of this subsection is recorded.

(4) The notice required under paragraph (2) of this subsection shall contain:

(i) the name and address of the person against whose property the lien exists;

(ii) the amount of the lien;

(iii) a description of or reference to the property subject to the lien;

and

(iv) the date the Guaranty Fund paid the claim giving rise to the lien.

(5) On presentation of a release of any lien in favor of the State created by this subsection, the clerk of the court in which the lien is recorded and indexed shall record and index the release and shall note in the lien docket the date the release is filed and the fact that the lien is released.

(6) The notice required under paragraph (2) of this subsection and any release filed under paragraph (5) of this subsection shall be indexed with the judgment lien records maintained by the office of the clerk of the court where the notice is recorded.

(7) The clerk may collect a reasonable fee for recording and indexing each notice of lien or release of any lien under this subsection.

§4.5–712.

(a) If the Division pays a claim against the Guaranty Fund based on an act or omission of a registrant, the Division may suspend the home builder registration until the registrant reimburses the Fund in full for:

(1) the amount paid from the Guaranty Fund; and

(2) interest on that amount at a rate determined by the Division so as not to exceed the legal rate of interest on a judgment in place at the time a claim is approved.

(b) Reimbursement of the Guaranty Fund in full by a registrant, by itself, does not nullify or modify the effect of a disciplinary proceeding against a registrant.

(c) If a home builder holds a license or registration in Montgomery County, the county may suspend the license as provided in this section.

§4.5–801.

This title may be cited as the Maryland Home Builder Registration Act.

§5–101.

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

(b) (1) "Burial goods" means goods that are used in connection with burial.

(2) "Burial goods" includes:

(i) a casket;

(ii) a grave liner;

(iii) a memorial;

(iv) a monument;

(v) a scroll;

(vi) an urn;

(vii) a vase; and

(viii) a vault.

(c) "Burial goods business" means a business that provides burial goods.

(d) (1) "Cemetery" means land used or to be used for interment.

(2) "Cemetery" includes a structure used or to be used for interment.

(e) "Cremation" means the process of reducing human remains to bone fragments through intense heat and evaporation, including any mechanical or thermal process.

(f) "Crematory" means a building, portion of a building, or structure that houses the necessary appliances and facilities for cremation.

(g) "Director" means the Director of the Office of Cemetery Oversight.

(h) "Engage in the operation of a cemetery" means owning, controlling, or managing a cemetery, including performing activities necessary for:

(1) the establishment, improvement, care, preservation, or embellishment of a cemetery;

(2) interment; and

(3) the providing of burial space or burial goods.

(i) (1) "Engage in the operation of a crematory" means controlling or managing a crematory.

(2) "Engage in the operation of a crematory" does not include:

(i) the practice of funeral direction or the practice of mortuary science; or

(ii) 1. assistance in making decisions and filling out forms that are not directly related to cremation;

2. obtaining vital statistics, signatures, and other information necessary to complete a death certificate;

3. transportation of a body to the place of disposition; or

4. any other services regarding the disposition of a body that are not directly related to cremation.

(j) "Funeral establishment" means a building, structure, or premises from which the business of funeral directing or embalming is conducted.

(k) (1) "Human remains" means:

(i) the body of a deceased person; or

(ii) a part of a body or limb that has been removed from a living person.

(2) "Human remains" includes the body or part of a body or limb in any state of decomposition.

(l) "Interment" means all final disposition of human remains, including:

(1) earth burial;

(2) mausoleum entombment; and

(3) niche or columbarium interment.

(m) "Office" means the Office of Cemetery Oversight.

(n) "Permit" means a permit issued by the Director to allow a partnership, limited liability company, or corporation to operate a business through which a registrant may:

(1) engage in the operation of a cemetery or crematory; or

(2) provide burial goods.

(o) (1) "Preneed goods" means burial goods that are sold before the buyer's death.

(2) "Preneed goods" does not include burial space.

(p) "Provide burial goods" means a retail transaction:

(1) to erect, service, or inscribe burial memorials; or

(2) to sell burial goods.

(q) "Registered cemeterian" means an individual registered to operate a cemetery as a sole proprietor or on behalf of a sole proprietor or of a permit holder.

(r) "Registered crematory operator" means an individual registered to operate a crematory as a sole proprietor or on behalf of a sole proprietor or permit holder.

(s) "Registered seller" means an individual registered to provide burial goods as a sole proprietor or on behalf of a sole proprietor or of a permit holder.

(t) "Registration" means a registration issued by the Director authorizing an individual to operate a cemetery, to operate a crematory, or to provide burial goods.

(u) "Responsible party" means a sole proprietor or the individual designated by a partnership, limited liability company, or corporation to be responsible for the operations of a cemetery, crematory, or burial goods business.

§5–102.

(a) The registration and permitting provisions of this title do not apply to:

(1) a person that owns and operates a bona fide religious–nonprofit cemetery in this State;

(2) a cemetery owned by a not for profit organization created before 1900 by an act of the General Assembly;

(3) a county, city, or municipal corporation that owns and operates a cemetery in the State;

(4) a veterans' cemetery operated by the State; or

(5) a private family cemetery that does not conduct public sales.

(b) This title does not apply to:

(1) the operation of a funeral establishment, including the sale of burial goods in the ordinary course of the funeral establishment's business;

(2) the operation or ownership of a crematory in which a person who is licensed and regulated under Title 7 of the Health Occupations Article owns a greater percentage of the crematory than a registered cemeterian, registered seller, or holder of a permit for the operation of a cemetery or burial goods business;

(3) the operation or ownership of a crematory or incinerator at a licensed medical facility or educational institution;

(4) a licensed funeral director acting within the scope of the funeral director's license; or

(5) a mortician acting within the scope of the mortician's license.

§5–201.

(a) There is an Office of Cemetery Oversight in the Department.

(b) The Office exercises its rights, powers, and duties subject to the authority of the Secretary.

(c) (1) The Secretary shall appoint an Advisory Council on Cemetery Operations.

(2) The Advisory Council consists of 12 members.

(3) Of the 12 members of the Advisory Council:

(i) three shall be registered cemeterians representing the for–profit cemetery industry;

(ii) one shall be a registered cemeterian representing a nonprofit cemetery;

(iii) one shall be a registered seller from a monument company;

(iv) one shall be a representative from a religious cemetery;

(v) one shall be a representative from a crematory; and

(vi) five shall be consumer members.

(4) The Advisory Council shall be convened at least four times a year to give advice to the Secretary and the Director.

(5) In addition to the required meetings, the Advisory Council may meet as necessary.

(d) The term of a member is 3 years.

§5–202.

(a) (1) The Secretary shall appoint a Director of the Office of Cemetery Oversight with the approval of the Governor.

(2) The Director serves at the pleasure of the Secretary.

(b) The Director shall devote full time to the duties of the Office.

(c) The Director is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) The Director shall:

(1) administer and operate the Office; and

(2) be responsible to the Secretary.

(e) In addition to any requirements of the State Ethics Law, the Director may not:

(1) hold any position or engage in another business that interferes or conflicts with the position of the Director;

(2) be a registered cemeterian or a registered seller;

(3) engage in any act for which a registration is required under this title; or

(4) in connection with any registered cemeterian, registered seller, permit holder, funeral director, funeral establishment, or related death care entity, directly or indirectly receive or become entitled to receive any fee, perquisite, or compensation.

§5–203.

The Director may employ a staff in accordance with the State budget.

§5–204.

(a) (1) With the advice of the Advisory Council and after consultation with representatives of the cemetery industry, the Director shall adopt:

(i) rules and regulations to carry out this title; and

(ii) a code of ethics for engaging in the operation of a cemetery or crematory or providing burial goods.

(2) In conjunction with the State Board of Morticians and Funeral Directors, the Director shall:

(i) establish a process for regulating crematories that provides for:

1. registration of crematory operators or issuance of permits for operating crematories, and renewal;

2. applications, including certification of ownership and

identification of individuals who will perform cremation;

3. registration and permit fees;

4. inspections and oversight;

5. grounds for discipline and penalties; and

6. complaints and hearings; and

(ii) adopt regulations that are identical to regulations adopted by the State Board of Morticians and Funeral Directors to:

1. implement item (i) of this paragraph; and

2. ensure public health and safety.

(b) Upon receipt of a written complaint, or at the discretion of the Director, the Director or the Director's designee may conduct an investigation and an inspection of the records and site of a registered cemeterian, registered crematory operator, registered seller, permit holder, or any other person subject to the registration or permit provisions of this title.

(c) The Director may hold hearings on any matter covered by this title.

(d) To enforce this title, the Director may:

(1) administer oaths;

(2) examine witnesses; and

(3) receive evidence.

(e) (1) The Director may issue a subpoena for the attendance of a witness to testify or for the production of evidence in connection with any investigation or hearing conducted in accordance with this section.

(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Director, a circuit court may compel compliance with the subpoena.

(f) (1) The Director may sue in the name of the State to enforce any provision of this title by injunction.

(2) In seeking an injunction under this subsection, the Director is not required to:

(i) post bond; or

(ii) allege or prove either that:

1. an adequate remedy at law does not exist; or

2. substantial or irreparable damage would result from the continued violation of the provision.

(3) The Director or staff may not be held personally liable for any action taken under this title in good faith and with reasonable grounds.

(g) The Director may issue a cease and desist order, if the Director finds a violation of this title.

(h) The Director may refer to the Office of the Attorney General:

(1) a violation of this title for enforcement; and

(2) an alleged unfair or deceptive trade practice under Title 13 of the Commercial Law Article.

(i) (1) For each fiscal year, the Director shall maintain a list of:

(i) all registrants and permit holders;

(ii) all for–profit cemeteries and nonreligious–nonprofit cemeteries associated with a registrant or permit holder; and

(iii) all bona fide religious–nonprofit cemeteries, veterans' cemeteries, and local government–owned cemeteries that have filed a statement or report required under §§ 5–405, 5–606, and 5–710 of this title.

(2) All lists maintained by the Director shall be open to inspection by any person.

(3) Based on the list maintained by the Director under paragraph (1)(i) of this subsection, the Director shall include in the annual report to the General Assembly required under subsection (l)(3) of this section the following information as of June 30 of the year that is the subject of the report:

(i) the total number of registrants and permit holders; and

(ii) the number of registrants and permit holders for each licensing category.

(j) (1) The Director shall distribute a copy of the Maryland Cemetery Act, code of ethics, and applicable regulations to each applicant for registration or permit.

(2) Upon renewal of a registration or permit, the Director shall distribute any amendments to the Maryland Cemetery Act, code of ethics, or applicable rules and

regulations that have occurred since the last application.

(k) In conjunction with the State Board of Morticians and the Division of Consumer Protection of the Office of the Attorney General, the Director shall publish a consumer information pamphlet that describes:

(1) the rights of consumers in the purchase of funeral, cemetery, and crematory goods and services; and

(2) any other information that the Director considers reasonably necessary to aid consumers.

(l) (1) Beginning with a report due on December 1, 2008, the Director shall conduct an inventory of all known burial sites in the State and shall update the inventory and report every 5 years to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the number of for–profit cemeteries, nonreligious–nonprofit cemeteries, bona fide religious–nonprofit cemeteries, veterans' cemeteries, and local government–owned cemeteries.

(2) Beginning December 1, 2008, the Director shall annually assess the rate of compliance with the registration, permit, and reporting requirements of this title by comparing the lists required under subsection (i)(1)(ii) and (iii) of this section with the most recent inventory of all known burial sites conducted under paragraph (1) of this subsection.

(3) Beginning with a report due on January 31, 2009, for fiscal year 2008, the Director shall report annually to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the implementation of an action plan, if appropriate, to address any noncompliance issues identified by the assessment required under paragraph (2) of this subsection.

(4) The Director shall provide a copy of the annual report required under paragraph (3) of this subsection to each member of the Advisory Council.

(m) At the time of appointment of new members and before reappointment of existing members of the Advisory Council, the Director shall deliver to each member the paperwork necessary to disclose any interest or employment held by the member at the time of appointment as required by the Maryland Public Ethics Law.

§5–204.1.

The Advisory Council shall respond to issues raised by the Director in the annual report required under § 5–204 of this subtitle and § 5–311 of this title and develop a plan to study ongoing issues during the year following the issuance of the report.

§5–205.

(a) There is a Cemetery Oversight Fund.

(b) (1) (i) By regulation, the Director shall establish reasonable fees and a fee schedule for the issuance and renewal of registrations and permits.

(ii) The Director may not assess a crematory a per–occurrence cremation fee.

(2) In establishing the fees, the Director shall consider the size of the business, whether the business is for–profit or designated as tax exempt under § 501(c) of the Internal Revenue Code, the volume of business conducted, and the type of services provided, including the percentage of preneed contracts written.

(c) The fees charged shall be set so as to approximate the direct and indirect cost of maintaining the Office.

(d) The Director shall pay all funds collected under this title to the Comptroller who shall distribute the fees to the Cemetery Oversight Fund.

(e) (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Office.

(2) The Fund is a continuing nonlapsing fund, not subject to § 7-302 of the State Finance and Procurement Article.

(3) Any unspent portions of the Fund may not revert or be transferred to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this title.

(4) No other State money may be used to support the Fund.

(f) (1) The Director shall administer the Fund.

(2) Moneys in the Fund may be expended for any lawful purpose authorized under the provisions of this title.

(g) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2-1220 of the State Government Article.

§5–206.

A person shall have the immunity from liability described under § 5-720 of the Courts and Judicial Proceedings Article for giving information to the Director or otherwise participating in the activities of the Office.

§5–301.

An individual shall register with the Office before:

(1) engaging in the operation of a cemetery or crematory in this State; or

(2) providing burial goods in this State.

§5–302.

(a) In order to register, an applicant shall meet the requirements of this section.

(b) The applicant must be at least 18 years old.

(c) The applicant must be of good character and reputation.

(d) The applicant must be affiliated with a cemetery, crematory, or burial goods business operated by a registrant or permit holder.

(e) The cemetery, crematory, or burial goods business with which the applicant is affiliated must be financially stable in accordance with § 5–304 of this subtitle.

§5–303.

(a) An applicant shall register by:

(1) submitting to the Director an application on the form that the Director provides; and

(2) paying a nonrefundable application fee set by the Director.

(b) The application shall state:

(1) the name, date of birth, and residential address of the applicant;

(2) the name and fixed address of the affiliated cemetery, crematory, or burial goods business;

(3) whether the cemetery, crematory, or burial goods business with which the applicant is affiliated is owned or controlled by a sole proprietor, partnership, limited liability company, or corporation;

(4) if the applicant is designated as the responsible party, the name and residential address of each employee who sells burial space, goods, or services to the public for the business while engaging in the operation of a cemetery, crematory, or burial goods business; and

(5) any other reasonable information that the Director determines is necessary to carry out this title.

§5–304.

(a) Each applicant designated as the responsible party shall demonstrate the financial stability of the business with which the applicant is affiliated by providing the Director with a financial statement or other reports required under subsection (e)

of this section with the application for registration.

(b) If the business is a cemetery that sells burial goods and is an existing business, the financial statement shall:

(1) be on the form that the Director requires;

(2) contain a statement by a certified public accountant retained by the business, detailing the assets and liabilities of the cemetery for the last fiscal year; and

(3) contain a review by the certified public accountant as to the financial stability of the cemetery.

(c) If the business is an existing cemetery that does not sell burial goods or an existing burial goods business not affiliated with a cemetery, the applicant shall:

(1) complete a form that the Director requires; and

(2) satisfy criteria that the Director adopts under subsection (e) of this section.

(d) If the business is a new business, the applicant shall:

(1) complete a form that the Director requires; and

(2) satisfy criteria that the Director adopts under subsection (e) of this section.

(e) (1) The Director shall make a determination of the financial stability of each applicant based on criteria that the Director adopts for each class of business.

(2) The Director shall adopt separate criteria to determine the financial stability of applicants that are new businesses or existing businesses.

(3) The Director shall require that all financial statements of a new cemetery submitted under subsection (d) of this section be prepared by a certified public accountant retained by the business.

§5–305.

(a) The Director shall issue a registration to an applicant who meets the requirements of this title.

(b) A registration issued by the Director under this title:

(1) may not be transferred from one individual to another; but

(2) may be transferred for the same individual from one cemetery to another.

§5–306.

(a) While a registration is in effect, it authorizes the registrant to engage in the operation of a cemetery, crematory, or burial goods business.

(b) This title does not limit the right of a person to practice funeral direction or mortuary science, or operate a crematory, if the person is licensed or otherwise authorized under Title 7 of the Health Occupations Article.

§5–307.

(a) Unless a registration or permit is renewed as provided in this section, the registration or permit expires on the second anniversary of its effective date.

(b) At least 90 days before a registration or permit expires, the Director shall mail to the registrant or permit holder, at the last known address of the registrant or permit holder:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current registration or permit expires;

(ii) the date by which the Director must receive the renewal application for the renewal to be issued and mailed before the registration or permit expires; and

(iii) the amount of the renewal fee.

(c) Before a registration or permit expires, the registrant or permit holder periodically may renew it for an additional 2-year term, if the registrant or permit holder:

(1) is otherwise entitled to be registered or to receive a permit;

(2) meets the qualifications set forth for an original registration or permit;

(3) pays the renewal fee set by the Director; and

(4) submits to the Director a renewal application on the form that the Director provides.

(d) The Director shall renew the registration or permit of each registrant or permit holder who meets the requirements of this section.

§5–308.

Within 1 week after the effective date of the change, the applicant designated as

the responsible party or the registered responsible party shall submit to the Director an application form that shows a change in the:

(1) cemetery, crematory, or burial goods business with which a registrant is affiliated;

(2) individual designated as the responsible party;

(3) employees of the business who engage in the sale of burial space, goods, or services or cremation to the public;

(4) officers, directors, members, or agents of the permit holder; or

(5) name or address of the registrant or permit holder.

§5–309.

Each registrant and permit holder shall display the registration or permit conspicuously at the business address of the registrant or permit holder.

§5–310.

(a) Subject to the hearing provisions of § 5–312 of this subtitle, the Director may deny a registration or permit to an applicant, reprimand a person subject to the registration or permit provisions of this title, or suspend or revoke a registration or permit if an applicant, registrant, or permit holder, or an agent, employee, officer, director, or partner of the applicant, registrant, or permit holder:

(1) fraudulently or deceptively obtains or attempts to obtain a registration or permit;

(2) fraudulently or deceptively uses a registration or permit;

(3) under the laws of the United States or of any state, is convicted of a:

(i) felony; or

(ii) misdemeanor that is directly related to the fitness and qualifications of the applicant, registrant, or permit holder to own or operate a cemetery or crematory or provide burial goods;

(4) fails to provide or misrepresents any information required to be provided under this title;

(5) violates this title;

(6) violates the code of ethics adopted by the Director;

(7) violates a regulation adopted under this title;

(8) fails to provide reasonable and adequate supervision of the operation of the cemetery or crematory or the provision of burial goods by agents, employees, officers, directors, or partners affiliated with a cemetery, crematory, or burial goods business;

(9) refuses to allow an inspection required by this title;

(10) fails to comply with an order of the Director;

(11) fails to comply with any terms of settlement under a binding arbitration agreement;

(12) is found guilty by a court in this State of violating an unfair or deceptive trade practices provision under Title 13 of the Commercial Law Article; or

(13) fails to comply with § 5–513 of the Health – General Article.

(b) (1) If a person is charged with a violation of this title that could result in suspension or revocation of a registration or permit, the Director may seek an immediate restraining order in a circuit court in this State to prohibit the person from engaging in the operation of any cemetery, crematory, or burial goods business.

(2) The restraining order is in effect until:

(i) the court lifts the order; or

(ii) the charges are adjudicated or dismissed.

(c) If a person is charged with a violation of this title that could result in suspension or revocation of a registration or permit, the Director may petition a court to:

(1) appoint a receiver or trustee to take charge of the assets and operate the business of the person in the event that the registration or permit is suspended or revoked; and

(2) take any actions as are appropriate to protect the public interest.

(d) Instead of or in addition to reprimanding a person, or suspending or revoking a registration or permit, the Director may impose a civil penalty:

(1) not to exceed $5,000 for each violation of this title or an order of the Director under this title; and

(2) not to exceed $500 for each day a violation continues past the time set for its correction.

(e) To determine the amount of the penalty imposed under this subsection, the Director shall consider:

(1) the seriousness of the violation;

(2) the harm caused by the violation;

(3) the good faith efforts of the person; and

(4) any history of previous violations by the person.

(f) Any civil penalties collected under this section shall be paid into the General Fund of the State.

(g) The Director shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a registration or permit or the reprimand of a registrant or permit holder when an applicant, registrant, or permit holder, or an agent, employee, officer, director, or partner of an applicant, registrant, or permit holder is convicted of a felony or misdemeanor described in subsection (a)(3) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by this title;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualifications of the applicant, registrant, or permit holder, or agent, employee, officer, director, or partner to operate a cemetery or provide burial goods;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant, registrant, or permit holder, or any agent, employee, officer, director, or partner before and after the conviction.

§5–311.

(a) Subject to the provisions of this section, the Director or the Director's designee shall commence proceedings on a complaint made by any person to the Director.

(b) A complaint shall:

(1) be in writing;

(2) state specifically the facts on which the complaint is based; and

(3) be made under oath by the person who submits the complaint.

(c) (1) The Director or the Director's designee shall review each complaint and shall attempt to negotiate a settlement of the complaint between the complainant and the registrant, permit holder, or any other person subject to the registration or permit

provisions of this title.

(2) Notwithstanding § 5–102 of this title, the Director or the Director's designee may receive and attempt to negotiate a settlement to resolve complaints concerning persons required to file statements under § 5–405 of this title and in connection with the operation of a cemetery or crematory or the sale of preneed goods.

(3) The Director may not take any actions described in subsection (d)(1) and (2) of this section for complaints involving persons exempt under § 5–102 of this title.

(d) If the Director or the Director's designee is unable to negotiate a settlement of the complaint, the Director may:

(1) at the request of either party, refer the complaint to the Office of the Attorney General or the Office of Administrative Hearings for binding arbitration, if both parties agree to binding arbitration;

(2) initiate an investigation; or

(3) dismiss the complaint.

(e) If, after investigation, the Director determines that there is a reasonable basis to believe that there are grounds for disciplinary action under § 5–310 of this subtitle, the Director shall provide the person against whom the action is contemplated notice and an opportunity for a hearing under § 5–312 of this subtitle.

(f) (1) If, after investigation, the Director determines that there is not a reasonable basis to believe that there are grounds for disciplinary action, the Director shall dismiss the complaint.

(2) Any party aggrieved by the dismissal may take a judicial appeal in accordance with the provisions of Title 10 of the State Government Article.

(g) Once a complaint has been referred for binding arbitration, the registrant, permit holder, or any other person subject to the registration or permit provisions of this title shall comply with the terms of the settlement.

(h) (1) The Director shall adopt guidelines that establish a schedule for the prompt and timely processing and resolution of each complaint made to the Director.

(2) Beginning December 31, 1998, and on or before December 31 of each year thereafter, the Director shall report, subject to § 2–1246 of the State Government Article, to the General Assembly on:

(i) the number of complaints resolved within the schedule adopted under paragraph (1) of this subsection;

(ii) the number of complaints and the number of inquiries received under subsection (c)(2) of this section by the type of registrant, permit holder, or exemption from the registration and permit requirements of this title;

(iii) the number of complaints and the number of inquiries received under subsection (c)(2) of this section by persons subject to, but not in compliance with, the registration and permit requirements of this title;

(iv) the nature of complaints and inquiries received under subsection (c)(2) of this section, including whether complaints are related to the illegal recycling of graves;

(v) the type of purchase, focus of dissatisfaction, and type of resolution for both complaints and inquiries;

(vi) whether complaints reported under item (i) of this paragraph were resolved through negotiation, binding arbitration, or another method; and

(vii) any disciplinary or enforcement actions taken against a registrant, permit holder, or a person subject to, but not in compliance with, the registration and permit requirements of this title.

(3) The Director shall provide a copy of the annual report required under paragraph (2) of this subsection to each member of the Advisory Council.

§5–312.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Director takes a final action under this subtitle, the Director shall provide the person against whom the action is contemplated notice of the Director's proposed action and the opportunity to request a hearing before the Director.

(2) A person shall file a request for a hearing not later than 30 days after the date the notice provided under paragraph (1) of this subsection is mailed.

(b) The Director shall provide notice and conduct the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Director may administer oaths in connection with a proceeding under this section.

(d) The hearing notice provided to the person under subsection (a)(1) of this section shall be sent by certified mail to the last known address of the person at least 10 days before the hearing.

(e) If a hearing is not requested within the time period specified under subsection (a)(2) of this section or if the person fails to appear for the hearing after requesting a hearing, the proposed action of the Director shall be affirmed.

(f) The person may be represented at the hearing by counsel.

(g) (1) The Director may issue subpoenas in connection with a proceeding under this section.

(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Director, a circuit court may compel compliance with the subpoena.

(h) If, after a hearing, the proposed action by the Director is upheld, the appellant shall pay the hearing costs, as specified by the Office in its regulations.

§5–401.

(a) Subject to the provisions of this section, a registered cemeterian, registered crematory operator, or registered seller may engage in the operation of a cemetery, crematory, or burial goods business as a sole proprietor or through:

(1) a corporation as an officer, director, employee, or agent of the corporation;

(2) a limited liability company as a member, employee, or agent of the limited liability company; or

(3) a partnership as a partner, employee, or agent of the partnership.

(b) Subject to the provisions of this title, a corporation, limited liability company, or partnership may engage in the operation of a cemetery, crematory, or burial goods business through a registered cemeterian, registered crematory operator, or registered seller.

(c) (1) A registered cemeterian who engages in the operation of a cemetery through a corporation, limited liability company, or partnership under this title is subject to all of the provisions of this title that relate to engaging in the operation of a cemetery.

(2) A registered crematory operator who engages in the operation of a crematory through a corporation, limited liability company, or partnership under this title is subject to all of the provisions of this title that relate to engaging in the operation of a crematory.

(3) A registered seller who engages in the operation of a burial goods business through a corporation, limited liability company, or partnership under this title is subject to all of the provisions of this title that relate to providing burial goods services.

(d) (1) A corporation, limited liability company, or partnership that engages in the operation of a cemetery, crematory, or burial goods business under this title is

not, by its compliance with this title, relieved of any responsibility that the corporation, limited liability company, or partnership may have for an act or an omission by its officer, director, member, partner, employee, or agent.

(2) An individual who engages in the operation of a cemetery, crematory, or burial goods business through a corporation, limited liability company, or partnership is not, by reason of the individual's employment or other relationship with the corporation, limited liability company, or partnership, relieved of any individual responsibility that the individual may have regarding that practice.

§5–402.

A corporation, limited liability company, or partnership shall obtain a permit issued by the Director, before the corporation, limited liability company, or partnership may engage in the operation of a cemetery, crematory, or burial goods business in the State.

§5–403.

To qualify for a permit, a corporation, limited liability company, or partnership shall:

(1) designate a separate registered cemeterian, registered crematory operator, or registered seller as the responsible party for the operations of each affiliated cemetery, crematory, or burial goods business;

(2) provide the name and business address of each affiliated cemetery, crematory, or burial goods business;

(3) provide a list of the officers, directors, members, partners, agents, and employees of the entity applying for the permit; and

(4) comply with §§ 5–303(b)(4) and 5–304 of this title.

§5–404.

An applicant for a permit shall submit to the Director:

(1) an application on the form that the Director provides;

(2) an application fee as set by the Director; and

(3) documentation verifying the number of sales contracts subject to the sales contract fee entered into within the business's last 2 fiscal years.

§5–405.

Except for a cemetery in which no burials have taken place within the previous 5 years, a cemetery that is exempt under § 5-102 of this title from the registration and

permitting requirements of this title shall file with the Office, once every 2 years, a statement that includes:

(1) the name and address of the cemetery;

(2) the name and address of the organization that owns and operates the cemetery; and

(3) the name and address of the individual who is responsible for the oversight of the cemetery.

§5–501.

(a) Except as otherwise provided in this section, a person may not buy, hold, or use, for burial:

(1) more than 100 acres in the State; or

(2) any land within the limits of a municipal corporation in the State, unless authorized to do so by the municipal corporation.

(b) (1) In the Spauldings Election District of Prince George's County, a person may buy, hold, or use, for burial, up to 125 acres in 1 tract.

(2) In the Laurel Election District of Prince George's County, a person that operated a cemetery on or before June 1, 1955, may buy, hold, or use, for burial, up to 200 acres in 1 tract.

(3) In the Kent Election District of Prince George's County, a person may buy, hold, or use, for burial, up to 150 acres in 1 tract.

(c) In Frederick County, a person may buy, hold, or use, for burial, up to 150 acres in 1 tract.

(d) In Baltimore County, a person may buy, hold, or use, for burial, up to 200 acres in 1 tract.

§5–502.

(a) An alley, canal, road, or other public thoroughfare may not be opened through property of a cemetery if that property is used or to be used for burial.

(b) This section does not authorize a registered cemeterian, permit holder, or other person to obstruct:

(1) a public road in use when the cemetery is formed; or

(2) the site of a future public road that, when the cemetery is formed, is shown on a plat made by authority of the State, a county, or a municipal corporation.

§5–503.

(a) Each burial lot and each crypt sold or conveyed in a cemetery shall be held by the owner only for the purpose of burial.

(b) The interest of an owner of a burial lot or crypt that is held for the burial of the owner or others and not held as an investment is not:

(1) considered property;

(2) subject to attachment or execution for debt;

(3) subject to the insolvency laws of the State;

(4) to be inventoried in the estate of the owner; or

(5) subject to inheritance taxes.

(c) The interest of an owner of a burial lot or crypt that is held as an investment and not held for the burial of the owner or others is:

(1) considered personal property;

(2) subject to attachment or execution for debt;

(3) subject to the insolvency laws of the State;

(4) to be inventoried in the estate of the owner; and

(5) subject to inheritance taxes.

(d) Subject to the rules of the cemetery owner and to the terms of any contract made with the cemetery owner, the interest of an owner of a burial lot or crypt:

(1) may be disposed of during the lifetime of the owner of the burial lot or crypt with the consent of the cemetery owner;

(2) may be disposed of by specific reference in the will of the owner; and

(3) otherwise passes to the heirs of the owner, as defined in § 1-101 of the Estates and Trusts Article.

§5–504.

A certificate, under seal of a sole proprietor registered cemeterian, permit holder, or other cemetery owner, of ownership of a burial lot or crypt has the same effect as a conveyance of real property that is executed, acknowledged, and recorded as required by law.

§5–505.

(a) An action may be brought in accordance with the Maryland Rules and a court may pass a judgment for sale of a burial ground for another purpose if:

(1) the ground has been dedicated and used for burial;

(2) burial lots have been sold in the burial ground and deeds executed or certificates issued to buyers of the lots;

(3) the ground has ceased to be used for burial; and

(4) it is desirable to dispose of the burial ground for another purpose.

(b) If the court is satisfied that it is expedient or would be in the interest of the parties to sell the burial ground, the court:

(1) may pass a judgment for the sale of the burial ground on the terms and notice the court sets;

(2) shall order that as much of the proceeds of the sale as necessary be used to pay the expenses of removing any human remains in the burial ground, buying burial lots in another burial ground, and reburying the remains; and

(3) shall distribute the remaining proceeds of the sale among the parties according to their interests.

(c) A judgment for the sale of a burial ground passes to the buyer of the burial ground the title to the burial ground free of the claims of:

(1) the owners of the burial ground; and

(2) the holders of burial lots.

§5–506.

(a) An action may be brought in accordance with the Maryland Rules and a court may pass a judgment for sale of a burial ground in Baltimore City for another purpose if:

(1) the ground has been dedicated and used for burial;

(2) burial lots have been sold in the burial ground and deeds executed or other written instruments issued to buyers of the lots without provision being made for perpetual care of the lots; and

(3) more than 75% of the area of the burial ground:

(i) has been abandoned; or

(ii) is harmful to the public health, safety, or welfare.

(b) The action may be brought by:

(1) a person with a property right in the burial ground; or

(2) a governmental unit with an interest in ending the conditions that are harmful to the public health, safety, or welfare.

(c) If the court is satisfied that more than 75% of the area of a burial ground has been abandoned or is harmful to the public health, safety, or welfare, the court:

(1) may pass a judgment for the sale of the entire burial ground on the terms and notice the court sets; and

(2) may appoint a trustee to sell the burial ground.

(d) The trustee shall distribute the sale proceeds:

(1) first, to pay the expenses of removing any human remains, that, with reasonable care, can be definitely located in the burial ground, buying burial lots in another burial ground, and reburying the remains;

(2) second, to pay expenses of removing any markers that are in good condition from the old lots and relocating the markers on new lots;

(3) third, to pay the expenses of ending conditions that are harmful to the public health, safety, or welfare, unless the contract of sale of the burial ground provides for abatement of those conditions within a reasonable period of time after the sale is completed;

(4) fourth, to pay the costs of necessary legal proceedings, including court costs, trustee's commissions, and legal fees;

(5) fifth, to pay in full any taxes; and

(6) finally, to pay the balance of the proceeds to the person who, immediately before the sale, had record title to the burial ground in its entirety according to the land records of Baltimore City.

(e) A judgment for the sale of a burial ground or a deed or other conveyancing instrument executed by a trustee under this section passes to the buyer of the burial ground the title to the burial ground free of:

(1) the claims of the owners of the burial ground;

(2) the claims of the holders of burial lots; and

(3) the intended or actual use or dedication of the land in the burial ground

for burial.

§5–601.

In this subtitle, "perpetual care":

(1) means the maintenance, including the cutting of grass abutting memorials or monuments, administration, supervision, and embellishment of a cemetery and its grounds, roads, and paths; and

(2) includes the repair and renewal of buildings, including columbaria and mausoleums, and the property of the cemetery.

§5–602.

(a) This subtitle does not apply to a cemetery that:

(1) has less than 1 acre available for burial; or

(2) is owned and operated by:

(i) a county;

(ii) a municipal corporation;

(iii) a church;

(iv) a synagogue;

(v) a religious organization;

(vi) a not for profit organization created before 1900 by an act of the General Assembly;

(vii) a family and does not conduct public sales; or

(viii) a State veterans agency.

(b) This subtitle does not apply to the sale of a below–ground earth–covered chamber.

(c) This subtitle does not amend a trust agreement covering a perpetual care fund that existed on or before July 1, 1973, except as to:

(1) the appointment of a successor trustee or cotrustee;

(2) deposits into the fund after July 1, 1973; and

(3) the withdrawal from the fund of income on deposits made after July 1,

1973.

§5–603.

(a) In this section, "developed land area" means land in a cemetery:

(1) that is available for burial;

(2) where roads, paths, or buildings have been laid out or built; or

(3) where burial lots have been outlined on a plat or in a record or sales brochure.

(b) (1) Each sole proprietor registered cemeterian, permit holder, or any other person subject to the registration or permit provisions of this title who sells or offers to sell to the public a burial lot or burial right in a cemetery as to which perpetual care is stated or implied shall have a perpetual care trust fund.

(2) A separate perpetual care trust fund shall be established for each cemetery to which this section applies.

(3) On the general price list, contract of sale of burial space, and any conveyance documents, all cemeteries subject to the provisions of this subtitle shall state in writing the following using 12 point or larger type font:

(i) "The cemetery is a perpetual care cemetery."; or

(ii) "The cemetery is not a perpetual care cemetery."

(4) A cemetery created in the State after October 1, 2001, that is not exempt under § 5–602 of this subtitle shall be required to establish a perpetual care trust fund.

(c) Each sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle initially shall deposit in the perpetual care trust fund at least:

(1) $10,000, if the developed land area of the cemetery is 10 acres or less and the cemetery is a nonprofit cemetery which does not sell burial goods;

(2) $25,000, if the developed land area of the cemetery is more than 10 acres and the cemetery is a nonprofit cemetery which does not sell burial goods;

(3) $25,000, if the developed land area of the cemetery is 10 acres or less and the cemetery is a for–profit cemetery or a nonprofit cemetery which sells burial goods; or

(4) $50,000, if the developed land area of the cemetery is more than 10 acres and the cemetery is a for–profit cemetery or a nonprofit cemetery which sells

burial goods.

(d) (1) The deposits required by this subsection are in addition to the deposits required by subsection (c) of this section.

(2) Except as provided in paragraph (4) of this subsection, within 30 days after the end of the month when the buyer of a right of interment in a burial lot, above–ground crypt, or niche makes a final payment, the registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle shall pay in cash to the trustee for deposit in the perpetual care trust fund:

(i) at least 10% of the actual selling price of each right of interment in a burial lot, above–ground crypt, or niche; or

(ii) if the burial space is sold at a discount or at no cost, at least 10% of the imputed cost of the fair retail value.

(3) The amount of deposit to the perpetual care trust fund shall be deducted from the proceeds of the listed selling price of the right of interment in a burial lot, above–ground crypt, or niche, and may not be charged as an add–on to the purchaser.

(4) This subsection does not apply to the sale of a second right of interment or the resale of a right of interment in a burial lot, above–ground crypt, or niche for which the cemetery already has paid into the perpetual care trust fund the deposit required by this subsection.

(e) The income from the perpetual care trust fund:

(1) shall be used only for the perpetual care of the cemetery, including:

(i) the maintenance, including the cutting of grass abutting memorials or monuments, administration, supervision, and embellishment of the cemetery and its grounds, roads, and paths; and

(ii) the repair and renewal of buildings, including columbaria and mausoleums, and the property of the cemetery; and

(2) may not be used to care for memorials or monuments.

(f) Realized capital gains of a perpetual care trust fund are not income of the perpetual care trust fund and shall be deposited in the perpetual care trust fund as principal of the perpetual care trust fund.

(g) (1) The perpetual care trust fund authorized by this subsection shall be a single purpose trust fund.

(2) In the event of the bankruptcy or insolvency of, or assignment for the

benefit of creditors by, or an adverse judgment against the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle, the perpetual care trust funds may not be made available to any creditor as assets of the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle or as payment for any expenses of any bankruptcy or similar proceedings, but shall be retained intact to provide for the future maintenance of the cemetery.

(3) The perpetual care trust fund is not subject to judgment, execution, garnishment, attachment, or other seizure by process in bankruptcy or otherwise, or to sale, pledge, mortgage, or other alienation and is not assignable.

(h) A sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle shall maintain in the office of the cemetery a copy of the most recent trust report filed with the Office under § 5–606 of this subtitle and shall make the report available for inspection by an owner or a prospective purchaser of a right of interment in a burial lot, above–ground crypt, or niche.

§5–604.

(a) A trustee appointed under this subtitle must be:

(1) a national banking association;

(2) a bank, as defined in the Maryland Uniform Fiduciaries Act;

(3) a savings bank insured by a unit of the federal government;

(4) a savings and loan association insured by a unit of the federal government; or

(5) a person who annually provides, with the trust report, the proof of a fidelity bond that meets the requirements of subsection (b) of this section from a recognized bonding institution authorized to do business in the State in an amount equal to the trust fund.

(b) The fidelity bond provided under subsection (a)(5) of this section shall be:

(1) for the benefit of the trust account of the cemetery or its burial space owners or both;

(2) conditioned such that the applicant shall comply with all Maryland laws and regulations relating to trust accounts; and

(3) subject to the approval of the Director.

(c) A trustee may not use any perpetual care trust funds required to be held in

trust in accordance with this subtitle to:

(1) purchase an interest in any contract or agreement to which the registrant, permit holder, or any other person subject to the trust requirements of this subtitle, or any entity owned or under the control of a registrant, permit holder, or any other person subject to the trust requirements of this subtitle, or a spouse, child, parent, or sibling of a registrant or any other person subject to the trust requirements of this subtitle is a party; or

(2) make any loan or direct or indirect investment of any kind:

(i) to any registrant, permit holder, or any other person subject to the trust requirements of this subtitle or to any spouse, child, parent, or sibling of a registrant or any other person subject to the trust requirements of this subtitle;

(ii) to or in any entity or business operations owned or under the control of a registrant, permit holder, or any other person subject to the trust requirements of this subtitle, or a spouse, child, parent, or sibling of a registrant or any other person subject to the trust requirements of this subtitle;

(iii) on or in any real property of a cemetery, or the buildings or structures appurtenant to the property; or

(iv) in any permanent improvements of a cemetery or its facilities.

§5–605.

(a) The terms of a trust to provide for perpetual care shall be designated in a written agreement between the registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle and trustee.

(b) The terms of the trust agreement:

(1) shall conform to this subtitle; and

(2) may include provisions about:

(i) payment of income;

(ii) accumulation of income;

(iii) reinvestment of income;

(iv) administration of the trust fund; and

(v) powers of the trustee as to investments.

(c) (1) A trust agreement shall be irrevocable.

(2) However, a trust agreement may:

(i) give the registered cemeterian, permit holder, or other person subject to the trust requirements of this subtitle the right to remove the trustee and appoint another qualified trustee; and

(ii) provide for the appointment of individuals as cotrustees and successor cotrustees with a corporate trustee.

§5–606.

(a) (1) Each sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle shall keep detailed records of all sales of burial lots or burial rights in a cemetery and money received.

(2) The records of each sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle and of each trustee appointed by the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle are subject to examination by:

(i) the Director;

(ii) the Attorney General or an authorized representative of the Attorney General; and

(iii) the State's Attorney for the county where the cemetery owner does business or where the cemetery is located.

(b) (1) Each sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle shall submit a report to the Director within 120 days after the close of each calendar or other fiscal year chosen by the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle.

(2) The report shall:

(i) be on the form that the Director requires;

(ii) be certified as to correctness by a certified public accountant retained by the cemetery;

(iii) be accompanied by a trustee's annual summary statement of assets for the reporting period that includes:

1. the amount of money in the perpetual care trust fund at the beginning of the reporting period;

2. an investment portfolio summary describing the asset and the market value for each investment class;

3. a transaction summary of the perpetual care trust fund containing:

A. trust account earnings, including interest, dividends, and realized gains or losses;

B. money deposited;

C. total receipts;

D. administrative expenses;

E. disbursements of income for cemetery care, maintenance, administration, and embellishment;

F. other disbursements; and

G. total disbursements; and

4. the amount of money in the perpetual care trust fund at the end of the reporting period;

(iv) be accompanied by a fee of $25; and

(v) include:

1. the name of the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;

2. each location of the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;

3. the amount of money in each perpetual care trust fund at the beginning of the calendar or other fiscal year chosen by the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle;

4. the amount of money that the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle received during that year that is subject to the trust requirements of this subtitle;

5. the amount of money actually deposited into each perpetual care trust fund in that year;

6. the amount of money spent during that year to provide care,

maintenance, administration, and embellishment of each cemetery, except for money used for the care of monuments and memorials; and

7. the name and address of each trustee.

(3) If the Director determines, after a review of the report and annual summary statement of assets required by this subsection, that additional documentation is required, a sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle shall provide the additional documentation to the Director.

(4) A sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle who stops selling burial lots or burial rights in a cemetery as to which perpetual care is stated or implied shall notify the Director in the required report for the year in which sales stop.

(5) The Director may require a sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle to correct any underfunding, including interest, due to the perpetual care trust fund.

(c) The Director may adopt regulations:

(1) to administer subsection (b) of this section; and

(2) for determining whether registered cemeterians, permit holders, or any other person subject to the trust requirements of this subtitle are complying with this subtitle.

§5–607.

(a) If the Director finds that a registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle has violated this subtitle or a regulation adopted under this subtitle, the Director may refer the matter to:

(1) the Attorney General for civil enforcement; or

(2) the appropriate State's Attorney for criminal prosecution.

(b) The Attorney General may sue for and a court may grant:

(1) injunctive or other equitable relief;

(2) imposition of a civil penalty not exceeding $5,000; or

(3) both.

§5–608.

A registered cemeterian, permit holder, or any other person subject to the trust

requirements of this subtitle may not sell or offer to sell to a member of the public a burial lot or burial right in a cemetery and represent to the public in any way, express or implied, that the cemetery or the burial lot or burial right in the cemetery will have perpetual care unless the sole proprietor registered cemeterian, permit holder, or any other person subject to the trust requirements of this subtitle has provided adequately for that perpetual care.

§5–609.

Except as provided in § 5–602 of this subtitle, a sole proprietor registered cemeterian, permit holder, or any other person subject to the permit or registration requirements of this title may not establish, operate, or allow a cemetery to be operated in violation of this subtitle.

§5–610.

(a) Except as otherwise provided in subsection (c) of this section, a sole proprietor registered cemeterian, permit holder, or any other person subject to the permit or registration requirements of this title who violates this subtitle is guilty of a misdemeanor and, on conviction, is subject to:

(1) for a first violation, a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both;

(2) for a second violation, a fine not exceeding $10,000 or imprisonment not exceeding 2 years or both; and

(3) for a third or subsequent violation, a fine not exceeding $20,000 or imprisonment not exceeding 3 years or both.

(b) Except as otherwise provided in subsection (c) of this section, if a corporation violates this subtitle, each officer responsible for the violation is guilty of a misdemeanor and, on conviction, is subject to:

(1) for a first violation, a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both;

(2) for a second violation, a fine not exceeding $10,000 or imprisonment not exceeding 2 years or both; and

(3) for a third or subsequent violation, a fine not exceeding $20,000 or imprisonment not exceeding 3 years or both.

(c) A person who willfully misappropriates or intentionally and fraudulently converts perpetual care trust funds in excess of $100 to that person's own use is guilty of a felony and, on conviction, is subject to a fine not exceeding $25,000 or imprisonment not exceeding 10 years or both.

§5–701.

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

(b) (1) "Burial space" means land or space in a structure used or to be used for burial.

(2) "Burial space" includes a burial right in the land or space.

(c) "Buyer" means a person who buys preneed goods or preneed services.

(d) "Preneed burial contract" means a written instrument under which preneed goods or preneed services are to be sold and delivered or performed.

(e) (1) "Preneed services" means services that are sold:

(i) before the buyer's death; and

(ii) in connection with burial or cremation.

(2) "Preneed services" includes opening and closing a grave.

(f) "Seller" means a registered cemeterian, registered crematory operator, registered seller, or any other person who sells preneed goods or preneed services.

(g) "Specific funds" means money that is identified to a specific preneed burial contract.

(h) "Trust account" means a preneed trust account.

§5–702.

(a) This subtitle does not apply to:

(1) the sale of burial space;

(2) a preneed contract made by an individual in connection with practicing funeral direction or practicing mortuary science, as those practices are defined in and regulated by the Health Occupations Article; or

(3) the preneed sale of burial goods or services by a private family cemetery that does not conduct public sales of burial goods or services.

(b) This subtitle does not allow a person, directly or indirectly, through an agent or otherwise, to practice funeral direction or practice mortuary science, unless the person is licensed to practice funeral direction or practice mortuary science under the Health Occupations Article.

(c) A preneed burial contract made under this subtitle is not an insurance

contract and does not involve the business of insurance.

(d) This subtitle does not require a cemetery to accept goods, perform services, or allow services to be performed if the goods or services are contrary to:

(1) the law concerning burial; or

(2) the rules of the cemetery concerning the quality and kind of goods or services that may be used in connection with burial in the cemetery.

(e) (1) A preneed burial contract made in accordance with § 5-704 of this subtitle may be funded by a life insurance policy or an annuity contract if:

(i) the owner or operator of the cemetery is not the owner of or beneficiary under the life insurance policy or annuity contract;

(ii) an assignment of benefits to the owner or operator of the cemetery may be revoked at any time by the owner of the life insurance policy or annuity contract;

(iii) subject to item (iv) of this paragraph, the owner or operator of the cemetery agrees to accept the benefits payable under the life insurance policy or annuity contract as payment in full for the services and merchandise agreed on in the preneed burial contract; and

(iv) any benefits payable under the life insurance policy or annuity contract in excess of the amount necessary to pay the total price, as determined at the time of death of the insured, of the services and merchandise agreed on in the preneed burial contract are paid to the beneficiary under the life insurance policy or annuity contract.

(2) A preneed burial contract that is funded by a life insurance policy or an annuity contract shall terminate if the assignment of benefits to the owner or operator of a cemetery is revoked by the owner of the life insurance policy or annuity contract.

(3) (i) The offer, sale, or assignment of a life insurance policy or annuity contract to fund a preneed burial contract is not subject to this subtitle.

(ii) A preneed burial contract funded by a life insurance policy or an annuity contract is not subject to § 5-705, § 5-706, § 5-707, § 5-708, or § 5-709 of this subtitle.

§5–703.

This subtitle applies only to preneed burial contracts made on or after October 1, 1984.

§5–704.

(a) A preneed burial contract shall contain:

(1) the name of the buyer;

(2) the name of the seller;

(3) the name of each individual, other than the buyer, as to whom the preneed goods or preneed services are to be furnished;

(4) a description of the preneed goods or preneed services; and

(5) the amount of the buyer's financial obligation.

(b) (1) A preneed burial contract shall be dated and executed in duplicate by the buyer and seller.

(2) The seller shall give the buyer a duplicate original of the preneed burial contract.

(c) (1) A preneed burial contract may provide for delivery of identified preneed goods by providing for the seller to:

(i) transfer physical possession of the preneed goods to the buyer or designee of the buyer;

(ii) attach the preneed goods to a designated burial space;

(iii) pay for and suitably store the preneed goods until needed, at a cemetery or other location of the seller, if the preneed goods are marked with the name of the buyer and the sale is supported by a verifiable record; or

(iv) have the supplier of the preneed goods:

1. cause title to be transferred to the buyer or designee of the buyer; and

2. agree in writing to ship the preneed goods at the direction of the buyer or designee of the buyer.

(2) If a preneed burial contract does not provide for the manner of delivery of preneed goods, compliance with paragraph (1)(i) or (ii) of this subsection is delivery in accordance with this subtitle.

(d) Notwithstanding any provision in a preneed burial contract, identified preneed services are not considered to have been performed until performance actually occurs.

(e) (1) Except as otherwise provided in this subsection, a preneed burial contract may not provide for interest or a finance charge.

(2) A cemetery that makes a preneed burial contract may impose interest or a finance charge on preneed goods delivered before death or preneed services performed before death.

(3) If a cemetery imposes interest or a finance charge as permitted in paragraph (2) of this subsection, the interest or finance charge shall be at a fixed rate or sum not greater than allowed by the provisions of Title 12 of the Commercial Law Article.

(4) A registered cemeterian or permit holder may sell a preneed burial contract to a commercial lending institution at the financing terms in the contract if the preneed burial contract signed by the original buyer of the preneed goods or preneed services contains the following language in 12-point or larger type:

"Notice to consumers: This contract of sale may be sold to a commercial lending institution. After the sale, the commercial lending institution may impose interest or a finance charge on the remaining balance due".

(f) A provision of a preneed burial contract that purports to waive any provision of this subtitle is void.

§5–705.

(a) (1) Except as provided in subsection (b) of this section, a seller shall put in trust the second 50% of the total preneed burial contract price as the seller receives payments from the buyer.

(2) Within 30 days after receipt of the last payment, the seller shall deposit an additional amount to make the balance in the trust account equal to 55% of the total contract price.

(b) A seller shall put in trust an amount from the payment that is equal to 80% of the selling price of any casket or casket vault sold under the preneed burial contract.

(c) This section does not apply to:

(1) a preneed burial contract under which all preneed goods and preneed services, other than dates, scrolls, and other additions that represent not more than 10% of the total contract price, must be delivered or performed within 120 days after receipt of 50% of the total contract price; or

(2) money that a seller receives for preneed goods or preneed services to be delivered or performed within 120 days after receipt of any payment on account of the sale, if the buyer's obligation for these preneed goods or preneed services is separately itemized.

§5–706.

(a) Each trust account shall be:

(1) titled "preneed trust account"; and

(2) established by the seller in the seller's name.

(b) A trustee appointed under this subtitle must be:

(1) a national banking association, as defined in the Financial Institutions Article;

(2) a banking institution, as defined in the Financial Institutions Article;

(3) any other financial institution allowed by law to engage in the trust business; or

(4) a person who provides a fidelity bond from a recognized bonding institution in an amount equal to the trust fund and inuring to the benefit of the trust account of the cemetery or burial goods business, or the preneed buyers, or both.

(c) A seller may:

(1) commingle money from 2 or more preneed burial contracts; and

(2) establish more than 1 trust account.

(d) (1) A trust account established under this subtitle shall be a single purpose trust.

(2) Money in the trust account is not available to a creditor as an asset of the seller.

(e) Money in the trust account may be withdrawn only on the combined signatures of:

(1) 2 officers of a corporate seller; or

(2) at least 2 individuals authorized to withdraw money for an unincorporated seller.

§5–707.

(a) In this section, "seller's account" means:

(1) the total of specific funds deposited from all preneed burial contracts of a seller commingled in a single fund; and

(2) any income derived from investing the money in the fund.

(b) Trust accounts shall be administered as this subtitle provides.

(c) (1) Except as otherwise provided in this subtitle, a trustee appointed under this subtitle is subject to the law that is generally applicable to trustees.

(2) If a trustee appointed under this subtitle is not located in the State, the agreement between the seller and the trustee expressly shall incorporate this subtitle.

(d) A trustee:

(1) may rely on all certifications made under or required by this subtitle; and

(2) is not liable to any person for that reliance.

(e) (1) Except as otherwise provided in this subtitle, a trustee may invest money of a trust account in any security that is a lawful investment for a fiduciary, including a time deposit or certificate of deposit issued by the trustee.

(2) Except as otherwise provided in this subtitle, to ensure that money in the trust account is adequate, the trust income, including any realized capital gains, shall:

(i) remain in the trust account;

(ii) be reinvested and compounded; and

(iii) be disbursed only for payment of appropriate trustee's fees, commissions, prorated proportional shares of total realized capital gains attributable to specific funds, and other costs of the trust account.

(f) A trustee may not use any preneed trust funds required to be held in trust in accordance with this subtitle to:

(1) purchase an interest in any contract or agreement to which the registrant, the permit holder, or any other person subject to the trust requirements of this subtitle, or any entity owned or under the control of a registrant, a permit holder, or any other person subject to the trust requirements of this subtitle, or a spouse, child, parent, or sibling of a registrant or any other person subject to the trust requirements of this subtitle is a party; or

(2) make any loan or direct or indirect investment of any kind:

(i) to any registrant, permit holder, or any other person subject to the trust requirements of this subtitle or to any spouse, child, parent, or sibling of a registrant or any other person subject to the trust requirements of this subtitle;

(ii) to or in any entity or business operations owned or under the control of a registrant, a permit holder, or any other person subject to the trust requirements of this subtitle, or a spouse, child, parent, or sibling of a registrant or any other person subject to the trust requirements of this subtitle;

(iii) on or in any real property of a cemetery or a crematory or the buildings or structures appurtenant to the property; or

(iv) in any permanent improvements of a cemetery, a crematory, the facilities of a cemetery or crematory, or the buildings or structures appurtenant to a cemetery or crematory.

(g) (1) A seller, on written notice to the trustee and in accordance with the agreement between them, may transfer the seller's account to another trustee.

(2) A trustee, on written notice to the seller and in accordance with the agreement between them, may transfer the seller's account to another trustee.

§5–708.

(a) The trustee may not disburse specific funds until preneed goods are delivered or preneed services are performed as provided in the preneed burial contract or in this subtitle.

(b) On performance of a preneed burial contract:

(1) the seller shall certify to the trustee:

(i) delivery of the preneed goods or performance of the preneed services; and

(ii) the amount of specific funds in the trust account; and

(2) the trustee shall then pay to the seller the specific funds, accrued interest on the specific funds, and a prorated proportional share of total realized capital gains attributable to the specific funds.

(c) (1) In a seller's records, the seller may itemize preneed goods or preneed services to which the trust requirements of this subtitle apply and the consideration paid or to be paid for each item.

(2) If a seller itemizes in accordance with paragraph (1) of this subsection, on performance of that part of a preneed burial contract identified for itemized preneed goods or preneed services:

(i) the seller shall certify to the trustee:

1. delivery of the preneed goods or performance of the preneed

services; and

2. the amount of the specific funds identified in the seller's records for those preneed goods or preneed services; and

(ii) the trustee shall then pay to the seller those specific funds, accrued interest on the specific funds, and a prorated proportional share of total realized capital gains attributable to the specific funds.

(d) (1) If a preneed burial contract provides, for 2 or more individuals, preneed goods or preneed services to which the trust requirements of this subtitle apply, a seller may designate in the seller's records the consideration paid for each individual.

(2) On performance of that part of the preneed burial contract identified to a particular individual:

(i) the seller shall certify to the trustee:

1. delivery of the preneed goods or performance of the preneed services; and

2. the amount of the specific funds applicable to that part of the preneed burial contract; and

(ii) the trustee shall then pay to the seller those specific funds, accrued interest on the specific funds, and a prorated proportional share of total realized capital gains attributable to the specific funds.

§5–709.

(a) (1) A buyer may cancel a preneed burial contract as to preneed goods not delivered or preneed services not performed if the buyer:

(i) permanently moves more than 75 miles from the cemetery specified in the preneed burial contract; and

(ii) gives to the seller written notice, under oath, of the move and includes the buyer's new permanent address.

(2) In that event:

(i) the seller shall certify to the trustee:

1. the cancellation of the preneed burial contract;

2. the amount of the remaining specific funds applicable to the preneed burial contract; and

3. the name and address of the buyer; and

(ii) the trustee shall then pay to the buyer the remaining specific funds, accrued interest on the specific funds, and a prorated proportional share of total realized capital gains attributable to the specific funds.

(b) (1) Notwithstanding subsection (a) of this section, by written notice, a buyer may cancel the purchase of a casket or casket vault under a preneed burial contract at any time prior to the time the buyer needs the casket or casket vault for burial.

(2) In that event:

(i) the seller shall certify to the trustee:

1. the cancellation of the purchase of the casket or casket vault under the preneed burial contract;

2. the amount of the specific funds applicable to the casket or casket vault under the preneed burial contract; and

3. the name and address of the buyer;

(ii) the trustee shall pay to the buyer the specific funds, interest accrued on the specific funds, and a prorated proportional share of total realized capital gains attributable to the specific funds; and

(iii) in addition to the refund paid by the trustee, the seller shall pay to the buyer an amount of money necessary to provide the buyer with a refund of 100% of the money paid for the casket or casket vault under the preneed burial contract.

(c) If a buyer fails to provide written notice of cancellation and defaults on a preneed burial contract and, as a result, the seller terminates the preneed burial contract:

(1) the seller shall certify to the trustee:

(i) the default and termination of the preneed burial contract;

(ii) the amount of the specific funds; and

(iii) the reasonable expenses of the seller; and

(2) the trustee shall then pay:

(i) to the buyer, those specific funds, accrued interest on the specific funds, and a prorated proportional share of total realized capital gains attributable to the specific funds, less the reasonable expenses of the seller; and

(ii) to the seller, the reasonable expenses of the seller.

(d) If specific funds on deposit in a trust account have been dormant for at least 50 years since the date of the last deposit or disbursement and the seller cannot locate the buyer:

(1) the seller shall certify to the trustee:

(i) that the trust account is dormant and the buyer cannot be located; and

(ii) the amount of the specific funds; and

(2) the trustee shall then pay to the seller those specific funds, accrued interest on the specific funds, and a prorated proportional share of total realized capital gains attributable to the specific funds.

§5–710.

(a) (1) Each seller shall keep detailed records of all preneed burial contracts and specific funds.

(2) The records of each seller and of each trustee appointed by the seller are subject to examination by:

(i) the Director;

(ii) the Attorney General or an authorized representative of the Attorney General; and

(iii) the State's Attorney for the county where the seller does business.

(b) (1) Each seller subject to the trust requirements of this subtitle shall submit a report to the Director within 150 days after the close of each calendar or other fiscal year chosen by the seller.

(2) The report shall:

(i) be on the form that the Director requires;

(ii) be certified by a certified public accountant retained by the seller;

(iii) be accompanied by a trustee's annual summary statement of assets from the trustee for the reporting period which includes:

1. the amount of money in the preneed trust fund at the beginning of the reporting period;

2. an investment portfolio summary describing the asset and the market value for each investment class;

3. a transaction summary of the preneed trust fund containing:

A. trust account earnings;

B. money deposited;

C. total receipts;

D. administrative expenses;

E. withdrawals from the trust account for canceled contracts;

F. withdrawals from the trust account for delivery of merchandise for use or storage, and for services performed, including the principal and earnings;

G. other disbursements; and

H. total disbursements; and

4. the amount of money in the preneed trust fund at the end of the reporting period;

(iv) be accompanied by a fee of $25; and

(v) include:

1. the name of the seller;

2. each location of the seller;

3. the amount of money that the seller received during that year that is subject to the trust requirements of this subtitle;

4. the amount of money actually deposited into trust accounts in that year;

5. the amount of money required to be disbursed from the trust accounts in that year;

6. the amount of money actually disbursed from the trust accounts in that year; and

7. the name and address of the trustee.

(3) If the Director determines, after a review of the report and annual summary statement of assets required by this subsection, that additional documentation is required, a seller subject to the trust requirements of this subtitle

shall provide the additional documentation to the Director.

(4) (i) A seller of preneed goods or preneed services that sells its business, files a petition in bankruptcy, or ceases to operate shall provide written notice within 15 days:

1. to the Director, detailing the changes and the arrangements the seller has made for carrying out the preneed burial contracts and the disbursement of any moneys held in an escrow or trust account; and

2. to each buyer of a preneed burial contract, advising the buyer of the buyer's options under State law in regard to the preneed contract.

(ii) Nothing in this paragraph exempts a seller of preneed goods or services that sells its business, files a petition in bankruptcy, or ceases to operate from filing the annual report required under this section.

(c) A seller of a preneed burial contract shall provide each buyer or prospective buyer with a general price list for the buyer or prospective buyer to keep which shall include:

(1) specific prices for:

(i) ground opening and closing;

(ii) extra depth interment;

(iii) interment of cremated remains; and

(iv) mausoleum entombment; and

(2) general price ranges for burial space or preneed goods.

(d) A seller of a preneed burial contract shall disclose to the buyer:

(1) all goods and services that are reasonably expected to be required at the time of need that are not included in the preneed burial contract;

(2) the buyer's cancellation and refund rights under § 5–709 of this subtitle;

(3) the person responsible for installation of the goods sold and any warranties for the goods sold; and

(4) if the preneed contract provides for goods or services to be delivered or performed before death:

(i) that interest or finance charges may be imposed;

(ii) that interest or finance charges are not allowed on other preneed burial contracts that do not provide for goods or services to be delivered or performed before death;

(iii) the manner of delivery of goods including where the goods are stored; and

(iv) the buyer's remedy if delivered goods are damaged or destroyed.

(e) The Director may require a seller to correct any underfunding, including interest, due to the preneed trust account.

(f) The Director may adopt regulations:

(1) to administer this section; and

(2) for determining whether sellers are complying with this subtitle.

§5–711.

(a) If the Director finds that a seller has violated this subtitle or a regulation adopted under this subtitle, the Director may refer the matter to:

(1) the Attorney General for civil enforcement; or

(2) the appropriate State's Attorney for criminal prosecution.

(b) The Attorney General may sue for and a court may grant:

(1) injunctive or other equitable relief;

(2) imposition of a civil penalty not exceeding $5,000; or

(3) both.

§5–712.

(a) A seller may not fail to deposit, as required by this subtitle, money received under or in connection with a preneed burial contract.

(b) (1) Except as otherwise provided in subsection (c) of this section, a person who violates this section is guilty of a misdemeanor and, on conviction, is subject to:

(i) for a first violation, a fine not exceeding $10,000 or imprisonment not exceeding 1 year or both;

(ii) for a second violation, a fine not exceeding $15,000 or imprisonment not exceeding 2 years or both; and

(iii) for a third or subsequent violation, a fine not exceeding $20,000 or imprisonment not exceeding 3 years or both.

(2) Except as otherwise provided in subsection (c) of this section, if a corporation violates this section, each officer responsible for the violation is guilty of a misdemeanor and, on conviction, is subject to:

(i) for a first violation, a fine not exceeding $10,000 or imprisonment not exceeding 1 year or both;

(ii) for a second violation, a fine not exceeding $15,000 or imprisonment not exceeding 2 years or both; and

(iii) for a third or subsequent violation, a fine not exceeding $20,000 or imprisonment not exceeding 3 years or both.

(c) A person who willfully misappropriates or intentionally and fraudulently converts preneed trust funds in excess of $100 to that person's own use is guilty of a felony and, on conviction, is subject to a fine not exceeding $25,000 or imprisonment not exceeding 10 years or both.

§5–801.

(a) At the time of entering into a contract with a consumer for the sale of burial goods or services, registrants, permit holders, or any other person subject to the provisions of this title shall make the following written disclosures:

(1) the itemized cost for each service performed under the contract;

(2) a list of services incidental to burial that are not covered by the contract;

(3) a statement regarding the cemetery's policy on the use of independent monument companies; and

(4) the name, address, and telephone number for the State Office of Cemetery Oversight.

(b) (1) The disclosures required under subsection (a)(1), (2), and (3) of this section shall be conspicuously incorporated in the contract in 12–point type.

(2) The disclosure required under subsection (a)(4) of this section shall be on a form separate from the contract and must be separately signed and dated by the consumer.

(c) The disclosure must be signed and dated by the consumer.

(d) The consumer must be provided with a copy of the contract and a copy of

the form required under subsection (b)(2) of this section at the time of purchasing the burial goods or services.

(e) The disclosure shall occur:

(1) not later than the first scheduled face–to–face contact with the purchaser or party representing the purchaser; or

(2) if no face–to–face contact occurs, at the time of the execution of the contract by the purchaser or party representing the purchaser.

(f) The Director, by regulation, may prescribe the form and wording of the disclosure.

(g) If the purchase by the consumer includes a cemetery plot, the registered cemeterian, permit holder, or any other person subject to the provisions of this title shall provide the consumer with a copy of a location survey, performed by a licensed land surveyor, which indicates the location of the purchased plot within the cemetery, or by any other means approved by the Director.

(h) Registrants, permit holders, or any other person subject to the provisions of this title shall provide each buyer or prospective buyer with a general price list for the buyer or prospective buyer to keep which shall include:

(1) specific prices for:

(i) ground opening and closing;

(ii) extra depth interment;

(iii) interment of cremated remains; and

(iv) mausoleum entombment; and

(2) general price ranges for burial space or burial goods.

§5–802.

(a) Within 1,000 yards of Druid Hill Park:

(1) a cemetery corporation may not allow burial or establish or maintain a cemetery; and

(2) a person may not participate in any way in a burial in a cemetery of a cemetery corporation.

(b) A person may not cause a funeral procession to or from a cemetery of a cemetery corporation to pass through Druid Hill Park without the written permission of the Department of Recreation and Parks.

(c) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $100 or imprisonment not exceeding 10 days or both.

§5–803.

(a) (1) In this section the following words have the meanings indicated.

(2) "Eligible dependent" means a veteran's spouse, a veteran's unmarried child under the age of 21 years, or a veteran's unmarried adult child who before the age of 21 became permanently incapable of self–support because of physical or mental disability.

(3) (i) "Identifying information" means data required by a veterans service organization to verify the eligibility of a veteran or an eligible dependent for burial in a national or state veterans cemetery.

(ii) "Identifying information" includes name, service number, Social Security number, date of birth, date of death, place of birth, and copy of the death certificate.

(4) "Veteran" has the meaning stated in § 9–901 of the State Government Article.

(5) "Veterans service organization" means an association or other entity organized for the benefit of veterans that has been recognized by the U.S. Department of Veterans Affairs or chartered by Congress and any employee or representative of the association or entity.

(b) If a licensed funeral establishment or a crematory is in possession of cremated human remains that have been unclaimed for 90 days or more, the licensed funeral establishment or holder of the permit for the business of operating a crematory shall provide identifying information of the unclaimed cremains to a veterans service organization in order for the veterans service organization to determine if the unclaimed cremains are those of a veteran or an eligible dependent.

(c) Within 45 days after receipt of the information required by subsection (b) of this section, the veterans service organization shall notify the licensed funeral establishment or permit holder:

(1) whether the cremains are those of a veteran or an eligible dependent; and

(2) if so, whether the veteran or eligible dependent is eligible for burial in a veterans cemetery.

(d) If the unclaimed cremains are those of a veteran or an eligible dependent, the licensed funeral establishment or permit holder may transfer the cremains to a

veterans service organization for the purpose of disposition of the cremains.

§5–901.

(a) Except as otherwise provided in this title, an individual may not engage in cemetery operations, attempt to engage in cemetery operations, or provide or offer to provide burial space, goods, and services unless the individual is authorized as a registrant.

(b) Except as otherwise provided in this title, an individual may not engage in a burial goods business or attempt to provide burial goods unless the individual is authorized as a registrant.

(c) Except as otherwise provided in this title, an individual may not engage in the operation of a crematory, attempt to engage in the operation of a crematory, or provide or offer to provide cremation services unless the individual is authorized as a registrant.

§5–902.

Except for a registered cemeterian, registered crematory operator, or registered seller who operates a business as a sole proprietor or a registrant employed by a sole proprietor, a person may not engage in the operation of a cemetery, crematory, or burial goods business unless:

(1) the business is a corporation, limited liability company, or partnership; and

(2) the corporation, limited liability company, or partnership holds a permit issued under this title.

§5–903.

Unless a person is authorized as a registrant, a person may not represent to the public, by use of a title, including cemeterian, registered cemeterian, crematory operator, registered crematory operator, burial goods seller, or registered seller, by description of services, methods, or procedures, or otherwise, that the person is authorized to engage in the operation of a cemetery or crematory or provide burial goods.

§5–904.

A person who violates this subtitle is guilty of a misdemeanor and, on conviction, is subject to:

(1) for a first violation, a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both;

(2) for a second violation, a fine not exceeding $10,000 or imprisonment not exceeding 2 years or both; and

(3) for a third or subsequent violation, a fine not exceeding $15,000 or imprisonment not exceeding 3 years or both.

§5–905.

(a) If the Director finds that a person has violated this subtitle or a regulation adopted under this subtitle, the Director may refer the matter to:

(1) the Attorney General for civil enforcement; or

(2) the appropriate State's Attorney for criminal prosecution.

(b) The Attorney General may sue for and a court may grant:

(1) injunctive or other equitable relief;

(2) imposition of a civil penalty not exceeding $5,000; or

(3) both.

§5–1001.

This title may be cited as the "Maryland Cemetery Act".

§5–1002.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, the Office of Cemetery Oversight, the provisions in this title relating to the Office, and all regulations adopted by the Office shall terminate and be of no effect after July 1, 2023.

§6–101.

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

(b) "Associate solicitor" means a person who, for pay, solicits or receives charitable contributions for a professional solicitor.

(c) (1) "Charitable contribution" means a contribution made on a representation that it will be used for a charitable purpose.

(2) "Charitable contribution" includes the payment, transfer, or enforceable pledge of financial help, including money, credit, property, or services.

(3) "Charitable contribution" does not include:

(i) an unsolicited gift;

(ii) a government grant or government money;

(iii) membership assessments, dues, or fines;

(iv) a payment for property sold or services rendered by a charitable organization, unless the property is sold or the services are rendered in connection with a charitable solicitation; and

(v) a public safety contribution as defined in subsection (j) of this section.

(d) (1) "Charitable organization" means:

(i) a person that:

1. is or holds itself out to be a benevolent, educational, eleemosynary, humane, patriotic, philanthropic, or religious organization; and

2. solicits or receives charitable contributions from the public; or

(ii) an ambulance, fire fighting, fraternal, rescue, or police or other law enforcement organization when it solicits charitable contributions from the public.

(2) "Charitable organization" includes an area, branch, chapter, office, or similar affiliate that solicits charitable contributions from the public within the State for a charitable organization that is organized or has its principal place of business outside the State.

(3) "Charitable organization" does not include:

(i) an agency of the State government or of a political subdivision; or

(ii) a political club, committee, or party.

(e) "Charitable representative" means a professional solicitor, associate solicitor, or fund-raising counsel.

(f) (1) "Charitable solicitation" means an oral or written request for a charitable contribution, regardless of whether the person who makes the request receives the charitable contribution.

(2) "Charitable solicitation" includes:

(i) a fund-raising drive, event, campaign, or other activity;

(ii) an announcement to the news media seeking charitable

contributions;

(iii) except as provided in § 6-621 of this title, the distribution of a written advertisement or other publication that, directly or implicitly, seeks charitable contributions; and

(iv) the sale of, or offer or attempt to sell an admission, advertisement, advertising space, book card, chance, coupon, device, magazine, membership, merchandise, patron listing, subscription, tag, ticket, or other tangible item in connection with which:

1. an appeal is made for charitable contributions;

2. the name of a charitable organization is used expressly or implicitly to induce a purchase; or

3. a statement is made that some or all of the proceeds from the sale are to be used for a charitable purpose.

(g) "Disclosure statement" means a written statement that includes the following information:

(1) a statement that a copy of the current financial statement of the charitable organization is available on request;

(2) the name of the charitable organization and the address and telephone number where requests for a copy of the financial statement should be directed; and

(3) a statement that, for the cost of copies and postage, documents and information submitted under this title are available from the Secretary of State.

(h) (1) "Fund-raising counsel" means a person who, for pay:

(i) advises a charitable organization about a charitable solicitation in Maryland or holds, plans, or manages a charitable solicitation in Maryland; but

(ii) does not directly solicit or receive charitable contributions from the public.

(2) "Fund-raising counsel" does not include:

(i) an attorney because of giving legal advice;

(ii) an attorney, investment counselor, or banker because of advising a client or customer to contribute to a charitable organization;

(iii) a salaried officer or employee of a charitable organization that keeps a permanent office in the State; or

(iv) a person who prepares a grant proposal for submission to a specific charitable organization, corporation, or foundation.

(i) (1) "Professional solicitor" means a person who, for pay:

(i) advises a charitable organization about a charitable solicitation;

(ii) holds, plans, or manages a charitable solicitation; or

(iii) solicits or receives charitable contributions for a charitable organization, personally or through an associate solicitor.

(2) "Professional solicitor" does not include:

(i) an attorney, investment counselor, or banker because of advising a client or customer to contribute to a charitable organization;

(ii) a salaried officer or employee of a charitable organization that keeps a permanent office in the State; or

(iii) a person who solicits, receives, or collects used personal property, including household goods, furniture, appliances, or clothing, if the property is displayed or resold to the public at a retail establishment.

(j) "Public safety contribution" means a contribution made on a representation that it will be used for the purposes of a public safety organization.

(k) "Public safety organization" means a person who is or purports to be a fire fighting, ambulance, rescue, police, fraternal, or other law enforcement organization.

(l) (1) "Public safety solicitor" means a person who, for pay, solicits or receives public safety contributions, personally or through another.

(2) "Public safety solicitor" does not include:

(i) an attorney, investment counselor, or banker because of advising a client or customer to make a public safety contribution; or

(ii) an individual who is a member, salaried officer, or employee of a public safety organization that is affiliated with a State or local agency and keeps a permanent office in the State.

§6–102.

(a) (1) In this section, "member" includes a student, former student, parent of a student or former student, present or former board member, and staff member of an accredited school, college, or university.

(2) In this section, "member" does not include an individual who is

granted membership on making a charitable contribution as the result of a charitable solicitation.

(b) (1) Except as provided in paragraph (2) of this subsection, this title does not apply to fund-raising by a volunteer organization of firefighters or rescue or ambulance personnel for its ambulance, fire fighting, or rescue operations.

(2) This title applies to a public safety solicitor employed by a volunteer organization of firefighters or rescue or ambulance personnel.

(c) (1) Except as provided in paragraph (2) of this subsection, a charitable organization is exempt from the registration and disclosure requirements of this title if the charitable organization:

(i) does not employ a professional solicitor; and

(ii) 1. solicits charitable contributions for a named individual and the gross amount is delivered to the individual;

2. A. is a religious organization, a parent organization of a religious organization, or a school affiliated with a religious organization; and

B. has in effect a declaration of tax-exempt status from the government of the United States;

3. solicits charitable contributions only from its members;

4. does not receive more than $25,000 in charitable contributions from the public during the year for which a registration statement and annual report otherwise would be required; or

5. only receives contributions from for-profit corporations and organizations determined to be private foundations by the government of the United States.

(2) (i) A charitable organization claiming exemption under paragraph (1) of this subsection shall submit evidence of its entitlement to an exemption upon request of the Secretary of State.

(ii) A charitable organization that fails to submit evidence satisfactory to the Secretary of State under subparagraph (i) of this paragraph is not exempt from the requirements of this title.

§6–201.

(a) In this section, "Program" means the Charitable Giving Information Program.

(b) There is a Charitable Giving Information Program in the Office of the Secretary of State.

(c) The purpose of the Program is to educate the public about charitable organizations and charitable solicitations so that members of the public can:

(1) recognize unlawful or misleading charitable solicitations; and

(2) make informed decisions about charitable contributions to charitable organizations.

(d) The Program shall inform the public of:

(1) the laws and regulations about charitable organizations and charitable solicitations, including registration requirements, prohibited acts and penalties, and the availability of information through the Office of the Secretary of State;

(2) the importance of reporting alleged unlawful or misleading charitable solicitations to the Office of the Secretary of State;

(3) an address and toll-free telephone number through which the public can get information about charitable organizations and charitable solicitations and can report alleged violations of this title;

(4) precautions an individual may take before making a charitable contribution to a charitable organization; and

(5) any other information the Secretary of State believes will help the public make informed decisions about charitable contributions to charitable organizations.

(e) The Program shall make available:

(1) written materials, in places easily accessible to the public, including libraries, schools, and other public buildings;

(2) on request, individuals to speak to community groups or other groups; and

(3) material for broad distribution to the public or for use by the news media.

(f) (1) The Program may make available a disk containing computerized data if:

(i) the Secretary of State determines that making the disk available serves the purposes of the Program; and

(ii) the person agrees in writing to use the disk only for purposes

approved by the Secretary of State, and not to copy the disk, or permit the disk to be copied, without the prior written consent of the Secretary of State.

(2) (i) The Secretary of State may charge a reasonable fee for a disk under this section.

(ii) The fee may not exceed the actual cost of purchasing and preparing the disk.

§6–202.

(a) In this section, "foreign charitable organization or representative" means a charitable organization or charitable representative who:

(1) has its principal place of business out of state; or

(2) is organized under the laws of another state.

(b) By soliciting a charitable contribution in the State, a foreign charitable organization or representative irrevocably appoints the Secretary of State as agent to receive a subpoena, summons, or other process that is:

(1) issued in an action brought under this title; and

(2) directed to:

(i) the foreign charitable organization or representative; or

(ii) a partner, principal officer, or director of the foreign charitable organization or representative.

(c) Service of process is sufficient service on a foreign charitable organization or representative if:

(1) service is made by the personal delivery and leaving of a copy of the process with the Secretary of State or the authorized representative of the Secretary of State; and

(2) the Secretary of State sends a copy of the process by certified mail to the foreign charitable organization or representative at its last known address.

§6–203.

Each document submitted to the Secretary of State under this title is a public record and shall be:

(1) kept in the Office of the Secretary of State for at least 2 years; and

(2) made available to the public during the normal business hours of the

Secretary of State for inspection and for photocopying at a reasonable price.

§6–204.

The Secretary of State shall adopt regulations to carry out this title.

§6–205.

(a) (1) The Secretary of State or the Attorney General may investigate an alleged violation of this title.

(2) (i) In the course of any examination, investigation, or hearing, the Secretary of State or the Attorney General may subpoena witnesses, administer oaths, examine an individual under oath, serve written interrogatories, and compel production of records, books, papers, and other documents.

(ii) Information obtained under this subsection is not admissible in a subsequent criminal proceeding against the person who provided the information.

(b) If the Secretary of State or the Attorney General finds or has reasonable grounds to believe that a charitable organization, charitable representative, or public safety solicitor has violated this title, the Secretary of State or the Attorney General may take one or more of the following actions:

(1) by mediation with the apparent violators and any representatives they may choose to assist them, enter into a written assurance of discontinuance, written assurance of voluntary compliance, or other settlement agreement with the apparent violators, in accordance with subsection (c) of this section;

(2) summarily issue a cease and desist order to the violator, if the Secretary of State or the Attorney General:

(i) finds that this title has been violated and that the public health, safety, or welfare requires emergency action; and

(ii) gives the violator written notice of the order, the reasons for the order, and the right of the violator to request a hearing under subsection (g) of this section; or

(3) refer the matter to the appropriate State's Attorney for prosecution.

(c) A settlement agreement under subsection (b)(1) of this section may include one or more of the following stipulations or conditions:

(1) payment by the apparent violator of the cost of the investigation;

(2) payment by the apparent violator of civil penalties a court could order under this title;

(3) payment by the apparent violator of refunds to donors a court could order under this title;

(4) payment by the apparent violator of contributions received to charitable or public safety beneficiaries or for charitable or public safety purposes consistent with the beneficiaries named or purposes represented in the charitable or public safety solicitations which generated the contributions; or

(5) any other stipulation, condition, or remedy that will correct a violation of this title.

(d) An agreement under this section is for conciliation purposes only and does not constitute an admission by any party that the law has been violated.

(e) (1) It is a violation of this title to fail to adhere to any provision contained in a settlement agreement.

(2) A failure of the Secretary of State or the Attorney General to enforce a violation of any provision of a settlement agreement does not constitute a waiver of that or any other provision, or of any right of the Secretary of State or the Attorney General.

(f) The Attorney General may sue in the circuit court for the county in which the alleged violation occurred for an order that:

(1) restrains further violation of this title;

(2) restrains the defendant from making further charitable or public safety solicitations in the State;

(3) except as provided under § 6–5A–11 of this title, recovers for the State a civil penalty not to exceed $5,000 for each willful violation of this title;

(4) except as provided under § 6–5A–11 of this title, recovers for the State a civil penalty not to exceed $3,000 for each grossly negligent violation of this title;

(5) enforces compliance with this title; or

(6) secures any other appropriate relief, including:

(i) refunds to donors; and

(ii) payment of the charitable or public safety contributions received by the solicitor to charitable or public safety purposes or beneficiaries consistent with the purposes represented or beneficiaries named in the charitable or public safety solicitations which generated the contributions.

(g) (1) If the Secretary of State or the Attorney General issues a cease and

desist order to a person, the person may request a hearing from the Secretary of State.

(2) Within 30 days after a request is submitted, the Secretary of State shall hold a hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

§6–206.

The Secretary of State or the Attorney General may make reciprocal agreements with other states to:

(1) exchange information about charitable organizations or charitable representatives; or

(2) accept substantially similar information submitted to those states by charitable organizations or charitable representatives instead of the information required to be submitted under this title.

§6–207.

Except as otherwise provided in this title, the Secretary of State shall pay all money collected under this title into the General Fund of the State.

§6–2A–01.

(a) In this subtitle, "Fund" means the Charitable Enforcement Fund.

(b) There is a Charitable Enforcement Fund in the Office of the Secretary of State.

(c) The purpose of the Fund is to support the actions of the Secretary of State and the Attorney General in administering and enforcing this title and Title 6.5 of this article.

(d) The Secretary of State shall administer the Fund.

(e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(2) The State Treasurer shall hold the Fund separately, and the Comptroller shall account for the Fund.

(f) The Fund consists of:

(1) revenue distributed to the Fund under §§ 6–302 and 6–407 of this title;

(2) money appropriated in the State budget to the Fund; and

(3) any other money from any other source accepted for the benefit of the

Fund.

(g) The Fund may be used only to support the actions of the Secretary of State and the Attorney General in carrying out the duties of the Secretary of State and the Attorney General under this title and Title 6.5 of this article.

