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SB 621/95 - B&T

1996 Regular Session  
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CF 6lr1695

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**By: Senators Van Hollen, Currie, Forehand, Frosh, Hoffman, Hogan, Lawlah,  
McFadden, Pinsky, Ruben, and Teitelbaum**

Introduced and read first time: February 2, 1996

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Taxation of Smokeless Tobacco Products - Tobacco Awareness Fund**

3 FOR the purpose of creating a Tobacco Awareness Fund to be administered by the  
4 Secretary of Health and Mental Hygiene; providing for the use of the Fund;  
5 prohibiting the unspent portions of the Fund to revert to the General Fund of the  
6 State; requiring the Secretary of Agriculture to develop and implement a program  
7 to encourage and assist tobacco growers in the State to convert tobacco farmland to  
8 other productive uses; extending the tobacco tax to certain smokeless tobacco  
9 products; setting the rate of the tobacco tax for smokeless tobacco products;  
10 defining certain terms and altering certain definitions under the tobacco tax law;  
11 requiring the Comptroller to establish by regulation a system of administering,  
12 collecting, and enforcing the tobacco tax on smokeless tobacco products; altering  
13 the distribution of the tobacco tax revenue; and generally relating to the Tobacco  
14 Awareness Fund and the extension of the tobacco tax to certain smokeless tobacco  
15 products.

16 BY adding to

17 Article - Agriculture  
18 Section 7-501 to be under the new subtitle "Subtitle 5. Tobacco Crop Conversion"  
19 Annotated Code of Maryland  
20 (1985 Replacement Volume and 1995 Supplement)

21 BY adding to

22 Article - Health - General  
23 Section 24-901 through 24-903, inclusive, to be under the new subtitle "Subtitle 9.  
24 Tobacco Awareness Fund"  
25 Annotated Code of Maryland  
26 (1990 Replacement Volume and 1995 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article - Tax - General  
29 Section 2-1603, 12-101(f), 12-102, 12-103(a), 12-104, 12-105, 12-202, 12-203, and  
30 13-408  
31 Annotated Code of Maryland

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1 (1988 Volume and 1995 Supplement)

2 BY adding to

3 Article - Tax - General

4 Section 12-101(c-1) and (e-1), 12-302(c), and 12-306

5 Annotated Code of Maryland

6 (1988 Volume and 1995 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article - Tax - General

9 Section 12-101(a)

10 Annotated Code of Maryland

11 (1988 Volume and 1995 Supplement)

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

14 **Article - Agriculture**

15 SUBTITLE 5. TOBACCO CROP CONVERSION.

16 7-501.

17 THE SECRETARY SHALL DEVELOP AND IMPLEMENT A PROGRAM TO  
18 ENCOURAGE AND ASSIST TOBACCO GROWERS IN THE STATE TO CONVERT TOBACCO  
19 FARMLAND TO PRODUCTIVE USES OTHER THAN THE GROWING OF TOBACCO.

20 **Article - Health - General**

21 SUBTITLE 9. TOBACCO AWARENESS FUND.

22 24-901.

23 IN THIS SUBTITLE "FUND" MEANS THE TOBACCO AWARENESS FUND  
24 ESTABLISHED UNDER § 24-902 OF THIS SUBTITLE.

25 24-902.

26 (A) THERE IS A TOBACCO AWARENESS FUND.

27 (B) THE FUND SHALL CONSIST OF THE TOBACCO TAX REVENUE  
28 DISTRIBUTED TO THE FUND UNDER § 2-1603 OF THE TAX - GENERAL ARTICLE.

29 (C) THE SECRETARY SHALL ADMINISTER THE FUND AND SHALL DEDUCT  
30 FROM THE FUND THE AMOUNT NECESSARY TO ADMINISTER THE FUND.

31 (D) THE FUND SHALL BE USED ONLY AS PROVIDED IN § 24-903 OF THIS  
32 SUBTITLE.

33 (E) THE FUND SHALL BE MAINTAINED FOR THE PURPOSES STATED IN THIS  
34 SUBTITLE AND UNSPENT PORTIONS OF THE FUND SHALL REMAIN IN THE FUND AND  
35 MAY NOT REVERT TO THE GENERAL FUND OF THE STATE.

3

1 24-903.

2 (A) AFTER DEDUCTING THE AMOUNT NECESSARY TO ADMINISTER THE  
3 FUND, THE SECRETARY SHALL DISTRIBUTE 10% OF THE REMAINDER OF THE FUND  
4 TO A TOBACCO CROP CONVERSION ACCOUNT WITHIN THE DEPARTMENT OF  
5 AGRICULTURE, TO BE USED ONLY TO DEVELOP AND IMPLEMENT A TOBACCO CROP  
6 CONVERSION PROGRAM UNDER § 7-501 OF THE AGRICULTURE ARTICLE.

