

HOUSE BILL 773

E4, Q7

3lr1946

By: **Delegate Burns**

Introduced and read first time: February 6, 2013

Assigned to: Judiciary and Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Regulated Firearms – Encoded Ammunition – Tax**

3 FOR the purpose of authorizing a person to sell ammunition for a regulated firearm on
4 or after a certain date only in accordance with this Act; requiring an
5 ammunition manufacturer to encode ammunition for a regulated firearm in a
6 certain manner; prohibiting ammunition for sale in one ammunition box from
7 being labeled with the same serial number as ammunition in another
8 ammunition box; requiring the Secretary of State Police, beginning on a certain
9 date, to establish and maintain an encoded ammunition database; requiring a
10 manufacturer that does business in the State and a seller of ammunition for
11 regulated firearms in the State to provide the Secretary with certain
12 information for inclusion in the database; requiring a seller of encoded
13 ammunition to maintain copies of certain records for a certain time; providing
14 for the funding of the database; establishing certain criminal and civil penalties;
15 imposing a tax on the sale of encoded ammunition in the State beginning on a
16 certain date; establishing the rate of the tax; altering the definition of “sales
17 tax” under the tax laws to include the encoded ammunition database tax under
18 the administration of the sales tax; providing that revenues from the tax be paid
19 into a special fund, the proceeds of which are to be used only for a certain
20 purpose; providing that certain credits and exemptions do not apply to the tax;
21 exempting certain sales from the tax; providing certain persons a certain
22 collection expense credit for the timely filing of a tax return; requiring encoded
23 ammunition dealers to file certain tax returns and to include certain
24 information; defining certain terms; and generally relating to the sale of
25 encoded ammunition for regulated firearms and a tax on the sale or use of
26 encoded ammunition in the State.

27 BY repealing and reenacting, without amendments,
28 Article – Public Safety
29 Section 5–101(p)
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2011 Replacement Volume and 2012 Supplement)

2 BY adding to

3 Article – Public Safety

4 Section 5–601 through 5–607 to be under the new subtitle “Subtitle 6. Encoded
5 Ammunition”

6 Annotated Code of Maryland

7 (2011 Replacement Volume and 2012 Supplement)

8 BY adding to

9 Article – Tax – General

10 Section 1–101(s)(4); 11–1B–01 through 11–1B–05 to be under the new subtitle
11 “Subtitle 1B. Encoded Ammunition Database Tax”; and 11–501(c) and
12 11–502(d)

13 Annotated Code of Maryland

14 (2010 Replacement Volume and 2012 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article – Tax – General

17 Section 2–1303

18 Annotated Code of Maryland

19 (2010 Replacement Volume and 2012 Supplement)

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

22 **Article – Public Safety**

23 5–101.

24 (p) “Regulated firearm” means:

25 (1) a handgun; or

26 (2) a firearm that is any of the following specific assault weapons or
27 their copies, regardless of which company produced and manufactured that assault
28 weapon:

29 (i) American Arms Spectre da Semiautomatic carbine;

30 (ii) AK–47 in all forms;

31 (iii) Algimec AGM–1 type semi–auto;

32 (iv) AR 100 type semi–auto;

33 (v) AR 180 type semi–auto;