(h) The State Treasurer shall invest the money of the Fund in the same manner as other State money may be invested.

(i) Expenditures from the Fund may be made only in accordance with the State budget.

§6–301.

(a) A person must have applied to register appropriately with the Secretary of State whenever the person acts as:

(1) an associate solicitor;

(2) a professional solicitor; or

(3) a fund-raising counsel.

(b) If, within 10 days after a person starts employment as an associate solicitor, the person's name is submitted to the Secretary of State in accordance with this subtitle, the person is deemed to be registered on the first day of employment.

§6–302.

(a) An applicant for registration as a professional solicitor or fund–raising counsel shall:

(1) submit to the Secretary of State an application under oath on the form that the Secretary of State provides;

(2) pay to the Secretary of State an application fee of:

(i) $250 for registration as a fund–raising counsel; or

(ii) $350 for registration as a professional solicitor; and

(3) (i) certify that all taxes due from the applicant to the State or to Baltimore City or a county of the State during the preceding fiscal year have been paid, and all taxes the applicant was required to collect and pay over to the State or to Baltimore City or a county of the State during the preceding fiscal year have been collected and paid over; or

(ii) certify that the taxes due from the applicant to the State or to Baltimore City or a county are under dispute and the dispute has not been finally

resolved.

(b) (1) An applicant for registration as a fund–raising counsel may register and pay a single application fee of $250 to cover all of the applicant's officers, agents, members, and employees who work in fund–raising, if the applicant lists in the application the name and address of each of them.

(2) An applicant for registration as a professional solicitor may register and pay a single application fee of $350 to cover all of the applicant's officers, agents, members, associate solicitors, and employees who work in fund–raising, if the applicant:

(i) lists in the application the name of each current officer, agent, member, associate solicitor, and employee who works in fund–raising; and

(ii) submits to the Secretary of State the name of each person within 10 days after the person starts employment.

(c) Of the revenues collected from the application fees under subsections (a)(2) and (b)(1) and (2) of this section, $50 of the application fee paid by each fund–raising counsel and professional solicitor shall be distributed to the Charitable Enforcement Fund under Subtitle 2A of this title, to be used only to support the actions of the Secretary of State and the Attorney General in carrying out the duties of the Secretary of State and the Attorney General under this title and Title 6.5 of this article.

§6–303.

(a) (1) Except as provided in subsection (c) of this section, on applying for registration as a professional solicitor, an applicant shall execute and submit to the Secretary of State a bond in the sum of $25,000, with surety that the Secretary of State approves.

(2) The bond shall run to the State for the use of the State and each person who may have a cause of action against the applicant for loss resulting from malfeasance, nonfeasance, or misfeasance in the applicant's charitable solicitation.

(3) The applicant shall keep the bond in force as long as the registration is in effect.

(b) An applicant for registration as a professional solicitor shall submit a consolidated bond for all of the officers, agents, members, associate solicitors, subcontractors, and employees of the professional solicitor.

(c) An applicant for registration as a professional solicitor that submits a $25,000 irrevocable letter of credit to the Secretary of State is not required to submit a surety bond under subsection (a) of this section.

(d) The Secretary of State may return a bond or irrevocable letter of credit filed

under this section only if:

(1) 3 years have passed since the registration period to which the bond or letter applies, and there is no pending claim against the bond or letter; or

(2) the registration period to which the bond or letter applies is over, all required accounting reports have been properly completed and filed, and it appears to the satisfaction of the Secretary of State that the person is not in violation of the Maryland Charitable Solicitations Act.

(e) The Secretary of State shall include with an application for registration as a professional solicitor a notice that a person may apply for return of a bond or irrevocable letter of credit after the registration period to which the bond or letter applies.

§6–304.

(a) If the Secretary of State finds that an applicant for registration has complied with this title and the regulations adopted under it, the Secretary of State shall approve the application.

(b) If the Secretary of State finds that an applicant for registration has not complied with this title and the regulations adopted under it applicable to registration, the Secretary of State shall notify the applicant of the reasons the applicant is not in compliance.

§6–305.

Each registration expires on the first anniversary of its effective date.

§6–306.

(a) If a currently registered professional solicitor applies for a new registration and has not yet submitted the accounting required by § 6-506 of this title, the professional solicitor shall submit with the new application:

(1) that accounting; or

(2) an interim accounting, under oath and in a form that the Secretary of State requires, that accounts for all money received and disbursed for each fund-raising drive, campaign, or event through a date within 3 months before the professional solicitor's current registration expires.

(b) A person that acts as a professional solicitor before applying to register as a professional solicitor that has not submitted an accounting under § 6-506 of this title, shall submit with the professional solicitor application:

(1) that accounting; or

(2) an interim accounting, under oath, and in a form that the Secretary of State requires, that accounts for all money received and disbursed for each fund-raising drive, campaign, or event through a date within 3 months before the person filed a professional solicitor application.

§6–307.

(a) A person who has applied to register as an associate solicitor, professional solicitor, or fund-raising counsel may act as such unless and until the Circuit Court for Anne Arundel County or other court of competent jurisdiction orders the applicant to stop.

(b) The Secretary of State has the burden of proof in any proceeding to restrain or enjoin a person from acting as an associate solicitor, professional solicitor, or fund-raising counsel.

(c) The Circuit Court for Anne Arundel County or other court of competent jurisdiction may order a person to stop acting as a fund-raising counsel, associate solicitor, or professional solicitor if the applicant:

(1) has not applied to register;

(2) has not applied to register in the appropriate category;

(3) has not met the registration requirements of the category for which the person has applied; or

(4) has otherwise violated the Maryland Charitable Solicitations Act.

§6–401.

(a) A charitable organization shall register and receive a registration letter from the Secretary of State before the charitable organization:

(1) solicits charitable contributions in the State;

(2) has charitable contributions solicited on its behalf in the State; or

(3) solicits charitable contributions outside of the State, if the charitable organization is in the State.

(b) A separate registration statement and a registration letter is necessary before any of the following charitable organizations can solicit:

(1) a federated fund-raising organization consisting of independent charitable organizations, including a united fund and a community chest, that:

(i) have joined to solicit charitable contributions and distribute them among themselves; but

(ii) keep their own operating authority and control; or

(2) an independent charitable organization, including one that is a member of a federated fund-raising organization, unless it is specifically exempted or it does not solicit charitable contributions other than as a member of a federated fund-raising organization.

(c) (1) A parent organization shall submit a consolidated registration statement for the affiliates, branches, or chapters in the State that it coordinates, controls, or supervises.

(2) An affiliate, branch, or chapter of a charitable organization shall:

(i) report information needed for a consolidated registration statement to its parent organization;

(ii) submit a separate registration statement; and

(iii) receive a registration letter from the Secretary of State prior to soliciting.

(3) For purposes of this subsection, an independent member agency of a federated fund-raising organization is not an affiliate, branch, or chapter.

§6–402.

(a) A registration statement shall be on the form that the Secretary of State provides.

(b) Except as provided in subsection (c) of this section, the registration statement shall contain or be accompanied by:

(1) the name and address of the charitable organization and of any affiliate, branch, or chapter in the State;

(2) the name and address of:

(i) each officer, including each principal salaried executive staff officer, and each other person with final responsibility for the custody and final distribution of the charitable contributions made to the charitable organization; or

(ii) each person who has custody of the financial records of the charitable organization if the charitable organization does not have a local office in the State;

(3) a statement of:

(i) the purposes for which the charitable organization was organized;

(ii) the purposes for which charitable contributions will be used; and

(iii) whether the charitable organization intends to solicit directly or to have a professional solicitor or fund–raising counsel solicit charitable contributions on its behalf;

(4) a copy of the articles of incorporation or other governing instrument of the charitable organization;

(5) a copy of a letter from the Internal Revenue Service, or other evidence, showing the tax–exempt status of the charitable organization;

(6) (i) a copy of federal Form 990 that the charitable organization submits to the Internal Revenue Service; or

(ii) information that the charitable organization states on a form that the Secretary of State provides;

(7) (i) an audit by an independent certified public accountant if the gross income from charitable contributions in the most recently completed fiscal year is at least $500,000; or

(ii) a review by an independent certified public accountant if the gross income from charitable contributions in the most recently completed fiscal year is at least $200,000 but less than $500,000;

(8) an affidavit signed by the chairman, president, or other principal officer attesting to the truth of the registration statement and each supporting document;

(9) (i) a certification that all taxes due from the applicant to the State or to Baltimore City or a county of the State for the preceding fiscal year have been paid, and all taxes the applicant was required to collect and pay over to the State or to Baltimore City or a county of the State for the preceding fiscal year have been collected and paid over; or

(ii) a certification that the taxes due from the applicant to the State or to Baltimore City or a county are under dispute and the dispute has not been finally resolved; and

(10) any other information that the Secretary of State requires by regulation.

(c) The Secretary of State may accept other documentation in place of any item required under subsection (b) of this section.

(d) The Secretary of State may require an audit or review if the amount of gross income is less than $500,000.

§6–403.

The chairman, president, or other principal officer of a charitable organization is personally responsible for the timely submission of the registration statement.

§6–404.

(a) If the Secretary of State finds that an applicant for registration has complied with this title and the regulations adopted under it, the Secretary of State shall approve the application.

(b) (1) If the Secretary of State finds that an applicant for registration has not complied with this title and the regulations adopted under it applicable to registration, the Secretary of State:

(i) shall notify the applicant of the reasons the applicant is not in compliance; and

(ii) for each month or part of a month that the applicant is not in compliance, may assess a fee of $25 30 days after a second notice is sent, by regular mail, to the applicant at the address on file with the Secretary of State.

(2) If the Secretary of State fails to notify the applicant of a noncompliant application within 10 business days as required by paragraph (1) of this subsection, the applicant shall be deemed registered.

(c) (1) An applicant for registration who receives notice of a noncompliant application under subsection (b) of this section may request a hearing with the Secretary of State within 7 business days after receiving the notice.

(2) The Secretary of State shall:

(i) hold a hearing within 7 business days after a request for a hearing from an applicant; and

(ii) make a final decision within 3 business days after the hearing.

§6–405.

(a) Except for parent-teacher organizations and youth sports organizations soliciting charitable contributions for programs for minors, a person exempt under § 6-102(c)(1)(ii)1 or 4 of this title shall submit annually a fund-raising notice to the Secretary of State on the form that the Secretary requires.

(b) A person exempt under § 6-102(c)(1)(ii)2 of this title shall submit an IRS Form 990 to the Secretary of State if required to file one with the Internal Revenue Service.

§6–406.

(a) (1) Unless exempted from registration under § 6-413 of this subtitle, a person may not solicit the public as a charitable organization prior to registration.

(2) The Circuit Court of Anne Arundel County or other court of competent jurisdiction may restrain or enjoin a person from soliciting in violation of paragraph (1) of this subsection.

(b) (1) Except as provided in paragraph (2) of this subsection, the Secretary of State has the burden of proof in any court proceeding:

(i) to restrain or enjoin a charitable organization from soliciting the public; or

(ii) based on an appeal by a charitable organization of a final decision of the Secretary of State under § 6-404(c) of this subtitle.

(2) A charitable organization claiming to be exempt from the requirements of this title has the burden of production of evidence on that issue.

(c) The Circuit Court for Anne Arundel County or other court of competent jurisdiction may order a charitable organization to stop soliciting the public if the charitable organization:

(1) is required to be registered but has not applied to be registered; or

(2) has otherwise violated the Maryland Charitable Solicitations Act.

§6–407.

(a) A charitable organization that collects less than $25,000 in charitable contributions from the public in a year need not pay an annual fee, except that, if the charitable organization uses a professional solicitor, it shall pay an annual fee of $50.

(b) (1) Each charitable organization that submits a separate registration statement and collects at least $25,000 in charitable contributions from the public in a year shall pay an annual fee based on the charitable contributions collected.

(2) The annual fee shall be:

(i) $50, if charitable contributions from the public are at least $25,000 but less than $50,001;

(ii) $75, if charitable contributions from the public are at least $50,001 but less than $75,001;

(iii) $100, if charitable contributions from the public are at least $75,001 but less than $100,001;

(iv) $200, if charitable contributions from the public are at least $100,001 but less than $500,001; and

(v) $300, if charitable contributions from the public are at least $500,001.

(c) (1) An organization failing to file an annual report either by the end of the 6-month period after the end of the charitable organization's fiscal year or within any period of extension granted shall pay, in addition to the annual fee, $25 for each month or part thereof after the date on which the annual report was due to be filed or after the period of extension granted for such filing.

(2) The late fee shall be assessed 60 days after:

(i) the end of the 6th month after the end of the fiscal year; or

(ii) the period of extension.

(3) Failure to remit an assessed late fee is a violation of this title.

(d) Of the revenues collected from the annual fee under subsection (b)(2)(v) of this section, $100 of the annual fee paid by each charitable organization shall be distributed to the Charitable Enforcement Fund under Subtitle 2A of this title, to be used only to support the actions of the Secretary of State and the Attorney General in carrying out the duties of the Secretary of State and the Attorney General under this title and Title 6.5 of this article.

§6–408.

(a) A charitable organization that solicits or intends to solicit charitable contributions after it submits a registration statement to the Secretary of State shall submit an annual report in accordance with this section.

(b) A charitable organization shall submit an annual report to the Secretary of State:

(1) within 6 months after the end of the charitable organization's fiscal year; or

(2) by any later date that the Secretary of State sets.

(c) The annual report shall contain:

(1) any change to the registration statement and to a previous annual report;

(2) the financial information and any supporting audit or review that the Secretary of State requires; and

(3) an affidavit signed by the chairman, president, or other principal officer attesting to the truth of the annual report and all supporting documents.

§6–409.

The chairman, president, or other principal officer of a charitable organization is personally responsible for the timely submission of the annual report.

§6–410.

(a) Within 30 days after receiving a request, a charitable organization shall mail a current financial statement at no charge to the person who requested it.

(b) The financial statement shall contain:

(1) the name, address, and telephone number of the charitable organization;

(2) (i) the amount of total revenue, the amount of total revenue received from charitable contributions, and the amount and percentage of total revenue used by the charitable organization for its management and general expenses, fund-raising expenses, and program service expenses during the preceding fiscal year; or

(ii) if the charitable organization is newly organized, the estimated percentage of charitable contributions being sought that will be used for its management and general expenses, fund-raising expenses, and program service expenses; and

(3) if the charitable organization is registered with the Secretary of State, a declaration that the charitable organization is registered, but that registration is not and does not imply endorsement of any charitable solicitation.

§6–411.

(a) This section does not apply to:

(1) a charitable solicitation by an accredited school, college, or university to its students, former students, parents of students or former students, board members, or staff; or

(2) a formal grant application prepared for and submitted to a specific corporation or foundation.

(b) (1) A charitable solicitation that is a specific written request to the public for a charitable contribution shall contain a disclosure statement.

(2) A written receipt for a charitable contribution shall contain a disclosure statement.

(c) The disclosure statement shall be displayed conspicuously on a charitable solicitation and on a receipt for a charitable contribution.

§6–412.

(a) A charitable organization shall keep accurate financial records about its activities in the State in a form that will enable it to provide the information required under this title.

(b) On request, a charitable organization shall make its financial records available to the Secretary of State for inspection.

(c) A charitable organization shall keep its financial records for at least 3 years after the end of the period of registration to which they relate.

§6–413.

The Secretary of State may exempt from the requirement of a registration statement or annual report a charitable organization that:

(1) is organized under the laws of another state that has a statute substantially similar to this title;

(2) has been exempted from the submission of a registration statement by that other state;

(3) has its principal place of business outside this State; and

(4) gets its money principally from sources outside this State.

§6–414.

A charitable organization may honor a credit card that the board of directors or executive officer of the charitable organization accepts for payment of charitable contributions.

§6–415.

An individual who is a director, officer, partner, or trustee of a charitable organization may not vote to authorize, approve, or ratify a contract or transaction related to charitable solicitations if the individual has a material financial interest or a material conflicting interest in the contract or transaction.

§6–416.

(a) A charitable organization may solicit charitable contributions or spend them only for a charitable purpose that is stated in its registration statement and most recent annual report.

(b) On the request of a donor, a charitable organization shall provide the donor with a statement of the programs and uses for which the funds are requested.

(c) A charitable organization shall establish and exercise controls over fund-raising activities conducted for its benefit, by itself or by a professional solicitor or fund-raising counsel.

(d) A charitable organization may not misrepresent the purpose for which funds are solicited.

§6–417.

A charitable organization that intends to end soliciting shall submit to the Secretary of State:

(1) a statement of its intent; and

(2) a final annual report within 6 months after the end of its fiscal year.

§6–501.

(a) An agreement between a charitable organization and a fund–raising counsel or professional solicitor and any subcontract or other contract in furtherance of such an agreement shall be in writing.

(b) A fund–raising counsel or professional solicitor shall submit to the Secretary of State a copy of all agreements under subsection (a) of this section on or before the earlier of:

(1) the tenth day after the agreement is made; or

(2) the start of a charitable solicitation.

(c) The text that a professional solicitor or associate solicitor uses in a charitable solicitation shall be attached to the agreement and shall include:

(1) the name of the charitable organization for which the charitable solicitation is made;

(2) the specific charitable purpose that is to be advanced with charitable contributions as shown in the registration statement; and

(3) a statement that the person who solicits charitable contributions:

(i) is a paid fund–raiser; and

(ii) on request, will provide a copy of the charitable organization's financial statement.

(d) An agreement between a professional solicitor, fund–raising counsel, or charitable organization and a person engaged to receive or hold contributions resulting from a professional solicitor or fund–raising counsel agreement shall be attached to the professional solicitor or fund–raising counsel agreement filed with the Secretary of State.

(e) An agreement between a charitable organization and a fund–raising counsel or professional solicitor may not contain a provision that states:

(1) that the charitable organization may not use contributions from a solicitation for its charitable purposes until some or all fund–raising expenses have been paid; or

(2) that the professional solicitor or fund–raising counsel may engage in a direct mail or other solicitation in the charity's name for the purpose of paying or offsetting preexisting fund–raising expenses.

§6–502.

(a) (1) A professional solicitor shall submit a fund-raising notice to the Secretary of State before starting a public solicitation.

(2) The notice shall be submitted on the form that the Secretary of State provides.

(b) The notice shall contain the information that the Secretary of State requires, including each fund-raising method to be used and the dates set for each fund-raising drive, event, or campaign of the charitable solicitation.

§6–503.

(a) This section does not apply to a raffle or other game of chance that a charitable organization holds in a county under the laws applicable to the county.

(b) (1) If a person, in connection with a written charitable solicitation, offers a contest, sweepstakes, or other promotion, the person shall disclose in writing to each offeree:

(i) the manufacturer's suggested retail price or comparable retail price of each prize offered;

(ii) the conditions to be met to receive a prize; and

(iii) that to receive the prize offered in the promotion the offeree may not be required to:

1. buy goods or services;

2. pay money; or

3. submit to a promotion.

(2) If the contest, sweepstakes, or other promotion involves awarding prizes by chance, the person shall also disclose in writing to each offeree:

(i) the exact number of prizes offered in each category;

(ii) how to get a list of winners, if a prize with a retail price or monetary value of more than $100 is offered;

(iii) whether each prize offered will be awarded;

(iv) the date when winners will be determined; and

(v) 1. the odds of winning each prize, if they can be calculated in advance; or

2. that the odds of winning will be determined by the number of entries, if the odds cannot be calculated in advance.

(c) Each disclosure required under this section shall appear on the first page of the prize notification document.

§6–504.

Within 30 days after receiving a charitable contribution as a result of a charitable solicitation by telephone, a professional solicitor shall send the contributor a written receipt that contains:

(1) the name and address of the professional solicitor;

(2) a disclosure statement; and

(3) other information that the Secretary of State requires.

§6–505.

(a) A professional solicitor shall deposit each charitable contribution that the professional solicitor receives into a bank account established by the charitable organization.

(b) A professional solicitor may not be authorized to withdraw money from the bank account of the charitable organization.

§6–506.

(a) Within 3 months after the end of each fund-raising drive, campaign, or

event, a professional solicitor shall submit to the Secretary of State, on the form that the Secretary of State provides, an accounting under oath of all money received and disbursed on a gross basis.

(b) The professional solicitor and an authorized official of the charitable organization for which the professional solicitor acts shall sign the accounting and certify that it is true to the best of their knowledge.

§6–507.

(a) For each fund–raising drive, campaign, or event, a professional solicitor shall keep records that show:

(1) all compensation received for services rendered and expenses incurred;

(2) the name and address of each associate solicitor;

(3) the amount of compensation paid to each associate solicitor and the dates when payments were made;

(4) the name, address, and telephone number of each person solicited who made a pledge or charitable contribution;

(5) the date of each charitable solicitation;

(6) each amount pledged or contributed; and

(7) if a refund was requested, the date the refund was made.

(b) The professional solicitor shall keep the records for at least 3 years after the end of the fund–raising drive, campaign, or event.

(c) (1) A professional solicitor shall make the records available to the Secretary of State for inspection and copying upon reasonable notice and at any hearing that the Secretary of State holds.

(2) If the records of an organization are maintained outside the State, upon reasonable notice, the organization shall make the records or certified copies of the records available at the Office of the Secretary of State.

§6–508.

Charitable organizations and charitable representatives and the directors, officers, partners, and trustees of charitable organizations and charitable representatives are fiduciaries as to the charitable contributions they collect or spend.

§6–509.

(a) The only persons liable under this section are:

(1) charitable organizations;

(2) charitable representatives; and

(3) officers, directors, partners, or trustees of charitable organizations or charitable representatives.

(b) Except as provided in subsection (d) of this section, a person who willfully fails to comply with a requirement of this title as to a charitable contribution made because of a charitable solicitation is liable to the donor of the charitable contribution for:

(1) actual damages that the donor sustains because of the failure;

(2) punitive damages that the court allows, not exceeding 3 times the actual damages; and

(3) reasonable attorney's fees and costs of the action, if damages are awarded.

(c) Except as provided in subsection (d) of this section, a person who is grossly negligent in failing to comply with a requirement of this title as to a charitable contribution made because of a charitable solicitation is liable to the donor of the charitable contribution for:

(1) actual damages that the donor sustains because of the failure; and

(2) reasonable attorney's fees and costs of the action, if damages are awarded.

(d) A person is not liable under this section if the person establishes by a preponderance of the evidence that, at the time of the failure to comply with a requirement under this title, the person followed reasonable procedures to comply.

§6–5A–01.

A person is prohibited from acting as a public safety solicitor unless the person has applied to register with the Secretary of State.

§6–5A–02.

An applicant for registration as a public safety solicitor shall:

(1) submit to the Secretary of State an application under oath on the form the Secretary of State provides for each public safety organization on whose behalf the applicant is soliciting in the State;

(2) pay to the Secretary of State an application fee of $100 for registration as a public safety solicitor;

(3) (i) certify that all taxes due from the applicant to the State or to Baltimore City or a county of the State during the preceding fiscal year have been paid, and all taxes the applicant was required to collect and pay over to the State or to Baltimore City or a county of the State during the preceding fiscal year have been collected and paid over; or

(ii) certify that the taxes due from the applicant to the State or to Baltimore City or a county are under dispute and the dispute has not been finally resolved; and

(4) provide any other nonproprietary information that the Secretary of State requires by regulation.

§6–5A–03.

(a) (1) Except as provided in subsections (c) and (f) of this section, on applying for registration as a public safety solicitor, an applicant shall execute and submit to the Secretary of State a bond in the sum of $25,000, with surety that the Secretary of State approves.

(2) The bond shall run to the State for the use of the State and each person who may have a cause of action against the applicant for loss resulting from malfeasance, nonfeasance, or misfeasance in the applicant's public safety solicitation.

(b) An applicant for registration as a public safety solicitor shall submit a consolidated bond for all of the officers, agents, members, subcontractors, and employees of the public safety solicitor.

(c) An applicant for registration as a public safety solicitor that submits a $25,000 irrevocable letter of credit to the Secretary of State is not required to submit a surety bond under subsection (a) of this section.

(d) The Secretary of State may return a bond or irrevocable letter of credit filed under this section only if:

(1) 3 years have passed since the registration period to which the bond or letter applies, and there is no pending claim against the bond or letter; or

(2) the registration period to which the bond or letter applies expires and it appears to the satisfaction of the Secretary of State that the person is not in violation of this subtitle.

(e) The Secretary of State shall include with an application for registration as a public safety solicitor a notice that a person may apply for return of a bond or irrevocable letter of credit after the registration period to which the bond or letter applies.

(f) A public safety solicitor with a current registration shall not be required to execute and submit to the Secretary of State an additional bond or irrevocable letter of

credit for each public safety organization on whose behalf public safety contributions will be solicited, provided that a separate application is submitted for each organization.

§6–5A–04.

(a) If the Secretary of State finds that an applicant for registration has complied with this title and the regulations adopted under it, the Secretary of State shall approve the application.

(b) If the Secretary of State finds that an applicant for registration has not complied with this title and the regulations adopted under it applicable to registration, the Secretary of State shall notify the applicant of the reasons the applicant is not in compliance.

§6–5A–05.

Each registration expires on the first anniversary of its approval date.

§6–5A–06.

A public safety solicitor shall include in all written solicitations and receipts for public safety contributions:

(1) a toll free telephone number of the public safety solicitor within the local area code in which the public safety contribution is solicited for individuals or businesses solicited to obtain verification of authenticity or make complaints;

(2) a statement that, for the cost of copying and postage, information submitted under this title is available from the Secretary of State; and

(3) the address and the telephone number of the Secretary of State.

§6–5A–07.

(a) A public safety solicitor may not solicit public safety contributions unless the script of an oral solicitation and a copy of a written solicitation:

(1) is approved by the public safety organization on whose behalf the public safety contribution is solicited; and

(2) includes:

(i) the specific purpose that is to be advanced with public safety contributions; and

(ii) a statement that the person is soliciting on behalf of a public safety organization.

(b) A copy of the approved script of an oral solicitation and a copy of a written

solicitation shall be made available to the Secretary of State upon request.

§6–5A–08.

A public safety solicitor may not:

(1) falsely state, imply, or mislead, directly or indirectly, the person solicited for a public safety contribution that the public safety solicitor is a fire fighting, ambulance, rescue, police, fraternal, or other law enforcement employee or member;

(2) send an individual to personally pick up a public safety contribution from a private residence, business, or any other location, unless the individual presents at the time of the solicitation, collection, or attempt to collect:

(i) photo identification; and

(ii) correspondence from the public safety organization authorizing the public safety solicitor to solicit on behalf of the public safety organization for a stated period of time;

(3) solicit in the State using an alias, fictitious, or false name other than the full name of the public safety organization on whose behalf the public safety contribution is solicited as stated in the application for registration as a public safety solicitor; or

(4) promise, directly or indirectly, or imply that the individual or business being solicited will receive any additional or different law enforcement services or treatment by a fire fighting, ambulance, rescue, police, fraternal, or other law enforcement organization or employee as a result of a pledge or refusal to make a public safety contribution.

§6–5A–09.

(a) An applicant for registration as a public safety solicitor or a registered public safety solicitor may not willfully or in a grossly negligent way:

(1) submit to the Secretary of State a registration statement or other information that is materially false; or

(2) commit a violation of this subtitle.

(b) A principal owner or employee of the public safety solicitor may not willfully or in a grossly negligent way commit or cause to commit a violation of this subtitle.

§6–5A–10.

(a) A person that engages in soliciting public safety contributions without prior application for registration as a public safety solicitor is guilty of a misdemeanor and,

on conviction, is subject to a fine not exceeding 10 times the value of the total amount of funds improperly solicited or imprisonment not exceeding 1 year or both.

(b) A person convicted of a violation of this section may:

(1) be prohibited from acting as a public safety solicitor for a period up to 10 years beginning on the date of the conviction; and

(2) be ordered to refund all improperly solicited public safety contributions to the donors who made such contributions.

§6–5A–11.

(a) A person who commits a willful violation of this subtitle:

(1) is guilty of a misdemeanor;

(2) is subject, on conviction, to a fine not exceeding three times the value of the total gross amount of funds solicited by the public safety solicitor or imprisonment not exceeding 1 year or both; and

(3) shall forfeit to the Secretary of State the bond required in § 6-5A-03 of this subtitle.

(b) A person who commits a grossly negligent violation of this subtitle:

(1) is guilty of a misdemeanor;

(2) is subject, on conviction, to a fine not exceeding the gross amount of funds solicited by the public safety solicitor or liability for restitution that the court determines or both; and

(3) shall forfeit to the Secretary of State the bond required in § 6-5A-03 of this subtitle.

§6–601.

(a) A person may not act as an associate solicitor, professional solicitor, or fund-raising counsel unless the person has applied to register appropriately with the Secretary of State.

(b) An associate solicitor may not solicit money from the public for a professional solicitor unless the professional solicitor has applied to register with the Secretary of State and can show evidence of the application.

§6–602.

A professional solicitor may not employ, pay, agree to pay, or otherwise use the services of a person to make a charitable solicitation unless the person:

(1) is registered with the Secretary of State as an associate solicitor; or

(2) becomes registered with the Secretary of State within 10 days after the person starts acting as an associate solicitor.

§6–603.

(a) A professional solicitor or fund-raising counsel may not make an agreement with a charitable organization unless the charitable organization has applied to register with the Secretary of State or is otherwise exempt.

(b) A charitable organization may not make an agreement with a professional solicitor or fund-raising counsel unless the professional solicitor or fund-raising counsel has applied to register with the Secretary of State or is otherwise exempt.

§6–604.

(a) A charitable representative or a charitable organization may not lead the public to believe that registration is an endorsement or approval by the State.

(b) Use of the following statement is allowed: "Registered with the Secretary of State of Maryland as required by law. Registration is not an endorsement of a public solicitation for contributions".

§6–605.

A fund-raising counsel may not receive compensation from a charitable organization if the compensation depends wholly or partly on the number or value of charitable contributions that result from the effort of the fund-raising counsel.

§6–606.

A person may not apply a charitable contribution in a way substantially inconsistent with the charitable solicitation.

§6–607.

A person may not use false or materially misleading advertising or promotional material in connection with a charitable solicitation.

§6–608.

(a) In connection with a charitable solicitation, a charitable organization or charitable representative may not commit an act or engage in a practice that by affirmative representation or by omission is misleading about anything important to, or likely to affect, another person's decision to make a charitable contribution.

(b) An act or practice prohibited by this section is a violation of this section, whether or not a person has been misled, deceived, or damaged.

§6–609.

(a) Unless authorized by a charitable organization, a person may not:

(1) represent that a charitable contribution is requested for the charitable organization; or

(2) use a name, symbol, emblem, device, service mark or printed matter that belongs to or is associated with the charitable organization to solicit charitable contributions.

(b) In soliciting charitable contributions for a charitable organization, a person may not use a name, symbol, emblem, device, service mark, or printed matter so similar to that of another established charitable organization that the use might confuse or mislead the public.

§6–610.

A person may not falsely represent that:

(1) the person on whose behalf a solicitation or sale is made is a charitable organization; or

(2) the proceeds of a solicitation or sale will be used for a charitable purpose.

§6–611.

(a) A person may not represent that another person sponsors, endorses, or approves of a charitable solicitation, the sale of goods or services for a charitable purpose, a charitable purpose, or a charitable organization without the consent of the other person.

(b) A member of the board of directors or trustee of a charitable organization or a person who volunteers to participate in a charitable solicitation is deemed to have consented to the use of the person's name in the charitable solicitation.

§6–612.

A person may not continue to solicit charitable contributions for a charitable organization after the contract between the person and the charitable organization is canceled.

§6–613.

(a) A charitable organization or a charitable representative may not willfully:

(1) fail to submit to the Secretary of State when required a registration statement, annual report, or other information; or

(2) submit to the Secretary of State a registration statement, report, or other information that is materially false.

(b) A director, officer, partner, or trustee of a charitable organization or charitable representative may not cause the charitable organization or charitable representative to violate this title willfully.

§6–614.

(a) A charitable organization or a charitable representative may not in a grossly negligent way:

(1) fail to submit to the Secretary of State when required a registration statement, annual report, or other information; or

(2) submit to the Secretary of State a registration statement, report, or other information that is materially false.

(b) A director, officer, partner, or trustee of a charitable organization or charitable representative may not cause the charitable organization or charitable representative to violate this title in a grossly negligent way.

§6–615.

A person may not act as a fund-raising counsel unless the person's agreement with the charitable organization states:

(1) the names and addresses of the parties;

(2) the services to be provided;

(3) the number of persons to be involved in providing the services;

(4) the time when the services are to be provided; and

(5) the method and formula for compensation.

§6–616.

A person may not act as a professional solicitor unless the person's agreement with the charitable organization states:

(1) the names and addresses of the parties;

(2) the minimum percentage of the gross receipts from charitable solicitations that will be used by the charitable organization exclusively to advance its charitable purposes;

(3) the text that the professional solicitor or associate solicitor will use in

each charitable solicitation; and

(4) any other information that the Secretary of State requires by regulation.

§6–617.

A professional solicitor or associate solicitor may not solicit charitable contributions for or in the name of a charitable organization unless the professional solicitor or associate solicitor:

(1) has written authorization that contains:

(i) the consent of 2 officers of the charitable organization;

(ii) the signature of the professional solicitor; and

(iii) an express statement of the term of the authorization;

(2) submits a copy of the authorization to the Secretary of State; and

(3) on request, shows a copy of the authorization and personal identification to a person who is solicited.

§6–618.

(a) This section does not apply to a raffle or other game of chance that a charitable organization holds in a county under the laws applicable to the county.

(b) As part of an advertising plan in connection with a charitable solicitation, a person may not notify another person that the other person has won a prize, has received an award, or has been chosen or is eligible to receive a thing of value if the other person is required to:

(1) buy goods or services;

(2) pay money; or

(3) submit to a promotion.

§6–619.

(a) A person who commits a willful violation of this title or who causes a person to commit a willful violation of this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

(b) A person who commits a grossly negligent violation of this title or who causes a person to commit a grossly negligent violation of this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $3,000 or liability for restitution

that the court determines or both.

§6–620.

A person who places in an establishment or other location open to the public a vending machine, canister, or other device or container for the deposit of money that reflects the name of a charitable organization or a charitable purpose shall:

(1) state on the device or container:

(i) the address of the charitable organization named; and

(ii) the name and address of the business placing the device or container, if not the charitable organization; and

(2) state on the device or container and to the person who grants permission for the placement of the device or container that a portion of the money deposited is retained by the business placing the device or container and that the remainder is given to a charitable organization or used for charitable purposes, if less than all of the money deposited is given to a charitable organization or used for charitable purposes.

§6–621.

A television or radio broadcasting station or a publisher or printer of a newspaper, magazine, Web site, or other form of advertising that broadcasts, publishes, or prints a charitable solicitation that violates this title is not liable for the violation, unless the station, publisher, or printer has knowledge that the charitable solicitation violates this title.

§6–622.

A person may not knowingly, with the intent to retaliate, take any action harmful to any individual, including interference with the lawful employment or livelihood of the individual, because the individual provided to a law enforcement officer, the Secretary of State, or the Attorney General any truthful information relating to the commission or possible commission of any federal or State offense.

§6–701.

This title is the Maryland Solicitations Act.

§6.5–101.

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

(b) (1) "Charitable asset" means property that is given, received, or held for a charitable purpose, including all interest in:

(i) real property; or

(ii) tangible or intangible personal property.

(2) "Charitable asset" includes:

(i) cash;

(ii) remainder interests;

(iii) conservation or preservation easements or restrictions; and

(iv) charitable contributions.

(3) "Charitable asset" does not include property acquired or held for a for–profit purpose.

(c) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose whose achievement is beneficial to the community.

§6.5–102.

(a) The Attorney General shall represent the public interest in the protection of charitable assets and may:

(1) enforce the application of a charitable asset in accordance with:

(i) the law and terms governing the use, management, investment, distribution, and expenditure of the charitable asset; and

(ii) the charitable purpose of the person holding the charitable asset;

(2) act to prevent or remedy:

(i) the misapplication, diversion, or waste of a charitable asset; or

(ii) a breach of fiduciary or other legal duty in the governance, management, or administration of a charitable asset; and

(3) commence or intervene in an action to:

(i) prevent, remedy, or obtain damages for:

1. the misapplication, diversion, or waste of a charitable asset; or

2. a breach of fiduciary or other legal duty in the governance, management, or administration of a charitable asset;

(ii) enforce this title; or

(iii) determine that an asset is a charitable asset.

(b) If the Attorney General has reason to believe an investigation is necessary to determine whether action may be advisable under this section, the Attorney General may conduct an investigation, including exercising subpoena power.

§6.5–103.

(a) If the Secretary of State and the Attorney General find or have reasonable grounds to believe that a person has misapplied, diverted, or wasted a charitable asset or breached a fiduciary or other legal duty in the governance, management, or administration of a charitable asset, the Secretary of State and the Attorney General may enter into a settlement agreement that includes:

(1) payment by the responsible party of the value by which the charitable asset has been diminished; or

(2) transfer of the charitable asset to another charitable organization consistent with the charitable asset's charitable purpose.

(b) The Attorney General may sue in the circuit court for the county in which the alleged violation occurred for an order that:

(1) restrains the responsible party from misapplying, diverting, or wasting a charitable asset in the State; and

(2) secures:

(i) payment of the value by which the charitable asset has been diminished; or

(ii) transfer of the charitable asset to another charitable organization consistent with the charitable asset's charitable purpose.

(c) The remedies under this section are in addition to and do not limit the powers and duties of the Secretary of State and the Attorney General under § 6–205 of this article or § 6.5–102 of this title.

§6.5–104.

Any action or other remedy enforcing this title is subject to any immunity or limitation on liability available under State or federal law or at common law.

§6.5–105.

An action to enforce this title shall be brought within 3 years after the alleged violation occurred.

§7–101.

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

(b) "Board" means the State Collection Agency Licensing Board.

(c) "Collection agency" means a person who engages directly or indirectly in the business of:

(1) (i) collecting for, or soliciting from another, a consumer claim; or

(ii) collecting a consumer claim the person owns, if the claim was in default when the person acquired it;

(2) collecting a consumer claim the person owns, using a name or other artifice that indicates that another party is attempting to collect the consumer claim;

(3) giving, selling, attempting to give or sell to another, or using, for collection of a consumer claim, a series or system of forms or letters that indicates directly or indirectly that a person other than the owner is asserting the consumer claim; or

(4) employing the services of an individual or business to solicit or sell a collection system to be used for collection of a consumer claim.

(d) "Commissioner" means the Commissioner of Financial Regulation.

(e) "Consumer claim" means a claim that:

(1) is for money owed or said to be owed by a resident of the State; and

(2) arises from a transaction in which, for a family, household, or personal purpose, the resident sought or got credit, money, personal property, real property, or services.

(f) "License" means a license issued by the Board to do business as a collection agency.

(g) "Licensed collection agency" means a person who is licensed by the Board to do business as a collection agency.

§7–102.

(a) (1) In this section the following words have the meanings indicated.

(2) "Common ownership" means direct or indirect ownership of more than 50% of a person.

(3) "Principal business" means a business activity of a person that

comprises more than 50% of the total business activities of the person.

(b) This title does not apply to:

(1) a bank;

(2) a federal or State credit union;

(3) a mortgage lender;

(4) a person acting under an order of a court of competent jurisdiction;

(5) a licensed real estate broker, or an individual acting on behalf of the real estate broker, in the collection of rent or allied charges for property;

(6) a savings and loan association;

(7) a title company as to its escrow business;

(8) a trust company;

(9) a lawyer who is collecting a debt for a client, unless the lawyer has an employee who:

(i) is not a lawyer; and

(ii) is engaged primarily to solicit debts for collection or primarily makes contact with a debtor to collect or adjust a debt through a procedure identified with the operation of a collection agency; or

(10) a person who is collecting a debt for another person if:

(i) both persons are related by common ownership;

(ii) the person who is collecting a debt does so only for those persons to whom it is related by common ownership;

(iii) the principal business of the person who is collecting a debt is not the collection of debts; and

(iv) before collecting a debt, the person files with the Board:

1. the correct name of the person;

2. an address and telephone number of a contact person; and

3. the name of the person's resident agent.

§7–103.

(a) This title does not prohibit the State Division of Consumer Protection or a local consumer protection unit from enforcing the Maryland Consumer Debt Collection Act or local law.

(b) A local or State unit may not bring an action against a licensed collection agency for a specific violation or complaint for which an action against the licensed collection agency has been brought by:

(1) the Board under this title; or

(2) the State Division of Consumer Protection or a local consumer protection unit under the Maryland Consumer Debt Collection Act or under local law.

§7–104.

Only the State may require a person to hold a license or to pay a fee to do business as a collection agency.

§7–201.

There is a State Collection Agency Licensing Board in the Office of the Commissioner of Financial Regulation in the Department.

§7–202.

(a) (1) The Board consists of the following 5 members:

(i) as an ex officio member, the Commissioner; and

(ii) 4 members appointed by the Governor with the advice and consent of the Senate.

(2) Of the 4 appointed members:

(i) 2 shall represent collection agencies; and

(ii) 2 shall be consumer members.

(b) (1) Each consumer member of the Board:

(i) shall be a member of the general public; and

(ii) shall be:

1. an officer or member of the board of a recognized consumer group in the State; or

2. an employee of a local consumer protection unit in the State.

(2) A consumer member of the Board may not:

(i) be a licensee or otherwise be subject to regulation by the Board; or

(ii) within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Board.

(c) While a member of the Board, a consumer member may not have a financial interest in or receive compensation from a person regulated by the Board.

(d) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of an appointed member is 4 years and begins on July 1.

(2) At the end of a term, an appointed member continues to serve until a successor is appointed and qualifies.

(3) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(f) (1) The Governor may remove an appointed member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned who has been appointed to the Board by the Governor if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§7–203.

The Commissioner is chairman of the Board.

§7–204.

(a) The Board shall set the times and places of its meetings.

(b) Each member of the Board is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) The Board may employ a staff in accordance with the State budget.

§7–205.

(a) To carry out this title, the Board may, subject to § 7-103(b) of this title:

(1) receive a written complaint and hold a hearing on an alleged violation by a collection agency of the Maryland Consumer Debt Collection Act or this title;

(2) mediate a dispute between a consumer and a collection agency and suggest monetary compensation of the consumer in an amount agreeable to the consumer and collection agency or other appropriate resolution or both; and

(3) issue orders:

(i) to cease and desist from the violation and any further similar violations; or

(ii) requiring the violator to take affirmative action to correct the violation.

(b) If a violator fails to comply with a lawful order issued by the Board, the Board may impose a penalty of up to $500 for each violation cited in the order, not to exceed $5,000, from which the violator failed to cease and desist or for which the violator failed to take affirmative action to correct, as ordered by the Board.

(c) In determining the amount of any penalty to be imposed under subsection (b) of this section, the Board shall consider:

(1) the seriousness of the violation;

(2) the good faith of the violator;

(3) the violator's history of previous violations;

(4) the deleterious effect of the violation on the public and the collection industry; and

(5) any other factors relevant to the determination of the financial penalty.

§7–206.

The Board shall pay all money collected under this title into the general fund of the State.

§7–301.

(a) Except as otherwise provided in this title, a person must have a license whenever the person does business as a collection agency in the State.

(b) This section does not apply to:

(1) a regular employee of a creditor while the employee is acting under the general direction and control of the creditor to collect a consumer claim that the creditor owns; or

(2) a regular employee of a licensed collection agency while the employee is acting within the scope of employment.

§7–302.

(a) (1) An applicant for a license shall:

(i) submit to the Board an application on the form that the Board provides; and

(ii) pay to the Board:

1. an application fee in the amount set by the Board; and

2. an investigation fee in the amount set by the Board.

(2) The fees authorized under this subsection may not exceed a total of $900 for a 2–year term.

(b) An application shall be made under oath.

(c) If an applicant wishes to do business as a collection agency at more than 1 place, the applicant shall submit a separate application and pay a separate application fee for each place.

(d) An application fee is nonrefundable.

(e) Before a license expires, the licensee periodically may renew the license for additional 2–year terms, if the licensee:

(1) otherwise is entitled to be licensed;

(2) pays to the Board a renewal fee in an amount, not exceeding $900, set by the Board;

(3) submits to the Board a renewal application on a form required by the Board; and

(4) files with the Board a bond or bond continuation certificate as required under § 7–304 of this subtitle.

§7–302.1.

(a) Subject to § 7–302(a)(2) and (e)(2) of this subtitle, the Board shall set by regulation the fees provided for in this subtitle.

(b) The fees established by the Board under this section shall be reasonable and set in a manner that will produce funds sufficient to cover the actual direct and indirect costs of regulating collection agencies in accordance with the provisions of this title.

(c) The Board shall publish the fee schedule set by the Board.

§7–303.

(a) Within 60 days after an applicant submits an application for a license and pays the application fee, the Board shall approve or deny the application.

(b) To qualify for a license, an applicant shall satisfy the Board that the applicant is of good moral character and has sufficient financial responsibility, business experience, and general fitness to:

(1) engage in business as a collection agency;

(2) warrant the belief that the business will be conducted lawfully, honestly, fairly, and efficiently; and

(3) command the confidence of the public.

(c) The Board may deny an application for a license to any person who:

(1) has committed any act that would be a ground for reprimand, suspension, or revocation of a license under this subtitle; or

(2) otherwise fails to meet the requirements for licensure.

(d) (1) The denial of an application under this section is subject to the hearing provisions of § 7–309 of this subtitle.

(2) An applicant who seeks a hearing on a license application denial shall file a written request for a hearing within 45 days following receipt of the notice to the applicant of the applicant's right to a hearing.

§7–304.

(a) (1) An applicant for a license shall execute a surety bond for the benefit of any member of the public who has a loss or other damage as a result of a violation of this title or the Maryland Consumer Debt Collection Act by the applicant or an agent

or employee of the applicant.

(2) The surety bond shall be:

(i) in a form that the Board approves;

(ii) with a surety that the Board approves; and

(iii) in the amount of $5,000.

(3) The total liability of a surety on a bond under this section may not exceed the amount of the bond, regardless of the number or amount of claims against the bond.

(4) If the amount of claims against a bond exceeds the amount of the bond, the surety:

(i) shall pay the amount of the bond to the Board for distribution to claimants; and

(ii) then is relieved of liability under the bond.

(b) The Board shall issue a license to each applicant who meets the requirements of this subtitle.

§7–305.

(a) A license authorizes the licensee to do business as a collection agency at only 1 place of business.

(b) A licensee may hold more than 1 license under this title.

§7–306.

(a) (1) A license issued on or before September 30, 1997, expires on December 31 of the year in which it was issued.

(2) A license issued on or after October 1, 1997, expires on December 31 in each odd-numbered year after December 31, 1997.

(b) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

§7–307.

(a) A licensee may surrender a license by giving the Board written notice that the license is surrendered.

(b) Surrender of a license does not affect:

(1) the civil or criminal liability of the licensee for an act committed before surrender of the license; or

(2) the obligation of a claim that the licensee lawfully acquired before the surrender.

§7–308.

(a) Subject to the hearing provisions of § 7–309 of this subtitle, the Board may reprimand a licensee or suspend or revoke a license if the licensee or any owner, director, officer, member, partner, or agent of the licensee:

(1) makes any material misstatement in an application for a license;

(2) is convicted under the laws of the United States or of any state of:

(i) a felony; or

(ii) a misdemeanor that is directly related to the fitness and qualification of the person to engage in the collection agency business;

(3) in connection with the collection of any consumer claim:

(i) commits any fraud; or

(ii) engages in any illegal or dishonest activities;

(4) knowingly or negligently violates the Maryland Consumer Debt Collection Act; or

(5) fails to comply with a lawful order that the Board passes under this title.

(b) If the Board finds that a ground for suspension or revocation of a license applies to more than 1 place of business that the licensee operates, the Board may act against:

(1) each license of the licensee; or

(2) only the licenses to which the ground applies.

(c) In determining whether to reprimand a licensee or to suspend or revoke a license for a reason described in subsection (a)(2) of this section, the Board shall consider:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the licensee to engage in the collection agency business;

(4) the length of time since the conviction; and

(5) the behavior and activities of the licensee since the conviction.

§7–309.

(a) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Board takes any final action under § 7-308 of this subtitle, or under § 7-205 of this title, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Board.

(2) A hearing shall be held at a time and place reasonably convenient to the parties.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Board may administer oaths in connection with a proceeding under this section.

(d) The Board may issue a subpoena for the attendance of a witness to testify at a hearing under this section, but not for investigative purposes.

(e) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Board may hear and determine the matter.

(f) The Board may enforce a lawful order issued under this title by filing an action to enforce the order in the circuit court for the county:

(1) where the licensee which is the subject of the order has its principal place of business; or

(2) if the licensee has no principal place of business in the State, where the consumer aggrieved by the violation resides.

§7–310.

A party to a proceeding before the Board who is aggrieved by a final decision of the Board in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§7–311.

The suspension or revocation of a license does not affect the obligation of a claim that the licensee lawfully acquired before the suspension or revocation.

§7–401.

(a) Except as otherwise provided in this title, a person may not knowingly and willfully do business as a collection agency in the State unless the person has a license.

(b) A person who violates this section is guilty of a misdemeanor, and on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

§7–501.

This title is the Maryland Collection Agency Licensing Act.

§7–502.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on July 1, 2022.

§8–101.

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

(b) "Commission" means the Maryland Home Improvement Commission.

(c) "Contractor" means a person, other than an employee of an owner, who performs or offers or agrees to perform a home improvement for an owner.

(d) "Contractor license" means a license issued by the Commission to act as a contractor.

(e) "Fund" means the Home Improvement Guaranty Fund.

(f) "Hearing board" means a home improvement hearing board appointed by the Commission under § 8-313 of this title.

(g) (1) "Home improvement" means:

(i) the addition to or alteration, conversion, improvement, modernization, remodeling, repair, or replacement of a building or part of a building that is used or designed to be used as a residence or dwelling place or a structure adjacent to that building; or

(ii) an improvement to land adjacent to the building.

(2) "Home improvement" includes:

(i) construction, improvement, or replacement, on land adjacent to the building, of a driveway, fall–out shelter, fence, garage, landscaping, deck, pier,

porch, or swimming pool;

(ii) a shore erosion control project, as defined under § 8–1001 of the Natural Resources Article, for a residential property;

(iii) connection, installation, or replacement, in the building or structure, of a dishwasher, disposal, or refrigerator with an icemaker to existing exposed household plumbing lines;

(iv) installation, in the building or structure, of an awning, fire alarm, or storm window; and

(v) work done on individual condominium units.

(3) "Home improvement" does not include:

(i) construction of a new home;

(ii) work done to comply with a guarantee of completion for a new building project;

(iii) connection, installation, or replacement of an appliance to existing exposed plumbing lines that requires alteration of the plumbing lines;

(iv) sale of materials, if the seller does not arrange to perform or does not perform directly or indirectly any work in connection with the installation or application of the materials;

(v) work done on apartment buildings that contain four or more single–family units; or

(vi) work done on the commonly owned areas of condominiums.

(h) "Home improvement contract" means an oral or written agreement between a contractor and owner for the contractor to perform a home improvement.

(i) (1) "License" means, except where it refers to a license other than one issued under this title, a license issued by the Commission.

(2) "License" includes:

(i) a contractor license;

(ii) a subcontractor license; and

(iii) a salesperson license.

(j) "Licensed contractor" means a person who is licensed by the Commission to act as a contractor.

(k) "Owner" includes a homeowner, tenant, or other person who buys, contracts for, orders, or is entitled to a home improvement.

(l) "Salesperson" means a person who sells a home improvement.

(m) "Salesperson license" means a license issued by the Commission to sell a home improvement.

(n) "Sell a home improvement" means:

(1) to negotiate or offer to negotiate a home improvement contract with an owner; or

(2) to seek to get a home improvement contract from an owner.

(o) "Subcontractor" means a person, other than a laborer or supplier of materials, who makes an oral or written agreement with:

(1) a contractor to perform all or part of a home improvement contract; or

(2) another subcontractor to perform all or part of a subcontract to a home improvement contract.

(p) "Subcontractor license" means a license issued by the Commission to act as a subcontractor.

§8–102.

(a) This title does not apply to a transaction of:

(1) the United States or an instrumentality of the United States; or

(2) a state or an instrumentality or political subdivision of a state.

(b) A county or municipal corporation of the State may not:

(1) require a person to get authorization to do business performing or selling a home improvement; or

(2) regulate the qualifications necessary to do that business.

(c) This title does not limit the power of a county or municipal corporation:

(1) to regulate the character, performance, or quality of a home improvement by having a system of inspections and permits designed to:

(i) ensure compliance with and help to enforce applicable State and local building laws; or

(ii) enforce other laws necessary to protect the public health and safety; or

(2) to adopt a system of inspections and permits that requires:

(i) submission to and approval by the county or municipal corporation of plans and specifications for an installation, before construction of the installation begins; and

(ii) inspection of work done.

§8–103.

The provisions of this title may not be waived.

§8–201.

There is a Maryland Home Improvement Commission in the Department.

§8–202.

(a) (1) The Commission consists of 9 members, appointed by the Governor with the advice of the Secretary.

(2) Of the 9 members of the Commission:

(i) 3 shall have experience in some phase of the business of home improvement;

(ii) at least 1 shall have experience in the business of banking or finance;

(iii) 4 shall be consumer members; and

(iv) 1 shall have experience in some phase of the business of home improvement or shall be a consumer member.

(b) Each member of the Commission shall have been a citizen and resident of the State for at least 5 years before appointment.

(c) Each consumer member of the Commission:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to regulation by the Commission;

(3) may not be required to meet the qualifications for the professional members of the Commission; and

(4) may not, within 1 year before appointment, have had a financial interest in or have received compensation from a person regulated by the Commission.

(d) While a member of the Commission, a consumer member may not:

(1) have a financial interest in or receive compensation from a person regulated by the Commission; or

(2) grade any examination given by or for the Commission.

(e) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 4 years and begins on July 1.

(2) The terms of members are staggered as required by the terms in effect for members of the Commission on October 1, 1992.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(g) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, the Governor shall remove a member if the member did not attend at least two–thirds of the Commission meetings held during the prior year while the member was serving on the Commission.

(3) The Governor may allow a member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§8–203.

With the advice of the Secretary, the Governor shall designate a chairman from among the members of the Commission.

§8–204.

(a) (1) (i) Subject to subparagraph (ii) of this paragraph, a majority of the members then serving on the Commission is a quorum.

(ii) A quorum may not be fewer than 4 members.

(2) The Commission may not act unless at least a majority of the members then serving concur.

(b) (1) The Commission shall meet at least once every 2 months.

(2) The Commission may hold meetings at the times and places in the State that it determines.

(c) On or before December 1 of each year, the Commission shall report to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, regarding:

(1) the attendance record of each Commission meeting, disaggregated by the constituency that the attendee represents pursuant to the attendee's appointment under § 8–202(a)(2) of this subtitle;

(2) how many claims were closed at each meeting; and

(3) how many claims remain open at the conclusion of each meeting.

(d) Each member of the Commission is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) The Commission shall have its office in Baltimore City.

§8–205.

(a) (1) The Secretary shall appoint an executive director of the Commission.

(2) The executive director serves at the pleasure of the Secretary.

(b) The executive director shall devote full time to the duties of office.

(c) The executive director is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) While employed as executive director, the executive director shall be covered by a surety bond in the form and amount required by law.

(e) The executive director shall:

(1) administer and operate the office of the Commission;

(2) be responsible to the Secretary;

(3) keep the official records of the Commission; and

(4) keep the seal of the Commission.

§8–206.

(a) (1) The executive director may employ a staff in accordance with the State budget.

(2) Except as otherwise provided by law, the staff is in the skilled service or professional service, with the exception of special appointments, in the State Personnel Management System.

(b) The executive director shall employ an investigative staff in accordance with the State budget.

(c) The executive director may contract with an expert, subject to the State budget, if the services of an expert are required in a particular case.

(d) Investigative staff and contractual experts shall investigate only complaints about home improvement.

§8–207.

(a) The Commission may adopt and enforce regulations to carry out this title.

(b) (1) The executive director shall:

(i) compile and keep in the office of the Commission a set of current regulations adopted under this title; and

(ii) make a copy of the regulations for anyone who asks for one.

(2) The Commission may set a fee to cover the cost of making and mailing a copy of the current regulations.

§8–208.

(a) The Commission shall administer and enforce this title.

(b) (1) If the Commission concludes that continuing conduct of a person alleged to be in violation of this title will result in irreparable or substantial harm to any other person, the Commission may sue for:

(i) injunctive relief against the conduct;

(ii) an order for satisfactory completion of a home improvement contract; or

(iii) restitution.

(2) If the Commission sues for injunctive relief under this subsection against a person who is not licensed under this title, the Commission need not:

(i) post bond; or

(ii) show that no adequate remedy at law exists.

(3) A suit under this section shall be brought in the circuit court for the county where:

(i) the alleged violation occurs; or

(ii) the principal place of business of the alleged violator is located.

(c) An administrative hearing and adjudication by the Commission is not a prerequisite to prosecution of a person under § 8-601 of this title.

§8–209.

(a) The Commission shall keep available for public inspection during office hours a record of:

(1) all licenses issued under this title;

(2) all expirations, revocations, and suspensions of those licenses; and

(3) all contractors represented by each salesperson who holds a license under this title.

(b) The Commission shall collect a fee of $1 per page for each copy of a document in the Commission office.

§8–210.

The Commission shall collect a fee of $1 for certifying under seal the licensing status of a person.

§8–211.

Each month the Commission shall give the building and permits department and the office of consumer affairs of each county a current list of all licensees and may provide other information relevant to this title.

§8–212.

(a) The Commission at any time may require of an applicant or licensee:

(1) information reasonably related to the administration or enforcement of this title; and

(2) the production of financial records.

(b) The Commission shall have a seal.

§8–213.

Except as otherwise provided by law, the Commission shall pay all money collected under this title into the General Fund of the State.

§8–214.

The Commission exercises its powers and performs its duties subject to the authority of the Secretary.

§8–215.

The Commission shall publish on its Web site consumer education materials that specify the protections available to consumers through the Commission, including the availability of compensation from the Guaranty Fund.

§8–216.

The Commission shall develop a searchable Web site that includes a listing of licensed contractors and information relating to any final disciplinary action taken by the Commission against a licensee in each licensee's profile.

§8–301.

(a) Except as otherwise provided in this title, a person must have a contractor license whenever the person acts as a contractor in the State.

(b) Except as otherwise provided in this title, a person must have a subcontractor license or contractor license whenever the person acts as a subcontractor in the State.

(c) Except as otherwise provided in this title, a person must have a salesperson license or contractor license whenever the person sells a home improvement in the State.

(d) This section does not apply to:

(1) an individual who works for a contractor or subcontractor for a salary

or wages but who is not a salesperson for the contractor;

(2) a clerical employee, retail clerk, or other employee of a licensed contractor who is not a salesperson, as to a transaction on the premises of the licensed contractor;

(3) a solicitor for a contractor who calls an owner by telephone only;

(4) an architect, electrician, plumber, heating, ventilation, air–conditioning, or refrigeration contractor, or other person who:

(i) is required by State or local law to meet standards of competency or experience before engaging in an occupation or profession;

(ii) currently is licensed in that occupation or profession under State or local law; and

(iii) is:

1. acting only within the scope of that occupation or profession; or

2. installing a central heating or air–conditioning system;

(5) a security systems technician licensed under Title 18 of the Business Occupations and Professions Article;

(6) a marine contractor licensed under Title 17, Subtitle 3 of the Environment Article; or

(7) a person who is selling a home improvement to be performed by a person described in item (4) of this subsection.

§8–302.

(a) An applicant for a contractor's, subcontractor's, or salesperson's license must pass the examination prior to submitting an application for a license.

(b) An applicant may receive a license only if the applicant passes the examination that the Commission requires.

(c) (1) To take an examination, an applicant shall pay to the Commission or a testing service chosen by the Commission the examination fee set by the Commission to cover the cost of the examination.

(2) The examination fee is nonrefundable.

(d) (1) The Commission shall schedule the applicant for an examination to be held within 45 days after the Commission receives an application for examination.

(2) The examination shall be held at a location:

(i) that is within the general geographic area where the applicant resides, if the applicant resides in the State; or

(ii) that the Commission determines, if the applicant resides out of State.

(e) The Commission shall give each qualified applicant notice of the time and place of examination.

(f) (1) Except as otherwise provided in this section, the Commission shall determine the subjects, scope, and form of and the passing score for examinations.

(2) The examination shall test:

(i) the applicant's knowledge of the law about home improvement; and

(ii) the applicant's competency to engage in the licensed occupation.

(3) The competency part of the examination may be oral or written.

(g) (1) The Commission may use a testing service to administer the examinations given under this section.

(2) If the Commission uses a testing service under this subsection, the testing service, subject to the requirements set by the Commission, may:

(i) set the time and place of examinations;

(ii) give qualified applicants notice of the time and place of examinations; and

(iii) furnish any other information that the Commission may require the testing service to provide.

(h) Within 30 days after the first meeting of the Commission after an examination date, the Commission shall notify an applicant in writing of the examination score of the applicant.

§8–302.1.

(a) An applicant for a contractor license shall maintain general liability insurance in the amount of at least $50,000.

(b) A licensed contractor shall maintain general liability insurance in the amount of at least $50,000.

§8–302.2.

An applicant for a contractor license shall have:

(1) at least 2 years of trade experience that is satisfactory to the Commission, under regulations adopted by the Commission; or

(2) comparable educational training to be determined by regulations adopted by the Commission.

§8–303.

(a) (1) An applicant for a license shall:

(i) submit to the Commission an application on the form that the Commission provides;

(ii) submit to the Commission with the license application proof of compliance with the insurance requirement of § 8–302.1 of this subtitle, if the applicant is applying for a contractor license;

(iii) pay into the Fund the fee required under § 8–404(a) of this title, if the applicant is applying for a contractor license; and

(iv) pay to the Commission an application fee.

(2) The application fee:

(i) for a contractor license is $250 for each place of business of the contractor;

(ii) for a subcontractor license is $150; or

(iii) for a salesperson license is $100.

(3) The fee for processing an application is $20.

(b) In addition to any other information required on an application form, the form shall require:

(1) for an individual applicant, the name and address of the applicant;

(2) for a corporate applicant, the name and address of each officer;

(3) for a partnership applicant, the name and address of each partner;

(4) for a joint venture applicant, the name and address of each party to the joint venture;

(5) if the applicant acts as a contractor or subcontractor through a corporation or limited partnership, the name and address of the resident agent of the corporation or limited partnership in the State;

(6) if the applicant is applying for a contractor license or subcontractor license, a complete description of the nature of the contracting business of the applicant;

(7) if the applicant is applying for a salesperson license, a complete description of the duties of the applicant;

(8) a record of the applicant's experience in the field of home improvement or other construction work, including dates when and addresses where the applicant has resided and done business;

(9) if the applicant provides lead paint abatement services, the Department of the Environment lead paint abatement accreditation number and accreditation expiration date;

(10) whether the applicant has ever held a professional or vocational license in this or any other state; and

(11) whether the applicant has had a professional or vocational license denied, suspended, or revoked.

(c) To evaluate the qualifications of an applicant for a license, the Commission may ask the applicant for:

(1) information about the applicant's character, experience, and financial stability; and

(2) any other information that the Commission needs.

(d) If the applicant is applying for a contractor license, the applicant shall:

(1) have submitted to the Commission, by a credit reporting agency approved by the Commission, a credit report that contains the information required by the Commission; or

(2) have paid to the Commission or the Commission's designee a credit report fee in an amount not to exceed the cost charged by a credit reporting agency approved by the Commission to obtain a credit report that contains the information required by the Commission.

(e) Financial information that an applicant submits to the Commission:

(1) is confidential and is not a public record; but

(2) if relevant, is admissible as evidence in an administrative or judicial

proceeding.

(f) Notwithstanding subsection (a) of this section, an applicant that is incorporated or has its principal office in another state shall pay to the Commission the fee imposed in that state on a similar nonresident business if that fee is higher than the application fee under subsection (a) of this section.

§8–305.

(a) Within 30 days after the first meeting of the Commission after submission of a completed application, the Commission shall notify an applicant in writing:

(1) whether the application for a license is approved or denied; and

(2) of the reasons for denial, if the application is denied.

(b) (1) If the application is denied, the applicant, within 10 days after the notice of denial is mailed, may request a hearing.

(2) The hearing shall be held in accordance with § 8-312 of this subtitle within 30 days after the date that the Commission receives the request.

(3) The Commission shall make a decision within a reasonable time, but not later than 60 days after the hearing.

§8–306.

(a) The Commission shall issue a license to each applicant who meets the requirements of this subtitle.

(b) The Commission:

(1) may issue a salesperson license only to an individual; and

(2) may not issue a salesperson license unless the Commission has received from a licensed contractor written notice, signed by both the licensed contractor and salesperson, of an employment or other contractual relationship between the licensed contractor and salesperson.

(c) Except as otherwise provided in subsection (d) of this section, the Commission may not issue a license to an applicant for a contractor license, subcontractor license, or salesperson license who has been convicted of violating § 8-601 of this title.

(d) The Commission may issue a contractor license, subcontractor license, or salesperson license to an applicant who has been convicted of violating § 8-601 of this title if:

(1) the Commission determines that the applicant has settled all

outstanding obligations; and

(2) 1 year has passed since the date of conviction.

(e) The Commission may not issue a contractor license to an applicant unless the applicant has submitted to the Commission proof of compliance with the insurance requirement of § 8-302.1 of this subtitle.

§8–307.

(a) A contractor license authorizes the licensee to act as a contractor or subcontractor and to sell a home improvement.

(b) A subcontractor license authorizes the licensee to act as a subcontractor.

(c) A salesperson license authorizes the licensee to sell a home improvement.

(d) A license issued under this subtitle does not authorize the licensee to engage in a business or provide a service that may be engaged in or provided only by a person licensed under other State or local law.

§8–308.

(a) The Secretary may stagger the terms of licenses.

(b) Unless a license is renewed for a 2–year term as provided in this section, the license expires:

(1) if the Secretary staggers the terms of licenses, on the date that the Secretary sets; or

(2) if the Secretary does not stagger the terms of licenses, on the first June 30 that comes after the effective date of the license in an odd–numbered year.

(c) At least 1 month before a license expires, the Commission shall mail to the licensee, at the last known address of the licensee:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current license expires;

(ii) the date by which the Commission must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(iii) the amount of the renewal fee.

(d) (1) Before a license expires, the licensee periodically may renew it for an

additional 2–year term, if the licensee:

(i) otherwise is entitled to be licensed;

(ii) submits to the Commission a renewal application on the form that the Commission provides;

(iii) submits to the Commission proof of compliance with the insurance requirement of § 8–302.1 of this subtitle, if the licensee is renewing a contractor license;

(iv) submits to the Commission the Department of the Environment lead paint abatement accreditation number and accreditation expiration date, if the licensee provides lead paint abatement services; and

(v) pays to the Commission a renewal fee.

(2) The renewal fee:

(i) for a contractor license is $250 for each place of business of the contractor;

(ii) for a subcontractor license is $150; or

(iii) for a salesperson license is $100.

(3) Notwithstanding paragraph (2) of this subsection, a licensee that is incorporated or has its principal office in another state shall pay to the Commission the fee imposed in that state on a similar nonresident business if that fee is higher than the renewal fee under paragraph (2) of this subsection.

(e) For renewal of a contractor license, the licensee shall:

(1) submit to the Commission, by a credit reporting agency approved by the Commission, a credit report that contains the information required by the Commission; or

(2) pay to the Commission or the Commission's designee a credit report fee in an amount not to exceed the cost charged by a credit reporting agency approved by the Commission to obtain a credit report that contains the information required by the Commission for renewal of a contractor license.

(f) (1) The Commission shall renew the license of each licensee who meets the requirements of this section.

(2) The Commission may not renew a contractor license unless the contractor submits proof of compliance with the insurance requirement of § 8–302.1 of this subtitle.

(g) A licensed contractor shall give the Commission notice of the cancellation of insurance required under § 8–302.1 of this subtitle at least 10 days before the effective date of the cancellation.

§8–308.1.

(a) The Commission shall place the license of a licensee on inactive status, and issue an inactive status certificate to the licensee, if the licensee:

(1) submits to the Commission an application for inactive status on the form that the Commission provides;

(2) pays to the Commission an inactive status application fee not exceeding $50, as set by the Commission;

(3) except for the liability insurance requirement of § 8-302.1 of this subtitle, qualifies for an active license; and

(4) returns the license of the licensee to the Commission.

(b) (1) The holder of a contractor license that is on inactive status may not act as a contractor in the State.

(2) The holder of a subcontractor license that is on inactive status may not act as a subcontractor in the State.

(3) The holder of a salesperson license that is on inactive status may not sell a home improvement in the State.

(c) (1) The holder of a contractor license that is on inactive status is not required to meet the liability insurance requirement of § 8-302.1 of this subtitle.

(2) The holder of a contractor license that is on inactive status is not subject to an assessment for the Fund under § 8-404(b) of this title.

(d) The placement of a license on inactive status does not affect the power of the Commission to suspend or revoke the license or to take any other disciplinary action against the licensee.

(e) (1) A licensee whose license is on inactive status remains responsible for renewing the license as required under § 8-308 of this subtitle.

(2) The holder of a contractor license that is on inactive status may renew the license without complying with the liability insurance requirement of § 8-302.1 of this subtitle.

(3) Notwithstanding § 8-308 of this subtitle, a licensee whose license is on inactive status shall pay to the Commission a renewal fee of:

(i) $112.50 for a contractor license;

(ii) $62.50 for a subcontractor license; or

(iii) $37.50 for a salesperson license.

(f) The Commission shall reactivate the license of a licensee that is on inactive status and reissue the license to the licensee, if the licensee:

(1) submits to the Commission an application for reactivation on the form that the Commission provides;

(2) pays to the Commission a reissuance fee of $10; and

(3) meets the requirements for a license, including, in the case of a contractor, the liability insurance requirement under § 8-302.1 of this subtitle.

§8–309.

Within 10 days, a licensee shall notify the Commission of a change of control in ownership, management, address, or trade name.

§8–310.

(a) A salesperson may not represent more than 2 contractors at a time.

(b) Before an individual becomes a salesperson for a contractor, the individual shall tell:

(1) that contractor the name of each other contractor for whom the individual currently is a salesperson; and

(2) each contractor for whom the individual currently is a salesperson the name of the contractor for whom the individual plans to become a salesperson.

(c) When an individual ceases to be a salesperson for a contractor, the contractor shall give the Commission written notice of the cessation.

§8–311.

(a) Subject to the hearing provisions of § 8–312 of this subtitle, the Commission may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee or the management personnel of the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(2) fraudulently or deceptively uses a license;

(3) fails to give the Commission information required by this subtitle about an application for a license;

(4) fails to pass an examination required by this subtitle;

(5) under the laws of the United States or of any state, is convicted of a:

(i) felony; or

(ii) misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to engage in home improvement services;

(6) often fails to perform home improvement contracts;

(7) falsifies an account;

(8) engages in fraud;

(9) as a contractor or subcontractor fails to show financial solvency, based on the intended scope and size of the business in relation to total assets, liabilities, credit rating, and net worth;

(10) as a contractor or subcontractor lacks competence, as shown by the performance of an unworkmanlike, inadequate, or incomplete home improvement;

(11) violates this title;

(12) attempts to violate this title;

(13) violates a regulation adopted under this title; or

(14) in the Chesapeake and Atlantic Coastal Bays Critical Area, as defined under § 8–1802 of the Natural Resources Article, fails to comply with:

(i) the terms of a State or local permit, license, or approval issued for home improvement; or

(ii) any State or local law, an approved plan, or other legal requirement.

(b) Subject to the hearing provisions of § 8-312 of this subtitle, the Commission may reprimand a contractor or subcontractor or suspend or revoke the license of a contractor or subcontractor for a violation of this title by an agent, director, employee, manager, officer, partner, or salesperson of the contractor or subcontractor, unless the Commission finds that the contractor or subcontractor or management personnel of the contractor or subcontractor:

(1) had no knowledge of the wrongful conduct; or

(2) could not prevent the violation.

(c) Instead of or in addition to reprimanding a licensee or suspending or revoking a license, the Commission may impose a civil penalty under § 8-620 of this title.

(d) The Commission shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(5) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide home improvement services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§8–312.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Commission takes any final action under § 8–311 of this subtitle, or if requested under § 8–620(c) of this title, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Commission or, as provided under § 8–313 of this subtitle, a hearing board.

(b) The Commission shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Commission may administer oaths in a proceeding under this section.

(d) The hearing notice to be given to the person shall be sent at least 10 days before the hearing by certified mail to the business address of the licensee on record with the Commission.

(e) (1) For purposes of this subsection, the State is divided into:

(i) the region that includes Allegany, Carroll, Frederick, Garrett, and Washington counties;

(ii) the region that includes Anne Arundel, Calvert, Charles, and St. Mary's counties;

(iii) the region that includes Baltimore City and Baltimore and

Howard counties;

(iv) the region that includes Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties; and

(v) the region that includes Montgomery and Prince George's counties.

(2) The Commission shall set the time and place of the hearing but shall hold the hearing in the appropriate region to accommodate the needs of:

(i) disabled witnesses;

(ii) indigent witnesses; or

(iii) a majority of witnesses.

(f) The person may be represented at the hearing by counsel.

(g) In connection with a proceeding under this section, the Commission may:

(1) issue subpoenas for the attendance of witnesses to testify or to produce evidence; and

(2) take testimony in the same manner and with the same fees and compensation for mileage as provided in civil cases in the State.

(h) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Commission may hear and determine the matter.

§8–313.

(a) With the approval of the Secretary, the Commission may appoint a home improvement hearing board.

(b) (1) A hearing board shall consist of at least 3 members of the Commission.

(2) Of the members of the hearing board:

(i) at least 1 shall have experience in some phase of the business of home improvement; and

(ii) at least 1 shall be a consumer member of the Commission.

(c) The Commission shall appoint a chairman from among the members of the hearing board.

(d) The Commission may refer to a hearing board a charge, claim, complaint, or license application made by the Commission or by any person under this subtitle.

(e) Each procedure applicable to a hearing before the Commission is applicable to a hearing before the hearing board.

(f) (1) A decision of the hearing board shall be:

(i) by a majority vote of the entire membership of the hearing board;

(ii) in writing; and

(iii) submitted to the Commission.

(2) Unless, within 15 days after the hearing board submits its decision to the Commission, the Commission or a member of the Commission finds that a full hearing by the Commission is required:

(i) the decision of the hearing board is final;

(ii) the decision is a final decision of the Commission; and

(iii) a party who is aggrieved by the decision may take an appeal as provided in § 8-314 of this subtitle.

§8–314.

A party to a proceeding before the Commission who is aggrieved by a final decision of the Commission in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§8–315.

(a) Except as otherwise provided in subsection (b) of this section, a contractor or subcontractor may not pay or otherwise compensate another contractor or subcontractor or a salesperson for performing or selling a home improvement unless:

(1) the person to be paid or compensated is licensed;

(2) the person to be paid or compensated is not subject to the licensing requirements of this title; or

(3) the transaction for which the consideration is to be paid is not subject to this title.

(b) After the expiration, suspension, or revocation of a license, a person:

(1) is not relieved of outstanding obligations; and

(2) may complete and be paid under a home improvement contract that is made but not performed on the date of the expiration, suspension, or revocation.

§8–316.

(a) A person may not reapply for a license within 6 months after the person has had a license:

(1) denied after a hearing; or

(2) revoked.

(b) The Commission may reinstate the license of a person whose license has been suspended or revoked under this subtitle only if the person passes the examination that the Commission requires.

§8–317.

A contractor or subcontractor who holds a license under this title is not required to hold a construction license under Title 17 of this article.

§8–401.

In this subtitle, "actual loss" means the costs of restoration, repair, replacement, or completion that arise from an unworkmanlike, inadequate, or incomplete home improvement.

§8–402.

This subtitle does not:

(1) limit the authority of the Commission to take disciplinary action against a licensee under Subtitle 3 of this title;

(2) limit the availability of other remedies to a claimant; or

(3) require a claimant to exhaust administrative remedies before the Commission before bringing an action in court.

§8–403.

(a) The Commission shall:

(1) establish a Home Improvement Guaranty Fund;

(2) keep the Fund at a level of at least $250,000; and

(3) submit a report detailing actions being taken to restore the balance of the Fund to a sustainable level to the Senate Education, Health, and Environmental Affairs Committee and the House Economic Matters Committee within 30 days of projecting that the Fund balance will be less than $250,000.

(b) (1) Except as otherwise provided by law, the Commission shall deposit all money collected to the credit of the Fund with the State Treasurer for placement in a special account.

(2) (i) The Commission shall establish and maintain within the Fund a separate account to be held with the State Treasurer for the payment of necessary expenses for expert witnesses used to resolve claims against the Fund.

(ii) One–half of the money collected under § 8–620(c) of this title shall be credited to the account established in subparagraph (i) of this paragraph.

(iii) One–half of the money collected under § 8–620(c) of this title shall be credited to the General Fund of the State.

(3) (i) The State Treasurer shall invest the money in the Fund in the same way that money in the State Retirement and Pension System is invested.

(ii) Investment earnings shall be credited to the Fund.

(c) The Commission shall administer the Fund in accordance with this subtitle.

§8–404.

(a) Before the Commission issues a contractor license, the contractor shall pay a fee of $100 to be credited to the Fund.

(b) (1) If the Commission finds that, because of pending claims, the amount of the Fund may fall below $250,000, the Commission shall assess each contractor a fee of $50.

(2) However, under this subsection the Commission may not assess a contractor more than $150 in a calendar year.

(c) If a contractor fails to pay an assessment within 60 days after notice of the assessment, the contractor license is suspended until the assessment is paid.

§8–405.

(a) Subject to this subtitle, an owner may recover compensation from the Fund for an actual loss that results from an act or omission by a licensed contractor or a violation of § 8–607(4) of this title as found by the Commission or a court of competent jurisdiction.

(b) For purposes of recovery from the Fund, the act or omission of a licensed contractor includes the act or omission of a subcontractor, salesperson, or employee of the licensed contractor, whether or not an express agency relationship exists.

(c) A claimant shall comply with a written agreement to submit a dispute to

arbitration before seeking recovery from the Fund.

(d) The Commission may deny a claim if the Commission finds that the claimant unreasonably rejected good faith efforts by the contractor to resolve the claim.

(e) The Commission may not award from the Fund:

(1) more than $20,000 to one claimant for acts or omissions of one contractor;

(2) more than $100,000 to all claimants for acts or omissions of one contractor unless, after the Commission has paid out $100,000 on account of acts or omissions of the contractor, the contractor reimburses $100,000 to the Fund;

(3) an amount for attorney fees, consequential damages, court costs, interest, personal injury damages, or punitive damages;

(4) an amount as a result of a default judgment in court; or

(5) an amount in excess of the amount paid by or on behalf of the claimant to the contractor against whom the claim is filed.

(f) (1) A claim against the Fund based on the act or omission of a particular contractor may not be made by:

(i) a spouse or other immediate relative of the contractor;

(ii) an employee, officer, or partner of the contractor; or

(iii) an immediate relative of an employee, officer, or partner of the contractor.

(2) An owner may make a claim against the Fund only if the owner:

(i) resides in the home as to which the claim is made; or

(ii) does not own more than three residences or dwelling places.

(g) A claim shall be brought against the Fund within 3 years after the claimant discovered or, by use of ordinary diligence, should have discovered the loss or damage.

§8–406.

To begin a proceeding to recover from the Fund, a claimant shall submit to the Commission a claim, under oath, that states:

(1) the amount claimed based on the actual loss;

(2) the facts giving rise to the claim;

(3) any other evidence that supports the claim; and

(4) any other information that the Commission requires.

§8–407.

(a) The procedures for notice, hearings, and judicial review that apply to proceedings under Subtitle 3 of this title also apply to proceedings to recover from the Fund.

(b) On receipt of a claim, the Commission shall:

(1) send a copy of the claim to the contractor alleged to be responsible for the actual loss; and

(2) require a written response to the claim within 10 days.

(c) (1) The Commission:

(i) shall review the claim and any response to it; and

(ii) may investigate the claim.

(2) On the basis of its review and any investigation, the Commission may:

(i) set the matter for a hearing;

(ii) dismiss the claim, if the claim is frivolous, legally insufficient, or made in bad faith; or

(iii) issue a proposed order to pay all or part of the claim or deny the claim if the total claim against a particular contractor does not exceed $7,500.

(d) (1) The Commission shall send the proposed order to the claimant and the contractor, at the most recent address on record with the Commission, by:

(i) personal delivery; or

(ii) both regular mail and certified mail, return receipt requested.

(2) Within 21 days after service, receipt, or attempted delivery of the proposed order, the claimant or contractor may submit to the Commission:

(i) a written request for a hearing before the Commission; or

(ii) a written exception to the proposed order.

(3) If the claimant or contractor submits a timely exception to the proposed order, the Commission may:

(i) issue a revised proposed order;

(ii) set a hearing on the claim; or

(iii) dismiss the claim.

(4) Unless the claimant or contractor submits a timely request for a hearing or a timely exception, the proposed order is final.

(e) (1) At a hearing on a claim, the claimant has the burden of proof.

(2) If a subcontractor or salesperson is necessary to adjudicate a claim fairly, the Commission shall issue a subpoena for that person to appear at the hearing.

§8–408.

(a) (1) The Commission may join a proceeding on a claim against the Fund with a disciplinary proceeding against a licensed contractor under Subtitle 3 of this title, if the disciplinary hearing is based on the same facts alleged in the claim.

(2) In a consolidated proceeding, the claimant is a party and may participate in the hearing to the extent necessary to establish the claim.

(b) (1) Notwithstanding § 8-402(2) of this subtitle, a claimant may not concurrently submit a claim to recover from the Fund and bring an action in a court of competent jurisdiction against a contractor based on the same facts alleged in the claim.

(2) If the claimant brings an action in a court of competent jurisdiction based on the same facts alleged in a pending claim, the Commission shall stay its proceedings on the claim until there is a final judgment and all rights to appeal are exhausted.

(3) (i) To the extent that a final judgment or final award in arbitration is decided in favor of the claimant, the Commission shall approve the claim against the Fund.

(ii) If a final judgment or final award in arbitration is decided in favor of the defendant, the Commission shall dismiss the claim against the Fund.

§8–409.

(a) The Commission may order payment of a claim against the Fund only if:

(1) the decision or order of the Commission is final in accordance with Title 10, Subtitle 2 of the State Government Article and all rights of appeal are exhausted; or

(2) the claimant provides the Commission with a certified copy of a final

judgment of a court of competent jurisdiction or a final award in arbitration, with all rights of appeal exhausted, in which the court or arbitrator:

(i) expressly has found on the merits that the claimant is entitled to recover under § 8-405(a) of this subtitle; and

(ii) has found the value of the actual loss.

(b) (1) Except as otherwise provided in this subsection, the Commission shall pay approved claims in the order submitted.

(2) If approved claims submitted to the Commission against a contractor exceed $100,000 less the amount of unreimbursed claim payments previously made for the contractor, the Commission may pay the approved claims proportionately so that each claimant receives the same percentage payment of the claims.

(3) After the Fund is reimbursed, the Commission shall pay unsatisfied approved claims.

(c) If there is not enough money in the Fund to pay an approved claim wholly or partly, the Commission shall pay the unpaid claim:

(1) when enough money is deposited in the Fund; and

(2) in the order that each claim originally was filed with a court of competent jurisdiction or submitted to the Commission.

