

HOUSE BILL 1052

P1, A1, C2

9lr2754
CF SB 703

By: **Delegate Miller (By Request – Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health)**

Introduced and read first time: February 8, 2019

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Alcohol, Tobacco, and Motor Fuel Commission**

3 FOR the purpose of establishing the Alcohol, Tobacco, and Motor Fuel Commission with
4 certain powers and duties; transferring certain responsibilities of the Comptroller to
5 the Executive Director of the Alcohol, Tobacco, and Motor Fuel Commission;
6 providing that the members of the Commission are to be appointed by the Governor
7 with the advice and consent of the Senate; providing for the qualifications, terms,
8 reimbursement for expenses, and removal of the members; prohibiting a member
9 from having certain interests or positions in the alcohol, tobacco, or motor fuel
10 industries or accepting certain contributions from the alcohol, tobacco, or motor fuel
11 industries with respect to the regulation of alcohol, tobacco, or motor fuel; requiring
12 a member to file a certain financial disclosure statement; providing for a chair of the
13 Commission; providing for the quorum, meetings, minutes, and staff of the
14 Commission; requiring the Commission to perform certain functions, conduct certain
15 studies, and develop best practices for certain activities; requiring the Governor to
16 appoint an Executive Director of the Commission; providing for the qualifications
17 and salary of the Executive Director; prohibiting the Executive Director and all
18 employees in the Office of the Executive Director from accepting certain
19 contributions from certain entities or individuals; requiring the Executive Director
20 to adopt certain regulations; authorizing the Executive Director to adopt certain
21 other regulations; authorizing the Executive Director to establish or prohibit certain
22 discounts in the sale and distribution of wine and liquor; transferring the Field
23 Enforcement Division from the Office of the Comptroller to the Office of the
24 Executive Director; authorizing the Executive Director to delegate authority to
25 conduct certain hearings; requiring the Executive Director to include certain
26 information in certain annual reports and to maintain certain record keeping;
27 authorizing the Executive Director to carry out certain inspections, use certain
28 equipment, and issue summonses for certain purposes; requiring the Executive
29 Director to enforce certain provisions of law; providing for the regulatory and
30 enforcement authority of the Executive Director over alcohol, tobacco and related

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 products including electronic nicotine delivery systems, and motor fuel under various
 2 provisions of law; authorizing the Executive Director to carry out certain
 3 investigations and request information and assistance from certain other
 4 administrative units of government; requiring the Commission to conduct a certain
 5 feasibility study for maintaining a certain statewide database; stating the intent of
 6 the General Assembly concerning the date of transfer of the Field Enforcement
 7 Division and its personnel to the Alcohol, Tobacco, and Motor Fuel Commission;
 8 specifying that the Office of the Executive Director is the successor of the Office of
 9 the Comptroller in certain matters; providing that this Act does not affect the term
 10 of office of an appointed or elected member of any commission, office, department,
 11 agency, or other unit; providing for the continuity of certain transactions,
 12 employment status, rights, duties, and interests; specifying that certain employees
 13 in budgeted positions of the Office of the Comptroller whose positions are transferred
 14 to the Office of the Executive Director are transferred without any change or loss of
 15 rights or status; providing for the continuity of certain findings and determinations,
 16 permits and licenses, standards and guidelines, orders and other directives, and
 17 duties and responsibilities associated with those functions transferred by this Act;
 18 providing for the continuity of certain units and their personnel records and other
 19 properties; requiring that certain letterheads, business cards, and other documents
 20 may not be used until other documents already in print have been used; requiring
 21 the publisher of the Annotated Code of Maryland, in consultation with and subject
 22 to the approval of the Department of Legislative Services, to correct any
 23 cross-references or terminology rendered incorrect by this Act and to describe any
 24 corrections made in an editor's note following the section affected; making
 25 conforming and stylistic changes; defining certain terms; providing for a delayed
 26 effective date; and generally relating to the Alcohol, Tobacco, and Motor Fuel
 27 Commission.

28 BY repealing and reenacting, with amendments,

29 Article – Alcoholic Beverages

30 Section 1–101; and 1–301, 1–302, 1–302.1, and 1–303 through 1–310 to be under the
 31 amended subtitle “Subtitle 3. Alcohol, Tobacco, and Motor Fuel Commission”

32 Annotated Code of Maryland

33 (2016 Volume and 2018 Supplement)

34 BY adding to

35 Article – Alcoholic Beverages

36 Section 1–302 through 1–310

37 Annotated Code of Maryland

38 (2016 Volume and 2018 Supplement)

39 BY repealing and reenacting, with amendments,

40 Article – Business Regulation

41 Section 16–101, 16–102, 16–201, 16–204, 16–205, 16–206(a)(4) and (f)(6) and (7),
 42 16–207(c)(3), 16–208 through 16–213, 16–216(a), 16–218(b) and (c), 16–219(b),
 43 16–220 through 16–222, 16–223(c), 16–302(b), 16–306, 16–307, 16–308.1(b),
 44 16–3B–01, 16.5–101, 16.5–102, 16.5–203, 16.5–204(a), 16.5–205(a)(5) and

1 (d)(5), 16.5–207 through 16.5–211, 16.5–213, 16.5–214(b) and (c), 16.5–215(b),
2 16.5–216(c), 16.5–217(c)(1), 16.7–101, 16.7–102(a), 16.7–202, 16.7–203,
3 16.7–206 through 16.7–210, 16.7–212, and 16.7–213(c)
4 Annotated Code of Maryland
5 (2015 Replacement Volume and 2018 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Tax – General
8 Section 9–301, 9–310(a), 9–318, 9–320 through 9–322, 9–326 through 9–333, and
9 9–335 through 9–337
10 Annotated Code of Maryland
11 (2016 Replacement Volume and 2018 Supplement)

12 Preamble

13 WHEREAS, Excessive alcohol consumption is the third leading cause of preventable
14 death in the United States and is a risk factor leading to many health and societal problems;
15 and

16 WHEREAS, Alcohol is the leading drug among youth in the State, with one in four
17 Maryland high school students reporting drinking in the past month; and

18 WHEREAS, The Task Force to Study Alcohol Regulation, Enforcement, Safety, and
19 Public Health in the State received input from numerous public health policy experts,
20 elected officials, national, State, and local regulators, existing alcohol licensees, Maryland
21 small businesses, and law enforcement personnel; and

22 WHEREAS, The number of licensed alcohol producers in Maryland has tripled over
23 the past 10 years and significantly outpaced the number of regulatory personnel; and

24 WHEREAS, The Task Force examined regulatory models across the U.S. concerning
25 the distribution and sale of alcohol to identify a model that would best balance commercial
26 interests while ensuring the safety and welfare of all Maryland residents, and
27 recommended a number of substantive changes be implemented to improve the distribution
28 and sale of alcohol in the State; now, therefore,

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

31 Article – Alcoholic Beverages

32 1–101.

33 (a) In this article the following words have the meanings indicated.

34 (b) (1) “Alcoholic beverage” means a spirituous, vinous, malt, or fermented
35 liquor, liquid, or compound that:

1 (i) contains at least one-half of 1% of alcohol by volume; and

2 (ii) is suitable for beverage purposes.

3 (2) "Alcoholic beverage" includes alcohol, brandy, whiskey, rum, gin,
4 cordial, beer, and wine.

5 (3) "Alcoholic beverage" does not include a confectionery food product that
6 contains up to 5% of alcohol by volume and is regulated by the Maryland Department of
7 Health under § 21-209 of the Health – General Article.

8 (c) (1) "Beer" means a brewed alcoholic beverage.

9 (2) "Beer" includes:

10 (i) ale;

11 (ii) porter;

12 (iii) stout;

13 (iv) hard cider that:

14 1. is derived primarily from apples, apple concentrate and
15 water, pears, or pear concentrate and water; and

16 2. contains no other fruit product but contains at least
17 one-half of 1% and less than 8.5% of alcohol by volume; and

18 (v) an alcoholic beverage that contains:

19 1. 6% or less alcohol by volume, derived primarily from the
20 fermentation of grain, with not more than 49% of the alcoholic beverage's overall alcohol
21 content by volume obtained from flavors and other added nonbeverage ingredients
22 containing alcohol; or

23 2. more than 6% alcohol by volume, derived primarily from
24 the fermentation of grain, with not more than 1.5% of the alcoholic beverage's overall
25 alcohol content by volume obtained from flavors and other added nonbeverage ingredients
26 containing alcohol.

27 (d) "Central Repository" means the Criminal Justice Information System Central
28 Repository of the Department of Public Safety and Correctional Services.

29 (e) "Club" means an association or a corporation that is:

1 (1) organized and operated exclusively for educational, social, fraternal,
2 patriotic, political, or athletic purposes; and

3 (2) nonprofit.

4 **(F) “COMMISSION” MEANS THE ALCOHOL, TOBACCO, AND MOTOR FUEL**
5 **COMMISSION.**

6 **[(f)] (G)** (1) “Comptroller” means the Comptroller of the State.

7 (2) “Comptroller” includes a deputy, an inspector, a clerk, or any other
8 individual authorized to act by the Comptroller.

9 **[(g)] (H)** “Consumer” means an individual at least 21 years old or a corporation
10 not otherwise prohibited by this article or any other State law, that buys, possesses, keeps,
11 or transports alcoholic beverages on which the taxes under Title 5 of the Tax – General
12 Article have been paid, for the individual’s or corporation’s own use and not for sale.

13 **[(h)] (I)** “County” means a county of the State or Baltimore City.

14 **(J) (1) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF**
15 **THE COMMISSION.**

16 **(2) “EXECUTIVE DIRECTOR” INCLUDES A DEPUTY, AN INSPECTOR, A**
17 **CLERK, OR ANY OTHER INDIVIDUAL AUTHORIZED TO ACT BY THE EXECUTIVE**
18 **DIRECTOR.**

19 **[(i)] (K)** (1) “Family beer” means homemade beer produced for home
20 consumption and not for sale.

21 (2) “Family beer” includes beer produced at a family beer and wine facility
22 that has been granted a permit under § 2–138 of this article.

23 **[(j)] (L)** (1) “Family wine” means homemade wine produced for home
24 consumption and not for sale.

25 (2) “Family wine” includes wine produced at a family beer and wine facility
26 that has been granted a permit under § 2–138 of this article.

27 **[(k)] (M)** (1) Subject to paragraph (2) of this subsection, “hotel” means an
28 establishment that:

29 (i) accommodates the public;

30 (ii) is equipped with at least 10 bedrooms and a dining room with
31 facilities for preparing and serving regular meals; and

1 (iii) has average daily receipts from the rental of rooms and sale of
2 food that exceed the average daily receipts from the sale of alcoholic beverages.

3 (2) By regulation, a local licensing board may set a different standard as to
4 what constitutes a hotel.

5 **[(l)] (N)** “Illicit alcoholic beverage” means an alcoholic beverage that has been
6 manufactured, bottled, or rectified:

7 (1) in the State at a location not licensed under this article; or

8 (2) outside the State at a location not licensed under the United States
9 Internal Revenue Code or the laws of a foreign country.

10 **[(m)] (O)** “Jurisdiction” means a county or the City of Annapolis.

11 **[(n)] (P)** “License” means an alcoholic beverages license issued under this
12 article.

13 **[(o)] (Q)** (1) “License holder” means the holder of a license issued or a permit
14 granted under this article.

15 (2) “License holder” includes:

16 (i) a county liquor control board and a county dispensary; and

17 (ii) for the delivery and billing purposes of Title 2, Subtitle 3 and §§
18 2–213 and 2–314 of this article, a corporation on behalf of which an individual has obtained
19 a license.

20 **[(p)] (R)** “Liquor” has the same meaning as “distilled spirits” under § 5–101(g) of
21 the Tax – General Article.

22 **[(q)] (S)** (1) “Local collecting agent” means:

23 (i) in the City of Annapolis, the city clerk;

24 (ii) in Allegany County, Baltimore County, Howard County, Prince
25 George’s County, or Wicomico County, the director of finance;

26 (iii) in Calvert County, Dorchester County, St. Mary’s County, or
27 Somerset County, the treasurer of the county; or

28 (iv) in each other county, the board of license commissioners unless
29 another governmental unit is expressly authorized to collect fees under this article.

1 (2) “Local collecting agent” does not include a clerk of a circuit court.

2 ~~[(r)]~~ **(T)** “Local licensing board” means a board of license commissioners or other
3 governmental unit of a jurisdiction that issues licenses.

4 ~~[(s)]~~ **(U)** “Manufacturer’s license” means a license issued under Title 2, Subtitle
5 2 of this article that is:

6 (1) a Class 1 distillery license;

7 (2) a Class 2 rectifying license;

8 (3) a Class 3 winery license;

9 (4) a Class 4 limited winery license;

10 (5) a Class 5 brewery license;

11 (6) a Class 6 pub–brewery license;

12 (7) a Class 7 micro–brewery license;

13 (8) a Class 8 farm brewery license; or

14 (9) a Class 9 limited distillery license.

15 ~~[(t)]~~ **(V)** “Off–sale” means the sale of alcoholic beverages that are to be consumed
16 off the licensed premises.

17 ~~[(u)]~~ **(W)** “On–sale” means the sale of alcoholic beverages that are to be consumed
18 on the licensed premises.

19 ~~[(v)]~~ **(X)** “Person” means:

20 (1) an individual;

21 (2) an association, a partnership, a corporation, a trust, or any other entity,
22 and the officers, directors, and other individuals in active control of the activities of the
23 association, partnership, corporation, trust, or other entity; or

24 (3) (i) the State or a political subdivision of the State, or a unit or an
25 instrumentality of the State or a political subdivision of the State; or

26 (ii) another state or a political subdivision of that state.