- 1 (vi) Argentine L.S.R. semi-auto;
- 2 (vii) Australian Automatic Arms SAR type semi-auto;
- 3 (viii) Auto-Ordnance Thompson M1 and 1927 semi-automatics;
- 4 (ix) Barrett light .50 cal. semi-auto;
- 5 (x) Beretta AR70 type semi-auto;
- 6 (xi) Bushmaster semi-auto rifle;
- 7 (xii) Calico models M-100 and M-900;
- 8 (xiii) CIS SR 88 type semi-auto;
- 9 (xiv) Claridge HI TEC C-9 carbines;
- 10 (xv) Colt AR-15, CAR-15, and all imitations except Colt AR-15
11 Sporter H-BAR rifle;
- 12 (xvi) Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K-1, and
13 K-2;
- 14 (xvii) Dragunov Chinese made semi-auto;
- 15 (xviii) Famas semi-auto (.223 caliber);
- 16 (xix) Feather AT-9 semi-auto;
- 17 (xx) FN LAR and FN FAL assault rifle;
- 18 (xxi) FNC semi-auto type carbine;
- 19 (xxii) F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun;
- 20 (xxiii) Steyr-AUG-SA semi-auto;
- 21 (xxiv) Galil models AR and ARM semi-auto;
- 22 (xxv) Heckler and Koch HK-91 A3, HK-93 A2, HK-94 A2 and A3;
- 23 (xxvi) Holmes model 88 shotgun;
- 24 (xxvii) Avtomat Kalashnikov semiautomatic rifle in any format;

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- 1 (xxviii) Manchester Arms “Commando” MK-45, MK-9;
- 2 (xxix) Mandell TAC-1 semi-auto carbine;
- 3 (xxx) Mossberg model 500 Bullpup assault shotgun;
- 4 (xxxi) Sterling Mark 6;
- 5 (xxxii) P.A.W.S. carbine;
- 6 (xxxiii) Ruger mini-14 folding stock model (.223 caliber);
- 7 (xxxiv) SIG 550/551 assault rifle (.223 caliber);
- 8 (xxxv) SKS with detachable magazine;
- 9 (xxxvi) AP-74 Commando type semi-auto;
- 10 (xxxvii) Springfield Armory BM-59, SAR-48, G3, SAR-3,
11 M-21 sniper rifle, M1A, excluding the M1 Garand;
- 12 (xxxviii) Street sweeper assault type shotgun;
- 13 (xxxix) Striker 12 assault shotgun in all formats;
- 14 (xl) Unique F11 semi-auto type;
- 15 (xli) Daewoo USAS 12 semi-auto shotgun;
- 16 (xlii) UZI 9mm carbine or rifle;
- 17 (xliii) Valmet M-76 and M-78 semi-auto;
- 18 (xliv) Weaver Arms “Nighthawk” semi-auto carbine; or
- 19 (xlv) Wilkinson Arms 9mm semi-auto “Terry”.

20 **SUBTITLE 6. ENCODED AMMUNITION.**

21 **5-601.**

22 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
23 **INDICATED.**

24 **(B) “ENCODED AMMUNITION” MEANS AMMUNITION THAT IS ENCODED**
25 **BY A MANUFACTURER UNDER § 5-603 OF THIS SUBTITLE.**

1 (C) “MANUFACTURER” MEANS A PERSON THAT POSSESSES A FEDERAL
2 LICENSE TO ENGAGE IN THE BUSINESS OF MANUFACTURING AMMUNITION FOR
3 SALE OR DISTRIBUTION.

4 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
5 SUBSECTION, “REGULATED FIREARM” HAS THE MEANING STATED IN § 5-101(P)
6 OF THIS TITLE.

7 (2) “REGULATED FIREARM” DOES NOT INCLUDE A SHOTGUN,
8 INCLUDING:

9 (I) A F.I.E./FRANCHI LAW 12 AND SPAS 12 ASSAULT
10 SHOTGUN;

11 (II) A HOLMES MODEL 88 SHOTGUN;

12 (III) A MOSSBERG MODEL 500 BULLPUP ASSAULT SHOTGUN;

13 (IV) A STREET SWEEPER ASSAULT TYPE SHOTGUN; OR

14 (V) A DAEWOO USAS 12 SEMI-AUTO SHOTGUN.

15 (E) “SECRETARY” MEANS THE SECRETARY OF STATE POLICE OR THE
16 SECRETARY’S DESIGNEE.

17 **5-602.**

18 A PERSON MAY SELL AMMUNITION FOR A REGULATED FIREARM ON OR
19 AFTER JANUARY 1, 2014, ONLY IN ACCORDANCE WITH THIS SUBTITLE.