§8–410.

(a) (1) After the Commission pays a claim from the Fund:

(i) the Commission is subrogated to all rights of the claimant in the claim up to the amount paid;

(ii) the claimant shall assign to the Commission all rights of the claimant in the claim up to the amount paid; and

(iii) the Commission has a right to reimbursement of the Fund by the contractor who the Commission finds responsible for the act or omission giving rise to the claim for:

1. the amount paid from the Fund; and

2. interest on that amount at an annual rate of at least 10%, as set by the Commission.

(2) All money that the Commission recovers on a claim shall be deposited in the Fund.

(b) If, within 60 days after the Commission gives notice, a contractor on whose account a claim was paid does not reimburse the Fund in full, the Commission may sue the contractor in a court of competent jurisdiction for the unreimbursed amount.

(c) The Commission is entitled to a judgment for the unreimbursed amount if the Commission proves that:

(1) a claim was paid from the Fund on account of the contractor;

(2) the contractor has not reimbursed the Fund in full;

(3) the contractor was given notice and an opportunity to participate in a hearing on the claim before the Commission; and

(4) (i) the Commission directed payment based on a final judgment of a court of competent jurisdiction or a final award in arbitration; or

(ii) the decision or order of the Commission is final in accordance with Title 10, Subtitle 2 of the State Government Article and there is no pending appeal.

(d) The Commission may refer to the Central Collection Unit for collection under §§ 13–912 through 13–919 of the Tax – General Article a debt owed to the Commission by a contractor on whose account a claim was paid from the Fund and who is at least 1 year behind in reimbursement payments to the Fund.

(e) For the purpose of excepting to a discharge of a contractor under federal bankruptcy law, the Commission is a creditor of the contractor for the amount paid from the Fund.

(f) (1) (i) If a person liable for reimbursing the Guaranty Fund under this section receives a demand for reimbursement and fails to reimburse the Fund, the reimbursement amount and any accrued interest or cost are a lien in favor of the State on any real property of the person if the lien is recorded and indexed as provided in this subsection.

(ii) Interest shall continue at the rate of interest on a judgment as provided in § 11–107(a) of the Courts Article until the full amount due the Fund is paid.

(2) The lien in favor of the State created by this subsection may not attach to specific property until the State Central Collection Unit records written notice of the lien in the office of the clerk of the court for the county in which the property subject to the lien or any part of the property is located.

(3) The lien in favor of the State created by this subsection does not have priority as to any specific property over any person who is a lienholder of record at the time the notice required under paragraph (2) of this subsection is recorded.

(4) The notice required under paragraph (2) of this subsection shall contain:

(i) the name and address of the person against whose property the lien exists;

(ii) the amount of the lien;

(iii) a description of or reference to the property subject to the lien; and

(iv) the date the Guaranty Fund paid the claim giving rise to the lien.

(5) Upon presentation of a release of any lien in favor of the State created by this subsection, the clerk of the court in which the lien is recorded and indexed shall record and index the release and shall note in the lien docket the date the release is filed and the fact that the lien is released.

(6) The notice required under paragraph (2) of this subsection and any release filed under paragraph (5) of this subsection shall be indexed with the judgment lien records maintained by the office of the clerk of the court where the notice is recorded.

(7) The clerk may collect a reasonable fee for recording and indexing each notice of lien or release of any lien under this subsection.

§8–411.

(a) Except as provided in subsection (b) of this section, if the Commission pays a claim against the Fund based on an act or omission of a contractor, the Commission may suspend the contractor license until the contractor reimburses the Fund in full for:

(1) the amount paid from the Fund; and

(2) interest on that amount at an annual rate of at least 10%, as set by the Commission.

(b) The Commission may not suspend the contractor license if the Commission finds that the contractor or management personnel of the contractor:

(1) did not know of the wrongful conduct; or

(2) could not prevent the violation.

(c) Reimbursement of the Fund in full by a contractor, by itself, does not nullify or modify the effect of a disciplinary proceeding against a licensee.

§8–501.

(a) A home improvement contract that does not comply with this section is not invalid merely because of noncompliance.

(b) Each home improvement contract shall:

(1) be in writing and legible;

(2) describe clearly each document that it incorporates; and

(3) be signed by each party to the home improvement contract.

(c) (1) In addition to any other matters on which the parties lawfully agree, each home improvement contract shall contain:

(i) the name, address, telephone number, and license number of the contractor;

(ii) the name and license number of each salesperson who solicited the home improvement contract or sold the home improvement;

(iii) the approximate dates when the performance of the home improvement will begin and when it will be substantially completed;

(iv) a description of the home improvement to be performed and the materials to be used;

(v) the agreed consideration;

(vi) the number of monthly payments and the amount of each payment, including any finance charge;

(vii) a description of any collateral security for the obligation of the owner under the home improvement contract;

(viii) a notice that gives the telephone number and Web site of the Commission and states that:

1. each contractor and each subcontractor must be licensed by the Commission; and

2. anyone may ask the Commission about a contractor or subcontractor; and

(ix) a notice set by the Commission by regulation that:

1. specifies the protections available to consumers through the Commission; and

2. advises the consumer of the right to purchase a performance bond for additional protection against loss.

(2) If payment for work performed under the home improvement contract will be secured by an interest in residential real estate, a written notice in not smaller than 10 point bold type that is on the first page of the contract shall state in substantially the following form: "This contract creates a mortgage or lien against your property to secure payment and may cause a loss of your property if you fail to pay the amount agreed upon. You have the right to consult an attorney. You have the right to rescind this contract within 3 business days after the date you sign it by notifying the contractor in writing that you are rescinding the contract."

(3) The notice under paragraph (2) of this subsection shall be independently initialed by the homeowner.

(d) Before the performance of a home improvement begins, the owner shall be given a copy of the home improvement contract signed by the contractor.

(e) A salesperson or other agent or employee of a contractor may not make a change in a home improvement contract for an owner.

§8–502.

(a) A salesperson may not:

(1) represent concurrently more than 1 contractor in selling a home improvement;

(2) use a home improvement contract form that does not disclose the name of the contractor; or

(3) choose a contractor for an owner.

(b) For selling a home improvement, a salesperson shall:

(1) accept compensation only from the contractor that the salesperson represents in the sale; and

(2) pay compensation only for that contractor.

§8–503.

(a) As an inducement to make a home improvement contract, a person may not promise or offer to pay to an owner any compensation or reward for obtaining or placing home improvement business with others.

(b) A contractor or salesperson may not offer, give, or pay to an owner a gift, bonus award, merchandise, trading stamps, or cash loan as an inducement to make a

home improvement contract.

(c) To advertise or to promote sales, a contractor or salesperson may give to a prospective customer a tangible item if:

(1) the cost to the contractor or salesperson does not exceed $25;

(2) the gift is not contingent on making a home improvement contract; and

(3) the customer does not receive more than 1 item for 1 transaction.

§8–504.

Except for a permit for a home improvement to be performed by a property owner, the building and permits department of a county or a municipal corporation may not issue a permit for a home improvement unless the permit includes the license number of a licensed contractor.

§8–505.

(a) In this section, "building code" includes a code that deals with mechanical, electrical, fire, plumbing, energy, heating, ventilation, or air conditioning matters.

(b) A county or municipal corporation shall notify the Commission of each contractor who fails to correct a violation of the applicable local or State building code within a reasonable time after the contractor receives notice of the violation.

§8–506.

(a) In this section, "critical area" has the meaning designated under § 8–1802 of the Natural Resources Article.

(b) The Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, as established under Title 8, Subtitle 18 of the Natural Resources Article, shall notify the Commission of any contractor who, in the critical area, fails to comply with:

(1) the terms of a State or local permit, license, or approval issued for home improvement; or

(2) any State or local law, approved plan, or other legal requirement.

§8–601.

(a) Except as otherwise provided in this title, a person may not act or offer to act as a contractor in the State unless the person has a contractor license.

(b) Except as otherwise provided in this title, a person may not act or offer to act as a subcontractor in the State unless the person has a contractor license or subcontractor license.

(c) Except as otherwise provided in this title, a person may not sell or offer to sell a home improvement in the State unless the person has a contractor license or salesperson license.

(d) A person who violates this section is guilty of a misdemeanor and, on first conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both and, on a second or subsequent conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 2 years or both.

§8–602.

(a) A person may not accept a completion certificate or other proof that performance of a home improvement contract is complete or satisfactorily concluded with knowledge that the document or proof is false and the performance is incomplete.

(b) If a person knows or has good reason to know that a completion certificate or other proof is false, the person may not utter, offer, or use the document or proof to:

(1) make or accept an assignment or negotiation of the right to receive payment from an owner under a home improvement contract; or

(2) get or grant credit or a loan on the security of the right to receive payment under a home improvement contract.

(c) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 3 years or both.

§8–605.

A contractor may not:

(1) abandon or fail to perform, without justification, a home improvement contract; or

(2) deviate materially from plans or specifications without the consent of the owner.

§8–606.

A salesperson may not fail to account for or remit to the contractor whom the salesperson represents a payment received in connection with selling a home improvement.

§8–607.

A person may not:

(1) make a substantial misrepresentation when obtaining a home

improvement contract;

(2) make a false promise that is likely to influence, persuade, or induce in connection with a home improvement contract;

(3) misrepresent a material fact when applying for a license; or

(4) fail to give the written notice required under § 8-501(c)(2) and (3) of this title.

§8–608.

A person may not commit fraud when executing or materially altering a home improvement contract, mortgage, promissory note, or other document incident to performing or selling a home improvement.

§8–609.

A person may not prepare, arrange, accept, or participate in arranging a mortgage, promissory note, or other evidence of debt for performing or selling a home improvement with knowledge that the evidence of debt states a greater monetary obligation than the consideration, including a time sale price, for the home improvement.

§8–610.

(a) A person may not:

(1) directly or indirectly publish a false, deceptive, or misleading advertisement about home improvement; or

(2) advertise or offer, by any means, to perform a home improvement if the person does not intend to accept a home improvement contract:

(i) to do the particular home improvement; or

(ii) at the price advertised or offered.

(b) An advertisement that is subject to and complies with regulations adopted by the Federal Trade Commission is not false, deceptive, or misleading.

§8–611.

A licensee may not violate:

(1) a building law of the State or a political subdivision of the State;

(2) a safety or labor law of the State;

(3) the Maryland Workers' Compensation Act; or

(4) the lead paint abatement accreditation requirement under § 6–1002 of the Environment Article or any regulation adopted under that section.

§8–612.

A person may not perform or sell a home improvement with or through another person who is required to be licensed under this title but is not licensed.

§8–613.

A contractor may not fail to notify the Commission of an employment or other contractual relationship between the contractor and a salesperson.

§8–614.

A person may not act as a contractor or subcontractor or sell a home improvement under a name other than that under which the person is licensed.

§8–615.

A person may not advertise in any way that the person is licensed under this title unless the advertisement states the license number of the person in one of the following forms: "Maryland Home Improvement Commission License No. _____" or "MHIC No. _____".

§8–616.

A person may not fail to comply with a lawful order or requirement of the Commission under this title.

§8–617.

(a) A person may not demand or receive any payment for a home improvement before the home improvement contract is signed.

(b) A person may not receive a deposit of more than one-third of the home improvement contract price before or at the time of execution of the home improvement contract.

§8–620.

(a) The Commission may impose on a person who violates this title, including § 8–607(4) of this subtitle, a civil penalty not exceeding $5,000 for each violation, whether or not the person is licensed under this title.

(b) In setting the amount of a civil penalty, the Commission shall consider:

(1) the seriousness of the violation;

(2) the good faith of the violator;

(3) any previous violations;

(4) the harmful effect of the violation on the complainant, the public, and the business of home improvement;

(5) the assets of the violator; and

(6) any other relevant factors.

(c) (1) The Commission may establish by regulation a schedule of violations and fines to be used for civil citations issued under this title.

(2) A citation issued by the Commission shall include:

(i) the name and address of the person charged;

(ii) the nature of the violation;

(iii) the location and time of the violation;

(iv) the amount of the fine;

(v) the manner, location, and time in which the fine may be paid;

(vi) the cited person's right to a hearing for the violation; and

(vii) a warning that failure to pay the fine or to contest liability in a timely manner in accordance with the citation:

1. is an admission of liability; and

2. may result in an entry of a default judgment that may include the fine, court costs, and administrative expenses.

(3) The Commission shall retain a copy of the citation.

(4) All money collected under this subsection shall be paid in accordance with § 8–403(b) of this title.

§8–623.

(a) This section only applies if there is no greater criminal penalty provided under this title or other applicable law.

(b) A person who violates this title is guilty of a misdemeanor and, on conviction,

is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

§8–701.

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

(b) "Accreditation body" means the American Indoor Air Quality Council or any other nationally recognized accreditation body that is recognized by the Commission and that operates independently of training organizations or industry trade associations.

(c) "Commission" means the Maryland Home Improvement Commission.

(d) "License" means a license issued by the Commission to a company or firm to provide mold remediation services.

(e) "Mold" means an organism of the class fungi that causes disintegration of organic matter and produces spores, as well as any spores, hyphae, and mycotoxins that are produced by mold.

(f) "Mold assessment" means:

(1) an inspection, investigation, or survey of a dwelling or other structure to provide information to the owner regarding the presence, identification, or evaluation of mold;

(2) the development of a mold management plan; or

(3) the collection or analysis of a mold sample.

(g) "Mold remediation" means the removal, cleaning, sanitizing, demolition, or other treatment of mold or mold–contaminated matter, live or dead, that was not intended to be grown at that location.

§8–702.

(a) This subtitle does not apply to:

(1) the performance of mold remediation on nonresidential property;

(2) the performance of mold remediation in an area less than 10 square feet;

(3) the performance of mold assessments; or

(4) routine cleaning that is not performed for the purpose of mold remediation.

(b) This subtitle does not limit the right of:

(1) an individual residential property owner who performs mold remediation on the individual's property;

(2) an employee of the United States government, the State government, a local government, or an independent agency while that employee is performing mold remediation services on or within buildings or structures owned or solely occupied by the United States government, the State government, a local government, or an independent agency;

(3) an industrial hygienist, as defined by the American Industrial Hygiene Association, a professional engineer, or an environmental sanitarian who engages in mold remediation services; or

(4) an individual regularly employed by the owner of property, or the owner's agent, to engage in maintenance and repair work.

§8–703.

The purpose of this subtitle is to establish a licensing program for companies and firms that provide mold remediation services to:

(1) protect the public;

(2) improve indoor air quality; and

(3) promote high professional standards.

§8–704.

In addition to any other powers and duties set forth elsewhere, the Commission shall:

(1) adopt regulations to carry out this subtitle;

(2) issue licenses;

(3) keep a list of all licensees; and

(4) keep a record of its proceedings.

§8–705.

(a) Subject to subsection (b) of this section, the Commission may set reasonable fees for its services.

(b) Revenues generated by the Commission shall be at least equal to expenses incurred by the Commission.

(c) The Commission shall pay all money collected under this subtitle into the General Fund of the State.

§8–706.

(a) (1) A person licensed under this subtitle may not contract or solicit to provide mold remediation services unless the work of the licensee is covered by insurance in the amount of at least $1,000,000.

(2) A licensee shall give the Commission notice of the cancellation of insurance at least 10 days before the effective date of the cancellation.

(b) A person licensed to provide mold remediation services under this subtitle is not required to pay assessments to the Fund under Subtitle 4 of this title.

§8–707.

(a) Except as otherwise provided in this subtitle, a company or firm shall be licensed by the Commission before the company or firm provides mold remediation services in the State.

(b) (1) To qualify for a license, an applicant shall meet the requirements of this subtitle.

(2) If the applicant is a company or firm, the company or firm shall appoint a company or firm member as a representative member to make the application on behalf of the company or firm.

§8–708.

An applicant for a license shall:

(1) submit an application to the Commission in the form that the Commission provides;

(2) pay a nonrefundable application fee established through regulation;

(3) submit proof that each of its employees who provides mold remediation services is certified by an accreditation body as a microbial remediation supervisor or microbial remediation technician, whichever is applicable;

(4) submit proof of insurance as required by § 8–706 of this subtitle; and

(5) provide any other information the Commission may require.

§8–709.

(a) The Commission may grant a waiver to the requirement for a license only if the applicant:

(1) pays the appropriate application fee; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this subtitle; and

(ii) has an active license from another state with licensing requirements that are at least equivalent to the licensing requirements of this State.

(b) The Commission shall issue the license to each applicant who meets the requirements of this subtitle and the regulations adopted under it.

§8–710.

(a) Unless the license is renewed as provided in this section, a license expires 2 years after the date of issuance.

(b) Before the license expires, the licensee may renew it for an additional 2–year term, if the licensee:

(1) otherwise is entitled to be granted a license;

(2) pays to the Commission a renewal fee established by the Commission; and

(3) submits:

(i) proof of insurance;

(ii) a renewal application in the form that the Commission provides; and

(iii) proof that each of the licensee's current employees who provides mold remediation services holds an active certification from an accreditation body as a microbial remediation supervisor or microbial remediation technician.

(c) The Commission shall renew the license of each licensee who meets the requirements of this section.

(d) (1) If application for restoration is made within 90 days of expiration of a license, the license may be restored only on payment of a renewal fee.

(2) If application for restoration is not made within the 90–day period, the Commission may require compliance with the process for initial applications as if the applicant had never been licensed.

§8–711.

(a) Subject to the hearing provisions of § 8–712 of this subtitle, the Commission

may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license if the Commission finds that the applicant or licensee:

(1) obtained a license by false or fraudulent representation;

(2) transferred the authority granted by the license to another person;

(3) willfully or deliberately disregarded and violated any regulations established by the Commission under this subtitle;

(4) willfully or deliberately disregarded and violated laws of the State or of any municipality, city, or county of the State;

(5) is convicted of:

(i) a felony; or

(ii) a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide mold remediation services;

(6) aided or abetted a person to evade a provision of this subtitle by allowing a license to be used by an unlicensed person, firm, or corporation;

(7) performed work under a mold remediation services contract or project that is inadequate or incomplete;

(8) made any material misrepresentation in the procurement of a mold remediation services contract or project; or

(9) violated this subtitle.

(b) Subject to the hearing provisions of § 8–712 of this subtitle, the Commission may reprimand a licensee or suspend or revoke a license of a licensee for a violation of this title by an agent, director, employee, manager, officer, partner, or salesperson of the licensee, unless the Commission finds that the licensee:

(1) had no knowledge of the wrongful conduct; or

(2) could not prevent the violation.

(c) Instead of or in addition to reprimanding a licensee or suspending or revoking a license, the Commission may impose a civil penalty under § 8–620 of this title.

(d) The Commission shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide mold remediation services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

(e) The Commission shall pay any penalty collected under this section into the General Fund of the State.

§8–712.

(a) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Commission takes any final action under this subtitle, the Commission shall give the person against whom the action is contemplated an opportunity for a hearing before the Commission.

(b) The Commission shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Commission may administer oaths in connection with any proceeding under this section.

(d) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, nevertheless the Commission may hear and determine the matter.

§8–713.

Any person aggrieved by a final decision of the Commission may take an appeal as allowed in §§ 10–222 and 10–223 of the State Government Article.

§8–714.

(a) Each licensee shall display:

(1) the license and the license number conspicuously in the principal place of business of the licensee; and

(2) the license number of the licensee on each vehicle used on the job for providing mold remediation services.

(b) Each licensee shall give the Commission notice of any change of name, address, or employment from that which appears on the current license, at least 10 working days before the change is to take effect.

§8–715.

(a) Except as otherwise provided in this subtitle, a person may not provide mold remediation services unless the person is licensed by the Commission.

(b) A licensee may not:

(1) provide or offer to provide any mold remediation to a structure on which the firm or company or its employees has provided a mold assessment within the last 12 months; or

(2) pay any compensation, inducement, or reward to a mold assessor or a mold assessor's firm in order to generate the referral of any business to the licensee's firm or company or its employees.

§8–716.

Unless licensed to provide mold remediation services under this subtitle, a person may not represent to the public by use of the titles "mold remediation license holder", "registered mold remediation contractor", by other title, or by description of services, methods, or procedures, or otherwise, that the person is licensed to provide mold remediation services.

§8–717.

This subtitle may be cited as the "Maryland Mold Remediation Services Act".

§8–718.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this subtitle and all regulations adopted under this subtitle shall terminate and be of no effect after July 1, 2019.

§8–801.

This title is the Maryland Home Improvement Law.

§8–802.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on July 1, 2022.

§9–101.

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

(b) "Client" means an individual who seeks employment through an employment agency.

(c) (1) "Employment agency" means a person who, for a fee:

(i) obtains, offers to obtain, or attempts to obtain:

1. an employee for a person who seeks an employee; or

2. employment for a client;

(ii) provides to a client information to enable the client to obtain employment;

(iii) obtains, offers to obtain, or attempts to obtain employment or an engagement in connection with an entertainment, exhibition, or performance, including:

1. a ballet;

2. a circus;

3. a concert;

4. the legitimate theater;

5. modeling;

6. a motion picture;

7. an opera;

8. a phonograph recording;

9. the radio;

10. a transcription;

11. television;

12. the variety field; or

13. vaudeville; or

(iv) 1. obtains, offers to obtain, or attempts to obtain an alien labor certification or immigrant visa for an individual; and

2. participates directly or indirectly in the recruitment or supply of an individual who resides outside of the continental United States for employment in the continental United States.

(2) "Employment agency" does not include a person who merely:

(i) conducts a business that directly employs individuals to provide part–time or temporary services to another person;

(ii) as a lawyer, directly obtains an immigrant visa for an individual;

(iii) conducts a business that:

1. receives a fee that is paid wholly by an employer;

2. does not collect money from an individual seeking employment; and

3. does not require an individual seeking employment to make a contract; or

(iv) operates a nursing referral service agency that is licensed under Title 19, Subtitle 4B of the Health – General Article.

§9–102.

This title does not apply to:

(1) a charitable, educational, fraternal, or religious organization that does not charge a fee for its services other than ordinary dues for membership;

(2) a labor organization while obtaining or attempting to obtain employment for a member of the organization; or

(3) an organization of employers while obtaining or attempting to obtain help for a member of the organization.

§9–302.

An employment agency may not:

(1) knowingly refer a client to a job if any condition of the job violates any law;

(2) refer a client to an establishment where a labor dispute exists;

(3) as a condition of providing service to a client, require the client before acceptance of a job to execute:

(i) a promissory note; or

(ii) an instrument with warrant of attorney that authorizes confession of judgment;

(4) advertise a job for which there is no order by an employer on file;

(5) send a client to an employer for a job with no order on file for the job unless:

(i) the employer previously requested regular interviews with qualified clients, the client is qualified, and the employment agency confirms the request before sending the client to the employer; or

(ii) the employment agency tells the client that the employment agency has no order for the job;

(6) split a fee with an employer or representative of an employer, except that the employment agency may accept from an employer all or part of a service fee for a client if the employment agency tells the client of the payment;

(7) charge a client a registration fee or collect in advance from a client a payment for service to be performed for the client to obtain employment;

(8) publish or cause to be published any false, fraudulent, or misleading information or promise;

(9) solicit for other employment an individual who is employed by an employer with whom the employment agency placed the individual, unless the individual reactivates the application;

(10) engage in fraud or dishonest dealing; or

(11) violate this title.

§9–303.

Each employment agency shall keep a detailed record of:

(1) each job order from an employer; and

(2) each referral that the employment agency makes on a job order.

§9–304.

(a) Each employment agency shall keep a file of all job advertisements that identifies each advertisement by:

(1) its date; and

(2) the publication where the advertisement appears.

(b) Each employment agency:

(1) shall indicate on each advertisement and on all other promotional material the name of the employment agency; and

(2) except in an advertisement that appears in a classified employment agency column of a newspaper, shall use the word "agency" in each advertisement.

§9–305.

(a) Each employment agency shall indicate, on each form that the employment agency uses, that it is an employment agency.

(b) In a contract between an employment agency and a client, the term "acceptance of position by applicant" means:

(1) commencement of work by a client; or

(2) an agreement between a client and employer for the client to begin work on a fixed date at an agreed remuneration.

(c) In each contract between an employment agency and a client, the employment agency shall state the fee that the employment agency charges the client for placement by the employment agency.

§9–306.

(a) If, within 90 days after a client starts a job, the client is discharged through no fault of the client or leaves the job voluntarily with just cause, an employment agency may charge the client a temporary placement fee of up to the lesser of:

(1) 20% of the total compensation the client received; or

(2) 75% of the permanent placement fee for the same job.

(b) If, within 90 days after a client starts a job, the client is discharged for cause or leaves the job voluntarily without just cause, an employment agency may charge the client a temporary placement fee of up to 75% of the permanent placement fee.

§9–307.

If, for a pay period, the pay of an employee placed by an employment agency is not more than the minimum wage under § 3-413 of the Labor and Employment Article, the employment agency may not collect or attempt to collect more than 20% of its placement fee from the employee's pay for the pay period.

§9–308.

Within 24 hours after a client demands reimbursement for ordinary and necessary travel expenses incurred as a result of a referral, an employment agency shall reimburse the client if the client did not obtain employment and:

(1) the employment agency sent the client to an employer for a job for which the employment agency had no order and failed to tell the client that there was

no order;

(2) the client was qualified and the employment agency sent the client to an employer that previously asked for regular interviews with qualified clients, but the employment agency failed to confirm the order with the employer; or

(3) the client was unqualified and the employment agency sent the client to an employer that previously asked for regular interviews with qualified clients.

§9–309.

(a) When an employment agency and a client execute a contract or other document, the employment agency shall give the client a copy of the document.

(b) For each fee that an employment agency receives from a client, the employment agency shall give the client a receipt that states:

(1) the name of the client;

(2) the date of payment;

(3) the amount of the fee paid; and

(4) the balance of the fee due.

§9–401.

A person who violates this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

§9–501.

This title is the Maryland Employment Agency Act.

§9A–101.

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

(b) "Board" means the State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors.

(c) "Contractor" means a heating, ventilation, air-conditioning, and refrigeration contractor.

(d) (1) "Cooling system" means a system in which heat is removed from air, surrounding surfaces, or both.

(2) "Cooling system" includes an air-conditioning system.

(e) "Forced air system" means a heating system that uses air being moved by mechanical means to transmit heat.

(f) (1) "Heating system" means a system in which heat is transmitted by radiation, conduction, or convection, or a combination of any of these methods, to the air, surrounding surfaces, or both.

(2) "Heating system" does not include a fireplace or woodburning stove not incorporated into or used as a primary heating system.

(g) "Heating, ventilation, air-conditioning, and refrigeration contractor" means an individual who provides heating, ventilation, air-conditioning, or refrigeration services.

(h) "Hydronic system" means a heating and cooling system using liquids or steam to transmit or remove heat.

(i) "Independent agency" means an office, commission, board, department, or agency established as an independent unit of government that may receive budgetary or administrative support from the federal, State, or local government.

(j) "Journeyman license" means a license issued by the Board to provide heating, ventilation, air-conditioning, and refrigeration services while under the direction and control of a licensed contractor.

(k) "Journeyman restricted license" means a license issued by the Board to provide heating, ventilation, air-conditioning, and refrigeration services while under the direction and control of a licensed contractor, in only one of the following areas:

(1) heating - forced air systems;

(2) heating - hydronic systems;

(3) ventilation;

(4) air-conditioning; or

(5) refrigeration.

(l) (1) "License" means, unless the context requires otherwise, a license issued by the Board to provide or to assist in providing heating, ventilation, air-conditioning, or refrigeration services.

(2) "License" includes, unless the context requires otherwise:

(i) a master license;

(ii) a master restricted license;

(iii) a limited license;

(iv) a journeyman license;

(v) a journeyman restricted license; and

(vi) an apprentice license.

(m) "Licensed apprentice" means an individual who is licensed by the Board to assist in providing heating, ventilation, air-conditioning, or refrigeration services while:

(1) under the direction and control of a licensed contractor; and

(2) in training to become a journeyman.

(n) "Licensed contractor" means a contractor who is licensed by the Board to provide heating, ventilation, air-conditioning, or refrigeration services, but does not include a licensed apprentice or licensed journeyman.

(o) "Limited license" means a license issued by the Board exclusively to maintain or repair one or more of the following: heating systems, cooling systems, refrigeration systems, ventilation systems, or hydronic systems.

(p) "Master license" means a license issued by the Board to provide heating, ventilation, air-conditioning, or refrigeration services.

(q) "Master restricted license" means a license issued by the Board to provide services in only one of the following areas:

(1) heating - forced air systems;

(2) heating - hydronic systems;

(3) ventilation;

(4) air-conditioning; or

(5) refrigeration.

(r) "Provide heating, ventilation, air-conditioning, or refrigeration services" means to install, maintain, alter, remodel, or repair heating systems, cooling systems, refrigeration systems, ventilation systems, or hydronic systems.

(s) "Refrigeration system" means a system used to cool a surface or area below 55 degrees Fahrenheit or 12.9 degrees Celsius.

(t) "Self-contained appliance" means a heating, ventilation, air-conditioning, or refrigeration device that is designed and manufactured:

(1) with its component parts contained within a single chassis;

(2) with a standard factory-installed electrical line cord that requires a plug-in device;

(3) with no additional external fuel source; and

(4) independent of an air distribution system.

(u) "Subdivision of the State" means any of the 23 counties in Maryland, the City of Baltimore, and any municipal corporation.

(v) "Ventilation system" means the natural or mechanical process of supplying air to, or removing air from, any space:

(1) whether the air is conditioned or is not conditioned; and

(2) at a rate of airflow of more than 250 cubic feet per minute.

§9A–102.

The purpose of this title is to establish a licensing program for individuals who provide or assist in providing heating, ventilation, air-conditioning, and refrigeration services to:

(1) protect the public;

(2) provide and maintain efficient and safe systems;

(3) promote high professional standards; and

(4) ensure that qualified individuals carry out subsections (1), (2), and (3) of this section.

§9A–103.

This title does not limit the right of:

(1) an individual owner of a single-family dwelling while that owner is practicing heating, ventilation, air-conditioning, or refrigeration services on or within a building or structure owned by the individual;

(2) an individual who is building a single-family dwelling in which that individual will reside while practicing heating, ventilation, air-conditioning, or refrigeration services on or within that dwelling;

(3) an employee of a public utility company regulated by the Public Service Commission, when engaged in:

(i) the development, construction, maintenance, or repair of electric or gas facilities located in the State; or

(ii) the construction, maintenance, or repair of electric or gas appliances in the service area of the public utility;

(4) subject to § 9A-403(a) of this title, an employee of the United States government, the State government, a local government, or an independent agency while that employee is practicing heating, ventilation, air-conditioning, or refrigeration services on or within buildings or structures owned or solely occupied by the United States government, the State government, a local government, or an independent agency;

(5) an individual employed in the installation, maintenance, alteration, repair, or replacement of self-contained appliances requiring not more than 225 volts or 25 amperes of electrical current;

(6) an individual possessing a master electrician's license issued by the State or any county, when engaged in the installation, alteration, service, repair, or replacement of individually controlled electric resistance heat;

(7) an individual possessing a master plumber's license issued by the State, Baltimore County, or the Washington Suburban Sanitary Commission when providing heating, ventilation, air-conditioning, or refrigeration services on hydronic heating systems;

(8) an individual possessing a license to practice engineering when providing heating, ventilation, air-conditioning, or refrigeration services in connection with the practice of engineering;

(9) an individual who installs, alters, remodels, maintains, or repairs oil burners exclusively while employed by a supplier of home heating fuel; or

(10) an individual regularly employed by the owner of property, or the owner's agent, to engage in maintenance and repair work.

§9A–201.

There is a State Board of Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors in the Department.

§9A–202.

(a) (1) The Board consists of 9 members.

(2) Of the 9 Board members:

(i) 5 shall be master heating, ventilation, air–conditioning, and

refrigeration contractors licensed in the State, a subdivision of the State, or another state provided that state has licensing requirements equivalent to the licensing requirements of this title;

(ii) 1 shall be a master electrician;

(iii) 1 shall be a master plumber; and

(iv) 2 shall be consumer members.

(3) The Governor shall appoint the members of the Board with the advice of the Secretary and with the advice and consent of the Senate.

(b) Except for the initial members of the Board, of the members appointed under subsection (a)(2)(i), (ii), and (iii) of this section:

(1) 1 shall be from the area that consists of Caroline, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties;

(2) 1 shall be from the area that consists of Baltimore City, and Baltimore, Cecil, and Harford counties;

(3) 1 shall be from the area that consists of Anne Arundel, Calvert, Charles, and St. Mary's counties;

(4) 1 shall be from the area that consists of Howard, Montgomery, and Prince George's counties; and

(5) 1 shall be from the area that consists of Allegany, Carroll, Frederick, Garrett, and Washington counties.

(c) Each member of the Board shall be:

(1) a citizen of the United States; and

(2) a resident of the State.

(d) (1) Each member appointed under subsection (a)(2)(i), (ii), and (iii) of this section:

(i) shall be an active contractor;

(ii) shall hold a current active license under this title or under a licensing program in a subdivision of the State; and

(iii) shall have provided services as a contractor for not less than 5 consecutive years immediately prior to the date of appointment.

(2) The master electrician member of the Board:

(i) shall be actively engaged in the electrical contracting business as a master electrician;

(ii) shall hold a current active license under this article; and

(iii) shall have been engaged in business as a master electrician for not less than 5 consecutive years immediately prior to the date of appointment.

(3) The master plumber member of the Board:

(i) shall be actively engaged in the plumbing contracting business as a master plumber;

(ii) shall hold a current active license under this article; and

(iii) shall have been engaged in business as a master plumber for not less than 5 consecutive years immediately prior to the date of appointment.

(e) Each consumer member of the Board:

(1) shall be a member of the general public;

(2) may not be a licensee or otherwise be subject to the regulation of the Board; and

(3) may not have had within 1 year before appointment a financial interest in or have received compensation from a person regulated by the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(g) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on January 1, 1993.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) Board members are eligible for reappointment, but may not serve more than 2 consecutive terms.

(h) (1) The Governor may remove a member for incompetence or misconduct.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if

the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

§9A–203.

(a) From among the Board members, the Governor shall appoint a chairman.

(b) Except for the chairman, the manner of election of officers shall be as the Board determines.

§9A–204.

(a) (1) The Board shall meet once a month in a location and office provided by the State.

(2) Special meetings of the Board may be held as the Board provides in its rules and regulations.

(b) A majority of the members then serving on the Board is a quorum.

(c) The Board may employ a staff in accordance with the State budget.

(d) Subject to the State budget, each member of the Board is entitled to:

(1) an annual salary of $3,600; and

(2) reimbursement for reasonable expenses under the Standard State Travel Regulations.

§9A–205.

(a) In addition to the powers set forth elsewhere, the Board shall:

(1) adopt rules and regulations to carry out the provisions of this title;

(2) adopt and enforce a code that sets minimum standards for installing, altering, remodeling, maintaining, and repairing heating, ventilation, air-conditioning, hydronic, and refrigeration systems;

(3) administer examinations;

(4) issue licenses;

(5) keep a list of all licensees;

(6) keep a record of its proceedings; and

(7) adopt an official seal.

(b) The Board shall enter into a cooperative agreement with a county for the county to enforce the code adopted under this section.

(c) If a county has adopted a code prior to January 1, 1988 the county code shall apply within that county.

§9A–206.

(a) The Board may investigate any complaint that alleges facts that constitute a violation of this title.

(b) On receipt of the results of an investigation made under this section, the Board promptly shall take action that is appropriate under this title to ensure compliance with this title.

(c) (1) If the Board concludes that any conduct alleged to be in violation of this title will result in harm to any citizen of the State, the Board may seek a permanent or temporary injunction with respect to the conduct from the circuit court of any county in which the alleged violation occurs, or in which the violator has its principal place of business.

(2) In seeking an injunction under this subsection, the Board is not required to:

(i) post bond;

(ii) allege or prove that an adequate remedy at law does not exist; or

(iii) allege or prove that substantial or irreparable damage would result from the continued violation of the provision.

(d) (1) Any 5 members of the Board, or a hearing officer designated by the Board, may administer oaths, hold hearings, and take testimony about all matters within the jurisdiction of the Board.

(2) The Board, or its designee, may take testimony of any person by deposition in the same manner as in judicial proceedings in State civil cases.

(3) Any party to any hearing before the Board has the right to attendance of witnesses, after making a request to the Board and designating the person sought to be subpoenaed.

(4) A member of the Board may not be held personally liable for any action taken under this section.

(e) (1) The Board or its designee may issue a subpoena.

(2) The Police Department of Baltimore City or the sheriff of a county shall serve a subpoena issued under this subsection.

(3) If a person fails to comply with a subpoena issued under this subsection, on petition of the Board, a court of competent jurisdiction may compel compliance with the subpoena.

(f) (1) Subject to the notice and hearing provisions of Title 10, Subtitle 2 of the State Government Article, the Board may issue a cease and desist order for a violation of any provision of this title or a regulation adopted under this title.

(2) After a hearing, if the Board finds that a person has violated this title or a regulation adopted under this title, the Board may order the person to cease and desist from the violation and any further similar violations.

(3) Any party aggrieved by a decision and order of the Board under this subsection may take an appeal as provided under §§ 10–222 and 10–223 of the State Government Article.

§9A–207.

(a) Subject to subsections (b) and (c) of this section, the Board may set reasonable fees for its services.

(b) Except as provided in subsection (c) of this section, revenues generated by the Board shall be at least equal to expenses incurred by the Board.

(c) The Board shall require the following fees for the issuance or renewal of the following licenses:

(1) master license - $75;

(2) master restricted license - $25 for each area licensed;

(3) limited license - $75;

(4) journeyman license - $20; and

(5) apprentice license - $10.

(d) The Board shall pay all money collected under this title into the General Fund of the State.

§9A–301.

Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual provides or assists in providing heating, ventilation, air-conditioning, or refrigeration services in the State.

§9A–302.

(a) To qualify for an apprentice, journeyman, journeyman restricted, master, master restricted, or limited license, an applicant shall meet the requirements of this section.

(b) An applicant for a master heating, ventilation, air-conditioning, and refrigeration contractor license shall:

(1) have been regularly and principally employed in providing heating, ventilation, air-conditioning, or refrigeration services under a journeyman, journeyman restricted, limited, or master restricted license for not less than 3 years of active experience under the direction and control of a master heating, ventilation, air-conditioning, and refrigeration contractor and have been so employed for not less than 1,875 hours in the year prior to application; and

(2) pass an examination administered by the Board.

(c) An applicant for a master restricted heating, ventilation, air-conditioning, and refrigeration contractor license shall:

(1) have been regularly and principally employed in providing refrigeration, air-conditioning, forced air heating, hydronic heating, or ventilation services under a journeyman, journeyman restricted, limited, or master restricted license for not less than 3 years of active experience under the direction and control of a master or master restricted heating, ventilation, air-conditioning, and refrigeration contractor and have been so employed for not less than 1,875 hours in the year prior to application; and

(2) pass an examination administered by the Board.

(d) An applicant for a limited heating, ventilation, air-conditioning, and refrigeration license shall:

(1) have been regularly and principally employed in providing forced air heating, hydronic heating, ventilation, air-conditioning, or refrigeration services under a journeyman license for not less than 2 years of active experience under the direction and control of the holder of a master, master restricted, or limited license under this title, and have been so employed for not less than 1,000 hours in the year prior to application; and

(2) pass an examination administered by the Board.

(e) An applicant for a journeyman license shall:

(1) have held, for a period of at least 3 years, an apprentice license, and during that period shall have completed at least 1,875 hours of training in providing heating, ventilation, air-conditioning, and refrigeration services under the direction and control of a licensed contractor; and

(2) pass an examination administered by the Board.

(f) An applicant for a journeyman restricted license shall:

(1) have held, for a period of at least 3 years, an apprentice license, and during that period shall have completed at least 1,875 hours of training in providing forced air heating, hydronic heating, ventilation, air-conditioning, or refrigeration services under the direction and control of a licensed contractor; and

(2) pass an examination administered by the Board.

(g) (1) The Board may credit not more than 3 years of formal course of study or professional training in heating, ventilation, air-conditioning, or refrigeration services if, in the opinion of the Board, the study or training provided comparable experience.

(2) The Board may credit not more than 6 years of work experience in heating, ventilation, air-conditioning, or refrigeration services that fails to meet the requirements of subsection (b)(1), (c)(1), (d)(1), (e)(1), or (f)(1) of this section if, in the opinion of the Board:

(i) the work provided comparable experience; and

(ii) the failure of the applicant to meet the requirements is not attributable to fault or neglect on the part of the applicant.

(3) The Board shall credit not more than 3 years of work experience in heating, ventilation, air-conditioning, or refrigeration services to any applicant under this section who has been teaching formal courses of study in heating, ventilation, air-conditioning, or refrigeration services for purposes of satisfying the requirements of subsections (b)(1), (c)(1), (d)(1), (e)(1), or (f)(1) of this section.

§9A–303.

An applicant for a license shall:

(1) submit an application to the Board in the form that the Board provides; and

(2) pay to the Board or the Board's designee an examination fee established by the Board in an amount not to exceed the cost of the examination.

§9A–304.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) The Board shall offer examinations to applicants at least twice annually, at places within the State and at times that the Board determines.

(c) The Board shall send written notice of the date, hour, and place of examination to each applicant for a license who is required to pass the examination.

(d) (1) The Board shall determine the subjects, scope, and form of and the passing score for examinations given under this title.

(2) The Board shall provide examination questions that test the competency and qualifications of the applicant.

(e) An applicant for a master restricted, journeyman restricted, or limited heating, ventilation, air-conditioning, and refrigeration contractor license shall be examined only on subjects in which the applicant has the experience required under § 9A-302 of this subtitle.

(f) To take an examination, an applicant shall pay to the Board or a testing service chosen by the Board the examination fee set by the Board in an amount not to exceed the cost of the examination.

(g) (1) The Board may use a testing service to administer the examinations given under this title.

(2) If the Board uses a testing service, the testing service, subject to requirements set by the Board, may:

(i) set the time and place of examinations;

(ii) give qualified applicants notice of the time and place of examinations; and

(iii) furnish any other information that the Board may require the testing service to provide.

§9A–305.

(a) Subject to the limitations in subsections (b) and (c) of this section, on the affirmative vote of at least a majority of the authorized membership of the Board, the Board may waive the examination requirements of this title for an individual who is licensed in another state to provide heating, ventilation, air–conditioning, or refrigeration services as a journeyman, journeyman restricted, master, master restricted, or limited heating, ventilation, air–conditioning, and refrigeration

contractor.

(b) The Board may grant a waiver under this section only if the applicant:

(1) pays the appropriate application fee required by § 9A–207 of this title; and

(2) provides adequate evidence that the applicant:

(i) meets the qualifications otherwise required by this title;

(ii) holds an active license in good standing in the other state;

(iii) holds a license that is equivalent to the State license; and

(iv) became licensed in the other state after meeting, in that state, requirements that are at least equivalent to the licensing requirements of this State, including the number of years of work experience equivalent to the experience required under § 9A–302(b), (c), and (d) of this subtitle.

(c) The Board may grant a waiver only if the state in which the applicant is licensed waives the examination of licensees of this State to a similar extent as this State waives the examination requirements for individuals licensed in that state.

(d) (1) In this subsection, "BRAC" means the Base Realignment and Closure process as announced by the United States Department of Defense.

(2) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, the Board shall grant a waiver to an applicant who files a request before July 1, 2012, if the applicant:

(i) pays the appropriate application fee required under § 9A–207 of this title;

(ii) holds an active Virginia license in good standing that is equivalent to the State license;

(iii) has experience in the provision of heating, ventilation, air–conditioning, or refrigeration services that meets the time requirements of § 9A–302 of this subtitle; and

(iv) has relocated to the State as a family member of a BRAC employee.

§9A–306.

(a) The Board shall issue without examination a master, master restricted, or limited heating, ventilation, air-conditioning, and refrigeration contractor license to any licensee holding a current, active or inactive master, master restricted, or limited

heating, ventilation, air-conditioning, and refrigeration contractor license, or a similar license issued by a subdivision of the State, if the licensee:

(1) files an application for a license under this title by 1 year after the date that the members of the Board are appointed; and

(2) submits with the application the prescribed fee and proof of eligibility required by the Board.

(b) The Board shall issue without examination a master, master restricted, or limited heating, ventilation, air-conditioning, and refrigeration contractor license, whether a subdivision of the State requires a local license or not, to an individual who:

(1) has lawfully provided heating, ventilation, air-conditioning, or refrigeration services in a subdivision of the State for at least 5 years immediately prior to 1 year after the date the members of the Board are appointed;

(2) files an application for a license under this title prior to 1 year after the date the members of the Board are appointed; and

(3) submits with the application the prescribed fee and proof of eligibility required by the Board.

(c) The Board shall issue without examination a journeyman license to an individual holding a current, active or inactive, journeyman license, or a similar license issued by a subdivision of the State, if the individual:

(1) files an application for a license under this title prior to December 31, 1994; and

(2) submits with the application the prescribed fee and proof of eligibility required by the Board.

(d) The Board shall issue without examination a journeyman license, whether a subdivision of the State requires a local license or not, to an individual who:

(1) has lawfully provided heating, ventilation, air-conditioning, or refrigeration services in a subdivision of the State:

(i) under the direction and control of one or more individuals who meet the requirements for a master license under subsection (a) or (b) of this section; and

(ii) for at least 3 years prior to December 31, 1994;

(2) holds an apprentice license at the time of the application;

(3) files an application for a license under this title prior to December 31,

1994; and

(4) submits with the application the prescribed fee and proof of eligibility required by the Board.

(e) (1) The Board shall issue without examination a journeyman license to an individual who has successfully completed an apprentice program in heating, ventilation, air-conditioning, and refrigeration approved by the Apprenticeship and Training Council.

(2) The Board shall issue without examination a journeyman restricted license to an individual who has successfully completed an apprentice program in heating, ventilation, air-conditioning, or refrigeration approved by the Apprenticeship and Training Council.

(f) (1) All applicants for a master, master restricted, or limited heating, ventilation, air-conditioning, and refrigeration contractor license on or after 1 year after the date the members of the Board are appointed shall submit to examination under this title.

(2) The application shall include all information required by the Board regarding proof of eligibility.

(g) (1) Except as provided in subsection (e) of this section, all applicants for a journeyman license on or after January 1, 1995 shall submit to examination under this title.

(2) The application shall include all information required by the Board regarding proof of eligibility.

(h) An applicant who qualifies for a license under subsection (a) or (b) of this section but fails to apply for the license within the 1-year period:

(1) may take an examination under this title to be licensed;

(2) may not be required to obtain a journeyman license or an apprentice license; and

(3) may provide services as a master, master restricted, or limited license holder after obtaining the appropriate license.

(i) An individual who holds a limited license or a master restricted license issued under subsection (a) or (b) of this section may take an examination administered by the Board to qualify for a master license or an additional master restricted license without meeting the requirements of § 9A-302 of this subtitle, if the individual:

(1) submits to the Board on or before December 31, 1996 an application on the form that the Board provides; and

(2) pays to the Board an application fee established by the Board.

§9A–307.

(a) To qualify for a license, an applicant shall obtain a grade of at least 70 percent on the examination.

(b) The use of unauthorized material or other misbehavior by an applicant during an examination shall cause the immediate rejection of the application and shall bar the applicant from reexamination for at least 1 year.

(c) (1) Applicants who have failed an examination or fail to appear for a scheduled examination shall be required to file a new application and pay a new fee.

(2) Examination fees shall be nonrefundable.

(d) Each applicant who has taken an examination required by this title shall be notified of the grade received on the examination as soon as practicable.

§9A–308.

(a) If an applicant passes the examination required by the Board and otherwise qualifies for a master, master restricted, or limited heating, ventilation, air-conditioning, and refrigeration contractor license under this title, the Board shall send the applicant a notice that states:

(1) the applicant has qualified for the license; and

(2) the Board will issue the license to an applicant on receipt of:

(i) proof of insurance as required under § 9A-402 of this title; and

(ii) a license fee established by the Board.

(b) If an applicant passes the examination required by the Board and otherwise qualifies for a journeyman license or journeyman restricted license under this title, the Board shall send the applicant a notice that states:

(1) the applicant has qualified for the license; and

(2) the Board will issue the license to an applicant on receipt of a license fee established by the Board.

§9A–309.

(a) Unless the license is renewed for a 2-year term as provided in this section, a license expires on the first October 1 that comes:

(1) after the effective date of the license; and

(2) in an odd-numbered year.

(b) Before the license expires, the licensee may renew it for an additional 2-year term, if the licensee:

(1) otherwise is entitled to be granted a license;

(2) pays to the Board a renewal fee established by the Board; and

(3) submits:

(i) proof of insurance as provided by § 9A-402 of this title; and

(ii) a renewal application in the form that the Board provides.

(c) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(d) (1) At the time of renewal, a licensee who holds a valid heating, ventilation, air-conditioning, and refrigeration contractor license may apply to the Board for inactive status, during which time the licensee may not provide heating, ventilation, air-conditioning, or refrigeration services in the State.

(2) If an individual wishes to renew a license on inactive status, the individual shall meet the requirements of subsection (b)(1), (2), and (3)(ii) of this section.

(3) To return to active status the licensee must meet the renewal requirements of subsection (b) of this section.

(4) Unless a licensee on inactive status renews the license as provided in this section, or reactivates the license as provided in this section, the license expires on the first October 1 that comes:

(i) after the inactive status certificate has been issued to the licensee; and

(ii) in an odd-numbered year.

(e) (1) If application for restoration is made within 90 days of expiration of a license, the license may be restored only on payment of a renewal fee.

(2) If application for restoration is not made within the 90-day period, the Board may require compliance with the process for initial applications as if the applicant had never been licensed.

(f) Except as provided in subsection (g) of this section, a license issued under this title is not transferable.

(g) (1) On the death of a licensed heating, ventilation, air-conditioning, and refrigeration contractor, the personal representative of the deceased licensee may retain the license for up to 6 months for the purpose of winding up the business.

(2) In cases of extreme hardship, the Board may allow the personal representative to retain the license for an additional period not to exceed 24 months upon a good faith showing that the personal representative has:

(i) acted diligently to conclude the business of the deceased licensee; and

(ii) complied with the provisions of this title.

(h) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

§9A–310.

(a) (1) The Board may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license after a public hearing conducted in accordance with the provisions of § 9A-311 of this subtitle, if the Board finds that the individual:

(i) obtained a license by false or fraudulent representation;

(ii) transferred the authority granted by the license to another person;

(iii) willfully or deliberately disregarded and violated the code established by the Board under this title;

(iv) willfully or deliberately disregarded and violated building codes, electrical codes, or laws of the State or of any municipality, city, or county of the State;

(v) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to provide heating, ventilation, air-conditioning, or refrigeration services;

(vi) aided or abetted a person to evade a provision of this title by allowing a license to be used by an unlicensed person, firm, or corporation;

(vii) willfully or deliberately disregarded disciplinary action taken by a municipality, city, or county against the individual in connection with providing heating, ventilation, air-conditioning, or refrigeration services;

(viii) abandoned or failed to perform, without justification, any contract or project to provide heating, ventilation, air-conditioning, or refrigeration services;

(ix) performed work under a heating, ventilation, air-conditioning, or refrigeration services contract or project that is inadequate or incomplete;

(x) directly or indirectly published any advertisement relating to the providing of heating, ventilation, air-conditioning, or refrigeration services that contained an insertion, representation, or statement of fact that is false, deceptive, or misleading;

(xi) made any material misrepresentation in the procurement of a heating, ventilation, air-conditioning, or refrigeration services contract or project;

(xii) failed in any material respect to comply with the provisions of this title;

(xiii) as the holder of a master restricted, limited, journeyman, or apprentice license, performed heating, ventilation, air-conditioning, or refrigeration services outside the scope of that license; or

(xiv) knowingly allowed or permitted another licensee to perform heating, ventilation, air-conditioning, or refrigeration services outside the scope of that individual's license.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Board may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Board shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Board shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(v) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to provide heating, ventilation, air-conditioning, and refrigeration services;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§9A–311.

(a) Except as otherwise provided in Title 10, Subtitle 2 of the State Government Article, before the Board takes any final action under § 9A-310 of this subtitle, the Board shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.

(b) The Board shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Board may administer oaths in connection with any proceeding under this section.

(d) If, after due notice, the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§9A–312.

Any person aggrieved by a final decision of the Board in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§9A–401.

(a) Each licensed master, master restricted, or limited heating, ventilation, air–conditioning, and refrigeration contractor shall display:

(1) the license and the license number conspicuously in the principal place of business of the licensee; and

(2) the license number of the licensee on each vehicle used on the job for providing heating, ventilation, air–conditioning, or refrigeration services.

(b) (1) Except as provided in paragraph (2) of this subsection, a county or municipal corporation may not require a person licensed under this subtitle to display a county or municipal corporation certificate number on each vehicle used on the job

for providing heating, ventilation, air–conditioning, and refrigeration services.

(2) This subsection does not apply to Anne Arundel County.

(c) Each licensee shall give the Board written notice of any change of name, address, or employment from that which appears on the current license, at least 10 working days before the change is to take effect.

§9A–402.

(a) A holder of a master, master restricted, or limited heating, ventilation, air-conditioning, and refrigeration license may not contract to provide services on behalf of the licensee, or another person who provides heating, ventilation, air-conditioning, or refrigeration services, unless the work of the licensee, including completed operations, is covered by:

(1) general liability insurance in the amount of at least $300,000; and

(2) property damage insurance in the amount of at least $100,000.

(b) (1) The insurance required under this section may be bought:

(i) by a holder of a master, master restricted, or limited heating, ventilation, air-conditioning, and refrigeration license; or

(ii) by the person who engages in the business of providing heating, ventilation, air-conditioning, or refrigeration services and employs the holder of the master, master restricted, or limited license.

(2) The insurance requirement of this section is not meant for work that a master, master restricted, or limited license holder does outside the scope of employment for the person who carries the insurance.

(c) (1) A licensed apprentice, licensed journeyman, or licensed journeyman restricted in the employ of a master, master restricted, or limited licensee need not obtain separate insurance while providing or assisting in providing heating, ventilation, air-conditioning, or refrigeration services under the control and supervision of the licensee.

(2) Subject to the restrictions of § 9A-309 of this title regarding inactive status, inactive licensees who have had their inactive status approved by the Board need not obtain insurance while maintaining inactive status.

(d) (1) An applicant for any license under this title shall submit proof of the insurance required under this section to the Board with the license application.

(2) Unless the applicant submits proof of insurance, the Board may not issue any license to an applicant to whom the insurance requirements of this section

apply.

(e) Unless an applicant meets the insurance requirements of this section, the Board may not renew any license of the applicant to whom the insurance requirements of this section apply.

(f) A holder of a master, master restricted, or limited license shall give the Board notice of the cancellation of insurance at least 10 days before the effective date of the cancellation.

(g) If a county, municipal corporation, special taxing district, or other political subdivision requires a master, master restricted, or limited heating, ventilation, air-conditioning, and refrigeration license holder, or other person who engages in the business of providing heating, ventilation, air-conditioning, and refrigeration services, to execute a surety bond under local heating, ventilation, air-conditioning, and refrigeration requirements, the person may satisfy the bond requirement by submitting proof of the insurance required under this section.

(h) The Board shall specify on each license whether the license holder meets the insurance requirements of this section.

§9A–403.

(a) Each individual whom the State, a county, or a local government appoints or employs as a heating, ventilation, air-conditioning, and refrigeration inspector shall:

(1) each year attend a continuing education course that the Board or, with the approval of the Board, a county or local government conducts; and

(2) meet minimum standards that are:

(i) established by the Board; and

(ii) administered:

1. for a county or local government inspector, by the county or local government that appoints or employs the inspectors; and

2. for a State inspector by the State.

(b) An individual may not have any financial interest in any business that provides heating, ventilation, air-conditioning, or refrigeration services while employed by the State, a county, or any local government as a heating, ventilation, air-conditioning, and refrigeration inspector.

(c) (1) On appointment or employment, the individual shall place any license that the inspector holds on inactive status subject to § 9A-309 of this title.

(2) The Board may issue a heating, ventilation, air-conditioning, and refrigeration inspector identification card to an inspector who has placed the appropriate licensee on inactive status.

(3) On termination of the appointment or employment of an individual as a heating, ventilation, air-conditioning, and refrigeration inspector, the Board shall reactivate the license of the individual who is on inactive status, without examination, if the individual:

(i) makes a written request to the Board; and

(ii) pays to the Board a reactivation fee established by the Board.

§9A–404.

Each advertisement for heating, ventilation, air-conditioning, or refrigeration services that is in the name of a person who provides heating, ventilation, air-conditioning, or refrigeration services shall contain the license number and name of a master, master restricted, or limited license holder whom the person employs and designates to direct and control the provision of heating, ventilation, air-conditioning, or refrigeration services through the business of the person.

§9A–501.

(a) Except as otherwise provided in this title, an individual may not provide, attempt to provide, or offer to provide heating, ventilation, air-conditioning, or refrigeration services unless issued a master license by the Board.

(b) Except as otherwise provided in this title, an individual may not assist, attempt to assist, or offer to assist in providing heating, ventilation, air-conditioning, or refrigeration services unless issued a master restricted license by the Board.

(c) Except as otherwise provided in this title, an individual may not exclusively maintain or repair heating systems, cooling systems, refrigeration systems, ventilation systems, or hydronic systems in the State unless issued a limited license by the Board.

§9A–502.

(a) Except as otherwise provided in this title, a holder of a master, master restricted, or limited heating, ventilation, air–conditioning, and refrigeration license, or other person who engages in the business of providing heating, ventilation, air–conditioning, or refrigeration services, may not employ an individual to provide or assist in providing heating, ventilation, air–conditioning, or refrigeration services unless the individual is licensed by the Board.

(b) A person may not employ an individual to provide or assist in providing heating, ventilation, air–conditioning, or refrigeration services under a public work contract subject to Title 17, Subtitle 2 of the State Finance and Procurement Article

unless the individual is licensed by the Board.

(c) A person may not classify an employee under a public work contract subject to Title 17, Subtitle 2 of the State Finance and Procurement Article who is licensed under this title at a specific work classification that is higher than the employee's license type.

§9A–503.

Except as otherwise provided in this title, regardless of whether a person is engaged in the business of providing heating, ventilation, air-conditioning, or refrigeration services, the person may not knowingly employ an individual to provide or assist in providing heating, ventilation, air-conditioning, or refrigeration services in the State unless the individual is licensed by the Board.

§9A–504.

Unless licensed to provide heating, ventilation, air-conditioning, or refrigeration services under this title, a person may not represent to the public by use of the titles "heating, ventilation, air-conditioning, and refrigeration license holder", "registered heating, ventilation, air-conditioning, and refrigeration contractor", by other title, or by description of services, methods, or procedures, or otherwise, that the person is licensed to provide or to assist in providing heating, ventilation, air-conditioning, or refrigeration services.

§9A–505.

(a) (1) In this section, "officer" includes a superintendent, manager, or agent of a corporation regardless of whether the corporation provides heating, ventilation, air-conditioning, or refrigeration services.

(2) Any person, including an officer, who violates § 9A-501, § 9A-502, § 9A-503, or § 9A-504 of this subtitle is guilty of a misdemeanor, and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both and, on a second or subsequent conviction, subject to a fine not exceeding $5,000 or imprisonment not exceeding 2 years or both.

(b) Any person who violates any provision of § 9A-402 of this title is guilty of a misdemeanor, and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

(c) (1) Except as otherwise provided by this title, the Board may impose on a person who violates any provision of this title a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Board shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Board shall pay any penalty collected under this subsection into the General Fund of the State.

§9A–506.

(a) Any subdivision of the State which required a local license to provide heating, ventilation, air-conditioning, or refrigeration services on or before January 1, 1990 may continue to require a local license for services performed within that subdivision.

(b) (1) A subdivision of the State which requires a local license to provide heating, ventilation, air-conditioning, or refrigeration services may not discriminate against applicants who are not residents of the subdivision.

(2) A subdivision of the State which requires a local license to provide heating, ventilation, air-conditioning, or refrigeration services shall issue a local license to any individual licensed by the Board on receipt from the individual of any application and fee required by the subdivision of the State.

(3) A subdivision of the State may not require an applicant for a local license to provide heating, ventilation, air-conditioning, or refrigeration services to take an examination if the applicant is licensed by the Board.

(c) In the event that any subdivision which requires a local license discontinues that requirement after the effective date of this Act, that subdivision may not thereafter adopt a license requirement.

(d) A State license is required to provide heating, ventilation, air-conditioning, or refrigeration services anywhere within the State, whether or not the individual holds a local license.

§9A–601.

This title may be cited as the "Maryland Heating, Ventilation, Air-Conditioning, and Refrigeration Contractors Act".

§9A–602.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall

terminate and be of no effect after July 1, 2023.

§10–101.

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

(b) (1) "Conveyance" means a carrying or transporting device that has a capacity that exceeds 1,749 gallons exclusive of the fuel supply tank for its own propulsion.

(2) "Conveyance" includes a pipeline, tank car, vehicle, and vessel.

(c) "Dyed diesel fuel" means diesel fuel that is dyed under U.S. Environmental Protection Agency rules for high sulfur diesel fuel or is dyed under Internal Revenue Service rules for nontaxable use.

(d) (1) "Gasoline" means a product that:

(i) is used as fuel in a spark ignited, internal combustion engine; or

(ii) is designated as gasoline by the Comptroller.

(2) "Gasoline" includes:

(i) casing head gasoline;

(ii) absorption gasoline;

(iii) other natural gasoline; and

(iv) aviation gasoline, as defined in § 9-101(c) of the Tax - General Article.

(e) "Motor fuel" means:

(1) gasoline; or

(2) special fuel.

(f) "Motor vehicle" means a vehicle that:

(1) is self-propelled;

(2) is designed to be operated on a public highway; and

(3) is not operated only on rails.

(g) "Petroleum transporter" means a person who transports motor fuel in interstate or intrastate commerce in a conveyance, whether or not the person owns

the conveyance.

(h) "Producer" means a company, or agent, parent company, subsidiary, or joint venture of a company, that extracts crude oil from the earth.

(i) (1) "Propulsion tank" means a receptacle on a motor vehicle from which motor fuel is supplied for the propulsion of the vehicle.

(2) "Propulsion tank" includes a fuel supply tank of a motor vehicle.

(j) "Refiner" means a person who makes motor fuel from crude oil by changing the physical or chemical characteristics of the crude oil.

(k) "Retail service station dealer" means a person who operates a retail place of business where motor fuel is sold and delivered into the fuel supply tanks of motor vehicles.

(l) (1) "Special fuel" means a product that is usable as fuel in an internal combustion engine.

(2) "Special fuel" does not include gasoline.

(m) "Vehicle" means a conveyance for transporting motor fuel on a public highway.

§10–201.

(a) (1) The Comptroller shall administer and enforce this title.

(2) The Comptroller may delegate any power or duty of the Comptroller under this title.

(b) To enforce this title, the Comptroller may make investigations, hold hearings, examine persons under oath, and receive evidence.

(c) To enforce this title, the Comptroller may issue subpoenas for the attendance of witnesses to testify or to produce evidence.

(d) (1) For inspection or drawing samples, the Comptroller shall have access, during normal business hours, to:

(i) each place where motor fuel is stored for sale;

(ii) each conveyance used to transport motor fuel; or

(iii) subject to the provisions of paragraph (2) of this subsection, the propulsion tank of any special fuel powered motor vehicle used for business purposes.

(2) In the case of the propulsion tank of a vehicle described in paragraph

(1)(iii) of this subsection, the Comptroller shall also have access for inspection or drawing samples any time the vehicle is in operation.

(3) A denial of access by an agent, owner, or other person who operates such a place, conveyance, or motor vehicle is prima facie evidence of a violation of this title.

(e) (1) (i) The Comptroller may detain a motor vehicle, vessel or railroad tank car placed on a customer's siding for use or storage for the purpose of inspecting the vehicle's propulsion tanks.

(ii) The Comptroller may remove samples of diesel fuel in reasonable quantities necessary to determine the composition of the fuel.

(2) The Comptroller may inspect and issue citations to operators of motor vehicles for violations of this subtitle at sites where fuel is, or may be, produced, stored, or loaded into or consumed by motor vehicles including:

(i) a terminal;

(ii) a fuel storage facility or bulk storage facility that is not a terminal;

(iii) a retail fuel facility;

(iv) a highway rest stop; and

(v) a highway inspection station, weigh station, mobile inspection station, or other similar location designated by the Comptroller.

§10–202.

(a) The Comptroller may adopt regulations necessary to administer and enforce this title.

(b) The Comptroller shall adopt regulations to:

(1) set minimum specifications for motor fuel marketed in the State consistent with the general practices of other states and the petroleum industry;

(2) specify the information to be included on each loading ticket or manifest; and

(3) specify the form of identification markers for vehicles and the method of annual validation of the markers.

§10–203.

(a) The Comptroller periodically shall collect or cause to be collected and cause

to be analyzed samples of all motor fuel that is:

(1) subject to regulation under this title; and

(2) stored and offered for sale in the State.

(b) The Comptroller shall conduct inspections as provided in a memorandum of understanding on behalf of and in coordination with other agencies when collecting motor fuel samples under this section.

§10–204.

If the Comptroller finds that a person is willfully marketing in the State motor fuel regulated by this title that does not meet minimum specifications set by the Comptroller or otherwise willfully marketing motor fuel in violation of this title or the Tax - General Article or any regulation adopted under this title or the Tax - General Article, the Comptroller:

(1) shall order the person to stop the violation, including any sale or distribution; and

(2) if the violation continues, shall sue for an injunction to stop the violation.

§10–205.

(a) Except as provided in subsection (b) of this section, the Comptroller need not analyze, collect, inspect, or set minimum specifications for liquefied petroleum gas.

(b) If it is necessary to protect the public welfare, liquefied petroleum gas is subject to the same provisions of this title as motor fuel.

§10–301.

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

(b) "Below cost" means a price that is less than the total of:

(1) the most recently published average reseller rack cost of motor fuel by grade and quality, as calculated by the Oil Price Information Service (OPIS), for the particular terminal from which the motor fuel was delivered to the retail service station dealer, or the actual invoice cost from the supplier of the product, whichever is lower; and

(2) the freight charges and all applicable federal, State, and local taxes not included in the invoice cost.

(c) (1) "Dealer" means a person who:

(i) imports any gasoline into the State;

(ii) blends, in the State, any gasoline on which the motor fuel tax has not been paid;

(iii) refines, in the State, any gasoline on which the motor fuel tax has not been paid; or

(iv) acquires, in the State, any gasoline on which the motor fuel tax has not been paid, for:

1. export; or

2. wholesale distribution.

(2) "Dealer" includes:

(i) the State when it engages in any activities listed in paragraph (1) of this subsection; and

(ii) a political subdivision of the State when it engages in any of the activities listed in paragraph (1) of this subsection.

(3) "Dealer" does not include a person who brings gasoline into the State in the fuel supply tank of an aircraft, motor vehicle, or vessel.

(d) "Manufacturer" means a person who in the State blends gasoline from blend stocks before final sale.

(e) "Special fuel seller" has the meaning stated in § 9-301(s) of the Tax - General Article.

§10–302.

(a) All motor fuel stored or offered for sale in the State is subject to inspection and analysis as provided in this title.

(b) The analysis shall be made by a testing method approved by the Comptroller.

§10–303.

(a) Before storing or selling motor fuel in the State, a person or governmental unit shall register with the Comptroller.

(b) A separate registration is required for each location where a person or governmental unit stores or sells motor fuel.

(c) An applicant for registration shall submit to the Comptroller in the form that the Comptroller requires:

(1) a statement that the applicant intends to store or sell motor fuel in the State;

(2) a statement that the motor fuel, as supplied or bought from the supplier, conforms to the specifications set by the Comptroller;

(3) the brand, type, and grade of the motor fuel to be stored or sold;

(4) the name and address of the supplier;

(5) if applicable, the number of retail nozzles by type of motor fuel;

(6) the legal business name and federal identification number of the applicant; and

(7) the address of the location where the motor fuel will be stored or sold.

(d) (1) The Comptroller shall issue a certificate of registration to each applicant who meets the requirements of this section.

(2) The Comptroller shall set the form of the certificate of registration.

(e) Registration expires on the first May 31 after its effective date.

(f) Each registrant shall display the certificate of registration conspicuously in each location where the registrant stores or sells motor fuel.

(g) A certificate of registration issued under this title is not transferable.

(h) The Comptroller may waive this section only when consumers in the State otherwise would be subject to extreme hardship during an emergency or civil disturbance.

§10–304.

(a) The Comptroller may not issue a certificate of registration to a retail service station dealer who markets motor fuel through a retail service station altered, enlarged, or structurally modified after July 1, 1977, unless:

(1) the station contains an enclosed work area where the service of motor vehicles is offered to customers regardless of whether motor fuel is bought; and

(2) the services offered include a battery charge, lubrication, oil change, tire repair, and replacement of accessories such as fan belts, radiator hoses, or wiper blades.

(b) Notwithstanding subsection (a) of this section, the Comptroller may issue a certificate of registration to a retail service station dealer who markets motor fuel through:

(1) a retail service station that, before it is altered, enlarged, or structurally modified, lacks an enclosed work area; or

(2) a retail service station that is altered, enlarged, or structurally modified if the owner and retail service station dealer agree to the elimination of an enclosed work area.

§10–304.1.

(a) Except as provided in subsection (b) of this section, a retail service station dealer may not sell motor fuel below cost.

(b) A retail service station dealer may sell motor fuel below cost if the sale is:

(1) made in good faith to meet competition;

(2) made as part of a final liquidation or closing of the business of the retail service station dealer;

(3) made as part of a bona fide charitable promotion lasting no longer than 2 days; or

(4) made under the direction or order of a court or government entity.

(c) If the Comptroller receives a complaint in writing that a retail service station dealer is selling motor fuel below cost, the Comptroller shall investigate and determine within 3 business days of the receipt of the complaint whether the allegations contained in the complaint are true.

(d) The Comptroller shall issue a stop sale notice and may suspend or revoke the certificate of registration of a retail service station dealer if the Comptroller determines that the retail service station dealer is in violation of this section.

§10–305.

(a) (1) Each dealer, manufacturer, refiner, or special fuel seller who imports motor fuel into the State shall submit to the Comptroller refinery specifications, including additive specifications, without regard to where the additives become part of the motor fuel.

(2) The Comptroller may waive this section only when consumers in the State otherwise would be subject to extreme hardship during an emergency or civil disturbance.

(b) (1) When submitting refinery specifications, a dealer, manufacturer, refiner, or special fuel seller, with the approval of the Comptroller, may designate 1 or more components of the motor fuel, including an additive, as a trade secret.

(2) In determining whether a component is a trade secret, the Comptroller shall consider whether a chemist who uses modern analytical techniques reasonably could be expected to identify the component.

(3) The Comptroller shall make every reasonable effort to protect the trade secret.

§10–306.

(a) Before selling motor fuel, each dealer, manufacturer, refiner, special fuel seller, or person operating a facility where motor fuel is stored in bulk for further distribution shall submit to the Comptroller for approval each terminal agreement, each additive specification, and each refinery specification.

(b) Before selling motor fuel, each dealer, manufacturer, or refiner shall submit to the Comptroller for approval each exchange agreement, each additive specification, and each refinery specification.

(c) The Comptroller may waive this section only when consumers in the State otherwise would be subject to extreme hardship during an emergency or civil disturbance.

§10–307.

An employee of the Office of the Comptroller may not divulge an additive specification or a refinery specification.

§10–308.

(a) Before making the first sale in the State of gasoline imported into the State, the seller shall register with the Comptroller each additive introduced into the gasoline after it was received in the State.

(b) The registration shall:

(1) include the amount of additive blended into each gallon of gasoline; and

(2) describe the additive by including:

(i) its trade name, trademark, and manufacturer;

(ii) its quantitative analysis; and

(iii) the manufacturer's trade name or other identification.

(c) (1) An additive may be introduced into gasoline for resale or distribution by a person who holds a Class "A" dealer license issued in accordance with § 9–322 of the Tax – General Article.

(2) The Comptroller may authorize any person who holds a dealer license other than a Class "A" dealer license issued in accordance with § 9–322 of the Tax – General Article to introduce an additive into gasoline for resale or distribution if the person complies with:

(i) the requirements of this subtitle; and

(ii) regulations adopted by the Comptroller, including regulations:

1. that specify the method for introducing an additive into gasoline, such as in–line blending or any method equal to or superior to in–line blending, as determined by the Comptroller; and

2. that provide for the payment of the motor fuel excise tax under § 9–305 of the Tax – General Article by a licensed dealer.

§10–309.

(a) Before making the first sale in the State of special fuel imported into the State, the seller shall register with the Comptroller each additive introduced into the special fuel after it was received in the State.

(b) The registration shall:

(1) include the specific amount of additive blended into special fuel; and

(2) describe the additive by including:

(i) its trade name or trademark;

(ii) its quantitative analysis; and

(iii) the manufacturer's trade name or other identification.

(c) An additive may only be introduced into special fuel for resale or distribution:

(1) by a special fuel seller; and

(2) in a manner set by regulation of the Comptroller.

§10–310.

(a) Before making the first sale in the State of a fluid, material, or other item, in a prepackaged form, imported into the State that purports to be a substitute for or improver of motor fuel, the seller shall:

(1) submit the item to the Comptroller for inspection;

(2) label the item in a way that the Comptroller approves; and

(3) obtain authorization for the sale from the Comptroller.

(b) In addition to any other information that the Comptroller requires, the seller shall submit to the Comptroller:

(1) the trade name, trademark, manufacturer, and place of manufacture of the item;

(2) a quantitative analysis of the item;

(3) a copy of any patent for the item;

(4) proof of all claims made for the item;

(5) instructions for use, including dosage;

(6) an amount of the item sufficient to be analyzed; and

(7) the results of each applicable SAE or ASTM test made on the item.

(c) If a material change is made in an item authorized for sale under this section, the item shall be resubmitted to the Comptroller for authorization.

(d) The Comptroller shall order the removal from the State of an unauthorized item offered for sale.

§10–311.

(a) Except as provided in subsections (c) and (d) of this section, each retail service station in the State:

(1) shall be operated by a retail service station dealer; and

(2) may not be operated by a producer or refiner of motor fuel:

(i) with a commissioned agent, company personnel, or a subsidiary company; or

(ii) under a contract with a person who manages the station on a fee arrangement with the producer or refiner.

(b) This section does not apply to facilities that an agricultural cooperative association owns and operates if:

(1) the agricultural cooperative association is certified by a bank for cooperatives to be eligible to borrow from the bank under Subchapter III of the federal Farm Credit Act of 1971;

(2) the certification is submitted to the Comptroller with the application for registration of a retail service station dealer under this subtitle;

(3) the agricultural cooperative association owns the property on which the facilities are located; and

(4) on the property, the agricultural cooperative association, as part of its business, sells or provides farm supplies or farm business services or distributes motor fuel in bulk to farmers on farms.

(c) A retail service station shall be exempt from subsection (a) of this section for a fiscal year that starts July 1, if:

(1) on January 1, 1979, the station was operated by a subsidiary of a producer or refiner of motor fuel; and

(2) the gross revenues of the subsidiary from the sale of motor fuel in the State for the preceding calendar year is less than 2% of the gross revenues of the subsidiary from all retail operations in the State for the preceding calendar year.

(d) If a dealer has previously operated a retail service station, the Comptroller may adopt regulations that define the circumstances in which a producer or refiner temporarily may operate the station.

§10–311.1.

(a) A producer or refiner of motor fuel may not include in any agreement or contract entered into with a service station dealer any provision that directly or indirectly limits or waives any right of the dealer to:

(1) petition any governmental authority or body; or

(2) lawfully advocate or oppose any governmental or regulatory action with respect to any matter.

(b) Any provision in an agreement or contract that violates the provisions of subsection (a) of this section is deemed to be void and unenforceable.

§10–312.

Each producer, refiner, or wholesaler of motor fuel who supplies motor fuel to retail service station dealers:

(1) shall apply all equipment rentals uniformly to all retail service station dealers supplied; and

(2) during periods of shortage:

(i) shall apportion uniformly and equitably all gasoline and special

fuel to all retail service station dealers supplied; and

(ii) may not discriminate among retail service station dealers supplied in their allotments.

§10–313.

Each contractual relationship between a supplier and retail service station dealer shall conform to the Maryland Gasohol and Gasoline Products Marketing Act and the federal Petroleum Marketing Practices Act.

§10–314.

Each supplier of motor fuel to a retail service station dealer shall ensure that the motor fuel meets specifications set by the Comptroller.

§10–315.

(a) A person who sells motor fuel at retail shall display signs in accordance with this section.

(b) (1) All dispensing equipment for motor fuel shall be marked conspicuously to show in numerals of equal size the price, including taxes, of a gallon of the motor fuel offered for sale.

(2) If numerals that show a fractional cent are used, the combined height and width of the numerator and denominator shall equal the height and width of the other numerals used.

(c) (1) A sign or other means on the premises and approaches to a retail outlet that advertises the retail price of motor fuel:

(i) may list the price and each tax separately if the listing of the total of the price and all taxes is the same size as the separate listing of the price; but

(ii) shall list the total of the price and all taxes by numerals of uniform size.

(2) In the listing of the total of the price and all taxes, a denominator need not be used to indicate a fraction, but:

(i) if a denominator is used, the numerator and denominator combined shall be the same size as the numeral that indicates the whole number; or

(ii) if a denominator is not used, the numerator shall be the same size as the numeral that indicates the whole number.

(d) If the retail price of motor fuel is advertised on a sign or by other means on the premises of and approaches to the retail outlet, the grade designation displayed for

any motor fuel in the advertisement shall be the same as the grade designation that is required to be displayed for that motor fuel on the retail dispensing pump as specified by the Comptroller.

(e) (1) This subsection does not apply to a retail service station dealer who operates with not more than 3 dispensing units that combined have not more than 6 nozzles.

(2) (i) Each retail service station dealer shall keep a sign on the premises that:

1. states the lowest price for a whole measurement unit of regular gasoline sold on the premises;

2. states the unit of measurement used; and

3. is readable by passing motorists.

(ii) The sign required under subparagraph (i) of this paragraph also may state the lowest price for a whole measurement unit of diesel and other motor fuel products sold on the premises.

(3) All numerals on the sign shall:

(i) be uniform;

(ii) be at least 8 inches high and 3.5 inches wide; and

(iii) have a brush stroke of at least 1 inch.

(4) A numeral in a fraction or a letter shall be at least one–third the height of a numeral that indicates a whole number.

(5) If a new or additional sign is required to comply with this subsection, the supplier of the gasoline shall provide the sign and numerals without cost to the retail service station dealer.

(f) A sign required at a service station by this section or any other State or federal law is exempt from the provisions of a local law, ordinance, or regulation for the purpose of determining:

(1) the total number of signs permitted; and

(2) the area of signs permitted.

(g) Except as provided in subsection (f) of this section, signs regulated by this section or other State law or by federal law may be regulated by the local zoning authority and shall be consistent with the local law, ordinance, or regulation governing signs.

§10–316.

The Comptroller shall issue a stop sale notice if the Comptroller finds that a person:

(1) stores or sells motor fuel from a location that does not have a valid certificate of registration;

(2) willfully uses a motor fuel advertisement that is misleading;

(3) willfully markets motor fuel that has not been approved; or

(4) sells motor fuel below cost in violation of § 10-304.1 of this subtitle.

§10–317.

(a) The Comptroller may suspend or revoke a registration for a violation of this subtitle, including the submission of a false statement, for a period not exceeding 30 days.

(b) If the Comptroller finds that a person has willfully altered, enlarged, or structurally modified a retail service station in violation of § 10-304 of this subtitle, the Comptroller may suspend or revoke the registration until the violation is corrected.

§10–318.

If, because of the marketing of an unapproved product, the Comptroller under § 10-317 of this subtitle suspends or revokes the registration of a retail service station dealer who is without fault, the supplier of the unapproved product is liable in damages to the retail service station dealer in an amount equal to the net operating loss sustained during the period of suspension or revocation.

§10–319.

Before a retail or wholesale delivery of motor fuel may be made in a container, the vehicle operator shall remove all liquid volume of:

(1) gasoline, if the next delivery will be special fuel; or

(2) special fuel, if the next delivery will be gasoline.

§10–320.

(a) Except as provided in subsection (b) or (c) of this section, a retail service station dealer who reduces the price of motor fuel for self-service shall provide, on request, fueling service at the self-service price to a disabled driver who displays a disabled person's registration plate or parking permit issued by the Motor Vehicle Administration.

(b) This section does not apply to a retail service station dealer who sells motor fuel from:

(1) a convenience store that:

(i) sells motor fuel through remotely controlled dispensing equipment; and

(ii) does not provide fueling service; or

(2) a station that:

(i) is exclusively self-service;

(ii) is operated by 1 cashier; and

(iii) has remotely controlled dispensing equipment.

(c) This section does not apply to a disabled driver who:

(1) is reasonably capable of providing self-service; or

(2) drives a motor vehicle that carries another individual who is reasonably capable of providing self-service.

(d) A retail service station dealer who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $25.

§10–321.

After gasoline to be sold at retail has been received in the State, a person may not add lead to the gasoline.

§10–322.

A retail service station dealer or marina may not with intent to defraud commingle gasoline by brand or grade.

§10–323.

(a) A common carrier, contract carrier, manufacturer, refiner, special fuel seller, wholesaler of motor fuel, or person who buys motor fuel in bulk for resale in bulk who is engaged in the transportation of motor fuel may not willfully adulterate or commingle:

(1) gasoline with special fuel; or

(2) gasoline by brand or grade.

(b) Except for motor fuel intended for its own use, a petroleum transporter may

not place an additive in motor fuel.

(c) This section does not prohibit the adulteration or commingling of gasoline that occurs as a result of transit through a pipeline system.

§10–323.1.

(a) Every motor fuel distributor required to be registered under this subtitle shall report the volume of sales, for each type of motor fuel sold in this State, made to end users that are exempt from the motor fuel tax.

(b) Reporting shall be on a frequency established by the Comptroller through regulations, but may not be more frequent than once per calendar month.

(c) Reporting shall be on forms furnished by the Comptroller.

(d) Completed reports shall be forwarded to and be received by the Comptroller within 15 calendar days of the end of the report period.

§10–323.2.

(a) (1) A notice stating "dyed diesel fuel, nontaxable use only" shall be:

(i) provided by the terminal operator or distributor to any person that receives dyed diesel fuel at a terminal or distributor rack;

(ii) provided by the seller of dyed diesel fuel to its buyer if the fuel is located outside the bulk transfer or terminal system and is not sold from a retail pump on which the notice required by this section has been posted in accordance with item (iii) of this paragraph; and

(iii) posted by a seller on any retail pump where the seller sells dyed diesel fuel for use by the buyer of the dyed diesel fuel.

(2) The notice required under paragraph (1)(i) or (ii) of this subsection shall be provided at the time of the removal or sale of the dyed diesel fuel and shall appear on shipping papers, bills of lading, and invoices accompanying the sale or removal of the dyed diesel fuel.

(3) The Motor Fuel Tax Bureau may determine that compliance with a federal notice provision that is substantially similar to a notice requirement of this subsection satisfies that notice requirement of this subsection.

(b) (1) A person may not operate a motor vehicle on a highway in the State with fuel supply tanks containing dyed diesel fuel unless permitted to do so under a federal law or regulation relating to the use of dyed diesel fuel on the highways.

