

Chapter 12

(House Bill 1052)

AN ACT concerning

Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission

FOR the purpose of establishing the Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission with certain powers and duties; transferring certain responsibilities of the Comptroller to the Executive Director of the Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission; providing that the members of the Commission are to be appointed by the Governor with the advice and consent of the Senate; providing for the qualifications, terms, reimbursement for expenses, and removal of the members; prohibiting a member from having certain interests or positions in the alcohol, or tobacco, ~~or motor fuel~~ industries or accepting certain contributions from the alcohol, or tobacco, ~~or motor fuel~~ industries with respect to the regulation of alcohol, or tobacco, ~~or motor fuel~~; requiring a member to file a certain financial disclosure statement; providing for a chair of the Commission; providing for the quorum, meetings, minutes, and staff of the Commission; requiring the Commission to perform certain functions, conduct certain studies, and develop best practices for certain activities; requiring the Governor to appoint an Executive Director of the Commission; providing for the qualifications and salary of the Executive Director; prohibiting the Executive Director and all employees in the Office of the Executive Director from accepting certain contributions from certain entities or individuals; requiring the Executive Director to adopt certain regulations; authorizing the Executive Director to adopt certain other regulations; authorizing the Executive Director to establish or prohibit certain discounts in the sale and distribution of wine and liquor; transferring the Field Enforcement Division from the Office of the Comptroller to the Office of the Executive Director; authorizing the Executive Director to delegate authority to conduct certain hearings; requiring the Executive Director to include certain information in certain annual reports and to maintain certain record keeping; authorizing the Executive Director to carry out certain inspections, use certain equipment, and issue summonses for certain purposes; requiring the Executive Director to enforce certain provisions of law; providing for the regulatory and enforcement authority of the Executive Director over alcohol, and tobacco and related products including electronic nicotine delivery systems, ~~and motor fuel~~ under various provisions of law; *requiring the Executive Director to submit a certain report on or before a certain date*; authorizing the Executive Director to carry out certain investigations and request information and assistance from certain other administrative units of government; authorizing the disclosure of tax information to the Commission; requiring the Commission to conduct a certain feasibility study for maintaining a certain statewide database *on or before a certain date and submit the feasibility study to the Governor and the General Assembly on or before a certain date*; stating the intent of the General Assembly concerning the date of transfer of the Field Enforcement Division and its personnel to the Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission; specifying that the Office of the Executive

Director is the successor of the Office of the Comptroller in certain matters; providing that this Act does not affect the term of office of an appointed or elected member of any commission, office, department, agency, or other unit; providing for the continuity of certain transactions, employment status, rights, duties, and interests; specifying that certain employees in budgeted positions of the Office of the Comptroller whose positions are transferred to the Office of the Executive Director are transferred without any change or loss of rights or status; providing for the continuity of certain findings and determinations, permits and licenses, standards and guidelines, orders and other directives, and duties and responsibilities associated with those functions transferred by this Act; providing for the continuity of certain units and their personnel records and other properties; requiring that certain letterheads, business cards, and other documents may not be used until other documents already in print have been used; requiring the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, to correct any cross-references or terminology rendered incorrect by this Act and to describe any corrections made in an editor's note following the section affected; making conforming and stylistic changes; defining certain terms; providing for a delayed effective date; and generally relating to the Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission.

BY repealing and reenacting, with amendments,

Article – Alcoholic Beverages

Section 1–101; and 1–301, 1–302, 1–302.1, and 1–303 through 1–310 to be under the amended subtitle “Subtitle 3. Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission”

Annotated Code of Maryland

(2016 Volume and 2018 Supplement)

BY adding to

Article – Alcoholic Beverages

Section 1–302 through 1–310

Annotated Code of Maryland

(2016 Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Business Regulation

Section 16–101, 16–102, 16–201, 16–204, 16–205, 16–206(a)(4) and (f)(6) and (7), 16–207(c)(3), 16–208 through 16–213, 16–216(a), 16–218(b) and (c), 16–219(b), 16–220 through 16–222, 16–223(c), 16–302(b), 16–306, 16–307, 16–308.1(b), 16–3B–01, 16.5–101, 16.5–102, 16.5–203, 16.5–204(a), 16.5–205(a)(5) and (d)(5), 16.5–207 through 16.5–211, 16.5–213, 16.5–214(b) and (c), 16.5–215(b), 16.5–216(c), 16.5–217(c)(1), 16.7–101, 16.7–102(a), 16.7–202, 16.7–203, 16.7–206 through 16.7–210, 16.7–212, and 16.7–213(c)

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section ~~9-301, 9-310(a), 9-318, 9-320 through 9-322, 9-326 through 9-333, and 9-335 through 9-337~~ 13-203(c)

Annotated Code of Maryland

(2016 Replacement Volume and 2018 Supplement)

Preamble

WHEREAS, Excessive alcohol consumption is the third leading cause of preventable death in the United States and is a risk factor leading to many health and societal problems; and

WHEREAS, Alcohol is the leading drug among youth in the State, with one in four Maryland high school students reporting drinking in the past month; and

WHEREAS, The Task Force to Study Alcohol Regulation, Enforcement, Safety, and Public Health in the State received input from numerous public health policy experts, elected officials, national, State, and local regulators, existing alcohol licensees, Maryland small businesses, and law enforcement personnel; and

WHEREAS, The number of licensed alcohol producers in Maryland has tripled over the past 10 years and significantly outpaced the number of regulatory personnel; and

WHEREAS, The Task Force examined regulatory models across the U.S. concerning the distribution and sale of alcohol to identify a model that would best balance commercial interests while ensuring the safety and welfare of all Maryland residents, and recommended a number of substantive changes be implemented to improve the distribution and sale of alcohol in the State; now, therefore,

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

Article – Alcoholic Beverages

1-101.

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

(b) (1) “Alcoholic beverage” means a spirituous, vinous, malt, or fermented liquor, liquid, or compound that:

- (i) contains at least one-half of 1% of alcohol by volume; and
- (ii) is suitable for beverage purposes.

(2) “Alcoholic beverage” includes alcohol, brandy, whiskey, rum, gin, cordial, beer, and wine.

(3) “Alcoholic beverage” does not include a confectionery food product that contains up to 5% of alcohol by volume and is regulated by the Maryland Department of Health under § 21–209 of the Health – General Article.

(c) (1) “Beer” means a brewed alcoholic beverage.

(2) “Beer” includes:

(i) ale;

(ii) porter;

(iii) stout;

(iv) hard cider that:

1. is derived primarily from apples, apple concentrate and water, pears, or pear concentrate and water; and

2. contains no other fruit product but contains at least one-half of 1% and less than 8.5% of alcohol by volume; and

(v) an alcoholic beverage that contains:

1. 6% or less alcohol by volume, derived primarily from the fermentation of grain, with not more than 49% of the alcoholic beverage’s overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol; or

2. more than 6% alcohol by volume, derived primarily from the fermentation of grain, with not more than 1.5% of the alcoholic beverage’s overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol.

(d) “Central Repository” means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(e) “Club” means an association or a corporation that is:

(1) organized and operated exclusively for educational, social, fraternal, patriotic, political, or athletic purposes; and

(2) nonprofit.

(F) “COMMISSION” MEANS THE ALCOHOL, AND TOBACCO, ~~AND MOTOR FUEL~~ COMMISSION.

[(f)] (G) (1) “Comptroller” means the Comptroller of the State.

(2) “Comptroller” includes a deputy, an inspector, a clerk, or any other individual authorized to act by the Comptroller.

[(g)] (H) “Consumer” means an individual at least 21 years old or a corporation not otherwise prohibited by this article or any other State law, that buys, possesses, keeps, or transports alcoholic beverages on which the taxes under Title 5 of the Tax – General Article have been paid, for the individual’s or corporation’s own use and not for sale.

[(h)] (I) “County” means a county of the State or Baltimore City.

(J) (1) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE COMMISSION.

(2) “EXECUTIVE DIRECTOR” INCLUDES A DEPUTY, AN INSPECTOR, A CLERK, OR ANY OTHER INDIVIDUAL AUTHORIZED TO ACT BY THE EXECUTIVE DIRECTOR.

[(i)] (K) (1) “Family beer” means homemade beer produced for home consumption and not for sale.

(2) “Family beer” includes beer produced at a family beer and wine facility that has been granted a permit under § 2–138 of this article.

[(j)] (L) (1) “Family wine” means homemade wine produced for home consumption and not for sale.

(2) “Family wine” includes wine produced at a family beer and wine facility that has been granted a permit under § 2–138 of this article.

[(k)] (M) (1) Subject to paragraph (2) of this subsection, “hotel” means an establishment that:

(i) accommodates the public;

(ii) is equipped with at least 10 bedrooms and a dining room with facilities for preparing and serving regular meals; and

(iii) has average daily receipts from the rental of rooms and sale of food that exceed the average daily receipts from the sale of alcoholic beverages.

(2) By regulation, a local licensing board may set a different standard as to what constitutes a hotel.

[(l)] (N) “Illicit alcoholic beverage” means an alcoholic beverage that has been manufactured, bottled, or rectified:

(1) in the State at a location not licensed under this article; or

(2) outside the State at a location not licensed under the United States Internal Revenue Code or the laws of a foreign country.

[(m)] (O) “Jurisdiction” means a county or the City of Annapolis.

[(n)] (P) “License” means an alcoholic beverages license issued under this article.

[(o)] (Q) (1) “License holder” means the holder of a license issued or a permit granted under this article.

(2) “License holder” includes:

(i) a county liquor control board and a county dispensary; and

(ii) for the delivery and billing purposes of Title 2, Subtitle 3 and §§ 2–213 and 2–314 of this article, a corporation on behalf of which an individual has obtained a license.

[(p)] (R) “Liquor” has the same meaning as “distilled spirits” under § 5–101(g) of the Tax – General Article.

