

HOUSE BILL 763

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Q7
HB 984/97 - W&M

1998 Regular Session
8r1068

By: **Delegates Marriott, Healey, Cryor, Rosenberg, Grosfeld, R. Baker,
Goldwater, Crumlin, Watson, and Doory**

Introduced and read first time: February 11, 1998

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Tax - Tobacco Tax Health Protection Fund**

3 FOR the purpose of imposing the tobacco tax on certain tobacco products other than
4 cigarettes; prohibiting a political subdivision of the State from imposing a tax on
5 other tobacco products; altering the tobacco tax rate for cigarettes; providing for
6 certain increases in the tobacco tax rate for cigarettes, subject to certain
7 contingencies; setting the rate of the tobacco tax for other tobacco products;
8 altering a certain discount provision under the tobacco tax; defining certain
9 terms and altering certain definitions under the tobacco tax law; requiring the
10 Comptroller to establish by regulation a system of administering, collecting, and
11 enforcing the tobacco tax on other tobacco products; making other tobacco
12 products subject to certain enforcement provisions applicable to cigarettes;
13 prohibiting certain acts relating to other tobacco products; imposing certain
14 requirements relating to certain transportation of other tobacco products;
15 requiring the Secretary of Agriculture to develop and implement a program to
16 encourage and assist tobacco growers in the State to convert tobacco farmland to
17 other productive uses; creating a Tobacco Tax Health Protection Fund to be
18 administered by the Secretary of Health and Mental Hygiene; providing for the
19 distribution of certain tobacco tax revenues to the Fund; providing for the use of
20 the Fund; prohibiting the unspent portions of the Fund to revert to the General
21 Fund of the State; providing for the effective dates and application of this Act;
22 and generally relating to the taxation of cigarettes and other tobacco products
23 and the Tobacco Tax Health Protection Fund.

24 BY adding to
25 Article - Agriculture
26 Section 7-501 to be under the new subtitle "Subtitle 5. Tobacco Crop
27 Conversion"
28 Annotated Code of Maryland
29 (1985 Replacement Volume and 1997 Supplement)

30 BY adding to
31 Article - Health - General

1 Section 24-901 through 24-903, inclusive, to be under the new subtitle "Subtitle
2 9. Tobacco Tax Health Protection Fund"
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 1997 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - Tax - General
7 Section 2-1603, 12-101(f), 12-102 through 12-105, 12-202, 12-203, 12-303(b),
8 13-408, 13-834(c) and (e), 13-835(a), 13-836(a)(1) and (b)(2), 13-837,
9 13-839, 13-841(b), 13-842, 13-1014(a), and 13-1015
10 Annotated Code of Maryland
11 (1997 Replacement Volume)

12 BY repealing and reenacting, without amendments,
13 Article - Tax - General
14 Section 12-101(a)
15 Annotated Code of Maryland
16 (1997 Replacement Volume)

17 BY adding to
18 Article - Tax - General
19 Section 12-101(b-1) and (e-1), 12-302(c), and 12-306
20 Annotated Code of Maryland
21 (1997 Replacement Volume)

22 BY repealing and reenacting, with amendments,
23 Article - Business Regulation
24 Section 16-219
25 Annotated Code of Maryland
26 (1992 Volume and 1997 Supplement)

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

29 **Article - Agriculture**

30 **SUBTITLE 5. TOBACCO CROP CONVERSION.**

31 7-501.

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

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

1 **Article - Health - General**

2 SUBTITLE 9. TOBACCO TAX HEALTH PROTECTION FUND.

3 24-901.

4 IN THIS SUBTITLE, "FUND" MEANS THE TOBACCO TAX HEALTH PROTECTION
5 FUND ESTABLISHED UNDER § 24-902 OF THIS SUBTITLE.

6 24-902.

7 (A) THERE IS A TOBACCO TAX HEALTH PROTECTION FUND.

