

HOUSE BILL 1073

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Q7

1998 Regular Session
8lr2268
CF 8lr1675

By: **Delegates Frush, R. Baker, Beck, Benson, Billings, Bobo, E. Burns, Conroy, Crumlin, Cryor, Dembrow, Doory, Exum, Finifter, Franchot, Frank, Genn, Goldwater, Grosfeld, Harrison, Hecht, Heller, Hubbard, B. Hughes, Jones, Kagan, Kirk, Kopp, Krysiak, Mandel, McIntosh, Menes, Moe, Montague, Morhaim, Muse, Nathan-Pulliam, Oaks, Palumbo, Patterson, Pendergrass, Petzold, Pitkin, Rosenberg, Shriver, Turner, and Watson**

Introduced and read first time: February 13, 1998
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Children's Initiative - Tobacco Tax for Children's Health and**
3 **Learning**

4 FOR the purpose of altering the tobacco tax rate for cigarettes; providing for certain
5 increases in the tobacco tax rate for cigarettes, subject to certain contingencies;
6 altering the distribution of the tobacco tax revenue; requiring the Comptroller to
7 distribute certain tobacco tax revenue to certain special funds, to be allocated to
8 certain purposes; requiring the Secretary of Health and Mental Hygiene and the
9 Comptroller to make certain determinations; establishing a Children's
10 Opportunity Fund as a special fund to be administered by the Special Secretary
11 of the Office for Children, Youth, and Families to be used to provide certain
12 children's opportunity grants to local management boards; requiring the
13 Secretary of Agriculture to develop and implement a program to encourage and
14 assist tobacco growers in the State to convert tobacco farmland to other
15 agricultural uses; requiring the State to distribute for each fiscal year certain
16 grants for certain purposes to certain eligible county boards of education;
17 requiring the county boards to submit certain reports to the State Department
18 of Education; requiring the Department to submit certain reports to the General
19 Assembly; requiring the State Board of Education to adopt certain regulations;
20 establishing a Tobacco Tax Health Protection Fund as a special fund to be
21 administered by the Secretary of Health and Mental Hygiene; providing for the
22 use of the Fund for certain purposes; requiring the Department of Health and
23 Mental Hygiene to implement certain programs to discourage the use of
24 cigarettes and other tobacco products; requiring the Department to submit
25 certain reports to the General Assembly; imposing the tobacco tax on certain
26 tobacco products other than cigarettes; setting the rate of the tobacco tax for
27 other tobacco products; altering a certain discount provision under the tobacco
28 tax; defining certain terms; altering certain definitions under the tobacco tax
29 law; requiring the Comptroller to establish by regulation a system of

1 administering, collecting, and enforcing the tobacco tax on other tobacco
2 products; making other tobacco products subject to certain enforcement
3 provisions applicable to cigarettes; prohibiting certain acts relating to other
4 tobacco products; imposing certain requirements relating to certain
5 transportation of other tobacco products; providing for the application of this
6 Act; and generally relating to the tobacco tax and the dedication of certain
7 tobacco tax revenues to certain purposes.

8 BY adding to
9 Article 49D - Office for Children, Youth, and Families
10 Section 12
11 Annotated Code of Maryland
12 (1994 Replacement Volume and 1997 Supplement)

13 BY adding to
14 Article - Agriculture
15 Section 7-501 to be under the new subtitle "Subtitle 5. Tobacco Crop
16 Conversion"
17 Annotated Code of Maryland
18 (1985 Replacement Volume and 1997 Supplement)

19 BY adding to
20 Article - Education
21 Section 5-212 through 5-214
22 Annotated Code of Maryland
23 (1997 Replacement Volume and 1997 Supplement)

24 BY adding to
25 Article - Health - General
26 Section 24-901 through 24-903, inclusive, to be under the new subtitle "Subtitle
27 9. Tobacco Tax Health Protection Fund"
28 Annotated Code of Maryland
29 (1996 Replacement Volume and 1997 Supplement)

30 BY repealing and reenacting, with amendments,
31 Article - Tax - General
32 Section 2-1603, 12-101(f), 12-102 through 12-105, 12-202, 12-203, 12-303(b),
33 13-408, 13-834(c) and (e), 13-835(a), 13-836(a)(1) and (b)(2), 13-837,
34 13-839, 13-841(b), 13-842, 13-1014(a), and 13-1015
35 Annotated Code of Maryland
36 (1997 Replacement Volume)

37 BY adding to
38 Article - Tax - General
39 Section 2-1604 through 2-1606, 12-101(b-1) and (e-1), 12-302(c), and 12-306

1 Annotated Code of Maryland
2 (1997 Replacement Volume)

3 BY repealing and reenacting, without amendments,
4 Article - Tax - General
5 Section 12-101(a)
6 Annotated Code of Maryland
7 (1997 Replacement Volume)

8 BY repealing and reenacting, with amendments,
9 Article - Business Regulation
10 Section 16-219
11 Annotated Code of Maryland
12 (1992 Volume and 1997 Supplement)

13 Preamble

14 WHEREAS, Each day about 60 Maryland children become addicted to tobacco
15 and at least 21 of them will die prematurely because of this addiction; and

16 WHEREAS, According to the Centers for Disease Control, for every 10%
17 increase in tobacco prices, there is a 7% decrease in the number of teen smokers and
18 a 10% decrease in the overall consumption of tobacco by teenagers; and

19 WHEREAS, Although Maryland has made important progress in the area of
20 K-12 education, it still ranks near the bottom of states in terms of achieving small
21 class sizes; and

22 WHEREAS, Substantially increasing the State's excise tax on cigarettes and
23 extending the tax to other tobacco products will, by itself, greatly decrease the
24 number of children who become addicted to tobacco; and

25 WHEREAS, Over 20,000 Maryland children are addicted to illegal drugs and
26 more than 100,000 children suffer because at least one of their parents is addicted to
27 illegal drugs; and

28 WHEREAS, Two-thirds of Maryland's third grade students do not meet the
29 Maryland School Performance Assessment Program (MSPAP) standard for reading
30 skills; and

31 WHEREAS, More than 100,000 children in Maryland are left unsupervised by
32 an adult after school each week; and

33 WHEREAS, Maryland's children need strong community-wide plans to foster
34 safe and healthy environments; now, therefore,

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

Article 49D - Office for Children, Youth, and Families

12.