[(q)] (S) (1) “Local collecting agent” means:

(i) in the City of Annapolis, the city clerk;

(ii) in Allegany County, Baltimore County, Howard County, Prince George’s County, or Wicomico County, the director of finance;

(iii) in Calvert County, Dorchester County, St. Mary’s County, or Somerset County, the treasurer of the county; or

(iv) in each other county, the board of license commissioners unless another governmental unit is expressly authorized to collect fees under this article.

(2) “Local collecting agent” does not include a clerk of a circuit court.

[(r)] (T) “Local licensing board” means a board of license commissioners or other governmental unit of a jurisdiction that issues licenses.

[(s)] (U) “Manufacturer’s license” means a license issued under Title 2, Subtitle 2 of this article that is:

- (1) a Class 1 distillery license;
- (2) a Class 2 rectifying license;
- (3) a Class 3 winery license;
- (4) a Class 4 limited winery license;
- (5) a Class 5 brewery license;
- (6) a Class 6 pub–brewery license;
- (7) a Class 7 micro–brewery license;
- (8) a Class 8 farm brewery license; or
- (9) a Class 9 limited distillery license.

[(t)] (V) “Off–sale” means the sale of alcoholic beverages that are to be consumed off the licensed premises.

[(u)] (W) “On–sale” means the sale of alcoholic beverages that are to be consumed on the licensed premises.

[(v)] (X) “Person” means:

- (1) an individual;
- (2) an association, a partnership, a corporation, a trust, or any other entity, and the officers, directors, and other individuals in active control of the activities of the association, partnership, corporation, trust, or other entity; or
- (3) (i) the State or a political subdivision of the State, or a unit or an instrumentality of the State or a political subdivision of the State; or
 - (ii) another state or a political subdivision of that state.

[(w)] (Y) “Pomace brandy” means brandy that is distilled from the pulpy residue of wine pressing, including the skins, pips, and stalks of grapes.

[(x)] (Z) (1) Subject to paragraph (2) of this subsection, “restaurant” means an establishment that:

- (i) accommodates the public;
- (ii) is equipped with a dining room with facilities for preparing and serving regular meals; and
- (iii) has average daily receipts from the sale of food that exceed the average daily receipts from the sale of alcoholic beverages.

(2) By regulation, a local licensing board may set a different standard as to what constitutes a restaurant.

[(y)] (AA) (1) “Retail dealer” means a person that sells an alcoholic beverage to any person other than a license holder.

(2) “Retail dealer” includes a county dispensary.

[(z)] (BB) “7–day license” means a license that is in effect every day of the week.

[(aa)] (CC) “6–day license” means a license that is in effect Monday through Saturday.

[(bb)] (DD) (1) Except as provided in paragraph (2) of this subsection, “state” means:

- (i) a state, possession, territory, or commonwealth of the United States; or
- (ii) the District of Columbia.

(2) When capitalized, “State” means Maryland.

(EE) “TOBACCO” INCLUDES CIGARETTES REGULATED UNDER TITLE 16 OF THE BUSINESS REGULATION ARTICLE AND OTHER TOBACCO AND RELATED PRODUCTS REGULATED UNDER TITLES 16.5 AND 16.7 OF THE BUSINESS REGULATION ARTICLE.

[(cc)] (FF) (1) “Wholesaler” means:

- (i) a person that purchases or imports an alcoholic beverage for sale to wholesale dealers or retail dealers only; or
- (ii) a limited winery that sells wine to retail dealers.

- (2) “Wholesaler” includes:
 - (i) a county liquor control board; and
 - (ii) a county wholesale dispensary.

[(dd)] **(GG)** “Wholesaler’s license” means a license issued under Title 2, Subtitle 3 of this article that is:

- (1) a Class 1 beer, wine, and liquor license;
- (2) a Class 2 wine and liquor license;
- (3) a Class 3 beer and wine license;
- (4) a Class 4 beer license;
- (5) a Class 5 wine license;
- (6) a Class 6 limited wine license; or
- (7) a Class 7 limited beer license.

[(ee)] **(HH)** (1) “Wine” means a fermented beverage.

- (2) “Wine” includes:
 - (i) light wine;
 - (ii) sparkling wine that is naturally or artificially carbonated; and
 - (iii) fortified wine to which alcohol, spirits, or other ingredients are added.

Subtitle 3. [Powers and Duties of Comptroller] ~~ALCOHOL, AND TOBACCO, AND MOTOR FUEL~~ **COMMISSION.**

1-301.

In this subtitle, “Division director” means the director of the Field Enforcement Division of the Office of the [Comptroller] **EXECUTIVE DIRECTOR.**

1-302.

THERE IS AN ~~ALCOHOL, AND TOBACCO, AND MOTOR FUEL~~ COMMISSION.

1-303.

(A) (1) THE COMMISSION CONSISTS OF FIVE MEMBERS TO BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

(2) THE PRESIDING OFFICER OF EITHER HOUSE OF THE GENERAL ASSEMBLY MAY RECOMMEND TO THE GOVERNOR A LIST OF INDIVIDUALS FOR APPOINTMENT TO THE COMMISSION.

(3) OF THE COMMISSION MEMBERS:

(I) ONE SHALL BE ~~A REPRESENTATIVE OF THE~~ KNOWLEDGEABLE AND EXPERIENCED IN PUBLIC HEALTH COMMUNITY MATTERS;

(II) ONE SHALL BE ~~A REPRESENTATIVE OF THE~~ KNOWLEDGEABLE AND EXPERIENCED IN LAW ENFORCEMENT ~~COMMUNITY MATTERS;~~

(III) ONE SHALL BE ~~A REPRESENTATIVE OF~~ KNOWLEDGEABLE AND EXPERIENCED IN THE ALCOHOLIC BEVERAGES INDUSTRY; AND

(IV) TWO SHALL BE MEMBERS OF THE PUBLIC WHO ARE KNOWLEDGEABLE AND EXPERIENCED IN FISCAL MATTERS AND SHALL HAVE SUBSTANTIAL EXPERIENCE:

1. AS AN EXECUTIVE WITH FIDUCIARY RESPONSIBILITIES IN CHARGE OF A LARGE ORGANIZATION OR FOUNDATION;

2. IN AN ACADEMIC FIELD RELATING TO FINANCE OR ECONOMICS; OR

3. AS AN ACCOUNTANT, AN ECONOMIST, OR A FINANCIAL ANALYST.

(4) IN ADDITION TO THE MEMBERS APPOINTED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE SECRETARY OF HEALTH AND THE SECRETARY OF STATE POLICE, OR THEIR DESIGNEES, MAY PARTICIPATE IN THE COMMISSION AS EX OFFICIO NONVOTING MEMBERS.

(B) AT THE TIME OF APPOINTMENT, EACH MEMBER OF THE COMMISSION SHALL BE:

(1) AT LEAST 25 YEARS OLD;

(2) A RESIDENT OF THE STATE WHO HAS RESIDED IN THE STATE FOR AT LEAST 5 YEARS;

(3) A QUALIFIED VOTER OF THE STATE; AND

(4) AN INDIVIDUAL WHO HAS NOT BEEN CONVICTED OF OR GRANTED PROBATION BEFORE JUDGMENT FOR A SERIOUS CRIME OR A CRIME THAT INVOLVES MORAL TURPITUDE.

(C) (1) THE TERM OF A MEMBER IS 5 YEARS.

(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON JUNE 30, 2020.

(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) A MEMBER MAY NOT SERVE FOR MORE THAN TWO FULL TERMS.

(D) (1) SUBJECT TO THE HEARING REQUIREMENTS OF THIS SUBSECTION, THE GOVERNOR MAY REMOVE A MEMBER FOR CAUSE.

(2) BEFORE THE GOVERNOR REMOVES A MEMBER, THE GOVERNOR SHALL GIVE THE MEMBER NOTICE AND AN OPPORTUNITY FOR A PUBLIC HEARING.

1-304.

(A) A MEMBER OF THE COMMISSION MAY NOT:

(1) HAVE A DIRECT OR INDIRECT FINANCIAL INTEREST, OWNERSHIP, OR MANAGEMENT, INCLUDING HOLDING ANY STOCKS, BONDS, OR OTHER SIMILAR FINANCIAL INTERESTS, IN THE ALCOHOL, TOBACCO, OR MOTOR FUEL INDUSTRIES;

(2) HAVE AN OFFICIAL RELATIONSHIP TO A PERSON WHO HOLDS A LICENSE OR PERMIT UNDER THIS ARTICLE, OR TITLE 16, TITLE 16.5, OR TITLE 16.7 OF THE BUSINESS REGULATION ARTICLE, ~~OR TITLE 9, SUBTITLE 3, PART IV OF THE TAX GENERAL ARTICLE;~~

(3) BE AN ELECTED OFFICIAL ~~OF STATE OR LOCAL GOVERNMENT;~~

(4) RECEIVE OR SHARE IN, DIRECTLY OR INDIRECTLY, THE RECEIPTS OR PROCEEDS OF ANY ACTIVITIES CONDUCTED IN THE ALCOHOL, OR TOBACCO, ~~OR MOTOR FUEL~~ INDUSTRIES;

(5) HAVE A BENEFICIAL INTEREST IN ANY CONTRACT FOR THE MANUFACTURE OR SALE OF ANY DEVICE OR PRODUCT OR THE PROVISION OF ANY INDEPENDENT CONSULTING SERVICES IN CONNECTION WITH A HOLDER OF A LICENSE OR PERMIT ISSUED UNDER THIS ARTICLE, OR TITLE 16, TITLE 16.5, OR TITLE 16.7 OF THE BUSINESS REGULATION ARTICLE, ~~OR TITLE 9, SUBTITLE 3, PART IV OF THE TAX GENERAL ARTICLE~~; OR

(6) ACCEPT A CONTRIBUTION OF MONEY OR PROPERTY WORTH AT LEAST \$100 FROM AN ENTITY OR INDIVIDUAL ASSOCIATED WITH THE ALCOHOL, OR TOBACCO, ~~OR MOTOR FUEL~~ INDUSTRIES WITH RESPECT TO THE REGULATION OF ALCOHOL, OR TOBACCO, ~~OR MOTOR FUEL~~.