8 (B) THE FUND SHALL CONSIST OF THE TOBACCO TAX REVENUE DISTRIBUTED
9 TO THE FUND UNDER § 2-1603 OF THE TAX - GENERAL ARTICLE.10 (C) THE SECRETARY SHALL ADMINISTER THE FUND AND SHALL DEDUCT
11 FROM THE FUND THE AMOUNT NECESSARY TO ADMINISTER THE FUND.12 (D) THE FUND SHALL BE USED ONLY AS PROVIDED IN § 24-903 OF THIS
13 SUBTITLE.14 (E) THE FUND SHALL BE MAINTAINED FOR THE PURPOSES STATED IN THIS
15 SUBTITLE AND UNSPENT PORTIONS OF THE FUND SHALL REMAIN IN THE FUND AND
16 MAY NOT REVERT TO THE GENERAL FUND OF THE STATE.17 (F) MONEYS MAY BE EXPENDED FROM THE FUND ONLY IF AN
18 APPROPRIATION IS INCLUDED IN THE ANNUAL BUDGET BILL.

19 24-903.

20 (A) THE SECRETARY SHALL USE THE FUND:

21 (1) TO FUND ADDITIONAL PREVENTION AND TREATMENT SERVICES
22 ADMINISTERED UNDER THE ALCOHOL AND DRUG ABUSE ADMINISTRATION; AND23 (2) AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, FOR
24 DISSEMINATING CANCER PREVENTION MESSAGES DESIGNED TO DISCOURAGE THE
25 USE OF CIGARETTES AND OTHER TOBACCO PRODUCTS.26 (B) THE SECRETARY SHALL ACQUIRE BROADCAST TIME ON RADIO OR
27 TELEVISION THAT PROVIDES FOR BROADCASTING, WITH SPECIFIC EMPHASIS ON
28 YOUTH AUDIENCES, INFORMATION FOR PUBLIC AWARENESS ON THE HEALTH
29 EFFECTS OF CIGARETTES AND OTHER TOBACCO PRODUCTS.30 **Article - Tax - General**

31 2-1603.

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

1 (1) \$20,000,000 TO THE TOBACCO TAX HEALTH PROTECTION FUND
2 ESTABLISHED UNDER § 24-902 OF THE HEALTH - GENERAL ARTICLE;

3 (2) \$20,000,000 TO A SPECIAL FUND TO BE USED ONLY TO PROVIDE
4 ADDITIONAL FUNDING FOR CONSTRUCTION OF ELEMENTARY AND SECONDARY
5 SCHOOLS IN THE STATE;

6 (3) \$5,000,000 TO A SPECIAL FUND TO BE USED ONLY TO FUND THE
7 TOBACCO CROP CONVERSION FUND ESTABLISHED UNDER § 7-501 OF THE
8 AGRICULTURE ARTICLE; AND

9 (4) the remaining tobacco tax revenue to the General Fund of the State.

10 12-101.

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

12 (B-1) "OTHER TOBACCO PRODUCT" MEANS:

13 (1) ANY CIGAR OR ROLL FOR SMOKING, OTHER THAN A CIGARETTE,
14 MADE IN WHOLE OR IN PART OF TOBACCO; OR

15 (2) ANY OTHER TOBACCO OR PRODUCT MADE PRIMARILY FROM
16 TOBACCO, OTHER THAN A CIGARETTE, THAT IS INTENDED FOR CONSUMPTION BY
17 SMOKING OR CHEWING OR AS SNUFF.

18 (E-1) "WHOLESALE PRICE" MEANS THE PRICE FOR WHICH A WHOLESALER
19 SELLS OTHER TOBACCO PRODUCTS TO A RETAILER, EXCLUSIVE OF ANY DISCOUNT,
20 TRADE ALLOWANCE, REBATE, OR OTHER REDUCTION.

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

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

24 (2) A PERSON WHO:

25 (I) HOLDS OTHER TOBACCO PRODUCTS FOR SALE TO ANOTHER
26 PERSON FOR RESALE; OR

27 (II) SELLS OTHER TOBACCO PRODUCTS TO ANOTHER PERSON FOR
28 RESALE.

29 12-102.

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

32 (b) A county, municipal corporation, special taxing district, or other political
33 subdivision of the State may not impose a tax on cigarettes OR OTHER TOBACCO
34 PRODUCTS.