(2) (i) A person may not sell or deliver dyed diesel fuel if the person

knows or has reason to know that the dyed diesel fuel will be consumed for a prohibited on–highway use.

(ii) A person who dispenses dyed diesel fuel from a retail pump that is not properly labeled with the notice required by subsection (a)(1) of this section, or who knowingly delivers dyed diesel fuel into the storage tank of such a pump, shall be presumed to know that the dyed diesel fuel will be consumed on the highway.

(c) A person may not:

(1) except as provided in subsection (b)(1) of this section, operate a motor vehicle on a highway in the State with dyed diesel fuel in the propulsion tank of the motor vehicle;

(2) sell or deliver dyed diesel fuel from a retail pump that is not properly labeled as required under subsection (a) of this section;

(3) sell or deliver dyed diesel fuel from a petroleum delivery vehicle into a propulsion tank of a motor vehicle; or

(4) refuse to permit inspection of a propulsion tank in accordance with § 10–201(e) of this title.

(d) (1) A person is guilty of a violation of this section if the person, whether as a principal, an agent, or an accessory, intentionally:

(i) commits a violation of this section;

(ii) attempts to commit a violation of this section;

(iii) conspires to commit a violation of this section;

(iv) aids another in the commission of a violation of this section; or

(v) abets another in the commission of a violation of this section.

(2) A person is guilty of a violation of this section if the person intentionally:

(i) induces another to commit a violation of this section;

(ii) causes another to commit a violation of this section;

(iii) coerces another to commit a violation of this section;

(iv) permits another to commit a violation of this section; or

(v) directs another to commit a violation of this section.

(e) A person that violates any provisions of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(f) In addition to any other penalty provided by law, the Comptroller may assess against any person that violates any provision of this section dealing with the use, sale, transportation, or storage of dyed diesel fuel:

(1) for the first violation, a fine of $1,000 or $10 per gallon of dyed diesel fuel involved in the violation, whichever amount is greater; and

(2) for a second or subsequent violation, a fine equal to the amount of the penalty assessed under item (1) of this subsection for the first violation multiplied by the total number of violations.

§10–324.

Except as otherwise provided in this subtitle, a person who violates this subtitle or aids or assists in the violation of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

§10–401.

(a) Each petroleum transporter shall register with the Comptroller before transporting motor fuel to or from a place in the State.

(b) An applicant for registration shall submit to the Comptroller an application on the form that the Comptroller requires.

(c) The Comptroller shall register and issue a letter of registration to each applicant that meets the requirements of this subtitle.

(d) A petroleum transporter shall notify the Comptroller of each change in registration information within 5 days of the change.

§10–403.

Subject to the hearing provisions of § 10-404 of this subtitle, the Comptroller may deny registration to an applicant, reprimand a registrant, or suspend or revoke the registration of a petroleum transporter if the applicant or registrant:

(1) fraudulently or deceptively obtains or attempts to obtain the registration for the applicant or registrant or for another person;

(2) fraudulently or deceptively uses the registration;

(3) fails to submit a report required under § 10-410 of this subtitle;

(4) submits false information in a report required under § 10-410 of this subtitle; or

(5) violates this subtitle.

§10–404.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Comptroller takes any final action under this subtitle, the Comptroller shall give the person against whom the action is contemplated an opportunity for a hearing before the Comptroller.

(b) The Comptroller shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Comptroller may administer oaths in connection with a proceeding under this section.

(d) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Comptroller may hear and determine the matter.

§10–405.

A party to a proceeding before the Comptroller who is aggrieved by a final decision of the Comptroller in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§10–406.

(a) Each vehicle used to transport motor fuel shall be identified on the tank part of the vehicle or another location acceptable to the Comptroller with the name of the petroleum transporter who is registered under this subtitle.

(b) The identification must be discernible at 50 feet from each side or from the rear of the vehicle when the vehicle is at rest.

§10–407.

(a) An operator of a vehicle or vessel who gets motor fuel for transport from a marine terminal, pipeline tank farm, place of manufacture, refinery, or other type of bulk storage shall:

(1) have a copy of the loading ticket or manifest; and

(2) deliver a copy of the loading ticket or manifest to the buyer or consignee of the motor fuel at the time of delivery.

(b) A loading ticket or manifest shall accompany each conveyance that leaves a

place of loading.

§10–408.

Each petroleum transporter:

(1) shall keep for inspection a manufacturer's certificate of origin that shows the measured calibration by pots or compartments for each vehicle that meets the definition of a conveyance; or

(2) if such a certificate is unavailable, shall get and keep for inspection at the request of the Comptroller a certificate from a governmental unit or professional engineer.

§10–409.

A petroleum transporter shall label each vehicle in accordance with the hazardous materials regulations of the United States Department of Transportation.

§10–410.

Each petroleum transporter required by regulation to report to the Comptroller shall:

(1) report monthly on the form required by the Comptroller all motor fuel that the petroleum transporter imports into or exports from the State;

(2) keep for 2 years a record of each interstate and each intrastate shipment of motor fuel;

(3) on request, provide these records to the Comptroller; and

(4) report immediately to the Comptroller the loss of any motor fuel, unless the loss is due to:

(i) temperature correction; or

(ii) a spill that is reported to another State unit.

§10–411.

A person who violates this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 for each violation.

§10–412.

(a) In this subtitle, "police officer" means:

(1) any uniformed police officer; or

(2) any civilian employee of the Department of State Police or of the Maryland Transportation Authority Police Force assigned to enforce this subtitle or any rule or regulation adopted under this subtitle, but only while acting under written authorization of the Secretary of State Police.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, any police officer shall have the authority to enforce this subtitle and any rule or regulation adopted under it.

(2) A civilian employee of the Maryland Transportation Authority Police Force shall have the authority stated in paragraph (1) of this subsection only if the individual is:

(i) acting under the immediate direction and control of a uniformed police officer; and

(ii) certified by the Department of State Police to enforce this subtitle and any rule or regulation adopted under it.

§10–501.

(a) Each container of automotive crankcase oil offered for sale at wholesale or retail shall be labeled with the appropriate API/SAE classification and SAE viscosity number, as defined by the API engine service classification system.

(b) Each container of crankcase oil or other lubricant that has been used for lubrication and then reclaimed, refined, or reconditioned shall be labeled with the word "reconditioned".

§10–502.

(a) Except as provided in subsection (b) of this section, a refiner or other supplier of motor fuel to a retail service station may not engage in, sponsor, promote, advertise, or otherwise perform or participate in a game of chance to be marketed or offered to the public at a retail service station in the State.

(b) (1) A supplier of motor fuel authorized under this title to operate retail service stations may, at such stations, participate in a game of chance promoted or sponsored by entities other than a refiner or supplier of motor fuel.

(2) A supplier of motor fuel authorized under this section to conduct a game of chance may not require a retail service station dealer to pay for any costs related to the game of chance.

§10–503.

(a) In this section, "dirt bike" has the meaning stated in § 21–1128 of the Transportation Article.

(b) This section applies only in Baltimore City.

(c) A retail service station dealer shall post a sign in a conspicuous location at the retail service station that states:

(1) the provisions of the Baltimore City Code that prohibit a service station or any other person from selling, transferring, or dispensing motor fuel for delivery into a dirt bike; and

(2) the provisions of § 21–1128 of the Transportation Article that prohibit a person from dispensing motor fuel into a dirt bike.

(d) The Comptroller, in consultation with the Washington, Maryland, Delaware Service Station and Automotive Repair Association, shall adopt guidelines for the design of a sign required under this section.

(e) If a retail service station dealer does not post a sign as required by this section, the retail service station dealer:

(1) for a first offense, shall receive a warning; and

(2) for a second or subsequent offense, is subject to a civil penalty of $100.

§11–101.

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

(b) "Breakage" means the odd cents that remain after all successful bettors are paid to the next lowest multiple of 10 cents.

(c) "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(d) "Commission" means the State Racing Commission.

(e) "Handle" means the gross amount, less refunds, of money bet.

(f) "Harness racing" means the racing of horses that trot or pace in harness while pulling drivers in sulkies.

(g) "Intertrack betting" means:

(1) pari-mutuel betting at a receiving track in the State on a race that is:

(i) held live or by interstate simulcast at a sending track in the State; and

(ii) shown simultaneously by video signal at the receiving track; and

(2) transmission of the bets at the receiving track to the sending track.

(h) "License" means a license issued by the Commission to hold a race meeting.

(i) "Licensee" means a person who has been awarded racing days for the current calendar year.

(j) "Mile thoroughbred racing" means thoroughbred horse races at a track that is at least 1 mile long.

(k) "Multiple mutuel pool" means a separate pari-mutuel betting pool in which an interest is represented by a single bet on 2 or more horses.

(l) "Mutuel pool" includes a multiple mutuel pool and a regular mutuel pool.

(m) "Pari-mutuel betting" means the system of betting in which those who successfully bet on horses that finish in specified positions share the mutuel pool, less the takeout and the breakage.

(n) "Purse" means the prize money divided among the owners of horses that finish in specified positions in a race.

(o) "Race meeting" means a period of time to hold racing that extends between specific dates over a number of racing days at a single track.

(p) "Racing" includes:

(1) harness racing;

(2) mile thoroughbred racing;

(3) special thoroughbred racing;

(4) steeplechase or hurdle racing;

(5) flat racing; and

(6) quarter horse racing.

(q) "Receiving track" means a track where pari-mutuel betting is done on races held at another track.

(r) "Regular mutuel pool" means a separate pari-mutuel betting pool in which an interest is represented by a single bet on 1 horse.

(s) "Sending track" means a track where a race is held live or by interstate simulcast and is sent simultaneously by video signal to a receiving track or a satellite simulcast facility under Subtitle 8, Part III of this title.

(t) "Special thoroughbred racing" means thoroughbred horse racing held by the Maryland State Fair and Agricultural Society, Inc., or the Maryland-National Capital Park and Planning Commission.

(u) "Takeout" means the part of the handle that is not returned to successful bettors but is otherwise allocated under this title.

(v) "Track" means a place where racing is held.

§11–102.

(a) This title is statewide and exclusive in its effect.

(b) A county, municipal corporation, or other political subdivision of the State may not:

(1) make or enforce a local law, ordinance, or regulation about racing; or

(2) impose or collect any tax or additional license fee as to racing, except the general property tax.

§11–103.

Unless pari-mutuel betting is held, this title does not apply to:

(1) the Elkridge-Harford Point to Point;

(2) the Grand National;

(3) the Marlboro Trials;

(4) the Maryland Hunt Cup;

(5) the Potomac Trials;

(6) a race at the Cape Pine Farm in Church Hill, Queen Anne's County;

(7) a race held by the Pocomoke City Fair Committee, Inc. on any day during and in conjunction with the Great Pocomoke Fair; and

(8) any other steeplechase or hunt-type race.

§11–201.

There is a State Racing Commission in the Department.

§11–202.

(a) The Commission consists of 9 members, appointed by the Governor with the

advice and consent of the Senate.

(b) At the time of appointment and qualification:

(1) each member shall be:

(i) at least 25 years old;

(ii) a resident of the State who has resided in the State for at least the last 5 years;

(iii) a qualified voter of the State; and

(iv) an individual who has not been convicted of a crime that involves moral turpitude;

(2) at least 3 members of the Commission shall be knowledgeable or experienced in an aspect of thoroughbred racing; and

(3) at least 3 other members shall be knowledgeable or experienced in an aspect of harness racing.

(c) (1) A member of the Commission may not hold an official relation to a licensee or hold any stocks, bonds, or other financial interest in a licensee.

(2) Not more than 4 members who are appointed after July 1, 1989, may have a financial interest in racing in the State.

(3) Not more than 6 members may be of the same political party.

(d) Before taking office, each appointee to the Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(e) (1) The term of a member of the Commission is 4 years and begins on July 1.

(2) The terms of members are staggered as required by the terms provided for members of the Commission on October 1, 1992.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(f) (1) Subject to the hearing requirements of subsection (g) of this section, the Governor, with the advice of the Secretary, may remove a member of the Commission for inefficiency, misconduct in office, or neglect of duty.

(2) Except as provided in paragraph (3) of this subsection and subject to paragraph (4) of this subsection, a member shall be considered to have resigned if the member did not attend at least two–thirds of the Board meetings held during any consecutive 12–month period while the member was serving on the Board.

(3) The Governor may waive a member's resignation and allow the member to continue serving if the member has been unable to attend meetings for reasons satisfactory to the Governor and the reasons are made public.

(4) In accordance with § 8–501 of the State Government Article, the chairman shall provide notice to the Governor and the Governor shall appoint a successor.

(g) (1) Before the Governor removes a member, the Governor shall give the member an opportunity for a public hearing.

(2) At least 10 days before the hearing, the Governor shall give the member:

(i) a copy of the charges; and

(ii) notice of the time and place of the hearing.

(3) The member may be represented at the hearing by counsel.

(4) If the Governor removes a member, the Governor shall submit to the Secretary of State:

(i) a statement of all charges made against the member;

(ii) the findings of the Governor; and

(iii) a record of the proceedings.

§11–203.

(a) The Governor shall designate a chairman from among the members of the Commission.

(b) (1) The term of the chairman is 1 year.

(2) The chairman may not serve more than 2 consecutive terms as chairman.

§11–204.

(a) Except as provided in § 11-310 of this title, a majority of the members then serving on the Commission is a quorum.

(b) The Commission shall meet in the State, at the times and places that the Commission determines.

(c) Each member of the Commission is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement under the Standard State Travel Regulations for expenses for each Commission meeting attended, as provided in the State budget.

(d) While in office, each member of the Commission shall be covered by a surety bond in the form and amount required by law.

§11–205.

(a) (1) With the approval of the Governor, the Secretary shall appoint an executive director for the Commission from a list of at least 3 nominees submitted by the Commission.

(2) The executive director is in the executive service in the State Personnel Management System and serves at the pleasure of the Secretary.

(b) The executive director shall:

(1) collect the taxes and fees imposed under this title or regulations adopted by the Commission;

(2) keep the records and papers of the Commission, including a record of each proceeding;

(3) administer the licensing of individuals who work in connection with racing;

(4) prepare, issue, and submit reports of the Commission;

(5) administer the daily operation of the office of the Commission; and

(6) perform any other duty that the Commission directs.

(c) With the approval of the Commission, the executive director shall set the conditions under which a licensee must add to, change, make a reasonable improvement to, or repair property that a licensee owns or leases for racing.

(d) The executive director is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§11–206.

(a) With the approval of the Commission and, except as otherwise provided by law, subject to the provisions of the State Personnel and Pensions Article, the executive director shall appoint a staff of the Commission.

(b) (1) The Commission may employ 4 stewards and 4 harness judges.

(2) The stewards and harness judges shall be recommended by the executive director.

(3) Each licensee and organization that represents owners and trainers may recommend individuals to the Commission and executive director for appointment as stewards or harness judges.

(4) The stewards and harness judges are special appointments of the skilled service or the professional service in the State Personnel Management System.

(c) Each member of the staff of the Commission, steward, and harness judge is entitled to:

(1) compensation in accordance with the State budget; and

(2) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(d) An individual who holds a position under the Commission may not hold an official relation to a licensee or hold any stocks, bonds, or other financial interest in a licensee.

§11–207.

(a) On the recommendation of the executive director, the Commission may employ additional employees or agents, including auditors, experts, guards, inspectors, a breathalyzer operator at each harness racing track, scientists, Commission secretaries, specimen collectors, veterinarians, and others whom the Commission considers to be essential at or in connection with a race meeting in the best interests of racing.

(b) The licensee who holds the race meeting for which an additional employee is used shall pay:

(1) the employer contribution for the employee under the Employees' Pension System;

(2) the employer contribution, as determined by the Department of Budget and Management, for the retiree under § 2-508 of the State Personnel and Pensions Article; and

(3) an amount required under § 23-306.1(b) of the State Personnel and Pensions Article, if any.

(c) A licensee who holds a race meeting shall employ and pay the officials at the race meeting, other than stewards and harness judges, including each clerk of the course, clerk of the scales, handicapper, paddock judge, patrol judge, placing judge, racing secretary, starter, assistant starter, and timer.

(d) Notwithstanding any other provision of this title, if a licensee is required to allocate 0.25% of handle to either the Maryland Race Track Employees Pension Fund or the Maryland Harness Track Employees Pension Fund, the licensee shall first pay from the allocation any amounts required to be paid by the licensee under subsection (b) of this section and the remainder shall be paid to the appropriate pension fund.

§11–208.

(a) Each law enforcement officer shall cooperate with the Commission to enforce this title.

(b) On request of the Commission, the Governor may order the Police Commissioner of Baltimore City or the sheriff of a county to assign enough law enforcement officers to prevent unauthorized racing.

§11–209.

(a) Besides its other powers under this title, the Commission has the powers necessary or proper to carry out fully all the purposes of this title.

(b) The jurisdiction, supervision, powers, and duties of the Commission extend to each person who holds racing for a purse, reward, or stake.

§11–210.

(a) Except as provided in subsection (b) of this section, the Commission may:

(1) adopt regulations and conditions to govern racing and betting on racing in the State; and

(2) approve or disapprove:

(i) prices that a licensee may set for admission to a race, a service performed, or an article sold at a track; and

(ii) the size of the purse, reward, or stake to be offered at a race.

(b) The Commission may not adopt regulations that allow:

(1) racing a breed of horse not now authorized by law; or

(2) holding currently unauthorized:

(i) intertrack betting;

(ii) off-track betting; or

(iii) telephone betting other than telephone account betting.

§11–211.

(a) The Commission may:

(1) enter or investigate the office, track, or place of business of a licensee to ensure that the regulations of the Commission are strictly complied with; and

(2) place an expert accountant or other individual in the office, track, or place of business of a licensee and require that the licensee pay the salary and expenses of the expert accountant or other individual.

(b) The Commission may require that an employee or official of the licensee be removed from the job.

(c) The Commission may require that a licensee keep financial records in the way that the Commission determines.

(d) The Commission may administer oaths.

(e) The Commission may issue a subpoena for the attendance of a witness to testify or to produce evidence.

§11–212.

(a) The Commission may maintain a testing laboratory and have tests done elsewhere.

(b) (1) Each licensee shall pay a fraction of the yearly costs of the testing laboratory and of the tests done elsewhere.

(2) The numerator of the fraction shall be the number of racing days with pari-mutuel betting privileges that the licensee holds during the year.

(3) The denominator of the fraction shall be the whole number of racing days with pari-mutuel betting privileges held in the State during the year.

§11–213.

(a) On or before September 15 of each year, the Commission shall submit a report to the Secretary and the Legislative Policy Committee about the preceding calendar year.

(b) Each report shall include:

(1) a statement of receipts and disbursements of the Commission;

(2) a summary of major events that occurred the preceding year that affected horse racing in the State, including any significant changes at tracks in the region as well as a discussion of legislative initiatives in the State;

(3) a 5–year assessment of each track regarding:

(i) attendance;

(ii) purse distributions;

(iii) live racing days that are allocated and used;

(iv) betting on live racing that is held at that track broken down by the following categories:

1. betting conducted at the live track;

2. betting conducted at other Maryland tracks;

3. betting conducted at satellite simulcast facilities in the State; and

4. betting conducted through out–of–state satellite simulcasting;

(v) betting that is conducted at the live track on races simulcast from other tracks in the State; and

(vi) betting that is conducted at the live track on races simulcast from out–of–state tracks;

(4) information on all simulcast betting at satellite simulcast facilities in the State, including information on how much is wagered on in–State races and how much is bet on out–of–state races;

(5) information on all simulcast betting that is conducted out of state on races being run live in this State;

(6) to the extent available, information on the breeding industry in the State, including:

(i) the number of breeders in the State;

(ii) the number of foals registered in the State;

(iii) the average sales prices of foals; and

(iv) any other information pertaining to the regional and national ranking of the State for breeding;

(7) all other information that is currently provided by the Commission in its annual report;

(8) additional information on satellite simulcast facilities, as required under § 11–831 of this title; and

(9) any other information that is useful in explaining the financial viability of horse racing in the State and any recommendations to improve the industry.

§11–214.

The Commission exercises its powers and performs its duties subject to the authority of the Secretary.

§11–301.

In this subtitle, "beneficial ownership" includes:

(1) record ownership;

(2) stock or other ownership in an entity in a chain of parent and subsidiary or affiliated entities, any 1 of which participates in the capital or profits of a licensee, regardless of the percentage of ownership involved;

(3) an interest that entitles a person to benefits substantially equivalent to ownership by an agreement, relationship, or other arrangement even though the person is not an owner of record; and

(4) unless there are special circumstances, ownership of a security by a relative of an individual who lives in the home of the individual.

§11–302.

A person must have an appropriate license whenever the person holds a race meeting in the State where pari-mutuel betting is allowed or a purse, reward, or stake is offered.

§11–303.

(a) An applicant for a license shall submit to the executive director of the Commission an application:

(1) in the form that the Commission requires; and

(2) on or before a day that the Commission sets.

(b) The application shall state:

(1) the dates of the race meetings desired;

(2) the maximum number of racing days desired; and

(3) any other information that the Commission requires.

§11–304.

(a) The Commission shall issue a license to each applicant who:

(1) is awarded racing days in a race meeting; and

(2) pays the appropriate license fee.

(b) A license shall state:

(1) the dates of the race meeting awarded;

(2) the total number of racing days awarded; and

(3) the kind of racing to be held.

§11–305.

A licensee is subject to all rights, regulations, and conditions that the Commission sets for the calendar year in which a race meeting of the licensee is held.

§11–306.

An award of a racing day to a licensee gives the licensee a license for the racing day, but it does not give the licensee an ownership right in the racing day.

§11–307.

(a) (1) On request of a licensee, the Commission may return to the licensee a fee paid for racing on a day when the licensee fails to hold racing if:

(i) on that day, racing is impossible, impracticable, or inadvisable;

(ii) the licensee is not in default; and

(iii) the reason for the lack of racing is beyond the control of the licensee.

(2) The decision of the Commission is final.

(b) If a licensee does not hold racing on the full number of its authorized racing days because of bad weather conditions, the Commission may award to the licensee replacement races or racing days.

§11–308.

(a) Subject to the hearing provisions of §§ 11-309 and 11-310 of this subtitle, the Commission may deny a license to an applicant or discipline a licensee in accordance with this section.

(b) The Commission may deny a license to any applicant for any reason that the Commission considers sufficient.

(c) (1) The Commission may reprimand any licensee or suspend or revoke a license if the licensee violates:

(i) this title;

(ii) a regulation adopted under this title; or

(iii) a condition set by the Commission.

(2) The Commission shall suspend or revoke a license if the applicant or licensee fails to:

(i) keep records and make reports of ownership of stock that are required under § 11-314 of this subtitle; or

(ii) make a reasonable effort to get affidavits required under § 11-314(b) and (c) of this subtitle.

(d) (1) The Commission may impose a penalty not exceeding $5,000 for each racing day that the licensee is in violation of subsection (c) of this section:

(i) instead of suspending or revoking a license under subsection (c)(1) of this section; and

(ii) in addition to suspending or revoking a license under subsection (c)(2) of this section.

(2) To determine the amount of the penalty imposed under paragraph (1) of this subsection, the Commission shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation; and

(iii) the good faith or lack of good faith of the licensee.

(3) A penalty imposed on a licensee shall be paid from the licensee's share of the takeout.

§11–309.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Commission takes any final action under § 11-308 of this subtitle, it shall give the person against whom the action is contemplated an opportunity for a hearing before the Commission or, as provided under § 11-310 of this subtitle, a hearing committee.

(b) The Commission shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Commission may hear and determine the matter.

§11–310.

(a) The Commission may delegate to a hearing committee of at least 3 of its members the power to hold adjudicatory proceedings under this title, including evidentiary hearings.

(b) (1) A unanimous decision by the hearing committee is binding and is a final decision of the Commission.

(2) If the decision of the hearing committee is not unanimous, a de novo hearing shall be conducted by the Commission.

§11–311.

A party to a proceeding before the Commission who is aggrieved by a final decision of the Commission in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§11–312.

(a) On request of the Commission, the following individuals shall give the Commission their fingerprints:

(1) each individual licensee;

(2) each individual member of an unincorporated association that is a licensee;

(3) each officer or director of a corporation that is a licensee;

(4) each employee of a licensee who actively participates in the racing action of the licensee;

(5) each individual who actively participates in the racing action of a licensee, including each agent, blacksmith, driver, apprentice jockey, jockey, manager, owner, trainer, stable employee, and veterinarian;

(6) each member of the Commission;

(7) the Executive Director of the Commission;

(8) each employee of the Commission under §§ 11-206 and 11-207 of this title; and

(9) each individual who is subject to § 11-316 of this subtitle.

(b) The Commission shall:

(1) apply to the Central Repository for a State and national criminal history records check for each individual listed in subsection (a) of this section; and

(2) as part of the application for a criminal history records check, submit to the Central Repository:

(i) a complete set of the individual's legible fingerprints taken on a form approved by the Director of the Central Repository; and

(ii) the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

(c) (1) In addition to a State criminal history records check under this section, the Commission may require an individual listed in subsection (a) of this section to obtain a criminal history records check from the Federal Bureau of Investigation, through the Central Repository.

(2) For each applicant who is required by the Commission to obtain a criminal history records check from the Federal Bureau of Investigation under paragraph (1) of this subsection, the Commission shall apply to the Central Repository for a national criminal history records check.

(3) As part of the application for a national criminal history records check, the Commission shall submit to the Central Repository:

(i) a complete set of the individual's legible fingerprints taken on a form approved by the Director of the Federal Bureau of Investigation; and

(ii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(d) (1) In accordance with §§ 10-201 through 10-234 of the Criminal Procedure Article, the Central Repository shall forward to the individual and the Commission the

individual's criminal history record information.

(2) Information obtained from the Central Repository under this section shall be:

(i) confidential and may not be disseminated; and

(ii) used only for the purpose authorized by this section.

(3) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10-223 of the Criminal Procedure Article.

§11–313.

(a) The Commission shall require a licensee, and each officer or stockholder of a licensee, to disclose to the Commission each financial interest that the person has in racing.

(b) On or before the 90th day following the end of a licensee's fiscal year, the licensee shall submit to the Commission in the form that the Commission requires:

(1) an itemized statement under oath for the preceding fiscal year of receipts from all sources and of all expenses and disbursements, including salaries of officers, attorney fees, and lobbying expenses; and

(2) a certified audit by a certified public accountant of the financial records of the licensee for the preceding fiscal year.

(c) The audited statements of all licensees shall be sent to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly.

(d) The Office of Legislative Audits shall audit each licensee at least once every 2 years in accordance with the provisions of §§ 2-1217 through 2-1227 of the State Government Article.

§11–314.

(a) The Commission shall require each licensee to keep records that show the beneficial ownership of the stock of the licensee, whether or not the beneficial ownership is registered or stated on the stock.

(b) (1) The Commission shall require a licensee at least once each calendar year to get by written request an affidavit from each owner of record of the licensee.

(2) The affidavit shall state, to the best of the affiant's knowledge, information, and belief:

(i) whether a person other than the affiant has a right of beneficial

ownership in the stock held in the name of the affiant;

(ii) the name and address of any other person who has a right of beneficial ownership; and

(iii) the amount and nature of the beneficial ownership.

(c) (1) If a licensee learns that a person, other than a record owner of stock in a licensee, has a beneficial ownership interest in stock of the licensee, the licensee promptly shall request in writing that the person submit an affidavit within 60 days to the licensee.

(2) The affidavit shall state to the best of the affiant's knowledge, information, and belief:

(i) whether the affiant has a right of beneficial ownership in the stock of the licensee that is described in the notice;

(ii) the amount and nature of the beneficial ownership;

(iii) whether a person other than the affiant and the record owner has a right of ownership of any kind in that stock of the licensee; and

(iv) the amount and nature of the ownership of that stock by a person other than the affiant and the record owner.

(d) Notwithstanding the affidavit requirements of this section, the Commission may excuse the reporting of beneficial ownership that is less than 2% of the licensee.

(e) (1) A licensee shall submit the beneficial ownership records and affidavits required under this section to the Commission at least once each year and at any other time that the Commission requires.

(2) A licensee shall report promptly to the Commission each change in beneficial ownership.

§11–315.

A statement required to be submitted to the Commission under § 11-313 or § 11-314 of this subtitle shall be under oath and signed by each officer of the corporate licensee or by the owner or each partner of an unincorporated licensee.

§11–316.

(a) Before a prospective buyer buys a majority controlling interest in a licensee, the Commission shall review the personal and financial background of the prospective buyer.

(b) (1) The Commission shall adopt regulations to carry out this section.

(2) The regulations shall:

(i) require a personal and financial background check of the prospective buyer;

(ii) specify a period of time to review the required personal and financial information before a purchase or transfer of racing days is made; and

(iii) require that notice and an invitation to comment be given to the Legislative Policy Committee at least 15 days before final approval of a purchase or transfer of racing days resulting from a purchase.

(3) The background check shall include:

(i) a review by a certified public accountant of certified financial statements, including contingent or pledged liabilities, sufficient to determine the ability of the prospective buyer to buy and maintain the licensee;

(ii) an income statement for the most recent year;

(iii) a statement of financial and related records of any person in which the prospective buyer has at least a majority interest;

(iv) a disclosure of each financial interest in racing;

(v) a disclosure of each person who will have beneficial ownership of the licensee as a result of the purchase;

(vi) a criminal history records check under § 11-312 of this subtitle; and

(vii) a character review.

§11–317.

Before a license or racing days may be transferred to a buyer or a lessee of a track:

(1) the Legislative Policy Committee shall have been notified at least 15 days before the transfer;

(2) the Legislative Policy Committee, if it has chosen to do so, shall have provided comment to the Commission about the transfer; and

(3) the transfer shall have been approved by the Commission.

§11–318.

The Commission may require a licensee to get its approval before the licensee:

(1) contracts to pay money;

(2) sets a salary, fee, or compensation to be paid; or

(3) builds, extends, or improves a track or structure on property that the licensee owns or leases.

§11–319.

(a) The Maryland Backstretch Employees Pension Fund shall be administered by the organization that represents a majority of the owners and trainers who race thoroughbred horses in the State.

(b) The Maryland Race Track Employees Pension Fund shall be administered by representatives of:

(1) each mile thoroughbred racing licensee;

(2) the Maryland State Fair and Agricultural Society, Inc.; and

(3) the employees of the licensees and of the Maryland State Fair and Agricultural Society, Inc.

(c) The Maryland Harness Track Employees Pension Fund shall be administered by representatives of each harness racing licensee and its employees.

§11–401.

There is a Special Fund.

§11–402.

The Special Fund consists of:

(1) the State share of daily licensee fees;

(2) pari-mutuel taxes;

(3) the impact aid under § 11-812 of this title;

(4) money from uncashed pari-mutuel tickets that are from bets made into the betting pools of licensees; and

(5) any permit fees under §§ 11-820 and 11-832 of this title.

§11–403.

(a) The Comptroller shall pay from the Special Fund an annual grant of:

(1) $825,000 to the Maryland Agricultural Fair Board to promote State and county agricultural fairs and exhibits;

(2) $100,000 to Prince George's County to replace money formerly received from the admissions and amusement tax;

(3) $40,000 to the Great Frederick Fair to support exhibition harness racing with money for construction and maintenance of new stalls, track maintenance, and purses;

(4) $50 to the City of Bowie for each day that the training facilities are open at the Bowie Race Course Training Center;

(5) $75,000 to the Maryland Agricultural Education Foundation, Inc., to promote and enhance statewide agricultural education;

(6) an amount not to exceed $30,000 in fiscal year 1998 and $20,000 in each fiscal year thereafter to the Great Pocomoke Fair, Inc. to support exhibition harness racing with money for construction and maintenance of new stalls, track maintenance, and purses;

(7) $500,000 to the Maryland Million, Ltd. to support and promote the running of Maryland Million races; and

(8) $350,000 to the Maryland Standardbred Race Fund for the Sire Stakes Program.

(b) If the Maryland State Fair remains at the Timonium Fair Grounds, the Comptroller shall pay from the Special Fund an annual grant of:

(1) $500,000 to the Maryland State Fair and Agricultural Society, Inc., to:

(i) promote and enhance the Maryland State Fair; and

(ii) maintain and develop youth programs, with premium money provided to organizations, such as 4-H Clubs and the Future Farmers of America, for recognition and awards; and

(2) $50,000 to Baltimore County to replace the money formerly received by the county under this subtitle.

§11–404.

(a) (1) To help pay for facilities and services in communities within 2 miles of the Pimlico Race Course or 3 miles of the Laurel Race Course, the Comptroller shall pay money to Baltimore City, the City of Laurel, and Anne Arundel and Howard counties in accordance with this section.

(2) The money shall be paid from the Special Fund in an annual grant.

(b) In any year, payments required under this section may not be less than the total allocated for 140 days of live racing at each track.

(c) (1) If 140 or more days of live racing in a year are held at Pimlico Race Course, the Comptroller shall pay to Baltimore City:

(i) $2,800 for each day of live racing; and

(ii) $1,400 for each additional day of intertrack betting without live racing held.

(2) If fewer than 140 days of live racing in a year are held at Pimlico Race Course, the Comptroller shall pay to Baltimore City:

(i) $2,800 for each day of live racing or intertrack betting without live racing held, up to a maximum payment for 140 days; and

(ii) $1,400 for each additional day of intertrack betting without live racing held.

(d) (1) If 140 or more days of live racing in a year are held at Laurel Race Course, the Comptroller shall pay:

(i) for each day of live racing, $2,000 to Anne Arundel County, $500 to Howard County, and $300 to the City of Laurel; and

(ii) for each additional day of intertrack betting without live racing held, $1,000 to Anne Arundel County, $250 to Howard County, and $150 to the City of Laurel.

(2) If fewer than 140 days of live racing in a year are held at Laurel Race Course, the Comptroller shall pay:

(i) for each day of live racing or each day of intertrack betting without live racing held, up to a maximum payment for 140 days, $2,000 to Anne Arundel County, $500 to Howard County, and $300 to the City of Laurel; and

(ii) for each additional day of intertrack betting without live racing held, $1,000 to Anne Arundel County, $250 to Howard County, and $150 to the City of Laurel.

§11–404.1.

(a) If in any fiscal year revenues to the Special Fund established under § 11–402 of this subtitle are insufficient to fully fund all grants required under §§ 11–403 and 11–404 of this subtitle, the Comptroller shall proportionally reduce the

amount of payments required under §§ 11–403(a)(2) and (4), 11–403(b)(2), and 11–404 of this subtitle.

(b) If in any fiscal year revenues to the Special Fund established under § 11–402 of this subtitle are sufficient to fully fund all grants required under §§ 11–403 and 11–404 of this subtitle, after all required deductions from the Special Fund are made, the Comptroller shall pay from the Special Fund an annual grant of:

(1) $300,000 to be allocated in the following way:

(i) 70% to the Maryland–Bred Race Fund; and

(ii) 30% to the Maryland Standardbred Race Fund, to be divided equally between the Sire Stakes Program and the Foaled Stakes Program; and

(2) $260,000 to the Maryland Agricultural Education and Rural Development Assistance Fund established under § 2–206 of the State Finance and Procurement Article, with $130,000 to be allocated to support the operations of the Rural Maryland Council.

§11–405.

(a) The fiscal officer of each subdivision that is eligible to receive money under § 11-404 of this subtitle shall submit a written certification to the Comptroller and, subject to § 2-1246 of the State Government Article, the Department of Legislative Services on or before November 1 of each year.

(b) The fiscal officer's certification shall state:

(1) the purposes for which Special Fund money received under § 11-404 of this subtitle was spent or committed during the fiscal year that ends on the June 30 before the report is submitted; and

(2) that the subdivision will hold Special Fund money in a special account and use the money only to help services and facilities within 2 miles of the Pimlico Race Course or 3 miles of the Laurel Race Course.

(c) (1) The Comptroller may not pay Special Fund money to a subdivision unless the fiscal officer of the subdivision submits a timely certification required under subsection (a) of this section.

(2) The Comptroller shall place Special Fund money withheld under paragraph (1) of this subsection in a special account and add it to the money available for payment to the subdivision in the next fiscal year.

§11–406.

After all deductions from the Special Fund as required by §§ 11-403, 11-404, and

11-404.1 of this subtitle are made, money that remains in the Special Fund shall be allocated in the following way:

(1) 50% to the Maryland Agricultural Education and Rural Development Assistance Fund established under § 2-206 of the State Finance and Procurement Article, with one-third of these funds to be allocated to support the operations of the Rural Maryland Council; and

(2) 50% to be allocated in the following way:

(i) 70% to the Maryland-Bred Race Fund; and

(ii) 30% to the Maryland Standardbred Race Fund, to be divided equally between the Sire Stakes Program and the Foaled Stakes Program.

§11–501.

This part applies only to mile thoroughbred racing licensees and to special thoroughbred racing licensees.

§11–502.

Three stewards shall officiate at each race that a licensee holds.

§11–503.

(a) (1) Subject to paragraph (2) of this subsection, a licensee shall give preference in stall allocation to a trainer:

(i) who has a permanent residence in the State; and

(ii) whose horse qualifies under the eligibility rules that the Commission or a licensee adopts.

(2) A licensee need not allocate more than 60% of the licensee's stalls to trainers who have permanent residences in the State.

(3) A trainer who claims a preferential action under this subsection shall give the licensee an affidavit stating the qualifications and condition of each horse for which the trainer requests a stall.

(b) (1) This subsection applies to trainers who:

(i) are from the northeastern area of the State; and

(ii) were chosen originally by the licensee as eligible for stall space.

(2) The Commission shall seek cooperation among licensees to ensure that, when horses are stabled for a race meeting at a track in the State, consideration

is given to assigning a trainer, to the extent practicable and without charge, a stall nearest to the county of residence of the trainer.

§11–504.

A licensee may not hold live racing at Pimlico Race Course after 10:00 p.m. unless circumstances beyond the control of the licensee cause a delay.

§11–507.

This part applies only to mile thoroughbred racing licenses and to licensees who have been awarded racing days to hold mile thoroughbred racing.

§11–508.

(a) If an applicant qualifies for a license under this title, the Commission shall send the applicant a notice stating:

(1) the fact that the applicant has qualified for a license;

(2) the dates of the race meeting awarded;

(3) the total number of racing days awarded; and

(4) the kind of racing to be held.

(b) Before the Commission may issue a license to an applicant, the applicant shall pay to the Commission a license fee of $25 for each racing day of a race meeting.

(c) A licensee shall pay each year $3,000 to the Maryland Horse Breeders Association, Inc.

§11–509.

(a) A licensee shall pay to the Commission within 10 days after each racing day the State tax imposed in this subtitle on the handle for that racing day.

(b) A licensee or an agent of the licensee shall submit with the daily tax payment a statement under oath of the handle for that day.

(c) The Commission shall pay promptly to the Comptroller all taxes collected under this section.

§11–510.

(a) Except as provided in subsection (b) of this section, the Commission may not issue a license, or award racing days, for racing at a mile track.

(b) The Commission may issue a license and award racing days only to:

(1) the Maryland Jockey Club of Baltimore City, Inc.; and

(2) the Laurel Racing Assoc., Inc.

§11–511.

(a) (1) On or before December 1, the Commission shall award all racing days for the next calendar year.

(2) However, the Commission may meet after December 1 to award racing days that are requested in applications.

(b) (1) Except as provided in paragraph (2) of this subsection, the Commission may award for any calendar year up to the number of racing days requested by an applicant.

(2) The Commission shall award at least 40 live racing days to be run at the Pimlico Race Course in Baltimore City in each calendar year unless otherwise agreed to by the racing licensee and the organization that represents the majority of licensed thoroughbred owners and trainers in the State or unless the racing licensee is prevented by weather, acts of God, or other circumstances beyond the racing licensee's control.

(c) The decision of the Commission on the award of a racing day is final.

§11–512.

Subject to the hearing provisions of § 11-513 of this subtitle, the Commission may authorize a licensee to transfer a race meeting from the licensee's own track to another track:

(1) on receipt of the appropriate license fees; and

(2) with the express consent of the owner or lessee of the track to which the transfer is made.

§11–513.

(a) Except as otherwise provided in this section, the Commission shall hold a public hearing before the Commission awards, for racing at a particular track, racing days that:

(1) total at least 3 more than those awarded for racing at that track in the previous calendar year; or

(2) result from the transfer of racing days to that track from another track in the same year.

(b) The Commission shall:

(1) hold the hearing not more than 10 miles from the track where the racing is to be held; and

(2) allow any person to testify.

(c) The Commission:

(1) at least 15 days before the hearing, shall have notice of the hearing published in at least 1 newspaper with a substantial circulation in the county where the track is located; and

(2) shall try to give notice of the hearing to any public unit or private organization that has made a written request for notice.

(d) (1) If the transfer of racing days from one track to another becomes necessary due to fire, flood, mechanical failure, or any other similar circumstance deemed by the Commission to constitute an emergency:

(i) the racing days may be transferred immediately; and

(ii) as soon as practicable, the Commission shall provide notice of a hearing and conduct a hearing pursuant to subsection (c) of this section.

(2) As soon as the track and the facilities of the licensee from which race days were transferred under paragraph (1) of this subsection are in a condition to continue racing and pari–mutuel betting, any remaining days of the meet that was being conducted when the days were transferred shall be held at the track from which the days were transferred.

§11–514.

(a) Except as provided in subsection (b) of this section, a licensee shall deduct from the handle:

(1) all the breakage;

(2) not more than 18% from each regular mutuel pool;

(3) not more than 21% from each multiple mutuel pool on 2 horses; and

(4) not more than 25.75% from each multiple mutuel pool on 3 or more horses.

(b) (1) For specific wagers authorized under regulations adopted by the Commission, a licensee shall deduct from the handle:

(i) all the breakage; and

(ii) not more than 40% from each multiple mutuel pool on 3 or more

horses.

(2) A licensee may offer the wagers described in this subsection only with the consent of:

(i) the Commission;

(ii) the group that represents a majority of the owners and trainers licensed in the State; and

(iii) the group that represents a majority of the breeders in the State.

(c) Money that remains after deductions are made under subsection (a) of this section shall be returned as winnings to successful bettors.

(d) (1) The amount deducted by the licensee under subsection (a) of this section shall be the sum of the allocations provided in § 11–515 of this subtitle, unless otherwise provided in a written agreement signed by the authorized representatives of:

(i) the licensee;

(ii) the group that represents a majority of the owners and trainers licensed in the State at the time the agreement is signed; and

(iii) the group that represents a majority of the breeders in the State at the time the agreement is signed.

(2) Nothing in this subsection may be construed to permit the licensee to in any way alter the mandatory takeout allocated to the Commission for the State tax.

§11–515.

(a) Except as provided in § 11-516 of this subtitle, the takeout that a licensee deducts from the handle of a race shall be allocated in accordance with this section.

(b) A licensee shall:

(1) keep 50% of the breakage;

(2) allocate 45% of the breakage for purses; and

(3) allocate 5% of the breakage to the Maryland-Bred Race Fund.

(c) From the amount that a licensee deducts from each regular mutuel pool, the licensee shall:

(1) keep 7.70% of each regular mutuel pool, from which the licensee shall pay 0.25% of each regular mutuel pool to the Maryland Race Track Employees Pension

Fund;

(2) allocate 0.32% of each regular mutuel pool to the Commission for State tax;

(3) allocate 1.10% of each regular mutuel pool to the Maryland-Bred Race Fund;

(4) allocate 7.70% of each regular mutuel pool for purses;

(5) allocate 0.18% of each regular mutuel pool as an additional amount for purses; and

(6) allocate 1% of each regular mutuel pool paid to the Maryland Million, Ltd., for purses of Maryland Million races.

(d) From the amount that a licensee deducts from each multiple mutuel pool on 2 horses, the licensee shall:

(1) keep 8.70% of each multiple mutuel pool, from which the licensee shall pay 0.25% of each multiple mutuel pool to the Maryland Race Track Employees Pension Fund;

(2) allocate 0.32% of each multiple mutuel pool to the Commission for State tax;

(3) allocate 1.10% of each multiple mutuel pool to the Maryland-Bred Race Fund;

(4) allocate 8.70% of each multiple mutuel pool for purses;

(5) allocate 0.18% of each multiple mutuel pool as an additional amount for purses; and

(6) allocate 2% of each multiple mutuel pool paid to the Maryland Million, Ltd., for purses of Maryland Million races.

(e) From the amount that a licensee deducts from each multiple mutuel pool on 3 or more horses, the licensee shall:

(1) keep 11.70% of each multiple mutuel pool, from which the licensee shall pay 0.25% of each multiple mutuel pool to the Maryland Race Track Employees Pension Fund;

(2) allocate 0.32% of each multiple mutuel pool to the Commission for State tax;

(3) allocate 1.10% of each multiple mutuel pool to the Maryland-Bred Race Fund;

(4) allocate 11.70% of each multiple mutuel pool for purses;

(5) allocate 0.18% of each multiple mutuel pool as an additional amount for purses; and

(6) allocate 0.75% of each multiple mutuel pool paid to the Maryland Million, Ltd., for purses of Maryland Million races.

§11–515.1.

(a) Notwithstanding § 11-515 of this subtitle, the amount of the takeout relating to purses, the Maryland-Bred Race Fund, and the amount retained by the licensee may be allocated in accordance with the terms of a written agreement signed by the authorized representatives of:

(1) the licensee;

(2) the group that represents a majority of the owners and trainers licensed in the State at the time the agreement is signed; and

(3) the group that represents a majority of the breeders in the State at the time the agreement is signed.

(b) Nothing in this section may be construed to permit the licensee to in any way alter the mandatory takeout allocated to the Commission for the State tax.

§11–516.

If the Preakness Stakes is transferred otherwise than under § 11-520(b) of this subtitle or if it is sold to a buyer other than the State, the takeout of the mutuel pools on each race held thereafter shall be allocated as follows:

(1) to the Maryland-Bred Race Fund, 1% of each mutuel pool;

(2) to the Commission, for State tax, 4.09% of each mutuel pool;

(3) to purses, 5% of each regular mutuel pool, 8% of each multiple mutuel pool on 2 horses, and 14% of each multiple mutuel pool on 3 or more horses; and

(4) to the licensee, 6.91% of each regular mutuel pool and 5.91% of each multiple mutuel pool, from which the licensee shall pay 0.25% of all pools to the Maryland Race Track Employees Pension Fund.

§11–518.

(a) In this section, "open purse" means any purse, except for one offered in a race funded by the Maryland-Bred Race Fund.

(b) The Commission may direct a deduction from open purse money of 0.25% of

all mutuel pools to be paid to the Maryland Backstretch Employees Pension Fund.

(c) Subject to the approval of the Commission, the licensees and an organization that represents a majority of the owners and trainers in the State shall agree on a formula for distributing open purse money.

(d) The formula shall distribute approximately 85% of the open purse money to the overnight races of the current year and approximately 15%, but not more than 17%, to the stakes races of the current year.

(e) The organization that represents a majority of the owners and trainers in the State shall set an amount not less than 1% but not more than 2% that shall be deducted from all open purses and paid to the organization.

§11–519.

(a) The owner of the Bowie Race Course Training Center shall operate the Center as a thoroughbred training facility to provide more stall space for a race meeting that a licensee holds.

(b) The owner of the Bowie Race Course Training Center is responsible for the cost to improve, maintain, and operate the Center.

(c) As long as the Bowie Race Course Training Center is used for the purpose specified in subsection (a) of this section, the Commission shall have general regulatory jurisdiction over the Center to:

(1) provide enough stalls;

(2) maintain safe operating conditions;

(3) require the owner of the Center to submit an annual operating financial statement; and

(4) order reasonable improvements.

§11–520.

(a) The requirements of this section are established in recognition of the significance of the Preakness Stakes to the State.

(b) The Preakness Stakes may be transferred to another track in the State only as a result of a disaster or emergency.

(c) If the Preakness Stakes is transferred out of the State, the Commission may:

(1) revoke any racing days awarded to the Maryland Jockey Club of Baltimore City, Inc., or its successor; and

(2) award these racing days to another licensee, notwithstanding § 11-511(b) of this subtitle.

(d) (1) If the Preakness Stakes is offered for sale, the State has the option to buy the Preakness Stakes for the amount of any offer that the licensee wishes to accept.

(2) Within 30 days after receiving an offer that it wishes to accept, the licensee shall give the State notice of the offer.

(3) If the State wishes to exercise the option, it shall so notify the licensee within 60 days after it receives the notice.

§11–521.

(a) In addition to the other provisions of this subtitle, in accordance with the sovereign power of the State and the provisions of Article III, §§ 40 and 40A of the Maryland Constitution, and subject to subsections (b) and (c) of this section, the State may acquire by purchase or condemnation for public use with just compensation some or all of the following real, tangible, and intangible private property, including any contractual interests or intellectual property:

(1) Pimlico Race Course, a racetrack located in Baltimore City, including any and all property or property rights associated with it wherever located, whether tangible, intangible, real, personal, or mixed, and any business entity that owns it;

(2) Laurel Park, a racetrack located in Anne Arundel County, including any and all property or property rights associated with it wherever located, whether tangible, intangible, real, personal, or mixed, and any business entity that owns it;

(3) Bowie Race Course Training Center, a training center located in Prince George's County, including any and all property or property rights associated with it wherever located, whether tangible, intangible, real, personal, or mixed, and any business entity that owns it;

(4) the Preakness Stakes trophy that is known as the Woodlawn Vase, including any and all property or property rights associated with it, whether tangible, intangible, real, personal, or mixed, and any business entity that owns it;

(5) the name, common law and statutory copyrights, service marks, trademarks, trade names, contracts, horse racing events, and other intangible and intellectual property that are associated with the Preakness Stakes and the Woodlawn Vase;

(6) all property of the Maryland Jockey Club of Baltimore City, Inc., or its successors and assigns, including stock and equity interests in it, and including any and all property or property rights associated with it, whether tangible, intangible, real, personal, or mixed; and

(7) all property of the Laurel Racing Assoc., Inc., the Laurel Racing Association Limited Partnership, or their respective successors and assigns, including stock and equity interests, and including any and all property or property rights associated with them, whether tangible, intangible, real, personal, or mixed.

(b) All proceedings for the condemnation for public use of the private property described under subsection (a) of this section shall be in accordance with the provisions of Title 12 of the Real Property Article and Title 12, Chapter 200 of the Maryland Rules.

(c) Pursuant to the provisions of Article III, § 40A of the Maryland Constitution, as applicable, the private property described under subsection (a) of this section may be taken immediately on payment for the property consistent with the procedures of §§ 8–334 through 8–339 of the Transportation Article.

§11–522.

(a) In this section, "Arabian breed horse" means a horse that:

(1) is a purebred Arabian breed horse; and

(2) has a valid certificate of registry with the Arabian Jockey Club of America.

(b) A licensee at Pimlico Race Course may conduct live racing of Arabian breed horses if:

(1) no more than one Arabian breed race is conducted per day;

(2) no more than three Arabian breed races are conducted during a race meet;

(3) an Arabian breed race is conducted in addition to, and not in place of, an existing thoroughbred race;

(4) an Arabian breed race does not reduce the number of thoroughbred races conducted by the licensee per racing day;

(5) the purse for an Arabian breed race is:

(i) not funded by the thoroughbred purse account; and

(ii) funded by the licensee or the sponsor of the Arabian horse race;

(6) the takeout provisions of §§ 11–514 and 11–515 of this subtitle are applied to the race;

(7) the licensee pays all taxes and fees associated with the Arabian breed race that would otherwise be due on a thoroughbred race; and

(8) the Arabian breed race is approved by the State Racing Commission.

§11–523.

In this part, "State Fair Society" means the Maryland State Fair and Agricultural Society, Inc.

§11–524.

(a) (1) The Commission shall issue a special thoroughbred racing license to the State Fair Society to hold a race meeting.

(2) The race meeting shall:

(i) last not more than 10 days in a calendar year;

(ii) be held with or for the benefit of the State Fair or a county fair or agricultural exhibition; and

(iii) comply with this title.

(b) The State Fair Society shall pay to the county treasurer of the county where the fair or exhibition is held, for the use of the county, a fee of $50 for each racing day of the race meeting.

(c) The Commission may authorize the State Fair Society to transfer a race meeting from the State Fair Society's own track to the track of a mile thoroughbred racing licensee:

(1) on receipt of the appropriate license fees; and

(2) with the express consent of the owner or lessee of the track to which the transfer is made.

(d) If the State Fair Society ends special thoroughbred racing at the Timonium Race Course, the racing days that were awarded to it may be awarded to a mile thoroughbred licensee on the same terms as the additional racing days under § 11-511 of this subtitle.

(e) If racing is discontinued at the Timonium Race Course:

(1) compensation may not be paid to the State Fair Society to offset revenue loss from the discontinuance of racing; and

(2) payment of the grant to Baltimore County under § 11-403 of this title shall end.

§11–525.

(a) On all races the State Fair Society holds each year, the State Fair Society may keep:

(1) 10.25% of each regular mutuel pool;

(2) 10.25% of each multiple mutuel pool on 2 horses;

(3) 10.25% of the money bet in the first race of the day with a multiple mutuel pool on 3 or more horses;

(4) 14% of the money bet in every other race with a multiple mutuel pool on 3 or more horses; and

(5) 50% of the breakage.

(b) (1) Within 5 days after the end of a race meeting the State Fair Society each year shall pay to the Commission, from the State Fair Society's share of the takeout, a 3.5% State tax on the handle for the race meeting.

(2) However, the State Fair Society is exempt from paying the tax on the handle for all racing days held at Timonium Race Course during the State Fair.

(3) The Commission promptly shall pay the tax collected under this subsection to the Comptroller.

(c) For each race that the State Fair Society holds, the State Fair Society shall allocate to purses:

(1) 5% of each regular mutuel pool;

(2) 7% of each multiple mutuel pool on 2 horses;

(3) 13% of the money bet in the first race of the day with a multiple mutuel pool on 3 or more horses;

(4) 9.25% of the money bet in every other race with a multiple mutuel pool on 3 or more horses; and

(5) 45% of the breakage.

(d) The State Fair Society shall allocate to the Maryland-Bred Race Fund:

(1) 5% of the breakage; and

(2) 1.50% of the mutuel pools.

(e) The State Fair Society shall allocate 0.25% of the mutuel pools to the

Maryland Race Track Employees Pension Fund.

§11–526.

(a) In this section, "Park and Planning Commission" means the Maryland-National Capital Park and Planning Commission.

(b) The State Racing Commission shall issue a special thoroughbred racing license to the Park and Planning Commission to hold racing in 4 one-day race meetings at the Prince George's Equestrian Center.

(c) The racing days shall be held:

(1) on dates that the Park and Planning Commission chooses and the State Racing Commission approves;

(2) on dates when a mile thoroughbred racing licensee does not hold a race; and

(3) in connection with or for the benefit of a county fair or equestrian exhibition or activity.

(d) (1) The Park and Planning Commission shall deduct from the handle:

(i) 17% of all money bet in each regular mutuel pool;

(ii) 19% of all money bet in each multiple mutuel pool on 2 horses; and

(iii) 25% of all money bet in each multiple mutuel pool on 3 or more horses.

(2) The Park and Planning Commission shall pay to the Maryland Equestrian Foundation, Inc., a not for profit organization:

(i) from the amount deducted under paragraph (1) of this subsection, 8% of the total amount bet in all of the mutuel pools; and

(ii) any profit from admission fees or other receipts, less expenses from the operation of racing days.

(3) On races that the Park and Planning Commission holds each year, the Park and Planning Commission shall allocate for purses:

(i) 5% of each regular mutuel pool;

(ii) 7% of each multiple mutuel pool on 2 horses;

(iii) 13% of the money bet in the first race of the day with a multiple

mutuel pool on 3 or more horses; and

(iv) 9.25% of the money bet in every other race with a multiple mutuel pool on 3 or more horses.

(e) Repealed.

(f) An officer of the Park and Planning Commission may not receive a salary or dividends from racing authorized under this section.

§11–529.

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

(b) "Advisory Committee" means the Maryland-Bred Race Fund Advisory Committee.

(c) "Fund" means the Maryland-Bred Race Fund.

(d) "Fund Race" means a race funded by the Maryland-Bred Race Fund.

§11–530.

There is a Maryland-Bred Race Fund.

§11–531.

There is a Maryland-Bred Race Fund Advisory Committee, under the jurisdiction of the Commission, in the Department.

§11–532.

(a) (1) The Advisory Committee consists of 5 members appointed by the Commission with the approval of the Secretary.

(2) Of the 5 members of the Advisory Committee:

(i) 2 shall be members of and recommended by the Maryland Horse Breeders Association;

(ii) 1 shall be recommended by the mile thoroughbred racing licensees;

(iii) 1 shall be recommended by the Maryland State Fair and Agricultural Society, Inc.; and

(iv) 1 shall be a member of and appointed by the Commission.

(b) (1) The term of a member of the Advisory Committee is 1 year and begins

on June 1.

(2) If the Maryland Horse Breeders Association, the mile thoroughbred racing licensees, or the Maryland State Fair and Agricultural Society, Inc., by June 1 fails to recommend an individual to be a member of the Advisory Committee, the Commission with the approval of the Secretary shall appoint the member.

(3) At the end of a term, a member continues to serve until a successor is appointed.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(c) The Governor may remove a member of the Advisory Committee for incompetence or misconduct.

§11–533.

(a) The member of the Commission who is on the Advisory Committee is the chairman of the Advisory Committee.

(b) The term of the chairman of the Advisory Committee is 1 year.

§11–534.

(a) The Advisory Committee shall determine the times and places of its meetings.

(b) A member of the Advisory Committee:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§11–535.

(a) The Commission shall:

(1) administer the Fund and the Maryland-Bred Race Program with the help and advice of the Advisory Committee; and

(2) order each payment that is to be made from the Fund.

(b) The Commission shall:

(1) deposit the money allocated to the Fund by each mile thoroughbred racing licensee and the Maryland State Fair and Agricultural Society, Inc., into at least 1 bank or trust company in the State; and

(2) require the bank or trust company to secure the Fund by collateral.

(c) Within 5 days after a race meeting ends, the licensee shall pay to the Commission, to be held in the Fund, all money that is allocated to the Fund under this title but that was not disbursed during the race meeting.

(d) On recommendation of the Advisory Committee, the Commission may allocate a portion of the Fund to races that are restricted to horses conceived, but not necessarily foaled, in Maryland.

(e) If the Commission uses ordinary care to choose the depository bank or trust company, the members are not personally liable for loss to the Fund because of failure, insolvency, or other fault of the depository bank or trust company.

§11–536.

(a) Each mile thoroughbred racing licensee and the Maryland State Fair and Agricultural Society, Inc., shall provide for the running of races known as the Maryland-Bred Fund Races.

(b) The Commission may approve the running of a Maryland-Bred Fund Race at a thoroughbred track outside the State.

§11–537.

A horse shall be registered with the Maryland Horse Breeders Association, Inc., before the horse may start in a Fund Race.

§11–538.

A horse may be registered with the Maryland Horse Breeders Association, Inc., only if the horse was foaled in Maryland as shown by a foal certificate from the Jockey Club and:

(1) the breeder of the horse has maintained a place of abode in Maryland for more than 9 months immediately before registration;

(2) the breeder of the horse keeps breeding stock continually in Maryland;

(3) the horse was conceived in Maryland during the previous season; or

(4) the horse's dam was sent to Maryland to foal and after foaling was covered by a Maryland stallion during the season of the horse's birth.

§11–539.

(a) On recommendation of the Advisory Committee, the Commission shall set:

(1) the number of Fund Races;

(2) the amount of each purse;

(3) the date of each Fund Race;

(4) the location of each Fund Race held outside the State;

(5) the distance of each Fund Race;

(6) each breeder's award, including awards for races in the State and outside the State; and

(7) any other condition needed to carry out the purpose of the Fund.

(b) The Commission shall set the amount of each purse and the conditions for each Fund Race in time to allow a licensee who provides for a Fund Race to include the purse and conditions in the stake book and condition book of the licensee.

§11–540.

(a) A licensee who provides for a Fund Race:

(1) need not contribute an amount greater than the allocation to the Fund set under § 11-515 or § 11-525 of this subtitle; but

(2) may add to any purse in a Fund Race.

(b) A purse, authorized under this part and paid in a Fund Race, is specifically excluded from breeders' bonuses, purses, or stakes that are paid or offered by licensees in races other than Fund Races as determined by agreement or formula between a licensee and an organization that represents a majority of the owners and trainers.

§11–541.

(a) If there are fewer than 5 separate qualified entries in a Fund Race, the Commission shall cancel the Fund Race.

(b) If the Commission cancels a Fund Race, the Commission shall give notice to the licensee in time to allow the licensee to schedule a substitute race.

§11–601.

In this subtitle, "average handle" means the daily average amount bet in a year.

§11–602.

This subtitle applies only to harness racing licenses and to licensees who have been awarded racing days to hold harness racing.

§11–603.

A licensee may hold harness racing only with standardbred horses.

§11–604.

Three harness judges shall officiate at each race that a licensee holds.

§11–605.

If the Commission approves, harness racing may be held on a Sunday.

§11–606.

A licensee may not hold live harness racing after 2 a.m. unless circumstances beyond the control of the licensee cause a delay.

§11–608.

(a) Subject to § 11-610 of this subtitle, if an applicant qualifies for a license under this title, the Commission shall send the applicant a notice stating:

(1) the fact that the applicant has qualified for a license;

(2) the dates of the race meeting awarded;

(3) the total number of racing days awarded; and

(4) the kind of racing to be held.

(b) Before the Commission may issue a license to a person, the person shall pay to the Commission a license fee of $25 for each racing day of the race meeting.

§11–609.

The Commission may not issue:

(1) licenses to more than 3 racing associations;

(2) a license for use in Carroll, Dorchester, Frederick, Montgomery, or Wicomico County; or

(3) more than 1 license for use in any 1 county.

§11–610.

(a) The Commission may award for any calendar year up to the number of racing days requested by an applicant.

(b) The decision of the Commission on the award of a racing day is final.

§11–611.

Subject to the hearing provisions of § 11–612 of this part, the Commission may authorize a licensee to transfer a race meeting from the licensee's own track to another track:

(1) on receipt of the appropriate license fees; and

(2) with the express consent of the owner or lessee of the track to which the transfer is made.

§11–612.

(a) Except as otherwise provided in this section, the Commission shall hold a public hearing before the Commission awards, for racing at a particular track, racing days that:

(1) total at least 3 more than those awarded for racing at that track in the previous calendar year; or

(2) result from the transfer of racing days to that track from another track in the same year.

(b) The Commission shall:

(1) hold the hearing not more than 10 miles from the track where the racing is to be held; and

(2) allow any person to testify.

(c) The Commission:

(1) at least 15 days before the hearing, shall have notice of the hearing published in at least 1 newspaper with a substantial circulation in the county where the track is located; and

(2) shall try to give notice of the hearing to any public unit or private organization that has made a written request for notice.

(d) (1) If the transfer of racing days from one track to another becomes necessary due to fire, flood, mechanical failure, or any other similar circumstance deemed by the Commission to constitute an emergency:

(i) the racing days may be transferred immediately; and

(ii) as soon as practicable, the Commission shall provide notice of a hearing and conduct a hearing pursuant to subsection (c) of this section.

(2) As soon as the track and the facilities of the licensee from which race days were transferred under paragraph (1) of this subsection are in a condition to continue racing and pari–mutuel betting, any remaining days of the meet that was being conducted when the days were transferred shall be held at the track from which the days were transferred.

§11–613.

(a) (1) A licensee whose average handle is $150,000 or less shall keep the breakage.

(2) A licensee whose average handle is over $150,000 shall:

(i) allocate 50% of the breakage to the Sires Stakes Program; and

(ii) keep 50% of the breakage to pay for personnel-related expenses, physical improvements, track maintenance, and indebtedness related to the track, including indebtedness for clubhouse and grandstand construction.

(b) If an average handle is over $600,000, the takeout shall be:

(1) 17% from each regular mutuel pool;

(2) 19% from each multiple mutuel pool for 2 horses; and

(3) 25% from each multiple mutuel pool on 3 or more horses.

(c) If the average handle is $600,000 or less, the takeout shall be:

(1) not more than 18.75% from each regular mutuel pool;

(2) not more than 20.75% from each multiple mutuel pool on 2 horses; and

(3) not more than 26.75% from each multiple mutuel pool on 3 or more horses.

(d) Money that remains after deductions are made under this section shall be returned as winnings to successful bettors.

§11–614.

A licensee whose average handle is over $600,000 shall:

(1) allocate 0.50% of each mutuel pool to the Commission as State tax;

(2) allocate 0.25% of each mutuel pool to the Maryland Harness Track Employees Pension Fund;

(3) keep 16.25% of each regular mutuel pool;

(4) keep 18.25% of each multiple mutuel pool on 2 horses; and

(5) keep 24.25% of each multiple mutuel pool on 3 or more horses.

§11–615.

(a) From a licensee's share of the takeout on each mutuel pool, the licensee whose average handle is over $600,000 shall allocate equally to the Sires Stakes Program and the Foaled Stakes Program of the Maryland Standardbred Race Fund the following amounts:

(1) on the first $125,000 of the average handle:

(i) 0.50% of each regular mutuel pool;

(ii) 0.50% of each multiple mutuel pool on 2 horses; and

(iii) 1% of each multiple mutuel pool on 3 or more horses.

(2) on the rest of the average handle:

(i) 1% of each regular mutuel pool;

(ii) 1% of each multiple mutuel pool on 2 horses; and

(iii) 1.5% of each multiple mutuel pool on 3 or more horses.

(b) From the licensee's share of the takeout, the licensee shall allocate 0.50% on the part of an average handle over $150,000 to pay for:

(1) purses;

(2) personnel–related expenses, physical improvements, track maintenance, and indebtedness related to the track, including indebtedness for clubhouse and grandstand construction; and

(3) maintenance of proper living conditions in the backstretch.

(c) (1) From the licensee's share of the takeout, the licensee shall allocate 0.25% of each mutuel pool to improve the facilities and services of the track and to increase marketing activity, so as to promote:

(i) increased attendance and pari–mutuel betting; and

(ii) enhanced well–being of the standardbred racing industry.

(2) The General Assembly, by statute, may direct that the Commission not award in the following calendar year part or all of the racing days authorized under § 11–610 of this part to the licensee if the General Assembly finds that:

(i) the proposed use of the allocation under this subsection is inconsistent with the purposes specified in this section; or

(ii) the licensee has not spent the allocation in a way that is consistent with the proposal.

(d) From the licensee's share of the takeout on each multiple mutuel pool on 2 horses, the licensee shall allocate at least 1% of the mutuel pool as follows:

(1) one–half to purses; and

(2) one–half to personnel–related expenses, physical improvements, track maintenance, and indebtedness related to the track, including indebtedness for clubhouse and grandstand construction.

(e) From the licensee's share of the takeout on each multiple mutuel pool on 3 or more horses, a licensee shall allocate at least 6.5% of each mutuel pool as follows:

(1) one–half to purses; and

(2) one–half to personnel–related expenses, physical improvements, track maintenance, and indebtedness related to the track, including indebtedness for clubhouse and grandstand construction.

§11–616.

A licensee whose average handle is $600,000 or less shall:

(1) allocate 0.32% of each mutuel pool to the Commission as State tax;

(2) subject to § 11–618 of this part, allocate 0.25% of each mutuel pool to the Maryland Harness Track Employees Pension Fund;

(3) allocate for purses 0.18% of each mutuel pool, or an amount that is otherwise agreed to by the licensee and the organization representing a majority of the harness owners and trainers in the State, which shall provide revenue in addition to any other funds set aside for purses by private parties;

(4) keep 18.00% of each regular mutuel pool;

(5) keep 20.00% of each multiple mutuel pool on 2 horses; and

(6) keep 26.00% of each multiple mutuel pool on 3 or more horses.

§11–617.

(a) From a licensee's share of the takeout on each mutuel pool, the licensee whose average handle is $600,000 or less shall allocate 1.75% to increased purses.

(b) From the licensee's share of the takeout on each mutuel pool, a licensee whose average handle is over $150,000 shall allocate equally to the Sires Stakes Program and the Foaled Stakes Program of the Maryland Standardbred Race Fund the following amounts:

(1) on the first $125,000 of the average handle:

(i) 0.50% of each regular mutuel pool;

(ii) 0.50% of each multiple mutuel pool on 2 horses; and

(iii) 1% of each multiple mutuel pool on 3 or more horses.

(2) on the rest of the average handle:

(i) 1% of each regular mutuel pool;

(ii) 1% of each multiple mutuel pool on 2 horses; and

(iii) 1.5% of each multiple mutuel pool on 3 or more horses.

(c) A licensee whose average handle is $150,000 or less shall allocate equally to the Sires Stakes Program and the Foaled Stakes Program of the Maryland Standardbred Race Fund:

(1) 0.50% of each regular mutuel pool;

(2) 0.50% of each multiple mutuel pool for 2 horses; and

(3) 1% of each multiple mutuel pool for 3 or more horses.

(d) From the licensee's share of the takeout, the licensee shall allocate 0.50% on the part of an average handle over $150,000 to pay for:

(1) purses;

(2) personnel–related expenses, physical improvements, track maintenance, and indebtedness related to the track, including indebtedness for clubhouse and grandstand construction; and

(3) maintenance of proper living conditions in the backstretch.

(e) (1) From the licensee's share of the takeout, the licensee shall allocate 0.25% of each mutuel pool to improve the facilities and services of the track and to increase marketing activity, so as to promote:

(i) increased attendance and pari–mutuel betting; and

(ii) enhanced well–being of the standardbred racing industry.

(2) The General Assembly, by statute, may direct that the Commission not award in the following calendar year part or all of the racing days authorized under § 11–610 of this part to the licensee if the General Assembly finds that:

(i) the proposed use of the allocation under this subsection is inconsistent with the purposes specified in this section; or

(ii) the licensee has not spent the allocation in a way that is consistent with the proposal.

(f) From the licensee's share of the takeout on each multiple mutuel pool on 2 horses, the licensee shall allocate at least 1% of the mutuel pool as follows:

(1) one–half to purses; and

(2) one–half to personnel–related expenses, physical improvements, track maintenance, and indebtedness related to the track, including indebtedness for clubhouse and grandstand construction.

(g) From the licensee's share of the takeout on each multiple mutuel pool on 3 or more horses, a licensee shall allocate at least 6.5% of each mutuel pool as follows:

(1) one–half to purses; and

(2) one–half to personnel–related expenses, physical improvements, track maintenance, and indebtedness related to the track, including indebtedness for clubhouse and grandstand construction.

§11–618.

A licensee whose average handle is $125,000 or less is exempt from paying 0.25% of each mutuel pool to the Maryland Harness Track Employees Pension Fund.

§11–619.

A licensee shall:

(1) deduct the fee for a driver from the purse of an owner; and

(2) pay the fee to the driver not later than 7 work days after the last day of the month in which the driver earns the fee.

§11–620.

(a) (1) A licensee shall:

(i) estimate daily the State tax on money bet; and

(ii) pay to the Commission the estimated tax, to be credited against

the total tax due at the close of the race meeting.

(2) The first payment of estimated tax is due 33 days after the start of the race meeting and covers the estimated tax for the first 30 days of the race meeting.

(3) The estimated daily tax for each later day of the race meeting shall be paid to the Commission not later than 72 hours after the close of racing for that day.

(4) The total tax due for the race meeting shall be paid within 5 days after the close of the race meeting.

(b) If the estimated tax paid by a licensee is less than 75% of the total tax due at the end of a race meeting, the Comptroller may assess a penalty of 25% of any additional tax due at the end of the race meeting.

(c) The Commission promptly shall send to the Comptroller all taxes and estimated taxes it collects.

§11–623.

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

(b) "Advisory Committee" means the Maryland Standardbred Race Fund Advisory Committee.

(c) "Fund" means the Maryland Standardbred Race Fund.

(d) "Fund Race" means a race funded by the Maryland Standardbred Fund.

§11–624.

There is a Maryland Standardbred Race Fund consisting of the Foaled Stakes Program and the Sires Stakes Program.

§11–625.

There is a Maryland Standardbred Race Fund Advisory Committee, under the jurisdiction of the Commission, in the Department.

§11–626.

(a) (1) The Advisory Committee consists of members appointed by the Commission with the approval of the Secretary.

(2) Of the members of the Advisory Committee:

(i) 1 shall be nominated by the chairman of the Commission and be another member of the Commission;

(ii) 1 shall be nominated by the chairman of the Commission to represent each harness racing licensee;

(iii) 2 shall be nominated by a majority vote of the organization that represents a majority of Standardbred Breeders in the State, and 1 of those recommended shall be a commercial breeder as defined by the Commission; and

(iv) 1 shall be nominated by a majority vote of the Cloverleaf Standardbred Owners Association, Inc.

(b) A member of the Advisory Committee shall be a resident of the State.

(c) (1) This subsection does not apply to the chairman of the Advisory Committee.

(2) The term of a member of the Advisory Committee is 4 years and begins on June 1.

(3) A member of the Advisory Committee may serve multiple but not consecutive complete terms.

(4) The terms of members are staggered as required by the terms in effect for members of the Advisory Committee on October 1, 1992.

(5) If a member other than the 2 members nominated by the chairman of the Commission has not been nominated by June 1, the Commission, with the approval of the Secretary, shall nominate the member.

(6) At the end of a term, a member continues to serve until a successor is appointed.

(7) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(d) The Governor may remove a member of the Advisory Committee for incompetence or misconduct.

§11–627.

(a) The member of the Commission who is on the Advisory Committee is the chairman of the Advisory Committee.

(b) (1) The term of the chairman of the Advisory Committee is 1 year.

(2) At the end of a term, the chairman continues to serve until a successor is appointed.

(3) A chairman who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed.

(4) An individual stops serving as chairman when the individual leaves the Advisory Committee.

§11–628.

(a) The Advisory Committee shall set the times and places of its meetings.

(b) A member of the Advisory Committee:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

§11–629.

(a) The Commission shall:

(1) administer the Fund with the help and advice of the Advisory Committee; and

(2) order each payment that is to be made from the Fund.

(b) The Commission shall:

(1) deposit the money allocated by each licensee to the Fund into a bank or trust company in the State; and

(2) require the bank or trust company to secure the Fund by collateral.

(c) Within 5 days after a race meeting, the licensee shall pay to the Commission to be held in the Fund all money that is allocated to the Fund under this title but was not disbursed during the race meeting.

(d) If the Commission uses ordinary care to choose the depository bank or trust company, members are not personally liable for loss to the Fund because of failure, insolvency, or other fault of the depository.

§11–631.

Each licensee shall provide for the running of Fund Races.

§11–632.

(a) A horse shall be registered with the Advisory Committee before the horse may start in a race of the Foaled Stakes Program.

(b) A horse may be registered with the Advisory Committee only if the horse was foaled in Maryland as shown by a foal certificate from the United States Trotting

Association and:

(1) the breeder of the horse has maintained a place of abode in Maryland for more than 9 months immediately before registration;

(2) the breeder of the horse keeps breeding stock continually in Maryland;

(3) the horse was conceived during the previous season by the horse's dam being covered by a Maryland stallion registered with the Advisory Committee; or

(4) the horse's dam was sent to Maryland to foal and after foaling was covered by a Maryland stallion during the season of the horse's birth.

§11–633.

The offspring of a standardbred sire is eligible for the Sires Stakes Program if:

(1) the sire is registered with the United States Trotting Association and with the Advisory Committee;

(2) the sire was at stud in the State for a full breeding season; and

(3) the offspring was conceived during that breeding season.

§11–634.

(a) A Fund Race shall be held in accordance with regulations that the Commission adopts on the recommendation of the Advisory Committee.

(b) On recommendation of the Advisory Committee, the Commission shall set:

(1) the number of Fund Races;

(2) the amount of each purse and bonus;

(3) the date of each Fund Race;

(4) the distance of each Fund Race;

(5) each breeder's award;

(6) nomination and registration procedures; and

(7) any other condition needed to carry out the purpose of a Fund Race.

(c) The Commission shall set the amount of each purse and the conditions for each Fund Race in time to allow a licensee to include the purse and conditions in the stake book and condition book of the licensee.

§11–635.

(a) A licensee may add to any purse in a Fund Race.

(b) A purse, authorized under this part and paid in a Fund Race, is specifically excluded from breeders' bonuses, purses, or stakes that are paid or offered by licensees in races other than Fund Races, as determined by agreement or formula between a licensee and an organization that represents a majority of the owners and trainers.

§11–701.

This subtitle applies only to the licensee that is the Cecil County Breeders' Fair, Inc., or its successor.

§11–702.

(a) (1) The Commission shall issue a license to the Cecil County Breeders' Fair, Inc., or its successor to hold racing on at least 2 but not more than 8 one-day race meetings a year for steeplechase, hurdle, or flat racing at the Fair Hill Natural Resources Management Area.

(2) The racing shall be held on dates that the licensee chooses and the Commission approves.

(b) In conjunction with this racing, an agricultural fair with livestock entered for exhibition shall be held under the auspices of the State Fair Board on at least 1 racing day.

(c) For each racing day, the licensee shall offer at least 1 steeplechase or hurdle race for each flat race, but an additional flat race may be substituted for a steeplechase race or hurdle race that is not filled.

(d) An officer of the licensee may not receive a salary or dividends from racing allowed under this subtitle.

(e) The licensee shall allocate to the Union Hospital of Cecil County all profits earned under this subtitle, including money from pari-mutuel betting, admission charges, and other receipts.

§11–703.

The Commission may issue a license to the licensee to hold racing on 2 race meetings a year for quarter horse racing at the Fair Hill Natural Resources Management Area.

§11–704.

(a) (1) The licensee shall deduct from the handle:

(i) all the breakage; and

(ii) 25%.

(2) From the 25% that the licensee deducts from the handle, 9% of the handle shall be paid to the Commission, which shall send it to the Comptroller to be credited to the Fair Hill Improvement Fund established in § 5-908 of the Natural Resources Article.

(b) Money that remains after deductions are made under subsection (a) of this section shall be returned as winnings to successful bettors.

§11–801.

The Commission may authorize a licensee to hold racing with pari-mutuel betting.

§11–802.

(a) A licensee may not lend or give money to a person for pari-mutuel betting.

(b) The Commission may adopt regulations to enforce this section.

§11–803.

(a) If a winning ticket is not redeemed within 1 year, the licensee into whose betting pool the bet was placed shall pay the amount needed to redeem the ticket to the Commission to be credited to the Special Fund under Subtitle 4 of this title.

(b) Every year for the preceding calendar year, each licensee shall:

(1) report to the Commission the amount payable to the Commission under this section; and

(2) pay that amount to the Commission.

(c) (1) The license of a licensee shall be revoked if the licensee:

(i) fails to report when money under this section is due; or

(ii) knowingly or willfully submits a report that understates the amount due.

(2) A licensee whose license is revoked under this subsection may not hold a license for at least 1 year.

§11–804.

(a) The intent of this section is similar to that of the Interstate Horseracing Act of 1978, 15 U.S.C. §§ 3001 through 3007.

(b) If the Commission approves, a licensee may contract to hold pari-mutuel betting on a race that is held at an out-of-state track where betting on racing is lawful.

(c) Pari-mutuel betting under this section may only occur:

(1) on a racing day when the Commission has authorized the licensee to hold racing; and

(2) (i) at the track of the licensee;

(ii) at any track where pari-mutuel betting on races on the racing program of the licensee for that day is authorized; or

(iii) at a satellite simulcast facility.

(d) (1) The breakage and takeout for pari-mutuel betting under this section shall be computed in the way normally applicable to pari-mutuel betting on racing the licensee holds.

(2) From the takeout the licensee shall deduct:

(i) the State tax on all mutuel pools;

(ii) the amount to be paid under the contract to the out-of-state track; and

(iii) the cost of transmission.

(3) The licensee shall then allocate the rest of the takeout in the way applicable to the racing that the licensee holds.

(e) A contract with an out-of-state track under this section is subject to the approval of the group that represents a majority of the owners and trainers who race horses at that track and the group that represents a majority of the applicable breeders in this State.

§11–804.1.

(a) Subject to the Interstate Horseracing Act of 1978, 15 U.S.C. §§ 3001 through 3007, a licensee may simulcast races held in this State to another jurisdiction where betting on racing is lawful.

(b) All payments to the licensee under this section shall be allocated to the licensee, purses, and the applicable bred fund in the way agreed to by:

(1) the licensee;

(2) the group that represents a majority of the applicable owners and trainers licensed in the State; and

(3) the group that represents a majority of the applicable breeders in the State.

§11–804.2.

Notwithstanding § 11-804(c) of this subtitle, a licensee in Allegany County may conduct pari-mutuel betting under § 11-804 of this subtitle on a day when the Commission has authorized the licensee to hold racing only:

(1) at the track of the licensee;

(2) at a satellite simulcast facility:

(i) in which the licensee has majority ownership interest; and

(ii) which complies with the requirements of § 11-825(a) of this subtitle; and

(3) at a receiving track located more than 35 miles from any of Laurel Park, Pimlico Race Course, and Rosecroft Raceway.

§11–805.

(a) Except for racing held by the Maryland-National Capital Park and Planning Commission, the Commission may authorize telephone betting at any track where racing is authorized.

(b) The breakage and takeout on all telephone betting shall be computed in the way normally applicable to pari-mutuel betting on racing the licensee holds.

§11–808.

(a) An employee of a receiving track is not considered an employee of the sending track because of this part.

(b) The Commission has jurisdiction over all intertrack betting and other activities at a receiving track to the same extent as when live racing is held at the track.

(c) The Commission shall adopt regulations to carry out this part.

(d) Only a licensee may operate a receiving track or a sending track.

(e) (1) A receiving track shall transmit directly to the sending track all pari-mutuel information about the money bet at the receiving track.

(2) A sending track shall incorporate this information with information on pari-mutuel betting at the sending track.

(f) Money bet in intertrack betting shall be:

(1) included in the applicable mutuel pools at the sending track; and

(2) considered as if bet at the sending track.

(g) (1) The breakage, State tax, and takeout on all intertrack betting at a receiving track shall be computed in the way normally applicable to pari-mutuel betting on a race at the sending track.

(2) The takeout shall be allocated in the same proportions that are normally applicable to racing held at the sending track, after deductions for:

(i) the State tax;

(ii) the amount to be kept by the receiving track under the simulcast agreement with the sending track; and

(iii) the cost to the sending track of the transmission.

§11–809.

(a) On a race that a licensee holds and simulcasts to an out-of-state facility or on a simulcast of a race that a licensee receives, the licensee may, with the approval of the Commission, combine bets made at the licensee's track with bets of the same type made at the out-of-state facility where betting is lawful.

(b) This section allows the creation of common mutuel pools for calculating odds and determining payouts.

(c) Bets made at an out-of-state facility may not be considered part of the licensee's mutuel pools for any purpose other than the purpose stated in subsection (b) of this section.

(d) For races that are held by a licensee in this State and simulcast to an out-of-state facility, the takeout on bets made in this State that are commingled in a common mutuel pool shall be the takeout as prescribed for the licensee by this title.

(e) Notwithstanding any other provision of this title governing the amount of takeout, for a race that is held by an out-of-state facility and simulcast to a licensee in this State, the takeout on bets made in this State that are commingled in a common mutuel pool shall be, subject to the approval of the Commission, as agreed by the licensee and the out-of-state facility.

