

HOUSE BILL 683

Q7

3lr1798
CF 3lr1848

By: Delegates Luedtke, Frush, Tarrant, Anderson, Arora, Barnes, Bobo, Braveboy, Burns, Carr, Clippinger, Cullison, Dumais, Gaines, Glenn, Gutierrez, Guzzone, Haynes, Hixson, Holmes, Howard, Hubbard, Huckler, Ivey, Kaiser, A. Kelly, Kramer, Lee, Love, McIntosh, A. Miller, Mizeur, Morhaim, Murphy, Nathan-Pulliam, Niemann, Pena-Melnyk, Reznik, B. Robinson, S. Robinson, Simmons, Stein, Stukes, V. Turner, Valderrama, Vaughn, A. Washington, M. Washington, Wilson, and Zucker

Introduced and read first time: February 1, 2013

Assigned to: Ways and Means and Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Tobacco Taxes – Healthy Maryland Initiative**

3 FOR the purpose of requiring a certain level of funding for the Tobacco Use Prevention
4 and Cessation Program; altering the tobacco tax rates on cigarettes and other
5 tobacco products; requiring certain wholesalers of cigarettes and other tobacco
6 products to report the amount of other tobacco products sold on a tobacco tax
7 return; providing that the Tobacco Use Prevention and Cessation Program shall
8 receive funding from the Other Tobacco Products Tax Fund under certain
9 circumstances; requiring the revenue from the tobacco tax on other tobacco
10 products to be deposited into the Other Tobacco Products Tax Fund after certain
11 other distributions; 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; exempting the Fund from a certain requirement
24 that certain interest accrue to the General Fund; making this Act a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 supplementary appropriation to fund the Tobacco Use Prevention and Cessation
2 Program; providing that the appropriation provided under this Act shall have
3 priority over any other appropriation from the additional revenues resulting
4 from this Act that are credited to the General Fund for a certain fiscal year;
5 defining certain terms; providing for the effective dates of this Act; and
6 generally relating to the taxation of cigarettes and other tobacco products and a
7 supplementary appropriation.

8 BY repealing and reenacting, without amendments,
9 Article – Health – General
10 Section 13–1002(a) and (b)
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2012 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Health – General
15 Section 13–1002(d)(1) and 13–1015
16 Annotated Code of Maryland
17 (2009 Replacement Volume and 2012 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Tax – General
20 Section 2–1603, 12–105, and 12–202
21 Annotated Code of Maryland
22 (2010 Replacement Volume and 2012 Supplement)

23 BY repealing and reenacting, without amendments,
24 Article – State Finance and Procurement
25 Section 6–226(a)(2)(i)
26 Annotated Code of Maryland
27 (2009 Replacement Volume and 2012 Supplement)

28 BY repealing and reenacting, with amendments,
29 Article – State Finance and Procurement
30 Section 6–226(a)(2)(ii)69. and 70.
31 Annotated Code of Maryland
32 (2009 Replacement Volume and 2012 Supplement)

33 BY adding to
34 Article – State Finance and Procurement
35 Section 6–226(a)(2)(ii)71.
36 Annotated Code of Maryland
37 (2009 Replacement Volume and 2012 Supplement)

38 BY repealing and reenacting, without amendments,
39 Article – Tax – General
40 Section 2–1601 and 2–1602

1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2012 Supplement)

3 BY adding to
4 Article – Tax – General
5 Section 2–1602.1; and 12–401 to be under the new subtitle “Subtitle 4. Other
6 Tobacco Products Tax Fund”
7 Annotated Code of Maryland
8 (2010 Replacement Volume and 2012 Supplement)

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

11 **Article – Health – General**

12 13–1002.

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

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

20 13–1015.

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

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

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

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

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

33 (5) Implementation of school–based tobacco education programs.

1 (b) For fiscal [year 2013 and each fiscal year thereafter] **YEARS 2013 AND**
 2 **2014**, the Governor shall include at least \$10,000,000 in the annual budget in
 3 appropriations for the purposes described in subsection (a) of this section.