1 12-103.

2 (a) A rebuttable presumption exists that any cigarette OR OTHER TOBACCO
3 PRODUCT in the State is subject to the tobacco tax.

4 (b) Cigarettes OR OTHER TOBACCO PRODUCTS are contraband [cigarettes]
5 TOBACCO PRODUCTS if they:

6 (1) are possessed or sold in the State in a manner that is not authorized
7 under this title or under Title 16 of the Business Regulation Article; or

8 (2) are transported by vehicle in the State by a person who does not
9 have, in the vehicle, the records required by § 16-219 of the Business Regulation
10 Article for the transportation of cigarettes OR OTHER TOBACCO PRODUCTS.

11 (c) A person who possesses cigarettes OR OTHER TOBACCO PRODUCTS has the
12 burden of proving that the cigarettes OR OTHER TOBACCO PRODUCTS are not subject
13 to the tobacco tax.

14 12-104.

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

18 (b) The tobacco tax does not apply to:

19 (1) cigarettes that[:

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

23 (2) OTHER TOBACCO PRODUCTS THAT A WHOLESALER IS HOLDING FOR
24 SALE OUTSIDE THE STATE OR TO A UNITED STATES ARMED FORCES EXCHANGE OR
25 COMMISSARY; OR

26 (3) CIGARETTES OR OTHER TOBACCO PRODUCTS THAT:

27 [(2)] (I) a consumer brings into the State:

28 [(i)] 1. if the quantity brought from another state does not exceed:

29 [1.] A. for a nonresident consumer traveling through this
30 State, OTHER TOBACCO PRODUCTS HAVING A RETAIL VALUE OF \$25 OR 1 carton OF
31 CIGARETTES; or

32 [2.] B. for any other consumer, OTHER TOBACCO PRODUCTS
33 HAVING A RETAIL VALUE OF \$5 OR 2 packages OF CIGARETTES; or

1 [(ii)] 2. if the quantity brought from a United States armed forces
2 installation or reservation does not exceed:

3 [1.] A. for a consumer who is a member of an armed forces
4 unit or who is entitled by law to make a purchase at an armed forces exchange,
5 OTHER TOBACCO PRODUCTS HAVING A RETAIL VALUE OF \$50 OR 2 cartons OF
6 CIGARETTES; or

7 [2.] B. for any other consumer, OTHER TOBACCO PRODUCTS
8 HAVING A RETAIL VALUE OF \$5 OR 2 packages OF CIGARETTES that were bought at an
9 armed forces exchange or commissary;

10 [(3)] (II) a person is transporting by vehicle in the State if the person
11 has, in the vehicle, the records required by § 16-219 of the Business Regulation
12 Article for the transportation of cigarettes OR OTHER TOBACCO PRODUCTS; or

13 [(4)] (III) are held in storage in a licensed storage warehouse.

14 12-105.

15 (a) [The] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE tobacco
16 tax rate FOR CIGARETTES is:

17 (1) [18] 25.5 cents for each package of 10 or fewer cigarettes;

18 (2) [36] 51 cents for each package of at least 11 and not more than 20
19 cigarettes;

20 (3) [1.8] 2.55 cents for each cigarette in a package of more than 20
21 cigarettes; and

22 (4) [1.8] 2.55 cents for each cigarette in a package of free sample
23 cigarettes.

24 (B) THE TOBACCO TAX RATE FOR OTHER TOBACCO PRODUCTS IS 20% OF THE
25 WHOLESALE PRICE OF THE OTHER TOBACCO PRODUCTS.

26 (C) (1) SUBJECT TO SUBSECTION (E) OF THIS SECTION, ON AND AFTER JULY
27 1, 1998 BUT BEFORE JULY 1, 1999, THE TOBACCO TAX RATE FOR CIGARETTES IS:

28 (I) 33 CENTS FOR EACH PACKAGE OF 10 OR FEWER CIGARETTES;

29 (II) 66 CENTS FOR EACH PACKAGE OF AT LEAST 11 AND NOT MORE
30 THAN 20 CIGARETTES;

31 (III) 3.3 CENTS FOR EACH CIGARETTE IN A PACKAGE OF MORE THAN
32 20 CIGARETTES; AND

33 (IV) 3.3 CENTS FOR EACH CIGARETTE IN A PACKAGE OF FREE
34 SAMPLE CIGARETTES.