(f) Notwithstanding any other provision of this title governing the allocation of takeout, for a race that is held by an out-of-state facility and simulcast to a licensee in this State, the allocation of takeout on bets made in this State that are commingled in a common mutuel pool shall be, subject to the approval of the Commission, allocated in

the following manner:

(1) to the State for taxes on the handle of the licensee as provided under this title;

(2) to the host racing association where live racing is conducted in an amount determined by the licensee and the out-of-state facility; and

(3) the remainder to the licensee, the applicable pension funds created by this title, purse money, and the applicable bred fund in proportion to their respective shares of the takeout under this title.

§11–811.

(a) (1) In this section the following words have the meanings indicated.

(2) "Fair Hill" means the Cecil County Breeders' Fair, Inc., or its successor.

(3) "State Fair Society" means the Maryland State Fair and Agricultural Society, Inc.

(b) This section applies only to intertrack betting in which:

(1) the sending track is equipped to transmit simulcast races and is:

(i) a mile thoroughbred track;

(ii) a harness track;

(iii) a track where racing is conducted by Fair Hill; or

(iv) a track where racing is conducted by the State Fair Society; and

(2) the receiving track is:

(i) equipped to receive simulcast races and hold intertrack betting on those races; and

(ii) one of the tracks specified in item (1) of this subsection.

(c) The Commission may authorize intertrack betting involving tracks of:

(1) mile thoroughbred racing licensees;

(2) harness racing licensees;

(3) Fair Hill; or

(4) the State Fair Society.

(d) The Commission may authorize licensees, Fair Hill, or the State Fair Society to participate in intertrack betting by operating sending tracks and receiving tracks only if:

(1) the operators of the sending track and the receiving track submit a joint application to the Commission;

(2) the Commission holds a public hearing on the matter;

(3) the operator of the receiving track shows to the satisfaction of the Commission that the operator has held, is holding, or will hold regularly scheduled race meetings at the receiving track in accordance with a license and has complied with the terms of the license; and

(4) the receiving track meets the requirements of subsection (e) of this section, unless the Commission has waived them, and subsection (f) of this section.

(e) (1) Laurel Race Course, a track where racing is conducted by the State Fair Society or Rosecroft Raceway may be a receiving track only if live racing was held there in the previous calendar year on at least 75% of the racing days available to it.

(2) Ocean Downs may be a receiving track only if at least 40 days of live racing were held there in the previous calendar year.

(3) Pimlico Race Course may be a receiving track only if at least 90 days of live racing were held there in the previous calendar year.

(4) A track where racing is conducted by Fair Hill may be a sending track only on days when Fair Hill is licensed to conduct and actually conducts live racing.

(5) A track in Allegany County may be a sending track:

(i) to any receiving track:

1. on days when the track is licensed to conduct and actually conducts live racing; and

2. for live races conducted at the track; and

(ii) to a receiving track located more than 35 miles from any of Laurel Park, Pimlico Race Course, and Rosecroft Raceway:

1. on any day the Commission has authorized the licensee to hold racing; and

2. for simulcast races conducted at the track.

(6) Subject to § 11-804.2 of this subtitle, nothing in paragraph (5) of this subsection shall limit the ability of a track in Allegany County to act as a sending track

to a satellite simulcast facility.

(7) A track in Allegany County may be a receiving track:

(i) during its opening year if it has scheduled at least 21 days of live racing within 12 months of its opening and the Commission has granted its application to race on those days; and

(ii) in subsequent years if at least 21 days of live racing were held at the track in the previous calendar year.

(8) The Commission may waive a requirement of this subsection if the receiving track could not meet the requirement because of:

(i) an act of God; or

(ii) what the Commission finds to be an emergency.

(f) (1) Intertrack betting may be held only if the organizations specified in this subsection approve the agreement between the receiving track and the sending track to simulcast races.

(2) If the sending track is a mile thoroughbred track or a track where racing is conducted by the State Fair Society or Fair Hill, approval shall be by an organization representing:

(i) a majority of the owners and trainers at the sending track; and

(ii) a majority of the thoroughbred breeders in the State.

(3) If the sending track is a harness track, approval shall be by an organization representing:

(i) a majority of the owners, trainers, and drivers of standardbred horses at the sending track; and

(ii) a majority of the standardbred breeders in the State.

(4) If the receiving track is a mile thoroughbred track or a track where racing is conducted by the State Fair Society, approval shall be by an organization representing:

(i) a majority of the owners and trainers at the receiving track; and

(ii) a majority of the thoroughbred breeders in the State.

(5) If the receiving track is a harness track, approval shall be by an organization representing:

(i) a majority of the owners, trainers, and drivers of standardbred horses at the harness track; and

(ii) a majority of the standardbred breeders in the State.

(g) (1) The simulcast signal shall be encoded.

(2) The licensee of the receiving track may not transmit the simulcast signal beyond the premises where pari-mutuel betting is allowed.

(h) Notwithstanding the provisions of subsection (f) of this section, if a track where racing is conducted by the State Fair Society is within the 35-mile radius of a mile thoroughbred track, it shall first obtain the concurrence of that mile thoroughbred track before it may be a receiving track during a period of time when the State Fair Society is not licensed to conduct live racing.

§11–812.

(a) A mile thoroughbred racing licensee operating a sending track shall pay to the Commission, within 10 days after each day of intertrack betting on thoroughbred racing at a receiving track, $1,000 of the impact aid to be paid to political subdivisions for intertrack betting for that day under § 11–404(c) and (d) of this title.

(b) The licensee shall deduct from the takeout the payment under subsection (a) of this section and then shall allocate the rest of the takeout in the way normally applicable to racing at the sending track.

(c) The Commission shall pay promptly to the Comptroller all money collected under this section.

§11–815.

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

(b) "Permit" means a permit granted under this part to hold satellite simulcast betting.

(c) "Satellite simulcast betting" means:

(1) pari-mutuel betting at a satellite simulcast facility in the State on a race that is simulcast from a sending track by a mile thoroughbred racing licensee, a harness racing licensee, or the State Fair Society; and

(2) transmission of the pari-mutuel information regarding bets at the satellite simulcast facility to the sending track.

§11–816.

(a) The Commission may approve satellite simulcast facilities that may conduct

satellite simulcast betting.

(b) This part does not authorize satellite simulcast betting at or through the direct use of lottery terminals in the State.

(c) The Commission has jurisdiction over all satellite simulcast betting and other activities at a satellite simulcast facility to the same extent as when live racing is held by a licensee.

§11–817.

(a) A person must have a permit granted by the Commission whenever the person holds satellite simulcast betting.

(b) Nothing in this Part III of this subtitle may preempt local zoning laws or ordinances.

§11–818.

(a) Any person may apply for a permit.

(b) An applicant for a permit shall submit to the executive director of the Commission an application in the form that the Commission requires.

(c) Except as provided in subsection (e) of this section, the Commission shall conduct a personal and financial background check of an applicant for a permit including:

(1) a review, by a certified public accountant, of the certified financial statements of the applicant, including contingent or pledged liabilities, sufficient to determine the ability of the applicant to purchase or lease, and develop and maintain the satellite simulcast facility for which the permit is sought;

(2) an income statement of the applicant for the most recent year;

(3) a statement of financial and related records of any person in which the applicant has at least a majority interest;

(4) a disclosure of all financial interests in horse racing and any other legalized betting activity;

(5) the disclosure of each person who is a beneficial owner of the applicant;

(6) with the assistance of federal, State, and local law enforcement authorities, a criminal background review; and

(7) a character review.

(d) The Commission shall adopt regulations establishing uniform procedures

for conducting the personal and financial background check required by this section.

(e) The Commission may waive portions of the review that it determines to be appropriate for any applicant that is a licensee.

§11–819.

The factors that the Commission shall consider in deciding whether to grant a permit shall include:

(1) the needs and convenience of the public;

(2) whether the satellite simulcast facility:

(i) would be expected to interfere unreasonably with attendance at tracks; and

(ii) meets the requirements of § 11-825(a) of this subtitle;

(3) the desires of the political subdivision where the proposed satellite simulcast facility is to be located;

(4) the interests of the racing industry; and

(5) other matters that the Commission finds appropriate.

§11–820.

(a) The Commission shall grant a permit to each applicant whose application the Commission approves after the applicant pays the permit fee that the Commission requires.

(b) A permit shall state the specific location where the permit applies.

(c) If the Commission approves, an applicant for a permit may change the location for which a satellite simulcast facility is being applied.

§11–821.

A permit entitles the holder to hold satellite simulcast betting at the satellite simulcast facility specified in the permit, but does not give the permit holder an ownership right to the permit or the simulcast signal.

§11–822.

(a) The Commission shall set the term of each permit.

(b) If the Commission approves, a permit may be transferred to another person if:

(1) the satellite simulcasting facility remains at the same location; and

(2) the person complies with all regulations of the Commission established under § 11-316 of this title for the purchase or transfer of an entity licensed to conduct racing.

§11–823.

A permit holder shall keep records of ownership and submit annual reports of ownership as required under § 11-314 of this title.

§11–824.

Applicants for and holders of permits are subject to the denial of license and disciplinary provisions of § 11-308 of this title.

§11–825.

(a) A satellite simulcast facility:

(1) shall be in premises owned or leased by a permit holder;

(2) may not be within a 35-mile radius of any mile thoroughbred track or harness track unless approved by the track licensee, the group that represents a majority of the applicable owners and trainers licensed in the State and the group that represents a majority of the applicable breeders in the State, considered separately;

(3) unless the track agrees otherwise, may not operate during hours on those days that racing with pari-mutuel betting is permitted at a racetrack located in this State within a 35-mile radius of the satellite simulcast facility; and

(4) shall offer pari-mutuel betting facilities and amenities that the Commission finds are:

(i) comparable to those available in the sports palace facilities of the mile thoroughbred racing licensees including:

1. high quality dining, lounge, and seating areas that are of a manner generally found in fine restaurants; and

2. teletheatre screen capacity; and

(ii) appropriate for the area where the satellite simulcast facility is located.

(b) A mile thoroughbred racing licensee or a harness racing licensee shall own or lease the pari-mutuel betting equipment at a satellite simulcast facility and shall, with its employees, operate the equipment.

(c) A mile thoroughbred racing licensee or a harness racing licensee shall submit to the Commission all contracts and agreements relating to satellite simulcast betting under this subtitle.

(d) (1) The Commission shall periodically be assured by permit holders that facilities continue to meet the requirements of this section.

(2) (i) The Commission shall inspect satellite simulcast facilities at least four times each year to determine if the permit holders are continuing to comply with the provisions of this section.

(ii) The inspections under this subsection shall include evaluations of the financial and physical conditions of each satellite simulcast facility.

(3) If the Commission finds that a permit holder is not complying with the provisions of this section, the Commission may impose a penalty on the permit holder similar to those penalties levied on licensees as provided under § 11-308 of this title.

§11–826.

(a) All money bet at a satellite simulcast facility shall be included in the applicable mutuel pools at the sending track.

(b) Except as provided in § 11-827 of this part, the breakage, State tax, and takeout on all satellite simulcast betting shall be computed in the way normally applicable to pari-mutuel betting on a race at the sending track.

§11–827.

After the respective portions have been retained by each person listed below, those persons may allocate, from the takeout at the satellite simulcast facility, the costs of operating a satellite simulcast facility and holding satellite simulcast betting:

(1) the licensee of the sending track, from the licensee's share;

(2) the group that represents a majority of the applicable owners and trainers licensed in the State, from the purse share; and

(3) the group that represents a majority of the applicable breeders in the State, from the bred fund share.

§11–828.

(a) A satellite simulcast facility shall transmit directly to the sending track all pari-mutuel information about the money bet at the satellite simulcast facility.

(b) A sending track shall incorporate this information with information on pari-mutuel betting at the sending track.

§11–829.

Except for betting on races of national or international prominence which have been approved by the Commission, satellite simulcast betting may not be conducted:

(1) on any day other than Sunday between 1:30 a.m. and 10:00 a.m.; and

(2) between 1:30 a.m. and 11:00 a.m. on Sunday.

§11–830.

A permit holder under this subtitle may not lend or give money to a person for pari-mutuel betting.

§11–831.

The Commission shall include in its annual report to the Legislative Policy Committee of the Maryland General Assembly:

(1) the effect of satellite simulcast betting on the racing industry in the State;

(2) an appraisal of each permit holder, taking into consideration the results of inspections required under this section and any financial information that is submitted to the Commission;

(3) if any additional permit has been granted under this section:

(i) the reasons for granting the permit; and

(ii) the anticipated impact of the new facility on existing permit holders and racing licensees; and

(4) if an application for a permit or permit renewal has been denied:

(i) the reasons for denying the permit or renewal; and

(ii) the impact on racing licensees if the Commission denied a permit renewal application.

§11–832.

The Commission shall adopt regulations to:

(1) define the criteria for applicants for a satellite simulcast betting permit, which may include a nonrefundable application fee;

(2) define allowable costs of operations under § 11-827 of this part; and

(3) otherwise carry out this part.

§11–901.

In this subtitle, "Jockey Fund" means the Maryland Jockey Injury Compensation Fund, Inc.

§11–902.

There is a Maryland Jockey Injury Compensation Fund, Inc., established as a not for profit corporation in the Department.

§11–903.

The Jockey Fund shall get workers' compensation insurance on a blanket basis for all jockeys who are covered employees under § 9-212 of the Labor and Employment Article.

§11–904.

(a) The Jockey Fund shall be managed by a Board of Directors.

(b) The Board of Directors of the Jockey Fund consists of the members of the Commission.

(c) The Board of Directors shall carry out this part.

§11–905.

(a) The Jockey Fund shall use the moneys paid to it under this part to:

(1) get workers' compensation insurance for jockeys; and

(2) administer the workers' compensation program for jockeys that is required under this subtitle and the Maryland Workers' Compensation Act.

(b) The liability of the Jockey Fund under the Maryland Workers' Compensation Act is limited to:

(1) providing workers' compensation insurance; and

(2) paying any penalty that results from a failure to provide the insurance.

§11–906.

(a) (1) The Commission shall assess each licensed owner and licensed trainer of a thoroughbred horse an amount sufficient to pay the cost of workers' compensation insurance that the Jockey Fund gets.

(2) The Commission shall pay each assessment that the Commission collects under this subsection to the Jockey Fund.

(b) (1) The Commission shall suspend or revoke the license of each owner or trainer who fails to pay the assessment under subsection (a)(1) of this section.

(2) The Commission may not reinstate or renew the license of the owner or trainer during the period of default.

§11–909.

(a) There is a Maryland Standardbred Horsemen's Assistance Fund, Inc., and a Maryland Horsemen's Assistance Fund, Inc.

(b) The clerk of the course at each thoroughbred track and at each harness track shall:

(1) collect each overpayment on a tote machine and each fine and penalty that is not imposed on a licensee; and

(2) pay that money to the Commission within 10 days after the close of each race meeting.

(c) The Commission shall pay the money collected under subsection (b) of this section from each harness track to the Maryland Standardbred Horsemen's Assistance Fund, Inc., and the money collected from each thoroughbred track to the Maryland Horsemen's Assistance Fund, Inc., on or before December 31 of each year, if the Commission is satisfied that:

(1) the recipient fund is operated entirely for the charitable purposes consistent with the interests of racing; and

(2) money that the Commission sends to a recipient fund or net earnings of a recipient fund is not used for the benefit of a director, member, or officer of that fund, or for the benefit of any private individual who is not an object of the charitable purposes of that fund.

§11–1001.

(a) Except in accordance with a license, a person may not hold, or aid or abet in holding, a race meeting at which horses are raced for a purse, reward, or stake.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $10,000 for each day of violation or imprisonment not exceeding 2 years or both.

§11–1101.

This title is the Maryland Horse Racing Act.

§11–1102.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate on July 1, 2024.

§11–1201.

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

(b) "Authority" means the Pimlico Community Development Authority.

(c) "Park Heights Corridor" means the area designated as an urban renewal district in Baltimore City that is bounded by Northern Parkway on the north, Greenspring Avenue on the east, Druid Park Drive on the south, and the railroad tracks of the Western Maryland Railroad on the west.

§11–1202.

There is a Pimlico Community Development Authority.

§11–1203. IN EFFECT

(a) The Authority consists of the following 15 members:

(1) the Baltimore City Planning Director;

(2) ten members, five of whom shall be business owners, residents, or service providers of the areas described in § 9–1A–31(a)(1)(ii) of the State Government Article, appointed by the Mayor of Baltimore City, after consultation with the members of the Baltimore City Delegation in the General Assembly representing legislative districts 40 and 41;

(3) the State Senators representing legislative districts 40 and 41; and

(4) one State Delegate representing legislative district 40 and one State Delegate representing legislative district 41, each appointed by the Speaker of the House.

(b) The Baltimore City Planning Director shall serve as Chair of the Authority.

(c) (1) The term of a member appointed by the Mayor is 3 years.

(2) The terms of members are staggered as required by the terms provided for members on October 1, 2005.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) At the end of a term, resignation, or removal of a member, the Mayor shall appoint a new member to the Authority.

(d) A member may be removed by the Mayor for incompetence, misconduct, or failure to perform the duties of the position.

11–1203. ** CONTINGENCY – NOT IN EFFECT – CHAPTER 1 OF 2012 2ND SS **

(a) The Authority consists of the following 15 members:

(1) the Baltimore City Planning Director;

(2) ten members, five of whom shall be business owners, residents, or service providers of the areas described in § 9–1A–31(a)(3)(ii) of the State Government Article, appointed by the Mayor of Baltimore City, after consultation with the members of the Baltimore City Delegation in the General Assembly representing legislative districts 40 and 41;

(3) the State Senators representing legislative districts 40 and 41; and

(4) one State Delegate representing legislative district 40 and one State Delegate representing legislative district 41, each appointed by the Speaker of the House.

(b) The Baltimore City Planning Director shall serve as Chair of the Authority.

(c) (1) The term of a member appointed by the Mayor is 3 years.

(2) The terms of members are staggered as required by the terms provided for members on October 1, 2005.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) At the end of a term, resignation, or removal of a member, the Mayor shall appoint a new member to the Authority.

(d) A member may be removed by the Mayor for incompetence, misconduct, or failure to perform the duties of the position.

§11–1204.

The Authority shall meet at a regular time and place to be determined by the Authority.

§11–1205.

(a) The Authority shall receive 80% of the money from the Special Fund, established under § 11-401 of this title, that is designated for payment to Baltimore City under § 11-404 of this title.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, the money received by the Authority shall be used to pay for facilities and services in communities in the Baltimore City limits within 2 miles of the Pimlico Race Course.

(2) In making its determinations on the use of the money provided to the Authority under subsection (a) of this section, the Authority shall give considerable weight to the housing, economic, and community development needs of the Park Heights Corridor, based on statistics including poverty and population statistics.

§11–1301.

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

(b) "Compact committee" means the organization of officials from the party states that is authorized and empowered by this compact to carry out the purposes of this compact.

(c) "Compact license" means a license issued by the compact committee.

(d) "Official" means the duly selected member of a party state racing commission, or its equivalent, who represents that party state as a member of the compact committee.

(e) "Participants in live racing" means participants in live horse racing with pari-mutuel wagering in the party states.

(f) "Party state" means each state that has enacted this compact.

(g) "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory or possession of the United States.

§11–1302.

The purposes of this compact are to:

(1) derive uniform requirements among the party states for the licensure of participants in live horse racing with pari–mutuel wagering;

(2) ensure that all licensees pursuant to this compact meet a uniform minimum standard of honesty and integrity;

(3) facilitate the growth of the horse racing industry by simplifying the process for qualified applicants for a license to participate in live racing;

(4) reduce the cost incurred by each state and applicant from the separate licensing process conducted by each state that conducts live horse racing;

(5) authorize the Commission to participate in this compact;

(6) permit officials from the party states to participate in this compact;

(7) through the compact committee established by this compact, enter into contracts with governmental agencies and other persons to carry out the purposes of this compact; and

(8) establish the compact committee created by this compact as an interstate governmental entity duly authorized to request and receive criminal history record information from:

(i) the Federal Bureau of Investigation;

(ii) state and local authorities; and

(iii) foreign law enforcement agencies.

§11–1303.

This compact shall become effective as to any party state that enacts this compact on the affirmative vote of a majority of the officials on the compact committee.

§11–1304.

Any state that has adopted or authorized horse racing with pari-mutuel wagering shall be eligible to become a party to this compact.

§11–1305.

(a) Any party state may withdraw from this compact by enacting a statute repealing this compact, but no such withdrawal shall become effective until the head of the executive branch of the withdrawing state has given notice in writing of such withdrawal to the head of the executive branch of all other party states.

(b) If withdrawals reduce participation in this compact to less than three party states, this compact no longer shall be in effect until there are three or more party states again participating in this compact.

§11–1306.

(a) There is hereby created an interstate governmental entity known as the compact committee, to be comprised of one official from the racing commission, or its equivalent, of each party state, who shall be selected, serve, and be removed in accordance with the laws of the official's party state.

(b) Each official shall have, in accordance with the laws of that party state, the assistance of that state's racing commission, or its equivalent, in considering issues related to licensing of participants in live racing and in acting as representative of that state on the compact committee.

(c) Where an official is unable to perform any duty of the compact committee:

(1) an alternate shall serve, until the original can return to duty, as that party state's official on the compact committee; and

(2) the designation of an alternate shall be communicated by that party state's racing commission, or its equivalent, to the compact committee, as required by the applicable bylaws.

(d) The Chairman of the Commission shall designate the official, and official's alternate, to represent the State of Maryland on the compact committee.

§11–1307.

(a) In order to carry out the purposes of this compact, the compact committee is hereby granted the power and duty to:

(1) determine which categories of participants in live racing shall be issued a compact license;

(2) establish the term, initial requirements, and renewal requirements for each category of compact license;

(3) adopt licensure requirements comparable, in its judgment, to the most restrictive party state's requirements for such a license;

(4) investigate applicants for a compact license and, as permitted by federal and state law, gather information, including criminal history record information, from:

(i) the Federal Bureau of Investigation;

(ii) state and local authorities; and

(iii) foreign country law enforcement agencies; and

(5) issue or renew compact licenses for participants in live racing who are

found by the compact committee to have met its licensure or renewal requirements.

(b) The compact committee may not deny a state license to an applicant.

(c) If the compact committee determines that an applicant is not eligible for a compact license, the compact committee, on giving notice to the applicant, shall stop processing the applicant's application for a state license or renewal of a state license.

(d) After receiving the notice, an applicant who wishes to appeal the determination may present evidence at a hearing that the compact committee conducts.

(e) The decision of the compact committee after a hearing is final.

(f) The compact committee may:

(1) enter into contracts and agreements with governmental agencies and other persons to provide personal services for its activities and such other services as may be necessary;

(2) (i) create, appoint, and abolish all those offices, employments, and positions, including an executive director, useful to fulfill its purposes;

(ii) prescribe their powers, duties, and qualifications;

(iii) hire persons; and

(iv) provide for their term, tenure, removal, compensation, fringe and retirement benefits, and other conditions of employment;

(3) borrow, accept, and contract for the services of personnel from any state, federal, or other governmental agency or from any other person or entity;

(4) acquire, hold, and dispose of any real or personal property by gift, purchase, lease, license, and similar means in furtherance of the purposes of this compact;

(5) charge and collect a fee, whether for licensure or renewal, from each license applicant; and

(6) receive additional funds through gifts, grants, and appropriations.

(g) Criminal history record information may be received and reviewed only by the officials on, and employees of, the compact committee which may be used only for the purposes of this compact.

(h) No official or employee of the compact committee may disclose or disseminate criminal history record information to any person or entity other than another official on, or employee of, the compact committee.

(i) The compact committee, its employees, or its designee shall:

(1) take the fingerprints of each license applicant in accordance with the procedures in § 11-312 of this title; and

(2) in accordance with P.L. 92-544 or P.L. 100-413, forward the fingerprints to an identification bureau or to an association of state officials regulating pari-mutuel wagering.

§11–1308.

The compact committee shall have the following voting requirements:

(1) each official shall be entitled to one vote on the compact committee;

(2) a majority vote of the total number of officials on the compact committee shall be required to:

(i) admit another party state;

(ii) issue or renew a racing license; and

(iii) receive or distribute any funds;

(3) a two-thirds majority vote of the total number of officials on the compact committee shall be required to adopt, amend, or rescind the bylaws;

(4) all other actions by the compact committee shall require a majority vote of those officials who are present for the vote; and

(5) no action may be taken by the compact committee unless a quorum of the officials on the compact committee is present for the vote.

§11–1309.

The compact committee shall:

(1) annually elect, from its members:

(i) a chair;

(ii) a vice chair; and

(iii) a secretary/treasurer;

(2) (i) adopt bylaws for the conduct of its business;

(ii) publish the bylaws in a convenient form; and

(iii) file a copy of the bylaws, including any amendments, with the secretary of state, or its equivalent agency, of each party state; and

(3) delegate day-to-day management and administration of its duties, as needed, to an executive director and support staff, who shall be considered governmental employees.

§11–1310.

No official of a party state or employee of the compact committee shall be held personally liable for any reasonable action taken in good faith that occurs during the performance, and within the scope, of their responsibilities and duties under this compact.

§11–1311.

Each party state in the compact shall:

(1) accept the decisions of the compact committee regarding the issuance or renewal of licenses;

(2) reimburse, or otherwise pay, the expenses of its official on the compact committee;

(3) not treat as a denial a notification to an applicant by the compact committee regarding its inability to process their application;

(4) reserve the right to:

(i) charge a fee for the use of a compact license within that party state;

(ii) apply its own standards to determine whether a compact committee license should be suspended or revoked;

(iii) apply its own standards for licensure or renewal of state applicants who do not meet the licensure requirements of the compact committee, or who are within a category of participants in live racing which the compact committee does not license; and

(iv) apply its own standards for licensure of nonracing employees at horse racetracks and at separate or satellite wagering facilities;

(5) through its racing commission or its equivalent, promptly notify the compact committee of any suspension or revocation that the party state has imposed on a compact committee licensee; and

(6) not be held liable for the debts or other financial obligations incurred

by the compact committee.

§11–1312.

(a) This compact shall be liberally construed so as to effectuate its purposes.

(b) The provisions of this compact shall be severable.

(c) If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of the United States, the remainder of this compact shall remain in full force and effect.

(d) If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution or laws of a party state, subject to the provision of § 1305(b), the compact shall remain in full force and effect as to the remaining states.

(e) If the applicability of this compact to any government, agency, person or circumstance is held invalid, the applicability of the compact to other governments, agencies, persons or circumstances shall not be affected thereby.

§12–101.

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

(b) (1) "Dealer" means:

(i) an individual who acquires commercially from the public or trades commercially with the public in secondhand precious metal objects;

(ii) an individual who for compensation arranges for the sale or delivery of a secondhand precious metal object on behalf of a person that does not hold a license under this title; or

(iii) unless otherwise provided, a pawnbroker.

(2) "Dealer" includes a retail jeweler as to transactions in which the retail jeweler acquires commercially from the public or trades commercially with the public in secondhand precious metal objects.

(c) "Employee" means an individual who is employed by a dealer or pawnbroker to buy, sell, or supervise directly the buying or selling of secondhand precious metal objects.

(d) "Fixed business address" means a single physical location in Maryland where a licensee regularly conducts business and at which the licensee or an employee of the licensee is physically present:

(1) during normal business hours; or

(2) other hours as provided in the application for the license which are sufficient to provide an authorized law enforcement officer or agent access to the licensee's place of business as provided in § 12–306 of this title.

(e) "License" means a license issued by the Secretary to do business as a dealer.

(f) "Local law enforcement unit" means the Maryland Department of State Police, a Maryland police department, or Maryland sheriff, as designated by resolution of the county or municipal governing body, with jurisdiction over any place where a dealer transacts business other than the dealer's fixed business address.

(g) "Pawnbroker" means a person who engages in pawn transactions.

(h) "Pawn transaction" means a loan of money by a dealer on deposit or pledge of personal property or other valuable thing other than securities or printed evidences of indebtedness, or a purchase by a dealer of personal property or other valuable things on condition of selling the same back at a stipulated price.

(i) "Precious metal object" means:

(1) a precious metal that is:

(i) gold;

(ii) iridium;

(iii) palladium;

(iv) platinum; or

(v) silver;

(2) a precious or semiprecious stone, or a pearl, that is or appears to have been attached to or inlaid in a precious metal listed in item (1) of this subsection or any alloy of a precious metal; or

(3) an object that is composed of a precious metal listed in item (1) of this subsection or any alloy of a precious metal if:

(i) the market value of the metal in the object lies principally in its precious metal component; or

(ii) at least 25% of the weight of the object is precious metal.

(j) "Primary law enforcement unit" means the Department of State Police, a police department, or sheriff, as designated by resolution of the county or municipal governing body in the county in which the license is held.

(k) "Remount sale" means a transaction between a retailer and an existing

customer to upgrade the customer's precious or semiprecious stone or pearl by removing from an existing mounting and placing in a new mounting from the retailer and crediting the value of the existing mounting toward the cost of the new mounting.

§12–102.

(a) This title does not apply to a transaction that involves:

(1) merchandise acquired from an established manufacturer or dealer who holds a license under this title, other than a pawnbroker, if the dealer who acquires the merchandise keeps an invoice or other customary proof of origin for the merchandise;

(2) a metal acquired for use in dentistry by a dentist licensed to practice dentistry under Title 4 of the Health Occupations Article;

(3) coins; or

(4) the purchase of junk or scrap metal that is subject to the record keeping and reporting requirements under § 17–1011 of this article.

(b) If a retail jeweler has a fixed business address in the State, this title does not apply to a transaction in which the retail jeweler:

(1) accepts, in accordance with a posted return policy, the return of an item that the jeweler originally sold;

(2) accepts, in accordance with a published trade–in policy, merchandise in trade that the jeweler originally sold;

(3) repossesses merchandise that the jeweler originally sold, if the original buyer has defaulted;

(4) retains merchandise that the jeweler originally accepted for repair as a bailee for hire, if the customer who deposited the merchandise:

(i) defaulted; or

(ii) failed to reclaim the merchandise within the time agreed on with the jeweler;

(5) accumulates pieces of precious metals in the course of performing repairs, remountings, fabrications, or custom orders; or

(6) participates in a remount sale.

(c) Except as otherwise provided in this title, this title does not apply to a pawnbroker located in a county that regulates pawnbrokers unless the pawnbroker does business as a dealer.

(d) (1) A county or municipal corporation may not enact a law to regulate dealers or coins.

(2) This title supersedes any existing law of a county or municipal corporation that regulates dealers or coins.

§12–103.

The Secretary may adopt and enforce regulations to carry out this title.

§12–104.

The Secretary shall pay all money collected under this title into the General Fund of the State.

§12–201.

(a) Except as otherwise provided in this title, an individual shall have a license before the individual does business as a dealer in the State.

(b) Except those pawnbrokers who are exempt from State licensing under § 12-102(c) of this title, all pawnbrokers must be licensed as dealers.

§12–202.

(a) (1) An applicant for a license shall:

(i) submit to the Secretary an application on the form that the Secretary provides; and

(ii) pay to the Secretary an application fee of $300.

(2) The application fee is nonrefundable.

(b) The applicant shall sign the application under oath.

(c) In addition to any other information that the Secretary requires, the application shall state:

(1) the name, date of birth, and residence address of the applicant;

(2) the fixed business address of the applicant;

(3) the fixed address in the State where precious metal objects will be stored, if different from the fixed business address, provided, however, that a bank or safe deposit box is not an acceptable storage location unless written consent by the applicant and a bank official authorizing access to the storage facility and examination of its contents by law enforcement officers or agents accompany the application;

(4) a telephone number at which the applicant can be reached during normal business hours;

(5) each address where the applicant has conducted any business during the 36 months before application;

(6) the driver's license number, if any, of the applicant; and

(7) the name and permanent address of each employee who will work with the applicant in the business of the applicant.

(d) The application form shall contain, immediately above the signature line, the following:

"If issued a license, I agree to allow a municipal, county, or State police officer or agent acting in the course of a stolen property investigation or an investigation of a violation of this title to inspect and photograph all precious metal objects and records at my business or storage locations."

§12–203.

Before an individual may begin work for a dealer as an employee:

(1) the dealer shall submit to the Secretary, on the form that the Secretary provides, the name of the individual; and

(2) the individual shall apply for a national and State criminal history records check required under § 12-204(b) of this subtitle.

§12–204.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) Applicants for licenses under § 12–201 of this subtitle and individuals whose names must be submitted to the Secretary under § 12–203 of this subtitle shall apply to the Central Repository for a national and State criminal history records check on a form approved by the Director of the Central Repository.

(c) The Central Repository shall provide to the Secretary:

(1) the national and State criminal history records of each individual requiring a criminal history records check under subsection (b) of this section and issue a printed statement listing any convictions and pleas of guilty or nolo contendere to any criminal charge;

(2) an update of the initial criminal history records check for an individual

requiring a criminal history records check and issue a revised printed statement listing any convictions and pleas of guilty or nolo contendere to any criminal charge occurring in the State after the date of the initial criminal history records check; and

(3) an acknowledged receipt of the application for a criminal history records check by an individual requiring a criminal history records check.

(d) An individual requiring a criminal history records check shall submit a complete set of legible fingerprints taken at any designated State or local law enforcement office in the State or other agency or location approved by the Secretary of the Department of Public Safety and Correctional Services to the Central Repository.

(e) An individual requiring a criminal history records check under subsection (b) of this section shall pay:

(1) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and

(2) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

(f) A dealer or an applicant may pay for the costs borne by the employee or other individual requiring a criminal history records check under subsection (b) of this section.

(g) (1) Information obtained by the Secretary from the Central Repository under this title shall be confidential and may be disseminated only to the individual who is the subject of the criminal history records check.

(2) Nothing in paragraph (1) of this subsection shall preclude the Secretary from notifying a dealer or an applicant of the approval or disqualification of the employee for employment based on information obtained by the Secretary under this section.

(h) The Secretary shall verify periodically the continued employment or licensure of individuals requiring criminal history records checks in accordance with regulations adopted by the Secretary of the Department of Public Safety and Correctional Services.

§12–205.

(a) Upon receipt of a complete national and State criminal record report from the Central Repository in accordance with § 12-204 of this subtitle, the Secretary shall issue a license to each applicant who meets the requirements of this subtitle.

(b) The Secretary:

(1) may issue a license only for a fixed business address; but

(2) may not issue a license for an address that is:

(i) a hotel or motel room;

(ii) a motor vehicle;

(iii) a post office box; or

(iv) a location which does not meet the qualifications as defined in § 12-101(d) of this title.

(c) The Secretary may not issue more than 1 license for any single business location unless the dealers at that location are in partnership.

(d) The Secretary may not issue a license to a minor.

(e) Whenever a license is suspended or revoked, another license may not be issued to a dealer for the same business location unless the applicant provides the documentation and information, which the Secretary establishes by regulation, is necessary to demonstrate that the applicant will be engaging in a business which is separate and independent from the business of the revoked or suspended license.

§12–206.

(a) A license authorizes the licensee to do business as a dealer only at the address for which the license is issued.

(b) Notwithstanding subsection (a) of this section, a dealer who holds a license under this subtitle may:

(1) make purchases at an estate and judicial sale; and

(2) transact business at the residence of the owner of a precious metal object or a place where the owner keeps a precious metal object:

(i) on request of the owner; and

(ii) after giving written notice of the proposed transaction and its location to the local law enforcement unit with jurisdiction over that location.

§12–207.

(a) Unless a license is renewed for a 2-year term as provided in this section, the license expires on the first April 30 that comes:

(1) after the effective date of the license; and

(2) in an even-numbered year.

(b) At least 1 month before a license expires, the Secretary shall mail to the licensee, at the last known address of the licensee:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current license expires;

(ii) the date by which the Secretary must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(iii) the amount of the renewal fee.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term, if the licensee:

(1) submits to the Secretary a renewal application on the form that the Secretary provides;

(2) signs the renewal application under oath;

(3) updates the information submitted in the original application and states that the information is current;

(4) except as provided in subsection (d) of this section, agrees to comply with each requirement applicable to the original application;

(5) states that the licensee:

(i) has not violated this title;

(ii) has not been convicted of an offense specified in § 12–209 of this subtitle; and

(iii) has not had a similar license denied, suspended, or revoked in another jurisdiction;

(6) otherwise is entitled to be licensed; and

(7) pays to the Secretary a renewal fee of $265.

(d) The Secretary may require a licensee to submit a national and State criminal history records check with the renewal application.

(e) The Secretary shall renew the license of each licensee who meets the requirements of this section.

(f) A license is not transferable and may be used only to benefit the licensee.

(g) (1) A licensee may change the place of business for which a license is issued only if the licensee:

(i) submits to the Secretary an application to transfer the license to a new business location on a form that the Secretary provides; and

(ii) receives the written approval of the Secretary.

(2) Within 45 days after the application is filed with the Secretary, the Secretary shall approve or disapprove the application and notify the licensee of the approval or disapproval, in writing.

(3) If the Secretary approves a proposed change of place of business, the licensee shall:

(i) submit to the Secretary a current list of names of each employee to be employed at the new location; and

(ii) attach the written approval of the Secretary to the license until an amended license is received by the licensee.

(h) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

§12–208.

(a) Each licensee shall display the license conspicuously in the place of business of the licensee.

(b) (1) Only a licensed dealer may advertise for the commercial trading with the public or acquiring from the public in secondhand precious metal objects.

(2) An advertisement for the commercial trading with the public or acquiring from the public in secondhand precious metal objects shall include the name and license number of the licensee, in compliance with applicable regulations adopted by the Department.

§12–209.

(a) (1) Except as otherwise provided, in this subsection, a dealer's or applicant's agents, employees, management personnel, or partners include only those individuals who are directly involved in pawn transactions or the acquisition or sale of secondhand precious metals on behalf of the dealer or applicant.

(2) Subject to the hearing provisions of § 12-210 of this subtitle, the Secretary may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee or an agent, employee, manager, or partner of the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(ii) fraudulently or deceptively uses a license;

(iii) has a similar license denied, suspended, or revoked in another jurisdiction;

(iv) under the laws of the United States or of any state, is convicted of a:

1. felony; or

2. misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to be involved in a pawn transaction or the sale or acquisition of secondhand precious metals;

(v) knowingly employs or knowingly continues to employ, after being notified by the Secretary, an individual who, under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the employee to be involved in a pawn transaction or the sale or acquisition of secondhand precious metals;

(vi) knowingly employs or knowingly continues to employ in any capacity, after being notified by the Secretary, an individual whose precious metals dealer's license has been revoked;

(vii) willfully fails to provide or willfully misrepresents any information required to be provided under this title;

(viii) violates this title; or

(ix) violates a regulation adopted under this title.

(3) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Secretary may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Secretary shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(4) The Secretary shall pay any penalty collected under this subsection into the General Fund of the State.

(5) The Secretary shall distribute periodically to all dealers a list of individuals whose licenses have been revoked in the State.

(b) (1) If a licensee is charged with a violation of this title that could result in suspension or revocation of the license, or if the Secretary has probable cause to believe that this title has been, or will be, violated through transactions likely to occur pursuant to § 12-206 of this subtitle, the Secretary may seek from a circuit court an immediate restraining order to prohibit the licensee from:

(i) buying or selling a secondhand precious metal object;

(ii) disposing of a secondhand precious metal object; or

(iii) disposing of a record about a secondhand precious metal object.

(2) The restraining order is in effect until:

(i) the court lifts the order;

(ii) the charges are adjudicated or dismissed; or

(iii) in the case of an event held in accordance with § 12-206 of this subtitle, arrangements are made by the licensee which will ensure compliance with the provisions of this title.

(c) The Secretary shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(2)(iv) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to act as a pawnbroker or a secondhand precious metal object dealer;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§12–210.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Secretary takes any final action under § 12-209 of this subtitle, the Secretary shall give the individual against whom the action is contemplated an opportunity for a hearing before the Secretary.

(b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Secretary may administer oaths in a proceeding under this section.

(d) If, after due notice, the individual against whom the action is contemplated does not appear, nevertheless the Secretary may hear and determine the matter.

§12–211.

A party to a proceeding under this title who is aggrieved by a final decision of the Secretary in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§12–212.

The Secretary shall inform each primary law enforcement unit of each license that is issued, renewed, changed to a new business location, denied, suspended, or revoked.

§12–213.

A dealer may not acquire a precious metal object, or take any merchandise in a pawn transaction, from an individual who is a minor.

§12–301.

(a) (1) Each dealer shall make a written record, on a form provided by the Secretary, of each business transaction that involves the acquisition of a secondhand precious metal object when the transaction is made.

(2) Each dealer shall retain the original copy of the written record required to be made under paragraph (1) of this subsection at the dealer's place of business.

(b) Each pawnbroker shall make a written record, on a form provided by the Secretary, of each business transaction that involves:

(1) lending money on pledge of personal property, other than a security or printed evidence of indebtedness;

(2) buying personal property on condition of selling it back at a stipulated price; or

(3) buying the following items for the purpose of resale:

(i) binoculars;

(ii) cameras;

(iii) firearms;

(iv) furs;

(v) household appliances;

(vi) musical instruments;

(vii) office machines or equipment;

(viii) radios, televisions, videodisc machines, videocassette recorders, and stereo equipment;

(ix) personal computers, tapes, and disc recorders;

(x) watches;

(xi) bicycles; and

(xii) tangible personal property pledged as collateral.

(c) Each pawnbroker shall make a written record, on a form provided by the Secretary, of each transaction that involves the acquisition of an item described in subsection (b)(3) of this section for the purpose of resale.

(d) (1) A separate record entry shall be made for each item involved in a transaction.

(2) Items in a matching set may be recorded as a set if acquired in a single transaction.

(e) During the holding period required under § 12–305 of this subtitle, a dealer may place all of the items acquired in a single transaction in a secure container that has been approved by the primary law enforcement unit, if:

(1) each item in the transaction has a separate record entry in the written record required under this section; and

(2) the secure container is tagged by the dealer with the number that corresponds to the transaction under which the items were acquired and the written record listing the items obtained in the transaction.

(f) (1) When a dealer places items into the dealer's inventory, the dealer shall

tag each item individually with a number that corresponds to the transaction under which it was acquired. However, items acquired in a matching set may be tagged as a set.

(2) Each item tagged by a dealer under paragraph (1) of this subsection shall remain tagged for the entire period the item is stored in the dealer's inventory.

(g) For the purposes of this subtitle, there is a presumption that an object is a precious metal object if:

(1) it reasonably appears to be a precious metal object; and

(2) it was received by a dealer in the course of business or is found in the place of business or storage facility of a dealer.

§12–302.

(a) In addition to any other information required by the Secretary, the records of a dealer shall include:

(1) the date, place, and time of each transaction that involves the acquisition of a precious metal object;

(2) the name and address of the principal, if the transaction is by an agent;

(3) a description of the precious metal object, including:

(i) its approximate metallic composition;

(ii) any jewels, stones, or glass parts;

(iii) any mark, number, word, or other identification on the precious metal object;

(iv) its weight, if payment is based on weight;

(v) a statement whether it appears to have been altered by any means, including:

1. obscuring a serial number or identifying feature;

2. melting; or

3. recutting a gem; and

(vi) the amount paid or other consideration;

(4) for each individual from whom the dealer acquires a precious metal object:

(i) the name, date of birth, and driver's license number of the individual; or

(ii) identification information about the individual that:

1. positively identifies the individual from at least 2 forms of identification, which may include an age of majority card, military identification, or passport; and

2. provides a physical description of the individual, including the sex, race, any distinguishing features, and approximate age, height, and weight of the individual;

(5) a statement indicating whether or not the person making the transaction is personally known to the dealer; and

(6) the signature of the person from whom the precious metal object or personal property is acquired and the dealer or employee who accepted the precious metal object.

(b) In addition to any other information required by the Secretary, the records of a pawnbroker shall include, for each item pawned:

(1) the type of item;

(2) its manufacturer, model number, year of manufacture if known, and serial number if known; and

(3) its color and size.

§12–303.

Unless otherwise authorized by the Secretary, a dealer shall keep the records required by this subtitle, at a location within the State, for 3 years after the date of the transaction.

§12–304.

(a) (1) A dealer shall submit the required information from each record to the primary law enforcement unit in accordance with subsection (b) of this section.

(2) If the dealer transacts business in accordance with § 12–206(b) of this title, the dealer also shall submit the required information from the records to the local law enforcement unit in accordance with subsection (b) of this section.

(3) On the request of a dealer, the Secretary shall provide to the dealer a list of local law enforcement units.

(b) (1) Subject to paragraph (2) of this subsection, the dealer shall submit the

records by transmitting the required information from the records electronically, in a format acceptable to the receiving law enforcement unit, by noon of the next business day.

(2) A dealer may request an extension of up to 48 hours to submit the records required under paragraph (1) of this subsection.

(c) Each record, submitted to the primary law enforcement unit and, if applicable, local law enforcement unit, shall include:

(1) the license number of the dealer;

(2) the location of each item listed in the record; and

(3) the information required under § 12–302 of this subtitle.

(d) The required information from a record submitted under this section:

(1) shall be kept confidential;

(2) is not a public record; and

(3) is not subject to Title 4 of the General Provisions Article.

(e) The primary law enforcement unit shall adopt a procedure for a dealer to amend a record required to be submitted under this section.

(f) A law enforcement unit may cease to maintain a record submitted under this section after 1 year from the date the law enforcement unit receives the copy.

§12–305.

(a) (1) (i) 1. Except as otherwise provided in this section, a dealer who acquires a precious metal object shall keep it in the county where the dealer holds a license from the time of acquisition until at least 18 days after submitting a copy of a record of its acquisition under § 12–304 of this subtitle.

2. Notwithstanding subparagraph (ii) of this paragraph, the 18–day holding period established under this subparagraph applies to a precious metal object that:

A. a dealer licensed in Prince George's County acquired in a pawn transaction; and

B. an individual seeks to redeem by presenting the original ticket issued as part of the pawn transaction.

(ii) A dealer who holds a license in Prince George's County and who acquires a precious metal object, other than a pawned precious metal object described

in subparagraph (i)2 of this paragraph, shall keep it in Prince George's County from the time of acquisition until at least 30 days after submitting a copy of a record of its acquisition under § 12–304 of this subtitle.

(2) A dealer who acquires a precious metal object at an event which takes place at a location other than the dealer's fixed business address shall place the object and a record of its acquisition at a location in accordance with subsection (d)(1) or (2) of this section by the next business day after acquiring the object.

(3) In partial compliance with the 18–day holding requirement under this subsection, a dealer may maintain an object and the record of its acquisition at a location other than the dealer's fixed business address, if the local law enforcement unit in the jurisdiction where the item was acquired provides written approval.

(b) (1) A dealer may submit to the primary law enforcement unit a written request for a shorter holding period for a specific precious metal object.

(2) Within 48 hours after the primary law enforcement unit receives a request, the primary law enforcement unit shall approve or deny the request.

(3) After inspecting the precious metal object, the primary law enforcement unit may authorize in writing a shorter holding period.

(4) If the primary law enforcement unit denies the request, the primary law enforcement unit shall state the reasons in writing.

(c) (1) Except as provided in paragraph (2) of this subsection, a dealer may not alter a precious metal object before or during the holding period.

(2) During the holding period, a dealer may chemically test a precious metal object to determine its metal content or value if the dealer does not alter the precious metal object so as to affect its identification or value.

(d) During the holding period for a precious metal object, a dealer shall keep the precious metal object and the record of its acquisition in:

(1) the place of business of the dealer; or

(2) a storage facility specified in the license application of the dealer.

§12–306.

(a) A dealer shall allow an authorized law enforcement officer or agent, on request, to enter the place of business or storage premises of the dealer during business hours to inspect a record required to be maintained under this title or precious metal object as part of a stolen property investigation or an investigation of a violation of this title.

(b) (1) On request of the dealer, the officer or agent shall make the inspection in the presence of the dealer or an agent of the dealer.

(2) If the dealer refuses to allow access or produce the record or precious metal object for inspection, the officer or agent shall seek a search warrant.

(3) A warrant authorizing an administrative inspection for possible regulatory violations shall be issued if the officer or agent establishes probable cause for the selection of the place of business in question for inspection and that the inspection will be reasonably limited in time, place, and scope.

(c) A dealer who refuses to allow access or to produce records, precious metal objects for inspection on request, shall be subject to the provisions of § 12-209 of this title and, in addition, may be assessed a civil penalty as provided in subsection (d) of this section.

(d) (1) The Secretary may impose on a licensee who violates this section a civil penalty not exceeding $500 for each violation.

(2) In setting the amount of a civil penalty under this subsection, the Secretary shall consider:

(i) the seriousness of the violation;

(ii) the good faith of the violator;

(iii) any previous violations;

(iv) the harmful effect of the violation on the complainant, the public, and the business of the dealer or pawnbroker; and

(v) any other relevant factors.

§12–401.

(a) This section applies to all dealers and all pawnbrokers wherever located in the State.

(b) A dealer or pawnbroker shall release to the primary law enforcement unit an item of personal property, other than a security or printed evidence of indebtedness, located at the place of business of the dealer or pawnbroker if:

(1) the item is established to have been stolen;

(2) the owner of the item or victim of the theft has positively identified the item;

(3) the owner of the item or the agent or designee of the owner has provided an affidavit of ownership;

(4) the stolen property report describes the item by:

(i) a date;

(ii) initials;

(iii) an insurance record;

(iv) a photograph;

(v) a sales receipt;

(vi) a serial number;

(vii) specific damage;

(viii) a statement of the facts that show that the item is one of a kind; or

(ix) a unique engraving; and

(5) the primary law enforcement unit provides to the dealer or pawnbroker a receipt that describes the item and that notifies the dealer or pawnbroker of the dealer's or pawnbroker's right to file an application for a statement of charges against the individual who sold the item to the dealer or pawnbroker, or other alleged thief for theft under § 7–104 of the Criminal Law Article.

(c) (1) Subject to paragraph (2) of this subsection, a dealer shall retain in the dealer's place of business, for an additional period of 12 days, any item of personal property or other valuable thing, other than securities or printed evidence of indebtedness, if:

(i) the primary law enforcement unit requests that the dealer retain the item;

(ii) the primary law enforcement unit has reasonable cause to believe the item has been stolen; and

(iii) the item has not been identified under subsection (b)(2) of this section.

(2) A dealer shall retain in the dealer's place of business, for an additional 45 days following the holding period required under paragraph (1) of this subsection, an item of personal property or other valuable thing, other than securities or printed evidence of indebtedness, if the primary law enforcement unit:

(i) requests that the dealer retain the item in the dealer's place of business;

(ii) has a continuous active investigation of an item initially held under paragraph (1) of this subsection based on a reasonable cause to believe the item was stolen; and

(iii) has documentation of progress in the investigation as long as the investigation has not been closed.

(3) A primary law enforcement unit may renew a request to hold an item under paragraph (2) of this subsection as many times as necessary.

(d) When a primary law enforcement unit no longer needs an item for evidence, the primary law enforcement unit shall give the item to its owner.

(e) A dealer or pawnbroker who is required to release an item under this section is not entitled to reimbursement for any pledge or purchase price paid for the item from:

(1) the primary law enforcement unit to which the dealer released the item;

(2) the owner of the item; or

(3) the victim of the theft.

(f) If the owner of the item or the victim of the theft chooses to participate in the prosecution of the alleged identified thief, then the charges of theft from the owner or the victim of the theft and the charges of theft from the dealer or pawnbroker may be heard in a joint trial.

(g) The Secretary shall distribute to licensed dealers or post on the Department's Web site the name of the primary law enforcement unit responsible for enforcing this title in each jurisdiction, including municipalities.

§12–402.

A person that sells an item to a dealer shall sign a statement, under the penalties of perjury, that the person is the owner of the item.

§12–403.

(a) If there is probable cause to believe that a violation of this title has occurred, the Secretary shall have the authority to issue subpoenas for records, reports, or articles in connection with any investigation or administrative proceeding under this title.

(b) If a licensee or a licensee's employee fails to comply with a subpoena issued under this section, on petition of the Secretary, a circuit court may compel compliance with the subpoena.

§12–501.

Except as otherwise provided in this title, a person may not do business as a dealer in the State unless the person has a license.

§12–502.

(a) (1) A person who willfully or knowingly violates this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $10,000 or imprisonment not exceeding 2 years or both.

(2) Each associate, employee, manager, or partner who participates in or consents to a violation of this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

(3) Each violation of this title is a separate offense.

(b) (1) The Secretary may impose on a person who violates any provision of this title a penalty not exceeding $5,000 for each violation.

(2) In setting the amount of the penalty, the Secretary shall consider:

(i) the seriousness of the violation;

(ii) the harm caused by the violation;

(iii) the good faith of the violator;

(iv) any history of previous violations by the violator; and

(v) any other relevant factors.

(3) The Secretary shall pay any penalty collected under this subsection into the General Fund of the State.

§12–601.

This title is the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act.

§12.5–101.

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

(b) "Business" means a commercial entity that provides locksmith services.

(c) "Employee" means an individual employed by a licensed locksmith to provide locksmith services on behalf of the licensed locksmith.

(d) "Fixed business address" means a single physical location where a licensee conducts business and at which the licensee or an employee of the licensee is available:

(1) during normal business hours; or

(2) other hours as provided in the application for the license.

(e) "License" means a license issued by the Secretary to provide locksmith services.

(f) "Licensed locksmith" means, unless the context requires otherwise, a business that is licensed by the Secretary to provide locksmith services.

(g) "Local law enforcement unit" means the Department of State Police, a police department in the State, or sheriff in the State:

(1) designated by the county or municipal governing body for a licensee with an in–State fixed business address; or

(2) designated by the Secretary for a licensee with an out–of–state fixed business address.

(h) "Provide locksmith services" means to engage professionally and for compensation in:

(1) repairing, rebuilding, rekeying, repinning, recombinating, adjusting, or installing mechanical, electrical, or electromechanical locking devices, safes, vaults, or safe deposit boxes; or

(2) operating a mechanical, electrical, or electromechanical locking device or opening safes, vaults, or safe deposit boxes by a means other than that intended by the manufacturer of such locking devices.

§12.5–102.

The purpose of this title is to safeguard the life, health, and property of the residents of Maryland to promote their welfare by regulating persons that provide locksmith services.

§12.5–103.

The provisions of this title may not be construed to prohibit the following:

(1) bona fide sales demonstrations to locksmiths or locksmith suppliers by sales representatives who are not licensed;

(2) emergency opening services by members of police departments, fire departments, or other government agencies in their official line of duty in order to protect against loss of life or property;

(3) the acquisition, making, or use of any key duplication or key blanks;

(4) the replacing of a removable or interchangeable core or recombinating a cylinder in a lock that was specifically designed by the manufacturer to be changed by the end user by use of a key;

(5) the installation, repair, replacement, or rebuilding of a lock by the manufacturer of the lock;

(6) the installation, repair, replacement, or rebuilding of an automotive lock by an automotive repair and service facility, the lock manufacturer, or the manufacturer's agent;

(7) the installation of locks by building trades personnel on projects that require a building permit;

(8) the installation or replacement of locks by a retailer or the retailer's agent:

(i) on the premises of the retailer; or

(ii) off the premises of the retailer if the installation or replacement of locks is incidental to the retailer's normal course of business;

(9) the installation or replacement of locks by a security systems technician who is licensed under Title 18 of the Business Occupations and Professions Article; and

(10) the installation, repair, replacement, rekeying, or adjusting of locks or lock components for property by an employee or agent of the property owner or a management company.

§12.5–104.

The Secretary may adopt and enforce regulations to carry out this title.

§12.5–105.

The Secretary shall pay all money collected under this title into the General Fund of the State.

§12.5–201.

Except as otherwise provided in this title, a business shall be licensed by the Secretary before the business and employees of the business provide locksmith services in the State.

§12.5–202.

(a) The owner of a business or the owner's designee shall apply on behalf of the business for a license under this subtitle.

(b) (1) An applicant for a license shall:

(i) submit to the Secretary an application on the form that the Secretary provides;

(ii) submit a passport–size photograph, taken within 6 months immediately preceding the date of the filing of the application, of each of the following individuals:

1. the owner of the business; and

2. each employee of the applicant;

(iii) provide any other documents or information required by this section or required by the Secretary; and

(iv) pay to the Secretary an application fee set by the Secretary.

(2) The application fee is nonrefundable.

(c) The applicant owner or designee shall sign the application under oath.

(d) In addition to any other information that the Secretary requires, the application shall state:

(1) the name, birth date, and residence address of the following individuals:

(i) the applicant owner or designee; and

(ii) each employee of the applicant;

(2) the fixed business address of the applicant;

(3) a telephone number at which the applicant can be reached during normal business hours, and, if applicable, an electronic mail address;

(4) each address where the applicant has conducted any business during the 36 months before application;

(5) the driver's license number of the applicant owner or designee and each employee of the applicant; and

(6) the name of the insurer and policy number of the general liability

insurance coverage required under § 12.5–205 of this subtitle.

(e) The application form provided by the Secretary shall contain a statement advising the applicant that willfully making a false statement on an application is a misdemeanor, subject to a fine or imprisonment or both, as provided under § 12.5–504 of this title.

§12.5–203.

Before an individual may begin work for a licensee as an employee:

(1) the licensee shall submit to the Secretary, on the form that the Secretary provides, the name of the individual; and

(2) the individual shall apply for a national and State criminal history records check required under § 12.5–204(b) of this subtitle.

§12.5–204.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) (1) The owner of a business that is an applicant for a license under § 12.5–202 of this subtitle and an individual whose name is required to be submitted to the Secretary under § 12.5–203 of this subtitle shall apply to the Central Repository for a national and State criminal history records check on a form approved by the Director of the Central Repository.

(2) As a part of an application to the Central Repository for a national and State criminal history records check, the owner of a business that is an applicant and an individual whose name is required to be submitted to the Secretary under § 12.5–203 of this subtitle shall submit to the Central Repository:

(i) two complete sets of legible fingerprints taken on forms approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to the State criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(c) A licensee or applicant may pay for the costs borne by the employee or other individual requiring a criminal history records check under subsection (b) of this section.

(d) The Central Repository shall provide to the Secretary:

(1) the national and State criminal history records of each individual requiring a criminal history records check under subsection (b) of this section and issue a printed statement listing any convictions and pleas of guilty or nolo contendere to any criminal charge;

(2) an update of the initial criminal history records check for an individual requiring a criminal history records check and issue a revised printed statement listing any convictions and pleas of guilty or nolo contendere to any criminal charge occurring in the State after the date of the initial criminal history records check; and

(3) an acknowledged receipt of the application for a criminal history records check by an individual requiring a criminal history records check.

(e) (1) Information obtained by the Secretary from the Central Repository under this section:

(i) is confidential;

(ii) may not be redisseminated; and

(iii) may be used only for the license purpose authorized by this title.

(2) Paragraph (1) of this subsection does not preclude the Secretary from notifying a licensee or an applicant of the approval or disqualification of the employee for employment based on information obtained by the Secretary under this section.

(f) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10–223 of the Criminal Procedure Article.

(g) The Secretary shall verify periodically the continued employment or licensure of individuals requiring criminal history records checks in accordance with regulations adopted by the Secretary of Public Safety and Correctional Services.

§12.5–205.

(a) Each licensed locksmith shall maintain general liability insurance:

(1) in the amount of at least $300,000;

(2) with coverage appropriate for the individual's circumstances; and

(3) in accordance with the regulations adopted by the Secretary under this section.

(b) A licensee shall give the Secretary notice of the cancellation of insurance at least 10 days before the effective date of the cancellation.

§12.5–206.

(a) The Secretary shall issue a license to each applicant that meets the requirements of this subtitle and on receipt of:

(1) a complete national and State criminal history record report from the Central Repository in accordance with § 12.5–204 of this subtitle; and

(2) documentation of current general liability insurance in the amount required under § 12.5–205 of this subtitle.

(b) The Secretary shall determine the size, form, and content of any license certificate that the Secretary issues.

(c) The Secretary:

(1) may issue a license only for a fixed business address; but

(2) may not issue a license for an address that is:

(i) a hotel or motel room;

(ii) a motor vehicle;

(iii) a post office box; or

(iv) a location that does not meet the qualifications of a fixed business address as defined in § 12.5–101(d) of this title.

(d) The Secretary may not issue a license to an individual who is 18 years old or younger.

(e) A license issued under this title is not transferable.

§12.5–207.

(a) Each licensed locksmith shall issue a photo identification card to each individual providing locksmith services on behalf of the licensed locksmith, including each individual identified as an employee of the licensed locksmith under § 12.5–202 of this subtitle.

(b) (1) Subject to paragraph (2) of this subsection, the licensed locksmith shall determine the size, form, and content of a photo identification card that the licensed locksmith issues.

(2) The photo identification card issued by a licensed locksmith under this section shall:

(i) be composed of durable material;

(ii) include a current passport–size photograph of the individual to whom the photo identification card is issued; and

(iii) include the license number and license expiration date of the licensed locksmith's license.

§12.5–208.

While a license is in effect, the license authorizes the licensee and the employees of the licensee to provide locksmith services in the State.

§12.5–209.

(a) A license is issued for a term of 2 years.

(b) Unless a licensee meets the insurance requirements of § 12.5–205 of this subtitle, the Secretary may not renew the license of the licensee.

(c) (1) Unless a license is renewed for a 2–year term as provided in this section, the license expires on the second anniversary of the effective date of the license.

(2) A licensee that meets the requirements of this section may obtain a renewal of a license before the license expires for an additional 2–year term.

(3) Once expired, a license may not be renewed.

(d) At least 60 days before a license expires, the Secretary shall mail to the licensee, at the last known address of the licensee:

(1) a renewal application form;

(2) a form that allows a licensee to update the information submitted in the original application or state that the information is current and accurate;

(3) except as provided in subsection (e) of this section, a form that requires the licensee to agree to continue to comply with each requirement applicable to the original application; and

(4) a notice that states:

(i) the date on which the current license expires;

(ii) the date by which the Secretary must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(iii) the amount of the renewal fee.

(e) The Secretary may require a licensee to submit a national and State criminal

history records check with the renewal application.

(f) The Secretary shall renew the license of each licensee who meets the requirements of this section.

(g) (1) A licensee may change the fixed business address for which a license is issued only if the licensee:

(i) submits to the Secretary an application to transfer the license to a new business location on a form that the Secretary provides; and

(ii) receives the written approval of the Secretary.

(2) Within 45 days after the application is filed with the Secretary, the Secretary shall approve or disapprove the application and notify the licensee of the approval or disapproval, in writing.

(3) If the Secretary approves a proposed change of fixed business address, the licensee shall:

(i) submit to the Secretary a current list of names of each employee to be employed at the new location; and

(ii) attach the written approval of the Secretary to the license until an amended license is received by the licensee.

(h) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

§12.5–210.

(a) Each licensee shall display the license conspicuously in the place of business of the licensee.

(b) A licensee and an employee of a licensee shall:

(1) carry a valid photo identification card issued by a licensed locksmith under § 12.5–207 of this subtitle at all times the licensee or employee of a licensee is engaged in providing locksmith services; and

(2) display the valid photo identification card as required by regulation.

(c) If a photo identification card is lost or destroyed, the licensee immediately shall notify the licensed locksmith that issued the photo identification card.

(d) (1) To change the name of a licensee on a license, a licensee shall submit to the Secretary:

(i) an application on the form provided by the Secretary;

(ii) the license of the licensee;

(iii) any documentation about the name change that the Secretary requires; and

(iv) the fee set by the Secretary.

(2) On receipt of the application, fee, and any required documentation, the Secretary shall issue a new license bearing the new name of the licensee.

§12.5–211.

(a) (1) Subject to the hearing provisions of § 12.5–212 of this subtitle, the Secretary may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee or an agent, employee, manager, or partner of the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license or photo identification card for the applicant or licensee or for another person;

(ii) fraudulently or deceptively uses a license or photo identification card;

(iii) presents or attempts to present the license or photo identification card of another licensee or employee of a licensee as the applicant's or licensee's license or photo identification card;

(iv) uses or attempts to use an expired, suspended, or revoked license or false photo identification card;

(v) has a similar license or certificate denied, suspended, or revoked in another jurisdiction;

(vi) under the laws of the United States or of any state, is convicted of a:

1. felony; or

2. misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to be involved in providing locksmith services;

(vii) knowingly employs or knowingly continues to employ an individual who, under the laws of the United States or of any state, is convicted of:

1. a felony that is directly related to the fitness and qualification of the employee to be involved in providing locksmith services; or

2. a misdemeanor that is directly related to the fitness and qualification of the employee to be involved in providing locksmith services;

(viii) fails to maintain the liability insurance required under § 12.5–205 of this subtitle;

(ix) engages in a pattern of unfair or deceptive trade practices under the Consumer Protection Act, as determined by a final administrative order or judicial decision;

(x) knowingly uses or permits the use of any of the licensee's or an employee of a licensee's skills, tools, or facilities for the commission of any crime;

(xi) willfully fails to provide or willfully misrepresents any information required to be provided under this title;

(xii) violates this title; or

(xiii) violates a regulation adopted under this title.

(2) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Secretary may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Secretary shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(3) The Secretary shall pay any penalty collected under this subsection into the General Fund of the State.

(b) The Secretary shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of an applicant or licensee when an applicant or licensee is convicted of a felony or misdemeanor described in subsection (a)(1)(vi) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to act as a locksmith;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§12.5–212.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Secretary takes any final action under § 12.5–211 of this subtitle, the Secretary shall give the person against whom the action is contemplated an opportunity for a hearing before the Secretary.

(b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Secretary may administer oaths in a proceeding under this section.

(d) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Secretary may hear and determine the matter.

§12.5–213.

Any person aggrieved by a final decision of the Secretary in a contested case, as defined in § 10–202 of the State Government Article, may take an appeal as allowed in Title 10, Subtitle 2 of the State Government Article.

§12.5–214.

The Secretary shall inform each local law enforcement unit of each license that is issued, renewed, changed to a new business location, denied, suspended, or revoked.

§12.5–301.

Each licensed locksmith shall include on each invoice or receipt for services the following information regarding each service call:

(1) the address where the services were provided by the locksmith;

(2) the type of lock being serviced;

(3) the vehicle identification number, if applicable;

(4) the quoted cost of the service provided to the customer prior to agreeing to provide the service; and

(5) the actual cost of the service paid by the customer.

§12.5–302.

Unless otherwise authorized by the Secretary, a licensed locksmith shall keep a copy of each invoice or receipt for services required by this subtitle, at the fixed business

address provided by the licensee to the Secretary, for 3 years after the date of the service call and, on reasonable notice from the Department, make required records available for inspection by the Department.

§12.5–303.

(a) (1) A licensed locksmith shall provide to a local law enforcement unit or the Department a copy of each invoice or receipt for services requested by either a local law enforcement unit or the Department.

(2) The Secretary shall encourage licensed locksmiths to develop a system for maintaining the records required by this subtitle electronically.

(b) On a request for an invoice or a receipt for services under subsection (a) of this section, the licensed locksmith shall submit the item by one of the following methods:

(1) by delivering or mailing a copy of the invoice or receipt for services within 5 business days after receiving the request; or

(2) by transmitting a copy of the invoice or receipt for services electronically, in a format acceptable to the receiving local law enforcement unit or the Department, within 2 business days after receiving the request.

(c) Each copy of an invoice or a receipt for services, submitted to the local law enforcement unit or the Department, shall include:

(1) the license number of the licensed locksmith; and

(2) the information required under § 12.5–301 of this subtitle.

(d) A copy of an invoice or receipt for services submitted under this section:

(1) shall be kept confidential;

(2) is not a public record; and

(3) is not subject to Title 4 of the General Provisions Article.

(e) A local law enforcement unit or the Department may destroy the copy of an invoice or receipt for services submitted under this section after 1 year from the date the local law enforcement unit or the Department receives the copy.

§12.5–401.

Each locksmith advertisement, business card, or any other means of providing notice to the public of the business providing locksmith services shall include the name of the licensed locksmith and the license number of the licensed locksmith.

§12.5–501.

A person may not knowingly use or permit the use of the licensee's or an employee of the licensee's skills, tools, or facilities to aid or abet an unlicensed locksmith in any activity for which a locksmith license is required for the commission of a crime.

§12.5–502.

A licensed locksmith or employee of a licensed locksmith may not willfully or deliberately disregard any building or safety laws of the State or local government unit.

§12.5–503.

A licensed locksmith or employee of a licensed locksmith may not fail in any material respect to complete the installation, repair, opening, or modification of a lock for the price stated in the contract for services.

§12.5–504.

Except for a violation of § 12.5–505(a) of this subtitle, a person that violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $10,000 or imprisonment not exceeding 2 years or both.

§12.5–505.

(a) Except as otherwise provided in this title, a person may not act as, offer to act as, hold oneself out as, or impersonate a locksmith in the State unless the person is a licensee or employee of a licensee.

(b) A person that violates this section is guilty of a misdemeanor and, on first conviction, is subject to a fine not exceeding $1,000 and, on second or subsequent conviction, is subject to a fine not exceeding $5,000.

§12.5–506.

(a) Subject to the notice and hearing provisions of Title 10, Subtitle 2 of the State Government Article, the Secretary may bring a civil administrative action against a person that violates § 12.5–505(a) of this subtitle.

(b) After a hearing, if the Secretary finds that a person has violated § 12.5–505(a) of this subtitle, the Secretary may:

(1) order the person to cease and desist from unlawful practice; and

(2) impose a civil penalty not exceeding $100 for each day of unlawful practice.

(c) Any person aggrieved by a decision and order of the Secretary under this section may take an appeal as allowed in Title 10, Subtitle 2 of the State Government

Article.

§12.5–507.

(a) This section applies only if there is no greater criminal penalty provided under this title or other applicable law.

(b) A person that engages in repeated violations of the provisions of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000.

§12.5–601.

This title may be cited as the "Maryland Locksmiths Act".

§13–101.

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

(b) (1) "Trading stamp" means a stamp or other similar device issued in connection with the retail sale of goods or services, as a cash discount or for any other marketing purpose, that is redeemable for cash, goods, or services.

(2) "Trading stamp" does not include a redeemable device that:

(i) a manufacturer or packer of an article uses to advertise or sell the article; or

(ii) a magazine, newspaper, or other publication issues and redeems.

(c) "Trading stamp company" means a person who, in any way:

(1) distributes trading stamps for retail issuance by others; or

(2) redeems trading stamps for retailers.

§13–102.

A person must be registered with the Secretary of State whenever the person does business as a trading stamp company in the State.

§13–103.

(a) On or before July 1 of each year, each trading stamp company shall:

(1) submit to the Secretary of State:

(i) a statement of registration;

(ii) samples of its current trading stamps, trading stamp collection

books, trading stamp redemption catalogues, and trading stamp distribution and redemption agreement forms;

(iii) a short form of its balance sheet for its last fiscal year, certified by an independent certified public accountant; and

(iv) a bond in accordance with § 13-104 of this title; and

(2) pay to the Secretary of State a fee of $25.

(b) The statement of registration shall include:

(1) the name and principal address of the trading stamp company;

(2) the state of its incorporation;

(3) the names and addresses of its principal officers, partners, or owners;

(4) the address of its principal office in the State;

(5) the name and address of its principal officer, employee, or agent in the State;

(6) the address of each place in the State where trading stamps will be redeemed; and

(7) the gross income of the trading stamp company from its trading stamp business in the State for its last fiscal year, certified by an independent certified public accountant, unless it submits the maximum bond under § 13-104 of this title.

§13–104.

(a) The bond required by this subtitle shall be:

(1) payable to the State;

(2) conditioned that the trading stamp company shall redeem its trading stamps whenever rightful holders present them for redemption; and

(3) executed by:

(i) the trading stamp company; and

(ii) a corporate surety qualified to do business in the State.

(b) (1) The amount of the bond shall be based on the gross income of the principal obligor from trading stamp business in the State during its last fiscal year.

(2) The amount of the bond is:

(i) $25,000, if the principal obligor has not previously done business in the State or if the gross income was not more than $250,000;

(ii) $50,000, if the gross income was more than $250,000 but not more than $500,000;

(iii) $75,000, if the gross income was more than $500,000 but not more than $750,000; and

(iv) $100,000, if the gross income was more than $750,000.

§13–105.

(a) (1) If a trading stamp company fails to redeem its trading stamps, each rightful holder of its trading stamps may make a claim against the bond in accordance with this section.

(2) For purposes of this section, a rightful holder includes a retailer that rightfully holds trading stamps for issuance to customers.

(b) The claim shall be submitted to the Secretary of State within 3 months after the failure to redeem trading stamps.

(c) (1) The Secretary of State promptly shall determine whether the trading stamp company should have redeemed its trading stamps.

(2) If the Secretary of State so determines, the Secretary of State shall notify the trading stamp company of that determination.

(d) (1) If the trading stamp company fails to redeem its trading stamps within 10 days after the notification, the Secretary of State shall publish notice of the failure in 3 consecutive issues of 1 or more newspapers that have general circulation in the State.

(2) The notice shall state the time within which proofs of claim and the trading stamps on which they are based must be submitted to the Secretary of State.

(e) Proofs of claim and the trading stamps on which they are based shall be submitted to the Secretary of State within 3 months after the first publication of the notice.

(f) Promptly after the end of the 3-month period, the Secretary of State shall determine the validity of all claims.

(g) The surety shall pay to the Secretary of State the lesser of:

(1) the amount necessary to satisfy:

(i) all valid claims; and

(ii) reasonable administrative costs to determine and pay the claims; or

(2) the amount of the bond.

(h) The Secretary of State promptly shall:

(1) distribute equitably to the claimants the proceeds of the bond, less reasonable administrative costs; and

(2) destroy the trading stamps surrendered to the Secretary of State.

(i) (1) On the effective date of each new bond that a trading stamp company submits, all liability on earlier bonds ends.

(2) A rightful holder who makes a claim under this section on or after that date shall make the claim only against the new bond.

§13–106.

(a) A trading stamp company may not do business as a trading stamp company in the State unless:

(1) a rightful holder may redeem trading stamps for cash if the trading stamps have a total cash value of at least 25 cents; and

(2) the cash redemption value of the trading stamps is at least equal to the highest cash redemption value that the trading stamp company offers in any other jurisdiction.

(b) (1) Each trading stamp collection book shall contain a notice that states:

"If the total cash value of your trading stamps is at least 25 cents, they may be redeemed for cash instead of goods.

The cash value of a filled book of trading stamps is at least $(cash value to be stated)".

(2) The notice shall be printed in 12 point or larger type on the inside front cover of the book.

(3) The trading stamp company shall display the same notice conspicuously at each place where the trading stamp company redeems trading stamps.

§13–107.

Each retailer shall display conspicuously at each place where the retailer issues trading stamps the address of the nearest place where the trading stamps may be

redeemed.

§13–108.

At least 90 days before a trading stamp company ends or suspends the redemption of trading stamps in the State, the trading stamp company shall:

(1) notify the Secretary of State in writing of its intention to end or suspend the redemption of trading stamps; and

(2) mail a copy of the notice to each retailer in the State that, within the previous 12 months, issued trading stamps that the trading stamp company is bound to redeem.

§13–109.

While doing business as a trading stamp company in the State, a trading stamp company may not:

(1) commit fraud;

(2) make a false representation; or

(3) use a lottery.

§13–110.

A person who violates this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000.

§14–101.

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

(b) "Business opportunity" means an arrangement between a buyer and seller in which:

(1) the seller or a person recommended or referred by the seller provides to the buyer products, equipment, supplies, or services that enable the buyer to start a business;

(2) the buyer is required to pay the seller or a person recommended or referred by the seller $300 or more during the period beginning any time before commencing operations and ending 6 months after commencing operations of the business; and

(3) the seller represents, directly or indirectly, orally or in writing, that:

(i) the seller or a person recommended or referred by the seller will

help the buyer in finding locations for the use or operation of vending machines, racks, display cases, or other similar devices on premises that are not owned or leased by the buyer or seller;

(ii) the seller or a person recommended or referred by the seller will help the buyer in finding outlets or accounts for the buyer's products or services;

(iii) the seller or a person specified by the seller will buy products made, produced, fabricated, grown, bred, or modified by the buyer;

(iv) the seller guarantees that the buyer will receive from the business income an amount that exceeds the price paid to the seller;

(v) if the buyer is not satisfied with the business, the seller will refund all or part of the price paid to the seller, or repurchase any of the products, equipment, or supplies provided by the seller or a person recommended or referred by the seller; or

(vi) the seller will provide a marketing plan.

(c) "Buyer" means a person who buys or leases products, equipment, supplies, or services in connection with a business opportunity.

(d) "Commissioner" means the Securities Commissioner in the Office of the Attorney General.

(e) "Marketing plan" means advice or training that a seller or a person recommended or referred by the seller provides to the buyer, relating to the sale of any products, equipment, supplies, or services, and the advice or training includes preparing or providing:

(1) promotional literature, brochures, pamphlets, or advertising materials;

(2) training regarding the promotion, operation, or management of the business opportunity; or

(3) operational, managerial, or financial guidelines or assistance.

(f) "Seller" means a person who sells or leases products, equipment, supplies, or services in connection with a business opportunity.

§14–102.

The General Assembly finds that:

(1) the sale of business opportunities is a field in which investment problems and deceptive practices are common; and

(2) this subtitle is needed to regulate this field adequately and prevent these deceptive practices.

§14–103.

(a) This subtitle applies to an offer to sell or sale of a business opportunity if:

(1) the offeree or buyer is a resident of the State;

(2) the business opportunity will be or is operated in the State;

(3) the offer to sell is made in the State; or

(4) the offer to buy is accepted in the State.

(b) (1) For purposes of this section, an offer to sell is made in the State, whether or not either party is then present in the State, if the offer:

(i) originates from the State; or

(ii) is directed by the offeror to the State and is received at:

1. the place to which it is directed; or

2. a post office in the State.

(2) For purposes of this section, an offer to sell is not made in the State only because the publisher circulates or there is circulated on the publisher's behalf in the State:

(i) a newspaper or other publication of general, regular, and paid circulation that:

1. is not published in the State; or

2. is published in the State but has had more than two-thirds of its circulation outside the State during the past 12 months; or

(ii) a radio or television program that originates outside the State and is received in the State.

(3) For purposes of this section, an offer to buy is accepted in the State if acceptance:

(i) is communicated to the offeror in the State; and

(ii) has not been communicated previously to the offeror, orally or in writing, outside the State.

(4) For purposes of this section, acceptance is communicated to the offeror in the State, whether or not either party is then present in the State, if:

(i) the offeree directs acceptance to the offeror in the State reasonably believing the offeror to be in the State; and

(ii) the acceptance is received at:

1. the place to which it is directed; or

2. a post office in the State.

§14–104.

(a) This subtitle does not apply to:

(1) a sale of an ongoing business if the owner of the business sells and intends to sell only that one business opportunity;

(2) a not-for-profit sale, for less than $500, of sales demonstration equipment, materials, or samples;

(3) an offer to sell or sale of a franchise registered or exempt from registration under Subtitle 2 of this title;

(4) an offer to sell or sale of a business if the offer or sale is regulated under the Maryland Gasohol and Gasoline Products Marketing Act or the federal Petroleum Marketing Practices Act;

(5) an offer to sell or sale of a business opportunity with a marketing plan made in conjunction with the licensing of a federally registered trademark or service mark, provided that the seller has a minimum net worth of $1,000,000 as determined on the basis of the seller's most recent audited financial statement prepared within 13 months of the first offer that the seller makes in the State; or

(6) any other sale or transaction if the Commissioner:

(i) exempts the sale or transaction, by regulation or order, as not being within the purposes of this subtitle; and

(ii) finds the registration of the sale or transaction to be unnecessary, inappropriate, not in the public interest, or not for the protection of investors.

(b) Net worth may be determined on a consolidated basis if:

(1) at least 80% of the seller is owned by one person; and

(2) the person that owns at least 80% of the seller expressly guarantees the obligations of the seller with regard to the offer or sale of a business opportunity

that the seller seeks to exclude under this paragraph.

§14–105.

The Commissioner may delegate any power or duty of the Commissioner under this subtitle.

§14–106.

To enforce this subtitle, the Commissioner may pass orders and adopt regulations and forms.

§14–107.

The Commissioner may:

(1) publish information about violations of this subtitle and of regulations adopted and orders passed under it;

(2) report to the appropriate law enforcement officer information about violations of this subtitle; and

(3) help, develop, and hold programs of public education and information about this subtitle.

§14–108.

The Commissioner may investigate in or outside the State to:

(1) determine if a person has violated this subtitle;

(2) adopt regulations or forms under this subtitle; or

(3) enforce this subtitle.

§14–109.

(a) The Commissioner may hold public hearings in connection with an investigation under this subtitle.

(b) Unless otherwise provided in this subtitle or in regulations adopted under it, the Commissioner shall hold hearings authorized by this subtitle in accordance with Title 10 of the State Government Article.

§14–110.

(a) (1) Whenever the Commissioner determines that a person has engaged or is about to engage in an act or practice that constitutes a violation of this subtitle or a violation of a regulation adopted or order passed under this subtitle, the Commissioner

may, without a prior hearing, pass a summary order directing the person to cease and desist from engaging in the activity that constitutes a violation.

(2) The summary order shall provide:

(i) notice of the opportunity for a hearing before the Commissioner to determine whether the cease and desist order should be vacated, modified, or entered as final; and

(ii) notice that the Commissioner shall enter the order as final if the person subject to the cease and desist order fails to request a hearing within 15 days after the receipt of the cease and desist order.

(3) Whenever the Commissioner determines after notice and a hearing that a person has engaged in any act or practice constituting a violation of this subtitle, the Commissioner may in the discretion of the Commissioner and in addition to taking any other action authorized under this subtitle:

(i) pass a final cease and desist order against the person;

(ii) bar the person from engaging in the offer and sale of business opportunities in the State; or

(iii) take any combination of the actions specified in this section.

(b) (1) The person subject to the cease and desist order may waive the right to a hearing.

(2) If a person subject to a cease and desist order waives the right to a hearing, the Commissioner is not required to hold a hearing to take any action under subsection (a)(3) of this section.

(c) (1) Whenever the Commissioner determines that any person has engaged in or is about to engage in an act or practice constituting a violation of this subtitle or a violation of a regulation or order under this subtitle, the Commissioner may sue in the circuit court to obtain one or more of the following remedies:

(i) a temporary restraining order;

(ii) a temporary or permanent injunction;

(iii) a declaratory judgment;

(iv) the appointment of a receiver or conservator for the defendant or the defendant's assets;

(v) a freeze of the defendant's assets;

(vi) a civil penalty up to a maximum amount of $5,000 for any single

violation of this subtitle;

(vii) restitution;

(viii) rescission; or

(ix) any other relief as the court finds just.

(2) The Commissioner may not be required to post a bond in any action under this section.

§14–111.

In connection with a hearing, investigation, or other proceeding under this subtitle, the Commissioner may:

(1) administer oaths;

(2) receive evidence; and

(3) issue subpoenas for the attendance of witnesses to testify or to produce evidence.

§14–112.

(a) A person is not excused from attending, testifying, or producing evidence before the Commissioner, in a proceeding brought by the Commissioner, or in obedience to a subpoena of the Commissioner on the ground that the testimony or evidence may:

(1) tend to incriminate the person; or

(2) subject the person to a penalty or forfeiture.

(b) (1) If a person claims the privilege against self-incrimination as to a specific subject, and is then compelled to testify or produce evidence on that subject, the person may not be prosecuted or subjected to a penalty or forfeiture in connection with that subject.

(2) A person who testifies is not exempt from prosecution and punishment for perjury or contempt committed while testifying.

§14–113.

A person may not sell or offer to sell any business opportunity in the State or to any prospective buyer in the State unless the business opportunity is registered under this subtitle.

