

---

By: **The President (By Request - Administration)**

Introduced and read first time: January 19, 2005

Assigned to: Budget and Taxation

---

A BILL ENTITLED

1 AN ACT concerning

2 **Budget Financing Act of 2005**

3 FOR the purpose of authorizing the Director of the Maryland Historical Trust to set  
4 certain fees; authorizing a fee to be assessed for the Drinking Driver Monitor  
5 Program; establishing the Drinking Driver Monitor Program Fund and  
6 providing for its administration; altering a certain surcharge on certain costs in  
7 certain civil cases in the District Court of Maryland; altering the distribution of  
8 certain revenue by the Comptroller; authorizing the Department of Health and  
9 Mental Hygiene to file claims against the estates of certain deceased individuals  
10 within a certain time; altering certain maximum copayments under a certain  
11 program; authorizing certain administrative charges to certain Commissions in  
12 the Department of Health and Mental Hygiene; removing certain limitations on  
13 certain fees assessed by certain Commissions; exempting motor fuel purchased  
14 by the Department of General Services for use by State agencies from the State  
15 motor fuel tax; making the provisions of this Act severable; providing for the  
16 effective date of this Act; and generally relating to the financing of State  
17 government.

18 BY repealing and reenacting, with amendments,  
19 Article 83B - Department of Housing and Community Development  
20 Section 5-801(b)(1)  
21 Annotated Code of Maryland  
22 (2003 Replacement Volume and 2004 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article - Correctional Services  
25 Section 6-104  
26 Annotated Code of Maryland  
27 (1999 Volume and 2004 Supplement)

28 BY adding to  
29 Article - Correctional Services  
30 Section 6-115 and 6-116  
31 Annotated Code of Maryland

- 1 (1999 Volume and 2004 Supplement)
- 2 BY repealing and reenacting, with amendments,  
3 Article - Courts and Judicial Proceedings  
4 Section 7-301(a), (b), and (e)  
5 Annotated Code of Maryland  
6 (2002 Replacement Volume and 2004 Supplement)
- 7 BY repealing and reenacting, without amendments,  
8 Article - Criminal Procedure  
9 Section 6-226(a)  
10 Annotated Code of Maryland  
11 (2001 Volume and 2004 Supplement)
- 12 BY repealing and reenacting, with amendments,  
13 Article - Criminal Procedure  
14 Section 6-226(b) and (g)  
15 Annotated Code of Maryland  
16 (2001 Volume and 2004 Supplement)
- 17 BY repealing and reenacting, with amendments,  
18 Article - Estates and Trusts  
19 Section 8-103(f)  
20 Annotated Code of Maryland  
21 (2001 Replacement Volume and 2004 Supplement)
- 22 BY repealing and reenacting, with amendments,  
23 Article - Health - General  
24 Section 15-121, 15-124(b)(2), 19-110(b), 19-111(c), 19-208(b), and 19-213(c)(1)  
25 and (d)(8)  
26 Annotated Code of Maryland  
27 (2000 Replacement Volume and 2004 Supplement)
- 28 BY repealing and reenacting, without amendments,  
29 Article - Health - General  
30 Section 19-213(a) and (b)  
31 Annotated Code of Maryland  
32 (2000 Replacement Volume and 2004 Supplement)
- 33 BY repealing and reenacting, with amendments,  
34 Article - Tax - General  
35 Section 9-303  
36 Annotated Code of Maryland

1 (2004 Replacement Volume)

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

4 **Article 83B - Department of Housing and Community Development**

5 5-801.

6 (b) (1) The Director shall adopt regulations to:

7 (i) Establish procedures and standards for certifying heritage  
8 structures and rehabilitations under this section;

9 (ii) CHARGE A REASONABLE FEE TO CERTIFY HERITAGE  
10 STRUCTURES AND REHABILITATIONS UNDER THIS SECTION;

11 (iii) For commercial rehabilitations, establish an application process  
12 for the award of initial credit certificates for Maryland heritage structure  
13 rehabilitation tax credits consistent with the requirements of this subsection; and

14 [(iii)] (iv) For commercial rehabilitations, establish a competitive  
15 award process for the award of initial credit certificates for Maryland heritage  
16 structure rehabilitation tax credits that:

17 1. Ensures tax credits are awarded in a manner that reflects  
18 the geographic diversity of the State;

19 2. Favors the award of tax credits for rehabilitation projects  
20 that are consistent with and promote current growth and development policies and  
21 programs of the State; and

22 3. A. Favors the award of tax credits for structures that are  
23 listed in the National Register of Historic Places or are designated as historic  
24 properties under local law and determined by the Director to be eligible for listing in  
25 the National Register of Historic Places; or

26 B. Favors the award of tax credits for structures that are  
27 contributing buildings with historic significance and are located in historic districts  
28 listed in the National Register of Historic Places.