4 (c) **FOR FISCAL YEAR 2015 AND EACH FISCAL YEAR THEREAFTER, THE**
 5 **GOVERNOR SHALL INCLUDE AT LEAST \$21,000,000 IN THE ANNUAL BUDGET IN**
 6 **APPROPRIATIONS FOR THE PURPOSES DESCRIBED IN SUBSECTION (A) OF THIS**
 7 **SECTION.**

8 Article – Tax – General

9 12–105.

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

- 11 (1) [~~\$1.00~~] **\$1.50** for each package of 10 or fewer cigarettes;
- 12 (2) [~~\$2.00~~] **\$3.00** for each package of at least 11 and not more than 20
 13 cigarettes;
- 14 (3) [~~10.0~~] **15.0** cents for each cigarette in a package of more than 20
 15 cigarettes; and
- 16 (4) [~~10.0~~] **15.0** cents for each cigarette in a package of free sample
 17 cigarettes.

18 (b) (1) Except as provided in paragraph (2) of this subsection, the tobacco
 19 tax rate for other tobacco products is [~~30%~~] **95%** of the wholesale price of the tobacco
 20 products.

21 (2) (i) [In this paragraph, “premium cigars” has the meaning
 22 stated in § 16.5–101 of the Business Regulation Article.

23 (ii) Except as provided in subparagraph (iii) of this paragraph,
 24 the tobacco tax rate for cigars is 70% of the wholesale price of the cigars.

25 (iii) The tobacco tax rate for premium cigars is 15% of the
 26 wholesale price of the premium cigars.]

27 **1. IN THIS PARAGRAPH THE FOLLOWING WORDS**
 28 **HAVE THE MEANINGS INDICATED.**

29 **2. “CIGAR” MEANS A CYLINDRICAL ROLL OF CURED**
 30 **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 WITH A WHOLESALE PRICE
20 PER CIGAR OF LESS THAN \$20.00 IS 95% OF THE WHOLESALE PRICE, NOT TO
21 EXCEED \$3.00 PER CIGAR.

22 (III) THE TAX RATE FOR CIGARS WITH A WHOLESALE PRICE
23 PER CIGAR OF \$20.00 OR MORE IS 15%.

24 (IV) THE TAX RATE FOR SMALL-CIGAR CIGARETTES IS THE
25 SAME AS THE TAX RATE FOR CIGARETTES AS ESTABLISHED UNDER SUBSECTION
26 (A) OF THIS SECTION.

27 (V) THE TAX RATE FOR CONVENTIONAL MOIST SNUFF
28 SMOKELESS TOBACCO IS 95% OF THE WHOLESALE PRICE OR \$3.00 PER 1.2
29 OUNCE CONTAINER, WHICHEVER IS GREATER.

1 **(VI) THE TAX RATE FOR SINGLE-DOSE SMOKELESS TOBACCO**
2 **IS 95% OF THE WHOLESALE PRICE OR 15 CENTS PER DOSE, WHICHEVER IS**
3 **GREATER.**

4 **(VII) THE TAX RATE FOR ROLL-YOUR-OWN TOBACCO IS 95%**
5 **OF THE WHOLESALE PRICE OR \$3.00 PER 0.65 OUNCES, WHICHEVER IS**
6 **GREATER.**

7 12-202.

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

10 (1) for cigarettes:

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

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

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

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

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
23 read as follows:

24 **Article – Health – General**

25 13-1002.

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

29 **Article – State Finance and Procurement**

30 6-226.

1 (a) (2) (i) Notwithstanding any other provision of law, and unless
 2 inconsistent with a federal law, grant agreement, or other federal requirement or with
 3 the terms of a gift or settlement agreement, net interest on all State money allocated
 4 by the State Treasurer under this section to special funds or accounts, and otherwise
 5 entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue
 6 to the General Fund of the State.