§14–113.1.

(a) In order to register a business opportunity, the seller shall file with the Commissioner one of the following disclosure documents:

(1) a uniform franchise offering circular prepared in accordance with the guidelines adopted by the North American Securities Administrators Association, Inc., as amended through January 1, 1996;

(2) a disclosure document prepared in accordance with the Federal Trade Commission rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" under 16 C.F.R. Part 436;

(3) a disclosure document prepared in accordance with § 14-114 of this subtitle; or

(4) any other document that the Commissioner specifies by regulation or order.

(b) The seller shall attach to the disclosure document filed in accordance with subsection (a) of this section:

(1) the cover sheet required under § 14-114(b) of this subtitle;

(2) the consent to service of process required under subsection (c) of this section; and

(3) the filing fee required under subsection (d) of this section.

(c) (1) Every seller shall file, in a form that the Commissioner requires, an irrevocable consent appointing the Commissioner as the seller's registered agent in any noncriminal suit, action, or proceeding against the seller or the successor or personal representative of the seller that arises under this subtitle.

(2) After the consent has been filed, the consent has the same force and validity as if served personally on the person filing the consent.

(3) Service may be made by delivering a copy of the process to the office of the Commissioner.

(4) Service made under paragraph (3) of this subsection is not effective unless:

(i) the plaintiff or petitioner, who may be the Commissioner, promptly sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent, at the address on file with the Commissioner; and

(ii) the plaintiff's affidavit of compliance under this subsection is filed

in the noncriminal suit, action, or proceeding on or before the return date of the process, if any, or within further time as the court allows.

(d) The initial fee to file an application to register a business opportunity offering is $250.

(e) (1) A business opportunity offering registration becomes effective at midnight on the 10th business day after the day on which the seller files all required documents for registration, provided that no order has been passed or proceeding is pending under § 14-119 of this subtitle.

(2) By order, the Commissioner:

(i) may waive or reduce the time period between the date of the filing and the date that the registration is effective if the seller has filed all required documents for registration; or

(ii) may postpone the date that the registration becomes effective at midnight on the 10th business day after the day on which the seller files an amendment to the registration.

(f) The registration is effective for 1 year from the date of effectiveness.

(g) The Commissioner may by regulation require the filing of all proposed literature or advertising prior to its use.

(h) The Commissioner may by regulation require the filing of sales reports.

§14–114.

(a) A person may not sell or offer to sell a business opportunity unless a written disclosure document, filed under § 14–113.1(a) of this subtitle, is delivered to the buyer at least 10 full business days before the buyer executes a contract or an agreement that imposes a binding legal obligation on the buyer or the payment by a buyer of any consideration in connection with the sale or offer to sell a business opportunity.

(b) The disclosure statement shall include a cover sheet that contains only:

(1) a heading, in boldface capital letters in 10–point or larger type, that states "disclosure required by Maryland law";

(2) under the heading, in 10–point or larger type, the following statement: "The State of Maryland has not reviewed and does not approve, recommend, endorse, or sponsor any business opportunity. The information in this disclosure statement has not been verified by the State. If you have any questions about this investment, see an attorney before you sign a contract or contact the Division of Securities in the Office of the Attorney General. You are to be given 10 business days to review this document before signing any contract or agreement or making any payment to the seller or the

seller's representative."; and

(3) the current address and telephone number of the Division of Securities.

(c) After the cover sheet, the disclosure statement shall include the following information:

(1) the name and address of the seller;

(2) whether the seller is doing business as an individual, partnership, or corporation;

(3) the names under which the seller has done, is doing, or intends to do business;

(4) the name of any parent or affiliated company that will engage in business transactions with buyers or that takes responsibility for statements of the seller;

(5) the name, address, and title of each of the seller's officers, directors, trustees, general partners, general managers, principal executives, and others responsible for the seller's activities that relate to the sale of business opportunities;

(6) the names and residential addresses of the salespersons who engage in the sale or offer to sell a business opportunity in the State;

(7) prior business experience of the seller relating to business opportunities, including:

(i) the name, address, and a description of any business opportunity previously offered by the seller;

(ii) the length of time the seller has offered each business opportunity; and

(iii) the length of time the seller has conducted the business opportunity currently being offered to the buyer;

(8) a full and detailed description of the acts and services that the seller agrees to perform for the buyer;

(9) (i) whether the seller or any person described in item (5) of this subsection has been convicted of a felony, has pleaded nolo contendere to a felony charge, or has been adjudged liable in a civil action, if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; and

(ii) if so, the court, date of the conviction or the judgment, and any penalty imposed or damages assessed;

(10) (i) whether the seller or any person described in item (5) of this subsection is subject to:

1. a currently effective order of the Federal Trade Commission; or

2. a currently effective order that enjoins or restricts business activity as a result of an action brought by a public agency, including an action that affects a license as a real estate broker, associate real estate broker, or real estate salesperson; and

(ii) if so, the date, nature, and issuer of the order and any penalty imposed;

(11) whether the seller or any person identified in item (5) of this subsection has filed for bankruptcy, been adjudged bankrupt, been reorganized due to insolvency, or was an owner, principal officer, or general partner of any other person that has filed bankruptcy, been adjudged bankrupt, or was reorganized due to insolvency during or within the last 7 years;

(12) a copy of the form of agreement proposed;

(13) the conditions of any financing arrangement offered directly or indirectly by the seller or an agent or affiliate of the seller;

(14) whether the buyer receives an exclusive territory;

(15) a complete description of any training that the seller promises, including the length of the training;

(16) a complete description of:

(i) any services that the seller promises will be performed in connection with the placement of the buyer's products, equipment, or supplies at various locations; and

(ii) the kind of agreement to be made with the owner or manager of each location;

(17) a complete description of any licenses or permits that are necessary in order for the buyer to operate or engage in the business opportunity;

(18) if the seller gets a surety bond under § 14–115 of this subtitle, the following statement, or a similar statement required by the Commissioner: "As required by Maryland law, the seller has secured a bond issued by _____ (name and address of surety company), a surety company authorized to do business in the State. Before signing a contract to buy this business opportunity, you should ask the surety company about the current status of the bond.";

(19) if the seller establishes a trust account under § 14–115 of this subtitle, the following statement, or a similar statement required by the Commissioner: "As required by Maryland law, the seller has established a trust account _____ (account number) with _____ (name and address of bank or savings institution). Before signing a contract to buy this business opportunity, you should ask the bank or savings institution about the current status of the trust account.";

(20) the following statement: "If the seller fails to deliver the products, equipment, or supplies necessary to begin substantial operation of the business within 45 days after the delivery date stated in your contract, you may notify the seller in writing and demand that the contract be canceled.";

(21) if the seller makes a statement about sales, earnings, or range of sales or earnings that may be made through the business opportunity, a statement of:

(i) the total number of buyers who have bought from the seller, within 3 years before the date of the disclosure statement, business opportunities that involve the products, equipment, supplies, or services being offered; and

(ii) to the seller's knowledge, the total number of those buyers who have actually received earnings in the amount or range specified;

(22) a statement of:

(i) the total number of business opportunities that are the same or similar in nature to those that have been sold or organized by the seller;

(ii) the names and addresses of buyers who have requested a refund or rescission from the seller within the last 12 months and the number of those buyers who have received the refund or rescission; and

(iii) the total number of business opportunities that the seller intends to sell in the State within the next 12 months;

(23) a copy of the most recent audited financial statement of the seller, prepared within 13 months after the date of the first offer in the State, together with a statement of any material changes in the financial condition of the seller from the date of the most recent audited financial statement;

(24) a list of states in which this business opportunity is registered;

(25) a list of states in which the disclosure statement is on file;

(26) a list of states that have denied, suspended, or revoked the registration of this business opportunity;

(27) a section entitled "Risk Factors" containing a series of concise statements summarizing the principal factors that make this business opportunity

a high risk or of a speculative nature, each statement including a cross–reference to the page on which further information regarding that risk factor may be found in the disclosure document; and

(28) any other information that the Commissioner requires by regulation or order.

§14–115.

(a) If a seller guarantees that a buyer will derive from a business opportunity income that will exceed the price paid for the business opportunity or represents that the seller will refund all or part of the price paid or repurchase the products, equipment, or supplies sold or leased by the seller if the buyer is not satisfied with the business opportunity, the seller shall:

(1) get a surety bond in favor of the State from a surety company authorized to do business in the State; or

(2) establish a trust account in favor of the State with an insured bank or savings institution in the State.

(b) The amount of the bond or trust account shall be at least $50,000.

(c) (1) A person may bring an action against the bond or trust account to recover damages resulting from:

(i) a violation of this subtitle; or

(ii) the seller's breach of the contract for the sale of a business opportunity.

(2) The surety or trustee is liable only for actual damages up to the amount of the bond or trust account.

§14–116.

The seller shall:

(1) file with the Commissioner an amendment to the documents previously submitted to the Commissioner whenever a material change in the required information occurs; and

(2) pay a fee of $50 for filing the amendment.

§14–117.

(a) Unless the registration of a business opportunity is renewed for a 1-year term as provided in this section, the registration expires on the first anniversary of its effective date.

(b) Before the registration expires, the registrant periodically may renew it for an additional 1-year term, if the registrant:

(1) files with the Commissioner:

(i) a renewal application on the form that the Commissioner provides;

(ii) a current disclosure document along with any other documents or information that the Commissioner may require by order or regulation; and

(iii) proof that the seller has satisfied the bond and trust account requirements under § 14-115 of this subtitle; and

(2) pays a renewal fee of $100.

(c) The Commissioner shall renew the registration of a business opportunity if the registrant complies with the requirements of this section.

§14–118.

(a) Each contract for the sale of a business opportunity shall be in writing.

(b) The contract shall include:

(1) the terms and conditions of payment;

(2) a full and detailed description of the acts or services that the seller agrees to perform for the buyer;

(3) the address of the seller's principal office;

(4) the name and address of the seller's resident agent; and

(5) the approximate date that the seller will deliver to the buyer any products, equipment, or supplies.

(c) When a buyer signs a contract for the sale of a business opportunity, the seller shall give the buyer a copy of the contract.

§14–119.

(a) The Commissioner may pass an order denying effectiveness to, or suspending or revoking the effectiveness of, any registration if the Commissioner finds that the order is in the public interest and that:

(1) (i) the registration as of its effective date, or as of any earlier date in the case of an order denying effectiveness, is incomplete in any material respect or contains any statement made that was, in light of the circumstances under which it

was made, false or misleading with respect to any material fact;

(ii) an amendment as of its effective date is incomplete in any material respect or contains any statement made that was, in light of the circumstances under which it was made, false or misleading with respect to any material fact; or

(iii) a report is incomplete in any material respect or contains any statement made that was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) any provision of this subtitle or any order or condition lawfully imposed under this subtitle has been violated, in connection with the business opportunity by:

(i) the person filing the registration;

(ii) a seller, any partner, officer, or director of the seller, or any person occupying a similar status or performing similar functions as the seller; or

(iii) a person that directly or indirectly controls or is controlled by the seller if the person filing the registration is directly or indirectly controlled by or acting for the seller;

(3) except as provided in paragraph (4) of this subsection, the business opportunity registered or sought to be registered is the subject of an order denying, suspending, or revoking a registration or a permanent or temporary injunction of any court of competent jurisdiction;

(4) the seller's enterprise or method of business, or that of the business opportunity, includes or would include activities that are illegal where performed;

(5) the business opportunity or the offering of a business opportunity has worked or tended to work a fraud upon purchasers or would so operate;

(6) there has been a failure to file any documents or information required by § 14-113.1 of this subtitle; or

(7) the seller's literature or advertising is misleading, incorrect, incomplete, or deceptive.

(b) (1) The Commissioner may enter a denial order if the Commissioner finds that the order is in the public interest and the seller has failed to pay the proper registration fee.

(2) The Commissioner shall vacate any such order when the deficiency has been corrected.

(c) The Commissioner may not:

(1) institute a proceeding against an effective registration under subsection (a)(3) of this section more than 1 year after the date of the order or injunction relied on; or

(2) pass an order under subsection (a)(3) of this section on the basis of an order or injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute grounds for an order under this section.

(d) By order, the Commissioner summarily may postpone or suspend the effectiveness of the registration pending final determination of any proceeding under this section.

(e) Upon the entry of the order, the Commissioner shall promptly notify the seller:

(1) that the order has been entered;

(2) the basis for the order; and

(3) that within 15 days after the day on which the Commissioner receives a written request by the seller, the matter will be set down for a hearing.

(f) If the seller fails to request a hearing and the Commissioner fails to order a hearing, the order shall remain in effect until the Commissioner modifies or vacates the order.

(g) If the seller requests a hearing or the Commissioner orders a hearing, the Commissioner, after providing notice of an opportunity for hearing to the seller, may modify or vacate the order or extend it until final determination.

(h) The Commissioner may not enter an order described under subsection (b) of this section without first providing to the seller notice in accordance with subsection (e) of this section, an opportunity for hearing, and written findings of fact and conclusions of law.

(i) If the Commissioner finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest, the Commissioner may vacate or modify an order passed under this section.

§14–120.

In connection with an offer to sell or sale of a business opportunity, a person may not make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading.

§14–121.

In connection with an offer to sell or sale of a business opportunity, a person may not engage in any act, practice, or course of business or employ any device, scheme, or artifice to defraud that operates or would operate as a fraud or deceit on another person.

§14–122.

In connection with an offer to sell or sale of a business opportunity, a person may not represent that the business opportunity provides income or earning potential of any kind unless:

(1) the seller has documentation to substantiate the representation; and

(2) the person discloses the documentation to the prospective buyer when the representation is made.

§14–123.

In connection with an offer to sell or sale of a business opportunity, a person may not use the trademark, service mark, trade name, logotype, advertising, or other commercial symbol of a business unless:

(1) the business controls the ownership interest in the seller;

(2) the business accepts responsibility for each representation that the seller makes about the business opportunity; or

(3) it is clear from the circumstances that the owner of the commercial symbol is not involved in the sale of the business opportunity.

§14–124.

In connection with an offer to sell or sale of a business opportunity, a person may not make or authorize making a reference to compliance with this subtitle in an advertisement or other contact with prospective buyers other than by use of the disclosure statement or other disclosure documents required by this subtitle.

§14–125.

(a) In connection with an offer to sell or sale of a business opportunity, a person may not fail to deliver products, equipment, or supplies necessary to begin substantial operation of the business within 45 days after the delivery date stated in the contract for the sale of the business opportunity.

(b) This section does not apply if the Commissioner or a court in a civil proceeding finds that the failure is due to the conditions stated in § 2-615 of the

Commercial Law Article.

§14–126.

(a) (1) If a seller violates a provision of §§ 14-120 through 14-125 of this subtitle, the buyer, within 1 year after the date of a contract for the sale of a business opportunity:

(i) may void the contract; and

(ii) is entitled to receive from the seller a refund of any money paid to the seller.

(2) On receipt of the refund, the buyer shall make available to the seller any products, equipment, or supplies received from the seller at:

(i) the buyer's address; or

(ii) the place where the products, equipment, or supplies were located when notice to void the contract was given.

(3) However, the buyer may not be unjustly enriched by exercising a remedy under this subsection.

(b) A buyer may sue for damages, including reasonable attorney's fees, if the buyer is injured by:

(1) a violation of this subtitle; or

(2) the seller's breach of a contract for the sale of a business opportunity.

(c) On complaint that a seller has violated this subtitle, the circuit court may enjoin the seller from further violation.

(d) The remedies in this section are in addition to any other remedy provided by law or in equity.

§14–127.

(a) A person who sells a business opportunity may not, in a disclosure statement or amendment to it, willfully make a false or misleading statement of a material fact or willfully omit to state a material fact required or necessary to make the statements in a disclosure statement not misleading.

(b) A person who violates this section is guilty of a felony and, on conviction, is subject for each violation to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both.

§14–128.

A person who violates this subtitle is guilty of a misdemeanor and, unless another criminal penalty is specifically provided elsewhere, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

§14–129.

This subtitle is the Maryland Business Opportunity Sales Act.

§14–201.

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

(b) "Advertisement" means a communication that:

(1) is published in connection with an offer to sell or sale of a franchise; and

(2) is:

(i) written or printed;

(ii) made by means of a recorded telephone message; or

(iii) spoken on radio, television, or similar communications media.

(c) "Area franchise" means an agreement between a franchisor and subfranchisor in which, for consideration, the subfranchisor is granted the right to sell or negotiate the sale of franchises in the name of or for the franchisor.

(d) "Commissioner" means the Securities Commissioner in the Office of the Attorney General.

(e) (1) "Franchise" means an expressed or implied, oral or written agreement in which:

(i) a purchaser is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed in substantial part by the franchisor;

(ii) the operation of the business under the marketing plan or system is associated substantially with the trademark, service mark, trade name, logotype, advertising, or other commercial symbol that designates the franchisor or its affiliate; and

(iii) the purchaser must pay, directly or indirectly, a franchise fee.

(2) "Franchise" includes an area franchise.

(f) (1) "Franchise fee" means a charge or payment that a franchisee or subfranchisor is required or agrees to pay for the right to enter into a business under a franchise agreement.

(2) "Franchise fee" includes payment for goods or services.

(3) "Franchise fee" does not include:

(i) the purchase of or agreement to purchase goods at a wholesale price;

(ii) the payment of a reasonable service charge to the issuer of a credit card by an establishment that accepts the credit card;

(iii) the amount paid to a licensed trading stamp company by a person issuing trading stamps in connection with the retail sale of goods or services;

(iv) the purchase of or agreement to purchase goods on consignment, if the proceeds remitted by the franchisee from the sale are the wholesale price of the goods;

(v) the repayment by a franchisee of a bona fide loan that the franchisor has made to the franchisee;

(vi) the purchase of or agreement to purchase goods at a retail price subject to a commission or compensation plan that in substance is a wholesale transaction;

(vii) the purchase of or agreement to purchase, at their fair market value, supplies or fixtures that are needed to enter into the business or continue the business under a franchise agreement;

(viii) the purchase or lease of or agreement to purchase or lease, at its fair market value, real property that is needed to enter into the business or continue the business under a franchise agreement; and

(ix) the amount paid for sales demonstration material and equipment, sold at no profit by the seller, for use in making sales and not for resale.

(g) "Franchisee" means a person to whom a franchise is granted.

(h) "Franchisor" means a person who grants a franchise.

(i) "Subfranchisor" means a person to whom an area franchise is granted.

§14–202.

(a) The General Assembly finds that:

(1) the widespread sale of franchises has created many investment and business problems; and

(2) franchisees have suffered substantial losses when the franchisor or its representative has not given complete information about:

(i) the franchisor-franchisee relationship;

(ii) the franchise agreement; and

(iii) the business experience of the franchisor or its representative.

(b) The intent of this subtitle is to:

(1) give each prospective franchisee necessary information about any franchise offer;

(2) prohibit the sale of franchises if the sale would lead to fraud or a likelihood that the franchisor's representations would not be fulfilled; and

(3) protect the franchisor-franchisee relationship.

§14–203.

(a) This subtitle applies to an offer to sell or sale of a franchise if:

(1) the franchisee must pay a franchise fee of more than $100; and

(2) (i) the offeree or franchisee is a resident of the State;

(ii) the franchised business will be or is operated in the State;

(iii) the offer to sell is made in the State; or

(iv) the offer to buy is accepted in the State.

(b) (1) For purposes of this section, an offer to sell is made in the State if the offer:

(i) originates from the State; or

(ii) is directed by the offeror to the State and is received at the place to which it is directed.

(2) For purposes of this section, an offer to sell is not made in the State only because the franchisor circulates or there is circulated on the franchisor's behalf in the State an advertisement in:

(i) a newspaper or other publication of general, regular, and paid

circulation that has had two-thirds of its circulation outside the State during the past 12 months; or

(ii) a radio or television broadcast that originates outside the State and is received in the State.

(3) For purposes of this section, an offer to buy is accepted in the State when acceptance is communicated to the offeror in the State.

(4) For purposes of this section, acceptance is communicated to the offeror in the State when:

(i) the offeree directs acceptance to the offeror in the State reasonably believing the offeror to be in the State; and

(ii) the acceptance is received at the place to which it is directed.

(c) This subtitle does not apply to the renewal or extension of an existing franchise if there is no interruption in the operation of the franchised business.

§14–204.

The powers, remedies, procedures, and penalties of this subtitle are in addition to and not in limitation of any other powers, remedies, procedures, and penalties provided by law.

§14–205.

The Commissioner may delegate any power or duty of the Commissioner under this subtitle.

§14–206.

The Commissioner may adopt and enforce regulations to administer and enforce this subtitle.

§14–207.

(a) The Commissioner may publish information about violations of this subtitle.

(b) Under regulations that the Commissioner adopts, the Commissioner may make available to any person any information submitted to the Commissioner.

§14–208.

The Commissioner may:

(1) investigate in or outside the State to:

(i) determine if a person has violated this subtitle or a regulation adopted or order passed under it;

(ii) adopt regulations or forms under this subtitle; or

(iii) enforce this subtitle; and

(2) require or allow a person to submit a written statement, under oath or otherwise as the Commissioner determines, about the matter being investigated.

§14–209.

(a) On request, the Commissioner may issue an interpretive opinion.

(b) (1) A request for an interpretive opinion shall be in writing.

(2) The requester shall pay a fee of $100.

§14–210.

(a) (1) Whenever the Commissioner finds that a person has violated or is about to violate this subtitle or a regulation adopted or order passed under it, the Commissioner may order the person to cease and desist from the further offer to sell or sale of the franchise until the offer or sale complies with this subtitle.

(2) After passage of a cease and desist order, the alleged violator may submit to the Commissioner a written request for a hearing.

(3) The hearing shall begin:

(i) within 15 business days after the Commissioner receives the request for a hearing; or

(ii) at a later date, with the consent of the alleged violator.

(4) Unless there is a timely hearing, the cease and desist order is rescinded.

(b) (1) Whenever the Commissioner finds that a person has violated or is about to violate this subtitle or a regulation adopted or order passed under it, the Commissioner may sue in the circuit court to enjoin the violation or enforce this subtitle or the regulation or order.

(2) The court shall:

(i) determine if a violation of this subtitle has been or is about to be committed; and

(ii) if so, pass any order the court considers necessary to prevent the

violation or remove the effects of the violation and prevent it from continuing or being renewed in the future.

(3) The court may exercise all equitable powers necessary for this purpose, including:

(i) injunction;

(ii) revocation, forfeiture, or suspension of the charter authority or privileges of a business organization operating under the laws of the State;

(iii) dissolution of a corporation or association organized under the laws of the State;

(iv) suspension or termination of the right of a corporation or association organized under the laws of another state or country to do business in the State;

(v) restitution;

(vi) restraining order;

(vii) award of damages to be paid by a franchisor or subfranchisor to a person injured by a violation of this subtitle; and

(viii) appointment of a receiver or conservator.

(4) The court may not require the Commissioner to post bond.

(c) The Commissioner may not exercise a power under this section more than 3 years after the violation occurs.

§14–211.

(a) (1) The Commissioner may refer to the State's Attorney evidence of a criminal violation of this subtitle.

(2) With or without the referral of evidence, a State's Attorney may bring appropriate criminal proceedings under this subtitle.

(b) A criminal proceeding may not be brought more than 3 years after the alleged violation.

§14–212.

In connection with an investigation or proceeding under this subtitle, the Commissioner may:

(1) administer oaths;

(2) receive evidence; and

(3) issue subpoenas for the attendance of witnesses to:

(i) testify; or

(ii) produce evidence.

§14–213.

(a) A person is not excused from attending, testifying, or producing evidence before the Commissioner, in a proceeding brought by the Commissioner, or in obedience to a subpoena of the Commissioner on the ground that the testimony or evidence may:

(1) tend to incriminate the person; or

(2) subject the person to a penalty or forfeiture.

(b) (1) If a person claims the privilege against self-incrimination as to a specific subject, and is then compelled to testify or produce evidence on that subject, the person may not be prosecuted or subjected to a penalty or forfeiture in connection with that subject.

(2) A person who testifies is not exempt from prosecution and punishment for perjury or contempt committed while testifying.

§14–214.

(a) Except as otherwise provided in this subtitle, a person must register the offer of a franchise with the Commissioner before the person offers to sell, through advertisement or otherwise, or sells the franchise in the State.

(b) The registration requirement of this section does not apply to:

(1) a transaction by an executor, administrator, sheriff, receiver, trustee in bankruptcy, guardian, or conservator;

(2) an offer to sell or sale of a franchise that is substantially similar to a franchise already owned by the offeree or buyer; and

(3) any other transaction that the Commissioner exempts by regulation because:

(i) the transaction is not within the purpose of this subtitle; and

(ii) the registration of the transaction is not necessary or appropriate in the public interest or for the protection of investors.

(c) (1) The registration requirement of this section does not apply to the

offer to sell or sale of a franchise by a franchisee for the franchisee's own account, or the offer to sell or sale of the entire area franchise owned by a subfranchisor for the subfranchisor's own account.

(2) A sale is not effected by or through a franchisor merely because a franchisor has a right to approve or disapprove a different franchisee.

(d) (1) The Commissioner may require by regulation that a franchisor or subfranchisor who claims under subsection (b)(3) of this section to be exempt from the registration requirements of this section:

(i) file with the Commissioner a notice of claim of exemption in the form that the Commissioner requires; and

(ii) pay a fee of $250.

(2) The franchisor or subfranchisor shall sign and verify the notice of claim of exemption.

§14–215.

(a) Except as otherwise provided in this section, an applicant for registration shall:

(1) file with the Commissioner:

(i) an application in the form that the Commissioner requires; and

(ii) a prospectus for the franchise; and

(2) pay an application fee of $500.

(b) Instead of the application for registration and prospectus described in subsection (a) of this section, the Commissioner may accept an application for registration and prospectus that:

(1) are found by the Commissioner to include disclosure requirements similar to those of this subtitle; and

(2) are:

(i) required by a unit of the federal government or another state government; or

(ii) approved by an association of administrators of state franchise laws.

(c) The applicant shall sign and verify the application for registration.

§14–216.

(a) The prospectus shall contain:

(1) the material information set forth in the application for registration, as required by regulation of the Commissioner; and

(2) any other disclosures that the Commissioner requires.

(b) The prospectus shall state, in 10-point or larger bold type, that registration is not approval, recommendation, or endorsement by the Commissioner.

(c) The prospectus shall include the following information:

(1) the name of the franchisor;

(2) the name under which the franchisor does or intends to do business;

(3) the name of any parent or affiliated company that engages in business transactions with franchisees;

(4) the address of the principal office of the franchisor;

(5) the name and address of the resident agent of the franchisor;

(6) whether the franchisor does business as an individual, partnership, or corporation;

(7) information about the identity and business experience of persons affiliated with the franchisor, as the Commissioner requires;

(8) (i) whether any person identified in the prospectus has been convicted of a felony, has pleaded nolo contendere to a felony charge, or has been adjudged liable in a civil action by final judgment, if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; and

(ii) if so, the court, date of the conviction or the judgment, and any penalty imposed or damages assessed;

(9) (i) whether any person identified in the prospectus is subject to:

1. a currently effective order of the Securities and Exchange Commission, or the securities administrator of a state, that denies registration to or suspends or revokes the registration of the person as a securities broker, securities dealer, or investment adviser;

2. a currently effective order of a national securities association or national securities exchange, as defined in the Securities and Exchange Act of 1934, that suspends or expels the person from membership in the Association

or Exchange;

3. a currently effective order of the Federal Trade Commission; or

4. a currently effective order that enjoins or restricts business activity as a result of an action brought by a public agency, including an action that affects a license as a real estate broker, associate real estate broker, or real estate salesperson; and

(ii) if so, the date, nature, and issuer of the order and any penalty imposed;

(10) the length of time the franchisor has:

(i) conducted business of the type to be operated by a franchisee;

(ii) granted franchises for that business; and

(iii) granted franchises in other lines of business;

(11) a recent financial statement of the franchisor and a statement of each material change in the financial condition of the franchisor since the financial statement was made;

(12) a copy of the typical franchise agreement used or proposed for use in the State;

(13) the franchise fee or, if the franchise fee is not the same in each case, the formula that the franchisor uses to set the amount of the franchise fee and the way the franchisor will apply the franchise fee;

(14) any payment other than a franchise fee that the franchisee or subfranchisor must pay to the franchisor, including any royalty or payment that the franchisor collects wholly or partly for a third party;

(15) the conditions under which the franchisor may terminate, refuse to renew, or repurchase the franchise;

(16) a description of all goods, fixtures, and services that, under the franchise agreement or by practice, the franchisee or subfranchisor must buy from the franchisor or a designee of the franchisor;

(17) whether, under the franchise agreement or by practice, the franchisee is limited in the goods or services that the franchisee may offer to customers;

(18) the conditions of any financing arrangement offered directly or indirectly by the franchisor or an agent or affiliate of the franchisor;

(19) any past or present practice or any intent of the franchisor to sell, assign, or discount to a third party, wholly or partly, a note, contract, or other obligation of the franchisee or subfranchisor;

(20) a copy of any statement of estimated or projected franchisee earnings prepared for presentation to prospective franchisees, subfranchisors, or others and a statement of the information on which the estimation or projection is based;

(21) any compensation or other benefit given or promised to a public figure that arises wholly or partly from:

(i) the use of the public figure in the name or symbol of the franchise; or

(ii) the endorsement or recommendation of the franchise by the public figure;

(22) the number of franchises currently operating or proposed to be sold, as the Commissioner requires by regulation;

(23) whether franchisees or subfranchisors receive an exclusive territory or area franchise;

(24) an authorization for the Commissioner to examine the applicant's financial records that relate to the sale of franchises;

(25) an irrevocable consent to be sued in the State;

(26) appointment of the Commissioner as attorney to receive service of process for the franchisor;

(27) any other information that the franchisor wants to give; and

(28) any other information that the Commissioner reasonably requires.

(d) If the applicant is a subfranchisor, the application shall include the same information about the subfranchisor as is required from the franchisor under this section.

(e) The Commissioner by regulation may:

(1) set the form and content of financial statements required under this subtitle;

(2) state the circumstances under which consolidated financial statements may be submitted; and

(3) state the circumstances under which financial statements shall be audited by an independent certified public accountant or other public accountant.

§14–217.

(a) If the Commissioner finds that it is necessary and appropriate for the protection of prospective franchisees or subfranchisors because a franchisor has not made adequate financial arrangements to fulfill the franchisor's obligations under an offering, the Commissioner may require the franchisor to escrow franchise fees or other money paid by a franchisee or subfranchisor until the obligations have been satisfied.

(b) (1) At the option of the franchisor, the franchisor may post an adequate surety bond as provided by regulations of the Commissioner.

(2) The total liability of the surety under the bond may not exceed the penal sum of the bond.

§14–218.

(a) The Commissioner shall register an offer of a franchise if it meets the requirements of this subtitle.

(b) Unless a stop order is in effect, registration of the offer of a franchise automatically takes effect at:

(1) noon on the 30th business day after an application for registration or the last amendment to it is filed; or

(2) an earlier time that the Commissioner sets.

§14–219.

(a) (1) Unless registration of an offer of a franchise is renewed for a 1-year term as provided in this section, the registration expires on the first anniversary of its effective date.

(2) However, the Commissioner by regulation or order may set a different term of registration.

(b) (1) Before registration expires, the registrant periodically may renew it for an additional 1-year term, if the registrant:

(i) at least 15 business days before the expiration of registration files with the Commissioner:

1. a renewal application on the form that the Commissioner provides; and

2. a prospectus;

(ii) otherwise is entitled to be registered; and

(iii) pays a renewal fee of $250.

(2) The registrant shall sign and verify the renewal application.

(3) The Commissioner by order may allow a registrant to submit a renewal application after the 15th business day before expiration of the registration.

(c) The Commissioner shall renew the registration of an offer of a franchise if it meets the requirements of this section.

(d) Unless a stop order or other order is in effect under this subtitle, renewal of the registration of the offer of a franchise automatically takes effect at:

(1) noon on the day when the previous registration is due to expire; or

(2) an earlier time that the Commissioner sets.

§14–220.

(a) If there is a material change in the information that a registrant previously filed with the Commissioner, the franchisor shall:

(1) file promptly with the Commissioner an application to amend the registration; and

(2) pay a fee of $100.

(b) The registrant shall sign and verify the application to amend the registration.

(c) The Commissioner by regulation may state:

(1) what constitutes a material change; and

(2) the circumstances under which a revised prospectus shall accompany an application to amend the registration.

(d) If the Commissioner approves the amendment to the registration, the amendment takes effect on the date the Commissioner sets after considering the public interest and the protection of franchisees.

§14–221.

The Commissioner summarily may pass a stop order to deny, suspend, or revoke a registration if the Commissioner finds that:

(1) there has been a violation of this subtitle or a regulation adopted under it;

(2) the offer to sell or sale of the franchise would constitute misrepresentation to, deceit of, or fraud on the buyer;

(3) a person identified in an application has been convicted of an offense or has had a civil judgment entered against the person as described in § 14-216(c)(8) of this subtitle or is subject to an order described in § 14-216(c)(9) of this subtitle, and the involvement of the person in the sale or management of the franchise creates an unreasonable risk to prospective franchisees;

(4) the prospectus or amendment to it is incomplete or inaccurate in any material respect;

(5) the prospectus or amendment to it includes a false or misleading statement of a material fact or omits to state a material fact required to be stated in the prospectus or amendment or necessary to make the statements in the prospectus or amendment not misleading;

(6) in connection with an offer to sell or sale of a franchise, a person in the State is engaging or is about to engage in a false, fraudulent, or deceptive practice or in a device, scheme, or artifice to defraud; or

(7) the financial condition of the franchisor affects or will affect the ability of the franchisor to meet an obligation under the franchise or other agreement and the franchisor is not able or willing to comply or has failed to comply with a regulation, order, or administrative determination of the Commissioner under § 14-217 of this subtitle.

§14–222.

(a) After passing a stop order, the Commissioner promptly shall send to the applicant or registrant a notice that:

(1) states that the stop order has been passed;

(2) states the reasons for the stop order; and

(3) informs the applicant or registrant of the right to a hearing under this section.

(b) (1) The applicant or registrant may submit to the Commissioner a written request for a hearing on the stop order.

(2) The Commissioner shall schedule a hearing within 15 business days after the Commissioner receives the request unless the applicant or registrant consents to a later date.

(3) The Commissioner may schedule a hearing even if the applicant or registrant does not request a hearing.

(c) (1) If a hearing is not requested and is not scheduled by the Commissioner and therefore is not held, the stop order remains in effect until the Commissioner modifies or vacates it.

(2) If a hearing is held, after the hearing, the Commissioner may modify or vacate the stop order or extend it until the Commissioner makes a final determination.

(3) The Commissioner may modify or vacate a stop order if the Commissioner finds that:

(i) conditions have changed; or

(ii) it is otherwise in the public interest to vacate or modify the stop order.

§14–223.

A franchisor may not sell a franchise in the State without first giving a prospective franchisee a copy of the offering prospectus and a copy of each proposed agreement that relates to the sale of the franchise at the earlier of:

(1) 14 calendar days before the execution by the prospective franchisee of any binding agreement with the franchisor;

(2) 14 calendar days before payment of any consideration that relates to the franchise relationship; or

(3) a reasonable request by a prospective franchisee to receive a copy of the offering prospectus.

§14–224.

Each franchisor or subfranchisor shall keep a complete set of records of each sale of a franchise.

§14–225.

A person may not publish an advertisement offering to sell a franchise subject to registration under this subtitle unless:

(1) the person submits a copy of the advertisement to the Commissioner for review at least 7 business days before the first publication of the advertisement unless the Commissioner by regulation or order allows a later submission; or

(2) the advertisement is exempted from review by regulation of the Commissioner.

§14–226.

As a condition of the sale of a franchise, a franchisor may not require a prospective franchisee to agree to a release, assignment, novation, waiver, or estoppel that would relieve a person from liability under this subtitle.

§14–227.

(a) (1) A person who sells or grants a franchise is civilly liable to the person who buys or is granted a franchise if the person who sells or grants a franchise offers to sell or sells a franchise:

(i) without the offer of the franchise being registered under this subtitle; or

(ii) by means of an untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, if the person who buys or is granted a franchise does not know of the untruth or omission.

(2) In determining liability under this subsection, the person who sells or grants a franchise has the burden of proving that the person who sells or grants a franchise did not know and, in the exercise of reasonable care, could not have known of the untruth or omission.

(b) The person who buys or is granted a franchise may sue under this section to recover damages sustained by the grant of the franchise.

(c) A court may order the person who sells or grants a franchise to:

(1) rescind the franchise; and

(2) make restitution to the person who buys or is granted a franchise.

(d) (1) Joint and several liability under this section extends to:

(i) each person who directly or indirectly controls a person liable under this section;

(ii) each partner in a partnership liable under this section;

(iii) each principal officer or director of a corporation liable under this section;

(iv) each other person that has a similar status or performs similar functions as a person liable under this section; and

(v) each employee of a person liable under this section, if the employee materially aids in the act or transaction that is a violation under this

subtitle.

(2) However, liability under this subsection does not extend to a person who did not have knowledge of or reasonable grounds to believe in the existence of the facts by which the liability is alleged to exist.

(e) An action under this section must be brought within 3 years after the grant of the franchise.

§14–228.

(a) Except as otherwise provided in this subtitle, a person may not offer to sell, through advertisement or otherwise, or sell a franchise in the State unless the offer of the franchise has been registered under this subtitle.

(b) A person who willfully sells a franchise knowingly violating this section is guilty of a felony and, on conviction, is subject for each violation to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both.

§14–229.

(a) In connection with an offer to sell or sale of a franchise, a person, directly or indirectly, may not:

(1) employ a device, scheme, or artifice to defraud;

(2) make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading; or

(3) engage in an act, practice, or course of business that operates or would operate as a fraud or deceit on another person.

(b) A person who willfully sells a franchise knowingly violating this section is guilty of a felony and, on conviction, is subject for each violation to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both.

§14–230.

(a) In a prospectus or amendment to it, a person may not willfully make a false or misleading statement of a material fact or willfully omit to state a material fact required to be stated in the prospectus or amendment or necessary to make the statements in the prospectus or amendment not misleading.

(b) A person who violates this section is guilty of a felony and, on conviction, is subject for each violation to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both.

§14–231.

(a) A person may not make or cause to be made an untrue statement of a material fact or omit to state a material fact in an application for registration, to amend registration, or for renewal or in a notice or report filed with the Commissioner under this subtitle.

(b) A person who willfully sells a franchise knowingly violating this section is guilty of a felony and, on conviction, is subject for each violation to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both.

§14–232.

(a) A person may not fail to notify the Commissioner promptly of a material change as required by § 14-220 of this subtitle.

(b) A person who willfully sells a franchise knowingly violating this section is guilty of a felony and, on conviction, is subject for each violation to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both.

§14–233.

This subtitle is the Maryland Franchise Registration and Disclosure Law.

§14–301.

In this subtitle, "multilevel distribution company" means a person who, for consideration, distributes goods or services through independent agents, contractors, or distributors at different levels of distribution with rates of pricing or discounting that differ from 1 level to another.

§14–302.

(a) A multilevel distribution company may not require a participant in its marketing program to buy goods or services or pay any other consideration to participate in the marketing program unless the multilevel distribution company agrees to repurchase the goods:

(1) that are in resalable condition; and

(2) that the participant has been unable to sell 3 months after receipt of the goods first ordered.

(b) A multilevel distribution company shall state in writing in each contract of participation in its marketing program that:

(1) a participant may cancel the contract for any reason within 3 months after the date of receipt of goods or services first ordered by written notice to the

multilevel distribution company; and

(2) on cancellation, the multilevel distribution company shall repurchase the goods.

(c) The repurchase price shall be at least 90% of the original price paid by the participant.

§14–303.

A multilevel distribution company may not represent directly or indirectly that participants in its marketing program may or will earn a stated gross or net amount or represent in any way the past earnings of participants unless the stated gross amount, net amount, or past earnings:

(1) are those of a substantial number of participants in the community or geographic area where the representation is made; and

(2) accurately reflect the average earnings of participants under circumstances similar to those of the participant or prospective participant to whom the representation is made.

§14–304.

(a) The Attorney General or a State's Attorney may sue to enjoin, wholly or partly, the activities of a multilevel distribution company that violate this subtitle.

(b) At least 10 days before seeking injunctive relief, the Attorney General or State's Attorney shall send written notice of the alleged violation by certified mail to the principal place of business of the multilevel distribution company.

§14–305.

(a) A person who violates this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $10,000.

(b) Each officer and each director of a corporation that violates this subtitle, each partner of a partnership that violates this subtitle, and the owner of a sole proprietorship that violates this subtitle is also subject to the penalty under this section.

§15–101.

In this subtitle, "valuable" means money, jewelry, securities, or plate.

§15–102.

Except for § 15-105 of this subtitle, this subtitle applies only to those hotels that display in each guest room a notice of the provisions of this subtitle.

§15–103.

(a) A hotel is not liable for the loss, by robbery or otherwise, of a valuable belonging to a guest if:

(1) the hotel provides a safe or other secure depository for keeping valuables of guests;

(2) the guest does not deposit the valuable with the hotel for safekeeping; and

(3) the loss does not result from the collusion or negligence of the hotel or its agent.

(b) (1) A hotel is not liable for more than $300 for the loss of valuables that a guest deposits with the hotel for safekeeping unless, at the time of deposit, the guest shows the valuables to an agent of the hotel and declares a greater value to the agent.

(2) A hotel need not accept for safekeeping valuables with a declared value of more than $1,000.

(c) A hotel is not liable for more than $1,000 for the loss of or damage to valuables belonging to a guest, whether or not the valuables were offered to or accepted by the hotel for safekeeping.

§15–104.

A hotel is not liable for more than $300 for the loss of property other than valuables of a registered guest from the room of the registered guest.

§15–105.

A hotel is not liable for more than $75 for the loss of property that a guest leaves with an agent or employee of the hotel at a checkroom or other similar place if:

(1) the hotel has posted conspicuously at each such place a notice that states the limitation on liability under this section;

(2) the agent or employee gives to the guest an identification ticket that:

(i) states on its face, in 10 point or larger type, the limitation on liability under this section; and

(ii) provides a space for declaring a greater value; and

(3) the guest does not declare a value greater than $75 on the duplicate of the identification ticket that the hotel keeps.

§15–106.

A hotel is not liable for more than $300 for the loss of property that a guest leaves with an agent or employee of the hotel at a baggage room or other similar storage area.

§15–107.

A hotel is not liable for the loss of property of a guest or other person as a result of a fire that is proved to have occurred without the negligence of the hotel or its agents or employees.

§15–201.

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

(b) "Innkeeper" means the owner, operator, manager, or keeper of a lodging establishment, or the agent of an owner, operator, manager, or keeper of a lodging establishment.

(c) "Lodging establishment" means an inn, hotel, motel, or other establishment that has at least four rooms available for a fee to transient guests for lodging or sleeping purposes.

§15–202.

Except as provided in this subtitle for an individual who is under the age of 21 years, this subtitle may not be construed to alter the prohibition against discrimination by an innkeeper or lodging establishment under Title 20, Subtitle 3 of the State Government Article.

§15–203.

(a) An innkeeper may refuse to provide lodging or services to or may remove from a lodging establishment an individual who:

(1) refuses to pay or is unable to pay for lodging or services;

(2) while on the premises of the lodging establishment is under the influence of alcohol, drugs, or other intoxicating substance so as to create a public nuisance;

(3) while on the premises is disorderly so as to create a public nuisance;

(4) destroys, damages, or defaces property of the lodging establishment or its guests, or threatens to do so;

(5) the innkeeper reasonably believes is using the lodging establishment for the unlawful possession or use of a controlled dangerous substance in violation of Title 5 of the Criminal Law Article or for the consumption of alcohol by an individual

under the age of 21 years in violation of Article 2B, § 12-108 of the Code;

(6) the innkeeper reasonably believes possesses property that may be dangerous to other individuals, such as firearms or explosives; or

(7) refuses to abide by any conspicuously posted rule or policy of the lodging establishment.

(b) (1) If an innkeeper seeks to remove an individual from a lodging establishment as provided under this section, the innkeeper shall:

(i) notify the individual, either orally or in writing, that the lodging establishment refuses to provide further lodging or services to the individual and that the individual should immediately leave the lodging establishment; and

(ii) if the individual has paid for lodging or services in advance, refund any unused portion of the advance payment, but the lodging establishment may withhold payment for a full day's lodging if the individual was lodged for a portion of a day.

(2) If an individual attempts to remain in a lodging establishment after having been requested to leave under the provisions of this section, an innkeeper may:

(i) if the individual is a guest, lock the door of the individual's room;

(ii) remove the individual's baggage and other personal property; and

(iii) using no more force than necessary, eject the individual from the lodging establishment.

§15–204.

(a) An innkeeper may require a prospective guest to demonstrate an ability to pay by cash or valid credit card.

(b) An innkeeper may require each guest at a lodging establishment to register and may require the guest to produce:

(1) a valid driver's license;

(2) a valid military identification card;

(3) a valid passport; or

(4) any valid government issued identification card.

(c) An innkeeper may limit the number of individuals who may occupy a particular guest room in a lodging establishment.

§15–205.

(a) For an individual who is under the age of 18 years, an innkeeper may require a parent or guardian of the individual to:

(1) accept liability for the charges for the individual's lodging and any damages to the lodging establishment caused by the individual; and

(2) provide a valid credit card or make an advance cash damage deposit of not more than $500 to cover any charges incurred or damages caused by the individual.

(b) If an innkeeper requires an advance deposit under subsection (a) of this section, the innkeeper shall, following a room inspection at the time of checkout, refund any amount of the deposit not needed to cover reasonable charges for damages.

§15–206.

An innkeeper shall post a copy of this subtitle, together with all rules of the lodging establishment, in a conspicuous place at or near the guest registration desk and in each guest room.

§15–207.

(a) (1) The Department shall design a sign that states the following:

"REPORT HUMAN TRAFFICKING: National Human Trafficking Resource Center — 1–888–373–7888. CALL FOR HELP IF YOU OR SOMEONE YOU KNOW:

Is being forced to have sex without consent
Has had an ID or documents taken away
Is being threatened by or is in debt to an employer
Wants to leave a job but cannot freely do so.

TOLL–FREE. 24/7. CONFIDENTIAL. INTERPRETERS AVAILABLE.

This sign is required under State law."

(2) The sign shall:

(i) be at least 3 by 5 inches in size;

(ii) contain the text required under paragraph (1) of this subsection in English, Spanish, and any other languages required by the federal Voting Rights Act;

(iii) draw attention to the phone number of the National Human Trafficking Resource Center Hotline by showing the phone number in bold type; and

(iv) be placed on the Department Web site.

(b) (1) A State, county, or municipal law enforcement agency may issue a civil citation to a lodging establishment requiring it to post prominently in each guest room for 1 year the sign that is identical to the notice required to be placed on the Web site of the Department under subsection (a) of this section, if the lodging establishment is located on property where arrests leading to convictions of prostitution, solicitation of a minor, or human trafficking under Title 11, Subtitle 13 of the Criminal Law Article have occurred.

(2) A State, county, or municipal law enforcement agency shall consider any assistance it receives from a lodging establishment in an investigation leading to a conviction under paragraph (1) of this subsection in determining whether to issue a citation under this subsection.

(c) (1) The owner of a lodging establishment that violates subsection (b)(1) of this section is subject to a civil penalty not exceeding $1,000.

(2) Each guest room that does not have a sign is not a separate violation.

§16–101.

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

(b) "Cigarette" means any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.

(c) "County license" means a license issued by the clerk to sell cigarettes at retail in a county.

(d) "Sell" means to exchange or transfer, or to agree to exchange or transfer, title or possession of property, in any manner or by any means, for consideration.

(e) (1) "Sell cigarettes at retail" means to sell cigarettes to a consumer.

(2) "Sell cigarettes at retail" includes selling cigarettes through a vending machine.

§16–102.

The Comptroller may delegate any power or duty of the Comptroller under this title.

§16–201.

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

(b) "License" means:

(1) a license issued by the Comptroller under § 16–205(a) of this subtitle

to:

(i) act as a manufacturer;

(ii) act as a subwholesaler;

(iii) act as a vending machine operator;

(iv) act as a wholesaler; or

(v) act as a storage warehouse; or

(2) a license issued by the clerk under § 16–205(b) of this subtitle to act as a retailer.

(c) "Licensed manufacturer" means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a manufacturer.

(d) "Licensed retailer" means a person licensed by the clerk under § 16–205(b) of this subtitle to act as a retailer.

(e) "Licensed storage warehouse" means a facility licensed by the Comptroller under § 16–205(a) of this subtitle to act as a storage warehouse.

(f) "Licensed subwholesaler" means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a subwholesaler.

(g) "Licensed vending machine operator" means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a vending machine operator.

(h) "Licensed wholesaler" means a person licensed by the Comptroller under § 16–205(a) of this subtitle to act as a wholesaler.

(i) "Manufacturer" means a person who:

(1) (i) operates one or more cigarette manufacturing plants; or

(ii) is a participating manufacturer; and

(2) (i) sells unstamped cigarettes to a licensed cigarette wholesaler located in Maryland;

(ii) sells unstamped cigarettes that may lawfully be sold in Maryland to a licensed cigarette wholesaler located outside of Maryland;

(iii) unless otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distributes sample cigarettes to consumers located in Maryland; or

(iv) stores unstamped cigarettes in a cigarette storage warehouse in Maryland for subsequent shipment to licensed wholesalers, federal reservations, or persons out of state.

(j) "Participating manufacturer" has the meaning stated in § 16–501 of this title.

(k) "Retailer" means a person who:

(1) sells cigarettes to consumers through vending machines on fewer than 40 premises;

(2) otherwise sells cigarettes to consumers; or

(3) holds cigarettes for sale to consumers.

(l) "Stamped cigarettes" means a package of cigarettes to which tobacco tax stamps are affixed in the amount and manner required by § 12–304 of the Tax – General Article.

(m) "Storage warehouse" means a storage facility in Maryland operated for the purpose of storing unstamped cigarettes on behalf of a licensed cigarette manufacturer.

(n) (1) "Subwholesaler" means a person who:

(i) holds stamped cigarettes for sale to another person for resale; or

(ii) sells stamped cigarettes to another person for resale.

(2) "Subwholesaler" does not include a person who sells unstamped cigarettes or holds unstamped cigarettes for sale.

(o) "Unstamped cigarettes" means a package of cigarettes to which tobacco tax stamps are not affixed in the amount and manner required by § 12–304 of the Tax – General Article.

(p) "Vending machine operator" means a person who:

(1) holds cigarettes for sale to consumers through vending machines on 40 or more premises; or

(2) sells cigarettes to consumers through vending machines on 40 or more premises.

(q) "Wholesaler" means a person who:

(1) holds cigarettes for sale to another person for resale; or

(2) sells cigarettes to another person for resale.

§16–202.

(a) Except as provided in subsection (b) of this section, a person must have an appropriate license whenever the person acts as a manufacturer, retailer, storage warehouse, subwholesaler, vending machine operator, or wholesaler in the State.

(b) A person need not get a retailer license to act as a retailer at a vending stand operated under a trader's license issued to Blind Industries and Services of Maryland.

(c) A license to act as a retailer is required for each place of business where a person acts as a retailer.

(d) (1) A person licensed as a manufacturer, or person connected with the business of a licensed manufacturer or related by ownership, may not at the same time hold or have any financial interest in a wholesaler license or in any business of a wholesaler.

(2) A person licensed as a wholesaler, or person connected with the business of a licensed wholesaler or related by ownership, may not at the same time hold or have any financial interest in a manufacturer license or in any business of a manufacturer.

§16–203.

(a) An applicant for a license to act as a manufacturer shall maintain an established place of business for the manufacture and storage of cigarettes.

(b) An applicant for a license to act as a storage warehouse shall maintain an established place of business for the storage of unstamped cigarettes.

(c) An applicant for a license to act as a subwholesaler shall maintain:

(1) an established place of business, including warehouse facilities, for the sale of cigarettes; and

(2) necessary equipment and vehicles for the storage and distribution of cigarettes.

(d) An applicant for a license to act as a vending machine operator shall maintain an established place of business, including warehouse facilities, for the purchase, storage, and distribution of cigarettes.

(e) An applicant for a license to act as a wholesaler shall maintain:

(1) an established place of business, including warehouse facilities, for the sale of cigarettes; and

(2) necessary equipment and vehicles for the storage and distribution of

cigarettes.

§16–204.

(a) An applicant for a license to act as a manufacturer shall:

(1) submit an application to the Comptroller on the form and containing the information that the Comptroller requires; and

(2) pay to the Comptroller a fee of $25.

(b) (1) An applicant for a license to act as a retailer shall:

(i) obtain the county license required under § 16-301 of this title;

(ii) submit to the clerk an application for each permanent or temporary place of business located in the same enclosure and operated by the same applicant; and

(iii) pay to the clerk a fee of $30.

(2) The application shall:

(i) be made on the form that the clerk requires; and

(ii) contain the information that the Comptroller requires.

(c) An applicant for a license to act as a storage warehouse shall:

(1) submit an application to the Comptroller on the form and containing the information that the Comptroller requires; and

(2) pay to the Comptroller a fee of $25.

(d) An applicant for a license to act as a subwholesaler shall:

(1) submit an application to the Comptroller on the form and containing the information that the Comptroller requires; and

(2) pay to the Comptroller a fee of:

(i) $500 for a 1-year term; or

(ii) the amount that results when $500 is prorated to the nearest month, if the application is for less than a 1-year term.

(e) An applicant for a license to act as a vending machine operator shall:

(1) obtain the county license required under § 16-301 of this title;

(2) submit an application to the Comptroller on the form and containing the information that the Comptroller requires; and

(3) pay to the Comptroller a fee of $500.

(f) An applicant for a license to act as a wholesaler shall:

(1) submit an application to the Comptroller on the form and containing the information that the Comptroller requires; and

(2) pay to the Comptroller a fee of $750.

(g) If a person has had a license revoked under § 16-210 of this subtitle, the person may not reapply for a license within 1 year after the date when the prior license was revoked.

(h) (1) In addition to the license fee otherwise required under this section:

(i) an applicant for the initial issuance of a license issued by the Comptroller under this title shall pay to the Comptroller a nonrefundable application fee of $200; and

(ii) an applicant for renewal of a license issued by the Comptroller under this title shall pay to the Comptroller a renewal fee of $30.

(2) The application and renewal fees required under this subsection do not apply to a license that is issued by the clerk or to a storage warehouse license application.

§16–205.

(a) The Comptroller shall issue an appropriate license to each applicant who meets the requirements of this subtitle for a license to act as a manufacturer, storage warehouse, subwholesaler, vending machine operator, or wholesaler.

(b) The clerk shall issue to each applicant who meets the requirements of this subtitle a license to act as a retailer.

§16–206.

(a) A manufacturer license authorizes the licensee to:

(1) sell unstamped cigarettes to:

(i) a licensed cigarette wholesaler located in Maryland; and

(ii) a licensed cigarette wholesaler located outside of Maryland if the unstamped cigarettes may lawfully be sold in Maryland;

(2) except as otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distribute sample cigarettes to consumers located in Maryland;

(3) store unstamped cigarettes in a licensed cigarette storage warehouse for subsequent shipment to licensed wholesalers, federal reservations, or persons out of state; and

(4) upon approval of the Comptroller, act as an agent of a Maryland licensed wholesaler for stamping and distribution of cigarettes.

(b) A retailer license authorizes the licensee to:

(1) act as a retailer; and

(2) buy stamped cigarettes from a subwholesaler or wholesaler.

(c) (1) A storage warehouse license authorizes the licensee to operate a storage facility in Maryland for the purpose of storing unstamped cigarettes on behalf of a licensed cigarette manufacturer.

(2) If a storage warehouse licensee is a licensed cigarette wholesaler or licensed cigarette subwholesaler, the storage warehouse license authorizes the holder to store stamped cigarettes and cigarettes with another state's tax stamp.

(d) A subwholesaler license authorizes the licensee to:

(1) act as a subwholesaler;

(2) buy stamped cigarettes from a wholesaler or another subwholesaler; and

(3) store stamped cigarettes and cigarettes with another state's tax stamp at a licensed cigarette storage facility.

(e) A vending machine operator license authorizes the licensee to:

(1) act as a vending machine operator; and

(2) buy stamped cigarettes from a subwholesaler or wholesaler.

(f) A wholesaler license authorizes the licensee to:

(1) act as a wholesaler;

(2) buy unstamped cigarettes directly from a cigarette manufacturer;

(3) hold unstamped cigarettes;

(4) buy tobacco tax stamps as authorized by § 12-303 of the Tax - General Article;

(5) transport unstamped cigarettes in the State;

(6) sell unstamped cigarettes to another licensed wholesaler if the Comptroller specifically authorizes;

(7) upon approval of the Comptroller, designate a licensed manufacturer to act as its agent for the stamping and distribution of cigarettes; and

(8) store stamped cigarettes and cigarettes with another state's tax stamp at a licensed cigarette storage facility.

§16–207.

(a) Unless a license is renewed for a 1-year term as provided in this section, the license expires on the first April 30 after its effective date.

(b) At least 1 month before a license issued under this subtitle expires, the issuing official shall mail to the licensee, at the last known address of the licensee, a renewal notice that states:

(1) the date on which the current license expires;

(2) the date by which the issuing official must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(3) the amount of the renewal fee.

(c) Before a license issued under this subtitle expires, the licensee may renew it for an additional 1-year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) submits to the issuing official a renewal application on the form that the issuing official requires; and

(3) pays to the issuing official:

(i) the license fee required under § 16-204 of this subtitle; and

(ii) if the license is issued by the Comptroller, the renewal fee required under § 16-204(h) of this subtitle.

(d) The issuing official shall renew the license of each licensee who meets the requirements of this section.

§16–208.

(a) (1) A licensed retailer or licensed vending machine operator may not assign the license.

(2) If a licensed subwholesaler or licensed wholesaler sells the licensee's cigarette business and pays to the Comptroller a license assignment fee of $10, the licensee may assign the license to the buyer of the business.

(b) If the cigarette business of a licensee is transferred because of bankruptcy, death, incompetency, receivership, or otherwise by operation of law, the Comptroller shall transfer the license without charge to the new owner of the licensee's business.

(c) (1) If a licensed subwholesaler or licensed wholesaler surrenders the license to the Comptroller and if no disciplinary proceedings are pending against the licensee, the Comptroller shall refund a pro rata part of the license fee for the unexpired term of the license.

(2) A licensed retailer or licensed vending machine operator is not allowed a refund for the unexpired term of the license.

§16–209.

(a) A licensee shall display a license in the way that the Comptroller requires by regulation.

(b) A licensee who sells cigarettes through a vending machine:

(1) shall place each package of cigarettes in the machine so that when the package is visible the tax stamps required by § 12-304 of the Tax - General Article are also visible; and

(2) in the way that the Comptroller requires by regulation, shall:

(i) identify each vending machine with a conspicuous label that states the licensee's name, address, and telephone number; and

(ii) display on a conspicuous label applicable prohibitions and penalties under § 10-107 of the Criminal Law Article.

§16–210.

(a) Subject to the hearing provisions of § 16–211 of this subtitle, the Comptroller may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(2) fraudulently or deceptively uses a license;

(3) fails to comply with the Maryland Cigarette Sales Below Cost Act or regulations adopted under that Act;

(4) fails to comply with the provisions of Title 11, Subtitle 5A of the Commercial Law Article;

(5) buys cigarettes for resale:

(i) in violation of a license; or

(ii) from a person who is not a licensed cigarette manufacturer, licensed subwholesaler, licensed vending machine operator, or licensed wholesaler;

(6) is convicted, under the laws of the United States or of any other state, of:

(i) a felony; or

(ii) a misdemeanor that is a crime of moral turpitude and is directly related to the fitness and qualification of the applicant or licensee; or

(7) has not paid a tax due before October 1 of the year after the tax became due.

(b) Subject to the hearing provisions of § 16–211 of this subtitle, the Comptroller may suspend or revoke a license if the licensee violates:

(1) Title 12 of the Tax – General Article, or regulations adopted under that title; or

(2) this title or regulations adopted under this title.

(c) Subject to the hearing provisions of § 16-211 of this subtitle, the Comptroller shall deny a license to any applicant who has had a license revoked under this section until:

(1) 1 year has passed since the license was revoked; and

(2) it satisfactorily appears to the Comptroller that the applicant will comply with this title and any regulations adopted under this title.

(d) Prior to the issuance or renewal of any license, the Comptroller shall conduct an investigation with regard to:

(1) the applicant;

(2) the business to be operated; and

(3) the facts set forth in the application.

§16–211.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Comptroller takes any final action under § 16-210 of this subtitle, the Comptroller shall give the person against whom the action is contemplated an opportunity for a hearing before the Comptroller.

(b) The Comptroller shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Comptroller may administer oaths in a proceeding under this section.

(d) The person against whom the action is contemplated may be represented at the hearing by counsel.

(e) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Comptroller may hear and determine the matter.

§16–212.

(a) Subject to the notice requirement of subsection (c) of this section, if a licensee engages in an act or omission that is a ground for discipline under § 16-210 of this subtitle, the Comptroller may suspend the license for a consecutive period that:

(1) for a first offense, is not less than 5 nor more than 20 business days; or

(2) for a subsequent offense, is not less than 20 business days nor more than 6 months.

(b) Subject to the notice requirement under subsection (c) of this section, the Comptroller may revoke a license if a licensee:

(1) willfully and persistently engages in an act or omission that is a ground for discipline under § 16-210(a) of this subtitle; or

(2) violates this title or Title 12 of the Tax - General Article, or regulations adopted under these titles.

(c) If a license is suspended or revoked under this section:

(1) the Comptroller shall give the licensee notice of the suspension or revocation; and

(2) the suspension or revocation may not take effect until at least 5 business days following notice of the suspension or revocation.

(d) The transfer, renewal, or expiration of a license will not bar or abate a

disciplinary action under this section.

(e) (1) Except for a violation of § 10-107 of the Criminal Law Article, whenever any license issued under the provisions of this subtitle is suspended or revoked by the Comptroller, the licensee may, before the effective date of the suspension or revocation, petition the Comptroller for permission to make an offer of compromise consisting of a sum of money in lieu of serving the suspension or revocation.

(2) Money paid in lieu of suspension or revocation shall be paid into the General Fund of the State.

(3) An offer of compromise shall not exceed $2,000 in the case of retail licensees, and shall not exceed $50,000 for other licensees.

(4) The Comptroller may accept the offer of compromise if:

(i) the public welfare and morals would not be impaired by allowing the licensee to operate during the period set for the suspension or revocation; and

(ii) the payment of the sum of money will achieve the desired disciplinary purposes.

(5) The Comptroller may promulgate rules and regulations necessary to carry out the purposes of this subsection.

§16–213.

A party to a proceeding before the Comptroller who is aggrieved by a final decision of the Comptroller in a contested case, as defined in § 10-202 of the State Government Article, may take an appeal as allowed in §§ 10-222 and 10-223 of the State Government Article.

§16–214.

(a) Except as otherwise provided in § 16-202(b) of this subtitle, a person may not act, attempt to act, or offer to act as a manufacturer, retailer, storage warehouse, subwholesaler, vending machine operator, or wholesaler in the State unless the person has an appropriate license.

(b) (1) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine of $1,000 or imprisonment not exceeding 30 days or both.

(2) Each day that a violation of this section continues is a separate offense.

§16–215.

(a) Unless authorized by a license, a person may not accept delivery of unstamped cigarettes.

(b) On receipt of a package of cigarettes, a retailer, subwholesaler, or vending machine operator immediately shall:

(1) examine the package to find out whether tobacco tax stamps are affixed properly to the package as required by § 12-304 of the Tax - General Article; and

(2) reject any unstamped or improperly stamped cigarettes by:

(i) returning them to the seller or consignor; or

(ii) delivering them to a common carrier for return to the seller or consignor.

(c) (1) There is a presumption that any unstamped cigarettes in the possession of a retailer, subwholesaler, vending machine operator, or wholesaler are held in violation of this subtitle.

(2) A retailer, subwholesaler, vending machine operator, or wholesaler who holds unstamped cigarettes has the burden to prove that the cigarettes are not held in violation of this subtitle.

§16–216.

(a) The Comptroller shall pay into the General Fund of the State all license fees collected under this title.

(b) The General Assembly intends that these license fees be used to:

(1) administer this title; and

(2) enforce the Maryland Cigarette Sales Below Cost Act.

§16–218.

(a) Each subwholesaler and each wholesaler:

(1) shall get an invoice for each purchase of cigarettes;

(2) shall keep a record of all cigarettes received, to which the subwholesaler and wholesaler shall post each day:

(i) the invoice number;

(ii) the date of receipt;

(iii) the quantity received;

(iv) the brand; and

(v) the name of the person from whom the cigarettes are received;

(3) for cigarette sales to retailers:

(i) shall keep a record of the name and address of each retailer to whom a sale is made; and

(ii) except for a transfer of cigarettes to retail stock by a written memorandum, shall prepare for each sale an invoice that shows the political subdivision where the retailer is located; and

(4) shall keep a complete and accurate record of each sale of cigarettes to an out-of-state person for resale to out-of-state consumers.

(b) (1) Except as provided in paragraph (2) of this subsection, each subwholesaler and each wholesaler shall make an inventory record each month of all cigarettes on the premises or under the control of the subwholesaler or wholesaler:

(i) at the beginning or end of the month; or

(ii) on another specific day of the month, if the subwholesaler or wholesaler finds it more practical to take inventory on that day and notifies the Comptroller that inventory will be taken on that day.

(2) Cigarettes in a vending machine or cigarettes transferred to retail stock by written memorandum need not be included in the inventory record.

(c) Each subwholesaler and each wholesaler shall:

(1) keep the records required by this section for 6 years or for a shorter time set by the Comptroller; and

(2) allow the Comptroller to examine the records.

§16–219.

(a) A person who transports cigarettes by vehicle on a public road shall have in the vehicle a delivery ticket or invoice that states:

(1) the name and address of the seller or consignor;

(2) the name and address of a buyer or consignee who is:

(i) a person in the State authorized by Title 12 of the Tax – General Article to hold unstamped cigarettes on which the tobacco tax has not been paid; or

(ii) a person in another jurisdiction authorized to hold cigarettes on which the tax imposed by that jurisdiction has not been paid; and

(3) the quantity and brands of the cigarettes that are being transported.

(b) The Comptroller by regulation may require a common carrier that brings cigarettes into the State to submit to the Comptroller a copy of any freight bill relating to the cigarette shipment.

§16–220.

(a) The Comptroller shall seal a vending machine to prevent the sale or removal of cigarettes from the machine if:

(1) a tax stamp is not visible on each visible package of cigarettes in the machine, as required by § 16-209(b)(1) of this subtitle; or

(2) the machine is not labeled as required by § 16-209(b)(2) of this subtitle.

(b) If the violation for which a vending machine is sealed has been corrected in the presence of the Comptroller or the Comptroller's designee, the Comptroller shall remove the seal.

§16–221.

(a) Except as otherwise provided in § 16-220 of this subtitle, a person may not remove or tamper with a seal placed on a vending machine by the Comptroller.

(b) A person who willfully violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

§16–222.

(a) A person may not ship, import, or sell into or within this State any brand of cigarette unless that person:

(1) (i) is the owner of the brand;

(ii) is the United States importer for the brand; or

(iii) is a designated agent in Maryland of:

1. the owner of the brand; or

2. the United States importer of the brand; and

(2) holds any license required by this subtitle.

(b) A person who ships, imports, or sells cigarettes into or within this State:

(1) shall comply with any federal and State requirements concerning

the placement of warning labels or other information on the containers or individual packages of cigarettes; and

(2) shall ensure that the containers or individual packages of cigarettes do not contain any information or markings that are false, misleading, or contrary to:

(i) federal trademark or tax laws;

(ii) the trademark law of this State under Title 1, Subtitle 4 of this article; or

(iii) the tax laws of this State under Title 12 of the Tax - General Article.

(c) A person who ships, imports, or sells cigarettes into or within this State in violation of this section is subject to disciplinary action by the Comptroller under § 16-210 of this subtitle and to the penalty specified in § 13-1015 of the Tax - General Article.

§16–223.

(a) This section applies to a person who is engaged in the business of selling or distributing cigarettes.

(b) (1) Except as provided in paragraph (2) of this subsection, a person covered under this section may not:

(i) sell or ship cigarettes, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, directly to a consumer or other unlicensed recipient in this State; or

(ii) cause cigarettes, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, to be shipped directly to a consumer or other unlicensed recipient in this State.

(2) A licensed retailer may deliver no more than two cartons of cigarettes directly to a consumer if the delivery is made by the licensed retailer or an employee of the licensed retailer.

(c) (1) A licensee who sells or ships cigarettes in violation of this section or causes cigarettes to be shipped in violation of this section is:

(i) subject to discipline by the Comptroller under § 16-210 of this subtitle; and

(ii) guilty of a felony and, on conviction, is subject to a fine not

exceeding $50 for each carton of cigarettes transported or imprisonment not exceeding 2 years or both.

(2) A person other than a licensee who sells or ships cigarettes in violation of this section or causes cigarettes to be shipped in violation of this section is guilty of a felony and, on conviction, is subject to a fine not exceeding $50 for each carton of cigarettes transported or imprisonment not exceeding 2 years or both.

§16–301.

Whenever a person sells cigarettes at retail in a county, the person must have a county license for:

(1) each place of business; and

(2) each vending machine, if the applicant sells cigarettes through a vending machine.

§16–302.

For each county license, an applicant shall:

(1) submit an application to the clerk; and

(2) pay to the clerk a license fee of:

(i) $25 in a county other than Cecil County; or

(ii) $50 in Cecil County.

§16–303.

The clerk shall issue a county license to each applicant who meets the requirements of this subtitle.

§16–304.

A county license expires on the first anniversary of its effective date.

§16–305.

A county licensee shall display the county license in a conspicuous place:

(1) in the place of business for which it is issued; or

(2) on the premises where the machine is located, if the licensee sells cigarettes through a vending machine.

§16–306.

Subject to the hearing provisions of § 16–307 of this subtitle, the Comptroller may deny a county license to an applicant, reprimand a county licensee, or suspend or revoke a county license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(2) fraudulently or deceptively uses a license;

(3) violates § 16–308.1 of this subtitle; or

(4) fails to comply with the Maryland Cigarette Sales Below Cost Act and regulations adopted under it.

§16–307.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Comptroller takes any final action under § 16-306 of this subtitle, the Comptroller shall give the person against whom the action is contemplated an opportunity for a hearing before the Comptroller.

(b) The Comptroller shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Comptroller may administer oaths in a proceeding under this section.

(d) The person against whom the action is contemplated may be represented at the hearing by counsel.

(e) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Comptroller may hear and determine the matter.

§16–308.

A person may not sell cigarettes at retail in a county unless the person has an appropriate county license.

§16–308.1.

(a) A person who holds a county license may not sell herbal incense or potpourri that includes a noncontrolled substance with a chemical structure that is substantially similar to the chemical structure of a controlled dangerous substance as defined in § 5–101 of the Criminal Law Article.

(b) Authorized employees of the Field Enforcement Division of the Comptroller's Office may enforce the provisions of subsection (a) of this section.

§16–309.

(a) Except as provided in subsection (b) of this section, a person who violates this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of $100.

(b) A person who violates § 16–308.1 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding:

(1) except as provided in items (2) and (3) of this subsection, $300;

(2) for a second violation occurring within 2 years after the first violation, $1,000; and

(3) for a third or subsequent violation occurring within 2 years after the preceding violation, $3,000.

§16–3A–01.

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

(b) "Owner" means the person that owns or operates an establishment in which a vending machine is located.

(c) "Tobacco product" means any substance containing tobacco, including cigarettes, cigars, smoking tobacco, snuff, or smokeless tobacco.

(d) "Vending machine" means any mechanical, electronic, or similar self-service device that on insertion of a coin, coins, token, or other similar means dispenses a tobacco product.

§16–3A–02.

A person may not sell or dispense or offer to sell or dispense a tobacco product through a vending machine in the State, unless the vending machine:

(1) is located in an establishment that minors are prohibited by law from entering or an establishment that is a bona fide fraternal or veterans organization; or

(2) can only be operated with a token, card, or similar device that an individual can only obtain or purchase from the owner or an employee or agent of the owner.

§16–3A–03.

A person who violates this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $100.

§16–3B–01.

(a) A person may not violate a regulation adopted by the Comptroller that applies to a person who sells cigarettes at retail.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine of $100.

§16–401.

(a) Cigarette smoking presents serious public health concerns to the State and to the citizens of the State. The United States Surgeon General has determined that smoking causes lung cancer, heart disease, and other serious diseases, and that there are hundreds of thousands of tobacco–related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking.

(b) Cigarette smoking also presents serious financial concerns for the State. Under certain health care programs, the State may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive the medical assistance.

(c) Under these programs, the State pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.

(d) It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State or are found culpable by the courts.

(e) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement", with the State. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present, and certain future claims against them as described in the Agreement, to pay substantial sums to the State (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.

(f) (1) It would be contrary to the policy of the State if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short–term profits in the years before liability may arise without ensuring that the State will have an eventual source of recovery from them if they are proven to have acted culpably.

(2) It is thus in the interest of the State to require such tobacco product

manufacturers to establish a reserve fund to guarantee a source of compensation in order to prevent them from deriving large, short–term profits and then becoming judgment–proof before liability may arise.

§16–402.

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

(b) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.

(c) (1) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(2) For the purposes of paragraph (1) of this subsection:

(i) "owns", "is owned", and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10 percent or more; and

(ii) "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons.

(d) "Allocable share" has the meaning that is stated in the Master Settlement Agreement.

(e) (1) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(i) any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(ii) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (i) of this paragraph.

(2) "Cigarette" includes "roll–your–own" tobacco (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette", 0.09 ounces of "roll–your–own" tobacco shall constitute one individual "cigarette".

(f) "Master Settlement Agreement" means the settlement agreement and related documents entered into on November 23, 1998, by the State and leading

United States tobacco product manufacturers.

(g) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least $1,000,000,000 where such arrangement requires that such financial institution hold the principal of the escrowed funds for the benefit of releasing parties and prohibits the tobacco product manufacturer that places the funds into escrow from using, accessing, or directing the use of the principal of the funds except as consistent with § 16–403(b) of this subtitle.

(h) "Released claims" means released claims as that term is defined in the Master Settlement Agreement.

(i) "Releasing parties" means releasing parties as that term is defined in the Master Settlement Agreement.

(j) (1) "Tobacco product manufacturer" means an entity that, after June 1, 1999, directly (and not exclusively through any affiliate):

(i) manufactures cigarettes anywhere that such manufacturer intends them to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise the cigarettes in the United States);

(ii) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(iii) becomes a successor of an entity described in item (i) or (ii) of this paragraph or paragraph (2) of this subsection.

(2) The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any provisions of paragraph (1)(i), (ii), or (iii) of this subsection.

(k) "Units sold" means the number of individual cigarettes:

(1) sold in the State by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question; and

(2) as measured by excise taxes collected by the State on packs (or

"roll–your–own" tobacco containers) bearing the excise tax stamp of the State or on unstamped "roll–your–own" tobacco containers, with each 0.09 ounces of "roll–your–own" tobacco equaling one (1) unit sold. The State Comptroller shall promulgate regulations necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year.

§16–403.

(a) Any tobacco product manufacturer that sells cigarettes to consumers within the State, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, after June 1, 1999, shall either:

(1) become a participating manufacturer, as that term is defined in section II(jj) of the Master Settlement Agreement, and generally perform its financial obligations under the Master Settlement Agreement; or

(2) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, as such amounts are adjusted for inflation:

(i) for 1999, $.0094241 per unit sold after June 1, 1999;

(ii) for 2000, $.0104712 per unit sold;

(iii) for each of 2001 and 2002, $.0136125 per unit sold;

(iv) for each of 2003, 2004, 2005, and 2006, $.0167539 per unit sold; and

(v) for 2007 and each year thereafter, $.0188482 per unit sold.

(b) (1) A tobacco product manufacturer that places funds into escrow in accordance with subsection (a)(2) of this section shall receive the interest or other appreciation on the funds as earned.

(2) The funds themselves shall be released from escrow only under the following circumstances:

(i) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph:

1. in the order in which they were placed into escrow; and

2. only to the extent and at the time necessary to make payments required under such judgment or settlement;

(ii) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in

the State in a particular year was greater than the Master Settlement Agreement payments, as determined pursuant to section IX(i) of that Agreement, including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco manufacturer; or

(iii) to the extent funds are not released from escrow under item (i) or (ii) of this paragraph, funds shall be released from escrow and revert to such tobacco product manufacturer 25 years after the date on which they were placed into escrow.

(c) (1) Each tobacco product manufacturer that elects to place funds into escrow pursuant to subsection (a)(2) of this section shall annually certify to the Attorney General that it is in compliance with subsections (a)(2) and (b) of this section.

(2) The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section.

(3) (i) Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall be required within 15 days to place such funds into escrow as will bring the manufacturer into compliance with this section.

(ii) The court, upon a finding of a violation of subsection (a)(2) or (b) of this section, may impose a civil penalty, to be paid to the General Fund of the State:

1. in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation; and

2. in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow.

(4) (i) If a tobacco product manufacturer has knowingly violated subsection (a)(2) or (b) of this section, the manufacturer shall be required within 15 days to place such funds into escrow as will bring it into compliance with this section.

(ii) Upon a finding of a knowing violation of subsection (a)(2) or (b) of this section, the court may impose a civil penalty, to be paid to the General Fund of the State:

1. in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation; and

2. in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow.

(5) In the case of a second knowing violation of subsection (a)(2) or (b)

of this section, the tobacco product manufacturer shall be prohibited from selling cigarettes to consumers within the State, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, for a period not to exceed 2 years.

(6) Each failure to make the annual deposit required under this section shall constitute a separate violation.

§16–501.

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

(b) (1) "Brand family" means all styles of cigarettes sold under the same trademark, regardless of whether the cigarettes are differentiated from one another by means of additional modifiers or descriptors such as "menthol", "lights", "kings", "100s", or other differentiation.

(2) "Brand family" includes any use of a brand name (alone or in conjunction with any other word) trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(c) "Cigarette" has the meaning stated in § 16–402(e) of this title (the Escrow Act).

(d) "Comptroller" means the Comptroller of the State or any authorized agent of the Comptroller who is responsible for collection of the excise tax on cigarettes.

(e) "Escrow Act" means Subtitle 4 of this title.

(f) "Licensed wholesaler" means a wholesaler who is licensed under Subtitle 2 of this title to act as a wholesaler and any person who is an authorized agent of the licensed wholesaler for the stamping and distribution of cigarettes.

(g) "Master Settlement Agreement" has the meaning stated in § 16–402(f) of this title (the Escrow Act).

(h) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(i) "Participating manufacturer" has the meaning stated in section II(jj) of the Master Settlement Agreement and all amendments to the Agreement.

(j) "Qualified escrow fund" has the meaning stated in § 16–402(g) of this title (the Escrow Act).

(k) "Tobacco product manufacturer" has the meaning stated in § 16–402(j) of this title (the Escrow Act).

(l) "Units sold" has the meaning stated in § 16–402(k) of this title (the Escrow Act).

§16–502.

(a) Violations of the Escrow Act, an act concerning nonparticipating manufacturers and deposits of funds into escrow accounts, threaten the integrity of the tobacco Master Settlement Agreement, the fiscal soundness of the State, and the public health.

(b) Enacting procedural enhancements will help prevent violations and aid the enforcement of the Escrow Act and thereby safeguard the Master Settlement Agreement, the fiscal soundness of the State, and the public health.

(c) The provisions of this subtitle are not intended to and may not be interpreted to amend the Escrow Act.

§16–503.

(a) A tobacco product manufacturer whose cigarettes are sold in this State, whether directly or through a distributor, retailer or similar intermediary, shall execute and deliver, on a form prescribed by the Attorney General, a certification to the Attorney General no later than the 30th day of April each year, certifying under penalty of perjury that, as of the date of the certification, the tobacco product manufacturer either:

(1) is a participating manufacturer; or

(2) is in full compliance with the Escrow Act.

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

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

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

(2) The certification shall:

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

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

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

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

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

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

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

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

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

(2) The certification shall include:

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

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

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

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

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

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

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

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

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

§16–504.

(a) Except as provided in subsection (b) of this section, the Attorney General shall develop and make available for public inspection a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of § 16-503 of this subtitle and all brand families that are listed in such certifications.

(b) (1) The Attorney General may not include or retain in the directory the name or brand families of any nonparticipating manufacturer that fails to provide the required certification or whose certification the Attorney General determines is not in compliance with § 16–503(c)(3) and (d) of this subtitle, unless the Attorney General has determined that the violation has been cured to the satisfaction of the Attorney General.

(2) Neither a tobacco product manufacturer nor a brand family may be included or retained in the directory if the Attorney General concludes, in the case of a nonparticipating manufacturer, that:

(i) any escrow payment required under § 16–403(a)(2) of this title (the Escrow Act) for any period for any brand family, whether or not listed by such nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General; or

(ii) any outstanding final judgment, including interest on the judgment, for a violation of the Escrow Act has not been fully satisfied for the brand family or the manufacturer.

(3) The Attorney General shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this subtitle.

(4) Each licensed wholesaler shall provide and update as necessary an electronic mail address to the Attorney General for the purpose of receiving any notifications that may be required by this subtitle.

(c) A person may not:

(1) affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; or

(2) sell, offer or possess for sale in this State, or import for personal consumption in this State, cigarettes of a tobacco product manufacturer or brand family not included in the directory.

§16–505.

(a) (1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the State as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory described in § 16-504 of this subtitle, appoint and continually engage without interruption the services of an agent in the United States to act as an agent for the service of process on the nonresident or foreign nonparticipating manufacturer.

(2) Any process and any action or proceeding against the nonresident or foreign nonparticipating manufacturer concerning or arising out of the enforcement of this subtitle or the Escrow Act may be served in any manner authorized by law.

(3) The service of process shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide, to the satisfaction of the Attorney General, the name, address, phone number, and proof of the appointment and availability of the agent to the Attorney General.

(b) (1) The nonparticipating manufacturer shall provide:

(i) notice to the Attorney General at least 30 calendar days prior to termination of the authority of an agent; and

(ii) proof to the satisfaction of the Attorney General of the appointment of a new agent not less than 5 calendar days prior to the termination of an existing agent appointment.

(2) If an agent terminates an agency appointment, the nonparticipating manufacturer shall:

(i) notify the Attorney General of the termination within 5 calendar days; and

(ii) include proof to the satisfaction of the Attorney General of the appointment of a new agent.

§16–506.

(a) (1) Not later than 21 days after the end of each calendar quarter, and more frequently if so directed by the Comptroller, each licensed wholesaler shall submit information in the form and manner the Comptroller requires to facilitate compliance with this subtitle, including a list by brand family of the total number of cigarettes, or in the case of roll-your-own cigarettes, the equivalent stick count for which the licensed wholesaler affixed stamps during the previous calendar quarter or otherwise paid the tax due for the cigarettes.

(2) The licensed wholesaler shall maintain and make available to the Comptroller for a period of 5 years all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied on in reporting to the Comptroller.

(b) (1) The Comptroller may disclose to the Attorney General any information received under this subtitle and requested by the Attorney General for purposes of determining compliance with and enforcement of the provisions of this subtitle.