(A) IN THIS SECTION, "FUND" MEANS THE CHILDREN'S OPPORTUNITY FUND ESTABLISHED UNDER THIS SECTION.

(B) THERE IS A CHILDREN'S OPPORTUNITY FUND.

(C) THE FUND SHALL CONSIST OF THE TOBACCO TAX REVENUE DISTRIBUTED TO THE FUND UNDER § 2-1604 OF THE TAX - GENERAL ARTICLE.

(D) THE SPECIAL SECRETARY SHALL ADMINISTER THE FUND AND SHALL DEDUCT FROM THE FUND THE AMOUNT NECESSARY TO ADMINISTER THE FUND.

(E) (1) THE FUND SHALL BE USED ONLY AS PROVIDED IN THIS SECTION.

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

(F) (1) THE SPECIAL SECRETARY SHALL USE THE FUND TO PROVIDE CHILDREN'S OPPORTUNITY GRANTS TO THE LOCAL MANAGEMENT BOARDS ESTABLISHED UNDER § 11 OF THIS SUBTITLE TO INCREASE OPPORTUNITIES FOR CHILDREN IN THE LOCAL JURISDICTIONS.

(2) THE SPECIAL SECRETARY SHALL ALLOCATE THE MONEY IN THE FUND TO THE LOCAL JURISDICTIONS PROPORTIONATELY TO THE NUMBER OF CHILDREN IN EACH JURISDICTION LIVING BELOW THE FEDERAL POVERTY LEVEL.

(G) TO QUALIFY FOR A CHILDREN'S OPPORTUNITY GRANT, A LOCAL MANAGEMENT BOARD SHALL SUBMIT TO THE SPECIAL SECRETARY A CHILDREN'S OPPORTUNITY PLAN THAT:

(1) PROVIDES A DETAILED EXPLANATION OF HOW THE LOCAL MANAGEMENT BOARD PLANS TO USE THE FUNDS TO HELP CHILDREN GROW UP SAFE AND HEALTHY;

(2) INCLUDES EVIDENCE OF SUBSTANTIAL LOCAL COMMUNITY INPUT INTO SETTING PRIORITIES FOR HOW THE CHILDREN'S OPPORTUNITY GRANT FUNDS WOULD BE USED; AND

(3) SETS MEASURABLE RESULTS TO BE ACHIEVED BY ACTIVITIES FUNDED THROUGH THE CHILDREN'S OPPORTUNITY GRANT.

(H) A GRANT SHALL BE AWARDED TO A LOCAL MANAGEMENT BOARD IF THE SPECIAL SECRETARY FINDS THAT THE PLAN SUBMITTED BY THE LOCAL MANAGEMENT BOARD:

(1) MEETS THE REQUIREMENTS OF SUBSECTION (G) OF THIS SECTION; AND

1 (2) WILL, IF IMPLEMENTED, SIGNIFICANTLY IMPROVE THE HEALTH AND
2 SAFETY OF CHILDREN.

3 (I) THE SPECIAL SECRETARY SHALL ESTABLISH A MONITORING PROCEDURE
4 TO ENSURE PROPER AND EFFECTIVE USE OF THE CHILD OPPORTUNITY GRANTS.

5 **Article - Agriculture**

6 SUBTITLE 5. TOBACCO CROP CONVERSION.

7 7-501.

8 THE SECRETARY SHALL DEVELOP AND IMPLEMENT A PROGRAM TO
9 ENCOURAGE AND ASSIST TOBACCO GROWERS IN THE STATE TO CONVERT TOBACCO
10 FARMLAND TO AGRICULTURAL USES OTHER THAN THE GROWING OF TOBACCO.

11 **Article - Education**

12 5-212.

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (2) "TOTAL AVAILABLE PROGRAM FUNDS" MEANS THE TOTAL TOBACCO
16 TAX REVENUES FOR THE FISCAL YEAR DISTRIBUTED TO A SPECIAL FUND TO BE
17 USED FOR THE CLASS SIZE REDUCTION PROGRAM UNDER THIS SECTION.

18 (B) (1) IN ADDITION TO ANY OTHER STATE AID FOR EDUCATION PROVIDED
19 UNDER THIS ARTICLE, FOR EACH FISCAL YEAR THE STATE SHALL PAY TO EACH
20 ELIGIBLE COUNTY BOARD A GRANT FOR THE PURPOSES OF IMPROVING THE
21 EDUCATION OF STUDENTS IN KINDERGARTEN AND FIRST GRADE THROUGH
22 REDUCING CLASS SIZE AND ACHIEVING A STUDENT TO TEACHER RATIO OF 15
23 STUDENTS PER TEACHER PER CORE CURRICULUM CLASSROOM FOR STUDENTS IN
24 KINDERGARTEN AND FIRST GRADE.

25 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A
26 COUNTY BOARD IS ELIGIBLE TO RECEIVE A GRANT UNDER THIS SECTION FOR A
27 FISCAL YEAR IF:

28 (I) FOR A COUNTY BOARD THAT HAS NOT RECEIVED A GRANT
29 UNDER THIS SECTION FOR A PREVIOUS FISCAL YEAR:

30 1. THE COUNTY BOARD SUBMITS TO THE DEPARTMENT A
31 COMPREHENSIVE PLAN DESCRIBING IN DETAIL HOW THE COUNTY BOARD PLANS TO
32 USE THE GRANTS TO MEET THE OBJECTIVES STATED IN PARAGRAPH (1) OF THIS
33 SUBSECTION; AND

34 2. THE SECRETARY DETERMINES THAT THE PLAN WILL
35 MEET THOSE OBJECTIVES; AND

1 (II) FOR A COUNTY BOARD THAT HAS RECEIVED A GRANT UNDER
2 THIS SECTION FOR A PREVIOUS FISCAL YEAR:

