

HOUSE BILL 853

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CF SB 654

By: **Delegates Hixson, Rosenberg, Arora, Barve, Dumais, Feldman, Frush, Gutierrez, Huckler, Luedtke, A. Miller, Mizeur, Reznik, and Summers**

Introduced and read first time: February 11, 2011

Assigned to: Ways and Means and Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Tax – Rates and Distribution of Revenues**

3 FOR the purpose of providing that the Tobacco Use Prevention and Cessation Program
4 shall receive funding from the Other Tobacco Products Tax Fund under certain
5 circumstances; requiring money from the Fund to be used to supplement
6 appropriations to the Tobacco Use Prevention and Cessation Program to reach a
7 certain level of funding; requiring the revenue from the tobacco tax on other
8 tobacco products to be deposited into the Fund after certain other distributions;
9 altering the tobacco tax rates on cigarettes and other tobacco products;
10 requiring a wholesaler to report the amount of other tobacco products sold on a
11 tobacco tax return; establishing the Other Tobacco Products Tax Fund;
12 establishing the purpose and uses of the Fund; requiring the Comptroller to
13 administer the Fund; providing that certain unspent or unencumbered funds do
14 not revert to the General Fund; specifying that the State Treasurer shall hold
15 the Fund separately and that the Comptroller shall account for the Fund;
16 designating the money to be deposited into the Fund; requiring the money in
17 the Fund to be used to provide funding to the Tobacco Use Prevention and
18 Cessation Program and the Maryland Medical Assistance Program in a certain
19 manner; requiring the Treasurer to invest the money in the Fund in the same
20 manner as other State money; requiring the investment earnings of the Fund to
21 be deposited into the Fund; providing that money expended from the Fund for
22 the Tobacco Use Prevention and Cessation Program and the Maryland Medical
23 Assistance Program is supplemental; defining certain terms; and generally
24 relating to the taxation of cigarettes and other tobacco products.

25 BY repealing and reenacting, without amendments,
26 Article – Health – General
27 Section 13–1002(a) and (b)
28 Annotated Code of Maryland
29 (2009 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Health – General
3 Section 13–1002(d)(1) and 13–1015
4 Annotated Code of Maryland
5 (2009 Replacement Volume and 2010 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article – Tax – General
8 Section 2–1601 and 2–1602
9 Annotated Code of Maryland
10 (2010 Replacement Volume)

11 BY adding to
12 Article – Tax – General
13 Section 2–1602.1 and 12–401
14 Annotated Code of Maryland
15 (2010 Replacement Volume)

16 BY repealing and reenacting, with amendments,
17 Article – Tax – General
18 Section 2–1603 and 12–105
19 Annotated Code of Maryland
20 (2010 Replacement Volume)

21 BY repealing and reenacting, with amendments,
22 Article – Tax – General
23 Section 12–202
24 Annotated Code of Maryland
25 (2010 Replacement Volume)
26 (As enacted by Chapter 388 of the Acts of the General Assembly of 2010)

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

29 **Article – Health – General**

30 13–1002.

31 (a) There is a Tobacco Use Prevention and Cessation Program in the
32 Department.

33 (b) The purpose of the Program is to coordinate the State’s use of the
34 Cigarette Restitution Fund to address issues relating to tobacco use prevention and
35 cessation so as to create a lasting legacy of public health initiatives that result in a
36 reduction of tobacco use in the State and otherwise benefit the health and welfare of
37 the State’s residents.

1 (d) (1) The Program shall be funded as provided in the State budget with
2 money from the Cigarette Restitution Fund **AND THE OTHER TOBACCO PRODUCTS**
3 **TAX FUND.**

4 13-1015.

5 (a) For fiscal year 2011 and fiscal year 2012, the Governor shall include at
6 least \$6,000,000 in the annual budget in appropriations for activities aimed at
7 reducing tobacco use in Maryland as recommended by the Centers for Disease Control
8 and Prevention, including:

9 (1) Media campaigns aimed at reducing smoking initiation and
10 encouraging smokers to quit smoking;

11 (2) Media campaigns educating the public about the dangers of
12 secondhand smoke exposure;

13 (3) Enforcement of existing laws banning the sale or distribution of
14 tobacco products to minors;

15 (4) Promotion and implementation of smoking cessation programs;
16 and

17 (5) Implementation of school-based tobacco education programs.

18 (b) For fiscal year 2013 and each fiscal year thereafter, the Governor shall
19 include at least \$10,000,000 in the annual budget in appropriations for the purposes
20 described in subsection (a) of this section.