(B) A MEMBER OF THE COMMISSION SHALL FILE A FINANCIAL DISCLOSURE STATEMENT WITH THE STATE ETHICS COMMISSION IN ACCORDANCE WITH TITLE 5, SUBTITLE 6 OF THE GENERAL PROVISIONS ARTICLE.

1-305.

FROM AMONG ITS MEMBERS, THE COMMISSION ANNUALLY SHALL ELECT A CHAIR.

1-306.

(A) A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE COMMISSION IS A QUORUM.

(B) THE COMMISSION SHALL MEET MONTHLY AT THE TIMES AND PLACES THAT THE COMMISSION DETERMINES.

(C) (1) THE SECRETARY OF THE COMMISSION PROMPTLY SHALL SEND THE GOVERNOR A CERTIFIED COPY OF THE MINUTES OF EACH MEETING OF THE COMMISSION.

(2) THE MINUTES SHALL INCLUDE A COPY OF EACH REGULATION THAT IS ADOPTED.

(D) EACH MEMBER OF THE COMMISSION IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE BUDGET OF THE COMMISSION.

(E) (1) WITH THE ADVICE OF THE COMMISSION, THE EXECUTIVE DIRECTOR MAY EMPLOY STAFF IN ACCORDANCE WITH THE STATE BUDGET.

(2) THE STAFF OF THE COMMISSION IS IN THE STATE PERSONNEL MANAGEMENT SYSTEM.

1-307.

(A) THE COMMISSION HAS THE POWERS AND DUTIES SET FORTH IN THIS SECTION.

(B) THE COMMISSION SHALL:

(1) EDUCATE THE PUBLIC, BY RESOURCE SHARING AND SERVING AS AN INFORMATION CLEARINGHOUSE, ON SUCH TOPICS AS:

(I) RECENT INCREASES IN ALCOHOL CONTENT FOR POPULAR BEER AND OTHER BEVERAGES;

(II) THE PROPER LIMITS OF DRINKING FOR ADULTS;

(III) THE ADVERSE CONSEQUENCES OF SURPASSING THOSE LIMITS; ~~AND~~

(IV) PARENTAL OR ADULT RESPONSIBILITY FOR SERVING ALCOHOL TO UNDERAGE INDIVIDUALS; AND

(V) COMPARABLE TOPICS RELATING TO SMOKING, VAPING, TOBACCO, OTHER TOBACCO PRODUCTS, AND ELECTRONIC NICOTINE DELIVERY SYSTEMS; AND

(2) SUBJECT TO FEDERAL APPROVAL, ENSURE THAT ALL ALCOHOLIC BEVERAGES SOLD IN THE STATE WITH AN ALCOHOL CONTENT EXCEEDING 4.5% BY VOLUME BEAR A LARGE AND CONSPICUOUS LABEL STATING THE PERCENTAGE OF ALCOHOL CONTENT.

(C) (1) THE COMMISSION SHALL CONDUCT STUDIES OF:

(I) THE OPERATION AND ADMINISTRATION OF SIMILAR LAWS IN OTHER STATES OR COUNTRIES; AND

(II) FEDERAL LAWS THAT MAY AFFECT THE OPERATION OF THE ALCOHOL, ~~OR TOBACCO, OR MOTOR FUEL~~ INDUSTRIES, THE LITERATURE ON THOSE INDUSTRIES, AND THE REACTION OF RESIDENTS OF THE STATE TO EXISTING AND POTENTIAL FEATURES OF THOSE INDUSTRIES.

(2) THE COMMISSION SHALL SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY THE STUDIES REQUIRED UNDER THIS SUBSECTION.

1-308.

THE COMMISSION SHALL DEVELOP BEST PRACTICES FOR:

(1) THE DEDICATION OF A MINIMUM EFFECTIVE PORTION OF THE BUDGET OF A LOCAL LICENSING BOARD TO ADMINISTRATIVE ENFORCEMENT ACTIVITIES, SUCH AS INSPECTIONS, COMPLIANCE CHECKS, OVERSERVICE, OPERATIONS, AND TRADE PRACTICE VIOLATIONS;

(2) THE CARRYING OUT OF COMPLIANCE CHECKS FOR ALCOHOLIC BEVERAGES LICENSES, IN WHICH EACH LICENSE IS CHECKED AT LEAST ONCE A YEAR;

(3) THE DEVELOPMENT OF GUIDELINES FOR THE MINIMUM CAPACITY OF INSPECTIONS CARRIED OUT BY INSPECTORS OF LOCAL LICENSING BOARDS, BASED ON THE NUMBER AND TYPE OF LICENSED OUTLETS IN THE LICENSING JURISDICTION;

(4) ENSURING THAT ALCOHOLIC BEVERAGES INSPECTIONS BE BASED ON DATA SUCH AS THE VIOLATION HISTORY OF THE LICENSE HOLDER, AND CALLS FOR EMERGENCY ASSISTANCE, EMERGENCY MEDICAL SERVICE, OR NONEMERGENCY SERVICE, SO THAT RESOURCES ARE BEING ALLOCATED BASED ON WHERE THE GREATEST NEED IS;

(5) THE REPORTING OF AGGREGATE DATA BETWEEN LOCAL POLICE AND LOCAL LICENSING BOARDS;

(6) THE DEVELOPMENT OF MANDATORY STATE-PROVIDED TRAINING FOR LIQUOR INSPECTORS;

(7) REPORTING BY THE STATE TO THE AFFECTED LOCAL LICENSING BOARD OF A STATE-ISSUED LICENSE OR PERMIT WITHIN 10 DAYS AFTER THE STATE RECEIVES AN APPLICATION;

(8) THE DEVELOPMENT OF A PUBLIC HEALTH IMPACT STATEMENT FOR ALL CHANGES TO THE STATE ALCOHOLIC BEVERAGES LAWS; AND

(9) ENSURING THAT:

(I) ALL LICENSE HOLDERS, MANAGERS, AND SERVERS RECEIVE CERTIFICATION FROM AN APPROVED ALCOHOL AWARENESS PROGRAM; AND

(II) AT LEAST ONE EMPLOYEE WHO IS CERTIFIED IN AN ALCOHOL AWARENESS PROGRAM BE ON THE LICENSED PREMISES AT ALL TIMES WHEN ALCOHOLIC BEVERAGES ARE SERVED.

1-309.

(A) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE COMMISSION.

(B) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE GOVERNOR.

(C) THE EXECUTIVE DIRECTOR SHALL:

(1) HAVE THE TRAINING AND EXPERIENCE, INCLUDING KNOWLEDGE OF THE MARYLAND ALCOHOL REGULATORY SYSTEM, THAT IS NEEDED TO DIRECT THE WORK OF THE COMMISSION; AND

(2) DEVOTE FULL TIME TO THE DUTIES OF OFFICE AND MAY NOT ENGAGE IN ANOTHER PROFESSION OR OCCUPATION.

(D) THE EXECUTIVE DIRECTOR IS ENTITLED TO THE SALARY PROVIDED IN THE STATE BUDGET.

1-310.

THE EXECUTIVE DIRECTOR AND ALL EMPLOYEES IN THE OFFICE OF THE EXECUTIVE DIRECTOR MAY NOT ACCEPT A CONTRIBUTION OF MONEY OR PROPERTY WORTH AT LEAST \$100 FROM AN ENTITY OR INDIVIDUAL ASSOCIATED WITH THE ALCOHOL, OR TOBACCO, ~~OR MOTOR FUEL~~ INDUSTRIES WITH RESPECT TO REGULATION OF ALCOHOL, OR TOBACCO, ~~OR MOTOR FUEL~~.

[1-302.] 1-311.

(a) The [Comptroller] **EXECUTIVE DIRECTOR** shall adopt regulations to discharge the duties under:

- (1) this article; AND
- (2) **TITLES 16, 16.5, AND 16.7 OF THE BUSINESS REGULATION ARTICLE; AND**
- ~~(3) **TITLE 9, SUBTITLE 3 OF THE TAX – GENERAL ARTICLE.**~~

(b) The [Comptroller] **EXECUTIVE DIRECTOR** may adopt regulations regarding:

- (1) labeling and advertising similar to the regulations adopted by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury;
- (2) nature, form, and capacity of containers;
- (3) credit sales;
- (4) records to be kept by license holders and others engaged in the business;
- (5) the amount of deposit on returnable beer containers that manufacturers and wholesalers of beer charge and collect; and
- (6) any other subject the [Comptroller] **EXECUTIVE DIRECTOR** considers necessary for the proper administration of the duties of the [Comptroller] **EXECUTIVE DIRECTOR** under this article, **TITLE 16, TITLE 16.5, OR TITLE 16.7 OF THE BUSINESS REGULATION ARTICLE, OR THE PROVISIONS OF THE TAX – GENERAL ARTICLE RELATING TO THE ALCOHOLIC BEVERAGE TAX.**

(c) (1) Any violation of a regulation adopted by the [Comptroller] **EXECUTIVE DIRECTOR** under this article, **TITLE 16, TITLE 16.5, OR TITLE 16.7 OF THE BUSINESS REGULATION ARTICLE**, or the provisions of the Tax – General Article relating to the alcoholic beverage tax is grounds to revoke or suspend a license.

(2) The violator is subject to the penalties provided under § 6–402(a) of this article.