1 (2) SUBJECT TO SUBSECTION (E) OF THIS SECTION, ON AND AFTER JULY
2 1, 1999 BUT BEFORE JULY 1, 2000, THE TOBACCO TAX RATE FOR CIGARETTES IS:

3 (I) 48 CENTS FOR EACH PACKAGE OF 10 OR FEWER CIGARETTES;

4 (II) 96 CENTS FOR EACH PACKAGE OF AT LEAST 11 AND NOT MORE
5 THAN 20 CIGARETTES;

6 (III) 4.8 CENTS FOR EACH CIGARETTE IN A PACKAGE OF MORE THAN
7 20 CIGARETTES; AND

8 (IV) 4.8 CENTS FOR EACH CIGARETTE IN A PACKAGE OF FREE
9 SAMPLE CIGARETTES.

10 (3) SUBJECT TO SUBSECTION (E) OF THIS SECTION, ON AND AFTER JULY
11 1, 2000 BUT BEFORE JULY 1, 2001, THE TOBACCO TAX RATE FOR CIGARETTES IS:

12 (I) 63 CENTS FOR EACH PACKAGE OF 10 OR FEWER CIGARETTES;

13 (II) \$1.26 FOR EACH PACKAGE OF AT LEAST 11 AND NOT MORE THAN
14 20 CIGARETTES;

15 (III) 6.3 CENTS FOR EACH CIGARETTE IN A PACKAGE OF MORE THAN
16 20 CIGARETTES; AND

17 (IV) 6.3 CENTS FOR EACH CIGARETTE IN A PACKAGE OF FREE
18 SAMPLE CIGARETTES.

19 (4) SUBJECT TO SUBSECTION (E) OF THIS SECTION, ON AND AFTER JULY
20 1, 2001 BUT BEFORE JULY 1, 2002, THE TOBACCO TAX RATE FOR CIGARETTES IS:

21 (I) 78 CENTS FOR EACH PACKAGE OF 10 OR FEWER CIGARETTES;

22 (II) \$1.56 FOR EACH PACKAGE OF AT LEAST 11 AND NOT MORE THAN
23 20 CIGARETTES;

24 (III) 7.8 CENTS FOR EACH CIGARETTE IN A PACKAGE OF MORE THAN
25 20 CIGARETTES; AND

26 (IV) 7.8 CENTS FOR EACH CIGARETTE IN A PACKAGE OF FREE
27 SAMPLE CIGARETTES.

28 (5) SUBJECT TO SUBSECTION (E) OF THIS SECTION, ON AND AFTER JULY
29 1, 2002, THE TOBACCO TAX RATE FOR CIGARETTES IS:

30 (I) 93 CENTS FOR EACH PACKAGE OF 10 OR FEWER CIGARETTES;

31 (II) \$1.86 FOR EACH PACKAGE OF AT LEAST 11 AND NOT MORE THAN
32 20 CIGARETTES;

1 (III) 9.3 CENTS FOR EACH CIGARETTE IN A PACKAGE OF MORE THAN
2 20 CIGARETTES; AND

3 (IV) 9.3 CENTS FOR EACH CIGARETTE IN A PACKAGE OF FREE
4 SAMPLE CIGARETTES.

5 (D) (1) ON JANUARY 1 OF EACH YEAR THROUGH 2003, THE COMPTROLLER
6 SHALL DETERMINE WHETHER THE FEDERAL GOVERNMENT ON OR AFTER JANUARY
7 1, 1998 HAS ENACTED ANY CIGARETTE TAX INCREASE OR NEW TAX ON CIGARETTES.