3 1. THE COUNTY BOARD SUBMITS TO THE DEPARTMENT:

4 A. A DETAILED REPORT SHOWING HOW IT USED THE
5 PREVIOUS YEAR'S GRANT TO MEET THE OBJECTIVES IN ITS PREVIOUS YEAR'S PLAN;
6 AND

7 B. A PLAN DESCRIBING IN DETAIL HOW IT WILL USE THE
8 GRANT IN THE COMING YEAR TO MEET THE OBJECTIVES STATED IN PARAGRAPH (1)
9 OF THIS SUBSECTION; AND

10 2. THE SECRETARY DETERMINES THAT THE COUNTY BOARD
11 USED ITS PREVIOUS YEAR'S GRANT IN A MANNER CONSISTENT WITH ITS PLAN AND
12 THAT THE COUNTY BOARD'S PLAN FOR THE COMING YEAR WILL MEET THE
13 OBJECTIVES STATED IN PARAGRAPH (1) OF THIS SUBSECTION.

14 (3) A COUNTY BOARD IS NOT ELIGIBLE TO RECEIVE A GRANT UNDER
15 THIS SECTION FOR ANY FISCAL YEAR IF THE COUNTY IN WHICH THE COUNTY BOARD
16 IS LOCATED HAS FAILED TO COMPLY WITH THE MAINTENANCE OF EFFORT
17 REQUIREMENT UNDER § 5-202 OF THIS SUBTITLE OR HAS BEEN GRANTED A
18 TEMPORARY WAIVER OR PARTIAL WAIVER FROM THE MAINTENANCE OF EFFORT
19 REQUIREMENT BY THE STATE BOARD UNDER § 5-202(B)(3)(IV) OF THIS SUBTITLE.

20 (C) (1) FOR EACH FISCAL YEAR, AN ELIGIBLE COUNTY BOARD SHALL
21 RECEIVE A GRANT UNDER THIS SECTION IN AN AMOUNT DETERMINED BY
22 MULTIPLYING THE TOTAL AVAILABLE PROGRAM FUNDS BY A FRACTION:

23 (I) THE NUMERATOR OF WHICH IS THE NUMBER OF STUDENTS
24 ENROLLED IN KINDERGARTEN AND FIRST GRADE LEVELS IN THE COUNTY'S PUBLIC
25 SCHOOL SYSTEM ON SEPTEMBER 30 OF THE PRIOR FISCAL YEAR; AND

26 (II) THE DENOMINATOR OF WHICH IS THE SUM OF THE NUMBERS
27 OF STUDENTS ENROLLED IN KINDERGARTEN AND FIRST GRADE LEVELS IN LOCAL
28 PUBLIC SCHOOL SYSTEMS FOR ALL ELIGIBLE COUNTY BOARDS.

29 (2) FOR PURPOSES OF THE CALCULATION OF THE NUMBER OF
30 STUDENTS ENROLLED IN KINDERGARTEN AND FIRST GRADE LEVELS, NO
31 INDIVIDUAL ENROLLED STUDENT SHALL BE COUNTED MORE THAN ONCE IN A
32 FISCAL YEAR.

33 (D) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
34 DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY
35 THAT INCORPORATES THE COUNTY BOARD REPORTS SUBMITTED UNDER
36 SUBSECTION (B)(2)(I)1.A OF THIS SECTION.

37 (E) THE STATE BOARD OF EDUCATION SHALL ADOPT REGULATIONS TO CARRY
38 OUT THE PROVISIONS OF THIS SECTION.

1 5-213.

2 (A) IN THIS SECTION, "TOTAL AVAILABLE PROGRAM FUNDS" MEANS THE
3 TOTAL TOBACCO TAX REVENUES FOR THE FISCAL YEAR DISTRIBUTED TO A SPECIAL
4 FUND TO BE USED FOR THE EARLY ELEMENTARY READING GRANT PROGRAM UNDER
5 THIS SECTION.

6 (B) (1) IN ADDITION TO ANY OTHER STATE AID FOR EDUCATION PROVIDED
7 UNDER THIS ARTICLE, FOR EACH FISCAL YEAR THE STATE SHALL PAY TO EACH
8 ELIGIBLE COUNTY BOARD A GRANT FOR THE PURPOSES OF IMPROVING THE
9 EDUCATION OF STUDENTS IN KINDERGARTEN AND FIRST GRADE THROUGH
10 IMPROVED READING INSTRUCTION USING RESEARCH DRIVEN EFFECTIVE
11 PRACTICES AND BY ENHANCING TEACHER PROFESSIONAL DEVELOPMENT.

12 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A
13 COUNTY BOARD IS ELIGIBLE TO RECEIVE A GRANT UNDER THIS SECTION FOR A
14 FISCAL YEAR IF:

15 (I) FOR A COUNTY BOARD THAT HAS NOT RECEIVED A GRANT
16 UNDER THIS SECTION FOR A PREVIOUS FISCAL YEAR:

17 1. THE COUNTY BOARD SUBMITS TO THE DEPARTMENT A
18 COMPREHENSIVE PLAN DESCRIBING IN DETAIL HOW THE COUNTY BOARD PLANS TO
19 USE THE GRANTS TO MEET THE OBJECTIVES STATED IN PARAGRAPH (1) OF THIS
20 SUBSECTION; AND

21 2. THE SECRETARY DETERMINES THAT THE PLAN WILL
22 MEET THOSE OBJECTIVES; AND

23 (II) FOR A COUNTY BOARD THAT HAS RECEIVED A GRANT UNDER
24 THIS SECTION FOR A PREVIOUS FISCAL YEAR:

25 1. THE COUNTY BOARD SUBMITS TO THE DEPARTMENT:

26 A. A DETAILED REPORT SHOWING HOW IT USED THE
27 PREVIOUS YEAR'S GRANT TO MEET THE OBJECTIVES IN ITS PREVIOUS YEAR'S PLAN;
28 AND

29 B. A PLAN DESCRIBING IN DETAIL HOW IT WILL USE THE
30 GRANT TO MEET THE OBJECTIVES STATED IN PARAGRAPH (1) OF THIS SUBSECTION;
31 AND

32 2. THE SECRETARY DETERMINES THAT THE COUNTY BOARD
33 USED ITS PREVIOUS YEAR'S GRANT IN A MANNER CONSISTENT WITH ITS PLAN AND
34 THAT THE COUNTY BOARD'S PLAN FOR THE COMING YEAR WILL MEET THE
35 OBJECTIVES STATED IN PARAGRAPH (1) OF THIS SUBSECTION.