[1–302.1.] **1–312.**

By regulation, the [Comptroller] **EXECUTIVE DIRECTOR** may:

(1) establish or prohibit the maximum discounts that may be allowed by a manufacturer, wholesaler, or nonresident winery permit holder in the sale and distribution of wine and liquor; or

(2) prohibit the giving of discounts by a manufacturer, wholesaler, or nonresident winery permit holder in the sale and distribution of wine and liquor.

[1-303.] 1-313.

(a) There is a Field Enforcement Division in the Office of the **[Comptroller] EXECUTIVE DIRECTOR**.

(b) (1) The Field Enforcement Division may employ officers and employees as provided in the State budget.

(2) The officers and employees of the Field Enforcement Division:

(i) shall be sworn police officers;

(ii) shall have the powers, duties, and responsibilities of peace officers to enforce the provisions of this article relating to:

1. the unlawful importation of alcoholic beverages into the State;

2. the unlawful manufacture of alcoholic beverages in the State;

3. the transportation and distribution throughout the State of alcoholic beverages that are manufactured illegally and on which any alcoholic beverages taxes imposed by the State are due and unpaid; and

4. the manufacture, sale, barter, transportation, distribution, or other form of owning, handling, or dispersing alcoholic beverages by any person not licensed or authorized under this article or provisions of the Tax – General Article relating to alcoholic beverages; and

(iii) may make cooperative arrangements for and work and cooperate with local State's Attorneys, sheriffs, bailiffs, police, and other prosecuting and peace officers to enforce this article.

(c) The Field Enforcement Division:

(1) shall consult with and advise the local State's Attorneys and other law enforcement officials and police officers regarding enforcement problems in their respective jurisdictions; and

(2) may recommend changes to improve the administration of this article and provisions of the Tax – General Article relating to alcoholic beverages.

[1-304.] **1-314.**

The [Comptroller] **EXECUTIVE DIRECTOR** may delegate authority under this article and provisions of the Tax – General Article relating to alcoholic beverages to the Division director to issue or refuse to issue licenses and permits.

[1-305.] **1-315.**

(a) Except as provided in subsection (b) of this section, the [Comptroller] **EXECUTIVE DIRECTOR** may delegate authority to conduct hearings on violations of this article or of any regulations adopted under this article or the provisions of the Tax – General Article relating to alcoholic beverages to the Division director or any other employee of the [Comptroller's] **EXECUTIVE DIRECTOR'S** office.

(b) The Division director or any other employee of the [Comptroller's] **EXECUTIVE DIRECTOR'S** office delegated authority to conduct hearings under subsection (a) of this section:

(1) may not impose a penalty provided for under this article or a provision of the Tax – General Article relating to alcoholic beverages; and

(2) shall report the findings and recommendations to the [Comptroller] **EXECUTIVE DIRECTOR** to take the action that the [Comptroller] **EXECUTIVE DIRECTOR** considers appropriate.

[1-306.] **1-316.**

To provide a basis for annual comparison of the scope of the alcoholic beverages industry in the State and the consumption habits of residents of the State, the [Comptroller] **EXECUTIVE DIRECTOR** ~~in each~~ **SHALL SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, AN annual report shall include ON OR BEFORE DECEMBER 1 OF EACH YEAR THAT INCLUDES** statistical information on the alcoholic beverages business in the State that the [Comptroller] **EXECUTIVE DIRECTOR** believes to be of interest to the public and the industry.

[1-307.] **1-317.**

(a) The [Comptroller] **EXECUTIVE DIRECTOR** shall:

- (1) maintain a record of:
 - (i) each license issued or approved under this article; and
 - (ii) any revocation, suspension, or cancellation of a license and any restriction imposed on a license with a brief explanation of the reason for the action; and
- (2) allow any person to inspect the records at the Office of the [Comptroller] **EXECUTIVE DIRECTOR** during regular business hours.

(b) The records of licenses required under subsection (a) of this section and any indices or dockets created to maintain the records:

- (1) shall be retained for the later to occur of:
 - (i) 3 years after the date of the last record entry; or
 - (ii) the date on which all audit requirements have been complied with; and
- (2) may be destroyed after:
 - (i) the retention period in item (1) of this subsection has expired; and
 - (ii) Title 10, Subtitle 6, Part III of the State Government Article has been complied with.

[1-308.] 1-318.

The [Comptroller] **EXECUTIVE DIRECTOR** may:

- (1) under § 6-202 of this article, inspect and search a building, vehicle, or premises where alcoholic beverages are authorized to be kept, transported, manufactured, or sold;
- (2) under § 6-203 of this article, use certain equipment and other means to measure the quantity and quality of alcoholic beverages; and
- (3) under § 6-204 of this article, issue summonses for witnesses for hearings and inquiries.

[1-309.] 1-319.

The [Comptroller] **EXECUTIVE DIRECTOR** shall enforce the provisions of this article and provisions of the Tax – General Article relating to alcoholic beverages applicable to:

- (1) the purchase or importation of alcoholic beverages by a department of liquor control or a liquor control board; and
- (2) the sale of alcoholic beverages to a wholesaler or retail dealer by a department of liquor control or a liquor control board.

[1–310.] 1–320.

The [Comptroller] **EXECUTIVE DIRECTOR** may:

- (1) investigate the manufacture, sale, purchase, use, and transportation of industrial alcohol unfit for beverage use to the extent reasonably necessary to prevent conversion into an alcoholic beverage fit for consumption; and
- (2) request information and assistance from other administrative units of the State, county, and municipal governments, county and municipal police departments, and all prosecuting officers as considered necessary by the [Comptroller] **EXECUTIVE DIRECTOR** to carry out this article and provisions of the Tax – General Article relating to alcoholic beverages.

Article – Business Regulation

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) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE ALCOHOL, AND TOBACCO, AND MOTOR FUEL COMMISSION.**

[(d)] (E) “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)] (F)** (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] **EXECUTIVE DIRECTOR** may delegate any power or duty of the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** under § 16–205(a) of this subtitle to act as a storage warehouse.

(f) “Licensed subwholesaler” means a person licensed by the [Comptroller] **EXECUTIVE DIRECTOR** under § 16–205(a) of this subtitle to act as a subwholesaler.

(g) “Licensed vending machine operator” means a person licensed by the [Comptroller] **EXECUTIVE DIRECTOR** under § 16–205(a) of this subtitle to act as a vending machine operator.

(h) “Licensed wholesaler” means a person licensed by the [Comptroller] **EXECUTIVE DIRECTOR** 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.

16–204.

(a) An applicant for a license to act as a manufacturer shall:

(1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR** requires; and

(2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** requires.

(c) An applicant for a license to act as a storage warehouse shall:

(1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR** requires; and

(2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$25.

(d) An applicant for a license to act as a subwholesaler shall:

(1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR** requires; and

(2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** on the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR** requires; and

(3) pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$500.

(f) An applicant for a license to act as a wholesaler shall:

(1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR** requires; and

(2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** under this title shall pay to the [Comptroller] **EXECUTIVE DIRECTOR** a nonrefundable application fee of \$200; and

(ii) an applicant for renewal of a license issued by the [Comptroller] **EXECUTIVE DIRECTOR** under this title shall pay to the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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.

(c) The [Comptroller's Office] **EXECUTIVE DIRECTOR** shall provide to the Prevention and Health Promotion Administration each year the name and address of each person licensed under subsection (b) of this section.

16–206.

(a) A manufacturer license authorizes the licensee to:

(4) upon approval of the [Comptroller] **EXECUTIVE DIRECTOR**, act as an agent of a Maryland licensed wholesaler for stamping and distribution of cigarettes.

(f) A wholesaler license authorizes the licensee to:

(6) sell unstamped cigarettes to another licensed wholesaler if the [Comptroller] **EXECUTIVE DIRECTOR** specifically authorizes;

(7) upon approval of the [Comptroller] **EXECUTIVE DIRECTOR**, designate a licensed manufacturer to act as its agent for the stamping and distribution of cigarettes; and

16–207.

(c) Before a license issued under this subtitle expires, the licensee may renew it for an additional 1-year term, if the licensee:

(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] **EXECUTIVE DIRECTOR**, the renewal fee required under § 16-204(h) of this subtitle.

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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** takes any final action under § 16–210 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall give the person against whom the action is contemplated an opportunity for a hearing before the [Comptroller] **EXECUTIVE DIRECTOR**.

(b) The [Comptroller] **EXECUTIVE DIRECTOR** shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR**, the licensee may, before the effective date of the suspension or revocation, petition the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** may promulgate rules and regulations necessary to carry out the purposes of this subsection.

16–213.

A party to a proceeding before the [Comptroller] **EXECUTIVE DIRECTOR** who is aggrieved by a final decision of the [Comptroller] **EXECUTIVE DIRECTOR** 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.

16–216.

(a) The [Comptroller] **EXECUTIVE DIRECTOR** shall pay into the General Fund of the State all license fees collected under this title.

16–218.

(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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR**; and

(2) allow the [Comptroller] **EXECUTIVE DIRECTOR** to examine the records.

16-219.

(b) The [Comptroller] **EXECUTIVE DIRECTOR** by regulation may require a common carrier that brings cigarettes into the State to submit to the [Comptroller] **EXECUTIVE DIRECTOR** a copy of any freight bill relating to the cigarette shipment.

16-220.

(a) The [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** or the [Comptroller's] **EXECUTIVE DIRECTOR'S** designee, the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR**.

(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] **EXECUTIVE DIRECTOR** under § 16–210 of this subtitle and to the penalty specified in § 13–1015 of the Tax – General Article.

16–223.

(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] **EXECUTIVE DIRECTOR** 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.

16–302.

(b) (1) From each license fee collected under subsection (a) of this section, the Clerk of the Circuit Court for Montgomery County shall distribute:

(i) \$25 to the [Comptroller] **EXECUTIVE DIRECTOR**; and

(ii) \$100 to Montgomery County to be used to enforce existing laws banning the sale or distribution of tobacco or tobacco products to minors.