7 (ii) The provisions of subparagraph (i) of this paragraph do not
 8 apply to the following funds:

9 69. the Maryland Legal Services Corporation Fund; [and]

10 70. Mortgage Loan Servicing Practices Settlement Fund;

11 **AND**

12 **71. OTHER TOBACCO PRODUCTS TAX FUND.**

13 **Article – Tax – General**

14 2–1601.

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

17 2–1602.

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

21 **2–1602.1.**

22 **AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2–1601 AND**
 23 **2–1602 OF THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE**
 24 **REVENUE COLLECTED FROM THE TAX IMPOSED ON OTHER TOBACCO PRODUCTS**
 25 **UNDER § 12–105(B) OF THIS ARTICLE TO THE OTHER TOBACCO PRODUCTS TAX**
 26 **FUND UNDER § 12–401 OF THIS ARTICLE.**

27 2–1603.

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

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

1 12-401.

2 (A) IN THIS SUBTITLE, "FUND" MEANS THE OTHER TOBACCO
3 PRODUCTS TAX FUND.

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

5 (C) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO THE
6 TOBACCO USE PREVENTION AND CESSATION PROGRAM UNDER TITLE 13,
7 SUBTITLE 10 OF THE HEALTH – GENERAL ARTICLE.

8 (D) THE COMPTROLLER SHALL ADMINISTER THE FUND.

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

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

13 (F) THE FUND CONSISTS OF:

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

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

17 (3) INVESTMENT EARNINGS OF THE FUND; AND

18 (4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR
19 THE BENEFIT OF THE FUND.

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

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

24 (H) (1) THE FUND SHALL FIRST BE USED TO PROVIDE
25 SUPPLEMENTAL FUNDING TO THE TOBACCO USE PREVENTION AND CESSATION
26 PROGRAM UNDER TITLE 13, SUBTITLE 10 OF THE HEALTH – GENERAL
27 ARTICLE TO BRING FUNDING FOR THAT PROGRAM TO AT LEAST \$21,000,000
28 FOR THE FISCAL YEAR.

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

7 **(I) MONEY EXPENDED FROM THE FUND UNDER SUBSECTION (H) OF**
8 **THIS SECTION IS SUPPLEMENTAL TO, AND IS NOT INTENDED TO TAKE THE**
9 **PLACE OF, FUNDING THAT OTHERWISE WOULD BE APPROPRIATED FOR THE**
10 **TOBACCO USE PREVENTION AND CESSATION PROGRAM AND THE HEALTH**
11 **INITIATIVES UNDER SUBSECTION (H)(2) OF THIS SECTION.**

12 SECTION 3. AND BE IT FURTHER ENACTED, That for fiscal year 2014 only
13 and from only those additional revenues resulting from this Act that are credited to
14 the General Fund for fiscal year 2014, and from no other funds, and subject to the
15 provisions of law relating to budgetary procedure to the extent applicable, the amount
16 specified below, or as much thereof as required to accomplish the designated purpose,
17 is hereby appropriated and authorized to be disbursed from as much of those
18 additional revenues as are received by the State:

19 M00F03.04 Prevention and Health Promotion Administration

20 In addition to the amount appropriated in the budget bill for fiscal year 2014, to
21 supplement the appropriation for fiscal year 2014, the following amount to be used to
22 fund the Tobacco Use Prevention and Cessation Program:

23 General Fund Appropriation \$10,800,000.

24 SECTION 4. AND BE IT FURTHER ENACTED, That, notwithstanding any
25 other provision of law, the appropriation provided under Section 3 of this Act shall
26 have priority over any other appropriation for fiscal year 2014 from the additional
27 revenues resulting from the increase in the tax rate for cigarettes and other tobacco
28 products as provided under this Act or any other Act of the General Assembly.

29 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
30 take effect July 1, 2014.

31 SECTION 6. AND BE IT FURTHER ENACTED, That, except as provided in
32 Section 5 of this Act, this Act shall take effect July 1, 2013.