8 (2) FOR ANY FISCAL YEAR THAT BEGINS BEFORE JULY 1, 2003, THE
9 TOBACCO TAX RATE FOR CIGARETTES AS OTHERWISE DETERMINED UNDER THIS
10 SECTION SHALL BE REDUCED IN ACCORDANCE WITH PARAGRAPH (4) OF THIS
11 SUBSECTION IF ON OR BEFORE THE JANUARY 1 PRECEDING THE FISCAL YEAR THE
12 COMPTROLLER DETERMINES THAT THE FEDERAL GOVERNMENT HAS ENACTED A
13 CIGARETTE TAX INCREASE OR NEW TAX ON CIGARETTES THAT WILL BE IN EFFECT
14 FOR THE FISCAL YEAR.

15 (3) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2003 AND ANY
16 SUBSEQUENT FISCAL YEAR, THE TOBACCO TAX RATE FOR CIGARETTES AS
17 OTHERWISE DETERMINED UNDER THIS SECTION SHALL BE REDUCED IN
18 ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION IF ON OR BEFORE
19 JANUARY 1, 2003 THE COMPTROLLER DETERMINES THAT THE FEDERAL
20 GOVERNMENT HAS ENACTED A CIGARETTE TAX INCREASE OR NEW TAX ON
21 CIGARETTES THAT WILL BE IN EFFECT ON JULY 1, 2003.

22 (4) IF THE TOBACCO TAX RATE FOR CIGARETTES IS REQUIRED TO BE
23 REDUCED UNDER PARAGRAPH (2) OR (3) OF THIS SUBSECTION, THE TOBACCO TAX
24 RATE FOR CIGARETTES AS OTHERWISE DETERMINED UNDER THIS SECTION SHALL
25 BE REDUCED, BUT NOT BELOW THE RATE SPECIFIED IN SUBSECTION (A) OF THIS
26 SECTION:

27 (I) FOR EACH PACKAGE OF 11 TO 20 CIGARETTES, BY AN AMOUNT
28 CORRESPONDING TO THE EFFECTIVE FEDERAL TAX INCREASE ON 20 CIGARETTES;
29 AND

30 (II) BY PROPORTIONATE AMOUNTS FOR EACH PACKAGE OF 10 OR
31 FEWER CIGARETTES, EACH CIGARETTE IN A PACKAGE OF MORE THAN 20
32 CIGARETTES, AND EACH CIGARETTE IN A PACKAGE OF FREE SAMPLE CIGARETTES.

33 (E) (1) AS OF THE EFFECTIVE DATE OF ANY INCREASE IN THE TOBACCO TAX
34 RATE FOR CIGARETTES UNDER THIS SECTION, ALL CIGARETTES USED, POSSESSED,
35 OR HELD IN THE STATE OF MARYLAND BY ANY PERSON FOR SALE OR USE IN THE
36 STATE SHALL BE SUBJECT TO THE FULL TOBACCO TAX ON CIGARETTES IMPOSED
37 UNDER THIS SECTION.

38 (2) THE REQUIREMENT UNDER THIS SUBSECTION INCLUDES:

39 (I) CIGARETTES IN VENDING MACHINES OR OTHER MECHANICAL
40 DISPENSERS; AND

1 (II) CIGARETTES GENERALLY REFERRED TO AS "FLOOR STOCK" IN
2 PACKAGES THAT ALREADY BEAR STAMPS ISSUED BY THE COMPTROLLER BUT FOR
3 AN AMOUNT LESS THAN THE FULL TAX IMPOSED.

4 (3) ALL CIGARETTES HELD FOR SALE BY ANY PERSON IN THE STATE ON
5 AND AFTER THE EFFECTIVE DATE OF AN INCREASE IN THE TOBACCO TAX RATE FOR
6 CIGARETTES UNDER THIS SECTION THAT BEAR A TAX STAMP ISSUED BY THE
7 COMPTROLLER OF A VALUE LESS THAN THE FULL TAX IMPOSED FOR EACH PACK OF
8 20 CIGARETTES MUST BE STAMPED WITH THE ADDITIONAL STAMPS NECESSARY TO
9 MAKE THE AGGREGATE VALUE EQUAL TO THE FULL TAX IMPOSED.

