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1996 Regular Session
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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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 26, 1996

CHAPTER ____

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; allowing moneys to be expended from a certain fund or on a certain program
7 only if there is an appropriation in the annual budget bill; requiring the Secretary of
8 Agriculture to develop and implement a program to encourage and assist tobacco
9 growers in the State to convert tobacco farmland to other productive uses;
10 extending the tobacco tax to certain smokeless tobacco products; setting the rate of
11 the tobacco tax for smokeless tobacco products; defining certain terms and altering
12 certain definitions under the tobacco tax law; requiring the Comptroller to establish
13 by regulation a system of administering, collecting, and enforcing the tobacco tax on
14 smokeless tobacco products; altering the distribution of the tobacco tax revenue;
15 and generally relating to the Tobacco Awareness Fund and the extension of the
16 tobacco tax to certain smokeless tobacco products.

17 BY adding to

18 Article - Agriculture
19 Section 7-501 to be under the new subtitle "Subtitle 5. Tobacco Crop Conversion"
20 Annotated Code of Maryland
21 (1985 Replacement Volume and 1995 Supplement)

22 BY adding to

23 Article - Health - General
24 Section 24-901 through 24-903, inclusive, to be under the new subtitle "Subtitle 9.
25 Tobacco Awareness Fund"

2

1 Annotated Code of Maryland
2 (1990 Replacement Volume and 1995 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Tax - General
5 Section 2-1603, 12-101(f), 12-102, 12-103(a), 12-104, 12-105, 12-202, 12-203, and
6 13-408
7 Annotated Code of Maryland
8 (1988 Volume and 1995 Supplement)

9 BY adding to
10 Article - Tax - General
11 Section 12-101(c-1) and (e-1), 12-302(c), and 12-306
12 Annotated Code of Maryland
13 (1988 Volume and 1995 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article - Tax - General
16 Section 12-101(a)
17 Annotated Code of Maryland
18 (1988 Volume and 1995 Supplement)

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

21 **Article - Agriculture**

22 SUBTITLE 5. TOBACCO CROP CONVERSION.

23 7-501.

24 (A) THE SECRETARY SHALL DEVELOP AND IMPLEMENT A PROGRAM TO
25 ENCOURAGE AND ASSIST TOBACCO GROWERS IN THE STATE TO CONVERT TOBACCO
26 FARMLAND TO PRODUCTIVE USES OTHER THAN THE GROWING OF TOBACCO.

27 (B) MONEYS MAY BE EXPENDED FOR THE PROGRAM ONLY IF AN
28 APPROPRIATION IS INCLUDED IN THE ANNUAL BUDGET BILL.

29 **Article - Health - General**

30 SUBTITLE 9. TOBACCO AWARENESS FUND.

31 24-901.

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

34 24-902.

35 (A) THERE IS A TOBACCO AWARENESS FUND.

3

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

3 (C) THE SECRETARY SHALL ADMINISTER THE FUND AND SHALL DEDUCT
4 FROM THE FUND THE AMOUNT NECESSARY TO ADMINISTER THE FUND.

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

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

10 (F) MONEYS MAY BE EXPENDED FROM THE FUND ONLY IF AN
11 APPROPRIATION IS INCLUDED IN THE ANNUAL BUDGET BILL.

12 24-903.

13 ~~(A) AFTER DEDUCTING THE AMOUNT NECESSARY TO ADMINISTER THE~~
14 ~~FUND, THE SECRETARY SHALL DISTRIBUTE 10% OF THE REMAINDER OF THE FUND~~
15 ~~TO A TOBACCO CROP CONVERSION ACCOUNT WITHIN THE DEPARTMENT OF~~
16 ~~AGRICULTURE, TO BE USED ONLY TO DEVELOP AND IMPLEMENT A TOBACCO CROP~~
17 ~~CONVERSION PROGRAM UNDER § 7-501 OF THE AGRICULTURE ARTICLE.~~

18 ~~(B) AFTER MAKING THE DISTRIBUTION UNDER SUBSECTION (A) OF THIS~~
19 ~~SECTION, THE SECRETARY SHALL USE THE REMAINDER OF THE FUND AS PROVIDED~~
20 ~~IN SUBSECTION (C) (B) OF THIS SECTION FOR DISSEMINATING CANCER PREVENTION~~
21 ~~MESSAGES DESIGNED TO DISCOURAGE THE USE OF SMOKELESS TOBACCO~~
22 ~~PRODUCTS AS DEFINED IN § 12-101 OF THE TAX - GENERAL ARTICLE.~~

23 ~~(B)~~ (B) THE SECRETARY SHALL ACQUIRE BROADCAST TIME ON RADIO OR
24 TELEVISION THAT PROVIDES FOR BROADCASTING, WITH SPECIFIC EMPHASIS ON
25 YOUTH AUDIENCES, INFORMATION FOR PUBLIC AWARENESS ON THE HEALTH
26 EFFECTS OF SMOKELESS TOBACCO PRODUCTS AS DEFINED IN § 12-101 OF THE
27 TAX - GENERAL ARTICLE.