1 ~~[(w)]~~ **(Y)** “Pomace brandy” means brandy that is distilled from the pulpy residue
2 of wine pressing, including the skins, pips, and stalks of grapes.

3 ~~[(x)]~~ **(Z)** (1) Subject to paragraph (2) of this subsection, “restaurant” means
4 an establishment that:

5 (i) accommodates the public;

6 (ii) is equipped with a dining room with facilities for preparing and
7 serving regular meals; and

8 (iii) has average daily receipts from the sale of food that exceed the
9 average daily receipts from the sale of alcoholic beverages.

10 (2) By regulation, a local licensing board may set a different standard as to
11 what constitutes a restaurant.

12 ~~[(y)]~~ **(AA)** (1) “Retail dealer” means a person that sells an alcoholic beverage to
13 any person other than a license holder.

14 (2) “Retail dealer” includes a county dispensary.

15 ~~[(z)]~~ **(BB)** “7–day license” means a license that is in effect every day of the week.

16 ~~[(aa)]~~ **(CC)** “6–day license” means a license that is in effect Monday through
17 Saturday.

18 ~~[(bb)]~~ **(DD)** (1) Except as provided in paragraph (2) of this subsection, “state”
19 means:

20 (i) a state, possession, territory, or commonwealth of the United
21 States; or

22 (ii) the District of Columbia.

23 (2) When capitalized, “State” means Maryland.

24 **(EE) “TOBACCO” INCLUDES CIGARETTES REGULATED UNDER TITLE 16 OF**
25 **THE BUSINESS REGULATION ARTICLE AND OTHER TOBACCO AND RELATED**
26 **PRODUCTS REGULATED UNDER TITLES 16.5 AND 16.7 OF THE BUSINESS**
27 **REGULATION ARTICLE.**

28 ~~[(cc)]~~ **(FF)** (1) “Wholesaler” means:

29 (i) a person that purchases or imports an alcoholic beverage for sale
30 to wholesale dealers or retail dealers only; or

1 (ii) a limited winery that sells wine to retail dealers.

2 (2) “Wholesaler” includes:

3 (i) a county liquor control board; and

4 (ii) a county wholesale dispensary.

5 [(dd)] **(GG)** “Wholesaler’s license” means a license issued under Title 2, Subtitle 3
6 of this article that is:

7 (1) a Class 1 beer, wine, and liquor license;

8 (2) a Class 2 wine and liquor license;

9 (3) a Class 3 beer and wine license;

10 (4) a Class 4 beer license;

11 (5) a Class 5 wine license;

12 (6) a Class 6 limited wine license; or

13 (7) a Class 7 limited beer license.

14 [(ee)] **(HH)** (1) “Wine” means a fermented beverage.

15 (2) “Wine” includes:

16 (i) light wine;

17 (ii) sparkling wine that is naturally or artificially carbonated; and

18 (iii) fortified wine to which alcohol, spirits, or other ingredients are
19 added.

20 Subtitle 3. [Powers and Duties of Comptroller] **ALCOHOL, TOBACCO, AND MOTOR**
21 **FUEL COMMISSION.**

22 1–301.

23 In this subtitle, “Division director” means the director of the Field Enforcement
24 Division of the Office of the [Comptroller] **EXECUTIVE DIRECTOR.**

25 **1–302.**

1 **THERE IS AN ALCOHOL, TOBACCO, AND MOTOR FUEL COMMISSION.**

2 **1-303.**

3 **(A) (1) THE COMMISSION CONSISTS OF FIVE MEMBERS TO BE APPOINTED**
4 **BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.**

5 **(2) THE PRESIDING OFFICER OF EITHER HOUSE OF THE GENERAL**
6 **ASSEMBLY MAY RECOMMEND TO THE GOVERNOR A LIST OF INDIVIDUALS FOR**
7 **APPOINTMENT TO THE COMMISSION.**

8 **(3) OF THE COMMISSION MEMBERS:**

9 **(I) ONE SHALL BE A REPRESENTATIVE OF THE PUBLIC HEALTH**
10 **COMMUNITY;**

11 **(II) ONE SHALL BE A REPRESENTATIVE OF THE LAW**
12 **ENFORCEMENT COMMUNITY;**

13 **(III) ONE SHALL BE A REPRESENTATIVE OF THE ALCOHOLIC**
14 **BEVERAGES INDUSTRY; AND**

15 **(IV) TWO SHALL BE MEMBERS OF THE PUBLIC WHO ARE**
16 **KNOWLEDGEABLE AND EXPERIENCED IN FISCAL MATTERS AND SHALL HAVE**
17 **SUBSTANTIAL EXPERIENCE:**

18 **1. AS AN EXECUTIVE WITH FIDUCIARY**
19 **RESPONSIBILITIES IN CHARGE OF A LARGE ORGANIZATION OR FOUNDATION;**

20 **2. IN AN ACADEMIC FIELD RELATING TO FINANCE OR**
21 **ECONOMICS; OR**

22 **3. AS AN ACCOUNTANT, AN ECONOMIST, OR A FINANCIAL**
23 **ANALYST.**

24 **(4) IN ADDITION TO THE MEMBERS APPOINTED UNDER PARAGRAPH**
25 **(3) OF THIS SUBSECTION, THE SECRETARY OF HEALTH AND THE SECRETARY OF**
26 **STATE POLICE, OR THEIR DESIGNEES, MAY PARTICIPATE IN THE COMMISSION AS EX**
27 **OFFICIO NONVOTING MEMBERS.**

28 **(B) AT THE TIME OF APPOINTMENT, EACH MEMBER OF THE COMMISSION**
29 **SHALL BE:**

1 **(1) AT LEAST 25 YEARS OLD;**

2 **(2) A RESIDENT OF THE STATE WHO HAS RESIDED IN THE STATE FOR**
3 **AT LEAST 5 YEARS;**

4 **(3) A QUALIFIED VOTER OF THE STATE; AND**

5 **(4) AN INDIVIDUAL WHO HAS NOT BEEN CONVICTED OF OR GRANTED**
6 **PROBATION BEFORE JUDGMENT FOR A SERIOUS CRIME OR A CRIME THAT INVOLVES**
7 **MORAL TURPITUDE.**

8 **(C) (1) THE TERM OF A MEMBER IS 5 YEARS.**

9 **(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE**
10 **TERMS PROVIDED FOR MEMBERS OF THE COMMISSION ON JUNE 30, 2020.**

11 **(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL**
12 **A SUCCESSOR IS APPOINTED AND QUALIFIES.**

13 **(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES**
14 **ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND**
15 **QUALIFIES.**

16 **(5) A MEMBER MAY NOT SERVE FOR MORE THAN TWO FULL TERMS.**

17 **(D) (1) SUBJECT TO THE HEARING REQUIREMENTS OF THIS SUBSECTION,**
18 **THE GOVERNOR MAY REMOVE A MEMBER FOR CAUSE.**

19 **(2) BEFORE THE GOVERNOR REMOVES A MEMBER, THE GOVERNOR**
20 **SHALL GIVE THE MEMBER NOTICE AND AN OPPORTUNITY FOR A PUBLIC HEARING.**

21 **1-304.**

22 **(A) A MEMBER OF THE COMMISSION MAY NOT:**

23 **(1) HAVE A DIRECT OR INDIRECT FINANCIAL INTEREST, OWNERSHIP,**
24 **OR MANAGEMENT, INCLUDING HOLDING ANY STOCKS, BONDS, OR OTHER SIMILAR**
25 **FINANCIAL INTERESTS, IN THE ALCOHOL, TOBACCO, OR MOTOR FUEL INDUSTRIES;**

26 **(2) HAVE AN OFFICIAL RELATIONSHIP TO A PERSON WHO HOLDS A**
27 **LICENSE OR PERMIT UNDER THIS ARTICLE, TITLE 16, TITLE 16.5, OR TITLE 16.7 OF**
28 **THE BUSINESS REGULATION ARTICLE, OR TITLE 9, SUBTITLE 3, PART IV OF THE**

1 **TAX – GENERAL ARTICLE;**

2 **(3) BE AN ELECTED OFFICIAL OF STATE OR LOCAL GOVERNMENT;**

3 **(4) RECEIVE OR SHARE IN, DIRECTLY OR INDIRECTLY, THE RECEIPTS**
4 **OR PROCEEDS OF ANY ACTIVITIES CONDUCTED IN THE ALCOHOL, TOBACCO, OR**
5 **MOTOR FUEL INDUSTRIES;**

6 **(5) HAVE A BENEFICIAL INTEREST IN ANY CONTRACT FOR THE**
7 **MANUFACTURE OR SALE OF ANY DEVICE OR PRODUCT OR THE PROVISION OF ANY**
8 **INDEPENDENT CONSULTING SERVICES IN CONNECTION WITH A HOLDER OF A**
9 **LICENSE OR PERMIT ISSUED UNDER THIS ARTICLE, TITLE 16, TITLE 16.5, OR TITLE**
10 **16.7 OF THE BUSINESS REGULATION ARTICLE, OR TITLE 9, SUBTITLE 3, PART IV**
11 **OF THE TAX – GENERAL ARTICLE; OR**

12 **(6) ACCEPT A CONTRIBUTION OF MONEY OR PROPERTY WORTH AT**
13 **LEAST \$100 FROM AN ENTITY OR INDIVIDUAL ASSOCIATED WITH THE ALCOHOL,**
14 **TOBACCO, OR MOTOR FUEL INDUSTRIES WITH RESPECT TO THE REGULATION OF**
15 **ALCOHOL, TOBACCO, OR MOTOR FUEL.**

16 **(B) A MEMBER OF THE COMMISSION SHALL FILE A FINANCIAL DISCLOSURE**
17 **STATEMENT WITH THE STATE ETHICS COMMISSION IN ACCORDANCE WITH TITLE 5,**
18 **SUBTITLE 6 OF THE GENERAL PROVISIONS ARTICLE.**

19 **1-305.**

20 **FROM AMONG ITS MEMBERS, THE COMMISSION ANNUALLY SHALL ELECT A**
21 **CHAIR.**

22 **1-306.**

23 **(A) A MAJORITY OF THE FULL AUTHORIZED MEMBERSHIP OF THE**
24 **COMMISSION IS A QUORUM.**

25 **(B) THE COMMISSION SHALL MEET MONTHLY AT THE TIMES AND PLACES**
26 **THAT THE COMMISSION DETERMINES.**

27 **(C) (1) THE SECRETARY OF THE COMMISSION PROMPTLY SHALL SEND**
28 **THE GOVERNOR A CERTIFIED COPY OF THE MINUTES OF EACH MEETING OF THE**
29 **COMMISSION.**

30 **(2) THE MINUTES SHALL INCLUDE A COPY OF EACH REGULATION**
31 **THAT IS ADOPTED.**

1 (D) EACH MEMBER OF THE COMMISSION IS ENTITLED TO REIMBURSEMENT
2 FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS
3 PROVIDED IN THE BUDGET OF THE COMMISSION.

4 (E) (1) WITH THE ADVICE OF THE COMMISSION, THE EXECUTIVE
5 DIRECTOR MAY EMPLOY STAFF IN ACCORDANCE WITH THE STATE BUDGET.

6 (2) THE STAFF OF THE COMMISSION IS IN THE STATE PERSONNEL
7 MANAGEMENT SYSTEM.

8 1-307.

9 (A) THE COMMISSION HAS THE POWERS AND DUTIES SET FORTH IN THIS
10 SECTION.

11 (B) THE COMMISSION SHALL:

12 (1) EDUCATE THE PUBLIC, BY RESOURCE SHARING AND SERVING AS
13 AN INFORMATION CLEARINGHOUSE, ON SUCH TOPICS AS:

14 (I) RECENT INCREASES IN ALCOHOL CONTENT FOR POPULAR
15 BEER AND OTHER BEVERAGES;

16 (II) THE PROPER LIMITS OF DRINKING FOR ADULTS;

17 (III) THE ADVERSE CONSEQUENCES OF SURPASSING THOSE
18 LIMITS; AND

19 (IV) PARENTAL OR ADULT RESPONSIBILITY FOR SERVING
20 ALCOHOL TO UNDERAGE INDIVIDUALS; AND

21 (2) SUBJECT TO FEDERAL APPROVAL, ENSURE THAT ALL ALCOHOLIC
22 BEVERAGES SOLD IN THE STATE WITH AN ALCOHOL CONTENT EXCEEDING 4.5% BY
23 VOLUME BEAR A LARGE AND CONSPICUOUS LABEL STATING THE PERCENTAGE OF
24 ALCOHOL CONTENT.

25 (C) (1) THE COMMISSION SHALL CONDUCT STUDIES OF:

26 (I) THE OPERATION AND ADMINISTRATION OF SIMILAR LAWS IN
27 OTHER STATES OR COUNTRIES; AND

28 (II) FEDERAL LAWS THAT MAY AFFECT THE OPERATION OF THE

1 ALCOHOL, TOBACCO, OR MOTOR FUEL INDUSTRIES, THE LITERATURE ON THOSE
2 INDUSTRIES, AND THE REACTION OF RESIDENTS OF THE STATE TO EXISTING AND
3 POTENTIAL FEATURES OF THOSE INDUSTRIES.