(2) Funds distributed under paragraph (1)(ii) of this subsection may not be used to supplant existing funding for the enforcement of laws banning the sale or distribution of tobacco or tobacco products to minors.

16–306.

Subject to the hearing provisions of § 16–307 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** takes any final action under § 16–306 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall give the person against whom the action is contemplated an opportunity for a hearing before the [Comptroller] **EXECUTIVE DIRECTOR**.

(b) The [Comptroller] **EXECUTIVE DIRECTOR** shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** may hear and determine the matter.

16-308.1.

(b) Authorized employees of the Field Enforcement Division of the [Comptroller's] **EXECUTIVE DIRECTOR'S** Office may enforce the provisions of subsection (a) of this section.

16-3B-01.

(a) A person may not violate a regulation adopted by the [Comptroller] **EXECUTIVE DIRECTOR** 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.

16.5-101.

(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) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE ALCOHOL, TOBACCO, ~~AND MOTOR FUEL~~ COMMISSION.

[(c)] (D) "License" means:

(1) a license issued by the [Comptroller] **EXECUTIVE DIRECTOR** 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)] (E) "Licensed other tobacco products manufacturer" means a person licensed by the [Comptroller] **EXECUTIVE DIRECTOR** 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] **ANOTHER** tobacco products warehouse in the State for subsequent shipment to licensed wholesalers, federal reservations, or persons outside of the State.

[(e)] **(F)** “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)] **(G)** “Licensed other tobacco products storage warehouse” means a facility licensed by the [Comptroller] **EXECUTIVE DIRECTOR** under § 16.5–204(a) of this title to act as an other tobacco products storage warehouse.

[(g)] **(H)** “Licensed other tobacco products wholesaler” means a person licensed by the [Comptroller] **EXECUTIVE DIRECTOR** under § 16.5–204(a) of this title to act as an other tobacco products wholesaler.

[(h)] **(I)** “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)] **(J)** “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)] **(K)** “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] **ANOTHER** 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)] (L) “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)] (M) “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 another tobacco products manufacturer.

[(m)] (N) “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)] (O) (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)] (P) “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)] (Q) “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] **EXECUTIVE DIRECTOR** by regulation.

[(q)] **(R)** “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)] **(S)** “Sell other tobacco products at retail” means to sell other tobacco products to a consumer.

[(s)] **(T)** “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] **EXECUTIVE DIRECTOR** may delegate any power or duty of the [Comptroller under this title] **EXECUTIVE DIRECTOR**.

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] **EXECUTIVE DIRECTOR** on the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR** requires; and

(2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** requires.

(c) An applicant for a license to act as an other tobacco products storage warehouse shall:

(1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR** requires; and

(2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** on the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR** requires; and

(ii) except as provided in paragraph (2) of this subsection, pay to the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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.

16.5–205.

(a) An other tobacco products manufacturer may:

(5) on approval of the [Comptroller] **EXECUTIVE DIRECTOR**, act as an agent of a Maryland other tobacco products wholesaler for distribution of other tobacco products.

(d) An other tobacco products wholesaler license authorizes the licensee to:

(5) sell other tobacco products on which the tobacco tax has not been paid to another licensed other tobacco products wholesaler if the [Comptroller] **EXECUTIVE DIRECTOR** specifically authorizes; and

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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** and if no disciplinary proceedings are pending against the licensee, the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the [Comptroller] **EXECUTIVE DIRECTOR** takes any final action under § 16.5–208 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall give the person against whom the action is contemplated an opportunity for a hearing before the [Comptroller] **EXECUTIVE DIRECTOR**.

(b) The [Comptroller] **EXECUTIVE DIRECTOR** shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR**, the licensee may, before the effective date of the suspension or revocation, petition the [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** may adopt regulations to carry out this subsection.

16.5–211.

A party to a proceeding before the [Comptroller] **EXECUTIVE DIRECTOR** who is aggrieved by a final decision of the [Comptroller] **EXECUTIVE DIRECTOR** 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.

16.5–213.

(a) (1) The [Comptroller] **EXECUTIVE DIRECTOR** 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.

(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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR**; and

(2) allow the [Comptroller] **EXECUTIVE DIRECTOR** to examine the records.

16.5–215.

(b) The [Comptroller] **EXECUTIVE DIRECTOR** by regulation may require a common carrier that brings other tobacco products into the State to submit to the [Comptroller] **EXECUTIVE DIRECTOR** a copy of any freight bill relating to the other tobacco products shipment.

16.5–216.

(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] **EXECUTIVE DIRECTOR** under § 16.5–208 of this subtitle and to the penalty specified in § 13–1015 of the Tax – General Article.

16.5–217.

(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] **EXECUTIVE DIRECTOR** 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.

16.7–101.

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

(b) “County license” means a license issued by the clerk to sell electronic nicotine delivery systems to consumers in a county.

(c) (1) “Electronic nicotine delivery system” means an electronic device, a component for an electronic device, or a product used to refill or resupply an electronic device that can be used to deliver nicotine to an individual inhaling from the device.

(2) “Electronic nicotine delivery system” includes an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, and vaping liquid.

(3) “Electronic nicotine delivery system” does not include:

(i) a nicotine device that contains or delivers nicotine intended for human consumption if the device has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for that purpose;

(ii) cannabis oil or any other unlawful substance; or

(iii) an electronic device that is being used to deliver cannabis oil or another unlawful substance.

(d) “Electronic nicotine delivery systems manufacturer” means a person that:

(1) manufactures, mixes, or otherwise produces electronic nicotine delivery systems intended for sale in the State, including electronic nicotine delivery systems intended for sale in the United States through an importer; and

(2) (i) sells electronic nicotine delivery systems to a consumer, if the consumer purchases or orders the systems through the mail, a computer network, a telephonic network, or another electronic network, a licensed electronic nicotine delivery systems wholesaler distributor, or a licensed electronic nicotine delivery systems wholesaler importer in the State;

(ii) if the electronic nicotine delivery systems manufacturer also holds a license to act as an electronic nicotine delivery systems retailer or a vape shop vendor, sells electronic nicotine delivery systems to consumers located in the State; or

(iii) unless otherwise prohibited or restricted under local law, this article, or the Criminal Law Article, distributes sample electronic nicotine delivery systems to a licensed electronic nicotine delivery systems retailer or vape shop vendor.

(e) “Electronic nicotine delivery systems retailer” means a person that:

(1) sells electronic nicotine delivery systems to consumers;

(2) holds electronic nicotine delivery systems for sale to consumers; or

(3) unless otherwise prohibited or restricted under local law, this article, the Criminal Law Article, or § 24–305 of the Health – General Article, distributes sample electronic nicotine delivery systems to consumers in the State.

(f) “Electronic nicotine delivery systems wholesaler distributor” means a person that:

(1) obtains at least 70% of its electronic nicotine delivery systems from a holder of an electronic nicotine delivery systems manufacturer license under this subtitle or a business entity located in the United States; and

(2) (i) holds electronic nicotine delivery systems for sale to another person for resale; or

(ii) sells electronic nicotine delivery systems to another person for resale.

(g) “Electronic nicotine delivery systems wholesaler importer” means a person that:

(1) obtains at least 70% of its electronic nicotine delivery systems from a business entity located in a foreign country; and

(2) (i) holds electronic nicotine delivery systems for sale to another person for resale; or

(ii) sells electronic nicotine delivery systems to another person for resale.

(h) **“EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE ALCOHOL, TOBACCO, AND MOTOR FUEL COMMISSION.**

(I) “License” means:

(1) a license issued by the [Comptroller] **EXECUTIVE DIRECTOR** under § 16.7–203(a) of this title to:

(i) act as a licensed electronic nicotine delivery systems manufacturer;

(ii) act as a licensed electronic nicotine delivery systems wholesaler distributor; or

(iii) act as a licensed electronic nicotine delivery systems wholesaler importer; or

(2) a license issued by the clerk under § 16.7–203(b) of this title to:

(i) act as a licensed electronic nicotine delivery systems retailer; or

(ii) act as a licensed vape shop vendor.

[(i)] (J) “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.

[(j)] (K) “Vape shop vendor” means an electronic nicotine delivery systems business that derives at least 70% of its revenues, measured by average daily receipts, from the sale of electronic nicotine delivery systems and related accessories.

[(k)] (L) “Vaping liquid” means a liquid that:

(1) consists of propylene glycol, vegetable glycerin, or other similar substance;

(2) may or may not contain natural or artificial flavors;

(3) may or may not contain nicotine; and

(4) converts to vapor intended for inhalation when heated in an electronic device.

16.7–102.

(a) The [Comptroller] **EXECUTIVE DIRECTOR** may delegate any power or duty of the [Comptroller] **EXECUTIVE DIRECTOR** under this title.

16.7–202.

(a) (1) An applicant for a license to act as an electronic nicotine delivery systems manufacturer, electronic nicotine delivery systems wholesaler distributor, or electronic nicotine delivery systems wholesaler importer shall:

(i) obtain an appropriate county license by submitting an application to the [Comptroller] **EXECUTIVE DIRECTOR** on the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR** requires;

(ii) indicate the licenses for which the applicant is applying; and

(iii) except as provided in paragraph (2) of this subsection, pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$25 for each license for which the applicant applies.

(2) An applicant for a license to act as an electronic nicotine delivery systems wholesaler distributor or electronic nicotine delivery systems wholesaler importer shall pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$150.

(b) (1) An applicant for a license to act as an electronic nicotine delivery systems retailer or a vape shop vendor:

(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 \$25.

(2) The application shall:

(i) be made on the form that the clerk requires; and

(ii) contain the information that the [Comptroller] **EXECUTIVE DIRECTOR** requires.