36 (3) A COUNTY BOARD IS NOT ELIGIBLE TO RECEIVE A GRANT UNDER
37 THIS SECTION FOR ANY FISCAL YEAR IF THE COUNTY IN WHICH THE COUNTY BOARD
38 IS LOCATED HAS FAILED TO COMPLY WITH THE MAINTENANCE OF EFFORT

1 REQUIREMENT UNDER § 5-202 OF THIS SUBTITLE OR HAS BEEN GRANTED A
2 TEMPORARY WAIVER OR PARTIAL WAIVER FROM THE MAINTENANCE OF EFFORT
3 REQUIREMENT BY THE STATE BOARD UNDER § 5-202(B)(3)(IV) OF THIS SUBTITLE.

4 (C) (1) FOR EACH FISCAL YEAR, AN ELIGIBLE COUNTY BOARD SHALL
5 RECEIVE A GRANT UNDER THIS SECTION IN AN AMOUNT DETERMINED BY
6 MULTIPLYING THE TOTAL AVAILABLE PROGRAM FUNDS BY A FRACTION:

7 (I) THE NUMERATOR OF WHICH IS THE NUMBER OF STUDENTS
8 ENROLLED IN KINDERGARTEN AND FIRST GRADE LEVELS IN THE COUNTY'S PUBLIC
9 SCHOOL SYSTEM ON SEPTEMBER 30 OF THE PRIOR FISCAL YEAR; AND

10 (II) THE DENOMINATOR OF WHICH IS THE SUM OF THE NUMBERS
11 OF STUDENTS ENROLLED IN KINDERGARTEN AND FIRST GRADE LEVELS IN LOCAL
12 PUBLIC SCHOOL SYSTEMS FOR ALL ELIGIBLE COUNTY BOARDS.

13 (2) FOR PURPOSES OF THE CALCULATION OF THE NUMBER OF
14 STUDENTS ENROLLED IN KINDERGARTEN AND FIRST GRADE LEVELS, NO
15 INDIVIDUAL ENROLLED STUDENT SHALL BE COUNTED MORE THAN ONCE IN A
16 FISCAL YEAR.

17 (D) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
18 DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY
19 THAT INCORPORATES THE COUNTY BOARD REPORTS SUBMITTED UNDER
20 SUBSECTION (B)(2)(I)1.A OF THIS SECTION.

21 (E) THE STATE BOARD OF EDUCATION SHALL ADOPT REGULATIONS TO CARRY
22 OUT THE PROVISIONS OF THIS SECTION.

23 5-214.

24 (A) IN THIS SECTION, "AFTER-SCHOOL PROGRAM" MEANS ANY SERVICE OR
25 SERVICES, PROVIDED OUTSIDE A CHILD'S HOME BY PERSONS OTHER THAN PARENTS,
26 GUARDIANS, OR RELATIVES OF THE CHILD, TO CHILDREN ENROLLED IN GRADES 6
27 THROUGH 8, AFTER THE END OF THE SCHOOL DAY, AS PART OF A SUMMER PROGRAM,
28 AN EXTENDED SCHOOL DAY PROGRAM, OR AN EXTENDED SCHOOL YEAR.

29 (B) (1) USING A PEER REVIEW SYSTEM SIMILAR TO THAT USED IN THE
30 ACCREDITATION OF POSTSECONDARY INSTITUTIONS, THE DEPARTMENT SHALL
31 OVERSEE THE DEVELOPMENT AND IMPLEMENTATION OF STANDARDS OF QUALITY
32 FOR AN EFFECTIVE AFTER-SCHOOL PROGRAM BASED ON RESEARCH AND PRACTICE.

33 (2) THE STANDARDS OF QUALITY DEVELOPED SHALL INCLUDE CORE
34 STANDARDS FOR ALL AFTER-SCHOOL PROGRAMS AND ADDITIONAL STANDARDS
35 BASED ON THE GOALS OF THE AFTER-SCHOOL PROGRAM, INCLUDING ACADEMIC
36 REMEDIATION, ACADEMIC AND CULTURAL ENRICHMENT, AND DELINQUENCY
37 PREVENTION.

38 (C) (1) EACH COUNTY SHALL ANNUALLY REPORT TO THE DEPARTMENT:

1 (I) THE TOTAL NUMBER OF CHILDREN ENROLLED IN GRADES 6
2 THROUGH 8 IN A COUNTY WHO ARE ACTUALLY PROVIDED AFTER-SCHOOL SERVICES
3 THAT MEET THE STANDARDS OF QUALITY DEVELOPED UNDER THIS SECTION IN
4 RELATION TO THE TOTAL NUMBER OF CHILDREN IN THOSE GRADES; AND

5 (II) THE TOTAL CAPACITY OF ALL AFTER-SCHOOL PROGRAMS IN
6 THE COUNTY TO PROVIDE SERVICES THAT MEET THE STANDARDS OF QUALITY IN
7 RELATION TO THE TOTAL NUMBER OF CHILDREN IN THOSE GRADES.

8 (2) EACH COUNTY SHALL SUBMIT THE REPORT REQUIRED UNDER THIS
9 SUBSECTION TO THE DEPARTMENT ON OR BEFORE A DATE AND IN ACCORDANCE
10 WITH REGULATIONS ISSUED BY THE DEPARTMENT.