29 **Article - Correctional Services**

30 6-104.

31 (a) Subject to the authority of the Secretary and in addition to any other  
32 duties established by law, the Division:

33 (1) shall:

- 1 (i) supervise the conduct of parolees;
- 2 (ii) supervise an individual under mandatory supervision until the  
3 expiration of the individual's maximum term or terms of confinement;
- 4 (iii) regularly inform the Commission of the activities of offenders  
5 who are supervised by the Division;
- 6 (iv) issue a warrant for the retaking of an offender charged with a  
7 violation of a condition of parole or mandatory supervision, if this authority is  
8 delegated by the Commission to the Director of the Division; and
- 9 (v) administer the Drinking Driver Monitor Program [and], collect  
10 supervision fees, AND ADOPT GUIDELINES FOR COLLECTING THE MONTHLY  
11 PROGRAM FEE ASSESSED IN ACCORDANCE WITH § 6-115 OF THIS SUBTITLE [in  
12 accordance with the State Drinking Driver Program Interagency Agreement]; and

13 (2) may recommend:

- 14 (i) that the Commission modify any condition of parole or  
15 mandatory supervision; and
- 16 (ii) that the Commission issue a warrant for the retaking of an  
17 offender.

18 (b) Funding for the Drinking Driver Monitor Program shall be as provided in  
19 the State budget [from general funds].

20 6-115.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (2) "PROGRAM FEE" MEANS THE FEE THE DIVISION ASSESSES ON A  
24 SUPERVISEE THE DIVISION PLACES IN THE DRINKING DRIVER MONITOR PROGRAM.

25 (3) "SUPERVISEE" MEANS A PERSON THAT THE COURT PLACES UNDER  
26 THE SUPERVISION OF THE DIVISION.

27 (4) "SUPERVISION FEE" MEANS THE FEE THE COURT ORDERS UNDER §  
28 6-226 OF THE CRIMINAL PROCEDURE ARTICLE.

29 (B) ALL SUPERVISEES PLACED IN THE DRINKING DRIVER MONITOR PROGRAM  
30 BY THE DIVISION SHALL BE:

31 (1) SUBJECT TO A MONTHLY SUPERVISION FEE IN ACCORDANCE WITH §  
32 6-226 OF THE CRIMINAL PROCEDURE ARTICLE; AND

33 (2) ASSESSED A MONTHLY PROGRAM FEE OF \$45 BY THE DIVISION.

1 (C) (1) THE PROGRAM FEE IMPOSED UNDER THIS SECTION SHALL BE PAID  
2 TO THE DIVISION BY ALL SUPERVISEES IN THE DRINKING DRIVER MONITOR  
3 PROGRAM ON OR AFTER JULY 1, 2005.

4 (2) THE DIVISION SHALL PAY THE PROGRAM FEES COLLECTED UNDER  
5 THIS SECTION INTO THE DRINKING DRIVER MONITOR PROGRAM FUND.

6 (D) NOTWITHSTANDING SUBSECTIONS (B) AND (C) OF THIS SECTION, THE  
7 DIVISION MAY EXEMPT A SUPERVISEE AS A WHOLE OR IN PART FROM THE PROGRAM  
8 FEE IMPOSED UNDER THIS SECTION IF:

9 (1) THE SUPERVISEE HAS DILIGENTLY TRIED BUT HAS BEEN UNABLE  
10 TO OBTAIN EMPLOYMENT THAT PROVIDES SUFFICIENT INCOME FOR THE  
11 SUPERVISEE TO PAY THE FEE;

12 (2) (I) THE SUPERVISEE IS A STUDENT IN A SCHOOL, COLLEGE, OR  
13 UNIVERSITY OR IS ENROLLED IN A COURSE OF VOCATIONAL OR TECHNICAL  
14 TRAINING DESIGNED TO PREPARE THE STUDENT FOR GAINFUL EMPLOYMENT; AND

15 (II) CERTIFICATION OF STUDENT STATUS IS SUPPLIED TO THE  
16 DIVISION BY THE INSTITUTION IN WHICH THE SUPERVISEE IS ENROLLED;