4 (2) THE COMMISSION SHALL SUBMIT TO THE GOVERNOR AND, IN
5 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL
6 ASSEMBLY THE STUDIES REQUIRED UNDER THIS SUBSECTION.

7 1-308.

8 THE COMMISSION SHALL DEVELOP BEST PRACTICES FOR:

9 (1) THE DEDICATION OF A MINIMUM EFFECTIVE PORTION OF THE
10 BUDGET OF A LOCAL LICENSING BOARD TO ADMINISTRATIVE ENFORCEMENT
11 ACTIVITIES, SUCH AS INSPECTIONS, COMPLIANCE CHECKS, OVERSERVICE,
12 OPERATIONS, AND TRADE PRACTICE VIOLATIONS;

13 (2) THE CARRYING OUT OF COMPLIANCE CHECKS FOR ALCOHOLIC
14 BEVERAGES LICENSES, IN WHICH EACH LICENSE IS CHECKED AT LEAST ONCE A
15 YEAR;

16 (3) THE DEVELOPMENT OF GUIDELINES FOR THE MINIMUM CAPACITY
17 OF INSPECTIONS CARRIED OUT BY INSPECTORS OF LOCAL LICENSING BOARDS,
18 BASED ON THE NUMBER AND TYPE OF LICENSED OUTLETS IN THE LICENSING
19 JURISDICTION;

20 (4) ENSURING THAT ALCOHOLIC BEVERAGES INSPECTIONS BE BASED
21 ON DATA SUCH AS THE VIOLATION HISTORY OF THE LICENSE HOLDER, AND CALLS
22 FOR EMERGENCY ASSISTANCE, EMERGENCY MEDICAL SERVICE, OR
23 NONEMERGENCY SERVICE, SO THAT RESOURCES ARE BEING ALLOCATED BASED ON
24 WHERE THE GREATEST NEED IS;

25 (5) THE REPORTING OF AGGREGATE DATA BETWEEN LOCAL POLICE
26 AND LOCAL LICENSING BOARDS;

27 (6) THE DEVELOPMENT OF MANDATORY STATE-PROVIDED TRAINING
28 FOR LIQUOR INSPECTORS;

29 (7) REPORTING BY THE STATE TO THE AFFECTED LOCAL LICENSING
30 BOARD OF A STATE-ISSUED LICENSE OR PERMIT WITHIN 10 DAYS AFTER THE STATE
31 RECEIVES AN APPLICATION;

32 (8) THE DEVELOPMENT OF A PUBLIC HEALTH IMPACT STATEMENT

1 FOR ALL CHANGES TO THE STATE ALCOHOLIC BEVERAGES LAWS; AND

2 (9) ENSURING THAT:

3 (I) ALL LICENSE HOLDERS, MANAGERS, AND SERVERS RECEIVE
4 CERTIFICATION FROM AN APPROVED ALCOHOL AWARENESS PROGRAM; AND

5 (II) AT LEAST ONE EMPLOYEE WHO IS CERTIFIED IN AN
6 ALCOHOL AWARENESS PROGRAM BE ON THE LICENSED PREMISES AT ALL TIMES
7 WHEN ALCOHOLIC BEVERAGES ARE SERVED.

8 1-309.

9 (A) WITH THE ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR
10 SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE COMMISSION.

11 (B) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE
12 GOVERNOR.

13 (C) THE EXECUTIVE DIRECTOR SHALL:

14 (1) HAVE THE TRAINING AND EXPERIENCE, INCLUDING KNOWLEDGE
15 OF THE MARYLAND ALCOHOL REGULATORY SYSTEM, THAT IS NEEDED TO DIRECT
16 THE WORK OF THE COMMISSION; AND

17 (2) DEVOTE FULL TIME TO THE DUTIES OF OFFICE AND MAY NOT
18 ENGAGE IN ANOTHER PROFESSION OR OCCUPATION.

19 (D) THE EXECUTIVE DIRECTOR IS ENTITLED TO THE SALARY PROVIDED IN
20 THE STATE BUDGET.

21 1-310.

22 THE EXECUTIVE DIRECTOR AND ALL EMPLOYEES IN THE OFFICE OF THE
23 EXECUTIVE DIRECTOR MAY NOT ACCEPT A CONTRIBUTION OF MONEY OR PROPERTY
24 WORTH AT LEAST \$100 FROM AN ENTITY OR INDIVIDUAL ASSOCIATED WITH THE
25 ALCOHOL, TOBACCO, OR MOTOR FUEL INDUSTRIES WITH RESPECT TO REGULATION
26 OF ALCOHOL, TOBACCO, OR MOTOR FUEL.

27 [1-302.] 1-311.

28 (a) The [Comptroller] EXECUTIVE DIRECTOR shall adopt regulations to
29 discharge the duties under:

1 (1) this article;

2 (2) **TITLES 16, 16.5, AND 16.7 OF THE BUSINESS REGULATION**
3 **ARTICLE; AND**

4 (3) **TITLE 9, SUBTITLE 3 OF THE TAX – GENERAL ARTICLE.**

5 (b) The [Comptroller] **EXECUTIVE DIRECTOR** may adopt regulations regarding:

6 (1) labeling and advertising similar to the regulations adopted by the
7 Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the
8 Treasury;

9 (2) nature, form, and capacity of containers;

10 (3) credit sales;

11 (4) records to be kept by license holders and others engaged in the business;

12 (5) the amount of deposit on returnable beer containers that
13 manufacturers and wholesalers of beer charge and collect; and

14 (6) any other subject the [Comptroller] **EXECUTIVE DIRECTOR** considers
15 necessary for the proper administration of the duties of the [Comptroller] **EXECUTIVE**
16 **DIRECTOR** under this article, **TITLE 16, TITLE 16.5, OR TITLE 16.7 OF THE BUSINESS**
17 **REGULATION ARTICLE, OR THE PROVISIONS OF THE TAX – GENERAL ARTICLE**
18 **RELATING TO THE ALCOHOLIC BEVERAGE TAX.**

19 (c) (1) Any violation of a regulation adopted by the [Comptroller] **EXECUTIVE**
20 **DIRECTOR** under this article, **TITLE 16, TITLE 16.5, OR TITLE 16.7 OF THE BUSINESS**
21 **REGULATION ARTICLE**, or the provisions of the Tax – General Article relating to the
22 alcoholic beverage tax is grounds to revoke or suspend a license.

23 (2) The violator is subject to the penalties provided under § 6–402(a) of this
24 article.

25 **[1–302.1.] 1–312.**

26 By regulation, the [Comptroller] **EXECUTIVE DIRECTOR** may:

27 (1) establish or prohibit the maximum discounts that may be allowed by a
28 manufacturer, wholesaler, or nonresident winery permit holder in the sale and distribution
29 of wine and liquor; or

30 (2) prohibit the giving of discounts by a manufacturer, wholesaler, or
31 nonresident winery permit holder in the sale and distribution of wine and liquor.

1 [1-303.] 1-313.

2 (a) There is a Field Enforcement Division in the Office of the [Comptroller]
3 **EXECUTIVE DIRECTOR**.

4 (b) (1) The Field Enforcement Division may employ officers and employees as
5 provided in the State budget.

6 (2) The officers and employees of the Field Enforcement Division:

7 (i) shall be sworn police officers;

8 (ii) shall have the powers, duties, and responsibilities of peace
9 officers to enforce the provisions of this article relating to:

10 1. the unlawful importation of alcoholic beverages into the
11 State;

12 2. the unlawful manufacture of alcoholic beverages in the
13 State;

14 3. the transportation and distribution throughout the State
15 of alcoholic beverages that are manufactured illegally and on which any alcoholic beverages
16 taxes imposed by the State are due and unpaid; and

17 4. the manufacture, sale, barter, transportation,
18 distribution, or other form of owning, handling, or dispersing alcoholic beverages by any
19 person not licensed or authorized under this article or provisions of the Tax – General
20 Article relating to alcoholic beverages; and

21 (iii) may make cooperative arrangements for and work and cooperate
22 with local State's Attorneys, sheriffs, bailiffs, police, and other prosecuting and peace
23 officers to enforce this article.

24 (c) The Field Enforcement Division:

25 (1) shall consult with and advise the local State's Attorneys and other law
26 enforcement officials and police officers regarding enforcement problems in their respective
27 jurisdictions; and

28 (2) may recommend changes to improve the administration of this article
29 and provisions of the Tax – General Article relating to alcoholic beverages.

30 [1-304.] 1-314.

31 The [Comptroller] **EXECUTIVE DIRECTOR** may delegate authority under this

1 article and provisions of the Tax – General Article relating to alcoholic beverages to the
2 Division director to issue or refuse to issue licenses and permits.

3 **[1-305.] 1-315.**

4 (a) Except as provided in subsection (b) of this section, the [Comptroller]
5 **EXECUTIVE DIRECTOR** may delegate authority to conduct hearings on violations of this
6 article or of any regulations adopted under this article or the provisions of the Tax – General
7 Article relating to alcoholic beverages to the Division director or any other employee of the
8 [Comptroller's] **EXECUTIVE DIRECTOR'S** office.

9 (b) The Division director or any other employee of the [Comptroller's]
10 **EXECUTIVE DIRECTOR'S** office delegated authority to conduct hearings under subsection
11 (a) of this section:

12 (1) may not impose a penalty provided for under this article or a provision
13 of the Tax – General Article relating to alcoholic beverages; and

14 (2) shall report the findings and recommendations to the [Comptroller]
15 **EXECUTIVE DIRECTOR** to take the action that the [Comptroller] **EXECUTIVE**
16 **DIRECTOR** considers appropriate.

17 **[1-306.] 1-316.**

18 To provide a basis for annual comparison of the scope of the alcoholic beverages
19 industry in the State and the consumption habits of residents of the State, the
20 [Comptroller] **EXECUTIVE DIRECTOR** in each annual report shall include statistical
21 information on the alcoholic beverages business in the State that the [Comptroller]
22 **EXECUTIVE DIRECTOR** believes to be of interest to the public and the industry.

23 **[1-307.] 1-317.**

24 (a) The [Comptroller] **EXECUTIVE DIRECTOR** shall:

25 (1) maintain a record of:

26 (i) each license issued or approved under this article; and

27 (ii) any revocation, suspension, or cancellation of a license and any
28 restriction imposed on a license with a brief explanation of the reason for the action; and

29 (2) allow any person to inspect the records at the Office of the
30 [Comptroller] **EXECUTIVE DIRECTOR** during regular business hours.

31 (b) The records of licenses required under subsection (a) of this section and any
32 indices or dockets created to maintain the records:

1 (1) shall be retained for the later to occur of:

2 (i) 3 years after the date of the last record entry; or

3 (ii) the date on which all audit requirements have been complied
4 with; and

5 (2) may be destroyed after:

6 (i) the retention period in item (1) of this subsection has expired;
7 and

8 (ii) Title 10, Subtitle 6, Part III of the State Government Article has
9 been complied with.

10 **[1-308.] 1-318.**

11 The [Comptroller] **EXECUTIVE DIRECTOR** may:

12 (1) under § 6-202 of this article, inspect and search a building, vehicle, or
13 premises where alcoholic beverages are authorized to be kept, transported, manufactured,
14 or sold;

15 (2) under § 6-203 of this article, use certain equipment and other means to
16 measure the quantity and quality of alcoholic beverages; and

17 (3) under § 6-204 of this article, issue summonses for witnesses for
18 hearings and inquiries.

19 **[1-309.] 1-319.**

20 The [Comptroller] **EXECUTIVE DIRECTOR** shall enforce the provisions of this
21 article and provisions of the Tax – General Article relating to alcoholic beverages applicable
22 to:

23 (1) the purchase or importation of alcoholic beverages by a department of
24 liquor control or a liquor control board; and

25 (2) the sale of alcoholic beverages to a wholesaler or retail dealer by a
26 department of liquor control or a liquor control board.

27 **[1-310.] 1-320.**

28 The [Comptroller] **EXECUTIVE DIRECTOR** may:

1 (1) investigate the manufacture, sale, purchase, use, and transportation of
 2 industrial alcohol unfit for beverage use to the extent reasonably necessary to prevent
 3 conversion into an alcoholic beverage fit for consumption; and

4 (2) request information and assistance from other administrative units of
 5 the State, county, and municipal governments, county and municipal police departments,
 6 and all prosecuting officers as considered necessary by the [Comptroller] **EXECUTIVE**
 7 **DIRECTOR** to carry out this article and provisions of the Tax – General Article relating to
 8 alcoholic beverages.

9 Article – Business Regulation

10 16–101.

11 (a) In this title the following words have the meanings indicated.

12 (b) “Cigarette” means any size or shaped roll for smoking that is made of tobacco
 13 or tobacco mixed with another ingredient and wrapped in paper or in any other material
 14 except tobacco.

15 (c) “County license” means a license issued by the clerk to sell cigarettes at retail
 16 in a county.

17 **(D) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE**
 18 **ALCOHOL, TOBACCO, AND MOTOR FUEL COMMISSION.**

19 **[(d)] (E)** “Sell” means to exchange or transfer, or to agree to exchange or
 20 transfer, title or possession of property, in any manner or by any means, for consideration.

21 **[(e)] (F)** (1) “Sell cigarettes at retail” means to sell cigarettes to a consumer.

22 (2) “Sell cigarettes at retail” includes selling cigarettes through a vending
 23 machine.

24 16–102.

25 The [Comptroller] **EXECUTIVE DIRECTOR** may delegate any power or duty of the
 26 [Comptroller] **EXECUTIVE DIRECTOR** under this title.

27 16–201.