11 (D) IN ADDITION TO ANY OTHER STATE AID FOR EDUCATION PROVIDED
12 UNDER THIS ARTICLE, FOR EACH FISCAL YEAR THE STATE SHALL PAY TO EACH
13 COUNTY A GRANT IN AN AMOUNT DETERMINED BY MULTIPLYING THE TOTAL
14 AVAILABLE PROGRAM FUNDS BY A FRACTION:

15 (1) THE NUMERATOR OF WHICH IS THE NUMBER OF STUDENTS
16 ENROLLED IN GRADES 6 THROUGH 8 IN ALL SCHOOLS IN THE COUNTY ON
17 SEPTEMBER 30 OF THE PRIOR FISCAL YEAR; AND

18 (2) THE DENOMINATOR OF WHICH IS THE SUM OF THE NUMBERS OF
19 STUDENTS ENROLLED IN GRADES 6 THROUGH 8 IN ALL SCHOOLS IN THE STATE.

20 (E) (1) EACH COUNTY SHALL PROVIDE 67% OF THE GRANT RECEIVED
21 UNDER THIS SECTION TO ITS COUNTY BOARD AND 33% TO NONPROFIT PROVIDERS
22 OF AFTER-SCHOOL PROGRAMS.

23 (2) EACH COUNTY AND EACH COUNTY BOARD SHALL AWARD FUNDS
24 RECEIVED UNDER THIS SECTION ON A COMPETITIVE BASIS TO AFTER-SCHOOL
25 PROGRAMS THAT SUBMIT GRANT REQUESTS AND ADOPT STANDARDS OF QUALITY
26 ESTABLISHED BY THE DEPARTMENT.

27 (3) EACH COUNTY AND EACH COUNTY BOARD SHALL DEVELOP
28 CRITERIA THAT GIVE PRIORITY TO FUNDING AFTER-SCHOOL PROGRAMS THAT
29 SERVE CHILDREN FROM LOWER INCOME FAMILIES WITH THE GREATEST FINANCIAL
30 NEEDS.

31 **Article - Health - General**

32 **SUBTITLE 9. TOBACCO TAX HEALTH PROTECTION FUND.**

33 24-901.

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

1 24-902.

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

3 (B) THE FUND SHALL CONSIST OF THE TOBACCO TAX REVENUE DISTRIBUTED
4 TO THE FUND UNDER §§ 2-1604 AND 2-1605 OF THE TAX - GENERAL ARTICLE.

5 (C) THE SECRETARY SHALL ADMINISTER THE FUND AND SHALL DEDUCT
6 FROM THE FUND THE AMOUNT NECESSARY TO ADMINISTER THE FUND.

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

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

12 (F) MONEYS EXPENDED FROM THE FUND FOR THE PURPOSES STATED IN THIS
13 SUBTITLE:

14 (1) ARE SUPPLEMENTAL AND ARE NOT INTENDED TO TAKE THE PLACE
15 OF FUNDING THAT WOULD OTHERWISE BE APPROPRIATED FOR THOSE PURPOSES;
16 AND

17 (2) MAY NOT BE SUBSTITUTED FOR MONEYS APPROPRIATED FROM
18 OTHER SOURCES FOR THESE PROGRAMS AND PURPOSES.

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;

23 (2) TO PROVIDE MAMMOGRAPHY SCREENING; AND

24 (3) AS PROVIDED IN SUBSECTION (B) OF THIS SECTION FOR A
25 COMPREHENSIVE STATEWIDE PROGRAM TO DISCOURAGE THE USE OF CIGARETTES
26 AND OTHER TOBACCO PRODUCTS AMONG AT-RISK GROUPS, PARTICULARLY AMONG
27 SCHOOL-AGE YOUTH.

28 (B) (1) (I) THE DEPARTMENT SHALL CONTRACT WITH ONE OR MORE
29 QUALIFIED AGENCIES FOR PRODUCTION AND IMPLEMENTATION OF AN ONGOING
30 PUBLIC INFORMATION CAMPAIGN UTILIZING A VARIETY OF MEDIA SOURCES,
31 INCLUDING BROADCAST TELEVISION, RADIO, AND PRINT.

32 (II) ANY MEDIA CAMPAIGN FUNDED WITH THIS PART:

33 1. SHALL STRESS THE IMPORTANCE OF BOTH PREVENTING
34 THE INITIATION OF TOBACCO USE AND QUITTING SMOKING; AND

1 (5) (I) THE DEPARTMENT, IN CONSULTATION WITH THE STATE
2 DEPARTMENT OF EDUCATION, SHALL CONDUCT OR CONTRACT FOR AN EVALUATION
3 OF THE EFFECTIVENESS OF THE TOBACCO USE PREVENTION AND EDUCATION
4 PROGRAM.

5 (II) THE PURPOSE OF THE EVALUATION SHALL BE TO DIRECT THE
6 MOST EFFICIENT ALLOCATION OF RESOURCES APPROPRIATED UNDER §§ 2-1604 AND
7 2-1605 OF THE TAX - GENERAL ARTICLE TO ACCOMPLISH THE MAXIMUM
8 PREVENTION AND REDUCTION OF TOBACCO USE.

9 (III) THE COMPREHENSIVE EVALUATION SHALL BE DESIGNED TO
10 MEASURE THE EXTENT TO WHICH PROGRAMS FUNDED PURSUANT TO THIS SECTION
11 PROMOTE THE GOALS IDENTIFIED IN THIS SECTION.

12 (IV) SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE,
13 THE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY WITHIN 2
14 WEEKS AFTER THE START OF THE LEGISLATIVE SESSION.

15 (C) OF THE TOTAL AVAILABLE REVENUES IN THE FUND FOR EACH FISCAL
16 YEAR:

17 (1) 50% SHALL BE USED FOR SUBSTANCE ABUSE TREATMENT
18 PROGRAMS ADMINISTERED BY THE ALCOHOL AND DRUG ABUSE ADMINISTRATION;

19 (2) 5% SHALL BE USED FOR SUBSTANCE ABUSE PREVENTION PROGRAMS
20 ADMINISTERED BY THE ALCOHOL AND DRUG ABUSE ADMINISTRATION;

21 (3) 8% SHALL BE USED FOR MAMMOGRAPHY SCREENING PROGRAMS;

22 (4) 15% SHALL BE USED FOR A PUBLIC INFORMATION CAMPAIGN AS
23 PROVIDED IN SUBSECTION (B)(1) OF THIS SECTION; AND

24 (5) 22% SHALL BE USED FOR TOBACCO USE PREVENTION AND
25 EDUCATION PROGRAMS AS PROVIDED IN SUBSECTION (B)(2) THROUGH (5) OF THIS
26 SECTION.