(c) A licensee shall display a license in the way that the [Comptroller] **EXECUTIVE DIRECTOR** requires by regulation.

(d) If a person has had a license revoked under § 16.7–207 of this subtitle, the person may not reapply for a license within 1 year after the date when the prior license was revoked.

16.7–203.

(a) The [Comptroller] **EXECUTIVE DIRECTOR** shall issue an appropriate license to each applicant that meets the requirements of this subtitle for a license to act as an electronic nicotine delivery systems manufacturer, electronic nicotine delivery systems wholesaler distributor, or electronic nicotine delivery systems wholesaler importer.

(b) The clerk shall issue to each applicant that meets the requirements of this subtitle a license to act as an electronic nicotine delivery systems retailer or a vape shop vendor.

(c) The clerk shall forward a copy of an application received for each license issued under subsection (b) of this section to the [Comptroller] **EXECUTIVE DIRECTOR** within 30 days [of] **AFTER** issuance of the license.

16.7–206.

(a) (1) A licensed electronic nicotine delivery systems retailer or a licensed vape shop vendor may not assign the license.

(2) If a licensed electronic nicotine delivery systems wholesaler distributor or electronic nicotine delivery systems wholesaler importer sells the licensee's electronic nicotine delivery systems business and pays to the [Comptroller] **EXECUTIVE DIRECTOR** 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 electronic nicotine delivery systems wholesaler's distributor or importer license.

(b) If the electronic nicotine delivery systems business of a licensee is transferred because of bankruptcy, death, incompetency, receivership, or otherwise by operation of law, the [Comptroller] **EXECUTIVE DIRECTOR** 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 electronic nicotine delivery systems wholesaler distributor or electronic nicotine delivery systems wholesaler importer surrenders the license to the [Comptroller] **EXECUTIVE DIRECTOR** and if no disciplinary proceedings are pending against the licensee, the [Comptroller] **EXECUTIVE DIRECTOR** shall refund a pro rata portion of the license fee for the unexpired term of the license.

(2) A licensed electronic nicotine delivery systems retailer or a licensed vape shop vendor is not allowed a refund for the unexpired term of the license.

16.7–207.

(a) Subject to the hearing provisions of § 16.7–208 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** 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, licensee, or another person;
- (2) fraudulently or deceptively uses a license;
- (3) buys electronic nicotine delivery systems for resale:
 - (i) in violation of a license; or
 - (ii) from a person that is not a licensed electronic nicotine delivery systems manufacturer or a licensed electronic nicotine delivery systems 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 federal, State, or local law regarding the sale of electronic nicotine delivery systems; or
- (6) violates this title, Title 16, or Title 16.5 of this article or regulations adopted under these titles.

(b) Subject to the hearing provisions of § 16.7–208 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall deny a license to any applicant that 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] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** 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.

(a) Except as otherwise provided in § 10–226 of the State Government Article, before the [Comptroller] **EXECUTIVE DIRECTOR** takes any final action under § 16.7–207 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall give the person against whom the action is contemplated an opportunity for a hearing before the [Comptroller] **EXECUTIVE DIRECTOR**.

(b) The [Comptroller] **EXECUTIVE DIRECTOR** shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The [Comptroller] **EXECUTIVE DIRECTOR** may administer oaths in a proceeding under this section.

(d) The person against which the action is contemplated may be represented at the hearing by counsel.

(e) If, after due notice, the person against which the action is contemplated does not appear, the [Comptroller] **EXECUTIVE DIRECTOR** may nevertheless hear and determine the matter.

16.7–209.

(a) Subject to the notice requirement of subsection (c) of this section, if a licensee engages in an act or omission that is grounds for discipline under § 16.7–207 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** may suspend the license for a consecutive period of time that:

(1) for a first offense, is not less than 5 and not more than 20 business days;
and

(2) for a subsequent offense, is not less than 20 business days and not more than 6 months.

(b) Subject to the notice requirement under subsection (c) of this section, the [Comptroller] **EXECUTIVE DIRECTOR** may revoke a license if a licensee willfully and persistently engages in an act or omission that is grounds for discipline under § 16.7–207(a) of this subtitle.

(c) If a license is suspended or revoked under this section:

(1) the [Comptroller] **EXECUTIVE DIRECTOR** shall give the licensee notice of the suspension or revocation; and

(2) the suspension or revocation of a license may not bar or abate a disciplinary action under this section.

(d) The transfer, renewal, or expiration of a license may not bar or abate a disciplinary action under this section.

(e) (1) (i) Except as provided in subparagraph (ii) of this paragraph, if a license issued under the provisions of this subtitle is suspended or revoked by the [Comptroller] **EXECUTIVE DIRECTOR**, the licensee may, before the effective date of the suspension or revocation, petition the [Comptroller] **EXECUTIVE DIRECTOR** for permission to make an offer of compromise consisting of a sum of money in lieu of serving the suspension or revocation.

(ii) Subparagraph (i) of this paragraph does not apply if a license is suspended or revoked for a violation of § 24–305 of the Health – General Article, or any other federal, State, or local law prohibiting the sale of electronic nicotine delivery systems to minors.

(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 for retail licensees or \$50,000 for other licensees.

(4) The [Comptroller] **EXECUTIVE DIRECTOR** 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] **EXECUTIVE DIRECTOR** may adopt regulations to carry out this subsection.

16.7–210.

A party to a proceeding before the [Comptroller] **EXECUTIVE DIRECTOR** that is aggrieved by a final decision of the [Comptroller] **EXECUTIVE DIRECTOR** 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.

16.7–212.

(a) (1) The [Comptroller] **EXECUTIVE DIRECTOR** shall pay into the General Fund of the State all license fees collected under this title.

(2) All license fees collected by the counties under this title are subject to the distribution provisions of § 17–205 of this article.

(b) The General Assembly intends that these license fees be used to administer this title.

16.7–213.

(c) A person that ships, imports, or sells electronic nicotine delivery systems into or within the State in violation of this section is subject to disciplinary action by the [Comptroller] **EXECUTIVE DIRECTOR** under § 16.7–207 of this subtitle.

Article – Tax – General

~~9–301.~~

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

~~(b) (1) “Blend” means to mix together any combination of:~~

~~(i) alkylate;~~

~~(ii) aromatic;~~

~~(iii) cracked gasoline;~~

~~(iv) natural gasoline;~~

~~(v) polymer gasoline; or~~

~~(vi) straight-run gasoline.~~

~~(2) “Blend” does not include adding alcohol to gasoline.~~

~~(c) (1) “Dealer” means a person who engages in the business of a dealer.~~

~~(2) “Dealer” includes:~~

~~(i) the State when it engages in the business of a dealer; and~~

~~(ii) a political subdivision of the State when the subdivision engages in the business of a dealer.~~

~~(d) (1) “Distributor” means a person who engages in the business of a distributor.~~

~~(2) "Distributor" does not include:~~

- ~~(i) a licensed dealer;~~
- ~~(ii) a licensed special fuel seller;~~
- ~~(iii) a licensed special fuel user;~~
- ~~(iv) a licensed turbine fuel seller;~~
- ~~(v) a marina; or~~
- ~~(vi) a retail service station dealer.~~

~~(e) (1) "Engage in the business of a dealer" means to:~~

- ~~(i) import any gasoline into the State;~~
- ~~(ii) blend, in the State, any gasoline on which the motor fuel tax has not been paid;~~
- ~~(iii) refine, in the State, any gasoline on which the motor fuel tax has not been paid; or~~
- ~~(iv) acquire, in the State, any gasoline on which the motor fuel tax has not been paid, for:~~
 - ~~1. export; or~~
 - ~~2. wholesale distribution.~~

~~(2) "Engage in the business of a dealer" does not include bringing gasoline into the State in the fuel supply tank of an aircraft, motor vehicle, or vessel.~~

~~(f) "Engage in the business of a distributor" means to buy for resale motor fuel on which the motor fuel tax has been paid from a licensed dealer, licensed special fuel seller, licensed special fuel user, or licensed turbine fuel seller.~~

~~(g) (1) "Engage in the business of a special fuel seller" means, with respect to special fuel other than turbine fuel, to:~~

- ~~(i) import any special fuel into the State;~~
- ~~(ii) sell, in the State, any special fuel on which the motor fuel tax has not been paid; or~~

~~(iii) deliver, in the State, any special fuel on which the motor fuel tax has not been paid.~~

~~(2) “Engage in the business of a special fuel seller” does not include bringing special fuel into the State in the fuel supply tank of a motor vehicle or vessel.~~

~~(h) “Engage in the business of a special fuel user” means to:~~

~~(1) buy special fuel on which the motor fuel tax has not been paid; and~~

~~(2) use it in a motor vehicle that is:~~

~~(i) owned or operated by the special fuel user; and~~

~~(ii) registered to operate on a public highway.~~

~~(i) (1) “Engage in the business of a turbine fuel seller” means to:~~

~~(i) import any turbine fuel into the State;~~

~~(ii) sell, in the State, any turbine fuel on which the motor fuel tax has not been paid; or~~

~~(iii) deliver, in the State, any turbine fuel on which the motor fuel tax has not been paid.~~

~~(2) “Engage in the business of a turbine fuel seller” does not include bringing turbine fuel into the State in the fuel supply tank of an aircraft.~~

~~**(J) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE ALCOHOL, TOBACCO, AND MOTOR FUEL COMMISSION.**~~

~~**[(j)] (K)** “License” means a license issued by the Comptroller under this subtitle to engage in the business of a dealer, distributor, special fuel seller, special fuel user, or turbine fuel seller.~~

~~**[(k)] (L)** “Licensed dealer” means a person who is licensed to engage in the business of a dealer.~~

~~**[(l)] (M)** “Licensed distributor” means a person who is licensed to engage in the business of a distributor.~~

~~**[(m)] (N)** “Licensed special fuel seller” means a person who is licensed to engage in the business of a special fuel seller.~~

~~[(n)] (O)~~ “~~Licensed special fuel user~~” means a person who is licensed to engage in the business of a special fuel user.

