

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 900

(Delegate Miller)

Economic Matters

Education, Health, and Environmental Affairs

Alcohol and Tobacco Commission - Clarifications

This bill delays the effective date of Chapter 12 of 2019, which establishes the Alcohol and Tobacco Commission (ATC), from June 1, 2020, to January 1, 2021, and extends the expiration dates of the initial terms of the members of ATC. The bill grants authorized employees of the Field Enforcement Division (FED) of the Comptroller's Office transferred to ATC the powers of police and peace officers and classifies them as police officers and law enforcement officers, as specified. The bill also requires ATC and the Comptroller's Office to cooperate in their respective duties related to alcohol and tobacco regulation, as specified, and clarifies the responsibilities of ATC and the Comptroller's Office under Chapter 12 of 2019. **The bill takes effect June 1, 2020.**

Fiscal Summary

State Effect: Generally, the bill delays, but does not eliminate, staffing costs and licensing system development costs associated with the establishment of ATC under Chapter 12 of 2019. General fund expenditures are affected in fiscal 2021 only, as discussed below. Otherwise, the bill generally ensures FED agents transferred to ATC maintain their rights and responsibilities as police officers once transferred and clarifies the responsibilities of the Comptroller's Office and ATC under Chapter 12. Revenues are not materially affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill grants authorized employees of FED within the Comptroller's Office who are transferred to ATC the powers of police and peace officers and classifies them as police officers and law enforcement officers (1) subject to the Law Enforcement Officers' Bill of Rights (LEOBR) and (2) eligible for certification by the Maryland Police Training and Standards Commission (MPTSC).

In order to increase efficiency and accuracy in the performance of their respective duties, ATC and the Comptroller must (1) cooperate and share information and personnel in investigations and other matters relating to alcohol and tobacco regulation, as specified, and (2) enter into a memorandum of understanding for cooperative activities, as specified. ATC may enter into a memorandum of understanding and other cooperative arrangements with federal, State, and local governmental units as well, as specified.

The bill's clarifications for the responsibilities of ATC and the Comptroller's Office under Chapter 12 of 2019 include:

- authorizing ATC to take certain enforcement activities related to tobacco enforcement;
- authorizing ATC to make cooperative arrangements for and work and cooperate with the Comptroller's Office, as specified and appropriate;
- authorizing ATC to conduct warrantless inspections and seize contraband, under specified circumstances;
- requiring the Comptroller's Office to cooperate with ATC as it enforces the laws pertaining to the alcoholic beverages tax and tobacco tax;
- specifying that FED within ATC must work with State's Attorney's and law enforcement officers as appropriate;
- requiring ATC to submit an annual report on alcoholic beverages and tobacco license enforcement, instead of the Comptroller's Office; and
- altering the date that employees may be transferred from the Comptroller's Office to ATC and still maintain their rights, benefits, status, *etc.* as required by Chapter 12 of 2019.

Current Law/Background:

Alcohol and Tobacco Commission

Chapter 12 of 2019 establishes ATC, beginning June 1, 2020, and transfers personnel, powers, duties, and responsibilities that relate to the regulation of alcoholic beverages and tobacco from the Comptroller's Office (specifically FED) to ATC. Chapter 12 specified

that all duties and responsibilities associated with FED's alcoholic beverages and tobacco regulation functions must continue under ATC. Employees transferred under Chapter 12 retain any merit system and retirement status they may have on the date of transfer and must be transferred without any change or loss of pay, working conditions, benefits, rights, or status. Furthermore, Chapter 12 specifies that files, furniture, fixtures, records, other properties, credits, liabilities, and obligations are retained by the appropriate entity under the transfer.

Benefits for Police and Law Enforcement Officers

LEOBR was enacted in 1974 to guarantee police officers specified procedural safeguards in any investigation that could lead to disciplinary action. It extends to police officers of 26 specified State and local agencies but does not extend to any correctional officers in the State. LEOBR extends uniform protections to officers in two major components of the disciplinary process: (1) the conduct of internal investigations of complaints that may lead to a recommendation of disciplinary action against a police officer; and (2) procedures that must be followed once an investigation results in a recommendation that an officer be disciplined. LEOBR requirements are much more restrictive and time-consuming than general State personnel requirements under Title 11 of the State Personnel and Pensions Article. Specifically, LEOBR delineates who can do the investigation, what management must disclose to the employee, and when and where the meeting can take place; it also limits the duration of the meeting.

Maryland Police Training and Standards Commission

Chapter 519 of 2016 reconstituted the former Police Training Commission as MPTSC, an independent commission within Department of Public Safety and Correctional Services. MPTSC operates approved police training schools and prescribes standards for and certifies schools that offer police and security training. In consultation and cooperation with various entities, it also sets minimum qualifications for instructors and certifies qualified instructors for approved training schools.

MPTSC certifies persons as police officers who have met commission standards, including submission to a criminal history records check and a specified psychological evaluation. An individual who is not satisfactorily trained in the 12-month probationary period may not be employed as a police officer, and a police officer may not serve after certification has been revoked, suspended, or allowed to lapse.

State Expenditures:

Delay of Costs Associated with ATC Establishment

Implementation of Chapter 12 of 2019 involves two major costs for ATC: (1) development of a licensing database for ATC to use for alcoholic beverages and tobacco licensing and enforcement; and (2) the hiring of administrative staff for ATC. The fiscal and policy note for Chapter 12 estimated a cost of approximately \$4 million in fiscal 2020 only for database development and implementation and about \$700,000 annually beginning in fiscal 2021 for additional staff and system maintenance costs.

The bill's delay of the effective date for Chapter 12 decreases staffing costs in fiscal 2021 only (as staff must be hired half-way through fiscal 2021 instead of at the beginning of fiscal 2021 under current law). The Comptroller's Office was unable to confirm the extent to which a licensing database for ATC has been developed or whether or not costs have already been incurred for the project. Therefore, general fund expenditures – totaling as much as \$4 million – may be needed for this project in fiscal 2021 (rather than fiscal 2020), to the extent development costs for the licensing database remain.

Clarifying the Rights and Responsibilities of ATC

Even though Chapter 12 of 2019 requires the transfer of certain FED agents to ATC, it does not make the changes necessary to ensure those agents retain their rights and responsibilities as police officers. Agents under FED utilize those powers to conduct inspections and investigations of alcoholic beverages and tobacco crimes under the current regulatory structure. The bill ensures they can continue to fulfill their regulatory duties in the same manner when Chapter 12 takes effect on January 1, 2021.

While the intent of Chapter 12 of 2019 was to transfer all the powers, duties, and responsibilities that relate to the regulation of alcoholic beverages and tobacco from the Comptroller's Office to ATC, certain specific requirements and responsibilities were inadvertently overlooked and not transferred to ATC. As such, the bill generally corrects these oversights and clarifies the responsibilities of ATC and the Comptroller's Office under Chapter 12.

Requiring the Comptroller and ATC to cooperate may result in operational efficiencies for both entities; however, any such impact cannot be accurately estimated.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 911 (Senators Kramer and Bailey) - Education, Health, and Environmental Affairs.

Information Source(s): Department of Public Safety and Correctional Services; The Comptroller's Office; Department of Legislative Services

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