27 **Article - Tax - General**

28 2-1603.

29 After making the distributions required under §§ 2-1601 and 2-1602 of this
30 subtitle, FROM THE REMAINING TOBACCO TAX REVENUE, the Comptroller shall
31 distribute the remaining tobacco tax revenue UP TO \$125,000,000 to the General Fund
32 of the State.

33 2-1604.

34 (A) AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2-1601
35 THROUGH 2-1603 OF THIS SUBTITLE, FROM THE REMAINING TOBACCO TAX

1 REVENUE, THE COMPTROLLER SHALL DISTRIBUTE THE REMAINING TOBACCO TAX
2 REVENUE UP TO \$165,000,000 TO A SPECIAL FUND, TO BE ALLOCATED AS FOLLOWS:

3 (1) 30.3% TO THE TOBACCO TAX HEALTH PROTECTION FUND
4 ESTABLISHED UNDER § 24-902 OF THE HEALTH - GENERAL ARTICLE;

5 (2) 30.3% TO A SPECIAL FUND TO BE USED ONLY FOR THE CLASS SIZE
6 REDUCTION PROGRAM ESTABLISHED UNDER § 5-212 OF THE EDUCATION ARTICLE;

7 (3) 3% TO A SPECIAL FUND TO BE USED ONLY FOR THE EARLY
8 ELEMENTARY READING GRANT PROGRAM ESTABLISHED UNDER § 5-213 OF THE
9 EDUCATION ARTICLE;

10 (4) 18.2% TO A SPECIAL FUND TO BE USED ONLY FOR GRANTS TO
11 COUNTIES FOR AFTER-SCHOOL PROGRAMS UNDER § 5-214 OF THE EDUCATION
12 ARTICLE; AND

13 (5) (I) FOR A FISCAL YEAR BEGINNING BEFORE JULY 1, 2000:

14 1. 15.2% TO THE CHILDREN'S OPPORTUNITY FUND
15 ESTABLISHED UNDER ARTICLE 49D, § 12 OF THE CODE; AND

16 2. 3% TO A SPECIAL FUND TO BE USED ONLY FOR THE
17 TOBACCO CROP CONVERSION PROGRAM ESTABLISHED UNDER § 7-501 OF THE
18 AGRICULTURE ARTICLE; AND

19 (II) FOR A FISCAL YEAR BEGINNING ON OR AFTER JULY 1, 2000,
20 18.2% TO THE CHILDREN'S OPPORTUNITY FUND ESTABLISHED UNDER ARTICLE 49D, §
21 12 OF THE CODE.

22 2-1605.

23 AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2-1601 THROUGH
24 2-1604 OF THIS SUBTITLE, FROM THE REMAINING TOBACCO TAX REVENUE, THE
25 COMPTROLLER SHALL DISTRIBUTE THE REMAINING TOBACCO TAX REVENUE UP TO
26 \$120,000,000 TO A SPECIAL FUND, TO BE ALLOCATED AS FOLLOWS:

27 (1) 16.7% TO THE TOBACCO TAX HEALTH PROTECTION FUND
28 ESTABLISHED UNDER § 24-902 OF THE HEALTH - GENERAL ARTICLE;

29 (2) 41.7% TO A SPECIAL FUND TO BE USED ONLY FOR THE CLASS SIZE
30 REDUCTION PROGRAM ESTABLISHED UNDER § 5-212 OF THE EDUCATION ARTICLE;

31 (3) 8.3% TO A SPECIAL FUND TO BE USED ONLY FOR GRANTS TO
32 COUNTIES FOR AFTER-SCHOOL PROGRAMS UNDER § 5-214 OF THE EDUCATION
33 ARTICLE; AND

34 (4) 33.3% TO A SPECIAL FUND TO BE USED ONLY FOR THE PURCHASE OF
35 CHILD CARE PROGRAM.

1 2-1606.

2 AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2-1601 THROUGH
3 2-1605 OF THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE REMAINING
4 TOBACCO TAX REVENUE TO THE GENERAL FUND OF THE STATE.

5 12-101.

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

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

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

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

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

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

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

19 (2) A PERSON WHO:

20 (I) HOLDS OTHER TOBACCO PRODUCTS FOR SALE TO ANOTHER
21 PERSON FOR RESALE; OR

22 (II) SELLS OTHER TOBACCO PRODUCTS TO ANOTHER PERSON FOR
23 RESALE.

24 12-102.

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

27 (b) A county, municipal corporation, special taxing district, or other political
28 subdivision of the State may not impose a tax on cigarettes.

29 12-103.

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

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

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

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

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

9 12-104.

10 (a) "Consumer" means a person who possesses cigarettes OR OTHER TOBACCO
11 PRODUCTS for a purpose other than selling or transporting the cigarettes OR OTHER
12 TOBACCO PRODUCTS.

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

14 (1) cigarettes that[:

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

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

21 (3) CIGARETTES OR OTHER TOBACCO PRODUCTS THAT:

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

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

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

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

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

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

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

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

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

8 12-105.

9 (A) [The] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE tobacco
 10 tax rate FOR CIGARETTES is:

11 (1) [18] 43 cents for each package of 10 or fewer cigarettes;

12 (2) [36] 86 cents for each package of at least 11 and not more than 20
 13 cigarettes;

14 (3) [1.8] 4.3 cents for each cigarette in a package of more than 20
 15 cigarettes; and

16 (4) [1.8] 4.3 cents for each cigarette in a package of free sample
 17 cigarettes.

