

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 147

(Delegate McDermott, *et al.*)

Economic Matters

Budget and Taxation

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**Contraband Tobacco Products and Conveyances - Seizure and Disposition**

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This bill (1) alters the manner in which seized contraband tobacco products and/or related conveyances are processed following seizure; (2) authorizes the Comptroller to destroy contraband tobacco products seized and forfeited under specified circumstances; and (3) requires the Comptroller to remove specified seized contraband tobacco products from political subdivisions within a specified timeframe.

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**Fiscal Summary**

**State Effect:** The Comptroller advises that it already removes contraband tobacco products from local control if the political subdivision elects not to exercise its jurisdiction over the products. It is unclear to what extent additional requests for removal will be made by political subdivisions under the bill. However, to the extent that the Comptroller receives a significant number of additional requests, the Department of Legislative Services advises that additional staff may be needed. Revenues are not affected.

**Local Effect:** For political subdivisions that exercise jurisdiction over cases related to contraband tobacco products, local government expenditures may decrease due to reduced storage and transportation costs.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary/Current Law:** Under current law, the Comptroller or a peace officer in the State may seize contraband tobacco products and/or a conveyance being used in the

State to transport contraband tobacco products. (A “conveyance” is an aircraft, vehicle, or vessel used to transport cigarettes or other tobacco products.) A police officer who seizes any contraband tobacco products or conveyance used to transport contraband tobacco products is required to deliver the seized tobacco products and conveyance to the Comptroller.

Under the bill, however, the police officer must instead promptly notify the Comptroller of the seizure. The bill also specifies that, for seized contraband tobacco products or a related conveyance, the Comptroller must (1) remove the contraband or conveyance from the political subdivision exercising jurisdiction over the contraband or conveyance within 60 days after the contraband or conveyance is no longer needed for evidence and (2) dispose of the contraband or conveyance in an authorized manner. Furthermore, the Comptroller must, by December 1, 2013, remove any seized contraband tobacco products that are no longer needed as evidence from the possession of a political subdivision exercising jurisdiction over the seized products.

Current law specifies that, if contraband tobacco products are seized, the Comptroller or police officer must give a notice of seizure to the person from whom the property is seized at the time of seizure. In addition, the Comptroller is required to (1) where possible, give a notice of seizure to the registered owner of a seized conveyance and (2) publish a notice of seizure of the conveyance in a newspaper of general circulation in the county where the seizure occurred. A notice of seizure must state the right of an owner or other interested person (including a secured party of record) to file a claim for the return of the seized property. If a person files for return of seized tobacco products (or a conveyance used for their transportation), the Comptroller (or the Comptroller’s designee) is required to (1) promptly act on the request and hold an informal hearing and (2) under specified circumstances, direct the return of the tobacco products or conveyance. The Comptroller (or the Comptroller’s designee) must grant or deny the application for return by mailing a notice of final determination to the person.

Current law further specifies that the Comptroller must, in a manner the Comptroller determines, sell seized and forfeited contraband tobacco products to a State institution, nonprofit charitable institution, licensed cigarette wholesaler, or licensed cigarette manufacturer. In addition, the Comptroller is required to sell at public auction a conveyance that is seized in connection with contraband tobacco products and forfeited. If either the Comptroller or (on appeal) a court determines that the seized conveyance is not subject to forfeiture, the Comptroller is required to return the conveyance to the registered owner and has no further liability to the registered owner. However, if a seized conveyance is forfeited, the Comptroller must sell the seized conveyance (to any person) and distribute the net proceeds from the sale in a specified manner.

The bill leaves the above provisions intact but authorizes the Comptroller to destroy seized and forfeited contraband tobacco products if the Comptroller is (1) prohibited from selling the seized and forfeited tobacco products in the State or (2) unable to make a profit from selling the seized and forfeited tobacco products.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Anne Arundel, Charles, Frederick, and Montgomery counties; Comptroller's Office; Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2013  
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