

HOUSE BILL 1153

Q7

HB 853/11 – W&M & HGO

2lr2613

CF SB 526

By: **Delegates Luedtke, Anderson, Arora, Barnes, Bobo, Burns, Carr, Carter, Clippinger, Cullison, Dumais, Feldman, Frush, Gaines, Glenn, Gutierrez, Guzzone, Harrison, Haynes, Hubbard, Hucker, Ivey, Kaiser, A. Kelly, Lee, McIntosh, A. Miller, Mizeur, Murphy, Oaks, Pena–Melnik, Reznik, B. Robinson, S. Robinson, Rosenberg, Ross, Stukes, Tarrant, F. Turner, V. Turner, Valderrama, Vaughn, Waldstreicher, Washington, and Zucker**

Introduced and read first time: February 10, 2012

Assigned to: Ways and Means and Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Tax – Healthy Maryland Initiative**

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 certain other health initiatives in a certain manner;
19 requiring the Treasurer to invest the money in the Fund in the same manner as
20 other State money; requiring the investment earnings of the Fund to be
21 deposited into the Fund; providing that money expended from the Fund for the
22 Tobacco Use Prevention and Cessation Program and certain other health
23 initiatives is supplemental; defining certain terms; and generally relating to the
24 taxation of cigarettes and other tobacco products.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, without amendments,
Article – Health – General
Section 13–1002(a) and (b)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 13–1002(d)(1) and 13–1015
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Tax – General
Section 2–1601 and 2–1602
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY adding to
Article – Tax – General
Section 2–1602.1; and 12–401 to be under the new subtitle “Subtitle 4. Other
Tobacco Products Tax Fund”
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–1603, 12–105, and 12–202
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

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

Article – Health – General

13–1002.

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

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

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

13-1015.

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

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

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

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

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

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

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

(C) FOR FISCAL YEAR 2014 AND EACH FISCAL YEAR THEREAFTER, IF THE GOVERNOR DOES NOT INCLUDE AT LEAST \$21,000,000 IN THE ANNUAL BUDGET IN APPROPRIATIONS FROM OTHER SOURCES FOR THE PURPOSES DESCRIBED IN SUBSECTION (A) OF THIS SECTION, MONEY FROM THE OTHER TOBACCO PRODUCTS TAX FUND SHALL BE USED TO SUPPLEMENT THE GOVERNOR'S APPROPRIATIONS UNDER SUBSECTION (B) OF THIS SECTION TO INCREASE ANNUAL FUNDING FOR THE PROGRAM TO \$21,000,000.

Article – Tax – General

2-1601.

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

2-1602.

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

2–1602.1.

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

2–1603.

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

12–105.

(a) The tobacco tax rate for cigarettes is:

(1) ~~[\$1.00]~~ **\$1.50** for each package of 10 or fewer cigarettes;

(2) ~~[\$2.00]~~ **\$3.00** for each package of at least 11 and not more than 20 cigarettes;

(3) ~~[10.0]~~ **15.0** cents for each cigarette in a package of more than 20 cigarettes; and

(4) ~~[10.0]~~ **15.0** cents for each cigarette in a package of free sample cigarettes.

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

(2) (I) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

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

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

4 **4. “ROLL-YOUR-OWN TOBACCO” MEANS ANY**
5 **TOBACCO THAT IS SUITABLE AS TOBACCO FOR CONSUMERS:**

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

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

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

12 **B. “SINGLE-DOSE SMOKELESS TOBACCO” INCLUDES**
13 **SNUS AND LOZENGES.**

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

15 **A. A SMALL, THIN CIGAR WITH THE APPROXIMATE**
16 **DIMENSIONS OF A CIGARETTE; OR**

17 **B. A CIGARETTE WRAPPED IN TOBACCO INSTEAD OF**
18 **PAPER.**

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

21 **(III) THE TAX RATE FOR SMALL-CIGAR CIGARETTES IS THE**
22 **SAME AS THE TAX RATE FOR CIGARETTES AS ESTABLISHED UNDER SUBSECTION**
23 **(A) OF THIS SECTION.**

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

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

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

4 12-202.

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

7 (1) for cigarettes:

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

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

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

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

19 **SUBTITLE 4. OTHER TOBACCO PRODUCTS TAX FUND.**

20 12-401.

21 **(A) IN THIS SUBTITLE, "FUND" MEANS THE OTHER TOBACCO**
22 **PRODUCTS TAX FUND.**

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

24 **(C) THE PURPOSE OF THE FUND IS TO PROVIDE SUPPLEMENTAL**
25 **FUNDING TO THE TOBACCO USE PREVENTION AND CESSATION PROGRAM**
26 **UNDER TITLE 13, SUBTITLE 10 OF THE HEALTH – GENERAL ARTICLE.**

27 **(D) THE COMPTROLLER SHALL ADMINISTER THE FUND.**

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

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

3 **(F) THE FUND CONSISTS OF:**

4 **(1) REVENUE DISTRIBUTED TO THE FUND UNDER § 2-1602.1 OF**
5 **THIS ARTICLE;**

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

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

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

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

15 **(2) AFTER ANY DISTRIBUTION UNDER PARAGRAPH (1) OF THIS**
16 **SUBSECTION HAS BEEN MADE, MONEY REMAINING IN THE FUND SHALL BE**
17 **APPROPRIATED TO THE STATE HEALTH IMPROVEMENT PROCESS AND OTHER**
18 **COMMUNITY-BASED HEALTH INITIATIVES, INCLUDING THOSE THAT ADDRESS**
19 **CHILDHOOD OBESITY, LONG-TERM CARE FOR SENIORS, AND IMPROVED ACCESS**
20 **TO HEALTH CARE SERVICES FOR MARYLAND FAMILIES.**

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

23 **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE PAID**
24 **INTO THE FUND.**

25 **(I) MONEY EXPENDED FROM THE FUND UNDER SUBSECTION (G) OF**
26 **THIS SECTION IS SUPPLEMENTAL TO, AND IS NOT INTENDED TO TAKE THE**
27 **PLACE OF, FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE**
28 **TOBACCO USE PREVENTION AND CESSATION PROGRAM AND THE HEALTH**
29 **INITIATIVES UNDER SUBSECTION (G)(2) OF THIS SECTION.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 July 1, 2012.