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

20 (C) SUBJECT TO SUBSECTION (E) OF THIS SECTION, ON AND AFTER JULY 1,
 21 1999, THE TOBACCO TAX RATE FOR CIGARETTES IS:

22 (1) 68 CENTS FOR EACH PACKAGE OF 10 OR FEWER CIGARETTES;

23 (2) \$1.36 FOR EACH PACKAGE OF AT LEAST 11 AND NOT MORE THAN 20
 24 CIGARETTES;

25 (3) 6.8 CENTS FOR EACH CIGARETTE IN A PACKAGE OF MORE THAN 20
 26 CIGARETTES; AND

27 (4) 6.8 CENTS FOR EACH CIGARETTE IN A PACKAGE OF FREE SAMPLE
 28 CIGARETTES.

29 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND
 30 SUBJECT TO SUBSECTION (E) OF THIS SECTION, ON AND AFTER JULY 1, 2000, THE
 31 TOBACCO TAX RATE FOR CIGARETTES IS:

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

33 (II) \$1.86 FOR EACH PACKAGE OF AT LEAST 11 AND NOT MORE THAN
 34 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 (2) (I) ON JANUARY 1 OF EACH YEAR THROUGH 2003, THE SECRETARY
6 OF HEALTH AND MENTAL HYGIENE SHALL DETERMINE THE NUMBER OF MARYLAND
7 RESIDENTS UNDER THE AGE OF 19 YEARS OLD WHO SMOKE CIGARETTES AS OF THAT
8 DATE.

9 (II) IF THE SECRETARY OF HEALTH AND MENTAL HYGIENE
10 DETERMINES THAT AS OF JANUARY 1 OF ANY YEAR THROUGH 2002 THE NUMBER OF
11 MARYLAND RESIDENTS UNDER THE AGE OF 19 YEARS OLD WHO SMOKE CIGARETTES
12 IS LESS THAN 65% OF THE NUMBER OF MARYLAND RESIDENTS UNDER THE AGE OF 19
13 YEARS OLD WHO SMOKED CIGARETTES AS OF JANUARY 1, 1998:

14 1. THE SECRETARY SHALL IMMEDIATELY CERTIFY ITS
15 DETERMINATION TO THE COMPTROLLER; AND

16 2. THE TOBACCO TAX RATE FOR CIGARETTES UNDER
17 PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY FOR THE NEXT FISCAL YEAR.

18 (III) IF THE SECRETARY OF HEALTH AND MENTAL HYGIENE
19 DETERMINES THAT AS OF JANUARY 1, 2003, THE NUMBER OF MARYLAND RESIDENTS
20 UNDER THE AGE OF 19 YEARS OLD WHO SMOKE CIGARETTES IS LESS THAN 65% OF
21 THE NUMBER OF MARYLAND RESIDENTS UNDER THE AGE OF 19 YEARS OLD WHO
22 SMOKED CIGARETTES AS OF JANUARY 1, 1998:

23 1. THE SECRETARY SHALL IMMEDIATELY CERTIFY ITS
24 DETERMINATION TO THE COMPTROLLER; AND

25 2. THE TOBACCO TAX RATE FOR CIGARETTES UNDER
26 PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY FOR THE FISCAL YEAR THAT
27 BEGINS JULY 1, 2003 OR FOR ANY SUBSEQUENT FISCAL YEAR.

28 (E) (1) ON JANUARY 1 OF EACH YEAR THROUGH 2003, THE COMPTROLLER
29 SHALL DETERMINE WHETHER:

30 (I) THE FEDERAL GOVERNMENT ON OR AFTER JANUARY 1, 1998
31 HAS ENACTED ANY CIGARETTE TAX INCREASE OR NEW TAX ON CIGARETTES; OR

32 (II) THE NATIONAL AVERAGE PRICE OF A PACKAGE OF 20
33 CIGARETTES FOR THE PRECEDING 12 MONTHS HAS INCREASED BY MORE THAN 50
34 CENTS ABOVE THE NATIONAL AVERAGE PRICE OF A PACKAGE OF 20 CIGARETTES FOR
35 THE 12 MONTHS PRECEDING JANUARY 1, 1998.

36 (2) FOR ANY FISCAL YEAR THAT BEGINS BEFORE JULY 1, 2003, THE
37 TOBACCO TAX RATE FOR CIGARETTES AS OTHERWISE DETERMINED UNDER THIS
38 SECTION SHALL BE REDUCED IN ACCORDANCE WITH PARAGRAPH (4) OF THIS

1 SUBSECTION IF ON OR BEFORE THE JANUARY 1 PRECEDING THE FISCAL YEAR THE
2 COMPTROLLER DETERMINES THAT:

3 (I) THE FEDERAL GOVERNMENT ON OR AFTER JANUARY 1, 1998
4 HAS ENACTED A CIGARETTE TAX INCREASE OR NEW TAX ON CIGARETTES THAT WILL
5 BE IN EFFECT FOR THE FISCAL YEAR; OR

6 (II) THE NATIONAL AVERAGE PRICE OF A PACKAGE OF 20
7 CIGARETTES FOR THE PRECEDING 12 MONTHS HAS INCREASED BY MORE THAN 50
8 CENTS ABOVE THE NATIONAL AVERAGE PRICE OF A PACKAGE OF 20 CIGARETTES FOR
9 THE 12 MONTHS PRECEDING JANUARY 1, 1998.

10 (3) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2003 AND ANY
11 SUBSEQUENT FISCAL YEAR, THE TOBACCO TAX RATE FOR CIGARETTES AS
12 OTHERWISE DETERMINED UNDER THIS SECTION SHALL BE REDUCED IN
13 ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION IF ON OR BEFORE
14 JANUARY 1, 2003 THE COMPTROLLER DETERMINES THAT:

15 (I) THE FEDERAL GOVERNMENT ON OR AFTER JANUARY 1, 1998
16 HAS ENACTED A CIGARETTE TAX INCREASE OR NEW TAX ON CIGARETTES THAT WILL
17 BE IN EFFECT ON JULY 1, 2003; OR

18 (II) THE NATIONAL AVERAGE PRICE OF A PACKAGE OF 20
19 CIGARETTES FOR THE 12 MONTHS PRECEDING JANUARY 1, 2003 HAS INCREASED BY
20 MORE THAN 50 CENTS ABOVE THE NATIONAL AVERAGE PRICE OF A PACKAGE OF 20
21 CIGARETTES FOR THE 12 MONTHS PRECEDING JANUARY 1, 1998.