~~[(o)] (P)~~ “~~Licensed turbine fuel seller~~” means a person who is licensed to engage in the business of a turbine fuel seller.

~~[(p)] (Q)~~ “~~Marina~~” means a person who maintains a place of business where motor fuel is sold primarily to vessels.

~~[(q)] (R)~~ “~~Refine~~” means to make crude oil into gasoline or special fuel by changing the physical or chemical characteristics of the crude oil.

~~[(r)] (S)~~ “~~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.

~~[(s)] (T)~~ (1) “~~Special fuel seller~~” means a person who engages in the business of a special fuel seller.

~~(2)~~ “~~Special fuel seller~~” does not include:

~~(i)~~ a retail service station dealer who pays the motor fuel tax on special fuel to the supplier of the special fuel; or

~~(ii)~~ a marina that sells special fuel only to vessels.

~~[(t)] (U)~~ (1) “~~Special fuel user~~” means a person who engages in the business of a special fuel user.

~~(2)~~ “~~Special fuel user~~” does not include:

~~(i)~~ a person whose only storage for special fuel is the fuel supply tank of a motor vehicle;

~~(ii)~~ a volunteer fire or nonprofit volunteer rescue company that is incorporated in the State and buys special fuel from a licensed special fuel seller to operate fire fighting vehicles or equipment; or

~~(iii)~~ a person who pays the motor fuel tax on all special fuels to the supplier of the special fuels.

~~[(u)] (V)~~ “~~Turbine fuel seller~~” means a person who engages in the business of a turbine fuel seller.

~~(a) Each dealer, distributor, special fuel seller, or turbine fuel seller who sells motor fuel shall give the buyer an original invoice that includes:~~

~~(1) the name under which the [Comptroller] EXECUTIVE DIRECTOR licenses the seller; and~~

~~(2) a statement:~~

~~(i) of the amount of motor fuel tax charged; or~~

~~(ii) if tax is not charged, that the "Maryland motor fuel tax is not included".~~

~~9-318.~~

~~A person shall be licensed by the [Comptroller] EXECUTIVE DIRECTOR before the person may engage, in the State, in the business of:~~

~~(1) a dealer;~~

~~(2) a distributor;~~

~~(3) a special fuel seller;~~

~~(4) a special fuel user; or~~

~~(5) a turbine fuel seller.~~

~~9-320.~~

~~(a) An applicant for a license shall submit to the [Comptroller] EXECUTIVE DIRECTOR:~~

~~(1) a completed application, on the form that the [Comptroller] EXECUTIVE DIRECTOR requires, that:~~

~~(i) is made under oath;~~

~~(ii) states the name under which the applicant does or will do business in the State;~~

~~(iii) states, for partnerships, the name of each partner;~~

~~(iv) states, for firms, the name of each member; and~~

~~(v) states, for corporations, the names and addresses of its principal officers, resident agent, and attorney in fact; and~~

~~(2) the bond required under Title 13 of this article.~~

~~(b) An applicant for an exemption certificate shall submit a completed application, on the form that the [Comptroller] EXECUTIVE DIRECTOR requires, that:~~

~~(1) is made under oath;~~

~~(2) states the name under which the applicant does or will do business in the State;~~

~~(3) states, for partnerships, the name of each partner;~~

~~(4) states, for firms, the name of each member; and~~

~~(5) states, for corporations, the names and addresses of its principal officers, resident agent, and attorney in fact.~~

~~(c) The [Comptroller] EXECUTIVE DIRECTOR shall keep and index:~~

~~(1) each application filed under this section;~~

~~(2) each bond filed under this section; and~~

~~(3) a record of:~~

~~(i) each licensee; and~~

~~(ii) each holder of an exemption certificate.~~

~~9-321.~~

~~(a) The [Comptroller] EXECUTIVE DIRECTOR shall issue a license of the appropriate class to each applicant who meets the requirements of this subtitle.~~

~~(b) The [Comptroller] EXECUTIVE DIRECTOR shall issue an exemption certificate to each applicant who meets the requirements of this subtitle.~~

~~9-322.~~

~~(a) A Class "A" license authorizes the licensee to:~~

~~(1) import into this State gasoline on which the motor fuel tax has not been paid;~~

~~(2) export from this State gasoline on which the motor fuel tax has not been paid; and~~

~~(3) acquire in this State from another holder of a Class "A" license gasoline on which the motor fuel tax has not been paid.~~

~~(b) (1) A Class "B" license authorizes the licensee to import into this State gasoline on which the motor fuel tax has not been paid, for personal use or for redistribution.~~

~~(2) A holder of a Class "B" license may not acquire in this State gasoline on which the motor fuel tax has not been paid.~~

~~(e) (1) A Class "C" license authorizes the licensee to:~~

~~(i) acquire, in this State, from a supplier whom the [Comptroller] EXECUTIVE DIRECTOR specifically approves, gasoline on which the motor fuel tax has not been paid; and~~

~~(ii) export that gasoline.~~

~~(2) A holder of a Class "C" license may not import into this State gasoline on which the motor fuel tax has not been paid.~~

~~(d) (1) A Class "D" license authorizes the licensee to acquire, in this State, gasoline on which the motor fuel tax has not been paid from:~~

~~(i) a holder of a Class "A" license; or~~

~~(ii) another holder of a Class "D" license.~~

~~(2) Unless authorized by the [Comptroller] EXECUTIVE DIRECTOR, a holder of a Class "D" license may not import into this State gasoline on which the motor fuel tax has not been paid.~~

~~(e) A Class "F" license authorizes the licensee to engage, in this State, in the business of a turbine fuel seller.~~

~~(f) (1) A Class "G Temporary" license authorizes the licensee during the term of the federal contract for which the license is issued to:~~

~~(i) acquire, in this State, gasoline on which the motor fuel tax has not been paid, in the amount that the contract specifies and from a supplier whom the [Comptroller] EXECUTIVE DIRECTOR specifically approves; and~~

~~(ii) deliver that amount to the location that the contract specifies.~~

~~(2) A Class "G Temporary" license may be extended if:~~

~~(i) the original federal contract is extended; or~~

~~(ii) during the term of the license, another contract is awarded to the licensee.~~

~~(g) A Class "S" license authorizes a licensee to engage, in this State, in the business of a special fuel seller.~~

~~(h) A Class "U" license authorizes a licensee to engage, in this State, in the business of a special fuel user.~~

~~(i) A Class "W" license authorizes a licensee to engage, in this State, in the business of a distributor.~~

~~(j) A dealer who holds any class of license because the dealer was licensed before July 1, 1985 has the privileges authorized for that class until the dealer is required to apply for a new license, in accordance with regulations of the [Comptroller] EXECUTIVE DIRECTOR in effect as of July 1, 1985.~~

~~(k) As indicated on an exemption certificate, the certificate authorizes the holder to acquire, in bulk and without paying the motor fuel tax:~~

~~(1) special fuel other than turbine fuel; or~~

~~(2) turbine fuel.~~

~~9-226.~~

~~(a) To obtain proper identification of a person who receives, buys, sells, or uses motor fuel, the [Comptroller] EXECUTIVE DIRECTOR may:~~

~~(1) require information necessary to assign an identification number to the person; and~~

~~(2) assign a license or other identification number to the person.~~

~~(b) A person required to file a return or other document under this subtitle shall include the identification number of the person filing and of each other person listed in the other document.~~

~~(e) A person who is to be listed in any return or other document filed by another person under this subtitle shall give the appropriate identification number to the person who is required to file the document.~~

~~9-327.~~

~~(a) To obtain an exemption under § 9-303(a), (b), or (c) of this subtitle, a dealer, distributor, special fuel seller, special fuel user, or turbine fuel seller shall complete and submit any certificates and reports that the [Comptroller] EXECUTIVE DIRECTOR requires, by regulation.~~

~~(b) If the holder of an exemption certificate changes the use of any special fuel obtained under that certificate to a taxable use, the holder shall give the [Comptroller] EXECUTIVE DIRECTOR written notice of the change within 5 days after the first change.~~

~~9-328.~~

~~Subject to the hearing provisions of § 9-329 of this subtitle, the [Comptroller] EXECUTIVE DIRECTOR may deny a license or exemption certificate to any applicant, if the applicant:~~

~~(1) fraudulently or deceptively has obtained or attempts to obtain a license or exemption certificate for the applicant or another person;~~

~~(2) previously has had a license or exemption certificate canceled for cause;~~
or

~~(3) in the judgment of the [Comptroller] EXECUTIVE DIRECTOR, has not filed an application in good faith.~~

~~9-329.~~

~~(a) Except as otherwise provided in § 10-226 of the State Government Article, before the [Comptroller] EXECUTIVE DIRECTOR takes any action under § 9-328 of this subtitle, the [Comptroller] EXECUTIVE DIRECTOR shall give the person against whom the action is contemplated an opportunity for a hearing before the [Comptroller] EXECUTIVE DIRECTOR.~~

~~(b) (1) The [Comptroller] EXECUTIVE DIRECTOR shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.~~

~~(2) The notice shall be sent so that the applicant has at least 5 days' notice before the hearing.~~

~~(e) The [Comptroller] EXECUTIVE DIRECTOR may administer oaths in connection with any proceeding under this section.~~

~~9-330.~~

~~Subject to § 9-331 of this subtitle, the [Comptroller] EXECUTIVE DIRECTOR may cancel a license or exemption certificate if the licensee or certificate holder:~~