7 (B) AFTER MAKING THE DISTRIBUTION UNDER SUBSECTION (A) OF THIS  
8 SECTION, THE SECRETARY SHALL USE THE REMAINDER OF THE FUND AS PROVIDED  
9 IN SUBSECTION (C) OF THIS SECTION FOR DISSEMINATING CANCER PREVENTION  
10 MESSAGES DESIGNED TO DISCOURAGE THE USE OF SMOKELESS TOBACCO  
11 PRODUCTS AS DEFINED IN § 12-101 OF THE TAX - GENERAL ARTICLE.

12 (C) THE SECRETARY SHALL ACQUIRE BROADCAST TIME ON RADIO OR  
13 TELEVISION THAT PROVIDES FOR BROADCASTING, WITH SPECIFIC EMPHASIS ON  
14 YOUTH AUDIENCES, INFORMATION FOR PUBLIC AWARENESS ON THE HEALTH  
15 EFFECTS OF SMOKELESS TOBACCO PRODUCTS AS DEFINED IN § 12-101 OF THE  
16 TAX - GENERAL ARTICLE.

17 **Article - Tax - General**

18 2-1603.

19 After making the distributions required under §§ 2-1601 and 2-1602 of this subtitle,  
20 the Comptroller shall distribute:

21 (1) THE REMAINING TOBACCO TAX REVENUE FROM SMOKELESS  
22 TOBACCO PRODUCTS TO THE TOBACCO AWARENESS FUND ESTABLISHED UNDER §  
23 24-902 OF THE HEALTH - GENERAL ARTICLE; AND

24 (2) the remaining tobacco tax revenue to the General Fund of the State.

25 12-101.

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

27 (C-1) "SMOKELESS TOBACCO PRODUCT" MEANS ANY TOBACCO OR PRODUCT  
28 MADE PRIMARILY FROM TOBACCO INTENDED FOR CONSUMPTION BY CHEWING OR  
29 AS SNUFF.

30 (E-1) "MANUFACTURER'S PRICE" MEANS THE PRICE FOR WHICH A  
31 MANUFACTURER SELLS SMOKELESS TOBACCO PRODUCTS TO A WHOLESALER,  
32 EXCLUSIVE OF ANY DISCOUNT, TRADE ALLOWANCE, REBATE, OR OTHER  
33 REDUCTION.

34 (f) "Wholesaler" means, unless the context requires otherwise[.]:

35 (1) a person who acts as a wholesaler as defined in § 16-201 of the Business  
36 Regulation Article; OR

37 (2) A PERSON WHO:

4

1 (I) HOLDS SMOKELESS TOBACCO PRODUCTS FOR SALE TO  
2 ANOTHER PERSON FOR RESALE; OR

3 (II) SELLS TOBACCO PRODUCTS TO ANOTHER PERSON FOR  
4 RESALE.

5 12-102.

6 (a) Except as provided in § 12-104 of this title, a tax is imposed on cigarettes AND  
7 SMOKELESS TOBACCO PRODUCTS in the State.

8 (b) A county, municipal corporation, special taxing district, or other political  
9 subdivision of the State may not impose a tax on cigarettes OR SMOKELESS TOBACCO  
10 PRODUCTS.

11 12-103.

12 (a) A rebuttable presumption exists that any cigarette OR SMOKELESS TOBACCO  
13 PRODUCT in the State is subject to the tobacco tax.

14 12-104.

15 (a) "Consumer" means a person who possesses cigarettes OR SMOKELESS  
16 TOBACCO PRODUCTS for a purpose other than selling or transporting the cigarettes OR  
17 SMOKELESS TOBACCO PRODUCTS.

18 (b) The tobacco tax does not apply to cigarettes OR SMOKELESS TOBACCO  
19 PRODUCTS that:

20 (1) a licensed wholesaler under Title 16 of the Business Regulations Article  
21 is holding for sale outside the State or to a United States armed forces exchange or  
22 commissary;

23 (2) a consumer brings into the State:

24 (i) if the quantity brought from another state does not exceed:

25 1. for a nonresident consumer traveling through this State,  
26 SMOKELESS TOBACCO PRODUCTS HAVING A RETAIL VALUE OF \$25 OR 1 carton OF  
27 CIGARETTES; or

28 2. for any other consumer, SMOKELESS TOBACCO PRODUCTS  
29 HAVING A RETAIL VALUE OF \$5 OR 2 packages OF CIGARETTES; or

30 (ii) if the quantity brought from a United States armed forces  
31 installation or reservation does not exceed:

32 1. for a consumer who is a member of an armed forces unit or  
33 who is entitled by law to make a purchase at an armed forces exchange, SMOKELESS  
34 TOBACCO PRODUCTS HAVING A RETAIL VALUE OF \$50 OR 2 cartons OF CIGARETTES;  
35 or

36 2. for any other consumer, SMOKELESS TOBACCO PRODUCTS  
37 HAVING A RETAIL VALUE OF \$5 OR 2 packages OF CIGARETTES that were bought at an  
38 armed forces exchange or commissary;

5

1 (3) a person is transporting by vehicle in the State if the person has, in the  
2 vehicle, the records required by § 16-219 of the Business Regulation Article for the  
3 transportation of cigarettes; or

4 (4) are held in storage in a licensed storage warehouse.