10 (4) IN LIEU OF THE ADDITIONAL STAMPS NECESSARY TO MAKE THE
11 AGGREGATE TAX VALUE EQUAL TO THE FULL TAX IMPOSED, THE COMPTROLLER
12 MAY PROVIDE AN ALTERNATE METHOD OF COLLECTING THE ADDITIONAL TAX.

13 (5) THE REVENUE ATTRIBUTABLE TO THE REQUIREMENT UNDER THIS
14 SUBSECTION SHALL BE REMITTED TO THE COMPTROLLER BY SEPTEMBER 30
15 FOLLOWING THE EFFECTIVE DATE OF AN INCREASE IN THE TOBACCO TAX RATE FOR
16 CIGARETTES UNDER THIS SECTION.

17 (6) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, ON AND
18 AFTER THE EFFECTIVE DATE OF AN INCREASE IN THE TOBACCO TAX RATE FOR
19 CIGARETTES UNDER THIS SECTION, A MARYLAND STAMP MAY NOT BE USED EXCEPT
20 THE STAMP ISSUED BY THE COMPTROLLER TO EVIDENCE THE TOBACCO TAX ON
21 CIGARETTES OF THE FULL TAX IMPOSED UNDER THIS SECTION.

22 12-202.

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

25 (1) FOR CIGARETTES:

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

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

32 (2) FOR OTHER TOBACCO PRODUCTS, ON THE DATES AND FOR THE
33 PERIODS THAT THE COMPTROLLER SPECIFIES BY REGULATION.

34 (b) Each return shall state the quantity of cigarettes OR THE WHOLESALE
35 PRICE OF OTHER TOBACCO PRODUCTS sold during the period that the return covers.

36 12-203.

37 (a) Each wholesaler shall:

- 1 (1) keep an invoice for each purchase of tax stamps;
- 2 (2) maintain a daily record of the tax stamps affixed to cigarette
3 packages; and
- 4 (3) maintain a complete and accurate record of each sale of cigarettes OR
5 OTHER TOBACCO PRODUCTS for resale outside of the State.

6 (b) A wholesaler shall:

- 7 (1) keep the records required under subsection (a) of this section for a
8 period of 6 years or for a shorter period that the Comptroller authorizes; and
- 9 (2) allow the Comptroller to examine the records.

10 12-302.

11 (C) (1) THE TOBACCO TAX ON OTHER TOBACCO PRODUCTS SHALL BE PAID
12 BY THE WHOLESALER WHO SELLS THE OTHER TOBACCO PRODUCTS TO A RETAILER
13 OR CONSUMER IN THE STATE.

14 (2) IF A RETAILER OR CONSUMER POSSESSES OTHER TOBACCO
15 PRODUCTS IN THE STATE ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID, THE
16 RETAILER OR CONSUMER SHALL PAY THE TOBACCO TAX ON THOSE OTHER TOBACCO
17 PRODUCTS.

18 12-303.

19 (b) The Comptroller shall allow a licensed wholesaler a discount of [1.36%]
20 0.96% of the purchase price of tax stamps.

21 12-306.

22 (A) THE COMPTROLLER SHALL ESTABLISH, BY REGULATION, A SYSTEM OF
23 ADMINISTERING, COLLECTING, AND ENFORCING THE TOBACCO TAX ON OTHER
24 TOBACCO PRODUCTS.

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

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

28 (2) PAYMENT OF THE TAX BY:

29 (I) A WHOLESALER WHO SELLS OTHER TOBACCO PRODUCTS TO A
30 RETAILER OR CONSUMER IN THE STATE; OR

31 (II) A RETAILER OR CONSUMER WHO POSSESSES OTHER TOBACCO
32 PRODUCTS IN THE STATE ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID; AND

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
6 of out-of-state cigarette OR OTHER 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 OTHER 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 OTHER TOBACCO PRODUCTS on which the tobacco tax has not been paid
13 as required under Title 12 of this article, the Comptroller shall assess the tobacco tax
14 due.

15 13-834.

16 (c) "Contraband [cigarettes] TOBACCO PRODUCTS" means cigarettes OR
17 OTHER TOBACCO PRODUCTS, as defined in § 12-101 of this article:

18 (1) on which tobacco tax is not paid; and

19 (2) that are delivered, possessed, sold, or transported in the State in a
20 manner not authorized under Title 12 of this article or Title 16 of the Business
21 Regulation Article.