(2) The Comptroller and the Attorney General shall share with each other the information received under this subtitle and may share the information with other federal, State, or local agencies only for purposes of enforcement of this subtitle, the Escrow Act, or corresponding laws of other states.

(c) The Attorney General may require at any time from a nonparticipating manufacturer proof, from the financial institution in which the manufacturer has established a qualified escrow fund for the purpose of compliance with the Escrow Act, of the amount of money in the escrow fund, exclusive of interest, the amount and date of each deposit to the escrow fund, and the amount and date of each withdrawal from the escrow fund.

(d) In addition to any other information required to be submitted by law, the Comptroller or the Attorney General may require a licensed wholesaler or tobacco product manufacturer to submit any additional information, including samples of the packaging or labeling of each brand family, as is necessary to enable the Attorney General to determine whether a tobacco product manufacturer is in compliance with this subtitle.

(e) (1) To promote compliance with this subtitle, the Attorney General may adopt regulations requiring a tobacco product manufacturer subject to the requirements of § 16-503(a) of this subtitle to make the escrow deposits required in quarterly installments during the year in which the sales covered by the deposits are

made.

(2) The Attorney General may require production of information sufficient to enable the Attorney General to determine the adequacy of the amount of the installment deposit.

§16–507.

(a) (1) In addition to or instead of any other civil or criminal remedy provided by law, on a determination that a licensed wholesaler has violated § 16-504(c) or § 16-506(a) of this subtitle or any regulation adopted under this subtitle, the Comptroller may revoke or suspend the license of any licensed wholesaler in the manner provided under §§ 16-211 and 16-212 of this title.

(2) Each stamp affixed and each offer to sell cigarettes in violation of § 16-504(c) of this subtitle shall constitute a separate violation.

(3) The Comptroller may also impose a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes sold or $5,000 on a determination of violation of § 16-504(c) of this subtitle or any regulations adopted under that section.

(b) (1) Any cigarettes that have been sold, offered for sale or possessed for sale in this State, or imported for personal consumption in this State in violation of § 16-504(c) of this subtitle shall be deemed contraband under §§ 13-836, 13-837, and 13-839 of the Tax - General Article, and those cigarettes shall be subject to seizure and forfeiture as provided in those sections.

(2) All cigarettes seized and forfeited may not be resold and shall be destroyed.

(c) (1) The Attorney General, on behalf of the Comptroller, may seek an injunction to restrain a threatened or actual violation of § 16-504(c), § 16-506(a) or § 16-506(d) of this subtitle by a licensed wholesaler and compel the licensed wholesaler to comply with those sections.

(2) In any action brought under this section, the State shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney's fees.

(d) A person who sells, distributes, acquires, holds, owns, possesses, transports, imports, or causes to be imported, cigarettes that the person knows or should know are intended for distribution or sale in the State in violation of § 16-504(c) of this subtitle is guilty of a misdemeanor, and on conviction is subject to a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both.

§16–508.

(a) A determination by the Attorney General to omit or to delete from the

directory described in § 16-504 of this subtitle a brand family or tobacco product manufacturer shall be subject to review in accordance with Title 10, Subtitle 2 of the State Government Article.

(b) The Attorney General and the Comptroller may adopt regulations necessary to effectuate the purposes of this subtitle.

(c) In any action brought by the State to enforce this subtitle, the State shall be entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney's fees.

(d) (1) If a court determines that a person has violated this subtitle, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be paid to the State Treasurer for deposit into the Cigarette Restitution Fund established under § 7-317 of the State Finance and Procurement Article.

(2) Unless otherwise expressly provided, the remedies or penalties provided by this subtitle are cumulative to each other, and to the remedies or penalties available under all other laws of this State.

§16–601. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

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

(b) "Cigarette" has the meaning stated in § 16–101 of this title.

(c) "Commission" means the State Fire Prevention Commission.

(d) "Consumer testing" means an assessment of cigarettes that is conducted by a manufacturer or conducted under the control and direction of a manufacturer for the purpose of evaluating consumer acceptance of the cigarettes by using only the quantity of cigarettes that is reasonably necessary for the assessment.

(e) "Manufacturer" has the meaning stated in § 16–201 of this title.

(f) "Quality control and quality assurance program" means laboratory procedures implemented to ensure that:

(1) operator bias, systematic and nonsystematic methodological errors, and equipment–related problems do not affect the results of the testing; and

(2) the testing repeatability remains within the required repeatability value for any test trial used to certify cigarettes under this subtitle.

(g) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory fall 95% of the time.

(h) "Retailer" has the meaning stated in § 16–201 of this title.

(i) (1) "Sale" means the exchange or transfer, or the agreement to exchange or transfer, title or possession of property in any manner or by any means for consideration.

(2) "Sale" includes:

(i) the giving or distribution of cigarettes as samples, prizes, gifts, or in connection with consumer testing; and

(ii) the exchange of cigarettes for any consideration other than money.

(j) "Subwholesaler" has the meaning stated in § 16–201 of this title.

(k) "Vending machine operator" has the meaning stated in § 16–201 of this title.

(l) "Wholesaler" has the meaning stated in § 16–201 of this title.

§16–602. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

(a) Except as provided in § 16–602.1 of this subtitle, cigarettes may not be manufactured in this State or sold or offered for sale to any person in this State unless:

(1) the cigarettes have been tested in accordance with the test method and meet the performance standard specified in this section; and

(2) the manufacturer has filed a written certification with the Comptroller in accordance with § 16–603 of this subtitle.

(b) The performance standard for cigarettes sold or offered for sale in the State includes all of the requirements in subsection (e)(1) of this section.

(c) (1) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) standard E2187–04 "Standard Test Method for Measuring the Ignition Strength of Cigarettes".

(2) The Comptroller, in consultation with the Commission, may adopt a subsequent ASTM standard test method for measuring the ignition strength of cigarettes on a finding that the subsequent method does not result in a change in the percentage of full–length burns exhibited by any tested cigarette when compared to the percentage of full–length burns the same cigarette would exhibit when tested in accordance with ASTM standard E2187–04 and the performance standard of this section.

(d) Testing of cigarettes shall be conducted on 10 layers of filter paper.

(e) (1) No more than 25% of the cigarettes tested in a test trial shall exhibit full–length burns.

(2) Forty replicate tests shall comprise a complete test trial for each cigarette tested.

(f) The performance standard required by this section shall only be applied to a complete test trial.

(g) (1) Each laboratory that conducts tests in accordance with this section shall:

(i) have current accreditation pursuant to Standard ISO/IEC 17025 of the International Organization for Standardization, subsequent laboratory standardization, or another comparable accreditation as determined by the Comptroller; and

(ii) implement a quality control and quality assurance program that includes a procedure to determine the repeatability of the testing results.

(2) The repeatability value shall be no greater than 0.19.

(h) (1) Each cigarette listed in a certification that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard of this section shall have at least two nominally identical bands on the paper surrounding the tobacco column.

(2) At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette.

(3) For a cigarette on which the bands are positioned by design, at least two bands shall be located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column.

(4) For an unfiltered cigarette, the two complete bands shall be located at least 15 millimeters from the lighting end and 10 millimeters from the labeled end of the tobacco column.

(i) (1) If the Comptroller determines that a cigarette cannot be tested in accordance with the test method required by this section, the manufacturer of the cigarette shall propose to the Comptroller a test method and performance standard for that cigarette.

(2) The Comptroller, in consultation with the Commission, may approve a test method and performance standard that the Comptroller determines is equivalent to the requirements of this section, and the manufacturer may use that test method and performance standard for certification of a cigarette in accordance with § 16–603 of this subtitle.

(3) (i) The Comptroller, in consultation with the Commission, shall approve a test method and performance standard used in another state if the Comptroller determines that:

1. the other state has enacted a reduced cigarette ignition propensity standard that includes a test method and performance standard that are the same as the requirements of this section; and

2. the officials responsible for implementing the requirements in the other state have approved of the alternative test method and performance standard for a particular cigarette under a legal provision comparable to this section.

(ii) A manufacturer may use a test method and performance standard approved under subparagraph (i) of this paragraph for certification in accordance with § 16–603 of this subtitle of the cigarette used in the approved test method.

(j) This section does not require additional testing for cigarettes that are tested in a manner consistent with the requirements of this section for any other purpose.

(k) (1) Each manufacturer shall retain copies of the reports of all tests conducted on all cigarettes offered for sale for 3 years.

(2) (i) On request, the manufacturer shall provide the data retained under paragraph (1) of this subsection to the Comptroller, the Commission, or the Attorney General within 60 days after receiving the request, for the purpose of ensuring compliance with this section.

(ii) A manufacturer who does not provide the data within 60 days of a request is subject to a civil penalty not to exceed $10,000 for each day after the 60th day that the violation continues.

(l) This subtitle shall be implemented in accordance with the implementation and substance of the New York fire safety standards for cigarettes.

§16–602.1. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

(a) Cigarettes that are sold or distributed for the purpose of consumer testing in a controlled setting in which the cigarettes are either smoked on the site of the testing or returned to the testing administrator at the conclusion of the testing are not subject to the certification requirements of § 16–602 of this subtitle.

(b) (1) Except as provided in subsection (c) of this section, cigarettes that are sold or distributed for the purpose of consumer testing in any setting other than a controlled setting as described in subsection (a) of this section are subject to the certification requirements of § 16–602 of this subtitle.

(2) A manufacturer certification under this subsection may not be subject to § 16–605 of this subtitle.

(c) (1) (i) The manufacturer may submit to the Comptroller, as "confidential under seal", descriptors for each cigarette sold or distributed for the purpose of consumer testing under subsection (b)(1) of this section.

(ii) Descriptors shall include brand, style, length, circumference, flavor, and package.

(2) Notwithstanding any other provision of law, the information submitted in accordance with paragraph (1) of this subsection:

(i) is not subject to disclosure under State law or discovery in civil litigation; and

(ii) may be used by the Comptroller or the Attorney General for the purpose of enforcing the provisions of this title.

§16–603. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

(a) (1) Each manufacturer shall submit to the Comptroller written certification attesting that each cigarette has been tested in accordance with and has met the performance standard required under § 16–602 of this subtitle.

(2) A certification under paragraph (1) of this subsection may not list more than 50 cigarettes.

(b) The description of each cigarette listed in the certification shall include:

(1) the brand or trade name on the package;

(2) the style, such as light or ultra light;

(3) the length in millimeters;

(4) the circumference in millimeters;

(5) the flavor, such as menthol or chocolate, if applicable;

(6) whether filtered or nonfiltered;

(7) a package description, such as a soft pack or box;

(8) the mark approved in accordance with § 16–604 of this subtitle;

(9) if different from the manufacturer, the name, address, and telephone

number of the laboratory that conducted the test; and

(10) the date of the testing.

(c) The certification shall be made available to:

(1) the Attorney General and the Commission for purposes consistent with this subtitle; and

(2) the Comptroller for the purpose of ensuring compliance with this section.

(d) (1) Each cigarette certified under this section shall be recertified every 3 years.

(2) If a manufacturer of a cigarette that has been certified under this section makes a change that is likely to alter the cigarette's compliance with the performance standard under § 16–602(e) of this subtitle, that cigarette may not be sold in this State until the manufacturer, in accordance with § 16–602 of this subtitle, retests and maintains the proper records of the testing.

§16–604. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

(a) Cigarettes that have been certified in accordance with § 16–603 of this subtitle shall be marked in accordance with the requirements of this section.

(b) The marking shall:

(1) consist of:

(i) any marking in use and approved for sale in New York under the New York fire safety standards for cigarettes; or

(ii) the letters "FSC" to signify Fire Standards Compliant;

(2) be in a font of at least 8 point type; and

(3) be permanently printed, stamped, engraved, or embossed on the package at or near the area of the UPC code, if present.

(c) A manufacturer may propose an alternative marking that:

(1) meets the criteria under subsection (b)(2) and (3) of this section; and

(2) consists of a visible combination of alphanumeric or symbolic characters or text permanently stamped, engraved, embossed, or printed:

(i) in conjunction with the UPC code; or

(ii) on the cigarette pack or cellophane wrap.

(d) (1) A manufacturer shall request approval of a proposed marking from the Comptroller.

(2) (i) The Comptroller shall approve a marking specified in subsection (b)(1) of this section.

(ii) A marking is deemed approved if the Comptroller fails to act within 10 business days after receiving a request for approval.

(3) A manufacturer may not use a modified marking unless the modification has been approved in accordance with this section.

(4) A manufacturer shall use only one marking on all brands that the manufacturer markets.

(5) A marking or modified marking approved by the Comptroller shall be applied uniformly on all brands marketed and on all packages, including packs, cartons, and cases marketed by that manufacturer.

§16–605. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

(a) The manufacturer shall:

(1) provide a copy of each certification to each wholesaler to which the manufacturer sells cigarettes; and

(2) provide sufficient copies of an illustration of the packaging marking approved and used by the manufacturer in accordance with § 16–604 of this subtitle for each retailer, subwholesaler, and vending machine operator that purchases cigarettes from the wholesaler.

(b) The wholesaler shall provide a copy of the illustration to each retailer, subwholesaler, and vending machine operator to which the wholesaler sells cigarettes.

(c) Each retailer, subwholesaler, vending machine operator, and wholesaler shall allow the Comptroller or designee of the Comptroller to inspect the markings on cigarette packaging at any time.

§16–606. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

Any cigarettes sold or offered for sale in the State that do not comply with the

performance standard required by § 16–602 of this subtitle are deemed to be contraband and subject to §§ 13–836, 13–837, and 13–839 of the Tax – General Article.

§16–607. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

The Comptroller:

(1) may adopt regulations necessary to carry out and administer this subtitle;

(2) in consultation with the Commission, may adopt regulations for the conduct of random inspections of retailers, subwholesalers, vending machine operators, and wholesalers to ensure compliance with this subtitle; and

(3) may establish a $250 fee for each certification required under § 16–603 of this subtitle to cover the expenses of administering this subtitle.

§16–608. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

(a) (1) A manufacturer or other person that knowingly sells or offers for sale cigarettes other than by retail sale in violation of § 16–602 of this subtitle is subject to a civil penalty not to exceed $100 for each package of cigarettes sold or offered for sale.

(2) Under this subsection, a total amount of civil penalties imposed on a manufacturer or other person may not exceed $100,000 during any 30–day period.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a retailer, subwholesaler, wholesaler, or other person that knowingly sells cigarettes in violation of § 16–602 of this subtitle is subject to a civil penalty not to exceed $100 for each package of cigarettes sold.

(2) Under this subsection, a total amount of civil penalties imposed on a retailer may not exceed $25,000 during any 30–day period.

(3) Under this subsection, a total amount of civil penalties imposed on a subwholesaler, wholesaler, or other person may not exceed $100,000 during any 30–day period.

(c) A manufacturer that knowingly makes a false certification under § 16–603 of this subtitle is subject to a civil penalty of at least $75,000 and not exceeding $250,000 for each false certification.

§16–609. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

(a) To enforce this subtitle:

(1) the Attorney General may bring an action to enjoin any acts in violation of this subtitle and to recover civil penalties authorized under § 16–608 of this subtitle; or

(2) the Attorney General or the Comptroller may examine the books, papers, invoices, and records of a person in possession, control, or occupancy of a building, structure, or land where cigarettes are placed, stored, sold, or offered for sale.

(b) Money collected from civil penalties recovered under this section shall be distributed to the Senator William H. Amoss Fire, Rescue, and Ambulance Fund.

§16–610. IN EFFECT

** CONTINGENCY – IN EFFECT – CHAPTER 497 OF 2007 **

(a) A police officer or other authorized personnel as determined by regulations may seize cigarettes in the possession of a retailer, subwholesaler, vending machine operator, or wholesaler that have not been marked in accordance with § 16–604 of this subtitle.

(b) (1) Subject to paragraph (2) of this subsection, cigarettes seized under this section shall be destroyed.

(2) The true holder of the trademark rights in the cigarette brand shall be provided the opportunity to inspect any cigarettes seized under this section before the cigarettes are destroyed.

§16.5–101.

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

(b) "County license" means a license issued by the clerk to sell other tobacco products at retail in a county.

(c) "License" means:

(1) a license issued by the Comptroller under § 16.5–204(a) of this title to:

(i) act as a licensed other tobacco products manufacturer;

(ii) act as an other tobacco products wholesaler; or

(iii) act as an other tobacco products storage warehouse; or

(2) a license issued by the clerk under § 16.5–204(b) of this title to act as an other tobacco products retailer or a tobacconist.

(d) "Licensed other tobacco products manufacturer" means a person licensed by the Comptroller under § 16.5–204(a) of this title who:

(1) manufactures or otherwise produces other tobacco products in the State intended for sale in the State, including other tobacco products intended for sale in the State through an importer; and

(2) (i) sells other tobacco products on which the tobacco tax has not been paid to a licensed other tobacco products wholesaler in the State;

(ii) sells other tobacco products on which the tobacco tax has not been paid and which may lawfully be sold in the State to a licensed other tobacco products wholesaler located outside of the State;

(iii) unless otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distributes sample other tobacco products to consumers located in the State; or

(iv) stores other tobacco products in an other tobacco products warehouse in the State for subsequent shipment to licensed wholesalers, federal reservations, or persons outside of the State.

(e) "Licensed other tobacco products retailer" means a person licensed by the clerk under § 16.5–204(b) of this title to act as an other tobacco products retailer.

(f) "Licensed other tobacco products storage warehouse" means a facility licensed by the Comptroller under § 16.5–204(a) of this title to act as an other tobacco products storage warehouse.

(g) "Licensed other tobacco products wholesaler" means a person licensed by the Comptroller under § 16.5–204(a) of this title to act as an other tobacco products wholesaler.

(h) "Licensed tobacconist" means a person licensed by the clerk of a circuit court under § 16.5–204(b) of this title to act as a tobacconist.

(i) "Other tobacco products" means:

(1) any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or

(2) any other tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

(j) "Other tobacco products manufacturer" means a person who:

(1) manufactures or otherwise produces other tobacco products intended for sale in this State, including other tobacco products intended for sale in the United

States through an importer;

(2) (i) sells other tobacco products on which the tobacco tax has not been paid to a licensed other tobacco products wholesaler in Maryland;

(ii) sells other tobacco products on which the tobacco tax has not been paid and which may lawfully be sold in Maryland to a licensed other tobacco products wholesaler located outside Maryland;

(iii) unless otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distributes sample other tobacco products to consumers located in Maryland; or

(iv) stores other tobacco products in an other tobacco products storage warehouse in Maryland for subsequent shipment to licensed other tobacco products wholesalers, federal reservations, or persons out of state; or

(3) is a licensed other tobacco products manufacturer under this title.

(k) "Other tobacco products retailer" means a person who:

(1) sells other tobacco products to consumers; or

(2) holds other tobacco products for sale to consumers.

(l) "Other tobacco products storage warehouse" means a storage facility in Maryland operated for the purpose of storing other tobacco products on which the tobacco tax has not been paid on behalf of an other tobacco products manufacturer.

(m) "Other tobacco products wholesaler" means a person who:

(1) holds other tobacco products for sale to another person for resale; or

(2) sells other tobacco products to another person for resale.

(n) (1) "Package" means a pack, box, carton, can, wrap, pouch, bag, or container of any kind designed for retail consumption in which other tobacco products are offered for sale, sold, or otherwise distributed.

(2) "Package" includes not more than 10 cigars offered for sale, sold, or distributed as single cigars.

(o) "Pipe tobacco" means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to smoke in a pipe.

(p) "Premium cigars" means cigars that:

(1) have hand–rolled wrappers made from whole tobacco leaves where the

filler, binder, and wrapper are made of all tobacco, and may include adhesives or other materials used to maintain size, texture, or flavor; or

(2) are designated as premium cigars by the Comptroller by regulation.

(q) "Sell" means to exchange or transfer, or to agree to exchange or transfer, title or possession of property, in any manner or by any means, for consideration.

(r) "Sell other tobacco products at retail" means to sell other tobacco products to a consumer.

(s) "Tobacconist" means an other tobacco products business that derives at least 70% of its revenues, measured by average daily receipts, from the sale of other tobacco products and tobacco–related accessories.

§16.5–102.

The Comptroller may delegate any power or duty of the Comptroller under this title.

§16.5–103.

Notwithstanding any other provision of this title, this title does not apply to a seller located outside the State when selling, holding for sale, shipping, or delivering premium cigars or pipe tobacco to consumers in the State.

§16.5–201.

(a) Except as provided in subsection (b) of this section, a person must have an appropriate license whenever the person acts as a licensed other tobacco products manufacturer, a licensed other tobacco products retailer, a licensed other tobacco products storage warehouse, a licensed other tobacco products wholesaler, or a licensed tobacconist in the State.

(b) A person need not obtain an other tobacco products retailer license under this subtitle to act as a retailer at a vending stand operated under a trader's license issued to Blind Industries and Services of Maryland.

(c) A license to act as an other tobacco products retailer or a tobacconist is required for each place of business where a person acts as an other tobacco products retailer or a tobacconist.

(d) (1) An other tobacco products manufacturer, or person connected with the business of an other tobacco products manufacturer or related by ownership, may not at the same time hold or have any financial interest in an other tobacco products wholesaler license or in any business of an other tobacco products wholesaler.

(2) A person licensed as an other tobacco products wholesaler, or person

connected with the business of a licensed other tobacco products wholesaler or related by ownership, may not at the same time hold or have any financial interest in an other tobacco products manufacturer license or in any business of an other tobacco products manufacturer.

§16.5–202.

(a) An applicant for a license to act as a licensed other tobacco products manufacturer shall maintain in the State an established place of business for the manufacture and storage of other tobacco products.

(b) An applicant for a license to act as an other tobacco products storage warehouse shall maintain an established place of business for storage of other tobacco products on which the tobacco tax has not been paid.

(c) An applicant for a license to act as an other tobacco products wholesaler shall maintain:

(1) an established place of business, including warehouse facilities, for the sale of other tobacco products; and

(2) necessary equipment and vehicles for the storage and distribution of other tobacco products.

§16.5–203.

(a) An applicant for a license to act as a licensed other tobacco products manufacturer shall:

(1) submit an application to the Comptroller on the form and containing the information that the Comptroller requires; and

(2) pay to the Comptroller a fee of $25.

(b) (1) An applicant for a license to act as an other tobacco products retailer or a tobacconist:

(i) shall obtain a county license by submitting to the clerk an application for each permanent or temporary place of business located in the same enclosure and operated by the same applicant; and

(ii) except as provided in paragraph (2) of this subsection, shall pay to the clerk a fee of $15.

(2) A person who has a license issued under Title 16 of this article to act as a cigarette retailer or to act as a special cigarette retailer is not required to pay the license fee.

(3) The application shall:

(i) be made on the form that the clerk requires; and

(ii) contain the information that the Comptroller requires.

(c) An applicant for a license to act as an other tobacco products storage warehouse shall:

(1) submit an application to the Comptroller on the form and containing the information that the Comptroller requires; and

(2) pay to the Comptroller a fee of $25.

(d) (1) An applicant for a license to act as an other tobacco products wholesaler shall:

(i) submit an application to the Comptroller on the form and containing the information that the Comptroller requires; and

(ii) except as provided in paragraph (2) of this subsection, pay to the Comptroller a fee of $250.

(2) A person who has a license issued under Title 16 of this article to act as a cigarette wholesaler or to act as a cigarette subwholesaler is not required to pay the license fee.

(e) A licensee shall display a license in the way that the Comptroller requires by regulation.

(f) If a person has had a license revoked under § 16.5–208 of this subtitle, the person may not reapply for a license within 1 year after the date when the prior license was revoked.

§16.5–204.

(a) The Comptroller shall issue an appropriate license to each applicant who meets the requirements of this subtitle for a license to act as a licensed other tobacco products manufacturer, other tobacco products storage warehouse, or other tobacco products wholesaler.

(b) The clerk of the circuit court shall issue to each applicant who meets the requirements of this subtitle a license to act as an other tobacco products retailer or a tobacconist.

§16.5–205.

(a) An other tobacco products manufacturer may:

(1) sell other tobacco products on which the tobacco tax has not been paid to:

(i) a licensed other tobacco products wholesaler located in Maryland;

(ii) a licensed other tobacco products wholesaler located outside Maryland if the other tobacco products may be sold lawfully in Maryland; or

(iii) a licensed tobacconist;

(2) sell premium cigars or pipe tobacco on which the tobacco tax has not been paid to a licensed other tobacco products retailer;

(3) except as otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distribute sample other tobacco products to consumers located in Maryland;

(4) store other tobacco products on which the tobacco tax has not been paid in a licensed other tobacco products storage warehouse for subsequent shipment to licensed other tobacco products wholesalers, federal reservations, or persons out of state; and

(5) on approval of the Comptroller, act as an agent of a Maryland other tobacco products wholesaler for distribution of other tobacco products.

(b) An other tobacco products retailer license authorizes the licensee to:

(1) act as an other tobacco products retailer;

(2) buy other tobacco products on which the tobacco tax has been paid from an other tobacco products wholesaler; and

(3) buy premium cigars or pipe tobacco on which the tobacco tax has not been paid from an other tobacco products manufacturer.

(c) (1) An other tobacco products storage warehouse license authorizes the licensee to operate a storage facility in Maryland for the purpose of storing other tobacco products on which the tobacco tax has not been paid on behalf of a licensed other tobacco products manufacturer.

(2) If an other tobacco products storage warehouse licensee is a licensed other tobacco products wholesaler, the other tobacco products storage warehouse license authorizes the holder to store other tobacco products on which the tobacco tax has been paid and other tobacco products on which the tobacco tax has been paid to another state.

(d) An other tobacco products wholesaler license authorizes the licensee to:

(1) act as an other tobacco products wholesaler;

(2) buy other tobacco products on which the tobacco tax has not been paid directly from an other tobacco products manufacturer;

(3) hold other tobacco products on which the tobacco tax has not been paid;

(4) transport other tobacco products on which the tobacco tax has not been paid in the State;

(5) sell other tobacco products on which the tobacco tax has not been paid to another licensed other tobacco products wholesaler if the Comptroller specifically authorizes; and

(6) store other tobacco products on which the tobacco tax has not been paid at a licensed other tobacco products storage warehouse.

(e) A tobacconist license authorizes the licensee to:

(1) act as a tobacconist; and

(2) buy other tobacco products on which the tobacco tax has not been paid from an other tobacco products manufacturer.

§16.5–206.

(a) Unless a license is renewed for a 1–year term as provided in this section, the license expires on the first April 30 after its effective date.

(b) At least 1 month before a license issued under this subtitle expires, the issuing official shall mail to the licensee, at the last known address of the licensee, a renewal notice that states:

(1) the date on which the current license expires; and

(2) the date by which the issuing official must receive the renewal application for the renewal to be issued and mailed before the license expires.

(c) Before a license issued under this subtitle expires, the licensee may renew it for an additional 1–year term, if the licensee:

(1) otherwise is entitled to be licensed;

(2) submits to the issuing official a renewal application on the form that the issuing official requires; and

(3) pays to the issuing official the license fee required under § 16.5–203 of this subtitle.

(d) The issuing official shall renew the license of each licensee who meets the requirements of this section.

§16.5–207.

(a) (1) A licensed other tobacco products retailer or a licensed tobacconist may not assign the license.

(2) If a licensed other tobacco products wholesaler sells the licensee's other tobacco products business and pays to the Comptroller a license assignment fee of $10, the licensee may assign the license to the buyer of the business, if the buyer otherwise qualifies under this title for an other tobacco products wholesaler's license.

(b) If the other tobacco products business of a licensee is transferred because of bankruptcy, death, incompetency, receivership, or otherwise by operation of law, the Comptroller shall transfer the license without charge to the new owner of the licensee's business, if the transferee otherwise qualifies under this title for the license being transferred.

(c) (1) If a licensed other tobacco products wholesaler surrenders the license to the Comptroller and if no disciplinary proceedings are pending against the licensee, the Comptroller shall refund a pro rata part of the license fee for the unexpired term of the license.

(2) A licensed other tobacco products retailer or a licensed tobacconist is not allowed a refund for the unexpired term of the license.

§16.5–208.

(a) Subject to the hearing provisions of § 16.5–209 of this subtitle, the Comptroller may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(2) fraudulently or deceptively uses a license;

(3) buys other tobacco products for resale:

(i) in violation of a license; or

(ii) from a person who is not an other tobacco products manufacturer or licensed other tobacco products wholesaler;

(4) is convicted, under the laws of the United States or of any other state, of:

(i) a felony; or

(ii) a misdemeanor that is a crime of moral turpitude and is directly related to the fitness and qualification of the applicant or licensee;

(5) violates Title 12 of the Tax – General Article or regulations adopted under that title; or

(6) violates this title or Title 16 of this article or regulations adopted under these titles.

(b) Subject to the hearing provisions of § 16.5–209 of this subtitle, the Comptroller shall deny a license to any applicant who has had a license revoked under this section until:

(1) 1 year has passed since the license was revoked; and

(2) it satisfactorily appears to the Comptroller that the applicant will comply with this title and any regulations adopted under this title.

(c) Prior to the issuance or renewal of any license, the Comptroller shall conduct an investigation with regard to:

(1) the applicant;

(2) the business to be operated; and

(3) the facts set forth in the application.

§16.5–209.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Comptroller takes any final action under § 16.5–208 of this subtitle, the Comptroller shall give the person against whom the action is contemplated an opportunity for a hearing before the Comptroller.

(b) The Comptroller shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Comptroller may administer oaths in a proceeding under this section.

(d) The person against whom the action is contemplated may be represented at the hearing by counsel.

(e) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Comptroller may hear and determine the matter.

§16.5–210.

(a) Subject to the notice requirement of subsection (c) of this section, if a licensee engages in an act or omission that is a ground for discipline under § 16.5–208 of this subtitle, the Comptroller may suspend the license for a consecutive period that:

(1) for a first offense, is not less than 5 nor more than 20 business days; or

(2) for a subsequent offense, is not less than 20 business days nor more than 6 months.

(b) Subject to the notice requirement under subsection (c) of this section, the Comptroller may revoke a license if a licensee:

(1) willfully and persistently engages in an act or omission that is a ground for discipline under § 16.5–208(a) of this subtitle; or

(2) violates this title or Title 12 of the Tax – General Article or regulations adopted under these titles.

(c) If a license is suspended or revoked under this section:

(1) the Comptroller shall give the licensee notice of the suspension or revocation; and

(2) the suspension or revocation may not take effect until at least 5 business days following notice of the suspension or revocation.

(d) The transfer, renewal, or expiration of a license will not bar or abate a disciplinary action under this section.

(e) (1) Except for a violation of § 10–107 of the Criminal Law Article, whenever any license issued under the provisions of this subtitle is suspended or revoked by the Comptroller, the licensee may, before the effective date of the suspension or revocation, petition the Comptroller for permission to make an offer of compromise consisting of a sum of money in lieu of serving the suspension or revocation.

(2) Money paid in lieu of suspension or revocation shall be paid into the General Fund of the State.

(3) An offer of compromise may not exceed $2,000 in the case of retail licensees and may not exceed $50,000 for other licensees.

(4) The Comptroller may accept the offer of compromise if:

(i) the public welfare and morals would not be impaired by allowing the licensee to operate during the period set for the suspension or revocation; and

(ii) the payment of the sum of money will achieve the desired disciplinary purposes.

(5) The Comptroller may adopt regulations to carry out this subsection.

§16.5–211.

A party to a proceeding before the Comptroller who is aggrieved by a final decision of the Comptroller in a contested case, as defined in § 10–202 of the State Government Article, is entitled to judicial review as provided in §§ 10–222 and 10–223 of the State Government Article.

§16.5–212.

(a) Except as otherwise provided in § 16.5–201(b) of this subtitle, a person may not act, attempt to act, or offer to act as a licensed other tobacco products manufacturer, a licensed other tobacco products retailer, a licensed other tobacco products storage warehouse, a licensed other tobacco products wholesaler, or a licensed tobacconist in the State unless the person has an appropriate license.

(b) (1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 30 days or both.

(2) Each day that a violation of this section continues is a separate offense.

§16.5–213.

(a) (1) The Comptroller shall pay into the General Fund of the State all license fees collected under this title.

(2) All license fees collected by the counties are subject to the distribution provisions of § 17–206 of this article.

(b) The General Assembly intends that these license fees be used to administer this title.

§16.5–214.

(a) Each other tobacco products wholesaler:

(1) shall get an invoice for each purchase of other tobacco products;

(2) shall keep a record of all other tobacco products received, to which the other tobacco products wholesaler shall post each day:

(i) the invoice number;

(ii) the date of receipt;

(iii) the quantity received;

(iv) the brand;

(v) the manufacturer; and

(vi) the name of the person from whom the other tobacco products are received;

(3) for other tobacco products sales to other tobacco products retailers and tobacconists:

(i) shall keep a record of the name and address of each other tobacco products retailer and tobacconist to whom a sale is made; and

(ii) except for a transfer of other tobacco products to retail stock by a written memorandum, shall prepare for each sale an invoice that shows the political subdivision where the other tobacco products retailer and each tobacconist is located; and

(4) shall keep a complete and accurate record of each sale of other tobacco products to an out–of–state person for resale to out–of–state consumers.

(b) (1) Except as provided in paragraph (2) of this subsection, each other tobacco products wholesaler shall make an inventory record each month of all other tobacco products on the premises or under the control of the other tobacco products wholesaler:

(i) at the beginning or end of the month; or

(ii) on another specific day of the month, if the other tobacco products wholesaler finds it more practical to take inventory on that day and notifies the Comptroller that inventory will be taken on that day.

(2) Other tobacco products transferred to retail stock by written memorandum need not be included in the inventory record.

(c) Each other tobacco products wholesaler shall:

(1) keep the records required by this section for 6 years or for a shorter time set by the Comptroller; and

(2) allow the Comptroller to examine the records.

(d) A licensed other tobacco products retailer who purchases premium cigars or pipe tobacco from an other tobacco products manufacturer or a licensed tobacconist shall, for a period of 2 years, keep and maintain available for inspection at the license location during business hours:

(1) all invoices and bills of lading; and

(2) all records covering all purchases and sales of other tobacco products.

§16.5–215.

(a) A person who transports other tobacco products by vehicle on a public road shall have in the vehicle a delivery ticket or an invoice that states:

(1) the name and address of the seller or consignor;

(2) the name and address of a buyer or consignee who is:

(i) a person in the State authorized by Title 12 of the Tax – General Article to hold other tobacco products on which the tobacco tax has not been paid; or

(ii) a person in another jurisdiction authorized to hold other tobacco products on which the tax imposed by that jurisdiction has not been paid; and

(3) the quantity and brands of the other tobacco products that are being transported.

(b) The Comptroller by regulation may require a common carrier that brings other tobacco products into the State to submit to the Comptroller a copy of any freight bill relating to the other tobacco products shipment.

§16.5–216.

(a) A person may not ship, import, or sell into or within this State any other tobacco products unless that person:

(1) (i) is the owner of the brand;

(ii) is the United States importer for the brand; or

(iii) is a designated agent in Maryland of:

1. the owner of the brand; or

2. the United States importer of the brand; and

(2) holds any license required by this subtitle.

(b) A person who ships, imports, or sells other tobacco products into or within this State:

(1) shall comply with any federal and State requirements concerning the placement of warning labels or other information on the containers or individual packages of other tobacco products; and

(2) shall ensure that the containers or individual packages of other tobacco products do not contain any information or markings that are false, misleading, or contrary to:

(i) federal trademark or tax laws;

(ii) the trademark law of this State under Title 1, Subtitle 4 of this article; or

(iii) the tax laws of this State under Title 12 of the Tax – General Article.

(c) A person who ships, imports, or sells other tobacco products into or within this State in violation of this section is subject to disciplinary action by the Comptroller under § 16.5–208 of this subtitle and to the penalty specified in § 13–1015 of the Tax – General Article.

§16.5–217.

(a) This section applies to a person who is engaged in the business of selling or distributing other tobacco products.

(b) (1) This subsection does not apply to the order, purchase, sale, or shipment of premium cigars or pipe tobacco by a licensed other tobacco products retailer or licensed tobacconist.

(2) Except as provided in paragraph (3) of this subsection, a person covered under this section may not:

(i) sell or ship other tobacco products, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, directly to a consumer or other unlicensed recipient in this State; or

(ii) cause other tobacco products, ordered or purchased by mail or through a computer network, telephonic network, or other electronic network by a consumer or other unlicensed recipient, to be shipped directly to a consumer or other unlicensed recipient in this State.

(3) A licensed other tobacco products retailer or licensed tobacconist may deliver not more than two packages of other tobacco products directly to a consumer if the delivery is made by the licensed other tobacco products retailer or licensed tobacconist or an employee of the licensed other tobacco products retailer or licensed tobacconist.

(c) (1) A licensee who sells or ships other tobacco products in violation of this section or causes other tobacco products to be shipped in violation of this section is:

(i) subject to discipline by the Comptroller under § 16.5–208 of this subtitle; and

(ii) guilty of a felony and on conviction is subject to a fine not exceeding $50 for each package of other tobacco products transported or imprisonment not exceeding 2 years or both.

(2) A person other than a licensee who sells or ships other tobacco products in violation of this section or causes other tobacco products to be shipped in violation of this section is guilty of a felony and on conviction is subject to a fine not exceeding $50 for each package of other tobacco products transported or imprisonment not exceeding 2 years or both.

§16.5–218.

Unless otherwise specified in this title, a person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 30 days or both.

§17–101.

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

(b) "Goods" means tangible personal property.

(c) "Sale" includes barter.

(d) "Sell" includes barter.

(e) "Trader" includes a person who operates a room or other place of business for selling goods at auction.

(f) "Trader's license" means a license issued by the clerk to do business as a trader.

§17–102.

This title does not apply to a person who does not buy or sell in a trade or business carried on for profit.

§17–201.

(a) In this subtitle, "license" means a license issued by a clerk under this title.

(b) In this subtitle, "license" includes:

(1) a console machine license issued under Subtitle 4 of this title;

(2) a pinball machine license issued under Subtitle 4 of this title;

(3) a Wicomico County pinball machine license issued under Subtitle 4 of this title;

(4) a Garrett County amusement device license issued under Subtitle 4 of this title;

(5) a billiard table license issued under Subtitle 5 of this title;

(6) a construction license issued under Subtitle 6 of this title;

(7) a nonresident construction license issued under Subtitle 6 of this title;

(8) a wholesale farm machinery dealer's license issued under Subtitle 7 of this title;

(9) a garage license issued under Subtitle 8 of this title;

(10) a peddler license issued under Subtitle 9 of this title;

(11) a magazine seller license issued under Subtitle 9 of this title;

(12) a junk dealer or scrap metal processor license issued under Subtitle 10 of this title;

(13) an agent license issued under Subtitle 10 of this title;

(14) a Calvert County junk dealer or scrap metal processor license issued under Subtitle 10 of this title;

(15) a license to do the business of cleaning, dyeing, pressing, or laundering issued under Subtitle 11 of this title;

(16) a license to keep a storage warehouse issued under Subtitle 12 of this title;

(17) a State juke box license issued under Subtitle 13 of this title;

(18) a Harford County juke box license issued under Subtitle 13 of this title;

(19) a promoter license issued under Subtitle 14 of this title;

(20) a plumber's license issued under Subtitle 15 of this title;

(21) a restaurant license issued under Subtitle 16 of this title;

(22) a trader's license issued under Subtitle 18 of this title;

(23) a chain store license issued under Subtitle 18 of this title;

(24) a vending machine license issued under Subtitle 19 of this title; and

(25) a license to do business as a trading stamp issuer issued under Subtitle 20 of this title.

§17–202.

(a) The Comptroller shall enforce this title.

(b) (1) The Comptroller:

(i) shall appoint a chief license inspector; and

(ii) may appoint assistant license inspectors.

(2) The chief license inspector and each assistant license inspector is entitled to:

(i) compensation in accordance with the State budget; and

(ii) reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(c) The Comptroller may delegate any power or duty of the Comptroller under this title.

(d) To enforce this title, the Comptroller may make investigations and hold hearings on any matter covered by this title, at any time or place in the State, and, in connection with an investigation or hearing, may:

(1) administer oaths;

(2) examine witnesses;

(3) receive evidence; and

(4) issue subpoenas for the attendance of witnesses to testify or to produce evidence.

(e) The Comptroller may adopt regulations to:

(1) carry out this title; and

(2) define any term used in this title.

§17–203.

(a) The Comptroller shall:

(1) cause to be printed or otherwise prepared, in the form required by law or usage, blank licenses of each kind authorized by law; and

(2) deliver to the clerks the number and kind of blank licenses that they need.

(b) (1) Before May 1 of each year, each clerk shall apply to the Comptroller for the number of blank licenses that the clerk is likely to need for the year that begins on May 1.

(2) Each clerk shall apply to the Comptroller for blank licenses at other times as necessary.

(c) If a clerk fails to comply with subsection (b) of this section, the clerk shall pay a penalty of $1,000 for each violation.

§17–204.

(a) On or before the first Monday of June and the first Monday of December of each year, each clerk shall submit to the Comptroller, under oath, a list and account of licenses issued by the clerk.

(b) The list shall contain:

(1) the number of licenses issued;

(2) the kind of each license issued;

(3) the date of issuance of each license;

(4) the license fee received for each license;

(5) the name of each licensee; and

(6) the number and kind of any blank licenses remaining unissued.

(c) If a clerk fails to comply with this section, the Comptroller shall:

(1) charge the clerk, at the rates set by law, with the whole amount of blank licenses delivered to the clerk; and

(2) immediately bring suit against the official bond of the clerk to recover that amount.

§17–205.

On or before the tenth day of each month, each clerk shall send to the State Department of Assessments and Taxation a copy of each license and the application for each license that the clerk issued during the preceding month.

§17–206.

(a) This section does not apply to:

(1) a console machine license, pinball machine license, Wicomico County pinball machine license, or Garrett County amusement device license issued under Subtitle 4 of this title;

(2) a Calvert County peddler license or magazine seller license issued under Subtitle 9 of this title;

(3) a junk dealer or scrap metal processor license, agent license, or Calvert County junk dealer or scrap metal processor license issued under Subtitle 10 of this title;

(4) a license to keep a storage warehouse issued under Subtitle 12 of this title;

(5) a State juke box license or Harford County juke box license issued under Subtitle 13 of this title;

(6) a promoter license issued under Subtitle 14 of this title;

(7) a vending machine license issued under Subtitle 19 of this title; or

(8) a license to do business as a trading stamp issuer issued under Subtitle 20 of this title.

(b) Except as provided in subsection (a) of this section or otherwise in this title, each clerk shall account for and distribute the fees received for licenses issued under this title as follows:

(1) the clerk shall pay into the General Fund of the State:

(i) the percentage of license fees authorized by law as a fee of the office;

(ii) the additional issuance fee now allowed; and

(iii) 3% of license fees to defray the expenses of the State License Bureau; and

(2) except as provided in subsection (c) of this section, the clerk shall distribute the remaining license fees:

(i) to the municipal corporation where the licensed business or activity is located, if the licensed business or activity is located in a municipal corporation; or

(ii) to the county where the licensed business or activity is located, if the licensed business or activity is not located in a municipal corporation.

(c) (1) For purposes of this subsection, per capita revenue shall be computed by using the population figures from the later of:

(i) the most recent federal census; or

(ii) an official local census.

(2) The clerk may not distribute license fees to a county or municipal corporation unless the county or municipal corporation:

(i) levies, in its current fiscal year, taxes sufficient to collect at least $1.00 per capita in revenue; and

(ii) certifies to the Comptroller a copy of the levy.

(3) The clerk shall pay into the General Fund of the State any money that is not distributed at the end of the fiscal year of a county or municipal corporation because the county or municipal corporation failed to make the levy and certification required by paragraph (2) of this subsection.

§17–301.

In this subtitle, "license" has the meaning stated in § 17-201 of this title.

§17–302.

(a) Except as otherwise provided in this title, an applicant for a license under this title shall:

(1) submit to the clerk, in duplicate, an application on the form that the clerk provides;

(2) submit to the clerk a receipt or certificate for taxes in accordance with subsection (c) of this section; and

(3) pay to the clerk the appropriate license fee required by this title.

(b) Each application for a license shall be verified in the way and contain the information that the Comptroller requires by regulation.

(c) (1) In this subsection, "county treasurer" includes the Director of Finance or other chief fiscal officer of a county that does not have a county treasurer.

(2) This subsection does not apply to a domestic corporation that has shares subject to taxation under State law.

(3) An applicant for a license shall submit to the clerk:

(i) a certification by the State Department of Assessments and Taxation of the value of the goods, fixtures, and stock in trade in each county where the business is located for the applicant's business for the valuation year;

(ii) a certification by the county treasurer of that county that there are no unpaid taxes due to the State or county on the goods, fixtures, or stock in trade; and

(iii) a certification by the municipal corporation, if any, where the business is located that there are no unpaid taxes due to the municipal corporation on the goods, fixtures, or stock in trade.

(4) In this subsection, the valuation year:

(i) in Washington County, is the fiscal year that includes May 1 of the calendar year when the license is issued; or

(ii) in each other county, is the last calendar year before the year for which the license is sought.

(d) In Washington County, the clerk may not issue a license under this title for the first time unless the applicant submits to the clerk a certification that the location of the business for which the license is sought has proper zoning. The certification must be from the county planning commission or, if the business is located in a municipal corporation, from the municipal corporation.

(e) (1) This subsection applies only in Calvert County.

(2) The clerk may not issue a license under this title for the first time to a business that will be located in Calvert County unless the applicant submits to the clerk a certification that the location of the business for which the license is sought is zoned for the type of business for which the applicant is seeking a license.

(3) The certification must be issued from:

(i) the Calvert County Department of Planning and Zoning; or

(ii) the appropriate municipal corporation, if the location of the proposed business is within the boundaries of a municipal corporation.

§17–303.

(a) The minimum license fee under this title is $2.50.

(b) Except as otherwise provided in this title, the license fee shall be prorated quarterly, but not below $2.50, if an applicant applies after May 1 for a license that will

become effective before the following April 30.

(c) (1) A person who must have a license under this title but does not get the license on time shall pay to the clerk, in addition to the required license fee, a late fee.

(2) The late fee shall be the sum of:

(i) 10% of the required license fee for the calendar month following the calendar month when the required license fee is due; and

(ii) 2% of the required license fee for each calendar month or part of a month after that.

§17–304.

Except as otherwise provided in this title, the clerk shall issue an appropriate license to each applicant who meets the requirements of this title.

§17–305.

(a) (1) Except as otherwise provided in this title, a license is effective on May 1.

(2) Whenever a person begins business after May 31, the clerk shall issue a license that is effective on the first of the month when the person begins business under the license.

(b) Except as otherwise provided in this title, a license expires on the first April 30 after its effective date.

§17–306.

The holder of a license to do business at a particular place specified in the license shall display the license conspicuously at that place.

§17–307.

(a) (1) If a specific place for doing business is stated in a license, the licensee may change the place of business only if the clerk endorses the change on the license.

(2) Subject to subsections (b), (c), and (d) of this section, on application of the licensee, the clerk shall endorse the change on the license.

(b) In Baltimore County, the clerk may not endorse a change in the place of business until the zoning commissioner approves the new place.

(c) In Washington County, the clerk may not endorse a change in the place of business until the licensee meets the zoning requirements of § 17–302(d) of this subtitle for a license issued for the first time.

(d) In Calvert County, the clerk may not endorse a change in the place of business until the licensee meets the zoning requirements of § 17–302(e) of this subtitle for a license issued for the first time.

§17–308.

If a licensee dies, the surviving spouse or personal representative of the licensee may do business under the license for the rest of the term of the license.

§17–401.

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

(b) "Free-play console machine" means a machine that:

(1) has a backboard that displays combinations of numbers or symbols;

(2) has 2 or more reels that spin on the insertion of 1 or more coins or tokens; and

(3) when the reels stop on combinations that match those on the backboard, rewards the player with a specified number of free games, allowing the player to continue to play the machine without inserting additional coins or tokens.

(c) "Free-play pinball machine" means a machine that:

(1) on insertion of 1 or more coins or tokens, releases 1 or more balls for the player to propel by a plunger; and

(2) if the player gets a certain score or combination of numbers, rewards the player with a specified number of free games, allowing the player to continue to play the machine without inserting additional coins or tokens.

§17–402.

A political subdivision that issues a license for an amusement device shall send to the Comptroller within 10 days after issuing the license:

(1) a copy of the license;

(2) the name and address of the owner of the amusement device;

(3) the location of the amusement device;

(4) the name of the owner of the place where the amusement device is located; and

(5) a description of the amusement device.

§17–405.

(a) In Part II of this subtitle the following words have the meanings indicated.

(b) "Console machine license" means a license issued by the clerk to keep a free-play console machine for public use.

(c) "Pinball machine license" means a license issued by the clerk to keep a free-play pinball machine for public use.

§17–406.

(a) Except as provided in subsection (b) of this section, Part II of this subtitle applies only in Baltimore City and Baltimore, Caroline, Dorchester, Harford, Kent, Montgomery, Queen Anne's, and Talbot counties.

(b) In Montgomery County, Part II of this subtitle does not apply to free-play console machines.

§17–407.

The Mayor and City Council of Baltimore may license free-play pinball machines and free-play console machines under Chapter 27 of the Acts of 1951 and the ordinances implementing that chapter.

§17–408.

Notwithstanding any other law, it is lawful to keep and operate a free-play pinball machine or free-play console machine and to award free games to players if the free-play pinball machine or free-play console machine is licensed under Part II of this subtitle.

§17–409.

(a) Whenever a person keeps a free-play pinball machine for public use in the State, the person must have a pinball machine license for that free-play pinball machine.

(b) Whenever a person keeps a free-play console machine for public use in the State, the person must have a console machine license for that free-play console machine.

§17–410.

(a) (1) An applicant for a pinball machine license shall pay to the clerk a license fee of:

(i) $10 for each free-play pinball machine in Caroline County, Kent County, or Queen Anne's County; or

(ii) $20 for each free-play pinball machine in Baltimore City, Baltimore County, Dorchester County, Harford County, Montgomery County, or Talbot County.

(2) An applicant for a console machine license shall pay to the clerk a license fee of:

(i) $25 for each free-play console machine in Caroline County, Kent County, or Queen Anne's County; or

(ii) $35 for each free-play console machine in Baltimore City, Baltimore County, Dorchester County, Harford County, or Talbot County.

(b) (1) Baltimore City, Baltimore County, and Harford County may impose fees in addition to the license fee required under subsection (a) of this section.

(2) In Harford County:

(i) an applicant for a pinball machine license shall pay an additional fee of $20 for each free-play pinball machine; and

(ii) an applicant for a console machine license shall pay an additional fee of $35 for each free-play console machine.

(c) The license fee shall be prorated monthly.

(d) All money collected under Part II of this subtitle shall be paid into the general fund of the county where it is collected.

§17–411.

(a) For each free-play pinball machine or free-play console machine licensed under Part II of this subtitle, the clerk shall issue a certificate that the license fee for the current year has been paid.

(b) The certificate shall be attached to the free-play pinball machine or free-play console machine.

§17–412.

(a) A pinball machine license may be transferred to another free-play pinball machine.

(b) A console machine license may be transferred to another free-play console machine.

§17–413.

(a) A person may not keep a free-play pinball machine for public use in the

State unless the person has a pinball machine license that covers that free-play pinball machine.

(b) A person may not keep a free-play console machine for public use in the State unless the person has a console machine license that covers that free-play console machine.

§17–414.

A free-play pinball machine or free-play console machine may not pay out cash or tokens.

§17–415.

A person who keeps a free-play pinball machine or free-play console machine for public use may not allow a minor to operate the free-play pinball machine or free-play console machine.

§17–417.

(a) Except as otherwise provided in this section, a person who violates Part II of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $100 for each violation.

(b) In Montgomery County, a person who violates Part II of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 for each violation.

§17–420.

In Part III of this subtitle, "Wicomico County pinball machine license" means a license issued by the clerk to keep a pinball machine for public use in Wicomico County.

§17–421.

Part III of this subtitle applies only in Wicomico County.

§17–422.

(a) Free-play console machines and free-play pinball machines may not be licensed or kept for public use in Wicomico County.

(b) Pinball machines may be licensed under Part III of this subtitle and kept for public use in Wicomico County if they:

(1) are amusement devices only; and

(2) are not free-play console machines or free-play pinball machines.

§17–423.

Whenever a person keeps a pinball machine for public use in Wicomico County, the person must have a Wicomico County pinball machine license for that pinball machine.

§17–424.

(a) An applicant for a Wicomico County pinball machine license shall pay to the clerk a license fee of $20 for each pinball machine.

(b) The license fee shall be prorated monthly.

(c) All money collected under Part III of this subtitle shall be paid into the general fund of Wicomico County.

§17–425.

(a) For each pinball machine licensed under Part III of this subtitle, the clerk shall issue a certificate that the license fee for the current year has been paid.

(b) The certificate shall be attached to the pinball machine.

§17–426.

A Wicomico County pinball machine license may be transferred to another pinball machine of the same type.

§17–427.

A person may not keep a pinball machine for public use in Wicomico County unless the person has a Wicomico County pinball machine license that covers that pinball machine.

§17–428.

A person who keeps a pinball machine for public use in Wicomico County may not allow a minor to operate the pinball machine.

§17–429.

A person who violates Part III of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $100 for each offense.

§17–432.

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

(b) (1) "Amusement device" means a machine for public use that is activated

by a coin or token and the result of whose operation depends wholly or partly on the skill of the player, whether or not the machine rewards a successful player.

(2) "Amusement device" includes:

(i) a claw machine;

(ii) a console or other pinball machine;

(iii) a shuffleboard game; and

(iv) a mechanical bowling game.

(3) "Amusement device" does not include a service or vending machine.

(c) "Garrett County amusement device license" means a license issued by the clerk to keep an amusement device for public use in Garrett County.

§17–433.

Part IV of this subtitle applies only in Garrett County.

§17–434.

Whenever a person keeps an amusement device for public use in Garrett County, the person must have a Garrett County amusement device license for that amusement device.

§17–435.

(a) An applicant for a Garrett County amusement device license shall pay to the clerk a license fee of $50 for each amusement device.

(b) All money collected under Part IV of this subtitle shall be paid into the general fund of Garrett County.

§17–436.

(a) For each amusement device licensed under Part IV of this subtitle, the clerk shall issue a certificate that the license fee for the current year has been paid.

(b) The certificate shall be attached to the amusement device.

§17–437.

A Garrett County amusement device license may be transferred to another amusement device of the same type.

§17–438.

A person who violates Part IV of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

§17–441.

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

(b) (1) "Amusement device" means:

(i) a billiard table; or

(ii) a game activated by coins, tokens, or other objects or consideration of value.

(2) "Amusement device" includes:

(i) a video game;

(ii) an electronic game;

(iii) a claw machine;

(iv) a bowling game;

(v) a shuffleboard game;

(vi) a pool table;

(vii) a pinball machine;

(viii) a target machine;

(ix) a baseball machine; and

(x) any other similar device.

(3) "Amusement device" does not include a vending machine in which amusement features are not incorporated.

(c) "Amusement device operator license" means a license issued by the County Commissioners of Washington County to operate an amusement device in Washington County.

(d) "Amusement device permit" means a permit issued by the County Commissioners of Washington County to allow the public use of an amusement device in Washington County.

§17–442.

Part V of this subtitle applies only in Washington County.

§17–443.

(a) Whenever a person operates an amusement device in Washington County, the person must have an amusement device operator license.

(b) (1) An applicant for an amusement device operator license shall:

(i) apply to the county commissioners on the form that the county commissioners require; and

(ii) pay a license fee of $25.

(2) An application for an amusement device operator license shall contain:

(i) the name and address of the applicant;

(ii) the name and address of each location where amusement devices are to be operated by the applicant; and

(iii) any other information that the county commissioners require.

(c) (1) Unless an amusement device operator license is renewed for a 1–year term as provided in this subsection, an amusement device operator license expires on June 30 after its effective date.

(2) Before an amusement device operator license expires, the licensee may renew it periodically for an additional 1–year term if the licensee:

(i) applies to the county commissioners on the form that the county commissioners require; and

(ii) pays to the county commissioners a renewal fee of $25.

§17–444.

(a) Whenever a person keeps, owns, or maintains an amusement device, before the person allows the public use of the amusement device in Washington County, the person must have an amusement device permit.

(b) An applicant for an amusement device permit shall:

(1) apply to the county commissioners on the form that the county commissioners require for each location where an amusement device is to be operated; and

(2) pay a fee of $100 for each amusement device.

(c) (1) Unless an amusement device permit is renewed for a 1–year term as provided in this subsection, an amusement device permit expires on June 30 after its effective date.

(2) An amusement device permit may be renewed each year on or before July 1.

§17–445.

If an amusement device is on display for sale, the county commissioners may waive any fee required under this part.

§17–446.

(a) (1) A person who violates § 17–443 of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $5,000 or both.

(2) A person who violates § 17–444 of this subtitle is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding $500 or both.

(b) (1) On conviction for a violation under this part, the county may institute proceedings to seize any amusement device that was operated in violation of this part.

(2) The Circuit Court of Washington County has jurisdiction to hear and determine any forfeiture proceeding carried out under this part.

§17–449.

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

(b) "Amusement device" means:

(1) a free–play console machine;

(2) a free–play pinball machine; and

(3) a coin–operated game.

(c) "Coin–operated game" means a device for public amusement, the operation of which requires the insertion of a coin or token, with the result of the operation depending on the skill of the operator, including:

(1) a claw machine;

(2) a shuffleboard;

(3) a mechanical bowling game;

(4) a single–coin pinball machine; and

(5) any other similar device.

§17–450.

Part VI of this subtitle applies only in Worcester County.

§17–451.

The county commissioners may:

(1) authorize the operation of amusement devices in Worcester County;

(2) provide for the licensing of each amusement device;

(3) subject to § 17–452 of this subtitle, establish annual license fees for amusement devices; and

(4) adopt regulations for the issuance of licenses under this part.

§17–452.

(a) The annual license fee established by the county commissioners for each free–play console machine and each free–play pinball machine may not be less than $25 or exceed $100.

(b) The annual license fee established by the county commissioners for each coin–operated game may not be less than $10 or exceed $50.

(c) The money collected from license fees under this part shall be deposited in the general fund of Worcester County.

§17–453.

(a) Each arcade in Ocean City with 50 or more amusement devices on the premises may obtain an arcade license in accordance with this section.

(b) (1) The annual arcade license fee shall be:

(i) $1,000, if there are at least 50 but not more than 100 amusement devices on the arcade premises;

(ii) $1,500, if there are at least 101 but not more than 150 amusement devices on the arcade premises;

(iii) $2,000, if there are at least 151 but not more than 200 amusement

devices on the arcade premises; and

(iv) $2,500, if there are more than 200 amusement devices on the arcade premises.

(2) In addition to the arcade license fee under this section, each arcade in Ocean City that has on the premises a free–play console machine or free–play pinball machine shall pay a license fee of not less than $25 for each free–play console machine and for each free–play pinball machine.

§17–454.

A person who keeps, maintains, or operates an amusement device without a license as required by this part, or who violates any regulation adopted by the county commissioners for the issuance of a license under this part, is guilty of a misdemeanor and on conviction is subject to a fine of at least $25 but not more than $1,000.

§17–501.

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

(b) "Billiard table" includes a pool table.

(c) "Billiard table license" means a license issued by the clerk to keep a billiard table for commercial use.

§17–502.

(a) This subtitle does not apply in Washington County.

(b) This subtitle does not impair the right of Baltimore City or a municipal corporation of the State to impose a tax on billiard tables.

§17–503.

A person must have a billiard table license whenever the person keeps a billiard table for commercial use in the State.

§17–504.

An applicant for a billiard table license shall pay to the clerk a license fee of:

(1) $10 for each billiard table in a county other than Baltimore City, Baltimore County, or Cecil County;

(2) $20 for each billiard table in Cecil County; or

(3) $40 for each billiard table in Baltimore City.

§17–505.

(a) A person may not keep a billiard table for commercial use unless the person has a billiard table license.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine of $500 for each billiard table kept for commercial use in violation of this section.

§17–601.

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

(b) "Construction license" means a license issued by the clerk to do construction business.

(c) "Do construction business" means to agree to:

(1) pave or curb a sidewalk, street, or other public or private property;

(2) excavate earth, rock, or other material for a foundation or other purpose; or

(3) do work on or in a building or other structure that requires the use of a building material, including:

(i) paint;

(ii) stone;

(iii) brick;

(iv) mortar;

(v) wood;

(vi) cement;

(vii) structural iron;

(viii) structural steel;

(ix) sheet iron;

(x) galvanized iron;

(xi) metallic piping;

(xii) tin;

(xiii) lead;

(xiv) electric wiring; or

(xv) any other metal.

(d) "Nonresident construction license" means a construction license issued by the clerk to a person who is incorporated or has its principal office in another state.

§17–602.

(a) Except as provided in § 8-317 of this article, a person must have a construction license whenever the person does construction business in the State.

(b) (1) Except as provided in paragraph (3) of this subsection, a person who is incorporated or has its principal office in another state must also have a nonresident construction license whenever the person does construction business in this State.

(2) Except as provided in paragraph (3) of this subsection, an additional nonresident construction license is required for each contract to do construction business in this State if the gross amount of the contract exceeds $1,000.

(3) No nonresident construction license is required if the state where the person is incorporated or has its principal office does not require a similar license for a Maryland contractor doing construction business in that state.

§17–603.

(a) An applicant for a construction license shall pay to the clerk a license fee of:

(1) $15 for a construction license in a county other than Baltimore City, Baltimore County, or Cecil County;

(2) $40 for a construction license in Baltimore City or Baltimore County; or

(3) $30 for a construction license in Cecil County.

(b) (1) Except as provided in paragraph (2) of this subsection, an applicant for a nonresident construction license shall pay to the clerk:

(i) a license fee of:

1. $50 for a nonresident construction license in a county other than Baltimore City or Baltimore County; or

2. $60 for a nonresident construction license in Baltimore City or Baltimore County; and

(ii) for each contract for which the applicant is required to get an additional nonresident construction license, an additional license fee of:

1. $50, if the contract will be performed in a county other than Baltimore City or Baltimore County; or

2. $60, if the contract will be performed in Baltimore City or Baltimore County.

(2) An applicant for a nonresident construction license who is incorporated or has its principal office in another state shall pay to the clerk the total fees imposed in that state on a similar nonresident business if the total fees are higher than the total license fees under this section.

§17–701.

In this subtitle, "wholesale farm machinery dealer's license" means a license issued by the clerk to sell farm machinery at wholesale.

§17–702.

A person must have a wholesale farm machinery dealer's license whenever the person sells farm machinery at wholesale in the State.

§17–703.

An applicant for a wholesale farm machinery dealer's license shall pay to the clerk a license fee of:

(1) $50 for a business in a municipal corporation with a population of not more than 10,000;

(2) $100 for a business in a municipal corporation with a population of 10,001 to 50,000; or

(3) $200 for a business in a municipal corporation with a population of more than 50,000.

§17–801.

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

(b) "Garage" means a building or part of a building where motor vehicles are stored for a fee.

(c) "Garage license" means a license issued by the clerk to keep a garage.

§17–802.

A person must have a garage license whenever the person keeps a garage in the State.

§17–803.

(a) (1) An applicant for a garage license shall pay to the clerk a license fee based on the floor area of each garage.

(2) In a county other than Baltimore City or Baltimore County, the license fee is:

(i) $20 for a garage with not more than 2,000 square feet;

(ii) $40 for a garage with more than 2,000 and not more than 3,000 square feet;

(iii) $75 for a garage with more than 3,000 and not more than 5,000 square feet;

(iv) $125 for a garage with more than 5,000 and not more than 7,500 square feet;

(v) $200 for a garage with more than 7,500 and not more than 10,000 square feet; or

(vi) $200 for a garage with more than 10,000 square feet plus $50 for each additional 5,000 square feet or part of 5,000 square feet.

(3) In Baltimore City or Baltimore County, the license fee is $6 for each 100 square feet of each garage.

(b) The floor area on which the license fee is based is the total floor area of all floors of the garage, excluding:

(1) the space occupied by a machine shop that is defined by permanent partitions; and

(2) the floor area of a space 15 feet wide and extending the entire length or depth of the garage on each floor on which a law requires that a space be kept open.

§17–901.

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

(b) "Peddler" includes a hawker, a huckster, and a mobile vendor.

(c) "Peddler license" means a license issued by the clerk to act as a peddler.

§17–904.

(a) In Part II of this subtitle the following words have the meanings indicated.

(b) "Foot peddler" means a peddler who travels on foot.

(c) "Motor vehicle peddler" means a peddler who travels by motor vehicle.

(d) "One horse peddler" means a peddler who travels with a wagon or other vehicle drawn by 1 horse or other beast of burden.

(e) "Two horse peddler" means a peddler who travels with a wagon or other vehicle drawn by 2 horses or other beasts of burden.

§17–905.

(a) Part II of this subtitle does not apply in Anne Arundel, Baltimore, Calvert, Cecil, Howard, Montgomery, and Prince George's counties.

(b) In Allegany County, Part II of this subtitle does not apply to a trader who holds a trader's license and has kept a regular place of business in Allegany County for at least 5 years.

(c) In Charles County, Part II of this subtitle:

(1) applies to the sale of goods from a motor vehicle or temporary stand; but

(2) does not apply to the sale of goods from a motor vehicle or temporary stand in connection with a permanent business in Charles County if:

(i) the seller has the written permission of the owner of the business; and

(ii) the motor vehicle or temporary stand is on or adjacent to the premises of the business.

(d) In Harford County, Part II of this subtitle:

(1) applies to the sale of goods from a vehicle or temporary stand; and

(2) does not apply to:

(i) the sale of goods on property that the seller owns or leases; or

(ii) a not for profit organization.

(e) In St. Mary's County, Part II of this subtitle applies to a nonresident of St. Mary's County who sells goods from a motor vehicle, temporary stand, or other

temporary location.

(f) Except in Harford County, Part II of this subtitle does not apply to the sale of:

(1) fish or oysters in their natural and unpreserved condition; or

(2) perishable fruits or vegetables in their natural condition.

§17–906.

Except as otherwise provided in Part II of this subtitle, a person must have a peddler license whenever the person acts as a peddler in the State.

§17–907.

(a) (1) An applicant for a peddler license shall pay to the clerk the applicable license fee.

(2) If the applicant is a foot peddler, the license fee is:

(i) in Baltimore City, $200;

(ii) in St. Mary's County, the amount set by the County Commissioners, by resolution; and

(iii) in any other county, $100.

(3) If the applicant is a one horse peddler, the license fee is:

(i) in Baltimore City, $250;

(ii) in St. Mary's County, the amount set by the County Commissioners, by resolution; and

(iii) in any other county, $150.

(4) If the applicant is a two horse peddler, the license fee is:

(i) in Baltimore City, $300;

(ii) in St. Mary's County, the amount set by the County Commissioners, by resolution; and

(iii) in any other county, $200.

(5) If the applicant is a motor vehicle peddler, the license fee is:

(i) in Baltimore City, $500;

(ii) in St. Mary's County, the amount set by the County Commissioners, by resolution; and

(iii) in any other county, $300; but

1. in Garrett County, the license fee is $100 for a resident of Garrett County; and

2. in Worcester County, the license fee is $100 for a resident of Worcester County who sells only ice cream.

(b) (1) In Harford County, an applicant for a peddler license must have the written permission of the owner or lessee of the property where the applicant will do business.

(2) The written permission shall include:

(i) the name, address, and telephone number of the owner or lessee of the property;

(ii) the name, permanent address, and telephone number of the applicant;

(iii) a description of the goods to be sold by the applicant; and

(iv) the times of day and the number of days per month that the applicant is allowed to do business on the property of the owner or lessee.

§17–908.

The clerk shall provide a metal tag or stamp to each one horse peddler, two horse peddler, or motor vehicle peddler who holds a peddler license.

§17–909.

(a) A peddler license authorizes the holder to act as a peddler only in the county where the peddler license is issued.

(b) In Harford County, a peddler may not sell goods on:

(1) a county right-of-way; or

(2) a State right-of-way, unless the peddler gets a lease agreement from the appropriate State unit.

§17–910.

(a) Each one horse peddler, two horse peddler, and motor vehicle peddler shall keep the metal tag or stamp issued under this subtitle attached to the vehicle so as to

be clearly visible.

(b) A peddler in Harford County shall:

(1) keep with the peddler at all times the peddler license and a copy of the original written permission of the property owner required under this subtitle; and

(2) produce the peddler license and copy of the written permission on request.

§17–911.

(a) Except as otherwise provided in Part II of this subtitle, a person may not act as a peddler unless the person has a peddler license.

(b) A peddler is considered to be acting as a peddler without a peddler license if the peddler:

(1) acts or offers to act as a peddler without the peddler license with the peddler at the time; or

(2) fails to show the peddler license to a law enforcement officer on request.

(c) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $100.

§17–912.

(a) This section does not apply in Allegany and Washington counties.

(b) A municipal corporation may not require a local license or impose a local fee or tax to sell fresh fruits, vegetables, or other country produce from a wagon at retail if the seller is the producer.

(c) However, a municipal corporation by ordinance may:

(1) provide for the issuance of identification cards or tags to producers of country produce who sell the produce from a wagon at retail;

(2) set a fee, not exceeding 50 cents for each producer, for the issuance of identification cards or tags; and

(3) require producers to get and display identification cards or tags.

(d) (1) A person who is not the producer may not sell or offer to sell any fresh fruits, vegetables, or other country produce from a wagon at retail in a municipal corporation that requires a local license or imposes a local fee or tax to do so without getting the license or paying the fee or tax.

(2) A person who violates this subsection is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $25.

§17–913.

If the County Commissioners of St. Mary's County set a license fee for a license issued under § 17-907 of this subtitle, the County Commissioners shall notify the Comptroller of the Treasury by December 31 of the year before the year the license fee takes effect.

§17–915.

(a) In Part III of this subtitle the following words have the meanings indicated.

(b) "Magazine seller license" means a license issued by the clerk to act as a nonresident itinerant magazine seller.

(c) "Nonresident itinerant magazine seller" means a person who:

(1) is not a resident of Calvert County; and

(2) sells or offers to sell a subscription to a magazine or other publication.

§17–916.

(a) Part III of this subtitle applies only in Calvert County.

(b) Part III of this subtitle does not apply to sales by producers of their own vegetables or other perishable farm products.

§17–917.

(a) Except as otherwise provided in Part III of this subtitle, a person must have a peddler license whenever in Calvert County the person:

(1) sells or offers for sale at wholesale or retail any vegetables, eggs, poultry, meats, or other farm products; or

(2) sells or offers for sale at retail any dry goods or clothing.

(b) A person must have a magazine seller license whenever the person acts as a nonresident itinerant magazine seller in Calvert County.

§17–918.

(a) (1) An applicant for a peddler license shall pay to the clerk a license fee of:

(i) $75, if the applicant sells at wholesale; or

(ii) $150, if the applicant sells at retail.

(2) An applicant for a magazine seller license shall pay to the clerk a license fee of $50.

(b) The clerk shall pay all money collected under this subtitle to the County Treasurer of Calvert County to be placed in the general fund of Calvert County.

§17–919.

The clerk shall issue to each holder of a peddler license a metal tag that indicates that the license fee for the current year has been paid.

§17–920.

Each holder of a peddler license shall keep the metal tag attached to any vehicle used by the peddler.

§17–921.

(a) Except as otherwise provided in Part III of this subtitle, unless a person has a peddler license, the person may not in Calvert County:

(1) sell or offer for sale at wholesale or retail any vegetables, eggs, poultry, meats, or other farm products; or

(2) sell or offer for sale at retail any dry goods or clothing.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500.

§17–922.

(a) A person may not act as a nonresident itinerant magazine seller in Calvert County unless the person has a magazine seller license.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $300.

§17–1001.

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

(b) "Agent" means a person who buys or sells junk or scrap metal for a junk dealer or scrap metal processor.

(c) "Antique dealer" means a person who does business buying and selling antiques.

(d) "Antiques" means objects made in, or typical of, an earlier period of time, that either have special value because of their age or are examples of works of art or handicrafts.

(e) (1) "Junk" or "scrap metal" includes:

(i) nonferrous articles made wholly or substantially of:

1. aluminum;

2. babbitt metal;

3. brass;

4. bronze;

5. light copper;

6. heavy copper;

7. lead;

8. low carbon chrome;

9. low carbon manganese;

10. molybdenum;

11. monel metal;

12. pewter;

13. nickel;

14. stainless steel;

15. tin;

16. vanadium;

17. zinc;

18. platinum;

19. gold;

20. rhodium; or

21. other nonferrous metals; and

(ii) the following used articles, made of either ferrous or nonferrous metal:

1. catalytic converters;

2. metal bleachers;

3. hard–drawn copper;

4. metal beer kegs;

5. cemetery urns;

6. grave markers;

7. propane tanks; and

8. any other used articles owned by a public utility including:

A. guardrails;

B. manhole covers;

C. metal light poles;

D. tree grates;

E. water meters; and

F. street signs.

(2) "Junk" or "scrap metal" does not include beverage cans or food cans.

(f) (1) "Junk dealer" or "scrap metal processor" means a person who does business buying or selling junk or scrap metal.

(2) "Junk dealer" or "scrap metal processor" does not include a dealer or pawnbroker licensed under Title 12 of this article.

(g) "Primary law enforcement unit" means the Department of State Police, a police department, or sheriff, as designated by a resolution of the county or municipal governing body in the county in which the license of the junk dealer or scrap metal processor is held.

§17–1002.

(a) This subtitle does not apply to:

(1) a dealer or pawnbroker licensed under Title 12 of this article;

(2) a person doing business other than junk business or scrap metal business whenever the person:

(i) buys or transports junk or scrap metal used in the operation of the business; or

(ii) transports, for disposal or sale, junk or scrap metal accumulated by the business to dispose of or sell the junk or scrap metal; or

(3) a vehicle that a common carrier uses to transport junk or scrap metal in the business of the common carrier.

(b) Except as provided in § 17–1012 of this subtitle, this subtitle does not apply to antique dealers.

§17–1003.

(a) A county or municipal governing body in the county in which the license of the junk dealer or scrap metal processor is held shall designate by resolution the primary law enforcement unit to receive records in accordance with § 17–1011(b) of this subtitle.

(b) If a municipal governing body designates a county police department or sheriff as the primary law enforcement unit under this section, the county may designate the Department of State Police as the primary law enforcement unit.

§17–1005.

(a) In Part II of this subtitle the following words have the meanings indicated.

(b) "Agent license" means a license issued by the clerk to act as an agent.

(c) "Junk dealer or scrap metal processor license" means a license issued by the clerk to do business as a junk dealer or scrap metal processor.

(d) "Nonresident junk dealer" or "nonresident scrap metal processor" means a junk dealer or scrap metal processor who is not a resident of the State.

(e) "State junk license" includes:

(1) a junk dealer or scrap metal processor license; and

(2) an agent license.

§17–1006.

(a) (1) Except as otherwise provided in this subtitle, a person must have a junk dealer or scrap metal processor license whenever the person does business as a junk dealer or scrap metal processor in the State.

(2) This subsection does not apply to a situation in which:

(i) a nonresident junk dealer or nonresident scrap metal processor buys junk or scrap metal from a junk dealer or scrap metal processor licensee who is a resident of the State; or

(ii) the nonresident junk dealer or nonresident scrap metal processor transports that junk or scrap metal.

(3) If a nonresident junk dealer or nonresident scrap metal processor comes into the State in a vehicle, the nonresident junk dealer or nonresident scrap metal processor may not transport from the State in that vehicle any junk or scrap metal bought in the State unless the nonresident junk dealer or nonresident scrap metal processor holds a junk dealer or scrap metal processor license.

(b) (1) Except as otherwise provided in this subtitle, a person must have an agent license whenever the person acts as an agent in the State.

(2) This subsection does not apply to a salaried employee of a junk dealer or scrap metal processor licensee.

§17–1007.

An applicant for a State junk license shall:

(1) certify to the clerk the applicant's name and business address; and

(2) pay to the clerk a license fee of:

(i) $10 for a junk dealer or scrap metal processor license, if the applicant is a resident of the State;

(ii) $5 for an agent license, if the applicant is a resident of the State; or

(iii) $100 for a junk dealer or scrap metal processor license or agent license, if the applicant is not a resident of the State.

§17–1008.

(a) The clerk shall:

(1) issue, in numerical order, a State junk license to each applicant who meets the requirements of Part II of this subtitle; and

(2) collect an issuing fee of 50 cents per State junk license.

(b) The clerk shall keep a record of the name, business address, and license number of each State junk licensee.

§17–1009.

A State junk license is not transferable.

§17–1010.

A nonresident junk dealer or nonresident scrap metal processor may not keep a fixed place of business in the State.

§17–1011.

(a) (1) This section applies to all junk dealers and scrap metal processors doing business in the State, including nonresident junk dealers and nonresident scrap metal processors.

(2) This section applies to an automotive dismantler and recycler or scrap metal processor licensed under Title 15, Subtitle 5 of the Transportation Article if the automotive dismantler and recycler or scrap metal processor:

(i) conducts business as a licensed junk dealer or scrap metal processor;

(ii) acquires vehicle parts that qualify as junk or scrap metal as defined under § 17–1001(e) of this subtitle; or

(iii) acquires articles that are listed, or made of metals that are listed, in § 17–1001(e) of this subtitle.

(3) This section does not apply to:

(i) an automotive dismantler and recycler or scrap metal processor that only acquires whole vehicles for the purpose of dismantling, destroying, or scrapping them for the benefit of their parts or the materials in them; or

(ii) a person that buys scrap metal to use as raw material to produce 1,000,000 tons of steel or more in the State per calendar year.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, this section preempts the right of a county or municipality to regulate the resale of junk or scrap metal.

(ii) This section does not limit the power of a county or municipality to license junk dealers and scrap metal processors.

(iii) This section supersedes any existing law of a county or municipality that regulates the resale of junk or scrap metal.

(b) (1) For each purchase of junk or scrap metal in the State, a junk dealer or scrap metal processor shall keep an accurate record in English.

(2) The record shall state:

(i) the date and time of purchase;

(ii) a description of the junk or scrap metal purchased, including:

1. the type and grade of the junk or scrap metal; and

2. if payment is based on weight, the weight of each type and grade of junk or scrap metal;

(iii) the amount paid or other consideration for the junk or scrap metal;

(iv) the registration plate number, make, and model of any vehicle used;

(v) the name and address of the individual from whom the junk or scrap metal is acquired;

(vi) the signature of:

1. the individual from whom the junk or scrap metal is acquired; and

2. the junk dealer, scrap metal processor, or employee who accepted the junk or scrap metal; and

(vii) for each individual from whom the junk dealer or scrap metal processor acquires junk or scrap metal:

1. the date of birth and driver's license number of the individual; or

2. identification information about the individual from a valid State–issued photo ID that provides a physical description of the individual, including the sex, race, any distinguishing features, and approximate age, height, and weight of the individual.

(3) The records required under this subsection shall be kept in electronic form.

(4) (i) Subject to subparagraph (iv) of this paragraph, the junk dealer or scrap metal processor shall submit a copy of each record required under this paragraph to the primary law enforcement unit in accordance with subparagraphs (ii) and (iii) of this paragraph.

(ii) A junk dealer or scrap metal processor shall submit a record by transmitting a copy of the records electronically, in a format acceptable to the receiving

primary law enforcement unit, by the end of the first business day following the date of the transaction.

(iii) Each copy of a record submitted to the primary law enforcement unit shall include:

1. the date and time of purchase;

2. a description of the junk or scrap metal, including its weight if payment is based on weight;

3. whether the amount paid or other consideration for the junk or scrap metal exceeds $500;

4. the registration plate number of any vehicle used by the individual from whom the junk or scrap metal is acquired;

5. the name and address of the individual from whom the junk or scrap metal is acquired;

6. the date of birth and driver's license number of the individual from whom the junk or scrap metal is acquired;

7. identification information about the individual from a valid State–issued photo ID that provides a physical description of the individual, including the sex, race, age, height, and weight of the individual; and

8. an electronic scan or photocopy of the valid State–issued photo ID under item 7 of this subparagraph.

(iv) The provisions of subparagraphs (i), (ii), and (iii) of this paragraph may not be construed to require a junk dealer or scrap metal processor to incur a substantial financial burden to comply with the requirements of this paragraph.

(5) A copy of a record submitted under paragraph (4) of this subsection:

(i) shall be kept confidential;

(ii) is not a public record; and

(iii) is not subject to Title 4 of the General Provisions Article.

(6) The primary law enforcement unit may destroy the copy of a record submitted under paragraph (4) of this subsection after 1 year from the date that the primary law enforcement unit receives the copy.

(7) (i) The primary law enforcement unit may waive the holding of electronic records under paragraph (3) of this subsection or the submission of

electronic records under paragraph (4) of this subsection by a junk dealer or scrap metal processor.

(ii) Any waivers granted under subparagraph (i) of this paragraph shall be limited to authorizing a junk dealer or scrap metal processor to:

1. extend the reporting deadline under paragraph (4) of this subsection for an extra day;

2. hold written records; or

3. submit records by facsimile or by mail.

(c) (1) This subsection applies to junk dealers and scrap metal processors who are residents of the State.

(2) Each junk dealer or scrap metal processor shall keep the records required by subsection (b) of this section for 1 year after the date of the transaction.

(3) The records kept in accordance with this subsection shall be open to inspection during business hours by State or local law enforcement personnel for an investigation of a specific crime involving the materials listed under § 17–1001(e) of this subtitle.

(d) (1) A junk dealer or scrap metal processor may not barter, buy, exchange, or accept from a person any junk or scrap metal unless the junk dealer or scrap metal processor keeps records and makes entries in them in accordance with Part II of this subtitle.

(2) A junk dealer or scrap metal processor may not purchase a catalytic converter from an individual unless the individual, at the time of purchase, provides identification as:

(i) a licensed automotive dismantler and recycler or scrap metal processor; or

(ii) an agent or employee of a licensed commercial enterprise.

(3) A junk dealer or scrap metal processor may not purchase a cemetery urn, grave marker, or any other item listed under § 17–1001(e)(1)(ii) of this subtitle from an individual unless the individual, at the time of purchase, provides appropriate authorization from a relevant business or unit of federal, State, or local government specifically authorizing the individual to conduct the transaction.

(e) State or local law enforcement personnel may request information from the records required under subsection (b) of this section pursuant to an investigation of a specific crime involving the materials listed under § 17–1001(e) of this subtitle.

(f) (1) The record and reporting requirements of subsection (b) of this section do not apply to an item that is acquired from:

(i) a licensed junk dealer or scrap metal processor;

(ii) a unit of federal, State, or local government; or

(iii) a commercial enterprise with a valid business license that has entered into a written contract with a junk dealer or scrap metal processor who has provided to the primary law enforcement unit:

1. the name and business address of the commercial enterprise; and

2. the type of junk or scrap metal subject to the contract.

(2) (i) Subject to subparagraph (ii) of this paragraph, a contract under paragraph (1)(iii) of this subsection shall be open to inspection by a local law enforcement agency on the premises of the junk dealer or scrap metal processor during business hours.

(ii) Notwithstanding any other law, a contract open to inspection by a local law enforcement agency under subparagraph (i) of this paragraph may not be open for public inspection without the consent of the junk dealer or scrap metal processor.

(g) (1) If a State or local law enforcement agency has reasonable cause to believe that junk or scrap metal that is in the possession of a junk dealer or scrap metal processor is stolen, the law enforcement agency may issue a written hold notice.