17 (3) THE SUPERVISEE HAS A HANDICAP LIMITING EMPLOYMENT, AS  
18 DETERMINED BY A PHYSICAL OR PSYCHOLOGICAL EXAMINATION ACCEPTED BY THE  
19 DIVISION;

20 (4) THE SUPERVISEE IS RESPONSIBLE FOR THE SUPPORT OF  
21 DEPENDENTS AND THE PAYMENT OF THE FEE IS AN UNDUE HARDSHIP ON THE  
22 SUPERVISEE; OR

23 (5) OTHER EXTENUATING CIRCUMSTANCES EXIST.

24 6-116.

25 (A) THERE IS A DRINKING DRIVER MONITOR PROGRAM FUND.

26 (B) THE FUND SHALL BE USED FOR ALL COSTS OF THE DRINKING DRIVER  
27 MONITOR PROGRAM.

28 (C) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT SUBJECT  
29 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

30 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND THE  
31 COMPTROLLER SHALL ACCOUNT FOR THE FUND.

32 (D) THE FUND CONSISTS OF:

33 (1) THE PROGRAM FEES PAID BY SUPERVISEES IN THE DRINKING  
34 DRIVER MONITOR PROGRAM; AND

35 (2) INVESTMENT EARNINGS OF THE FUND.

1 (E) THE MONEY OF THE FUND SHALL BE INVESTED IN THE SAME MANNER AS  
2 OTHER STATE MONEY.

3 (F) EXPENDITURES FROM THE FUND MAY BE MADE ONLY:

4 (1) IN ACCORDANCE WITH THE STATE BUDGET; OR

5 (2) BY THE BUDGET AMENDMENT PROCEDURE AS PROVIDED IN § 7-209  
6 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

7 (G) THE FUND IS SUBJECT TO AUDIT BY THE OFFICE OF LEGISLATIVE AUDITS  
8 UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

9 **Article - Courts and Judicial Proceedings**

10 7-301.

11 (a) The court costs in a traffic case, including parking and impounding cases  
12 and cases under § 21-202.1 of the Transportation Article in which costs are imposed,  
13 are [\$20] \$25. Such costs shall also be applicable to those cases in which the  
14 defendant elects to waive his right to trial and pay the fine or penalty deposit  
15 established by the Chief Judge of the District Court by administrative regulation. In  
16 an uncontested case under § 21-202.1 of the Transportation Article or uncontested  
17 parking or impounding case in which the fines are paid directly to a political  
18 subdivision or municipality, costs are \$2.00, which costs shall be paid to and retained  
19 by the political subdivision or municipality. In an uncontested case in which the fine  
20 is paid directly to an agency of State government authorized by law to regulate  
21 parking of motor vehicles, the costs are \$2.00. The fine and the costs shall be paid to  
22 the agency, which shall receive and account for these funds as in all other cases  
23 involving sums due the State through a State agency.

24 (b) (1) The court costs in a criminal case in which costs are imposed are  
25 [\$20] \$25.

26 (2) The costs shall be in addition to any costs imposed in a criminal case  
27 under the Criminal Injuries Compensation Act.

28 (e) The Comptroller shall establish a Law Enforcement and Correctional  
29 Training Fund, as provided in Title 8, Subtitle 3 of the Correctional Services Article,  
30 and the Comptroller shall pay into the Fund [one-fourth] TWO-FIFTHS of all court  
31 costs collected by the District Court under subsections (a) and (b)(1) of this section.

32 **Article - Criminal Procedure**

33 6-226.

34 (a) In this section, "supervisee" means a person that the court places under  
35 the supervision of the Division of Parole and Probation.

1 (b) Unless the supervisee is exempt under subsection (d) of this section, the  
2 court shall impose a monthly fee of [\$25] \$40 on a supervisee.

3 (g) (1) In addition to fees imposed under this section, the Division of Parole  
4 and Probation may require a supervisee to pay:

5 (I) for drug or alcohol abuse testing if the court orders testing; AND

6 (II) THE MONTHLY PROGRAM FEE PROVIDED UNDER § 6-115 OF THE  
7 CORRECTIONAL SERVICES ARTICLE.

8 (2) Failure to make a payment required for drug or alcohol abuse testing  
9 may be considered grounds for revocation of probation by the court.