28 (a) In this subtitle the following words have the meanings indicated.

29 (b) “License” means:

30 (1) a license issued by the [Comptroller] **EXECUTIVE DIRECTOR** under §

1 16–205(a) of this subtitle to:

- 2 (i) act as a manufacturer;
- 3 (ii) act as a subwholesaler;
- 4 (iii) act as a vending machine operator;
- 5 (iv) act as a wholesaler; or
- 6 (v) act as a storage warehouse; or

7 (2) a license issued by the clerk under § 16–205(b) of this subtitle to act as
8 a retailer.

9 (c) “Licensed manufacturer” means a person licensed by the [Comptroller]
10 **EXECUTIVE DIRECTOR** under § 16–205(a) of this subtitle to act as a manufacturer.

11 (d) “Licensed retailer” means a person licensed by the clerk under § 16–205(b) of
12 this subtitle to act as a retailer.

13 (e) “Licensed storage warehouse” means a facility licensed by the [Comptroller]
14 **EXECUTIVE DIRECTOR** under § 16–205(a) of this subtitle to act as a storage warehouse.

15 (f) “Licensed subwholesaler” means a person licensed by the [Comptroller]
16 **EXECUTIVE DIRECTOR** under § 16–205(a) of this subtitle to act as a subwholesaler.

17 (g) “Licensed vending machine operator” means a person licensed by the
18 [Comptroller] **EXECUTIVE DIRECTOR** under § 16–205(a) of this subtitle to act as a
19 vending machine operator.

20 (h) “Licensed wholesaler” means a person licensed by the [Comptroller]
21 **EXECUTIVE DIRECTOR** under § 16–205(a) of this subtitle to act as a wholesaler.

22 (i) “Manufacturer” means a person who:

23 (1) (i) operates one or more cigarette manufacturing plants; or

24 (ii) is a participating manufacturer; and

25 (2) (i) sells unstamped cigarettes to a licensed cigarette wholesaler
26 located in Maryland;

27 (ii) sells unstamped cigarettes that may lawfully be sold in Maryland
28 to a licensed cigarette wholesaler located outside of Maryland;

1 (iii) unless otherwise prohibited or restricted under local law, this
2 article, or the Criminal Law Article, distributes sample cigarettes to consumers located in
3 Maryland; or

4 (iv) stores unstamped cigarettes in a cigarette storage warehouse in
5 Maryland for subsequent shipment to licensed wholesalers, federal reservations, or persons
6 out of state.

7 (j) “Participating manufacturer” has the meaning stated in § 16–501 of this title.

8 (k) “Retailer” means a person who:

9 (1) sells cigarettes to consumers through vending machines on fewer than
10 40 premises;

11 (2) otherwise sells cigarettes to consumers; or

12 (3) holds cigarettes for sale to consumers.

13 (l) “Stamped cigarettes” means a package of cigarettes to which tobacco tax
14 stamps are affixed in the amount and manner required by § 12–304 of the Tax – General
15 Article.

16 (m) “Storage warehouse” means a storage facility in Maryland operated for the
17 purpose of storing unstamped cigarettes on behalf of a licensed cigarette manufacturer.

18 (n) (1) “Subwholesaler” means a person who:

19 (i) holds stamped cigarettes for sale to another person for resale; or

20 (ii) sells stamped cigarettes to another person for resale.

21 (2) “Subwholesaler” does not include a person who sells unstamped
22 cigarettes or holds unstamped cigarettes for sale.

23 (o) “Unstamped cigarettes” means a package of cigarettes to which tobacco tax
24 stamps are not affixed in the amount and manner required by § 12–304 of the Tax – General
25 Article.

26 (p) “Vending machine operator” means a person who:

27 (1) holds cigarettes for sale to consumers through vending machines on 40
28 or more premises; or

29 (2) sells cigarettes to consumers through vending machines on 40 or more
30 premises.

1 (q) “Wholesaler” means a person who:

2 (1) holds cigarettes for sale to another person for resale; or

3 (2) sells cigarettes to another person for resale.

4 16–204.

5 (a) An applicant for a license to act as a manufacturer shall:

6 (1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on
7 the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR**
8 requires; and

9 (2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$25.

10 (b) (1) An applicant for a license to act as a retailer shall:

11 (i) obtain the county license required under § 16–301 of this title;

12 (ii) submit to the clerk an application for each permanent or
13 temporary place of business located in the same enclosure and operated by the same
14 applicant; and

15 (iii) pay to the clerk a fee of \$30.

16 (2) The application shall:

17 (i) be made on the form that the clerk requires; and

18 (ii) contain the information that the [Comptroller] **EXECUTIVE**
19 **DIRECTOR** requires.

20 (c) An applicant for a license to act as a storage warehouse shall:

21 (1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on
22 the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR**
23 requires; and

24 (2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$25.

25 (d) An applicant for a license to act as a subwholesaler shall:

26 (1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on
27 the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR**
28 requires; and

- 1 (2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of:
- 2 (i) \$500 for a 1–year term; or
- 3 (ii) the amount that results when \$500 is prorated to the nearest
4 month, if the application is for less than a 1–year term.
- 5 (e) An applicant for a license to act as a vending machine operator shall:
- 6 (1) obtain the county license required under § 16–301 of this title;
- 7 (2) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on
8 the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR**
9 requires; and
- 10 (3) pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$500.
- 11 (f) An applicant for a license to act as a wholesaler shall:
- 12 (1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on
13 the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR**
14 requires; and
- 15 (2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$750.
- 16 (g) If a person has had a license revoked under § 16–210 of this subtitle, the
17 person may not reapply for a license within 1 year after the date when the prior license was
18 revoked.
- 19 (h) (1) In addition to the license fee otherwise required under this section:
- 20 (i) an applicant for the initial issuance of a license issued by the
21 [Comptroller] **EXECUTIVE DIRECTOR** under this title shall pay to the [Comptroller]
22 **EXECUTIVE DIRECTOR** a nonrefundable application fee of \$200; and
- 23 (ii) an applicant for renewal of a license issued by the [Comptroller]
24 **EXECUTIVE DIRECTOR** under this title shall pay to the [Comptroller] **EXECUTIVE**
25 **DIRECTOR** a renewal fee of \$30.
- 26 (2) The application and renewal fees required under this subsection do not
27 apply to a license that is issued by the clerk or to a storage warehouse license application.
- 28 16–205.
- 29 (a) The [Comptroller] **EXECUTIVE DIRECTOR** shall issue an appropriate license

1 to each applicant who meets the requirements of this subtitle for a license to act as a
2 manufacturer, storage warehouse, subwholesaler, vending machine operator, or
3 wholesaler.

4 (b) The clerk shall issue to each applicant who meets the requirements of this
5 subtitle a license to act as a retailer.

6 (c) The [Comptroller's Office] **EXECUTIVE DIRECTOR** shall provide to the
7 Prevention and Health Promotion Administration each year the name and address of each
8 person licensed under subsection (b) of this section.

9 16–206.

10 (a) A manufacturer license authorizes the licensee to:

11 (4) upon approval of the [Comptroller] **EXECUTIVE DIRECTOR**, act as an
12 agent of a Maryland licensed wholesaler for stamping and distribution of cigarettes.

13 (f) A wholesaler license authorizes the licensee to:

14 (6) sell unstamped cigarettes to another licensed wholesaler if the
15 [Comptroller] **EXECUTIVE DIRECTOR** specifically authorizes;

16 (7) upon approval of the [Comptroller] **EXECUTIVE DIRECTOR**, designate
17 a licensed manufacturer to act as its agent for the stamping and distribution of cigarettes;
18 and

19 16–207.

20 (c) Before a license issued under this subtitle expires, the licensee may renew it
21 for an additional 1-year term, if the licensee:

22 (3) pays to the issuing official:

23 (i) the license fee required under § 16–204 of this subtitle; and

24 (ii) if the license is issued by the [Comptroller] **EXECUTIVE**
25 **DIRECTOR**, the renewal fee required under § 16–204(h) of this subtitle.

26 16–208.

27 (a) (1) A licensed retailer or licensed vending machine operator may not assign
28 the license.

29 (2) If a licensed subwholesaler or licensed wholesaler sells the licensee's
30 cigarette business and pays to the [Comptroller] **EXECUTIVE DIRECTOR** a license

1 assignment fee of \$10, the licensee may assign the license to the buyer of the business.

2 (b) If the cigarette business of a licensee is transferred because of bankruptcy,
3 death, incompetency, receivership, or otherwise by operation of law, the [Comptroller]
4 **EXECUTIVE DIRECTOR** shall transfer the license without charge to the new owner of the
5 licensee's business.

6 (c) (1) If a licensed subwholesaler or licensed wholesaler surrenders the
7 license to the Comptroller and if no disciplinary proceedings are pending against the
8 licensee, the [Comptroller] **EXECUTIVE DIRECTOR** shall refund a pro rata part of the
9 license fee for the unexpired term of the license.

10 (2) A licensed retailer or licensed vending machine operator is not allowed
11 a refund for the unexpired term of the license.

12 16–209.

13 (a) A licensee shall display a license in the way that the [Comptroller]
14 **EXECUTIVE DIRECTOR** requires by regulation.

15 (b) A licensee who sells cigarettes through a vending machine:

16 (1) shall place each package of cigarettes in the machine so that when the
17 package is visible the tax stamps required by § 12–304 of the Tax – General Article are also
18 visible; and

19 (2) in the way that the [Comptroller] **EXECUTIVE DIRECTOR** requires by
20 regulation, shall:

21 (i) identify each vending machine with a conspicuous label that
22 states the licensee's name, address, and telephone number; and

23 (ii) display on a conspicuous label applicable prohibitions and
24 penalties under § 10–107 of the Criminal Law Article.

25 16–210.

26 (a) Subject to the hearing provisions of § 16–211 of this subtitle, the [Comptroller]
27 **EXECUTIVE DIRECTOR** may deny a license to an applicant, reprimand a licensee, or
28 suspend or revoke a license if the applicant or licensee:

29 (1) fraudulently or deceptively obtains or attempts to obtain a license for
30 the applicant or licensee or for another person;

31 (2) fraudulently or deceptively uses a license;

1 (3) fails to comply with the Maryland Cigarette Sales Below Cost Act or
2 regulations adopted under that Act;

3 (4) fails to comply with the provisions of Title 11, Subtitle 5A of the
4 Commercial Law Article;

5 (5) buys cigarettes for resale:

6 (i) in violation of a license; or

7 (ii) from a person who is not a licensed cigarette manufacturer,
8 licensed subwholesaler, licensed vending machine operator, or licensed wholesaler;

9 (6) is convicted, under the laws of the United States or of any other state,
10 of:

11 (i) a felony; or

12 (ii) a misdemeanor that is a crime of moral turpitude and is directly
13 related to the fitness and qualification of the applicant or licensee; or

14 (7) has not paid a tax due before October 1 of the year after the tax became
15 due.

16 (b) Subject to the hearing provisions of § 16–211 of this subtitle, the [Comptroller]
17 **EXECUTIVE DIRECTOR** may suspend or revoke a license if the licensee violates:

18 (1) Title 12 of the Tax – General Article, or regulations adopted under that
19 title; or

20 (2) this title or regulations adopted under this title.

21 (c) Subject to the hearing provisions of § 16–211 of this subtitle, the [Comptroller]
22 **EXECUTIVE DIRECTOR** shall deny a license to any applicant who has had a license
23 revoked under this section until:

24 (1) 1 year has passed since the license was revoked; and

25 (2) it satisfactorily appears to the [Comptroller] **EXECUTIVE DIRECTOR**
26 that the applicant will comply with this title and any regulations adopted under this title.

27 (d) Prior to the issuance or renewal of any license, the [Comptroller] **EXECUTIVE**
28 **DIRECTOR** shall conduct an investigation with regard to:

29 (1) the applicant;

1 (2) the business to be operated; and

2 (3) the facts set forth in the application.

3 16–211.

4 (a) Except as otherwise provided in § 10–226 of the State Government Article,
5 before the [Comptroller] **EXECUTIVE DIRECTOR** takes any final action under § 16–210 of
6 this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall give the person against
7 whom the action is contemplated an opportunity for a hearing before the [Comptroller]
8 **EXECUTIVE DIRECTOR**.

9 (b) The [Comptroller] **EXECUTIVE DIRECTOR** shall give notice and hold the
10 hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

11 (c) The [Comptroller] **EXECUTIVE DIRECTOR** may administer oaths in a
12 proceeding under this section.

13 (d) The person against whom the action is contemplated may be represented at
14 the hearing by counsel.

15 (e) If, after due notice, the person against whom the action is contemplated does
16 not appear, nevertheless the [Comptroller] **EXECUTIVE DIRECTOR** may hear and
17 determine the matter.

18 16–212.

19 (a) Subject to the notice requirement of subsection (c) of this section, if a licensee
20 engages in an act or omission that is a ground for discipline under § 16–210 of this subtitle,
21 the [Comptroller] **EXECUTIVE DIRECTOR** may suspend the license for a consecutive
22 period that:

23 (1) for a first offense, is not less than 5 nor more than 20 business days; or

24 (2) for a subsequent offense, is not less than 20 business days nor more
25 than 6 months.

26 (b) Subject to the notice requirement under subsection (c) of this section, the
27 [Comptroller] **EXECUTIVE DIRECTOR** may revoke a license if a licensee:

28 (1) willfully and persistently engages in an act or omission that is a ground
29 for discipline under § 16–210(a) of this subtitle; or

30 (2) violates this title or Title 12 of the Tax – General Article, or regulations
31 adopted under these titles.