(2) The written hold notice shall:

(i) identify the items of junk or scrap metal alleged to be stolen and subject to hold;

(ii) inform the junk dealer or scrap metal processor of the hold imposed on the items of junk or scrap metal; and

(iii) specify the time period for the hold, not to exceed 15 days.

(3) On receipt of a written hold notice from a law enforcement agency, a junk dealer or scrap metal processor may not process or remove from the junk dealer's or scrap metal processor's place of business before the end of the hold period any items of junk or scrap metal identified in the hold notice, unless the item is released by the law enforcement agency or by court order.

(h) Local law enforcement personnel of the county where the place of business of the junk dealer or scrap metal processor is located or where the junk or scrap metal was purchased may enforce this section.

(i) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) a fine not exceeding $500 for a first offense; and

(2) a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both for a subsequent offense.

§17–1012.

(a) In this section, "historic marker or plaque" means a marker, plaque, or tablet commemorating a historic person or event, or identifying a historic place, structure, or object.

(b) This section applies to all junk dealers, scrap metal processors, and antique dealers who are residents of the State.

(c) (1) Each junk dealer, scrap metal processor, or antique dealer subject to this section who purchases a historic marker or plaque shall register with the sheriff or other law enforcement official designated by the governing body of the county in which the business of the junk dealer, scrap metal processor, or antique dealer is located a complete description of the historic marker or plaque.

(2) The description shall include:

(i) the date and time of purchase;

(ii) the name and address of the seller;

(iii) the license tag number of any vehicle used; and

(iv) a description of the historic marker or plaque, including the full text, any installation date, and the name of any installation sponsor.

(3) The registration required under this section shall be made within 3 business days after the date of the purchase of the historic marker or plaque.

(d) The sheriff or other law enforcement official promptly shall notify the Maryland Historical Trust with a copy to the junk dealer, scrap metal processor, or antique dealer who registered with the sheriff.

(e) A historic marker or plaque may not be sold or otherwise disposed of for a period of 30 days from the date of the notice required under subsection (d) of this section.

(f) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $100.

§17–1013.

Except as otherwise specifically provided in Part II of this subtitle, a person who violates Part II of this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 for each offense.

§17–1101.

In this subtitle, "license" means a license issued by the clerk to do the business of cleaning, dyeing, pressing, or laundering.

§17–1102.

A person must have a license whenever the person does the business of cleaning, dyeing, pressing, or laundering, other than hand laundering, in the State.

§17–1103.

(a) An applicant for a license shall pay to the clerk the applicable license fee.

(b) In a county other than Baltimore City or Baltimore County, the license fee is:

(1) $15 for a business that employs not more than 10 individuals;

(2) $50 for a business that employs 11 to 20 individuals; and

(3) $100 for a business that employs more than 20 individuals.

(c) In Baltimore City or Baltimore County, the license fee is:

(1) $40 for a business that employs not more than 10 individuals;

(2) $125 for a business that employs 11 to 20 individuals; and

(3) $250 for a business that employs more than 20 individuals.

§17–1201.

In this subtitle, "license" means a license issued by the clerk to keep a storage warehouse.

§17–1202.

A person must have a license whenever the person keeps a storage warehouse where goods are stored for a fee in the State.

§17–1203.

An applicant for a license shall pay to the clerk a license fee of:

(1) $30 for a storage warehouse in a municipal corporation with a population of not more than 10,000;

(2) $50 for a storage warehouse in a municipal corporation with a population of 10,001 to 20,000;

(3) $75 for a storage warehouse in a municipal corporation with a population of 20,001 to 50,000; or

(4) $150 for a storage warehouse in a municipal corporation with a population of more than 50,000.

§17–1204.

(a) Before a moving and storage firm or warehouse that stores household goods provides any service, the moving and storage firm or warehouse shall give notice to the buyer of the service that the buyer should get insurance to protect the buyer from loss of goods.

(b) The notice shall be:

(1) in writing;

(2) printed in 12-point or larger type; and

(3) included in the application for service or in a separate statement.

(c) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 30 days or both.

§17–1301.

In this subtitle, "State juke box license" means a license issued by the clerk to keep a juke box for public entertainment.

§17–1304.

Whenever a person keeps a juke box for public entertainment in the State, the person must have a State juke box license for that juke box.

§17–1305.

(a) An applicant for a State juke box license shall pay to the clerk a license fee of $10 for each juke box.

(b) The clerk shall pay to the Comptroller all license fees collected under this subtitle.

§17–1306.

The clerk shall issue each State juke box license in the name of the owner of the juke box.

§17–1307.

A State juke box license is transferable.

§17–1308.

Each State juke box licensee shall display the State juke box license on the premises where the juke box is located.

§17–1309.

(a) A person may not keep a juke box for public entertainment in the State unless the person has a State juke box license that covers that juke box.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine of $100.

§17–1312.

In Part III of this subtitle, "Harford County juke box license" means a license issued by the clerk to keep a juke box for public entertainment in Harford County.

§17–1313.

Whenever a person keeps a juke box for public entertainment in Harford County, the person must have both a State juke box license and a Harford County juke box license for that juke box.

§17–1314.

An applicant for a Harford County juke box license shall pay to the clerk a license fee of $10 for each juke box.

§17–1315.

The clerk shall issue each Harford County juke box license in the name of the owner of the juke box.

§17–1316.

A Harford County juke box license is transferable.

§17–1317.

Each Harford County juke box licensee shall display the Harford County juke box license on the premises where the juke box is located.

§17–1318.

(a) A person may not keep a juke box for public entertainment in Harford County unless the person has a Harford County juke box license that covers that juke box.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine of $100.

§17–1401.

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

(b) "Health officer" means the health officer for the county where an outdoor musical festival will be held.

(c) "Outdoor musical festival" means an event at which a group of individuals participates in musical entertainment:

(1) in an open space;

(2) not in a permanent structure; and

(3) not on publicly owned property.

(d) (1) "Promoter" means a person who:

(i) organizes, operates, produces, or stages an outdoor musical festival; or

(ii) owns or leases property where an outdoor musical festival is held.

(2) "Promoter" does not include the State or a political subdivision of the State.

(e) "Promoter license" means a license issued by the clerk to act as a promoter.

§17–1402.

(a) This subtitle does not apply in Baltimore City or Allegany, Howard, and Montgomery counties.

(b) This subtitle does not apply to an outdoor musical festival held in:

(1) Carroll County by a college or public school; or

(2) Kent County by a not for profit agricultural, charitable, civic, fraternal, religious, social welfare, or war veterans' organization operating in Kent County.

(c) (1) In Anne Arundel, Baltimore, Calvert, Caroline, Cecil, Charles, Dorchester, Garrett, Harford, Prince George's, Somerset, St. Mary's, Talbot, Wicomico, and Worcester counties, this subtitle applies only to an outdoor musical festival with 1,000 or more spectators in attendance.

(2) In Carroll, Frederick, Kent, Queen Anne's, and Washington counties, this subtitle applies only to an outdoor musical festival with 500 or more spectators in attendance.

(d) This subtitle applies only if admission is charged to attend the outdoor musical festival.

§17–1403.

Except as otherwise provided in this subtitle, a person must have a promoter license whenever the person acts as a promoter in the State.

§17–1404.

(a) An applicant for a promoter license shall:

(1) pay to the clerk a license fee of $500; and

(2) get a health permit from the health officer.

(b) An applicant for a health permit shall:

(1) post a bond in accordance with § 17–1405 of this subtitle;

(2) establish adequate health facilities and sanitation in accordance with any regulations adopted by the Department of Health and Mental Hygiene to govern outdoor musical festivals; and

(3) show that the applicant has obtained approval of the local law enforcement unit.

(c) (1) Approval of a local law enforcement unit under subsection (b)(3) of this section shall be based on the applicant's ability to provide:

(i) adequate security for the safety of spectators and their property;

(ii) adequate arrangements for the orderly flow of traffic to, at, and from the outdoor musical festival; and

(iii) adequate security for those persons who might reasonably be affected by the outdoor musical festival and for their property.

(2) Paragraph (1)(iii) of this subsection does not apply in St. Mary's County.

§17–1405.

(a) In St. Mary's County, this section does not apply if the promoter owns the property where the outdoor musical festival will be held.

(b) (1) Except as provided in paragraph (3) of this subsection, each promoter shall post a cash bond with the application for a health permit.

(2) The amount of the bond:

(i) shall be determined by the health officer; but

(ii) may not exceed:

1. $25,000 in Frederick and Washington counties; or

2. $50,000 in the other counties to which this subtitle applies.

(3) In St. Mary's County, a promoter may pledge real or personal property instead of posting a cash bond if the promoter submits to the health officer a verified financial statement confirming that the fair market value of the pledged property equals or exceeds the amount of the bond required.

(c) The health officer:

(1) shall keep the bond until 30 days after the end of the outdoor musical festival; and

(2) after that time, shall return to the promoter any money that has not been used and is not needed to satisfy pending claims.

(d) If, within 72 hours after an outdoor musical festival ends, the promoter fails to remove all trash, and to begin repair of any damage to property, including crops and livestock, that the outdoor musical festival or its spectators caused or created, the health officer may use as much of the bond as necessary to remove the trash and repair the damage.

(e) (1) This subsection does not affect any common law remedy that the person has against the promoter.

(2) Any person who has a claim against the bond shall submit the claim to the health officer within 30 days after the outdoor musical festival ends.

(3) If a claim is submitted, the health officer shall determine and keep the amount necessary to cover the claim.

§17–1407.

(a) Except as otherwise provided in this subtitle, a person may not act as a promoter in the State unless the person has a promoter license.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 6 months or both.

§17–1501.

In this subtitle, "plumber's license" means a license issued by the clerk to do business as a plumber or gas fitter.

§17–1502.

This subtitle does not apply to a person who holds a trader's license issued under Subtitle 18 of this title.

§17–1503.

A person must have a plumber's license whenever the person does business as a plumber or gas fitter in the State.

§17–1504.

(a) Except as otherwise provided in subsection (b) or (c) of this section, an applicant for a plumber's license shall pay to the clerk a license fee of:

(1) $5 for each place of business in a municipal corporation with a population of less than 5,000;

(2) $10 for each place of business in a municipal corporation with a population of 5,000 to 9,999;

(3) $15 for each place of business in a municipal corporation with a population of 10,000 or more; or

(4) $40 for each place of business in Baltimore City or Baltimore County.

(b) In Cecil County, an applicant for a plumber's license shall pay to the clerk a license fee of $30.

(c) An applicant for a plumber's license who is incorporated or has its principal office in another state shall pay to the clerk the fee imposed in that state on a similar nonresident business if that fee is higher than the appropriate license fee under this

section.

§17–1601.

In this subtitle, "restaurant license" means a license issued by the clerk to operate a restaurant or other eating place.

§17–1602.

This subtitle does not apply in Montgomery County.

§17–1603.

A person must have a restaurant license whenever the person operates a restaurant or other eating place in the State.

§17–1604.

An applicant for a restaurant license shall pay to the clerk a license fee of:

(1) $50 for each place of business in Baltimore City, Baltimore County, or Cecil County;

(2) $25 for each place of business in a municipal corporation with a population of 8,000 or more in any other county; or

(3) $10 for each place of business elsewhere in the State.

§17–1801.

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

(b) "Blind Industries" means Blind Industries and Services of Maryland.

(c) "Chain store license" means a license issued by the clerk to operate 2 or more stores under the same general management or ownership.

(d) "Exhibitor" means a person who rents space from a promoter to display and sell goods at a show.

(e) "Licensed trader" means a trader who is licensed by the clerk under this subtitle.

(f) "Promoter" means a person who rents space at a show to an exhibitor.

(g) "Show" includes an antique show, coin show, flea market, gun show, stamp show, and show of a temporary nature.

§17–1802.

This subtitle does not apply to the sale of alcoholic beverages.

§17–1803.

(a) Except as otherwise provided by State law and notwithstanding any local ordinance or regulation to the contrary, a manufacturer located and doing business in the State may sell and deliver goods to licensed traders in the State and for doing so need not get a license from or pay a fee to a county, municipal corporation, or other political subdivision.

(b) A county or municipal corporation may require a local license to sell goods at auction.

(c) Notwithstanding any public general or public local law to the contrary, if a visually handicapped individual or Blind Industries holds a trader's license under this subtitle, the individual or Blind Industries need not get an additional license or pay an additional license fee to do business as a trader during the term of the trader's license.

§17–1804.

(a) Except as otherwise provided in this subtitle, a person must have a trader's license whenever the person:

(1) does business as a trader in the State; or

(2) does business as an exhibitor in the State.

(b) A separate trader's license is required for each store or fixed place of business that a person operates in the State.

(c) This section does not apply to:

(1) a grower, maker, or manufacturer of goods;

(2) a nonresident traveling salesperson, sample merchant, or representative of a foreign mercantile or manufacturing business while selling to or soliciting an order from a licensed trader in the State; or

(3) a private individual while publicly selling the individual's personal effects on the individual's property, if the individual holds only 1 sale not exceeding 14 consecutive days in a calendar year.

(d) (1) An exhibitor need not get a trader's license for a show if the show is promoted by:

(i) a church, as defined in § 5–301(b) of the Corporations and Associations Article;

(ii) a governmental unit;

(iii) an amateur radio organization;

(iv) an antique vehicle, machine, and equipment organization;

(v) a volunteer fire department or rescue squad; or

(vi) a model train collectors' association.

(2) An exhibitor need not get a trader's license for a show if the exhibitor gives to the promoter an exhibitor's affidavit stating that the exhibitor:

(i) receives less than 10% of the exhibitor's annual income from selling the kind of goods that the exhibitor will display and sell at the show; and

(ii) has not participated in more than three shows, not including participation in one show sponsored by a national organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code, during the previous 365 days.

(3) An exhibitor at an antique show, coin show, or collector show need not get a trader's license for the show if the exhibitor gives to the promoter an exhibitor's affidavit stating that the exhibitor:

(i) will display and sell at the show;

(ii) receives less than 10% of the exhibitor's annual income in the State from selling the kind of goods that the exhibitor will display and sell at the show; and

(iii) has not participated in more than three antique shows, coin shows, or collector shows in the State during the previous 365 days.

(4) An exhibitor who has a trader's license need not get an additional trader's license for a show if, before the show, the exhibitor gives the promoter a photocopy of the trader's license.

§17–1805.

A person must have a chain store license whenever the person operates 2 or more retail stores under the same general management or ownership in the State.

§17–1806.

(a) An applicant for a trader's license shall state in the application the place where the applicant will do business as a trader.

(b) (1) This subsection does not apply if the average value of the applicant's stock in trade exceeds $10,000.

(2) An applicant for a trader's license may apply under this subsection if the applicant has a defect in vision such that:

(i) visual acuity in the applicant's better eye does not exceed 20/140 with correcting lenses; or

(ii) the widest diameter of the applicant's visual field subtends an angle not exceeding 20 degrees.

(3) An applicant for a trader's license under this subsection shall submit to the clerk:

(i) a signed certificate, from a licensed physician who specializes in treatment of the eye, that the applicant's vision meets the standard of paragraph (2) of this subsection; and

(ii) an affidavit that the applicant is the owner of the place of business listed in the application.

(4) Blind Industries also may apply for a trader's license under this subsection for a business that it operates, if Blind Industries submits to the clerk an affidavit that:

(i) Blind Industries operates the business listed in the application; and

(ii) the manager of the business has vision that meets the standard of paragraph (2) of this subsection.

§17–1807.

(a) In Baltimore County, the clerk may not issue a trader's license for the first time without the approval of the zoning commissioner.

(b) In an area of Cecil County where the Cecil County Office of Planning and Zoning has jurisdiction, the clerk may not issue a trader's license for the first time until the applicant has obtained zoning approval from that office.

(c) (1) In Howard County, the clerk may not issue a trader's license for the first time without the approval of the Director of the Office of Planning and Zoning.

(2) Within 3 working days after an application for a trader's license is submitted for review to the Director of the Office of Planning and Zoning, the Director shall notify the clerk of the approval or disapproval of the application.

§17–1808.

(a) (1) Except as otherwise provided in this section, an applicant for a

trader's license shall pay to the clerk a license fee based on the value of the applicant's stock–in–trade.

(2) In a county other than Baltimore City or Baltimore County, the license fee is:

(i) $15, if the value of the applicant's stock–in–trade is not more than $1,000;

(ii) $18, if the value is more than $1,000 but not more than $1,500;

(iii) $20, if the value is more than $1,500 but not more than $2,500;

(iv) $25, if the value is more than $2,500 but not more than $4,000;

(v) $30, if the value is more than $4,000 but not more than $6,000;

(vi) $40, if the value is more than $6,000 but not more than $8,000;

(vii) $50, if the value is more than $8,000 but not more than $10,000;

(viii) $65, if the value is more than $10,000 but not more than $15,000;

(ix) $80, if the value is more than $15,000 but not more than $20,000;

(x) $100, if the value is more than $20,000 but not more than $30,000;

(xi) $125, if the value is more than $30,000 but not more than $40,000;

(xii) $150, if the value is more than $40,000 but not more than $50,000;

(xiii) $200, if the value is more than $50,000 but not more than $75,000;

(xiv) $250, if the value is more than $75,000 but not more than $100,000;

(xv) $300, if the value is more than $100,000 but not more than $150,000;

(xvi) $350, if the value is more than $150,000 but not more than $200,000;

(xvii) $400, if the value is more than $200,000 but not more than $300,000;

(xviii) $500, if the value is more than $300,000 but not more than $400,000;

(xix) $600, if the value is more than $400,000 but not more than $500,000;

(xx) $750, if the value is more than $500,000 but not more than $750,000; or

(xxi) $800, if the value is more than $750,000.

(3) In Baltimore City, the license fee is:

(i) $20, if the value of the applicant's stock–in–trade is not more than $1,000;

(ii) $40, if the value is more than $1,000 but not more than $5,000;

(iii) $80, if the value is more than $5,000 but not more than $10,000;

(iv) $160, if the value is more than $10,000 but not more than $50,000;

(v) $375, if the value is more than $50,000 but not more than $100,000;

(vi) $1,000, if the value is more than $100,000 but not more than $300,000;

(vii) $1,500, if the value is more than $300,000 but not more than $750,000; or

(viii) $2,125, if the value is more than $750,000.

(4) In Baltimore County, the license fee is:

(i) $20, if the value of the applicant's stock–in–trade is not more than $1,000;

(ii) $40, if the value is more than $1,000 but not more than $5,000;

(iii) $80, if the value is more than $5,000 but not more than $10,000;

(iv) $160, if the value is more than $10,000 but not more than $50,000;

(v) $375, if the value is more than $50,000 but not more than $100,000;

(vi) $450, if the value is more than $100,000 but not more than $200,000;

(vii) $500, if the value is more than $200,000 but not more than $300,000;

(viii) $775, if the value is more than $300,000 but not more than $400,000;

(ix) $1,000, if the value is more than $400,000 but not more than $500,000;

(x) $1,250, if the value is more than $500,000 but not more than $750,000; and

(xi) $1,600, if the value is more than $750,000.

(b) (1) This subsection does not apply to a domestic corporation that has shares subject to taxation under State law.

(2) In determining the value of an applicant's stock-in-trade, the clerk shall accept as prima facie evidence the values shown on the certification of the State Department of Assessments and Taxation required by § 17-302 of this title.

(c) Notwithstanding the provisions of this section, if the average value of the applicant's stock-in-trade is $10,000 or less, a visually handicapped applicant who meets the standards of § 17-1806(b)(2) of this subtitle or Blind Industries shall pay to the clerk a license fee of only $6.

§17–1809.

(a) This section does not apply to an automobile service station where the principal business is the sale or distribution of motor fuel.

(b) (1) An applicant for a chain store license shall pay to the clerk a license fee based on the value of the applicant's stock–in–trade under § 17–1808 of this subtitle and an additional license fee.

(2) In a county other than Baltimore City, Baltimore County, or Cecil County, the additional license fee is:

(i) $5 for each store for 2 to 5 stores;

(ii) $20 for each store for 6 to 10 stores;

(iii) $100 for each store for 11 to 20 stores; or

(iv) $150 for each store for more than 20 stores.

(3) In Baltimore City or Baltimore County, the additional license fee is:

(i) $12 for each store for 2 to 5 stores;

(ii) $50 for each store for 6 to 10 stores;

(iii) $250 for each store for 11 to 20 stores; or

(iv) $375 for each store for more than 20 stores.

(4) In Cecil County, the additional license fee is:

(i) $10 for each store for 2 to 5 stores;

(ii) $30 for each store for 6 to 10 stores;

(iii) $100 for each store for 11 to 20 stores; and

(iv) $300 for each store for more than 20 stores.

§17–1810.

The clerk shall state on each trader's license the place where the licensed trader may do business as a trader.

§17–1811.

(a) (1) Except as provided in paragraph (2) of this subsection, a trader's license authorizes the holder to offer goods for sale in any part of the State.

(2) However, a trader may keep a store or fixed place of business only at the place stated in the trader's license.

(b) A trader's license issued to an exhibitor authorizes the holder to do business as an exhibitor at any show in the State.

§17–1812.

(a) (1) If a trader disputes the value of the trader's stock-in-trade on which the license fee is based, the trader may submit in accordance with the Tax - Property Article an appeal to the State Department of Assessments and Taxation as to the value of the stock-in-trade.

(2) To avoid being in default, the trader may pay the license fee and get a trader's license with the understanding that the trader will get a refund of any excess amount paid for the trader's license.

(b) (1) If the State Department of Assessments and Taxation reduces the value of the stock-in-trade, resulting in a lower license fee, the licensed trader may get

a refund of any excess amount paid by submitting to the clerk who issued the trader's license:

(i) a claim for the refund; and

(ii) supporting evidence of the reduction from the State Department of Assessments and Taxation.

(2) On approving the claim, the clerk shall pay the refund.

(c) If the clerk pays a refund, the clerk shall deduct the amount of the refund from the license fees distributed to the county or municipal corporation that receives the fee.

§17–1813.

(a) Except as provided in subsection (b) of this section, a trader may transfer the trader's license to a person who:

(1) buys the stock-in-trade of the trader; and

(2) buys or rents the place of business of the trader.

(b) (1) A trader's license issued to a visually handicapped individual or Blind Industries is not transferable.

(2) However, Blind Industries may change the manager of the place of business for which a trader's license was issued if the new manager has vision that meets the standard of § 17-1806(b)(2) of this subtitle.

(c) Whenever a trader sells the trader's stock-in-trade and transfers the trader's license:

(1) the transfer of the trader's license shall be reported to the clerk who issued the license; and

(2) the clerk shall:

(i) record the transfer of the trader's license; and

(ii) charge 50 cents for doing so.

(d) (1) In Baltimore County, the clerk may not issue a transferred trader's license without the approval of the zoning commissioner.

(2) (i) In Howard County, the clerk may not issue a transferred trader's license without the approval of the Director of the Office of Planning and Zoning.

(ii) Within 3 working days after an application for issuance of a

transferred trader's license is submitted for review by the Director of the Office of Planning and Zoning, the Director shall notify the clerk of the approval or disapproval of the application.

(e) A person who buys a trader's license may do business as a trader for the rest of the term of the trader's license.

§17–1814.

(a) A promoter may not allow an exhibitor to do business at a show unless, before the show, the exhibitor submits to the promoter:

(1) a photocopy of the trader's license of the exhibitor; or

(2) an exhibitor's affidavit in accordance with § 17-1804(d)(2) or (3) of this subtitle.

(b) The exhibitor's affidavit or the photocopy of the trader's license shall be displayed conspicuously during the show.

(c) Within 7 days after a show ends, the promoter shall submit to the Comptroller the exhibitors' affidavits.

§17–1815.

(a) (1) In this section the following words have the meanings indicated.

(2) "Yacht brokerage" means the sale of new or used vessels.

(3) (i) "Yacht salesperson" means an individual who provides yacht brokerage services on behalf of a licensed trader.

(ii) "Yacht salesperson" includes a licensed yacht broker.

(b) Subject to the provisions of this section, a licensed trader who sells yachts may, at the trader's option, utilize as an independent contractor, employ, or otherwise contract with a yacht salesperson.

(c) A yacht salesperson:

(1) may operate under a trader's license; and

(2) is not required to be licensed personally.

(d) (1) A licensed trader shall exercise reasonable and adequate supervision over the provision of yacht brokerage services by a yacht salesperson on behalf of the trader.

(2) The requirement of paragraph (1) of this subsection shall apply

regardless of the manner in which a yacht salesperson is affiliated with the trader on whose behalf the services are rendered.

§17–1816.

A person, including a licensed physician, who violates or conspires to violate any provision of this subtitle that relates to trader's licenses for visually handicapped individuals or Blind Industries is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

§17–1901.

In this subtitle, "vending machine license" means a license issued by the clerk to sell goods or offer goods for sale through a vending machine.

§17–1902.

This subtitle does not apply to:

(1) the sale or offering for sale of cigarettes, newspapers, magazines, paper cups, paper or cloth towels, soap, toilet seat covers, postage stamps, or sanitary napkins; or

(2) the sale or offering for sale of merchandise through a bulk vending machine as defined in § 11–201.1 of the Tax – General Article.

§17–1903.

Whenever a person sells goods or offers goods for sale through a vending machine in the State, the person must have a vending machine license that covers that machine.

§17–1904.

An applicant for a vending machine license shall pay to the clerk a license fee of $2.50 for each vending machine.

§17–1905.

(a) The clerk shall give each vending machine licensee an identification label for each vending machine.

(b) (1) Subject to regulations adopted by the Comptroller, the identification label shall be attached to the vending machine so that the identification label is easily visible.

(2) In addition, the name and telephone number of the vending machine licensee or owner of the vending machine shall be displayed on each vending machine so that the name and telephone number are easily visible.

(c) (1) If an inspector finds that a vending machine does not display the identification label required by this section, the inspector promptly shall:

(i) notify the vending machine licensee or owner in writing of the violation; and

(ii) require that the vending machine licensee or owner display the identification label properly within 10 days after receiving notice of the violation.

(2) If the vending machine licensee or owner fails to display the identification label properly within 10 days, the inspector shall:

(i) seal the vending machine to prevent further use; and

(ii) take necessary action to enforce the licensing provisions of this subtitle.

(3) If neither the identification label nor the name and telephone number of the vending machine licensee or owner are displayed properly, the inspector:

(i) immediately shall seal the vending machine to prevent further use; and

(ii) shall take necessary action to enforce this subtitle.

§17–1906.

(a) A person may not sell goods or offer goods for sale through a vending machine in the State unless the person has a vending machine license that covers that machine.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $100.

§17–1907.

(a) An unauthorized person may not remove or tamper with a seal on a vending machine.

(b) A person who violates this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $100.

§17–2001.

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

(b) "License" means a license issued by the clerk to do business as a trading stamp issuer.

(c) "Trading stamp" means a certificate, coupon, label, stamp, ticket, or other

similar device that is redeemable for goods.

(d) (1) "Trading stamp issuer" means a person who sells or delivers trading stamps to another person in connection with a sale of goods by the other person.

(2) "Trading stamp issuer" includes a manufacturer or packer that issues trading stamps in connection with the sale of its products.

§17–2002.

A person must have a license whenever the person does business as a trading stamp issuer in the State.

§17–2003.

An applicant for a license shall pay to the clerk a license fee of:

(1) $50 for an applicant that is a manufacturer or packer that issues trading stamps in connection with the sale of its products; or

(2) $500 for any other applicant.

§17–20A–01.

In this subtitle:

(1) "transient vendor" means a person who makes sales subject to the sales and use tax in the State from a motor vehicle or from a roadside or temporary location, excluding sales from a location that the vendor owns; and

(2) "transient vendor" does not include:

(i) a person whose only activities in the State are the delivery of goods in interstate commerce into the State from outside the State pursuant to orders that were solicited or placed by mail or other means;

(ii) a person who hand crafts items for sale at special events, including fairs, carnivals, art and craft shows, and other festivals and celebrations in the State;

(iii) an exhibitor, within the meaning of § 17-1801(d) of this title; or

(iv) an individual who sells by catalogue, sample, or brochure for future delivery and who makes sales to the owner or legal occupant of the premises pursuant to the invitation of the owner or legal occupant of the premises.

§17–20A–02.

(a) (1) Before conducting business in the State, a transient vendor shall

obtain a transient vendor's license.

(2) The Comptroller may not issue a transient vendor's license unless the transient vendor has a sales and use tax license and any necessary trader's license and has paid all State taxes.

(3) An application for a transient vendor's license shall be in the form and contain the information that the Comptroller requires by regulation.

(4) A license required under this section shall be valid for not more than 90 days.

(5) The Comptroller may not renew a license required under this section unless the transient vendor has a sales and use tax license and any necessary trader's license and has paid all State taxes.

(b) A transient vendor shall display the transient vendor's license at each transient place of business.

(c) The transient vendor's license shall be on the form specified by the Comptroller.

§17–20A–03.

(a) The Comptroller may provide by regulation or may order in an individual case that at least 10 days before entering the State to conduct business, a transient vendor shall notify the Comptroller, in writing, of the location or locations where it intends to conduct business and the date or dates on which it intends to conduct business.

(b) While conducting business in the State, a transient vendor shall permit the Comptroller to inspect:

(1) its sales records, including sales receipts and inventory or price lists; and

(2) the goods offered for sale.

(c) Subject to the hearing provisions of subsection (d) of this section, the Comptroller may suspend or revoke a license issued to a transient vendor under this subtitle if the transient vendor:

(1) fails to notify the Comptroller as required under subsection (a) of this section;

(2) provides false information to the Comptroller;

(3) fails to collect the sales and use tax on all sales as required under Title

11 of the Tax - General Article; or

(4) otherwise fails to comply with the provisions of the sales and use tax law or the provisions of this subtitle.

(d) (1) Except as otherwise provided in § 10-226 of the State Government Article, before the Comptroller takes any final action under this section, the Comptroller shall give the person against whom the action is contemplated an opportunity for a hearing before the Comptroller.

(2) The Comptroller shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(3) The Comptroller may administer oaths in a proceeding under this subsection.

(4) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Comptroller may hear and determine the matter.

§17–20A–04.

(a) (1) Subject to the hearing provisions of subsection (b) of this section, if a transient vendor conducting business in the State fails to display a valid transient vendor's license, the Comptroller may order an immediate stop sale until a transient vendor's license is obtained or may order a law enforcement officer to seize the goods that the transient vendor is offering or has offered for sale.

(2) Subject to the hearing provisions of subsection (b) of this section, if a transient vendor sells or offers to sell goods in the State without stating and charging the sales and use tax separately from the sale price as required under Title 11 of the Tax - General Article, the transient vendor's license is void and shall be seized by the law enforcement officer and returned to the Comptroller, and the provisions of paragraph (1) of this subsection apply.

(b) (1) The Comptroller may order summarily a stop sale or a seizure of the transient vendor's goods or license if the Comptroller:

(i) finds that the public health, safety, or welfare requires emergency action; and

(ii) promptly gives the licensee:

1. written notice of the stop sale or seizure, the finding, and the reasons that support the finding; and

2. an opportunity to be heard.

(2) (i) If the Comptroller finds that emergency action is not necessary

under paragraph (1) of this subsection, before the Comptroller takes any final action under subsection (a) of this section, the Comptroller shall give the person against whom the action is contemplated an opportunity for a hearing before the Comptroller.

(ii) The Comptroller shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(iii) The Comptroller may administer oaths in a proceeding under this subsection.

(iv) If, after due notice, the person against whom the action is contemplated does not appear, nevertheless the Comptroller may hear and determine the matter.

(c) (1) All property seized by a law enforcement officer under this section shall be deemed prima facie to be contraband of law.

(2) All rights, title, and interest in the property seized shall vest immediately in and to the local government, if seized by a law enforcement official of a local government, or to the State, if seized by State authorities, and may not be returned to the vendor or any other person, except as provided in this section.

(d) (1) If the ultimate disposition of charges, in connection with which the property may have been seized, results in a record of conviction being entered against the vendor, the State Treasurer or the fiscal officer of the local government, within 90 days from the date of the record of the entry of conviction, unless the case is appealed, shall apply to the District Court or circuit court of the county for an order declaring and ordering that the property be forfeited to the sole use of the State or local government.

(2) Before the court to which an application is directed shall proceed to order a forfeiture of the property to the State or local government, the court shall establish to its satisfaction that there is no pending and undetermined suit or proceeding that has been filed in a court of competent jurisdiction against the State or the local government seeking a return or recovery of the property held in custody.

(3) All applications for the forfeiture of contraband shall be by petition.

(4) A copy of the petition and show cause order shall be served in the first instance in accordance with the Maryland Rules.

(e) (1) On disposition of a charge resulting in acquittal, dismissal, a stet, a nolle prosequi, or probation under § 6-220 of the Criminal Procedure Article, a vendor claiming that the seized property is not contraband of law under subsection (c) of this section and should be returned to the vendor may apply, within 1 year after the date the judgment or order was entered or the action was taken that constituted the disposition and on giving 10 days' prior written notice to the State Treasurer or appropriate local fiscal officer, to the appropriate court for a determination that the property is the property of the claimant and for an order that it be returned.

(2) In a proceeding on that application, an acquittal, dismissal, or nolle prosequi with respect to any indictment involved in the seizure of the property is prima facie evidence that the property is not contraband.

(3) A conviction, plea of guilty or of nolo contendere, or probation under the provisions of § 6-220 of the Criminal Procedure Article is prima facie evidence that the property is contraband.

(4) No presumption in the proceeding shall attach to an entry of stet.

(5) If a petition is not timely and properly filed, or if it is finally decided against the claimant, the seized property shall be forfeited to the custodian without further judicial action.

(6) Timely notice shall be given by certified mail or other appropriate means to any known claimants, at their last known address, of the requirements of this section for making claim for the return of the seized property or the seized property may not be forfeited as provided in paragraph (5) of this subsection.

(f) The provisions of this section shall be enforced by any State or local law enforcement officer.

§17–20A–05.

A transient vendor who conducts business in the State without displaying a valid transient vendor's license is guilty of a misdemeanor and upon conviction is subject to a fine not to exceed $500 for each offense.

§17–20A–06.

The requirements of this subtitle are in addition to and do not exempt or otherwise alter the obligations of a transient vendor under the requirements of:

(1) the sales and use tax law under Titles 11 and 13 of the Tax - General Article; and

(2) any other licensing or permit requirements under this title or under any other laws of the State or a subdivision of the State.

§17–2101.

In this subtitle, "license" has the meaning stated in § 17-201 of this title.

§17–2102.

A person may not do any business in the State for which a license is required under this title unless the person has an appropriate license.

§17–2103.

A person may not fail to display a license as required by this title.

§17–2104.

With the approval of the Comptroller, the chief license inspector or an assistant license inspector shall begin proceedings to prosecute each person who:

(1) is required to get a license from a clerk under this title; but

(2) fails to get the license or to pay an adequate license fee.

§17–2105.

In a prosecution for selling goods without an appropriate license, proof that the defendant displayed or offered the goods for sale or kept a place of business where the goods were displayed or offered for sale is prima facie evidence that the defendant sold goods.

§17–2106.

(a) Except as otherwise specifically provided in this title, a person who violates this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $300 or imprisonment not exceeding 30 days.

(b) Each agent or officer of a corporation convicted of violating this subtitle who actually engaged in the unlicensed business is individually subject to the penalties provided by law.

(c) The penalty provided in this section does not affect any other penalty specifically provided by law for a violation of a license law.

§18–101.

(a) (1) This section does not apply to the laws that relate to the sale of alcoholic beverages.

(2) This section does not apply in Wicomico County.

(b) Subject to this section and § 3–704 of the Labor and Employment Article, a retail or wholesale establishment may do business on Sunday.

(c) Notwithstanding an agreement to the contrary between a merchant and landlord:

(1) the landlord may not directly or indirectly require the merchant to open the merchant's place of business on Sunday; and

(2) a landlord may not directly or indirectly cancel or refuse to renew the merchant's lease because the merchant refuses to open the merchant's place of business on Sunday.

(d) Except in Howard, Montgomery, and Prince George's counties, and except as provided in subsections (g), (h), and (i) of this section, a new or used car dealer may not sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on Sunday.

(e) In Anne Arundel County, a dealer may sell, barter, deliver, give away, show, or offer for sale on Sunday a new or used camping trailer, mobile home, or travel trailer, as those terms are defined in Title 11 of the Transportation Article.

(f) A new or used car dealer who violates subsection (d) of this section is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $10,000.

(g) In Anne Arundel County and Worcester County, a dealer may sell, barter, deliver, give away, show, or offer for sale a motorcycle, as defined in § 11–136 of the Transportation Article, or certificate of title for a motorcycle on Sunday.

(h) In Baltimore City, a used car dealer may sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on Sunday, instead of Saturday, if the dealer notifies the Motor Vehicle Administration in advance that the dealer intends to conduct business on Sunday, instead of Saturday.

(i) In Charles County, the County Commissioners, after a public hearing, may adopt an ordinance authorizing a new or used car dealer to sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on Sunday.

§18–102.

A professional sports team may play a game at any time after 1 p.m. on a Sunday or at any earlier time provided by local law or ordinance.

§18–201.

This subtitle applies only in Wicomico County.

§18–202.

(a) This section does not apply to the laws that relate to the sale of alcoholic beverages.

(b) Subject to this section and § 3-704 of the Labor and Employment Article, a retail or wholesale establishment may do business on Sunday.

(c) Notwithstanding an agreement to the contrary between a merchant and

landlord:

(1) the landlord may not directly or indirectly require the merchant to open the merchant's place of business on Sunday; and

(2) a landlord may not directly or indirectly cancel or refuse to renew the merchant's lease because the merchant refuses to open the merchant's place of business on Sunday.

(d) A new or used car dealer may not sell, barter, deliver, give away, show, or offer for sale a motor vehicle or certificate of title for a motor vehicle on Sunday.

(e) The State's Attorney of Wicomico County may sue in the circuit court for Wicomico County to enjoin a violation of this section.

§19–101.

(a) A person other than as an agent or employee of the United States or a state or a political subdivision of the United States or a state may not use the word "official", or its equivalent, in connection with a tourist or travelers' guide or information service or with related advertising or publicity.

(b) (1) In this subsection, "advertisement" includes a display or sign that is visible from a public highway.

(2) A person may not conduct or operate a tourist or travelers' information service unless each affixed advertisement that announces the service by the prominent display of the word "information" or a synonym includes, in letters that are at least half the size of the largest letters in the advertisement and that are lighted and displayed with substantially equal prominence, a complete list of names, headed "Sales Agents For" or the equivalent, of each business from which a person, directly or indirectly connected with the service, receives a commission, fee, or other payment or remuneration for referrals to the business.

(3) This subsection does not apply to:

(i) a bona fide chamber or association of commerce of cities, towns, or counties of the State; or

(ii) an information service furnished by a retail business if remuneration is not received from any other business other than for goods sold on the premises.

(c) Any person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a penalty not exceeding $500 for each offense.

§19–102.

(a) This section applies to each corporation or company that acts as a common carrier or forwarder in the State, including a railroad, steamboat, transportation, or forwarding company.

(b) (1) Except as provided in subsection (c) of this section, a common carrier or forwarder may sell at public auction freight that is forwarded on the common carrier or forwarder to a point in the State if:

(i) for 3 months after arriving at its destination the freight remains unclaimed and the legal charges on the freight remain unpaid;

(ii) the owner or consignee cannot be found after diligent inquiry, or, for 3 months after being found and notified of the arrival of the freight, does not receive the freight and pay the legal charges on the freight; and

(iii) the common carrier or forwarder at least 10 days before the sale has posted notices of the time and place of the sale in three public places in the county or municipal corporation in which the sale is to be made.

(2) Out of the proceeds of the sale the common carrier or forwarder:

(i) may pay the legal charges, including the costs of storage of the freight; and

(ii) shall pay, on demand, any balance to the owner or consignee of the freight.

(c) (1) A judge of the circuit court for a county in which freight is located that has been forwarded by a common carrier or forwarder may pass an order for the sale of the freight if the judge deems the sale expedient, on the terms and notice that the order prescribes, if:

(i) the common carrier or forwarder files with the judge an application, verified by affidavit, that sets forth the reasons for which the application is made;

(ii) the freight is livestock, is perishable, or is so damaged or of such other character as to make it impracticable for it to remain in the possession of the company owning or operating the common carrier or forwarder for 3 months after its arrival at its destination; and

(iii) the owner or consignee cannot be found after diligent inquiry, or, for 24 hours after being found and notified of the arrival of the freight, does not receive the freight and pay the legal charges on the freight.

(2) Out of the proceeds of the sale, the common carrier or forwarder:

(i) may pay the expenses incident to the sale and legal charges, including the cost of the keep of the livestock or the cost of storage of the freight; and

(ii) shall pay, on demand, any balance to the owner or consignee of the freight.

(d) (1) In this subsection, "baggage" includes personal baggage, sample packages, bundles, or luggage.

(2) A common carrier or forwarder may sell at public auction baggage that is transported by the common carrier or forwarder to any point in the State if:

(i) the baggage remains at its destination for 3 months or, if it is lost or stray baggage, remains unclaimed by the owner or the consignee for 3 months at the place to which it has been transported;

(ii) the owner or consignee cannot be found after diligent inquiry, or, after being found and notified of the arrival of the baggage, does not receive the baggage and pay the reasonable charges on the baggage; and

(iii) the common carrier or forwarder at least 10 days before the sale has posted notices of the time and place of the sale in three public places in the county or municipal corporation in which the sale is to be made.

(3) Out of the proceeds of the sale the common carrier or forwarder:

(i) may pay the legal charges, including the costs of storage of the baggage; and

(ii) shall pay, on demand, any balance to the owner or consignee of the baggage.

§19–103.

(a) In this section, "truck stop" means a facility:

(1) the primary purpose of which is to provide services to long–haul truck drivers; and

(2) that provides:

(i) shower facilities to the truck drivers for a fee; or

(ii) parking for the truck drivers' vehicles.

(b) (1) The owner of a privately owned bus station or truck stop shall post the National Human Trafficking Resource Center Hotline information sign described in § 15–207 of this article in each restroom of the bus station or truck stop.

(2) A sign required under this section shall be posted:

(i) on the inside of each stall door in the restroom; or

(ii) on the back of the door at the entrance to the restroom.

(c) (1) An agency that enforces this section and determines that a violation of this section has occurred shall notify the business owner of the bus station or truck stop, or the business owner's agent, of the violation.

(2) If the business owner of the bus station or truck stop does not post signs as required under this section within 24 hours after receiving the notice required under paragraph (1) of this subsection, the business owner is subject to a civil penalty not exceeding $1,000.

(3) For each restroom in which a business owner fails to post a sign in accordance with this section, the business owner is subject to a separate civil penalty.

§19–201.

In this subtitle, "organization" means an incorporated or unincorporated society, association, organization, lodge, order, fraternal society, beneficial association, fraternal and beneficial society or association, historical, military, or veterans' organization, labor union, foundation, federation, degree, branch, subordinate lodge, or auxiliary.

§19–202.

(a) (1) Except as provided in subsection (b) of this section, an organization may register with the Secretary of State a facsimile, duplicate, or description of its name or insignia, including a badge, motto, button, decoration, charm, emblem, or rosette if the principles and activities of the organization are not repugnant to the Constitution and laws of the United States or this State.

(2) An organization that registers a name or insignia under this subsection may change or cancel the registration by reregistration.

(b) The Secretary of State may not register a name or insignia of an organization if the name or insignia is similar to, imitates, or so nearly resembles another name or insignia registered under this section as to be likely to deceive.

§19–203.

The chief executive officer of the organization shall apply for registration under this subtitle on the form that the Secretary of State provides.

§19–204.

(a) Any fees that the Secretary of State establishes for registration, alteration, cancellation, research, and the issuance of certificates under this subtitle shall be as provided by law for similar services.

(b) The Secretary of State shall pay fees collected under this subtitle, less administrative costs, into the General Fund of the State.

§19–205.

A registration under this subtitle is for the use, the benefit, and on behalf, of the organization, or a subsidiary or member in the State of the organization.

§19–206.

(a) (1) The Secretary of State shall keep a properly indexed record of registrations granted under this subtitle.

(2) The record shall show any altered or canceled registration.

(b) The Secretary of State shall issue a certificate of registration to each person granted a registration under this subtitle.

§19–207.

(a) A person may not falsely impersonate an officer or member of a military or patriotic organization, grand or subordinate lodge, or fraternal or sororal society that is chartered or has grand or subordinate lodges in the State.

(b) (1) Subject to paragraph (2) of this subsection, a person may not wear, or use to obtain aid, assistance, or personal or social recognition from a person in the State, the insignia of a military or patriotic organization, or a lodge or fraternal society that is chartered or has grand or subordinate lodges in the State, unless the person is entitled to use or wear the insignia under the constitution, bylaws, or rules of the organization, lodge, or society.

(2) Nothing in this subsection may be construed to prohibit a person from wearing an insignia of a lodge or society if the person is a parent, sibling, child, or spouse of a member of the lodge or society who is entitled to wear the insignia under this subsection.

(3) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $200.

(c) (1) A person may not wear willfully, or use to obtain aid or assistance in the State, the insignia of the American Legion, the Veterans of Foreign Wars of the United States, or the Disabled American Veterans, unless the person is entitled to use

or wear the insignia under the constitution, bylaws, or rules of the organization.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) a fine not exceeding $25; or

(ii) if payment of the fine is defaulted, imprisonment not exceeding 30 days.

(d) (1) A person may not willfully wear, exhibit, display, print, or use the insignia that is registered under this subtitle, unless the person is entitled to use or wear the insignia under the constitution, bylaws, or rules of the organization.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) a fine not exceeding $100; or

(ii) if payment of the fine is defaulted, imprisonment not exceeding 60 days.

§19–301.

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

(b) (1) "Returnable container" means a device made of any material:

(i) that is used to hold, contain, or convert goods into a package, either by necessity or for convenience of delivery or sale;

(ii) that is suitable for repeated use; and

(iii) the title to which the seller does not intend to pass with the sale of the goods or the transport or return of the goods, as provided in item (2)(ii) of this section.

(2) "Returnable container" includes:

(i) a basket, tray, milk crate, or any type of container that is used by a bakery, dairy, distributor, retailer, food service establishment, or its agent, to transport, store, or carry goods including bakery or dairy products; and

(ii) a bag, box, basket, or any other device:

1. that is intended for repeated use;

2. that is used to hold or contain goods that are being:

A. transported to a laundry, dry cleaning, or dyeing establishment to be washed, laundered, dry cleaned, or dyed; or

B. returned to the person entitled to the return; and

3. the title to which the seller does not intend to pass by the transport or return of the goods.

(c) "Returnable textile" means a garment, towel, table linen, or bed linen with an identifying name, mark, or device woven, impressed, or produced on it, that is regularly supplied clean, and periodically exchanged for a similar soiled textile.

§19–302.

(a) In this subtitle, requiring or accepting a deposit on a registered returnable container, whether optional, conditional, or otherwise, does not constitute a sale of the container.

(b) (1) The owner of a returnable container or returnable textile may bring a civil action, including an action for injunctive relief, to preserve the rights of the owner, to recover damages, or to recover the returnable container or returnable textile, from a person who unlawfully possesses the returnable container or returnable textile of the owner.

(2) In an action brought under this subsection, the owner of a returnable container or returnable textile may recover up to three times the value of the actual damages, plus reasonable attorney's fees.

(c) This subtitle does not prohibit a prosecution for theft under § 7–104 of the Criminal Law Article.

§19–303.

(a) (1) A person may register:

(i) a class of returnable containers if:

1. the person owns or deals in goods handled or delivered in a returnable container; and

2. the returnable container has an identifying name, mark, or device securely attached, impressed, or imprinted; or

(ii) a class of returnable textiles, if the person:

1. is in the business of regularly supplying clean laundered returnable textiles; and

2. periodically exchanges the clean returnable textiles for

soiled returnable textiles.

(2) A person who has registered a returnable container or returnable textile under State law is not required to reregister the returnable container or returnable textile.

(b) To register a returnable container or returnable textile a person shall:

(1) (i) prepare a clear statement of the character of the returnable container or returnable textile; and

(ii) prepare a comprehensive description of the identifying name, mark, or device attached, impressed, imprinted, woven, or produced;

(2) sign and acknowledge the comprehensive description before an officer qualified to take an acknowledgment to deeds in the State;

(3) publish the signed and acknowledged comprehensive description:

(i) in two successive issues, in different weeks, of a newspaper published in the county in which the principal office, place of business, or agency of the person is located; or

(ii) twice a week for 2 successive weeks in a daily newspaper published in Baltimore City if the principal office, place of business, or agency of the person is located in Baltimore City; and

(4) file with the Secretary of State the comprehensive description and a certificate of publication, certified by the owner or manager of the newspaper in which the comprehensive description was published.

(c) A person may transfer a registration by filing a copy of the assignment or transfer with the Secretary of State.

(d) (1) The Secretary of State shall record each:

(i) comprehensive description filed under subsection (b) of this section;

(ii) certificate of publication filed under subsection (b) of this section; and

(iii) transfer filed under subsection (c) of this section.

(2) On application, the Secretary of State shall provide to the applicant a certified copy of a recorded filing.

(3) The Secretary of State shall establish reasonable fees:

(i) for recording under this section; and

(ii) for providing copies of records filed under this section.

(e) A certified copy of a comprehensive description and a certificate of publication or of a transfer with the seal of the Secretary of State attached is:

(1) evidence that the person complied with this subtitle; and

(2) prima facie evidence of:

(i) title to or right to use, collect, or deliver the corresponding returnable containers; and

(ii) title to the corresponding returnable textiles.

§19–304.

(a) (1) After the recordation, a person may not:

(i) use a registered returnable container of another with contents of a nature different from that delivered; or

(ii) sell, buy, rent, or otherwise traffic in a registered returnable textile of another.

(2) A person who violates this subsection:

(i) is guilty of a misdemeanor and on conviction is subject to:

1. for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000; and

2. for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $2,500 or both; and

(ii) shall forfeit to the rightful owner possession of the property involved in the violation.

(b) (1) After the recordation, a person may not willfully deface, remove, conceal, or destroy an identifying name, mark, or device attached, impressed, or imprinted on a returnable container or returnable textile of another.

(2) A person who violates this subsection:

(i) is guilty of a misdemeanor and on conviction is subject to:

1. for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000; and

2. for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $2,500 or both; and

(ii) shall forfeit to the rightful owner possession of the property involved in the violation.

(c) (1) After the recordation, a person may not willfully break, destroy, or otherwise injure a returnable container or returnable textile of another.

(2) A person who violates this subsection:

(i) is guilty of a misdemeanor and on conviction is subject to:

1. for a first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000; and

2. for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $2,500 or both; and

(ii) shall forfeit to the rightful owner possession of the property involved in the violation.

(d) (1) After the recordation, a person may not buy, offer for sale, sell, use, give, receive, hire, rent, lend, transport, collect from ash or garbage receptacles, dumps, or premises, keep in stock or store, or dispose of a returnable container or returnable textile of another without an assignment from or the written consent of the registered owner.

(2) A person who violates this subsection:

(i) is guilty of a misdemeanor and on conviction is subject to:

1. for each first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000; and

2. for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $2,500 or both; and

(ii) shall forfeit to the rightful owner possession of the property involved in the violation.

(e) A person may not adopt and register under this subtitle a returnable container or returnable textiles, or a description, name, mark or device, that:

(1) has been previously registered by another; or

(2) is in use by another in good faith.

(f) (1) A person who receives a registered returnable container or registered

returnable textile may not fail on demand to surrender promptly the container or textile to the person from whom the container or textile was received.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to:

(i) for each first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000; and

(ii) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $2,500 or both.

(g) (1) A person who receives a registered returnable container that has come into immediate contact with a dairy product shall thoroughly clean the inside of the container immediately after emptying the contents.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine of $500.

§19–305.

A District Court judge shall issue a search warrant, authorizing a search of the premises specified in the warrant, to a sheriff, deputy sheriff, or other law enforcement officer to whom a warrant may be directed, if a person who has registered a returnable container or returnable textile, or the person's agent, makes an affidavit before the judge, stating that:

(1) the affiant demonstrates probable cause to believe that a violation of § 19–304(a), (b), (c), or (d) of this subtitle has occurred; and

(2) evidence of the violation may be obtained by a search of premises specified by the affiant.

§19–306.

(a) In a prosecution under this subtitle, a charging document is sufficient if it:

(1) describes the returnable container or returnable textile in a way that allows its identification;

(2) affirms that the returnable container or returnable textile is distinctly marked and registered under this subtitle; and

(3) gives the name of the owner of the returnable container or returnable textile, the person using the returnable container or returnable textile through registration, or, if applicable, the transferee.

(b) In a prosecution under this subtitle, a charging document need not:

(1) state or describe the name, mark, or device attached, impressed, or imprinted on a returnable container or returnable textile; or

(2) state the particulars of the registration of the returnable container or returnable textile or of the assignment or transfer of the registration.

§19–307.

(a) In a prosecution under § 19-304(a), (b), (c), or (d) of this subtitle, possession by a person charged of all or part of the registered returnable container or returnable textile is prima facie evidence that the person is guilty of the charge.

(b) Subsection (a) of this section does not apply to:

(1) a garbage collector who collects a registered returnable container or returnable textile in the regular course of business;

(2) the possession of a registered returnable container by a person who received the container with its contents; or

(3) the possession of a registered returnable textile.

§19–308.

(a) (1) In this section, "plastic secondary packaging" means a plastic crate or shell used for the bulk transportation, storage, or carrying of retail items.

(2) "Plastic secondary packaging" includes milk crates, bakery and soft drink trays, and other commercial plastic secondary packaging.

(b) Other than a manufacturer of plastic secondary packaging, a person may not purchase four or more items of plastic secondary packaging for the purpose of recycling, shredding, or destroying the items.

(c) (1) Each person that purchases an item of plastic secondary packaging, including a person that is in the business of recycling, shredding, or destroying plastic secondary packaging, shall make a written record of each transaction in which a person sells four or more items of plastic secondary packaging, that shows that the person selling the plastic secondary packaging has lawful possession or ownership of the plastic secondary packaging.

(2) For each transaction subject to paragraph (1) of this subsection, the purchaser shall:

(i) verify the seller's identity by a driver's license or other government–issued identification; and

(ii) make a record of each transaction that includes:

1. the name, address, telephone number, and signature of the seller or the seller's authorized representative;

2. the name and address of the purchaser;

3. the registration number and license tag number of any vehicle used in the delivery of the plastic secondary packaging;

4. a description of the items sold, including the number of units; and

5. the date of the transaction.

(d) The purchaser shall keep the records required by this section for at least 1 year after the date of purchase.

(e) A person that violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) for each first violation, imprisonment not exceeding 1 year or a fine not exceeding $1,000; and

(2) for each subsequent violation, imprisonment not exceeding 3 years or a fine not exceeding $2,500 or both.

§19–401.

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

(b) "Beneficial owner" means a person for whose benefit a boat broker is entrusted to hold money.

(c) "Boat" means any vessel that is propelled by sail or machinery in the water.

(d) "Boat broker" means a person who provides boat brokerage services for another person.

(e) "Boat broker trust account" means an account that a broker maintains at a financial institution for the deposit of trust money.

(f) "Boat brokerage services" means to engage in any of the following activities for an expectation of compensation:

(1) selling a boat, offering to sell a boat, or negotiating to sell a boat;

(2) buying a boat, offering to buy a boat, or negotiating to buy a boat;

(3) soliciting or obtaining a listing of a boat; or

(4) negotiating the purchase, sale, or exchange of a boat.

(g) "Trust money" means a deposit, payment, or other money that a person entrusts to a boat broker to hold for the benefit of the person or a beneficial owner.

§19–402.

(a) A boat broker shall place any trust moneys received in anticipation of a boat purchase into a boat broker trust account until the boat broker:

(1) disburses the trust moneys to the beneficial owner on completion of the boat purchase; or

(2) returns the trust moneys to the purchaser if the boat purchase is not completed.

(b) A boat broker trust account established under this section shall be separate from the boat broker's operating account.

§19–501.

In this subtitle, "soldier" means:

(1) an active duty member of the armed forces of the United States, including the Army, Marine Corps, Navy, Air Force, Coast Guard, National Guard, Reserve forces, and any other standard United States military agency; or

(2) a federal active duty member of the State National Guard or Reserve force.

§19–502.

This subtitle does not apply to:

(1) the use of a soldier's name, portrait, picture, or image in an attempt to portray, describe, or impersonate that soldier in a live performance, single and original work of fine art, play, book, article, film, musical work, radio or television programming, or other audio or audiovisual work, if the performance, fine art, play, book, article, film, musical work, radio or television programming, or other audio or audiovisual work does not constitute a commercial advertisement for any product, good, ware, or merchandise;

(2) the use of a soldier's name, portrait, picture, or image for noncommercial purposes, including any news, public affairs, or sports broadcast or account;

(3) the use of a soldier's name in truthfully identifying the soldier as the author of a particular work or program or as the performer in a particular performance;

(4) any promotional materials, advertisements, or commercial

announcements for a use described in item (1), (2), or (3) of this section;

(5) unless the exhibition is continued by the professional photographer after written notice objecting to the exhibition by a person with the authority to grant consent for use under § 19–503 of this subtitle, the use of photographs, video recordings, and images by a person practicing professional photography to exhibit, in or about the professional photographer's place of business or portfolio, samples of the professional photographer's work;

(6) the use of a soldier's picture, portrait, or image that is not facially identifiable; and

(7) a photograph of a monument or a memorial that is placed on any product, good, ware, or merchandise.

§19–503.

A person may not knowingly use the name, portrait, picture, or image of a soldier killed in the line of duty within the previous 50 years in advertising for the sale of a product, good, ware, merchandise, or service, for the purpose of gaining a commercial advantage, without obtaining prior consent for use from the soldier or the surviving spouse, the personal representative, or the majority of the heirs of the deceased soldier.

§19–504.

A person who violates § 19–503 of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $2,500 or imprisonment not exceeding 1 year or both.

§19–601.

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

(b) "Basic rights information" means information applicable to a noncitizen, including information about human rights, immigration, and emergency assistance and resources.

(c) "Client" means an individual who is a citizen or resident of the United States and the State of Maryland and who uses the services of an international marriage broker to meet recruits.

(d) "Criminal history record information" means criminal history record information as described in § 10–201 of the Criminal Procedure Article.

(e) (1) "International marriage broker" means a corporation, partnership, sole proprietorship, or other legal entity that does business in the United States and offers to Maryland residents dating, matrimonial, or social referral services involving recruits by:

(i) exchanging names, telephone numbers, addresses, photographs, or statistics or otherwise facilitating communication between a client and a recruit; or

(ii) providing a social environment for introducing clients to recruits in person.

(2) "International marriage broker" does not include:

(i) a traditional marriage broker that operates on a nonprofit basis and otherwise operates in compliance with the laws of the countries in which it operates, including the laws of the United States; or

(ii) an entity that provides dating services if its principal business is not to provide international dating services between Maryland residents and foreign nationals and it charges comparable rates and offers comparable services to all individuals it serves regardless of the individual's gender or country of citizenship.

(f) "Marital history information" means a declaration of an individual's current marital status, the number of times the individual has been married, the number of domestic violence protective orders issued against the individual, and whether any previous marriage occurred as a result of receiving services from an international marriage broker.

(g) "Recruit" means an individual who is not a citizen or resident of the United States and who uses the services of or is recruited by an international marriage broker for dating, matrimonial, or social referral services.

§19–602.

(a) (1) An international marriage broker shall provide each recruit with criminal history record information and marital history information of its client and basic human rights information before personal contact information about a recruit is given to the client.

(2) The human rights information provided under paragraph (1) of this subsection may be prepared by an organization that is not affiliated with the international marriage broker.

(b) The information required in subsection (a) of this section must be:

(1) in the recruit's native language; and

(2) displayed in a manner that:

(i) separates the criminal history record information, the marital history information, and the basic rights information from any other information; and

(ii) is highly noticeable.

(c) The international marriage broker shall pay the costs incurred to translate the information.

§19–603.

(a) In accordance with federal law, a client shall:

(1) provide the client's own marital history information to the international marriage broker; and

(2) notify the international marriage broker if the client has previously sponsored an international spouse.

(b) The international marriage broker shall require the client to affirm that the marital history information is complete and accurate and includes information regarding marriages, annulments, dissolutions, and the number of domestic violence protective orders issued against the client that occurred in this State, in another state, or in a foreign country.

(c) The international marriage broker may not provide any personal contact information to the client or the recruit, including the last name, phone number, address, or electronic mail address of the client or the recruit, until the international marriage broker has:

(1) received the information from the criminal history records check required under § 19–604 of this subtitle;

(2) received the requested marital history information; and

(3) provided the information to the recruit.

(d) Information obtained by the international marriage broker under this section shall be confidential and may not be used for any purpose other than that for which it was disseminated.

§19–604.

Prior to the release of any personal contact information to the client or the recruit, the international marriage broker shall conduct a State and national criminal history records check of the client, including a search of the sex offender registry.

§19–605.

An international marriage broker may disclose personal contact information on a recruit only after obtaining consent from the recruit, written in the recruit's native language.

§19–606.

An international marriage broker shall be deemed to be doing business in the State if it contracts for services with a Maryland resident or is considered to be doing business under other laws of the State.

§19–607.

(a) A person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $12,000 or imprisonment not exceeding 1 year or both, in addition to any penalty imposed under federal law.

(b) In determining the penalty, the court shall consider:

(1) any previous violations of this subtitle by the international marriage broker;

(2) the seriousness of the violation, including the nature, circumstances, and extent of the violation;

(3) the demonstrated good faith of the international marriage broker; and

(4) the necessity of deterring future violations.

§19–701.

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

(b) "Breeder" means a person who breeds or raises dogs to sell, exchange, or otherwise transfer to the public.

(c) "Clinically ill" means an illness that is apparent to a licensed veterinarian based on observation, examination, or testing of the dog.

(d) (1) "Dealer" means a person who, for compensation:

(i) buys, sells, or negotiates the purchase of a dog; or

(ii) delivers for transport or transports a dog.

(2) "Dealer" does not include a person who transports a dog as a carrier only.

(e) "Nonelective surgical procedure" means a surgical procedure that is necessary to preserve or restore the health of an animal or to correct a condition that would:

(1) interfere with the animal's ability to walk, run, jump, or otherwise

function in a normal manner; or

(2) cause pain and suffering to the animal.

(f) "Purchaser" means any person who purchases a dog from a retail pet store.

(g) "Retail pet store" means a for–profit establishment open to the public that sells or offers for sale domestic animals to be kept as household pets.

§19–702.

This subtitle does not apply to a bona fide nonprofit organization operating within a retail pet store.

§19–703.

(a) A retail pet store that sells dogs shall:

(1) post conspicuously on each dog's cage:

(i) the breed, age, and date of birth of the dog, if known;

(ii) the state in which the breeder or dealer of the dog is located; and

(iii) the United States Department of Agriculture license number of the breeder or dealer, if required;

(2) maintain a written record that includes the following information about each dog in the possession of the retail pet store:

(i) the breed, age, and date of birth of the dog, if known;

(ii) the sex, color, and any identifying markings of the dog;

(iii) documentation of all inoculations, worming treatments, and other medical treatments, if known, including the date of the medical treatment, the diagnoses, and the name and title of the treatment provider;

(iv) the name and address of:

1. the breeder or dealer who supplied the dog;

2. the facility where the dog was born; and

3. the transporter or carrier of the dog, if any;

(v) the United States Department of Agriculture license number of the breeder or dealer, if required;

(vi) any identifier information, including a tag, tattoo, collar number, or microchip; and

(vii) if the dog is being sold as registered or registrable:

1. the names and registration numbers of the sire and dam; and

2. the litter number; and

(3) for each dog acquired by the retail pet store, maintain a written record of the health, status, and disposition of the dog, including any documents that are required at the time of sale.

(b) A retail pet store shall maintain a copy of the records required under subsection (a)(2) of this section for at least 1 year after the date of sale of the dog.

(c) A retail pet store shall make the records required under subsection (a)(2) of this section available to:

(1) the Division of Consumer Protection of the Office of the Attorney General on reasonable notice;

(2) any bona fide prospective purchaser on request; and

(3) the purchaser at the time of a sale.

§19–704.

(a) A retail pet store shall provide to a purchaser at the time of a sale of a dog:

(1) a health certificate from a veterinarian licensed in the State issued within 30 days before the date of sale certifying that the dog:

(i) has no known disease, illness, or congenital or hereditary condition which is diagnosable with reasonable accuracy; and

(ii) does not appear to be clinically ill from parasitic infection at the time of the examination;

(2) the written record about the dog maintained by the retail pet store under § 19–703(a)(2) of this subtitle; and

(3) a statement notifying the purchaser of the specific rights available to the purchaser under this subtitle.

(b) It is an unfair or deceptive trade practice within the meaning of Title 13 of the Commercial Law Article for a retail pet store to include any false or misleading statements in the health certificate or written record provided to a purchaser under

subsection (a) of this section.

§19–705.

(a) (1) A person who purchased a dog from a retail pet store is entitled to a remedy under this section if:

(i) within 7 days after the date of the sale, the person had the dog examined by a veterinarian licensed in the State and, within 14 days after the date of the sale, the licensed veterinarian states in writing that the dog suffers from or has died of a disease or illness adversely affecting the health of the dog and that existed in the dog on or before the date of delivery to the purchaser; or

(ii) within 180 days after the date of the sale, a licensed veterinarian states in writing that the dog possesses or has died of a congenital or hereditary condition adversely affecting the health of the dog or that requires hospitalization or a nonelective surgical procedure.

(2) Intestinal or external parasites may not be considered to adversely affect the health of the dog unless the presence of the parasites makes the dog clinically ill.

(b) (1) A purchaser entitled to a remedy under subsection (a) of this section may:

(i) return the dog to the retail pet store for a full refund of the purchase price;

(ii) exchange the dog for another dog of comparable value chosen by the purchaser, if available; or

(iii) retain the dog and be reimbursed by the retail pet store for reasonable and documented veterinary fees for diagnosis and treatment of the dog, not exceeding the purchase price of the dog.

(2) Unless the owner or operator of the retail pet store contests a reimbursement required under paragraph (1)(iii) of this subsection, the reimbursement shall be made to the purchaser no later than 10 business days after the retail pet store receives the veterinarian's statement under subsection (c) of this section.

(c) To obtain a remedy under this section, a purchaser shall provide to the owner or operator of the retail pet store, within 5 business days after receipt, a written statement from a licensed veterinarian that the dog suffers from or has died of a disease, illness, or congenital or hereditary condition adversely affecting the health of the dog and that existed in the dog on or before the date of delivery to the purchaser.

(d) A purchaser is not entitled to a remedy under this section if:

(1) the illness or death resulted from:

(i) maltreatment or neglect by the purchaser;

(ii) an injury sustained after the delivery of the dog to the purchaser; or

(iii) an illness or disease contracted after the delivery of the dog to the purchaser;

(2) the purchaser does not carry out the recommended treatment prescribed by the veterinarian who made the diagnosis; or

(3) the illness, disease, or congenital or hereditary condition was disclosed at the time of purchase.

§19–706.

A violation of this subtitle:

(1) is an unfair or deceptive trade practice within the meaning of Title 13 of the Commercial Law Article; and

(2) is subject to the enforcement and penalty provisions contained in Title 13 of the Commercial Law Article.

§19–707.

Nothing in this subtitle limits:

(1) the rights or remedies otherwise available to a purchaser;

(2) the ability of the owner or operator of a retail pet store and purchaser to agree to additional terms and conditions that do not impair the rights granted to a purchaser under this subtitle; or

(3) the ability of the State or a local government to prosecute the owner or operator of a retail pet store for any other violation of law.

§19–801.

(a) A mining company formed or organized in the State may not own, operate, hold any interest in, or receive profits from any store.

(b) This section does not prohibit the employees of a mining company from forming a cooperative store.

§20–101.

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

(b) "Automated purchasing machine" means a self–service device that:

(1) is designed to dispense money in exchange for personal property; and

(2) is also known as a reverse vending machine.

(c) "Buyer" means a person that buys or offers to buy personal property by means of an automated purchasing machine.

(d) "Electronic device" means a device capable of facilitating communication through voice, data, text, or other visual or auditory format.

(e) "Employee" means an individual who is employed by a buyer to buy or supervise directly the buying of personal property.

(f) "License" means a license issued by the Secretary to do business as a buyer.

(g) (1) "Personal property" means private property that is moveable.

(2) "Personal property" includes:

(i) property that is serialized or normally has a unique identifier; and

(ii) gift cards or vouchers that have monetary value.

(h) "Primary law enforcement unit" means the Department of State Police, a police department, or sheriff, as designated by a resolution of the county or municipal governing body in the county in which the automated purchasing machine is located.

(i) (1) "Recyclable materials" means material that:

(i) if not recycled, would become solid waste for disposal in a refuse disposal system; and

(ii) may be collected, separated, or processed and returned to the marketplace in the form of raw materials or products.

(2) "Recyclable materials" includes paper, glass, metals, plastics, and cardboard.

(j) "Resident agent" means a person registered in the State who:

(1) serves as a primary point of contact;

(2) regularly conducts business for the licensee; and

(3) maintains a physical location in Maryland where the resident agent regularly conducts business and at which the resident agent or an employee of the resident agent is physically present during normal business hours.

(k) "Seller" means a person who sells or offers to sell personal property to an automated purchasing machine.

§20–102.

(a) This title does not apply to an automated purchasing machine that is used exclusively for collecting recyclable materials in accordance with a recycling program approved by the Department of the Environment.

(b) (1) Except as provided in paragraph (2) of this subsection, this title:

(i) preempts the right of a county or municipality to regulate automated purchasing machines and operators of automated purchasing machines; and

(ii) supersedes any existing law of a county or municipality that regulates automated purchasing machines and operators of automated purchasing machines.

(2) This title does not limit the power of a county or municipality to:

(i) license automated purchasing machines and operators of automated purchasing machines; or

(ii) prohibit the installation or operation of automated purchasing machines within the county or municipality.

§20–103.

The Secretary shall adopt regulations to carry out and enforce this title.

§20–201.

(a) A county or municipal governing body in the county in which an automated purchasing machine is located shall designate by resolution the primary law enforcement unit to receive records in accordance with § 20–402(a)(1) of this title.

(b) If a municipal governing body designates a county police department or sheriff as the primary law enforcement unit under this section, the county may designate the Department of State Police as the primary law enforcement unit.

§20–301.

Except as otherwise provided in this title, a person shall have a license before the person does business as a buyer in the State.

§20–302.

(a) (1) An applicant for a license shall:

(i) submit to the Secretary an application on the form that the Secretary provides; and

(ii) pay to the Secretary an application fee of $300.

(2) The application fee is nonrefundable.

(b) The applicant shall sign the application under oath.

(c) In addition to any other information that the Secretary requires, the application shall state:

(1) the name, date of birth, and residence address of the applicant;

(2) the business address of the applicant;

(3) a telephone number at which the applicant can be reached during normal business hours;

(4) each address where the applicant has conducted any business during the 3 years before application;

(5) the driver's license number, if any, of the applicant; and

(6) the name and permanent address of the resident agent who will represent the applicant in the State.

(d) The application form shall contain immediately above the signature line the following:

"If issued a license, I agree to allow a municipal, county, or State police officer or agent acting in the course of a stolen property investigation or an investigation of a violation of this title to inspect and photograph all personal property and records at my business or storage locations.".

§20–303.

Before an individual may begin work as a resident agent for a buyer:

(1) the buyer shall submit to the Secretary on the form that the Secretary

provides the name of the individual; and

(2) the individual shall apply for a national and State criminal history records check required under § 20–304(b) of this subtitle.

§20–304.

(a) In this section, "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(b) Applicants for licenses under § 20–301 of this subtitle and individuals whose names must be submitted to the Secretary under § 20–303 of this subtitle shall apply to the Central Repository for a national and State criminal history records check on a form approved by the Director of the Central Repository.

(c) The Central Repository shall provide to the Secretary:

(1) the national and State criminal history records of each individual requiring a criminal history records check under subsection (b) of this section and a printed statement listing any convictions and pleas of guilty or nolo contendere to any criminal charge;

(2) an update of the initial criminal history records check for an individual requiring a criminal history records check and a revised printed statement listing any convictions and pleas of guilty or nolo contendere to any criminal charge occurring in the State after the date of the initial criminal history records check; and

(3) an acknowledged receipt of the application for a criminal history records check by an individual requiring a criminal history records check.

(d) An individual requiring a criminal history records check shall submit a complete set of legible fingerprints taken at any designated State or local law enforcement office in the State or other agency or location approved by the Secretary of Public Safety and Correctional Services to the Central Repository.

(e) An individual requiring a criminal history records check under subsection (b) of this section shall pay:

(1) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and

(2) the fee authorized under § 10–221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records.

(f) A buyer or an applicant may pay for the costs incurred by the resident agent or other individual requiring a criminal history records check under subsection (b) of this section.

(g) (1) Information obtained by the Secretary from the Central Repository under this title shall be confidential and may be disseminated only to the individual who is the subject of the criminal history records check.

(2) Nothing in paragraph (1) of this subsection shall preclude the Secretary from notifying a buyer or an applicant of the approval or disqualification of the resident agent for employment based on information obtained by the Secretary under this section.

(h) The Secretary shall verify periodically the continued employment or licensure of individuals requiring criminal history records checks in accordance with regulations adopted by the Secretary of Public Safety and Correctional Services.

§20–305.

(a) On receipt of a complete national and State criminal record report from the Central Repository in accordance with § 20–304 of this subtitle, the Secretary shall issue a license to each applicant who meets the requirements of this subtitle.

(b) The Secretary may not issue a license for an address that is:

(1) a hotel or motel room;

(2) a motor vehicle; or

(3) a post office box.

(c) The Secretary may not issue more than one license for a single business location.

(d) The Secretary may not issue a license to a minor.

(e) Whenever a license is suspended or revoked, another license may not be issued to a buyer for the same business location.

(f) A license authorizes the licensee to do business as a buyer only at the address for which the license is issued.

§20–306.

(a) Unless a license is renewed for a 2–year term as provided in this section, the license expires on the first April 30 that comes:

(1) after the effective date of the license; and

(2) in an even–numbered year.

(b) At least 1 month before a license expires, the Secretary shall mail to the licensee, at the last known address of the licensee:

(1) a renewal application form; and

(2) a notice that states:

(i) the date on which the current license expires;

(ii) the date by which the Secretary must receive the renewal application for the renewal to be issued and mailed before the license expires; and

(iii) the amount of the renewal fee.

(c) Before a license expires, the licensee periodically may renew it for an additional 2–year term if the licensee:

(1) submits to the Secretary a renewal application on the form that the Secretary provides;

(2) signs the renewal application under oath;

(3) updates the information submitted in the original application and states that the information is current;

(4) except as provided in subsection (d) of this section, agrees to comply with each requirement applicable to the original application;

(5) states that the licensee:

(i) has not violated this title;

(ii) has not been convicted of an offense specified in § 20–307 of this subtitle; and

(iii) has not had a similar license denied, suspended, or revoked in another jurisdiction;

(6) otherwise is entitled to be licensed; and

(7) pays to the Secretary a renewal fee of $265.

(d) The Secretary may require a licensee to submit a national and State criminal history records check with the renewal application.

(e) The Secretary shall renew the license of each licensee who meets the requirements of this section.

(f) A license is not transferable and may be used only to benefit the licensee.

(g) (1) A licensee may change the place of business for which a license is issued only if the licensee:

(i) submits to the Secretary an application to transfer the license to a new business location on a form that the Secretary provides; and

(ii) receives the written approval of the Secretary.

(2) Within 45 days after the application is filed with the Secretary, the Secretary shall approve or disapprove the application and notify the licensee of the approval or disapproval in writing.

(3) If the Secretary approves a proposed change of place of business, the licensee shall attach the written approval of the Secretary to the license until an amended license is received by the licensee.

(h) The Secretary may determine that licenses issued under this subtitle shall expire on a staggered basis.

§20–307.

(a) (1) In this subsection, a buyer's or an applicant's agents, employees, management personnel, or partners include only those individuals who are directly involved in transactions on behalf of the buyer or applicant.

(2) Subject to the hearing provisions of § 20–308 of this subtitle, the Secretary may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee or an agent, an employee, a manager, or a partner of the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another person;

(ii) fraudulently or deceptively uses a license;

(iii) has a similar license denied, suspended, or revoked in another jurisdiction;

(iv) under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the applicant or licensee to be involved in buying or selling personal property;

(v) knowingly employs or knowingly continues to employ, after being notified by the Secretary, an individual who, under the laws of the United States or of any state, is convicted of:

1. a felony; or

2. a misdemeanor that is directly related to the fitness and qualification of the employee to be involved in buying or selling personal property;

(vi) willfully fails to provide or willfully misrepresents any information required to be provided under this title;

(vii) violates this title; or

(viii) violates a regulation adopted under this title.

(3) (i) Instead of or in addition to reprimanding a licensee or suspending or revoking a license under this subsection, the Secretary may impose a penalty not exceeding $5,000 for each violation.

(ii) To determine the amount of the penalty imposed under this subsection, the Secretary shall consider:

1. the seriousness of the violation;

2. the harm caused by the violation;

3. the good faith of the licensee; and

4. any history of previous violations by the licensee.

(4) The Secretary shall pay any penalty collected under this subsection into the General Fund of the State.

(5) The Secretary shall distribute periodically to all buyers a list of individuals whose licenses have been revoked in the State.

(b) (1) If a licensee is charged with a violation of this title that could result in suspension or revocation of the license, the Secretary may seek from a circuit court an immediate restraining order to prohibit the licensee from:

(i) buying or selling personal property;

(ii) disposing of personal property; or

(iii) disposing of a record about personal property.

(2) The restraining order is in effect until:

(i) the court lifts the order; or

(ii) the charges are adjudicated or dismissed.

(c) The Secretary shall consider the following facts in the granting, denial, renewal, suspension, or revocation of a license or the reprimand of a licensee when an applicant or a licensee is convicted of a felony or misdemeanor described in subsection (a)(2) of this section:

(1) the nature of the crime;

(2) the relationship of the crime to the activities authorized by the license;

(3) with respect to a felony, the relevance of the conviction to the fitness and qualification of the applicant or licensee to act as a buyer;

(4) the length of time since the conviction; and

(5) the behavior and activities of the applicant or licensee before and after the conviction.

§20–308.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the Secretary takes any final action under § 20–307 of this subtitle, the Secretary shall give the individual against whom the action is contemplated an opportunity for a hearing before the Secretary.

(b) The Secretary shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Secretary may administer oaths in a proceeding under this section.

(d) If, after due notice, the individual against whom the action is contemplated does not appear, nevertheless the Secretary may hear and determine the matter.

§20–309.

A party to a proceeding under this title who is aggrieved by a final decision of the Secretary in a contested case, as defined in § 10–202 of the State Government Article, may take an appeal as allowed in §§ 10–222 and 10–223 of the State Government Article.

§20–310.

The Secretary shall inform each primary law enforcement unit of each license that is issued, renewed, changed to a new business location, denied, suspended, or revoked.

§20–401.

(a) A buyer shall ensure that each automated purchasing machine that the buyer owns or operates in the State meets the requirements of this section.

(b) (1) Before the completion of a transaction in which an automated purchasing machine buys personal property, the automated purchasing machine shall require a seller to provide the following information:

(i) the full name of the seller;

(ii) the date of birth of the seller;

(iii) the complete home address of the seller; and

(iv) a contact telephone number for the seller.

(2) An automated purchasing machine receiving personal property from a seller shall verify the information provided by the seller under paragraph (1) of this subsection by requiring the seller to submit:

(i) the seller's government–issued identification card; or

(ii) any other form of personal identifying information required by the Secretary.

(c) (1) On completion of a transaction in which an automated purchasing machine buys personal property, the automated purchasing machine shall make a record of the transaction that includes:

(i) the information obtained from the seller under subsection (b)(1) of this section;

(ii) a photograph of the seller;

(iii) an electronic copy or a photocopy of the identifying information submitted under subsection (b)(2) of this section;

(iv) the date, time, and location of the transaction; and

(v) a description of the personal property, including a statement whether the personal property appears to have been altered.

(2) (i) In addition to the information required under paragraph (1) of this subsection, if the personal property bought by an automated purchasing machine is an electronic device, the automated purchasing machine shall make a record of:

1. the make and model of the electronic device; and

2. the serial number of the electronic device if it can be determined at the time of purchase.

(ii) A serial number that an automated purchasing machine generates to record a transaction does not qualify as a serial number for purposes of

this paragraph.

(3) A separate entry shall be made for each item of personal property involved in a transaction.

§20–402.

(a) (1) (i) Subject to subparagraph (iii) of this paragraph, a buyer shall submit a copy of the records required under § 20–401(c) of this subtitle to the primary law enforcement unit within 48 hours after a transaction in a paper or electronic format acceptable to the primary law enforcement unit.

(ii) If a serial number cannot be determined at the time of the transaction, a buyer shall submit to the primary law enforcement unit:

1. a preliminary report containing the information required under § 20–401(c) of this subtitle, except the serial number, within 48 hours after the transaction; and

2. a final report containing the information required under § 20–401(c) of this subtitle, including the serial number, within 17 days after the transaction.

(iii) The provisions of subparagraph (i) of this paragraph may not be construed to require a buyer to incur a substantial financial burden to comply with the requirements of this paragraph.

(2) A buyer shall keep the records required under § 20–401(c) of this subtitle for at least 1 year after the date of the transaction.

(3) A copy of a record submitted under § 20–401(c) of this subtitle:

(i) shall be kept confidential;

(ii) is not a public record; and

(iii) is not subject to Title 10, Subtitle 6 of the State Government Article.

(b) (1) A buyer shall keep all personal property bought for at least 30 days after the buyer submits the information required under § 20–401(c) of this subtitle to the primary law enforcement unit.

(2) On the request of the primary law enforcement unit, a buyer shall provide to the primary law enforcement unit any personal property purchased by an automated purchasing machine at the cost of the buyer.

(c) A buyer shall make all personal property purchased by an automated

purchasing machine available for inspection by the primary law enforcement unit at any time.

(d) (1) A buyer shall remove all items of personal property from an automated purchasing machine in intervals of no less than 10 days.

(2) A buyer shall notify the primary law enforcement unit of the date and time the buyer will remove personal property from an automated purchasing machine at least 72 hours before removing the personal property.

(3) The primary law enforcement unit may inspect the personal property being removed from an automated purchasing machine at the time of the removal.

§20–403.

(a) (1) (i) A buyer shall use an individual to screen each transaction in which an automated purchasing machine buys personal property.

(ii) An individual who screens a transaction may screen the transaction remotely.

(2) A buyer shall keep a record of the screener assigned to screen each transaction.

(b) If a buyer determines that personal property sold to an automated purchasing machine is stolen, the buyer shall:

(1) contact the primary law enforcement unit as soon as practicable; and

(2) return the personal property to the primary law enforcement unit free of charge.

§20–501.

(a) A buyer may not buy or offer to buy personal property from a minor.

(b) If an automated purchasing machine cannot determine the serial number of an electronic device and the device is valued at $25 or more, the buyer may not purchase the electronic device.

§20–502.

(a) A person who knowingly or willfully violates this title is guilty of a misdemeanor and on conviction is subject to:

(1) for a first offense, a fine not exceeding $1,000; and

(2) for a second or subsequent offense, a fine not exceeding $5,000.

(b) Each violation of this title is a separate offense.