10 (3) The Division of Parole and Probation may exempt a supervisee as a  
11 whole or in part from a payment for testing if the Division determines that any of the  
12 criteria in subsection (d) of this section apply.

### 13 **Article - Estates and Trusts**

14 8-103.

15 (f) A claim filed by the Department of Health and Mental Hygiene against the  
16 estate of a deceased Maryland Medical Assistance Program recipient, as authorized  
17 under § 15-121(a) of the Health - General Article, is forever barred against the  
18 estate, the personal representative, and the heirs and legatees, unless the claim is  
19 presented within the earlier of the following dates:

20 (1) 6 months after PUBLICATION OF NOTICE OF the first appointment of  
21 a personal representative; or

22 (2) 2 months after the personal representative mails or otherwise  
23 delivers to the Department's Division of Medical Assistance Recoveries a copy of a  
24 notice in the form required under § 7-103 of this article or other written notice,  
25 notifying the Department that the claim shall be barred unless the Department  
26 presents its claim within 2 months from the receipt of the notice.

### 27 **Article - Health - General**

28 15-121.

29 (a) (1) In accordance with applicable federal law and rules and regulations,  
30 including those under Title XIX of the Social Security Act, the Department may make  
31 claim against the estate of:

32 (I) [a] A deceased Program recipient for the amount of any medical  
33 assistance payments under this title; OR

34 (II) THE SURVIVING SPOUSE OF A DECEASED PROGRAM RECIPIENT  
35 FOR THE AMOUNT OF MEDICAL ASSISTANCE PAYMENTS MADE ON BEHALF OF THE

1 DECEASED PROGRAM RECIPIENT UNDER THIS TITLE, UNLESS THE SURVIVING  
2 SPOUSE AT THE TIME OF THE SURVIVING SPOUSE'S DEATH IS SURVIVED BY A CHILD  
3 WHO IS:

- 4 1. LESS THAN 21 YEARS OF AGE;
- 5 2. BLIND; OR
- 6 3. PERMANENTLY AND TOTALLY DISABLED.

7 (2) THE ASSETS OF THE ESTATE OF THE SURVIVING SPOUSE SUBJECT  
8 TO THE DEPARTMENT'S CLAIM UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION  
9 SHALL BE RESTRICTED TO THOSE ASSETS THAT PASSED TO THE SURVIVING SPOUSE  
10 FROM THE DECEASED PROGRAM RECIPIENT UPON THE DEATH OF THE DECEASED  
11 PROGRAM RECIPIENT BY:

- 12 (I) TESTAMENTARY DISPOSITION;
- 13 (II) DISTRIBUTION UNDER THE LAWS OF INTESTATE SUCCESSION;
- 14 (III) RIGHT OF SURVIVORSHIP FROM PROPERTY HELD IN TENANCY  
15 BY THE ENTIRETY OR IN JOINT TENANCY; OR
- 16 (IV) A REMAINDER INTEREST FROM A LIFE TENANCY.

17 (3) THE DEPARTMENT'S CLAIM AGAINST THE ESTATE OF A SURVIVING  
18 SPOUSE MAY NOT BE FILED AGAINST THE ESTATE UNLESS THE SURVIVING SPOUSE  
19 DIED WITHIN 5 YEARS AFTER THE DATE OF DEATH OF THE PROGRAM RECIPIENT.

20 (4) THE DEPARTMENT'S CLAIM AGAINST THE ESTATE OF A SURVIVING  
21 SPOUSE MAY NOT BE FILED AGAINST THE ESTATE UNLESS THE PROGRAM RECIPIENT  
22 APPLIED FOR MEDICAID ON OR AFTER JULY 1, 2005.

23 (b) The claim shall be waived by the Department if, in its judgment,  
24 enforcement of the claim will cause substantial hardship to the surviving dependents  
25 of the deceased.

26 15-124.

27 (b) (2) The reimbursement shall be up to the amount paid for the same  
28 items or services under the pharmacy program of the Maryland Medical Assistance  
29 Program and shall be subject to a copayment of not more than:

30 (i) \$2.50 for a generic drug or a brand name drug on a preferred  
31 drug list established by the Department; and

32 (ii) [~~\$7.50~~] \$8.50 for a brand name drug not on a preferred drug list  
33 established by the Department.



1 19-110.