1 (c) If a license is suspended or revoked under this section:

2 (1) the [Comptroller] **EXECUTIVE DIRECTOR** shall give the licensee
3 notice of the suspension or revocation; and

4 (2) the suspension or revocation may not take effect until at least 5
5 business days following notice of the suspension or revocation.

6 (d) The transfer, renewal, or expiration of a license will not bar or abate a
7 disciplinary action under this section.

8 (e) (1) Except for a violation of § 10–107 of the Criminal Law Article, whenever
9 any license issued under the provisions of this subtitle is suspended or revoked by the
10 [Comptroller] **EXECUTIVE DIRECTOR**, the licensee may, before the effective date of the
11 suspension or revocation, petition the [Comptroller] **EXECUTIVE DIRECTOR** for
12 permission to make an offer of compromise consisting of a sum of money in lieu of serving
13 the suspension or revocation.

14 (2) Money paid in lieu of suspension or revocation shall be paid into the
15 General Fund of the State.

16 (3) An offer of compromise shall not exceed \$2,000 in the case of retail
17 licensees, and shall not exceed \$50,000 for other licensees.

18 (4) The [Comptroller] **EXECUTIVE DIRECTOR** may accept the offer of
19 compromise if:

20 (i) the public welfare and morals would not be impaired by allowing
21 the licensee to operate during the period set for the suspension or revocation; and

22 (ii) the payment of the sum of money will achieve the desired
23 disciplinary purposes.

24 (5) The [Comptroller] **EXECUTIVE DIRECTOR** may promulgate rules and
25 regulations necessary to carry out the purposes of this subsection.

26 16–213.

27 A party to a proceeding before the [Comptroller] **EXECUTIVE DIRECTOR** who is
28 aggrieved by a final decision of the [Comptroller] **EXECUTIVE DIRECTOR** in a contested
29 case, as defined in § 10–202 of the State Government Article, may take an appeal as allowed
30 in §§ 10–222 and 10–223 of the State Government Article.

31 16–216.

32 (a) The [Comptroller] **EXECUTIVE DIRECTOR** shall pay into the General Fund

1 of the State all license fees collected under this title.

2 16–218.

3 (b) (1) Except as provided in paragraph (2) of this subsection, each
4 subwholesaler and each wholesaler shall make an inventory record each month of all
5 cigarettes on the premises or under the control of the subwholesaler or wholesaler:

6 (i) at the beginning or end of the month; or

7 (ii) on another specific day of the month, if the subwholesaler or
8 wholesaler finds it more practical to take inventory on that day and notifies the
9 [Comptroller] **EXECUTIVE DIRECTOR** that inventory will be taken on that day.

10 (2) Cigarettes in a vending machine or cigarettes transferred to retail stock
11 by written memorandum need not be included in the inventory record.

12 (c) Each subwholesaler and each wholesaler shall:

13 (1) keep the records required by this section for 6 years or for a shorter time
14 set by the [Comptroller] **EXECUTIVE DIRECTOR**; and

15 (2) allow the [Comptroller] **EXECUTIVE DIRECTOR** to examine the
16 records.

17 16–219.

18 (b) The [Comptroller] **EXECUTIVE DIRECTOR** by regulation may require a
19 common carrier that brings cigarettes into the State to submit to the [Comptroller]
20 **EXECUTIVE DIRECTOR** a copy of any freight bill relating to the cigarette shipment.

21 16–220.

22 (a) The [Comptroller] **EXECUTIVE DIRECTOR** shall seal a vending machine to
23 prevent the sale or removal of cigarettes from the machine if:

24 (1) a tax stamp is not visible on each visible package of cigarettes in the
25 machine, as required by § 16–209(b)(1) of this subtitle; or

26 (2) the machine is not labeled as required by § 16–209(b)(2) of this subtitle.

27 (b) If the violation for which a vending machine is sealed has been corrected in
28 the presence of the [Comptroller] **EXECUTIVE DIRECTOR** or the [Comptroller's]
29 **EXECUTIVE DIRECTOR'S** designee, the [Comptroller] **EXECUTIVE DIRECTOR** shall
30 remove the seal.

1 16-221.

2 (a) Except as otherwise provided in § 16-220 of this subtitle, a person may not
3 remove or tamper with a seal placed on a vending machine by the [Comptroller]
4 **EXECUTIVE DIRECTOR**.

5 (b) A person who willfully violates this section is guilty of a misdemeanor and, on
6 conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year
7 or both.

8 16-222.

9 (a) A person may not ship, import, or sell into or within this State any brand of
10 cigarette unless that person:

11 (1) (i) is the owner of the brand;

12 (ii) is the United States importer for the brand; or

13 (iii) is a designated agent in Maryland of:

14 1. the owner of the brand; or

15 2. the United States importer of the brand; and

16 (2) holds any license required by this subtitle.

17 (b) A person who ships, imports, or sells cigarettes into or within this State:

18 (1) shall comply with any federal and State requirements concerning the
19 placement of warning labels or other information on the containers or individual packages
20 of cigarettes; and

21 (2) shall ensure that the containers or individual packages of cigarettes do
22 not contain any information or markings that are false, misleading, or contrary to:

23 (i) federal trademark or tax laws;

24 (ii) the trademark law of this State under Title 1, Subtitle 4 of this
25 article; or

26 (iii) the tax laws of this State under Title 12 of the Tax – General
27 Article.

28 (c) A person who ships, imports, or sells cigarettes into or within this State in
29 violation of this section is subject to disciplinary action by the [Comptroller] **EXECUTIVE**
30 **DIRECTOR** under § 16-210 of this subtitle and to the penalty specified in § 13-1015 of the

1 Tax – General Article.

2 16–223.

3 (c) (1) A licensee who sells or ships cigarettes in violation of this section or
4 causes cigarettes to be shipped in violation of this section is:

5 (i) subject to discipline by the [Comptroller] **EXECUTIVE**
6 **DIRECTOR** under § 16–210 of this subtitle; and

7 (ii) guilty of a felony and, on conviction, is subject to a fine not
8 exceeding \$50 for each carton of cigarettes transported or imprisonment not exceeding 2
9 years or both.

10 (2) A person other than a licensee who sells or ships cigarettes in violation
11 of this section or causes cigarettes to be shipped in violation of this section is guilty of a
12 felony and, on conviction, is subject to a fine not exceeding \$50 for each carton of cigarettes
13 transported or imprisonment not exceeding 2 years or both.

14 16–302.

15 (b) (1) From each license fee collected under subsection (a) of this section, the
16 Clerk of the Circuit Court for Montgomery County shall distribute:

17 (i) \$25 to the [Comptroller] **EXECUTIVE DIRECTOR**; and

18 (ii) \$100 to Montgomery County to be used to enforce existing laws
19 banning the sale or distribution of tobacco or tobacco products to minors.

20 (2) Funds distributed under paragraph (1)(ii) of this subsection may not be
21 used to supplant existing funding for the enforcement of laws banning the sale or
22 distribution of tobacco or tobacco products to minors.

23 16–306.

24 Subject to the hearing provisions of § 16–307 of this subtitle, the [Comptroller]
25 **EXECUTIVE DIRECTOR** may deny a county license to an applicant, reprimand a county
26 licensee, or suspend or revoke a county license if the applicant or licensee:

27 (1) fraudulently or deceptively obtains or attempts to obtain a license for
28 the applicant or licensee or for another person;

29 (2) fraudulently or deceptively uses a license;

30 (3) violates § 16–308.1 of this subtitle; or

31 (4) fails to comply with the Maryland Cigarette Sales Below Cost Act and

1 regulations adopted under it.

2 16–307.

3 (a) Except as otherwise provided in § 10–226 of the State Government Article,
4 before the [Comptroller] **EXECUTIVE DIRECTOR** takes any final action under § 16–306 of
5 this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall give the person against
6 whom the action is contemplated an opportunity for a hearing before the [Comptroller]
7 **EXECUTIVE DIRECTOR**.

8 (b) The [Comptroller] **EXECUTIVE DIRECTOR** shall give notice and hold the
9 hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

10 (c) The [Comptroller] **EXECUTIVE DIRECTOR** may administer oaths in a
11 proceeding under this section.

12 (d) The person against whom the action is contemplated may be represented at
13 the hearing by counsel.

14 (e) If, after due notice, the person against whom the action is contemplated does
15 not appear, nevertheless the [Comptroller] **EXECUTIVE DIRECTOR** may hear and
16 determine the matter.

17 16–308.1.

18 (b) Authorized employees of the Field Enforcement Division of the
19 [Comptroller's] **EXECUTIVE DIRECTOR'S** Office may enforce the provisions of subsection
20 (a) of this section.

21 16–3B–01.

22 (a) A person may not violate a regulation adopted by the [Comptroller]
23 **EXECUTIVE DIRECTOR** that applies to a person who sells cigarettes at retail.

24 (b) A person who violates this section is guilty of a misdemeanor and, on
25 conviction, is subject to a fine of \$100.

26 16.5–101.

27 (a) In this title the following words have the meanings indicated.

28 (b) “County license” means a license issued by the clerk to sell other tobacco
29 products at retail in a county.

30 (c) “**EXECUTIVE DIRECTOR**” MEANS THE **EXECUTIVE DIRECTOR OF THE**
31 **ALCOHOL, TOBACCO, AND MOTOR FUEL COMMISSION.**

1 **[(c)] (D)** “License” means:

2 (1) a license issued by the **[Comptroller] EXECUTIVE DIRECTOR** under §
3 16.5–204(a) of this title to:

4 (i) act as a licensed other tobacco products manufacturer;

5 (ii) act as an other tobacco products wholesaler; or

6 (iii) act as an other tobacco products storage warehouse; or

7 (2) a license issued by the clerk under § 16.5–204(b) of this title to act as
8 an other tobacco products retailer or a tobacconist.

9 **[(d)] (E)** “Licensed other tobacco products manufacturer” means a person
10 licensed by the **[Comptroller] EXECUTIVE DIRECTOR** under § 16.5–204(a) of this title
11 who:

12 (1) manufactures or otherwise produces other tobacco products in the State
13 intended for sale in the State, including other tobacco products intended for sale in the
14 State through an importer; and

15 (2) (i) sells other tobacco products on which the tobacco tax has not
16 been paid to a licensed other tobacco products wholesaler in the State;

17 (ii) sells other tobacco products on which the tobacco tax has not
18 been paid and which may lawfully be sold in the State to a licensed other tobacco products
19 wholesaler located outside of the State;

20 (iii) unless otherwise prohibited or restricted under local law, this
21 article, or the Criminal Law Article, distributes sample other tobacco products to
22 consumers located in the State; or

23 (iv) stores other tobacco products in **[an other] ANOTHER** tobacco
24 products warehouse in the State for subsequent shipment to licensed wholesalers, federal
25 reservations, or persons outside of the State.

26 **[(e)] (F)** “Licensed other tobacco products retailer” means a person licensed by
27 the clerk under § 16.5–204(b) of this title to act as an other tobacco products retailer.

28 **[(f)] (G)** “Licensed other tobacco products storage warehouse” means a facility
29 licensed by the **[Comptroller] EXECUTIVE DIRECTOR** under § 16.5–204(a) of this title to
30 act as an other tobacco products storage warehouse.

31 **[(g)] (H)** “Licensed other tobacco products wholesaler” means a person licensed

1 by the [Comptroller] **EXECUTIVE DIRECTOR** under § 16.5–204(a) of this title to act as an
2 other tobacco products wholesaler.

3 **[(h)] (I)** “Licensed tobacconist” means a person licensed by the clerk of a circuit
4 court under § 16.5–204(b) of this title to act as a tobacconist.

5 **[(i)] (J)** “Other tobacco products” means:

6 (1) any cigar or roll for smoking, other than a cigarette, made in whole or
7 in part of tobacco; or

8 (2) any other tobacco or product made primarily from tobacco, other than a
9 cigarette, that is intended for consumption by smoking or chewing or as snuff.

10 **[(j)] (K)** “Other tobacco products manufacturer” means a person who:

11 (1) manufactures or otherwise produces other tobacco products intended
12 for sale in this State, including other tobacco products intended for sale in the United States
13 through an importer;

14 (2) (i) sells other tobacco products on which the tobacco tax has not
15 been paid to a licensed other tobacco products wholesaler in Maryland;

16 (ii) sells other tobacco products on which the tobacco tax has not
17 been paid and which may lawfully be sold in Maryland to a licensed other tobacco products
18 wholesaler located outside Maryland;

19 (iii) unless otherwise prohibited or restricted under local law, this
20 article, or the Criminal Law Article, distributes sample other tobacco products to
21 consumers located in Maryland; or

22 (iv) stores other tobacco products in [an other] **ANOTHER** tobacco
23 products storage warehouse in Maryland for subsequent shipment to licensed other tobacco
24 products wholesalers, federal reservations, or persons out of state; or

25 (3) is a licensed other tobacco products manufacturer under this title.

26 **[(k)] (L)** “Other tobacco products retailer” means a person who:

27 (1) sells other tobacco products to consumers; or

28 (2) holds other tobacco products for sale to consumers.

29 **[(l)] (M)** “Other tobacco products storage warehouse” means a storage facility in
30 Maryland operated for the purpose of storing other tobacco products on which the tobacco
31 tax has not been paid on behalf of another tobacco products manufacturer.

1 ~~[(m)]~~ **(N)** “Other tobacco products wholesaler” means a person who:

2 (1) holds other tobacco products for sale to another person for resale; or

3 (2) sells other tobacco products to another person for resale.