5 12-105.

6 (A) The tobacco tax rate FOR CIGARETTES is:

7 (1) 18 cents for each package of 10 or fewer cigarettes;

8 (2) 36 cents for each package of at least 11 and not more than 20 cigarettes;

9 (3) 1.8 cents for each cigarette in a package of more than 20 cigarettes; and

10 (4) 1.8 cents for each cigarette in a package of free sample cigarettes.

11 (B) THE TOBACCO TAX RATE FOR SMOKELESS TOBACCO PRODUCTS IS 25% OF  
12 THE MANUFACTURER'S PRICE OF THE SMOKELESS TOBACCO PRODUCTS.

13 12-202.

14 (a) A wholesaler shall complete and file with the Comptroller a tobacco tax  
15 return:

16 (1) FOR CIGARETTES:

17 (I) on or before the 21st day of the month that follows the month in  
18 which the wholesaler has the first possession, in the State, of unstamped cigarettes for  
19 which tax stamps are required; and

20 [(2)] (II) if the Comptroller so specifies, by regulation, on other dates for  
21 each month in which the wholesaler does not have the first possession of any unstamped  
22 cigarettes in the State; AND

23 (2) FOR SMOKELESS TOBACCO PRODUCTS, ON THE DATES AND FOR THE  
24 PERIODS THAT THE COMPTROLLER SPECIFIES BY REGULATION.

25 (b) Each return shall state the quantity of cigarettes OR SMOKELESS TOBACCO  
26 PRODUCTS sold during the period that the return covers.

27 12-203.

28 (a) Each wholesaler shall:

29 (1) keep an invoice for each purchase of tax stamps;

30 (2) maintain a daily record of the tax stamps affixed to cigarette packages;

31 and

32 (3) maintain a complete and accurate record of each sale of cigarettes OR  
33 SMOKELESS TOBACCO PRODUCTS for resale outside of the State.

34 (b) A wholesaler shall:

6

1 (1) keep the records required under subsection (a) of this section for a  
2 period of 6 years or for a shorter period that the Comptroller authorizes; and

3 (2) allow the Comptroller to examine the records.

4 12-302.

5 (C) (1) THE TOBACCO TAX ON SMOKELESS TOBACCO PRODUCTS SHALL BE  
6 PAID BY THE WHOLESALER WHO SELLS THE SMOKELESS TOBACCO PRODUCTS TO A  
7 RETAILER IN THE STATE.

8 (2) IF A RETAILER POSSESSES SMOKELESS TOBACCO PRODUCTS IN THE  
9 STATE ON WHICH THE SMOKELESS TOBACCO PRODUCTS TAX HAS NOT BEEN PAID,  
10 THE RETAILER SHALL PAY THE TOBACCO TAX ON THOSE SMOKELESS TOBACCO  
11 PRODUCTS.

12 12-306.

13 (A) THE COMPTROLLER SHALL ESTABLISH, BY REGULATION, A SYSTEM OF  
14 ADMINISTERING, COLLECTING, AND ENFORCING THE TOBACCO TAX ON SMOKELESS  
15 TOBACCO PRODUCTS.

16 (B) REGULATIONS ADOPTED UNDER THIS SECTION MAY INCLUDE:

17 (1) SELF-ASSESSMENT, FILING OF RETURNS, AND MAINTENANCE AND  
18 RETENTION OF RECORDS BY WHOLESALERS OR RETAILERS;

19 (2) PAYMENT OF THE TAX BY:

20 (I) A WHOLESALER WHO SELLS SMOKELESS TOBACCO PRODUCTS  
21 TO A RETAILER IN THE STATE; OR

22 (II) A RETAILER WHO POSSESSES SMOKELESS TOBACCO PRODUCTS  
23 IN THE STATE ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID; AND

24 (3) ANY OTHER PROVISION THAT THE COMPTROLLER CONSIDERS  
25 NECESSARY TO EFFICIENTLY AND ECONOMICALLY ADMINISTER, COLLECT, AND  
26 ENFORCE THE TAX.

27 13-408.

28 (a) If the Comptroller determines that a person has failed to keep the records of  
29 out-of-state cigarette OR SMOKELESS TOBACCO PRODUCT sales required under §  
30 12-203 of this article, the Comptroller shall:

31 (1) compute the tobacco tax as if the cigarettes OR SMOKELESS TOBACCO  
32 PRODUCTS were sold in the State; and

33 (2) assess the tax due.

34 (b) If the Comptroller determines that a person has possessed or transported  
35 cigarettes OR SMOKELESS TOBACCO PRODUCTS on which the tobacco tax has not been  
36 paid as required under Title 12 of this article, the Comptroller shall assess the tobacco tax  
37 due.

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1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 1996.