20 **5-603.**

21 (A) A MANUFACTURER SHALL ENCODE AMMUNITION OFFERED FOR
22 RETAIL SALE AND INTENDED FOR USE IN A REGULATED FIREARM IN A MANNER
23 THAT THE SECRETARY ESTABLISHES, SO THAT:

24 (1) THE BASE OF THE BULLET AND THE INSIDE OF THE
25 CARTRIDGE CASING OF EACH ROUND IN A BOX OF AMMUNITION ARE ENCODED
26 WITH THE SAME SERIAL NUMBER;

1 **(2) EACH SERIAL NUMBER IS ENGRAVED IN A MANNER THAT**
2 **ALLOWS FOR A SUBSTANTIAL LIKELIHOOD THAT THE SERIAL NUMBER MAY BE**
3 **IDENTIFIED AFTER AMMUNITION DISCHARGE AND BULLET IMPACT; AND**

4 **(3) THE OUTSIDE OF EACH BOX OF AMMUNITION IS LABELED**
5 **WITH THE NAME OF THE MANUFACTURER AND THE SAME SERIAL NUMBER USED**
6 **ON THE CARTRIDGE CASINGS AND BASES OF BULLETS CONTAINED IN THE BOX.**

7 **(B) AMMUNITION CONTAINED IN ONE AMMUNITION BOX MAY NOT BE**
8 **LABELED WITH THE SAME SERIAL NUMBER AS THE AMMUNITION CONTAINED IN**
9 **ANY OTHER AMMUNITION BOX FROM THE SAME MANUFACTURER.**

10 **5-604.**

11 **(A) BEGINNING ON JANUARY 1, 2014, THE SECRETARY SHALL**
12 **ESTABLISH AND MAINTAIN AN ENCODED AMMUNITION DATABASE.**

13 **(B) A MANUFACTURER THAT DOES BUSINESS IN THE STATE SHALL**
14 **PROVIDE TO THE SECRETARY FOR INCLUSION IN THE DATABASE:**

15 **(1) THE NAME AND ADDRESS OF THE MANUFACTURER;**

16 **(2) THE SERIAL NUMBERS OF AMMUNITION OFFERED BY THE**
17 **MANUFACTURER FOR SALE IN THE STATE FOR USE IN A REGULATED FIREARM;**
18 **AND**

19 **(3) OTHER INFORMATION THAT THE SECRETARY CONSIDERS**
20 **NECESSARY.**

21 **(C) A SELLER OF AMMUNITION FOR REGULATED FIREARMS IN THE**
22 **STATE SHALL PROVIDE TO THE SECRETARY FOR INCLUSION IN THE DATABASE:**

23 **(1) THE DATE OF EACH AMMUNITION PURCHASE;**

24 **(2) THE NAME AND DATE OF BIRTH OF EACH PURCHASER OF**
25 **AMMUNITION;**

26 **(3) THE DRIVER'S LICENSE NUMBER OF THE PURCHASER OR**
27 **OTHER NUMBER ISSUED TO THE PURCHASER BY THE STATE OR FEDERAL**
28 **GOVERNMENT;**

29 **(4) THE SERIAL NUMBERS OF ALL AMMUNITION FOR REGULATED**
30 **FIREARMS BOUGHT BY THE PURCHASER; AND**

1 **(5) ANY OTHER INFORMATION THAT THE SECRETARY CONSIDERS**
2 **NECESSARY.**

3 **5-605.**

4 **A SELLER OF ENCODED AMMUNITION FOR REGULATED FIREARMS SHALL**
5 **MAINTAIN COPIES OF ALL RECORDS SUBMITTED TO THE SECRETARY UNDER §**
6 **5-604 OF THIS SUBTITLE FOR AT LEAST 3 YEARS AFTER THE DATE OF SALE.**

7 **5-606.**

8 **THE ENCODED AMMUNITION DATABASE ESTABLISHED UNDER § 5-604 OF**
9 **THIS SUBTITLE SHALL BE FUNDED BY THE ENCODED AMMUNITION DATABASE**
10 **TAX IMPOSED UNDER TITLE 11, SUBTITLE 1B OF THE TAX – GENERAL ARTICLE.**