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 GREATER OF:

29 1. THE EFFECTIVE FEDERAL TAX INCREASE ON 20
30 CIGARETTES; OR

31 2. THE AMOUNT OVER 50 CENTS BY WHICH THE NATIONAL
32 AVERAGE PRICE OF A PACKAGE OF 20 CIGARETTES HAS INCREASED ABOVE THE
33 NATIONAL AVERAGE PRICE OF 20 CIGARETTES FOR THE 12 MONTHS PRECEDING
34 JANUARY 1, 1998; AND

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

38 (F) (1) AS OF THE EFFECTIVE DATE OF ANY INCREASE IN THE TOBACCO TAX
39 RATE FOR CIGARETTES UNDER THIS SECTION, ALL CIGARETTES USED, POSSESSED,

1 OR HELD IN THE STATE OF MARYLAND BY ANY PERSON FOR SALE OR USE IN THE
2 STATE SHALL BE SUBJECT TO THE FULL TOBACCO TAX ON CIGARETTES IMPOSED
3 UNDER THIS SECTION.

4 (2) THE REQUIREMENT UNDER THIS SUBSECTION INCLUDES:

5 (I) CIGARETTES IN VENDING MACHINES OR OTHER MECHANICAL
6 DISPENSERS; AND

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

10 (3) ALL CIGARETTES HELD FOR SALE BY ANY PERSON IN THE STATE ON
11 AND AFTER THE EFFECTIVE DATE OF AN INCREASE IN THE TOBACCO TAX RATE FOR
12 CIGARETTES UNDER THIS SECTION THAT BEAR A TAX STAMP ISSUED BY THE
13 COMPTROLLER OF A VALUE LESS THAN THE FULL TAX IMPOSED FOR EACH PACK OF
14 20 CIGARETTES MUST BE STAMPED WITH THE ADDITIONAL STAMPS NECESSARY TO
15 MAKE THE AGGREGATE VALUE EQUAL TO THE FULL TAX IMPOSED.

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

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

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

28 12-202.

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

31 (1) FOR CIGARETTES:

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

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

1 (2) FOR OTHER 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 THE WHOLESALE
4 PRICE OF OTHER TOBACCO 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
9 packages; and

10 (3) maintain a complete and accurate record of each sale of cigarettes OR
11 OTHER 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 OTHER TOBACCO PRODUCTS SHALL BE PAID
18 BY THE WHOLESALE WHO SELLS THE OTHER TOBACCO PRODUCTS TO A RETAILER
19 OR CONSUMER IN THE STATE.

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

24 12-303.

25 (b) The Comptroller shall allow a licensed wholesaler a discount of [1.36%]
26 0.57% of the purchase price of tax stamps.

27 12-306.

28 (A) THE COMPTROLLER SHALL ESTABLISH, BY REGULATION, A SYSTEM OF
29 ADMINISTERING, COLLECTING, AND ENFORCING THE TOBACCO TAX ON OTHER
30 TOBACCO PRODUCTS.

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

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

1 (2) PAYMENT OF THE TAX BY:

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

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

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

9 13-408.

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

13 (1) compute the tobacco tax as if the cigarettes OR OTHER TOBACCO
14 PRODUCTS were sold in the State; and

15 (2) assess the tax due.

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

20 13-834.

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

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

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

27 (e) "Conveyance" means:

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

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

33 13-835.

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

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

3 (2) stop and search a conveyance in the State if the Comptroller or officer
4 knows or has reason to suspect that the conveyance is being used to transport IN THE
5 STATE CONTRABAND TOBACCO PRODUCTS HAVING A RETAIL VALUE OF \$100 OR
6 MORE OR contraband alcoholic beverages [or 5 or more cartons of contraband
7 cigarettes in the State]; and

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

10 13-836.

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

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

15 (ii) the Comptroller shall:

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

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

20 (b) (2) A police officer who seizes any contraband [cigarettes] TOBACCO
21 PRODUCTS or conveyance used to transport contraband [cigarettes] TOBACCO
22 PRODUCTS shall deliver the seized cigarettes OR OTHER TOBACCO PRODUCTS and
23 conveyance to the Comptroller.

24 13-837.

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

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

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

31 13-839.

32 (a) If a person files a claim for return of seized alcoholic beverages, cigarettes,
33 OTHER TOBACCO PRODUCTS, or a conveyance used for their transportation under §
34 13-837 of this subtitle, the Comptroller or the Comptroller's designee shall:

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

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

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

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

13 13-841.

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

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

21 13-842.

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

25 13-1014.

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

31 13-1015.

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

Article - Business Regulation

16-219.

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

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That all cigarettes used, possessed, or held in the State on or after July 1, 1998 by any person for sale or use in the State shall be subject to the full tobacco tax on cigarettes of 86 cents imposed by this Act. This requirement includes: (1) cigarettes in vending machines or other mechanical dispensers; and (2) cigarettes (generally referred to as "floor stock") in packages which already bear stamps issued by the Comptroller under the State Tobacco Tax Act but for an amount less than the full tax imposed of 43 cents for each 10 cigarettes or fractional part thereof; all cigarettes held for sale by any person in the State on or after July 1, 1998 that bear a tax stamp issued by the Comptroller of a value less than 86 cents for each pack of 20 cigarettes must be stamped with the additional stamps necessary to make the aggregate value equal to 86 cents. In lieu of the additional stamps necessary to make the aggregate tax value equal to 86 cents, the Comptroller may provide an alternate method of collecting the additional tax. The revenue attributable to this requirement shall be remitted to the Comptroller by September 30, 1998. Except as provided above, on and after July 1, 1998, no Maryland stamp shall be used except the stamp issued by the Comptroller to evidence the tobacco tax on cigarettes of 86 cents imposed by this Act.

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

1 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 1998.