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By: **Delegates Cadden, D'Amato, Rosso, Rawlings, Conway, Dewberry,  
Sophocleus, Greenip, A. Jones, Owings, Taylor, Rosenberg, Boschert,  
and W. Baker**

Introduced and read first time: January 26, 2001  
Assigned to: Environmental Matters  
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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 21, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Contraband Tobacco Products and Conveyances - Distribution of Sale**  
3 **Proceeds**

4 FOR the purpose of requiring the Comptroller to distribute revenue from sales of  
5 certain contraband tobacco products and conveyances to a certain fund;  
6 requiring the proceeds distributed to the fund to be used for certain purposes;  
7 repealing the authority of the Comptroller to sell contraband tobacco products to  
8 certain institutions; prohibiting the Comptroller from selling contraband  
9 tobacco products until after a certain period; ~~certain funds; establishing the~~  
10 Youth Tobacco Use Prevention and Cessation Fund; providing for the  
11 distribution of certain revenue to the Fund; providing for administration of the  
12 Fund by the State Superintendent of Schools; requiring the State  
13 Superintendent to take certain actions relating to the Fund; requiring the Fund  
14 to be expended for certain purposes; providing that disbursements from the  
15 Fund are to be used to supplement, and not to supplant, funds otherwise  
16 available for the programs for which the Fund is used; establishing the Cancer  
17 Prevention, Education, Screening, and Treatment Fund; providing for the  
18 distribution of certain revenue to the Fund; providing for administration of the  
19 Fund by the Secretary of Health and Mental Hygiene; requiring the Secretary to  
20 take certain actions relating to the Fund; requiring the Fund to be expended for  
21 certain purposes; providing that disbursements from the Fund are to be used to  
22 supplement, and not to supplant, funds otherwise available for the programs for  
23 which the Fund is used; defining certain terms; and generally relating to the  
24 distribution of revenue from sales of certain contraband tobacco products and  
25 conveyances.

1 ~~BY adding to~~  
2 ~~Article - Education~~  
3 ~~Section 7-411.1~~  
4 ~~Annotated Code of Maryland~~  
5 ~~(1999 Replacement Volume and 2000 Supplement)~~

6 ~~BY repealing and reenacting, without amendments,~~  
7 ~~Article - Health - General~~  
8 ~~Section 13-1102(a)~~  
9 ~~Annotated Code of Maryland~~  
10 ~~(2000 Replacement Volume)~~

11 ~~BY repealing and reenacting, with amendments,~~  
12 ~~Article - Health - General~~  
13 ~~Section 13-1102(e)(1)~~  
14 ~~Annotated Code of Maryland~~  
15 ~~(2000 Replacement Volume)~~

16 ~~BY adding to~~  
17 ~~Article - Health - General~~  
18 ~~Section 13-1120~~  
19 ~~Annotated Code of Maryland~~  
20 ~~(2000 Replacement Volume)~~

21 BY adding to  
22 Article - Tax - General  
23 Section 2-1604  
24 Annotated Code of Maryland  
25 (1997 Replacement Volume and 2000 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article - Tax - General  
28 Section 13-841  
29 Annotated Code of Maryland  
30 (1997 Replacement Volume and 2000 Supplement)

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

**Article—Education**

1  
2 ~~7-411.1.~~

3 (A) ~~IN THIS SECTION, "FUND" MEANS THE YOUTH TOBACCO USE PREVENTION~~  
4 ~~AND CESSATION FUND ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.~~

5 (B) ~~THERE IS A YOUTH TOBACCO USE PREVENTION AND CESSATION FUND.~~

6 (C) ~~THE FUND SHALL CONSIST OF THE CONTRABAND TOBACCO PRODUCTS~~  
7 ~~SALES REVENUE DISTRIBUTED TO THE FUND UNDER § 2-1604 OF THE TAX—GENERAL~~  
8 ~~ARTICLE.~~

9 (D) ~~THE STATE SUPERINTENDENT SHALL ADMINISTER THE FUND.~~

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

13 (F) ~~MONEYS EXPENDED FROM THE FUND FOR THE PURPOSES STATED IN THIS~~  
14 ~~SECTION:~~

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

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

20 (G) ~~THE STATE SUPERINTENDENT SHALL USE THE FUND TO DEVELOP AND~~  
21 ~~IMPLEMENT A YOUTH TOBACCO USE PREVENTION AND CESSATION PROGRAM IN THE~~  
22 ~~PUBLIC SCHOOLS.~~

**Article—Health—General**

23  
24 ~~13-1102.~~

25 (a) ~~There is a Cancer Prevention, Education, Screening, and Treatment~~  
26 ~~Program in the Department.~~

27 (e) (1) ~~The Program shall be funded as provided in the State budget with~~  
28 ~~money from the Cigarette Restitution Fund AND THE CANCER PREVENTION,~~  
29 ~~EDUCATION, SCREENING, AND TREATMENT FUND ESTABLISHED UNDER § 13-1120 OF~~  
30 ~~THIS SUBTITLE.~~