11 **5-607.**

12 **(A) (1) A SELLER OF ENCODED AMMUNITION THAT VIOLATES THIS**
13 **SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
14 **IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE OF \$1,000 OR BOTH.**

15 **(2) A PERSON WHO WILLFULLY DESTROYS OR WHO OTHERWISE**
16 **RENDERS UNREADABLE THE INFORMATION ENCODED ON AMMUNITION**
17 **REQUIRED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON**
18 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE**
19 **OF \$1,000 OR BOTH.**

20 **(B) A MANUFACTURER THAT VIOLATES THIS SUBTITLE IS SUBJECT TO A**
21 **CIVIL FINE TO BE IMPOSED BY THE SECRETARY AND NOT EXCEEDING:**

22 **(1) \$1,000 FOR A FIRST VIOLATION;**

23 **(2) \$5,000 FOR A SECOND VIOLATION; AND**

24 **(3) \$10,000 FOR A THIRD OR SUBSEQUENT VIOLATION.**

25 **Article – Tax – General**

26 **1-101.**

27 **(s) (4) “SALES AND USE TAX” INCLUDES THE ENCODED AMMUNITION**
28 **DATABASE TAX IMPOSED UNDER TITLE 11, SUBTITLE 1B OF THIS ARTICLE.**

1 2-1303.

2 After making the distributions required under §§ 2-1301 through 2-1302.1 of
3 this subtitle, the Comptroller shall pay:

4 (1) revenues from the hotel surcharge into the Dorchester County
5 Economic Development Fund established under § 10-130 of the Economic
6 Development Article; [and]

7 **(2) REVENUES FROM THE ENCODED AMMUNITION DATABASE TAX**
8 **ESTABLISHED UNDER TITLE 11, SUBTITLE 1B OF THIS ARTICLE INTO A SPECIAL**
9 **FUND, THE PROCEEDS OF WHICH ARE TO BE USED ONLY TO FUND THE ENCODED**
10 **AMMUNITION DATABASE ESTABLISHED UNDER § 5-604 OF THE PUBLIC SAFETY**
11 **ARTICLE; AND**

12 ~~[(2)]~~ **(3)** the remaining sales and use tax revenue into the General
13 Fund of the State.

14 **SUBTITLE 1B. ENCODED AMMUNITION DATABASE TAX.**

15 **11-1B-01.**

16 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
17 **INDICATED.**

18 **(B) “ENCODED AMMUNITION” MEANS AMMUNITION THAT IS ENCODED**
19 **BY A MANUFACTURER UNDER § 5-603 OF THE PUBLIC SAFETY ARTICLE.**

20 **(C) “ENCODED AMMUNITION DATABASE TAX” MEANS THE TAX IMPOSED**
21 **UNDER THIS SUBTITLE.**

22 **(D) “ENCODED AMMUNITION DEALER” MEANS ANY PERSON ENGAGED**
23 **IN THE BUSINESS OF SELLING ENCODED AMMUNITION AT WHOLESALE OR**
24 **RETAIL.**

25 **11-1B-02.**

26 **IN ADDITION TO THE TAX IMPOSED UNDER § 11-102 OF THIS TITLE,**
27 **BEGINNING ON JANUARY 1, 2014, A TAX IS IMPOSED ON:**

28 **(1) A RETAIL SALE OF ENCODED AMMUNITION IN THE STATE; AND**

29 **(2) A USE OF ENCODED AMMUNITION IN THE STATE.**

1 **11-1B-03.**

2 (A) A REBUTTABLE PRESUMPTION EXISTS THAT ANY SALE OF ENCODED
3 AMMUNITION IN THE STATE IS SUBJECT TO THE ENCODED AMMUNITION
4 DATABASE TAX IMPOSED UNDER THIS SUBTITLE.