28 **Article - Tax - General**

29 2-1603.

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

32 (1) 10% OF THE REMAINING TAX REVENUE FROM SMOKELESS TOBACCO
33 PRODUCTS TO A TOBACCO CROP CONVERSION ACCOUNT WITHIN THE DEPARTMENT
34 OF AGRICULTURE TO BE USED ONLY TO DEVELOP AND IMPLEMENT A TOBACCO
35 CROP CONVERSION PROGRAM UNDER § 7-501 OF THE AGRICULTURE ARTICLE.

36 ~~(2)~~ (2) 50% OF THE REMAINING TOBACCO TAX REVENUE FROM
37 SMOKELESS TOBACCO PRODUCTS TO THE TOBACCO AWARENESS FUND
38 ESTABLISHED UNDER § 24-902 OF THE HEALTH - GENERAL ARTICLE; AND

39 ~~(3)~~ (3) the remaining tobacco tax revenue to the General Fund of the
40 State.

4

1 12-101.

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

3 (C-1) "SMOKELESS TOBACCO PRODUCT" MEANS ANY TOBACCO OR PRODUCT
4 MADE PRIMARILY FROM TOBACCO INTENDED FOR CONSUMPTION BY CHEWING OR
5 AS SNUFF.

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

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

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

13 (2) A PERSON WHO:

14 (I) HOLDS SMOKELESS TOBACCO PRODUCTS FOR SALE TO
15 ANOTHER PERSON FOR RESALE; OR

16 (II) SELLS TOBACCO PRODUCTS TO ANOTHER PERSON FOR
17 RESALE.

18 12-102.

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

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

24 12-103.

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

27 12-104.

28 (a) "Consumer" means a person who possesses cigarettes OR SMOKELESS
29 TOBACCO PRODUCTS for a purpose other than selling or transporting the cigarettes OR
30 SMOKELESS TOBACCO PRODUCTS.

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

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

36 (2) a consumer brings into the State:

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

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

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

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

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

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

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

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

19 12-105.

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

21 (1) 18 cents for each package of 10 or fewer cigarettes;

22 (2) 36 cents for each package of at least 11 and not more than 20 cigarettes;

23 (3) 1.8 cents for each cigarette in a package of more than 20 cigarettes; and

24 (4) 1.8 cents for each cigarette in a package of free sample cigarettes.

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

27 12-202.

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

30 (1) FOR CIGARETTES:

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

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

6

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

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

5 12-203.

6 (a) Each wholesaler shall:

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

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

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

12 (b) A wholesaler shall:

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

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

16 12-302.

17 (C) (1) THE TOBACCO TAX ON SMOKELESS TOBACCO PRODUCTS SHALL BE
18 PAID BY THE WHOLESALER WHO SELLS THE SMOKELESS TOBACCO PRODUCTS TO A
19 RETAILER IN THE STATE.

20 (2) IF A RETAILER POSSESSES SMOKELESS TOBACCO PRODUCTS IN THE
21 STATE ON WHICH THE SMOKELESS TOBACCO PRODUCTS TAX HAS NOT BEEN PAID,
22 THE RETAILER SHALL PAY THE TOBACCO TAX ON THOSE SMOKELESS TOBACCO
23 PRODUCTS.

24 12-306.

25 (A) THE COMPTROLLER SHALL ESTABLISH, BY REGULATION, A SYSTEM OF
26 ADMINISTERING, COLLECTING, AND ENFORCING THE TOBACCO TAX ON SMOKELESS
27 TOBACCO PRODUCTS.

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

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

31 (2) PAYMENT OF THE TAX BY:

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

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

7

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

4 13-408.

5 (a) If the Comptroller determines that a person has failed to keep the records of
6 out-of-state cigarette OR SMOKELESS TOBACCO PRODUCT sales required under §
7 12-203 of this article, the Comptroller shall:

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

10 (2) assess the tax due.

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

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