4 ~~[(n)]~~ **(O)** (1) “Package” means a pack, box, carton, can, wrap, pouch, bag, or
5 container of any kind designed for retail consumption in which other tobacco products are
6 offered for sale, sold, or otherwise distributed.

7 (2) “Package” includes not more than 10 cigars offered for sale, sold, or
8 distributed as single cigars.

9 ~~[(o)]~~ **(P)** “Pipe tobacco” means any tobacco that, because of its appearance, type,
10 packaging, or labeling, is suitable for use and likely to be offered to, or purchased by,
11 consumers as tobacco to smoke in a pipe.

12 ~~[(p)]~~ **(Q)** “Premium cigars” means cigars that:

13 (1) have hand-rolled wrappers made from whole tobacco leaves where the
14 filler, binder, and wrapper are made of all tobacco, and may include adhesives or other
15 materials used to maintain size, texture, or flavor; or

16 (2) are designated as premium cigars by the ~~[Comptroller]~~ **EXECUTIVE**
17 **DIRECTOR** by regulation.

18 ~~[(q)]~~ **(R)** “Sell” means to exchange or transfer, or to agree to exchange or
19 transfer, title or possession of property, in any manner or by any means, for consideration.

20 ~~[(r)]~~ **(S)** “Sell other tobacco products at retail” means to sell other tobacco
21 products to a consumer.

22 ~~[(s)]~~ **(T)** “Tobacconist” means an other tobacco products business that derives at
23 least 70% of its revenues, measured by average daily receipts, from the sale of other tobacco
24 products and tobacco-related accessories.

25 16.5–102.

26 The ~~[Comptroller]~~ **EXECUTIVE DIRECTOR** may delegate any power or duty of the
27 ~~[Comptroller under this title]~~ **EXECUTIVE DIRECTOR**.

28 16.5–203.

29 (a) An applicant for a license to act as a licensed other tobacco products
30 manufacturer shall:

1 (1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on
2 the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR**
3 requires; and

4 (2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$25.

5 (b) (1) An applicant for a license to act as an other tobacco products retailer or
6 a tobacconist:

7 (i) shall obtain a county license by submitting to the clerk an
8 application for each permanent or temporary place of business located in the same
9 enclosure and operated by the same applicant; and

10 (ii) except as provided in paragraph (2) of this subsection, shall pay
11 to the clerk a fee of \$15.

12 (2) A person who has a license issued under Title 16 of this article to act as
13 a cigarette retailer or to act as a special cigarette retailer is not required to pay the license
14 fee.

15 (3) The application shall:

16 (i) be made on the form that the clerk requires; and

17 (ii) contain the information that the [Comptroller] **EXECUTIVE**
18 **DIRECTOR** requires.

19 (c) An applicant for a license to act as an other tobacco products storage
20 warehouse shall:

21 (1) submit an application to the [Comptroller] **EXECUTIVE DIRECTOR** on
22 the form and containing the information that the [Comptroller] **EXECUTIVE DIRECTOR**
23 requires; and

24 (2) pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$25.

25 (d) (1) An applicant for a license to act as an other tobacco products wholesaler
26 shall:

27 (i) submit an application to the [Comptroller] **EXECUTIVE**
28 **DIRECTOR** on the form and containing the information that the [Comptroller]
29 **EXECUTIVE DIRECTOR** requires; and

30 (ii) except as provided in paragraph (2) of this subsection, pay to the
31 [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$250.

1 (2) A person who has a license issued under Title 16 of this article to act as
2 a cigarette wholesaler or to act as a cigarette subwholesaler is not required to pay the
3 license fee.

4 (e) A licensee shall display a license in the way that the [Comptroller]
5 **EXECUTIVE DIRECTOR** requires by regulation.

6 (f) If a person has had a license revoked under § 16.5–208 of this subtitle, the
7 person may not reapply for a license within 1 year after the date when the prior license was
8 revoked.

9 16.5–204.

10 (a) The [Comptroller] **EXECUTIVE DIRECTOR** shall issue an appropriate license
11 to each applicant who meets the requirements of this subtitle for a license to act as a
12 licensed other tobacco products manufacturer, other tobacco products storage warehouse,
13 or other tobacco products wholesaler.

14 16.5–205.

15 (a) An other tobacco products manufacturer may:

16 (5) on approval of the [Comptroller] **EXECUTIVE DIRECTOR**, act as an
17 agent of a Maryland other tobacco products wholesaler for distribution of other tobacco
18 products.

19 (d) An other tobacco products wholesaler license authorizes the licensee to:

20 (5) sell other tobacco products on which the tobacco tax has not been paid
21 to another licensed other tobacco products wholesaler if the [Comptroller] **EXECUTIVE**
22 **DIRECTOR** specifically authorizes; and

23 16.5–207.

24 (a) (1) A licensed other tobacco products retailer or a licensed tobacconist may
25 not assign the license.

26 (2) If a licensed other tobacco products wholesaler sells the licensee's other
27 tobacco products business and pays to the [Comptroller] **EXECUTIVE DIRECTOR** a license
28 assignment fee of \$10, the licensee may assign the license to the buyer of the business, if
29 the buyer otherwise qualifies under this title for an other tobacco products wholesaler's
30 license.

31 (b) If the other tobacco products business of a licensee is transferred because of
32 bankruptcy, death, incompetency, receivership, or otherwise by operation of law, the

1 [Comptroller] **EXECUTIVE DIRECTOR** shall transfer the license without charge to the new
2 owner of the licensee's business, if the transferee otherwise qualifies under this title for the
3 license being transferred.

4 (c) (1) If a licensed other tobacco products wholesaler surrenders the license
5 to the [Comptroller] **EXECUTIVE DIRECTOR** and if no disciplinary proceedings are
6 pending against the licensee, the [Comptroller] **EXECUTIVE DIRECTOR** shall refund a pro
7 rata part of the license fee for the unexpired term of the license.

8 (2) A licensed other tobacco products retailer or a licensed tobacconist is
9 not allowed a refund for the unexpired term of the license.

10 16.5–208.

11 (a) Subject to the hearing provisions of § 16.5–209 of this subtitle, the
12 [Comptroller] **EXECUTIVE DIRECTOR** may deny a license to an applicant, reprimand a
13 licensee, or suspend or revoke a license if the applicant or licensee:

14 (1) fraudulently or deceptively obtains or attempts to obtain a license for
15 the applicant or licensee or for another person;

16 (2) fraudulently or deceptively uses a license;

17 (3) buys other tobacco products for resale:

18 (i) in violation of a license; or

19 (ii) from a person who is not an other tobacco products manufacturer
20 or licensed other tobacco products wholesaler;

21 (4) is convicted, under the laws of the United States or of any other state,
22 of:

23 (i) a felony; or

24 (ii) a misdemeanor that is a crime of moral turpitude and is directly
25 related to the fitness and qualification of the applicant or licensee;

26 (5) violates Title 12 of the Tax – General Article or regulations adopted
27 under that title; or

28 (6) violates this title or Title 16 of this article or regulations adopted under
29 these titles.

30 (b) Subject to the hearing provisions of § 16.5–209 of this subtitle, the
31 [Comptroller] **EXECUTIVE DIRECTOR** shall deny a license to any applicant who has had
32 a license revoked under this section until:

1 (1) 1 year has passed since the license was revoked; and

2 (2) it satisfactorily appears to the [Comptroller] **EXECUTIVE DIRECTOR**
3 that the applicant will comply with this title and any regulations adopted under this title.

4 (c) Prior to the issuance or renewal of any license, the [Comptroller] **EXECUTIVE**
5 **DIRECTOR** shall conduct an investigation with regard to:

6 (1) the applicant;

7 (2) the business to be operated; and

8 (3) the facts set forth in the application.

9 16.5–209.

10 (a) Except as otherwise provided in § 10–226 of the State Government Article,
11 before the [Comptroller] **EXECUTIVE DIRECTOR** takes any final action under § 16.5–208
12 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall give the person against
13 whom the action is contemplated an opportunity for a hearing before the [Comptroller]
14 **EXECUTIVE DIRECTOR**.

15 (b) The [Comptroller] **EXECUTIVE DIRECTOR** shall give notice and hold the
16 hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

17 (c) The [Comptroller] **EXECUTIVE DIRECTOR** may administer oaths in a
18 proceeding under this section.

19 (d) The person against whom the action is contemplated may be represented at
20 the hearing by counsel.

21 (e) If, after due notice, the person against whom the action is contemplated does
22 not appear, nevertheless the [Comptroller] **EXECUTIVE DIRECTOR** may hear and
23 determine the matter.

24 16.5–210.

25 (a) Subject to the notice requirement of subsection (c) of this section, if a licensee
26 engages in an act or omission that is a ground for discipline under § 16.5–208 of this
27 subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** may suspend the license for a
28 consecutive period that:

29 (1) for a first offense, is not less than 5 nor more than 20 business days; or

30 (2) for a subsequent offense, is not less than 20 business days nor more

1 than 6 months.

2 (b) Subject to the notice requirement under subsection (c) of this section, the
3 [Comptroller] **EXECUTIVE DIRECTOR** may revoke a license if a licensee:

4 (1) willfully and persistently engages in an act or omission that is a ground
5 for discipline under § 16.5–208(a) of this subtitle; or

6 (2) violates this title or Title 12 of the Tax – General Article or regulations
7 adopted under these titles.

8 (c) If a license is suspended or revoked under this section:

9 (1) the [Comptroller] **EXECUTIVE DIRECTOR** shall give the licensee
10 notice of the suspension or revocation; and

11 (2) the suspension or revocation may not take effect until at least 5
12 business days following notice of the suspension or revocation.

13 (d) The transfer, renewal, or expiration of a license will not bar or abate a
14 disciplinary action under this section.

15 (e) (1) Except for a violation of § 10–107 of the Criminal Law Article, whenever
16 any license issued under the provisions of this subtitle is suspended or revoked by the
17 [Comptroller] **EXECUTIVE DIRECTOR**, the licensee may, before the effective date of the
18 suspension or revocation, petition the [Comptroller] **EXECUTIVE DIRECTOR** for
19 permission to make an offer of compromise consisting of a sum of money in lieu of serving
20 the suspension or revocation.

21 (2) Money paid in lieu of suspension or revocation shall be paid into the
22 General Fund of the State.

23 (3) An offer of compromise may not exceed \$2,000 in the case of retail
24 licensees and may not exceed \$50,000 for other licensees.

25 (4) The [Comptroller] **EXECUTIVE DIRECTOR** may accept the offer of
26 compromise if:

27 (i) the public welfare and morals would not be impaired by allowing
28 the licensee to operate during the period set for the suspension or revocation; and

29 (ii) the payment of the sum of money will achieve the desired
30 disciplinary purposes.

31 (5) The [Comptroller] **EXECUTIVE DIRECTOR** may adopt regulations to
32 carry out this subsection.

1 16.5–211.

2 A party to a proceeding before the [Comptroller] **EXECUTIVE DIRECTOR** who is
3 aggrieved by a final decision of the [Comptroller] **EXECUTIVE DIRECTOR** in a contested
4 case, as defined in § 10–202 of the State Government Article, is entitled to judicial review
5 as provided in §§ 10–222 and 10–223 of the State Government Article.

6 16.5–213.

7 (a) (1) The [Comptroller] **EXECUTIVE DIRECTOR** shall pay into the General
8 Fund of the State all license fees collected under this title.

9 (2) All license fees collected by the counties are subject to the distribution
10 provisions of § 17–206 of this article.

11 (b) The General Assembly intends that these license fees be used to administer
12 this title.

13 16.5–214.

14 (b) (1) Except as provided in paragraph (2) of this subsection, each other
15 tobacco products wholesaler shall make an inventory record each month of all other tobacco
16 products on the premises or under the control of the other tobacco products wholesaler:

17 (i) at the beginning or end of the month; or

18 (ii) on another specific day of the month, if the other tobacco products
19 wholesaler finds it more practical to take inventory on that day and notifies the
20 [Comptroller] **EXECUTIVE DIRECTOR** that inventory will be taken on that day.

21 (2) Other tobacco products transferred to retail stock by written
22 memorandum need not be included in the inventory record.

23 (c) Each other tobacco products wholesaler shall:

24 (1) keep the records required by this section for 6 years or for a shorter time
25 set by the [Comptroller] **EXECUTIVE DIRECTOR**; and

26 (2) allow the [Comptroller] **EXECUTIVE DIRECTOR** to examine the
27 records.

28 16.5–215.

29 (b) The [Comptroller] **EXECUTIVE DIRECTOR** by regulation may require a
30 common carrier that brings other tobacco products into the State to submit to the

1 [Comptroller] **EXECUTIVE DIRECTOR** a copy of any freight bill relating to the other
2 tobacco products shipment.

3 16.5–216.

4 (c) A person who ships, imports, or sells other tobacco products into or within this
5 State in violation of this section is subject to disciplinary action by the [Comptroller]
6 **EXECUTIVE DIRECTOR** under § 16.5–208 of this subtitle and to the penalty specified in §
7 13–1015 of the Tax – General Article.

8 16.5–217.

9 (c) (1) A licensee who sells or ships other tobacco products in violation of this
10 section or causes other tobacco products to be shipped in violation of this section is:

11 (i) subject to discipline by the [Comptroller] **EXECUTIVE**
12 **DIRECTOR** under § 16.5–208 of this subtitle; and

13 (ii) guilty of a felony and on conviction is subject to a fine not
14 exceeding \$50 for each package of other tobacco products transported or imprisonment not
15 exceeding 2 years or both.