22 (e) "Conveyance" means:

23 (1) an aircraft, vehicle, or vessel used to transport alcoholic beverages
24 [or], cigarettes OR OTHER TOBACCO PRODUCTS; and

25 (2) a tank car, vehicle, or vessel that is used to transport motor fuel and
26 that, exclusive of any tank used for its own propulsion, has a capacity exceeding 50
27 gallons.

28 13-835.

29 (a) The Comptroller or a peace officer of the State may:

30 (1) seize contraband alcoholic beverages or contraband [cigarettes]
31 TOBACCO PRODUCTS in the State without a warrant;

32 (2) stop and search a conveyance in the State if the Comptroller or officer
33 knows or has reason to suspect that the conveyance is being used to transport IN THE
34 STATE CONTRABAND TOBACCO PRODUCTS HAVING A RETAIL VALUE OF \$100 OR

1 MORE OR contraband alcoholic beverages [or 5 or more cartons of contraband
2 cigarettes in the State]; and

3 (3) seize a conveyance being used in the State to transport contraband
4 alcoholic beverages or contraband [cigarettes] TOBACCO PRODUCTS.

5 13-836.

6 (a) (1) If contraband alcoholic beverages or contraband [cigarettes]
7 TOBACCO PRODUCTS are seized:

8 (i) the Comptroller or police officer shall give a notice of seizure to
9 the person from whom the property is seized at the time of the seizure; and

10 (ii) the Comptroller shall:

11 1. where possible, give a notice of seizure to the registered
12 owner of a seized conveyance; and

13 2. publish a notice of seizure of the conveyance in a
14 newspaper of general circulation in the county where the seizure occurred.

15 (b) (2) A police officer who seizes any contraband [cigarettes] TOBACCO
16 PRODUCTS or conveyance used to transport contraband [cigarettes] TOBACCO
17 PRODUCTS shall deliver the seized cigarettes OR OTHER TOBACCO PRODUCTS and
18 conveyance to the Comptroller.

19 13-837.

20 The owner or another person with an interest in seized property may file a claim
21 for the return of the property with the Comptroller within 30 days after:

22 (1) the seizure of alcoholic beverages, cigarettes, OTHER TOBACCO
23 PRODUCTS, motor fuel or conveyances used to transport motor fuel; or

24 (2) A notice of seizure of a conveyance used to transport alcoholic
25 beverages [or], cigarettes, OR OTHER TOBACCO PRODUCTS is published.

26 13-839.

27 (a) If a person files a claim for return of seized alcoholic beverages, cigarettes,
28 OTHER TOBACCO PRODUCTS, or a conveyance used for their transportation under §
29 13-837 of this subtitle, the Comptroller or the Comptroller's designee shall:

30 (1) promptly act on the request and hold an informal hearing;

31 (2) direct the return of alcoholic beverages [or], cigarettes, OR OTHER
32 TOBACCO PRODUCTS unless the Comptroller or Comptroller's designee has
33 satisfactory proof that the person was not in compliance with any provisions of Title 5
34 or Title 12 of this article at the time of seizure; and

1 (3) direct the return of the conveyance if the Comptroller or
2 Comptroller's designee has satisfactory proof that the owner of the conveyance was
3 not willfully evading any provisions of Title 5 or Title 12 of this article at the time of
4 seizure.

5 (b) The Comptroller or Comptroller's designee shall grant or deny the
6 application for return of seized alcoholic beverages, cigarettes, OTHER TOBACCO
7 PRODUCTS, or a conveyance in accordance with subsection (a) of this section by
8 mailing the person a notice of final determination.

9 13-841.

10 (b) (1) The Comptroller shall sell contraband [cigarettes] TOBACCO
11 PRODUCTS seized under this title and forfeited to a State institution, a nonprofit
12 charitable institution, a licensed cigarette wholesaler, or a licensed cigarette
13 manufacturer in the manner the Comptroller determines.