21 **(C) FOR FISCAL YEAR 2013 AND EACH FISCAL YEAR THEREAFTER, IF**
22 **THE GOVERNOR DOES NOT INCLUDE AT LEAST \$21,000,000 IN THE ANNUAL**
23 **BUDGET IN APPROPRIATIONS FROM OTHER SOURCES FOR THE PURPOSES**
24 **DESCRIBED IN SUBSECTION (A) OF THIS SECTION, MONEY FROM THE OTHER**
25 **TOBACCO PRODUCTS TAX FUND SHALL BE USED TO SUPPLEMENT THE**
26 **GOVERNOR'S APPROPRIATIONS UNDER SUBSECTION (B) OF THIS SECTION TO**
27 **INCREASE ANNUAL FUNDING FOR THE PROGRAM TO \$21,000,000.**

28 **Article - Tax - General**

29 2-1601.

30 From the tobacco tax revenue, the Comptroller shall distribute the amount
31 necessary to pay refunds relating to the tobacco tax to a refund account.

32 2-1602.

1 After making the distribution required under § 2–1601 of this subtitle, from the
 2 remaining tobacco tax revenue the Comptroller shall distribute the amount necessary
 3 to administer the tobacco tax laws to an administrative cost account.

4 **2–1602.1.**

5 **AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2–1601 AND**
 6 **2–1602 OF THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE**
 7 **REVENUE COLLECTED FROM THE TAX IMPOSED ON OTHER TOBACCO PRODUCTS**
 8 **UNDER § 12–105(B) OF THIS ARTICLE TO THE OTHER TOBACCO PRODUCTS TAX**
 9 **FUND UNDER § 12–401 OF THIS ARTICLE.**

10 2–1603.

11 After making the distributions required under §§ 2–1601 [and 2–1602]
 12 **THROUGH 2–1602.1** of this subtitle, the Comptroller shall distribute the remaining
 13 tobacco tax revenue to the General Fund of the State.

14 12–105.

15 (a) The tobacco tax rate for cigarettes is:

- 16 (1) [~~\$1.00~~] **\$1.50** for each package of 10 or fewer cigarettes;
 17 (2) [~~\$2.00~~] **\$3.00** for each package of at least 11 and not more than 20
 18 cigarettes;
 19 (3) [~~10.0~~] **15.0** cents for each cigarette in a package of more than 20
 20 cigarettes; and
 21 (4) [~~10.0~~] **15.0** cents for each cigarette in a package of free sample
 22 cigarettes.

23 (b) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 24 **SUBSECTION, THE** tobacco tax rate for other tobacco products is [~~15%~~] **95%** of the
 25 wholesale price of the tobacco products.

26 (2) (I) 1. **IN THIS PARAGRAPH, THE FOLLOWING WORDS**
 27 **HAVE THE MEANINGS INDICATED.**

28 2. **“CIGAR” MEANS A CYLINDRICAL ROLL OF CURED**
 29 **TOBACCO.**

30 3. **“CONVENTIONAL MOIST SNUFF SMOKELESS**
 31 **TOBACCO” MEANS ANY FINELY CUT, GROUND, OR POWDERED TOBACCO THAT IS**
 32 **NOT INTENDED TO BE SMOKED.**

1 4. **“ROLL-YOUR-OWN TOBACCO” MEANS ANY**
2 **TOBACCO WHICH IS SUITABLE AS TOBACCO FOR CONSUMERS:**

3 A. **TO MAKE CIGARETTES OR CIGARS; OR**

4 B. **TO SMOKE IN A PIPE.**

5 5. A. **“SINGLE-DOSE SMOKELESS TOBACCO”**
6 **MEANS ANY FINELY CUT, GROUND, OR POWDERED TOBACCO THAT IS NOT**
7 **INTENDED TO BE SMOKED AND IS DIVIDED BY THE MANUFACTURER INTO**
8 **UNIFORM, INDIVIDUAL DOSE SERVINGS.**

9 B. **“SINGLE-DOSE SMOKELESS TOBACCO” INCLUDES**
10 **SNUS AND LOZENGES.**

11 6. **“SMALL-CIGAR CIGARETTE” MEANS:**

12 A. **A SMALL, THIN CIGAR WITH THE APPROXIMATE**
13 **DIMENSIONS OF A CIGARETTE; OR**

14 B. **A CIGARETTE WRAPPED IN TOBACCO INSTEAD OF**
15 **PAPER.**

16 (II) **THE TAX RATE FOR CIGARS IS 95% OF THE WHOLESALE**
17 **PRICE, NOT TO EXCEED \$3.00 PER CIGAR.**

18 (III) **THE TAX RATE FOR SMALL-CIGAR CIGARETTES IS THE**
19 **SAME AS THE TAX RATE FOR CIGARETTES AS ESTABLISHED UNDER SUBSECTION**
20 **(A) OF THIS SECTION.**