16 16.7–101.

17 (a) In this title the following words have the meanings indicated.

18 (b) “County license” means a license issued by the clerk to sell electronic nicotine
19 delivery systems to consumers in a county.

20 (c) (1) “Electronic nicotine delivery system” means an electronic device, a
21 component for an electronic device, or a product used to refill or resupply an electronic
22 device that can be used to deliver nicotine to an individual inhaling from the device.

23 (2) “Electronic nicotine delivery system” includes an electronic cigarette,
24 an electronic cigar, an electronic cigarillo, an electronic pipe, and vaping liquid.

25 (3) “Electronic nicotine delivery system” does not include:

26 (i) a nicotine device that contains or delivers nicotine intended for
27 human consumption if the device has been approved by the United States Food and Drug
28 Administration for sale as a tobacco cessation product and is being marketed and sold solely
29 for that purpose;

30 (ii) cannabis oil or any other unlawful substance; or

31 (iii) an electronic device that is being used to deliver cannabis oil or
32 another unlawful substance.

1 (d) “Electronic nicotine delivery systems manufacturer” means a person that:

2 (1) manufactures, mixes, or otherwise produces electronic nicotine delivery
3 systems intended for sale in the State, including electronic nicotine delivery systems
4 intended for sale in the United States through an importer; and

5 (2) (i) sells electronic nicotine delivery systems to a consumer, if the
6 consumer purchases or orders the systems through the mail, a computer network, a
7 telephonic network, or another electronic network, a licensed electronic nicotine delivery
8 systems wholesaler distributor, or a licensed electronic nicotine delivery systems
9 wholesaler importer in the State;

10 (ii) if the electronic nicotine delivery systems manufacturer also
11 holds a license to act as an electronic nicotine delivery systems retailer or a vape shop
12 vendor, sells electronic nicotine delivery systems to consumers located in the State; or

13 (iii) unless otherwise prohibited or restricted under local law, this
14 article, or the Criminal Law Article, distributes sample electronic nicotine delivery systems
15 to a licensed electronic nicotine delivery systems retailer or vape shop vendor.

16 (e) “Electronic nicotine delivery systems retailer” means a person that:

17 (1) sells electronic nicotine delivery systems to consumers;

18 (2) holds electronic nicotine delivery systems for sale to consumers; or

19 (3) unless otherwise prohibited or restricted under local law, this article,
20 the Criminal Law Article, or § 24–305 of the Health – General Article, distributes sample
21 electronic nicotine delivery systems to consumers in the State.

22 (f) “Electronic nicotine delivery systems wholesaler distributor” means a person
23 that:

24 (1) obtains at least 70% of its electronic nicotine delivery systems from a
25 holder of an electronic nicotine delivery systems manufacturer license under this subtitle
26 or a business entity located in the United States; and

27 (2) (i) holds electronic nicotine delivery systems for sale to another
28 person for resale; or

29 (ii) sells electronic nicotine delivery systems to another person for
30 resale.

31 (g) “Electronic nicotine delivery systems wholesaler importer” means a person
32 that:

1 (1) obtains at least 70% of its electronic nicotine delivery systems from a
2 business entity located in a foreign country; and

3 (2) (i) holds electronic nicotine delivery systems for sale to another
4 person for resale; or

5 (ii) sells electronic nicotine delivery systems to another person for
6 resale.

7 (h) **“EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE**
8 **ALCOHOL, TOBACCO, AND MOTOR FUEL COMMISSION.**

9 **(I)** “License” means:

10 (1) a license issued by the [Comptroller] **EXECUTIVE DIRECTOR** under §
11 16.7–203(a) of this title to:

12 (i) act as a licensed electronic nicotine delivery systems
13 manufacturer;

14 (ii) act as a licensed electronic nicotine delivery systems wholesaler
15 distributor; or

16 (iii) act as a licensed electronic nicotine delivery systems wholesaler
17 importer; or

18 (2) a license issued by the clerk under § 16.7–203(b) of this title to:

19 (i) act as a licensed electronic nicotine delivery systems retailer; or

20 (ii) act as a licensed vape shop vendor.

21 **[(i)] (J)** “Sell” means to exchange or transfer, or to agree to exchange or
22 transfer, title or possession of property, in any manner or by any means, for consideration.

23 **[(j)] (K)** “Vape shop vendor” means an electronic nicotine delivery systems
24 business that derives at least 70% of its revenues, measured by average daily receipts, from
25 the sale of electronic nicotine delivery systems and related accessories.

26 **[(k)] (L)** “Vaping liquid” means a liquid that:

27 (1) consists of propylene glycol, vegetable glycerin, or other similar
28 substance;

29 (2) may or may not contain natural or artificial flavors;

1 (3) may or may not contain nicotine; and

2 (4) converts to vapor intended for inhalation when heated in an electronic
3 device.

4 16.7–102.

5 (a) The [Comptroller] **EXECUTIVE DIRECTOR** may delegate any power or duty
6 of the [Comptroller] **EXECUTIVE DIRECTOR** under this title.

7 16.7–202.

8 (a) (1) An applicant for a license to act as an electronic nicotine delivery
9 systems manufacturer, electronic nicotine delivery systems wholesaler distributor, or
10 electronic nicotine delivery systems wholesaler importer shall:

11 (i) obtain an appropriate county license by submitting an
12 application to the [Comptroller] **EXECUTIVE DIRECTOR** on the form and containing the
13 information that the [Comptroller] **EXECUTIVE DIRECTOR** requires;

14 (ii) indicate the licenses for which the applicant is applying; and

15 (iii) except as provided in paragraph (2) of this subsection, pay to the
16 [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$25 for each license for which the applicant
17 applies.

18 (2) An applicant for a license to act as an electronic nicotine delivery
19 systems wholesaler distributor or electronic nicotine delivery systems wholesaler importer
20 shall pay to the [Comptroller] **EXECUTIVE DIRECTOR** a fee of \$150.

21 (b) (1) An applicant for a license to act as an electronic nicotine delivery
22 systems retailer or a vape shop vendor:

23 (i) shall obtain a county license by submitting to the clerk an
24 application for each permanent or temporary place of business located in the same
25 enclosure and operated by the same applicant; and

26 (ii) except as provided in paragraph (2) of this subsection, shall pay
27 to the clerk a fee of \$25.

28 (2) The application shall:

29 (i) be made on the form that the clerk requires; and

30 (ii) contain the information that the [Comptroller] **EXECUTIVE**
31 **DIRECTOR** requires.

1 (c) A licensee shall display a license in the way that the [Comptroller]
2 **EXECUTIVE DIRECTOR** requires by regulation.

3 (d) If a person has had a license revoked under § 16.7–207 of this subtitle, the
4 person may not reapply for a license within 1 year after the date when the prior license was
5 revoked.

6 16.7–203.

7 (a) The [Comptroller] **EXECUTIVE DIRECTOR** shall issue an appropriate license
8 to each applicant that meets the requirements of this subtitle for a license to act as an
9 electronic nicotine delivery systems manufacturer, electronic nicotine delivery systems
10 wholesaler distributor, or electronic nicotine delivery systems wholesaler importer.

11 (b) The clerk shall issue to each applicant that meets the requirements of this
12 subtitle a license to act as an electronic nicotine delivery systems retailer or a vape shop
13 vendor.

14 (c) The clerk shall forward a copy of an application received for each license
15 issued under subsection (b) of this section to the [Comptroller] **EXECUTIVE DIRECTOR**
16 within 30 days [of] **AFTER** issuance of the license.

17 16.7–206.

18 (a) (1) A licensed electronic nicotine delivery systems retailer or a licensed
19 vape shop vendor may not assign the license.

20 (2) If a licensed electronic nicotine delivery systems wholesaler distributor
21 or electronic nicotine delivery systems wholesaler importer sells the licensee's electronic
22 nicotine delivery systems business and pays to the [Comptroller] **EXECUTIVE DIRECTOR**
23 a license assignment fee of \$10, the licensee may assign the license to the buyer of the
24 business if the buyer otherwise qualifies under this title for an electronic nicotine delivery
25 systems wholesaler's distributor or importer license.

26 (b) If the electronic nicotine delivery systems business of a licensee is transferred
27 because of bankruptcy, death, incompetency, receivership, or otherwise by operation of law,
28 the [Comptroller] **EXECUTIVE DIRECTOR** shall transfer the license without charge to the
29 new owner of the licensee's business if the transferee otherwise qualifies under this title
30 for the license being transferred.

31 (c) (1) If a licensed electronic nicotine delivery systems wholesaler distributor
32 or electronic nicotine delivery systems wholesaler importer surrenders the license to the
33 [Comptroller] **EXECUTIVE DIRECTOR** and if no disciplinary proceedings are pending
34 against the licensee, the [Comptroller] **EXECUTIVE DIRECTOR** shall refund a pro rata
35 portion of the license fee for the unexpired term of the license.

1 (2) A licensed electronic nicotine delivery systems retailer or a licensed
2 vape shop vendor is not allowed a refund for the unexpired term of the license.

3 16.7–207.

4 (a) Subject to the hearing provisions of § 16.7–208 of this subtitle, the
5 [Comptroller] **EXECUTIVE DIRECTOR** may deny a license to an applicant, reprimand a
6 licensee, or suspend or revoke a license if the applicant or licensee:

7 (1) fraudulently or deceptively obtains or attempts to obtain a license for
8 the applicant, licensee, or another person;

9 (2) fraudulently or deceptively uses a license;

10 (3) buys electronic nicotine delivery systems for resale:

11 (i) in violation of a license; or

12 (ii) from a person that is not a licensed electronic nicotine delivery
13 systems manufacturer or a licensed electronic nicotine delivery systems wholesaler;

14 (4) is convicted, under the laws of the United States or of any other state,
15 of:

16 (i) a felony; or

17 (ii) a misdemeanor that is a crime of moral turpitude and is directly
18 related to the fitness and qualification of the applicant or licensee;

19 (5) violates federal, State, or local law regarding the sale of electronic
20 nicotine delivery systems; or

21 (6) violates this title, Title 16, or Title 16.5 of this article or regulations
22 adopted under these titles.

23 (b) Subject to the hearing provisions of § 16.7–208 of this subtitle, the
24 [Comptroller] **EXECUTIVE DIRECTOR** shall deny a license to any applicant that has had
25 a license revoked under this section until:

26 (1) 1 year has passed since the license was revoked; and

27 (2) it satisfactorily appears to the [Comptroller] **EXECUTIVE DIRECTOR**
28 that the applicant will comply with this title and any regulations adopted under this title.

29 (c) Prior to the issuance or renewal of any license, the [Comptroller] **EXECUTIVE**
30 **DIRECTOR** shall conduct an investigation with regard to:

- 1 (1) the applicant;
- 2 (2) the business to be operated; and
- 3 (3) the facts set forth in the application.

4 16.7–208.

5 (a) Except as otherwise provided in § 10–226 of the State Government Article,
6 before the [Comptroller] **EXECUTIVE DIRECTOR** takes any final action under § 16.7–207
7 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall give the person against
8 whom the action is contemplated an opportunity for a hearing before the [Comptroller]
9 **EXECUTIVE DIRECTOR**.

10 (b) The [Comptroller] **EXECUTIVE DIRECTOR** shall give notice and hold the
11 hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

12 (c) The [Comptroller] **EXECUTIVE DIRECTOR** may administer oaths in a
13 proceeding under this section.

14 (d) The person against which the action is contemplated may be represented at
15 the hearing by counsel.

16 (e) If, after due notice, the person against which the action is contemplated does
17 not appear, the [Comptroller] **EXECUTIVE DIRECTOR** may nevertheless hear and
18 determine the matter.

19 16.7–209.

20 (a) Subject to the notice requirement of subsection (c) of this section, if a licensee
21 engages in an act or omission that is grounds for discipline under § 16.7–207 of this subtitle,
22 the [Comptroller] **EXECUTIVE DIRECTOR** may suspend the license for a consecutive
23 period of time that:

24 (1) for a first offense, is not less than 5 and not more than 20 business days;
25 and

26 (2) for a subsequent offense, is not less than 20 business days and not more
27 than 6 months.

28 (b) Subject to the notice requirement under subsection (c) of this section, the
29 [Comptroller] **EXECUTIVE DIRECTOR** may revoke a license if a licensee willfully and
30 persistently engages in an act or omission that is grounds for discipline under § 16.7–207(a)
31 of this subtitle.

1 (c) If a license is suspended or revoked under this section:

2 (1) the [Comptroller] **EXECUTIVE DIRECTOR** shall give the licensee
3 notice of the suspension or revocation; and

4 (2) the suspension or revocation of a license may not bar or abate a
5 disciplinary action under this section.

6 (d) The transfer, renewal, or expiration of a license may not bar or abate a
7 disciplinary action under this section.

8 (e) (1) (i) Except as provided in subparagraph (ii) of this paragraph, if a
9 license issued under the provisions of this subtitle is suspended or revoked by the
10 [Comptroller] **EXECUTIVE DIRECTOR**, the licensee may, before the effective date of the
11 suspension or revocation, petition the [Comptroller] **EXECUTIVE DIRECTOR** for
12 permission to make an offer of compromise consisting of a sum of money in lieu of serving
13 the suspension or revocation.

14 (ii) Subparagraph (i) of this paragraph does not apply if a license is
15 suspended or revoked for a violation of § 24–305 of the Health – General Article, or any
16 other federal, State, or local law prohibiting the sale of electronic nicotine delivery systems
17 to minors.