14 (2) The Comptroller shall sell at public auction a conveyance that is
15 seized under this title in connection with contraband [cigarettes] TOBACCO
16 PRODUCTS and forfeited.

17 13-842.

18 A person who possessed contraband alcoholic beverages, contraband
19 [cigarettes] TOBACCO PRODUCTS, or contraband motor fuel that are seized and sold
20 under this section is not relieved from any penalty under this title.

21 13-1014.

22 (a) A person who willfully possesses, sells, or attempts to sell unstamped or
23 improperly stamped cigarettes OR OTHER TOBACCO PRODUCTS ON WHICH THE
24 TOBACCO TAX HAS NOT BEEN PAID in the State in violation of Title 12 of this article
25 is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$1,000
26 or imprisonment not exceeding 1 year or both.

27 13-1015.

28 A person who willfully transports in the State unstamped cigarettes OR OTHER
29 TOBACCO PRODUCTS ON WHICH THE TOBACCO TAX HAS NOT BEEN PAID in violation
30 of § 16-219 of the Business Regulation Article is guilty of a felony and, on conviction,
31 is subject to a fine not exceeding \$25 for each carton of cigarettes transported or
32 imprisonment not exceeding 1 year or both.

33 **Article - Business Regulation**

34 16-219.

35 (A) IN THIS SECTION, "OTHER TOBACCO PRODUCTS" HAS THE MEANING
36 STATED IN § 12-101 OF THE TAX - GENERAL ARTICLE.

1 (B) A person who transports cigarettes OR OTHER TOBACCO PRODUCTS by
2 vehicle on a public road shall have in the vehicle a delivery ticket or invoice that
3 states:

4 (1) the name and address of the seller or consignor;

5 (2) the name and address of a buyer or consignee who is:

6 (i) a person in the State authorized by Title 12 of the Tax - General
7 Article to hold unstamped cigarettes OR OTHER TOBACCO PRODUCTS ON WHICH THE
8 TOBACCO TAX HAS NOT BEEN PAID; or

9 (ii) a person in another jurisdiction authorized to hold cigarettes OR
10 OTHER TOBACCO PRODUCTS on which the tax imposed by that jurisdiction has not
11 been paid; and

12 (3) the quantity and brands of the cigarettes OR OTHER TOBACCO
13 PRODUCTS that are being transported.

14 SECTION 2. AND BE IT FURTHER ENACTED, That all cigarettes used,
15 possessed, or held in the State of Maryland by any person for sale or use in the State
16 of Maryland shall be subject to the full tobacco tax on cigarettes imposed by this Act.
17 This requirement includes: (1) cigarettes in vending machines or other mechanical
18 dispensers; and (2) cigarettes (generally referred to as "floor stock") in packages which
19 already bear stamps issued by the Comptroller under the State Tobacco Tax Act but
20 for an amount less than the full tax imposed of 25.5 cents for each 10 cigarettes or
21 fractional part thereof; all cigarettes held for sale by any person in the State of
22 Maryland on and after July 1, 1998 which bear a tax stamp issued by the Comptroller
23 of a value less than 51 cents for each pack of 20 cigarettes must be stamped with the
24 additional stamps necessary to make the aggregate value equal to 51 cents. In lieu of
25 the additional stamps necessary to make the aggregate tax value equal to 51 cents,
26 the Comptroller may provide an alternate method of collecting the additional tax. The
27 revenue attributable to this requirement shall be remitted to the State Comptroller's
28 Office by September 30, 1998. Except as provided above, on and after July 1, 1998, no
29 Maryland stamp shall be used except the stamp issued by the Comptroller to evidence
30 the tobacco tax on cigarettes of 51 cents imposed by this Act.

31 SECTION 3. AND BE IT FURTHER ENACTED, That the tobacco tax on
32 tobacco products other than cigarettes imposed by § 12-102 of the Tax - General
33 Article as enacted under Section 1 of this Act shall be applicable to all other tobacco
34 products that are sold by a wholesaler to a retailer in the State on or after October 1,
35 1998.

36 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
37 this Act, this Act shall take effect July 1, 1998.