31 ~~13-1120.~~

32 (A) ~~IN THIS SECTION, "FUND" MEANS THE CANCER PREVENTION, EDUCATION,~~  
33 ~~SCREENING, AND TREATMENT FUND ESTABLISHED UNDER SUBSECTION (B) OF THIS~~  
34 ~~SECTION.~~

1 ~~(B) THERE IS A CANCER PREVENTION, EDUCATION, SCREENING, AND~~  
2 ~~TREATMENT FUND.~~

3 ~~(C) THE FUND SHALL CONSIST OF THE CONTRABAND TOBACCO PRODUCTS~~  
4 ~~SALES REVENUE DISTRIBUTED TO THE FUND UNDER § 2-1604 OF THE TAX - GENERAL~~  
5 ~~ARTICLE.~~

6 ~~(D) THE SECRETARY SHALL ADMINISTER THE FUND.~~

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 EXPENDED FROM THE FUND FOR THE PURPOSES STATED IN THIS~~  
11 ~~SUBTITLE:~~

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

15 ~~(2) MAY NOT BE SUBSTITUTED FOR MONEYS APPROPRIATED FROM~~  
16 ~~OTHER SOURCES FOR THESE PROGRAMS AND PURPOSES.~~

17 ~~(G) THE SECRETARY SHALL USE THE FUND TO PROVIDE ADDITIONAL~~  
18 ~~FUNDING FOR THE CANCER PREVENTION, EDUCATION, SCREENING, AND~~  
19 ~~TREATMENT PROGRAM.~~

20 **Article - Tax - General**

21 2-1604.

22 ~~OF THE PROCEEDS FROM SALES OF CONTRABAND TOBACCO PRODUCTS AND~~  
23 ~~CONVEYANCES UNDER § 13-841(B) OF THIS ARTICLE, THE COMPTROLLER SHALL~~  
24 ~~DISTRIBUTE:~~

25 (A) THE COMPTROLLER SHALL DISTRIBUTE THE PROCEEDS FROM SALES OF  
26 CONTRABAND TOBACCO PRODUCTS AND CONVEYANCES UNDER § 13-841(B) OF THIS  
27 ARTICLE TO THE CIGARETTE RESTITUTION FUND ESTABLISHED UNDER § 7-317 OF  
28 THE STATE FINANCE AND PROCUREMENT ARTICLE.

29 (B) OF THE PROCEEDS DISTRIBUTED TO THE CIGARETTE RESTITUTION FUND  
30 UNDER SUBSECTION (A) OF THIS SECTION:

31 (1) 50% TO SHALL BE USED FOR THE YOUTH TOBACCO USE PREVENTION  
32 AND CESSATION FUND PROGRAM ESTABLISHED UNDER § 7-411.1 OF THE EDUCATION  
33 ARTICLE § 13-1002 OF THE HEALTH - GENERAL ARTICLE; AND

34 (2) 50% TO SHALL BE USED FOR THE CANCER PREVENTION, EDUCATION,  
35 SCREENING, AND TREATMENT FUND PROGRAM ESTABLISHED UNDER § 13-1120 OF  
36 THE HEALTH - GENERAL ARTICLE.

1 13-841.

2 (a) (1) Contraband alcoholic beverages that are seized under this title and  
3 forfeited may be disposed of or destroyed in the manner allowed under Article 2B, §  
4 1-201(f)(5) and (6) and (g) of the Code.

5 (2) The Comptroller shall sell at public auction a conveyance that is  
6 seized under this title in connection with contraband alcoholic beverages and  
7 forfeited.

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

12 (2) The Comptroller shall sell at public auction a conveyance that is  
13 seized under this title in connection with contraband tobacco products and forfeited.

14 (3) THE COMPTROLLER MAY NOT SELL ANY CONTRABAND TOBACCO  
15 PRODUCT SEIZED UNDER THIS TITLE UNTIL ONE YEAR AFTER OBTAINING  
16 POSSESSION OF THE CONTRABAND TOBACCO PRODUCT.

17 (c) (1) If either the Comptroller or, on appeal, a court determines that seized  
18 conveyance or motor fuel is not subject to forfeiture:

19 (i) the Comptroller is not required to return the motor fuel seized  
20 to the owner or other interested person who filed the claim for return of the property,  
21 but may, at the option of the Comptroller, pay to the person an amount equal to the  
22 value of the motor fuel as determined by the average wholesale value on the date of  
23 seizure for the Baltimore Terminal as reported by Platt's Oil-Gram on the date of  
24 seizure; and

25 (ii) the Comptroller shall return the conveyance to the registered  
26 owner and shall have no further liability to the registered owner.

27 (2) If a seized conveyance or motor fuel is forfeited, the Comptroller  
28 shall:

29 (i) 1. use the contraband motor fuel for any public purpose; or

30 2. sell the contraband motor fuel to any person; and

31 (ii) sell the seized conveyance to any person.

32 (d) In the manner required under Title 2 of this article for distributions of  
33 revenue, the Comptroller shall distribute the net proceeds from the sale of any  
34 conveyance or other property under this section after paying:

35 (1) the costs incurred in conjunction with the seizure and disposal of the  
36 property;

1           (2)     the cost of the sale; and

2           (3)     any bona fide lien against the conveyance.

3       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 July 1, 2001.