5 (B) THE PERSON REQUIRED TO PAY THE ENCODED AMMUNITION
6 DATABASE TAX HAS THE BURDEN OF PROVING THAT A SALE OF ENCODED
7 AMMUNITION IN THE STATE IS NOT SUBJECT TO THE ENCODED AMMUNITION
8 DATABASE TAX.

9 (C) (1) THE EXEMPTIONS UNDER SUBTITLE 2 OF THIS TITLE DO NOT
10 APPLY TO THE ENCODED AMMUNITION DATABASE TAX.

11 (2) THE ENCODED AMMUNITION DATABASE TAX DOES NOT APPLY
12 TO A SALE OF ENCODED AMMUNITION TO A POLICE FORCE OR ANY OTHER
13 AGENCY OF THE UNITED STATES, A STATE, OR A POLITICAL SUBDIVISION OF A
14 STATE.

15 **11-1B-04.**

16 THE ENCODED AMMUNITION DATABASE TAX RATE IS 5 CENTS PER ROUND
17 OF ENCODED AMMUNITION.

18 **11-1B-05.**

19 (A) THE PROVISIONS OF § 11-105 OF THIS TITLE DO NOT APPLY TO THE
20 ENCODED AMMUNITION DATABASE TAX.

21 (B) A PERSON WHO TIMELY FILES AN ENCODED AMMUNITION
22 DATABASE TAX RETURN IS ALLOWED, FOR THE EXPENSE OF COLLECTING AND
23 PAYING THE TAX, A CREDIT EQUAL TO 0.5% OF THE GROSS AMOUNT OF
24 ENCODED AMMUNITION DATABASE TAX THAT THE PERSON IS TO PAY TO THE
25 COMPTROLLER.

26 **11-501.**

27 (C) (1) A BUYER WHO FAILS TO PAY TO THE ENCODED AMMUNITION
28 DEALER THE ENCODED AMMUNITION DATABASE TAX ON A PURCHASE OR USE
29 SUBJECT TO THE TAX AS REQUIRED UNDER § 11-403 OF THIS TITLE SHALL
30 COMPLETE AND FILE WITH THE COMPTROLLER AN ENCODED AMMUNITION
31 DATABASE TAX RETURN ON OR BEFORE THE 21ST DAY OF THE MONTH THAT
32 FOLLOWS THE MONTH IN WHICH THE BUYER MAKES THAT PURCHASE OR USE.

1 **(2) A RETURN FILED BY A BUYER UNDER THIS SUBSECTION**
2 **SHALL STATE SEPARATELY, FOR ENCODED AMMUNITION, FOR THE PERIOD**
3 **THAT THE RETURN COVERS:**

4 **(I) THE NUMBER OF ROUNDS OF THE AMMUNITION**
5 **SUBJECT TO THE ENCODED AMMUNITION DATABASE TAX; AND**

6 **(II) THE ENCODED AMMUNITION DATABASE TAX DUE.**

7 11-502.

8 **(D) (1) EACH ENCODED AMMUNITION DEALER SHALL COMPLETE AND**
9 **FILE WITH THE COMPTROLLER AN ENCODED AMMUNITION DATABASE TAX**
10 **RETURN ON OR BEFORE THE 21ST DAY OF THE MONTH THAT FOLLOWS THE**
11 **MONTH IN WHICH THE DEALER MAKES A RETAIL SALE OR SALE FOR USE OF**
12 **ENCODED AMMUNITION.**

13 **(2) A RETURN FILED BY AN ENCODED AMMUNITION DEALER**
14 **UNDER THIS SUBSECTION SHALL STATE SEPARATELY, FOR ENCODED**
15 **AMMUNITION, FOR THE PERIOD THAT THE RETURN COVERS:**

16 **(I) THE NUMBER OF ROUNDS OF THE ENCODED**
17 **AMMUNITION SOLD BY THE DEALER; AND**

18 **(II) THE ENCODED AMMUNITION DATABASE TAX DUE.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 July 1, 2013.