2 (b) The power of the Secretary to transfer, by rule, regulation, or written  
3 directive, any staff, functions, or funds of units in the Department does not apply to  
4 any staff, function, or funds of the Commission. [For fiscal year 2005, the] THE  
5 Secretary may assess an administrative charge, consistent with the indirect cost  
6 charge assessed to federal grants, to fund services provided to the Commission by the  
7 Executive Branch.

8 19-111.

9 (c) (1) [(i) For fiscal year 2005, the] THE total fees assessed by the  
10 Commission IN ANY FISCAL YEAR may not exceed \$11,200,000.

11 [(ii) For fiscal year 2006 and each fiscal year thereafter, the total  
12 fees assessed by the Commission may not exceed \$10,000,000.]

13 (2) The fees assessed by the Commission shall be used exclusively to  
14 cover the actual documented direct costs of fulfilling the statutory and regulatory  
15 duties of the Commission in accordance with the provisions of this subtitle. [For fiscal  
16 year 2005, the] THE costs of the Commission include the administrative costs  
17 incurred by the Department on behalf of the Commission. The amount to be paid by  
18 the Commission to the Department for administrative costs will be calculated in the  
19 same manner as indirect costs for federal grants, less overhead costs paid directly by  
20 the Commission.

21 (3) The Commission shall pay all funds collected from the fees assessed  
22 in accordance with this section into the Fund.

23 (4) The fees assessed may be expended only for purposes authorized by  
24 the provisions of this subtitle.

25 (5) The amount in paragraph (1) of this subsection limits only the total  
26 fees the Commission may assess in a fiscal year.

27 19-208.

28 (b) The power of the Secretary to transfer by rule, regulation, or written  
29 directive, any staff, functions, or funds of units in the Department does not apply to  
30 any staff, function, or funds of the Commission. [For fiscal year 2005, the] THE  
31 Secretary may assess an administrative charge, consistent with the indirect cost  
32 charge assessed to federal grants, to fund services provided to the Commission by the  
33 Executive Branch.

34 19-213.

35 (a) (1) In this section the following words have the meanings indicated.

36 (2) "Facilities" means hospitals and related institutions whose rates  
37 have been approved by the Commission.

1 (b) The Commission shall assess and collect user fees on facilities as defined  
2 in this section.

3 (c) (1) [(i) For fiscal year 2005, the] THE total user fees assessed by the  
4 Commission IN ANY FISCAL YEAR may not exceed \$4,500,000.

5 [(ii) For fiscal year 2006 and each fiscal year thereafter, the total  
6 fees assessed by the Commission may not exceed \$4,000,000.]

7 (d) (8) The Fund shall be used only to provide funding for the Commission  
8 and for the purposes authorized under this subtitle. [For fiscal year 2005, the] THE  
9 costs of the Commission include the administrative costs incurred by the Department  
10 on behalf of the Commission. The amount to be paid by the Commission to the  
11 Department for administrative costs will be calculated in the same manner as  
12 indirect costs for federal grants, less overhead costs paid directly by the Commission.

### 13 **Article - Tax - General**

14 9-303.

15 (a) The motor fuel tax does not apply to motor fuel that is exported or sold for  
16 exportation from this State.

17 (b) The motor fuel tax does not apply to special fuel:

18 (1) containing dye and sold for uses other than in a licensed motor  
19 vehicle;

20 (2) delivered into a tank used only for heating; or

21 (3) used for any purpose other than propelling a motor vehicle or  
22 turbine-powered aircraft.

23 (c) The motor fuel tax does not apply to aviation fuel that is bought for use by:

24 (1) a carrier engaged in the common carriage of individuals or property  
25 under Parts 121, 127, and 129 of the Federal Aviation Regulations;

26 (2) an operator under Part 135 of the Federal Aviation Regulations if at  
27 least 70% of the aviation fuel is used in the common carriage of individuals or  
28 property;

29 (3) the State;

30 (4) a political subdivision of the State;

31 (5) a unit or instrumentality of the United States government; or

32 (6) a foreign government.

1 (D) THE MOTOR FUEL TAX DOES NOT APPLY TO MOTOR FUEL THAT IS BOUGHT  
2 BY THE DEPARTMENT OF GENERAL SERVICES FOR USE BY STATE AGENCIES.

3 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this  
4 Act or the application thereof to any person or circumstance is held invalid for any  
5 reason in a court of competent jurisdiction, the invalidity does not affect other  
6 provisions or any other application of this Act which can be given effect without the  
7 invalid provision or application, and for this purpose the provisions of this Act are  
8 declared severable.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
10 effect June 1, 2005.