21 (IV) **THE TAX RATE FOR CONVENTIONAL MOIST SNUFF**
22 **SMOKELESS TOBACCO IS 95% OF THE WHOLESALE PRICE OR \$3.00 PER 1.2**
23 **OUNCE CONTAINER, WHICHEVER IS GREATER.**

24 (V) **THE TAX RATE FOR SINGLE DOSE SMOKELESS TOBACCO**
25 **IS 95% OF THE WHOLESALE PRICE OR 15 CENTS PER DOSE, WHICHEVER IS**
26 **GREATER.**

27 (VI) **THE TAX RATE FOR ROLL-YOUR-OWN TOBACCO IS 95%**
28 **OF THE WHOLESALE PRICE OR \$3.00 PER 0.65 OUNCES, WHICHEVER IS**
29 **GREATER.**

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

3 (1) for cigarettes:

4 (i) on or before the 21st day of the month that follows the
5 month in which the wholesaler has the first possession, in the State, of unstamped
6 cigarettes for which tax stamps are required; and

7 (ii) if the Comptroller so specifies, by regulation, on other dates
8 for each month in which the wholesaler does not have the first possession of any
9 unstamped cigarettes in the State; and

10 (2) for other tobacco products, on or before the 21st day of the month
11 that follows the month in which the wholesaler has possession of other tobacco
12 products on which the tobacco tax has not been paid.

13 (b) Each return shall state the quantity of cigarettes or the wholesale price
14 AND AMOUNT of other tobacco products sold during the period that the return covers.

15 **12-401.**

16 (A) IN THIS SECTION, "FUND" MEANS THE OTHER TOBACCO PRODUCTS
17 TAX FUND.

18 (B) THERE IS AN OTHER TOBACCO PRODUCTS TAX FUND.

19 (C) THE PURPOSE OF THE FUND IS TO PROVIDE SUPPLEMENTAL
20 FUNDING TO THE TOBACCO USE PREVENTION AND CESSATION PROGRAM
21 UNDER TITLE 13, SUBTITLE 10 OF THE HEALTH - GENERAL ARTICLE.

22 (D) THE COMPTROLLER SHALL ADMINISTER THE FUND.

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

25 (2) THE STATE TREASURER SHALL HOLD THE FUND
26 SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

27 (F) THE FUND CONSISTS OF:

28 (1) REVENUE DISTRIBUTED TO THE FUND UNDER § 2-1602.1 OF
29 THIS ARTICLE;

1 **(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

2 **(3) INVESTMENT EARNINGS OF THE FUND; AND**

3 **(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
4 **THE BENEFIT OF THE FUND.**

5 **(G) (1) THE FUND SHALL FIRST BE USED TO PROVIDE**
6 **SUPPLEMENTAL FUNDING TO THE TOBACCO USE PREVENTION AND CESSATION**
7 **PROGRAM UNDER TITLE 13, SUBTITLE 10 OF THE HEALTH – GENERAL**
8 **ARTICLE IN ORDER TO BRING FUNDING FOR THAT PROGRAM TO AT LEAST**
9 **\$21,000,000 FOR THE FISCAL YEAR.**

10 **(2) AFTER ANY DISTRIBUTION UNDER PARAGRAPH (1) OF THIS**
11 **SUBSECTION HAS BEEN MADE, MONEY REMAINING IN THE FUND SHALL BE**
12 **APPROPRIATED TO THE MARYLAND MEDICAL ASSISTANCE PROGRAM.**

13 **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE**
14 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

15 **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID**
16 **INTO THE FUND.**

17 **(I) MONEY EXPENDED FROM THE FUND FOR THE TOBACCO USE**
18 **PREVENTION AND CESSATION PROGRAM AND THE MARYLAND MEDICAL**
19 **ASSISTANCE PROGRAM IS SUPPLEMENTAL TO AND IS NOT INTENDED TO TAKE**
20 **THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE**
21 **TOBACCO USE PREVENTION AND CESSATION PROGRAM AND THE MARYLAND**
22 **MEDICAL ASSISTANCE PROGRAM.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2011.