- ~~(1) files false information under this subtitle;~~
- ~~(2) fails to file a report required under this subtitle;~~
- ~~(3) fails to give the [Comptroller] EXECUTIVE DIRECTOR the notice of a change in use required under § 9-327(b) of this subtitle;~~
- ~~(4) fails to pay any motor fuel tax, interest, or penalty due under this subtitle;~~
- ~~(5) violates any requirement for the class of license held;~~
- ~~(6) violates any regulation adopted under this subtitle;~~
- ~~(7) fails to maintain the bond required under Title 13 of this article;~~
- ~~(8) stops engaging for more than 6 consecutive months in the business for which licensed; or~~
- ~~(9) fails to keep records required under this article, Title 10, Subtitle 3 of the Business Regulation Article, or an applicable regulation.~~

~~9-331.~~

~~(A) If the [Comptroller] EXECUTIVE DIRECTOR cancels a license or exemption certificate under § 9-330 of this subtitle, the [Comptroller] EXECUTIVE DIRECTOR shall notify the licensee or certificate holder in writing sent to the last known address of the licensee or certificate holder.~~

~~(B) The notice shall be sent by certified mail, return receipt requested, under a postmark of the United States Postal Service.~~

~~9-332.~~

~~(A) Any person aggrieved by a cancellation under § 9-330 of this subtitle or by a final decision of the [Comptroller] EXECUTIVE DIRECTOR in a contested case as defined in § 10-202 of the State Government Article may appeal to the appropriate circuit court.~~

~~(B) The appeal shall be filed within 30 days after the mailing date of the final decision or notice of cancellation.~~

~~9-333.~~

~~(A) A licensee may request in writing that the [Comptroller] EXECUTIVE DIRECTOR cancel a license held by the licensee.~~

~~(B) The [Comptroller] EXECUTIVE DIRECTOR shall notify the licensee in writing of the decision on the request. If the request is granted, the cancellation takes effect on the last day of the month in which the request is received.~~

~~9-335.~~

~~The [Comptroller] EXECUTIVE DIRECTOR shall surrender the bond filed by a licensee if:~~

~~(1) the license is revoked or canceled; and~~

~~(2) the licensee has paid all motor fuel taxes, interest, and penalties that are due.~~

~~9-336.~~

~~(a) The Motor Vehicle Administration shall send promptly to the [Comptroller] EXECUTIVE DIRECTOR the name and address of a person who registers a motor vehicle propelled by special fuel for operation on public highways.~~

~~(b) The [Comptroller] EXECUTIVE DIRECTOR shall notify immediately the Motor Vehicle Administration if:~~

~~(1) the [Comptroller] EXECUTIVE DIRECTOR cancels a license or exemption certificate issued under this subtitle or suspends or revokes an identification marker, a permit, or temporary authority issued to a motor carrier under Subtitle 2 of this title for failure to comply with the provisions of this subtitle or Subtitle 2 of this title; or~~

~~(2) the [Comptroller] EXECUTIVE DIRECTOR knows that a licensee, exemption certificate holder, or motor carrier has violated the provisions of this subtitle or Subtitle 2 of this title.~~

~~(c) On receipt of a notice under subsection (b) of this section, the Motor Vehicle Administration shall suspend or revoke the appropriate registration.~~

~~(d) (1) If the [Comptroller] EXECUTIVE DIRECTOR is satisfied with the corrective action taken by the licensee or certificate holder, the [Comptroller] EXECUTIVE DIRECTOR may reinstate the license or exemption certificate.~~

~~(2) If the license or exemption certificate is reinstated, the [Comptroller] EXECUTIVE DIRECTOR shall give the Motor Vehicle Administration notice of the reinstatement and the Motor Vehicle Administration shall reinstate the registration of the licensee or exemption certificate holder.~~

~~9-337.~~

~~(a) A person may not engage in the business of a dealer, a distributor, a special fuel seller, a special fuel user, or a turbine fuel seller without a license issued by the [Comptroller] EXECUTIVE DIRECTOR under this subtitle.~~

~~(b) A dealer, distributor, special fuel seller, special fuel user, or turbine fuel seller may not receive motor fuel without a license issued by the [Comptroller] EXECUTIVE DIRECTOR under this subtitle.~~

~~(c) A person may not transfer motor fuel on which motor fuel tax is due and has not been paid to a person who does not hold a license or exemption certificate issued by the [Comptroller] EXECUTIVE DIRECTOR under this subtitle.~~

~~13-203.~~

(c) Tax information may be disclosed to:

(1) an employee or officer of the State who, by reason of that employment or office, has the right to the tax information;

(2) another tax collector;

(3) the Maryland Tax Court;

(4) a legal representative of the State, to review the tax information about a taxpayer:

(i) who applies for review under this title;

(ii) who appeals from a determination under this title; or

(iii) against whom an action to recover tax or a penalty is pending or will be initiated under this title;

(5) any license issuing authority of the State required by State law to verify through the Comptroller that an 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;

(6) a local official as defined in § 13–925 of this title to the extent necessary to administer Subtitle 9, Part V of this title;

(7) a federal official as defined in § 13–930 of this title to the extent necessary to administer Subtitle 9, Part VI of this title;

(8) the Maryland Department of Health in accordance with the federal Children’s Health Insurance Program Reauthorization Act of 2009; [and]

(9) the State Board of Individual Tax Preparers; AND

(10) THE ALCOHOL AND TOBACCO COMMISSION.

SECTION 2. AND BE IT FURTHER ENACTED, That ~~the~~:

(a) The Alcohol and Tobacco Commission shall conduct a feasibility study on or before December 1, ~~2019~~ 2021, for maintaining a statewide database of individuals trained in an alcohol awareness program, in which:

(1) an accurate statewide database of all alcoholic beverages licenses is to be annually updated; and

(2) a list of licenses:

(i) is to be maintained for at least 3 years before being archived; but

(ii) is not to be destroyed.

(b) The feasibility study shall be submitted on or before December 31, ~~2019~~ 2021, to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That the initial terms of the members of the Alcohol, ~~and Tobacco, and Motor Fuel~~ Commission appointed under Section 1 of this Act shall expire as follows:

(1) one member on June 30, 2021;

(2) one member on June 30, 2022;

(3) one member on June 30, 2023; and

- (4) two members on June 30, 2024.

SECTION 4. AND BE IT FURTHER ENACTED, That, as provided in this Act:

- (a) It is the intent of the General Assembly that:

(1) the transfer of the Field Enforcement Division and the personnel of the Division to the Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission under this Act shall take effect not later than July 1, 2020;

(2) the transfer shall be conducted in a manner that will minimize the costs of the transfer and will result in a more cost-efficient operation for the regulation of alcoholic beverages, and tobacco, ~~and motor fuel~~ for the protection of the public health, safety, and welfare of the State.

(b) The Office of the Executive Director of the Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission is the successor of the Office of the Comptroller in matters concerning the regulation of alcohol, and tobacco, ~~and motor fuel~~.

(c) In every law, executive order, rule, regulation, policy, or document created by an official, an employee, or a unit of this State, the names and titles of those agencies and officials mean the names and titles of the successor agency or official.

SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects the term of office of an appointed or elected member of any commission, office, department, agency, or other unit. An individual who is a member of a unit on the effective date of this Act shall remain for the balance of the term to which appointed or elected, unless the member sooner dies, resigns, or is removed under provisions of law.

SECTION 6. AND BE IT FURTHER ENACTED, That any transaction or employment status affected by or flowing from any change of nomenclature or any statute amended by this Act and validly entered into or existing before the effective date of this Act and every right, duty, or interest flowing from a statute amended by this Act remains valid after the effective date of this Act and may be terminated, completed, consummated, or enforced as required or allowed by any statute amended by this Act as though the amendment had not occurred. If a change in nomenclature involves a change in name or designation of any State unit, the successor unit shall be considered in all respects as having the powers and obligations granted the former unit.

SECTION 7. AND BE IT FURTHER ENACTED, That all persons who, as of June 30, 2020, are employees in budgeted positions of the Office of the Comptroller and whose positions are transferred to the Office of the Executive Director of the Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission as provided by this Act are hereby transferred to the Office of the Executive Director of the Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission without any change or loss of ~~rights~~ pay, working conditions, benefits, rights, or status, and shall retain any merit system and retirement status they may have on the date of transfer.

SECTION 8. AND BE IT FURTHER ENACTED, That all findings and determinations, permits and licenses, applications for permits and licenses, rules and regulations, proposed rules and regulations, standards and guidelines, proposed standards and guidelines, orders and other directives, forms, plans, memberships, special funds, appropriations, grants, loans, applications and commitments for grants, loans, and tax credits, contracts, real and personal property, equipment, artifacts, collections, investigations, administrative and judicial proceedings, rights to sue and be sued, and all other duties and responsibilities associated with those functions transferred by this Act shall continue in effect under the Office of the Executive Director of the Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission until completed, withdrawn, canceled, modified, or otherwise changed in accordance with law.

SECTION 9. AND BE IT FURTHER ENACTED, That:

(1) the continuity of every commission, office, department, agency, or other unit is retained; and

(2) the personnel records, files, furniture, fixtures, and other properties and all appropriations, credits, assets, liabilities, and obligations of each retained unit are continued as the personnel, records, files, furniture, fixtures, properties, appropriations, credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

SECTION 10. AND BE IT FURTHER ENACTED, That letterhead, business cards, and other documents reflecting the renaming of the Office of the Comptroller to be the Office of the Executive Director of the Alcohol, and Tobacco, ~~and Motor Fuel~~ Commission may not be used until all letterhead, business cards, and other documents already in print and reflecting the name of the Office before the effective date of this Act have been used.

SECTION 11. AND BE IT FURTHER ENACTED, That the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services, shall correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by this Act. The publisher shall adequately describe any correction made in an editor's note following the section affected.

SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2020.

Gubernatorial Veto Override, March 28, 2019.