18 (2) Money paid in lieu of suspension or revocation shall be paid into the
19 General Fund of the State.

20 (3) An offer of compromise may not exceed \$2,000 for retail licensees or
21 \$50,000 for other licensees.

22 (4) The [Comptroller] **EXECUTIVE DIRECTOR** may accept the offer of
23 compromise if:

24 (i) the public welfare and morals would not be impaired by allowing
25 the licensee to operate during the period set for the suspension or revocation; and

26 (ii) the payment of the sum of money will achieve the desired
27 disciplinary purposes.

28 (5) The [Comptroller] **EXECUTIVE DIRECTOR** may adopt regulations to
29 carry out this subsection.

30 16.7–210.

31 A party to a proceeding before the [Comptroller] **EXECUTIVE DIRECTOR** that is
32 aggrieved by a final decision of the [Comptroller] **EXECUTIVE DIRECTOR** in a contested
33 case, as defined in § 10–202 of the State Government Article, is entitled to judicial review

1 as provided in §§ 10–222 and 10–223 of the State Government Article.

2 16.7–212.

3 (a) (1) The [Comptroller] **EXECUTIVE DIRECTOR** shall pay into the General
4 Fund of the State all license fees collected under this title.

5 (2) All license fees collected by the counties under this title are subject to
6 the distribution provisions of § 17–205 of this article.

7 (b) The General Assembly intends that these license fees be used to administer
8 this title.

9 16.7–213.

10 (c) A person that ships, imports, or sells electronic nicotine delivery systems into
11 or within the State in violation of this section is subject to disciplinary action by the
12 [Comptroller] **EXECUTIVE DIRECTOR** under § 16.7–207 of this subtitle.

13 Article – Tax – General

14 9–301.

15 (a) In this subtitle the following words have the meanings indicated.

16 (b) (1) “Blend” means to mix together any combination of:

17 (i) alkylate;

18 (ii) aromatic;

19 (iii) cracked gasoline;

20 (iv) natural gasoline;

21 (v) polymer gasoline; or

22 (vi) straight–run gasoline.

23 (2) “Blend” does not include adding alcohol to gasoline.

24 (c) (1) “Dealer” means a person who engages in the business of a dealer.

25 (2) “Dealer” includes:

26 (i) the State when it engages in the business of a dealer; and

1 (ii) a political subdivision of the State when the subdivision engages
2 in the business of a dealer.

3 (d) (1) "Distributor" means a person who engages in the business of a
4 distributor.

5 (2) "Distributor" does not include:

6 (i) a licensed dealer;

7 (ii) a licensed special fuel seller;

8 (iii) a licensed special fuel user;

9 (iv) a licensed turbine fuel seller;

10 (v) a marina; or

11 (vi) a retail service station dealer.

12 (e) (1) "Engage in the business of a dealer" means to:

13 (i) import any gasoline into the State;

14 (ii) blend, in the State, any gasoline on which the motor fuel tax has
15 not been paid;

16 (iii) refine, in the State, any gasoline on which the motor fuel tax has
17 not been paid; or

18 (iv) acquire, in the State, any gasoline on which the motor fuel tax
19 has not been paid, for:

20 1. export; or

21 2. wholesale distribution.

22 (2) "Engage in the business of a dealer" does not include bringing gasoline
23 into the State in the fuel supply tank of an aircraft, motor vehicle, or vessel.

24 (f) "Engage in the business of a distributor" means to buy for resale motor fuel
25 on which the motor fuel tax has been paid from a licensed dealer, licensed special fuel seller,
26 licensed special fuel user, or licensed turbine fuel seller.

27 (g) (1) "Engage in the business of a special fuel seller" means, with respect to
28 special fuel other than turbine fuel, to:

- 1 (i) import any special fuel into the State;
- 2 (ii) sell, in the State, any special fuel on which the motor fuel tax has
3 not been paid; or
- 4 (iii) deliver, in the State, any special fuel on which the motor fuel tax
5 has not been paid.

6 (2) “Engage in the business of a special fuel seller” does not include
7 bringing special fuel into the State in the fuel supply tank of a motor vehicle or vessel.

8 (h) “Engage in the business of a special fuel user” means to:

9 (1) buy special fuel on which the motor fuel tax has not been paid; and

10 (2) use it in a motor vehicle that is:

11 (i) owned or operated by the special fuel user; and

12 (ii) registered to operate on a public highway.

13 (i) (1) “Engage in the business of a turbine fuel seller” means to:

14 (i) import any turbine fuel into the State;

15 (ii) sell, in the State, any turbine fuel on which the motor fuel tax
16 has not been paid; or

17 (iii) deliver, in the State, any turbine fuel on which the motor fuel tax
18 has not been paid.

19 (2) “Engage in the business of a turbine fuel seller” does not include
20 bringing turbine fuel into the State in the fuel supply tank of an aircraft.

21 **(J) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF THE**
22 **ALCOHOL, TOBACCO, AND MOTOR FUEL COMMISSION.**

23 **[(j)] (K)** “License” means a license issued by the Comptroller under this subtitle
24 to engage in the business of a dealer, distributor, special fuel seller, special fuel user, or
25 turbine fuel seller.

26 **[(k)] (L)** “Licensed dealer” means a person who is licensed to engage in the
27 business of a dealer.

28 **[(l)] (M)** “Licensed distributor” means a person who is licensed to engage in the
29 business of a distributor.

1 **[(m)] (N)** “Licensed special fuel seller” means a person who is licensed to engage
2 in the business of a special fuel seller.

3 **[(n)] (O)** “Licensed special fuel user” means a person who is licensed to engage
4 in the business of a special fuel user.

5 **[(o)] (P)** “Licensed turbine fuel seller” means a person who is licensed to engage
6 in the business of a turbine fuel seller.

7 **[(p)] (Q)** “Marina” means a person who maintains a place of business where
8 motor fuel is sold primarily to vessels.

9 **[(q)] (R)** “Refine” means to make crude oil into gasoline or special fuel by
10 changing the physical or chemical characteristics of the crude oil.

11 **[(r)] (S)** “Retail service station dealer” means a person who operates a retail
12 place of business where motor fuel is sold and delivered into the fuel supply tanks of motor
13 vehicles.

14 **[(s)] (T)** (1) “Special fuel seller” means a person who engages in the business
15 of a special fuel seller.

16 (2) “Special fuel seller” does not include:

17 (i) a retail service station dealer who pays the motor fuel tax on
18 special fuel to the supplier of the special fuel; or

19 (ii) a marina that sells special fuel only to vessels.

20 **[(t)] (U)** (1) “Special fuel user” means a person who engages in the business
21 of a special fuel user.

22 (2) “Special fuel user” does not include:

23 (i) a person whose only storage for special fuel is the fuel supply
24 tank of a motor vehicle;

25 (ii) a volunteer fire or nonprofit volunteer rescue company that is
26 incorporated in the State and buys special fuel from a licensed special fuel seller to operate
27 fire fighting vehicles or equipment; or

28 (iii) a person who pays the motor fuel tax on all special fuels to the
29 supplier of the special fuels.

30 **[(u)] (V)** “Turbine fuel seller” means a person who engages in the business of a
31 turbine fuel seller.

1 9–310.

2 (a) Each dealer, distributor, special fuel seller, or turbine fuel seller who sells
3 motor fuel shall give the buyer an original invoice that includes:

4 (1) the name under which the [Comptroller] **EXECUTIVE DIRECTOR**
5 licenses the seller; and

6 (2) a statement:

7 (i) of the amount of motor fuel tax charged; or

8 (ii) if tax is not charged, that the “Maryland motor fuel tax is not
9 included”.

10 9–318.

11 A person shall be licensed by the [Comptroller] **EXECUTIVE DIRECTOR** before the
12 person may engage, in the State, in the business of:

13 (1) a dealer;

14 (2) a distributor;

15 (3) a special fuel seller;

16 (4) a special fuel user; or

17 (5) a turbine fuel seller.

18 9–320.

19 (a) An applicant for a license shall submit to the [Comptroller] **EXECUTIVE**
20 **DIRECTOR**:

21 (1) a completed application, on the form that the [Comptroller]
22 **EXECUTIVE DIRECTOR** requires, that:

23 (i) is made under oath;

24 (ii) states the name under which the applicant does or will do
25 business in the State;

26 (iii) states, for partnerships, the name of each partner;

1 (iv) states, for firms, the name of each member; and

2 (v) states, for corporations, the names and addresses of its principal
3 officers, resident agent, and attorney in fact; and

4 (2) the bond required under Title 13 of this article.

5 (b) An applicant for an exemption certificate shall submit a completed
6 application, on the form that the [Comptroller] **EXECUTIVE DIRECTOR** requires, that:

7 (1) is made under oath;

8 (2) states the name under which the applicant does or will do business in
9 the State;

10 (3) states, for partnerships, the name of each partner;

11 (4) states, for firms, the name of each member; and

12 (5) states, for corporations, the names and addresses of its principal
13 officers, resident agent, and attorney in fact.

14 (c) The [Comptroller] **EXECUTIVE DIRECTOR** shall keep and index:

15 (1) each application filed under this section;

16 (2) each bond filed under this section; and

17 (3) a record of:

18 (i) each licensee; and

19 (ii) each holder of an exemption certificate.

20 9–321.

21 (a) The [Comptroller] **EXECUTIVE DIRECTOR** shall issue a license of the
22 appropriate class to each applicant who meets the requirements of this subtitle.

23 (b) The [Comptroller] **EXECUTIVE DIRECTOR** shall issue an exemption
24 certificate to each applicant who meets the requirements of this subtitle.

25 9–322.

26 (a) A Class “A” license authorizes the licensee to:

27 (1) import into this State gasoline on which the motor fuel tax has not been

1 paid;

2 (2) export from this State gasoline on which the motor fuel tax has not been
3 paid; and

4 (3) acquire in this State from another holder of a Class “A” license gasoline
5 on which the motor fuel tax has not been paid.

6 (b) (1) A Class “B” license authorizes the licensee to import into this State
7 gasoline on which the motor fuel tax has not been paid, for personal use or for
8 redistribution.

9 (2) A holder of a Class “B” license may not acquire in this State gasoline on
10 which the motor fuel tax has not been paid.

11 (c) (1) A Class “C” license authorizes the licensee to:

12 (i) acquire, in this State, from a supplier whom the [Comptroller]
13 **EXECUTIVE DIRECTOR** specifically approves, gasoline on which the motor fuel tax has
14 not been paid; and

15 (ii) export that gasoline.

16 (2) A holder of a Class “C” license may not import into this State gasoline
17 on which the motor fuel tax has not been paid.

18 (d) (1) A Class “D” license authorizes the licensee to acquire, in this State,
19 gasoline on which the motor fuel tax has not been paid from:

20 (i) a holder of a Class “A” license; or

21 (ii) another holder of a Class “D” license.

22 (2) Unless authorized by the [Comptroller] **EXECUTIVE DIRECTOR**, a
23 holder of a Class “D” license may not import into this State gasoline on which the motor
24 fuel tax has not been paid.

25 (e) A Class “F” license authorizes the licensee to engage, in this State, in the
26 business of a turbine fuel seller.

27 (f) (1) A Class “G–Temporary” license authorizes the licensee during the term
28 of the federal contract for which the license is issued to:

29 (i) acquire, in this State, gasoline on which the motor fuel tax has
30 not been paid, in the amount that the contract specifies and from a supplier whom the
31 [Comptroller] **EXECUTIVE DIRECTOR** specifically approves; and

1 (ii) deliver that amount to the location that the contract specifies.

2 (2) A Class “G–Temporary” license may be extended if:

3 (i) the original federal contract is extended; or

4 (ii) during the term of the license, another contract is awarded to the
5 licensee.

6 (g) A Class “S” license authorizes a licensee to engage, in this State, in the
7 business of a special fuel seller.

8 (h) A Class “U” license authorizes a licensee to engage, in this State, in the
9 business of a special fuel user.

10 (i) A Class “W” license authorizes a licensee to engage, in this State, in the
11 business of a distributor.

12 (j) A dealer who holds any class of license because the dealer was licensed before
13 July 1, 1985 has the privileges authorized for that class until the dealer is required to apply
14 for a new license, in accordance with regulations of the [Comptroller] **EXECUTIVE**
15 **DIRECTOR** in effect as of July 1, 1985.

16 (k) As indicated on an exemption certificate, the certificate authorizes the holder
17 to acquire, in bulk and without paying the motor fuel tax:

18 (1) special fuel other than turbine fuel; or

19 (2) turbine fuel.

20 9–326.

21 (a) To obtain proper identification of a person who receives, buys, sells, or uses
22 motor fuel, the [Comptroller] **EXECUTIVE DIRECTOR** may:

23 (1) require information necessary to assign an identification number to the
24 person; and

25 (2) assign a license or other identification number to the person.

26 (b) A person required to file a return or other document under this subtitle shall
27 include the identification number of the person filing and of each other person listed in the
28 other document.

29 (c) A person who is to be listed in any return or other document filed by another
30 person under this subtitle shall give the appropriate identification number to the person
31 who is required to file the document.

1 9–327.

2 (a) To obtain an exemption under § 9–303(a), (b), or (c) of this subtitle, a dealer,
3 distributor, special fuel seller, special fuel user, or turbine fuel seller shall complete and
4 submit any certificates and reports that the [Comptroller] **EXECUTIVE DIRECTOR**
5 requires, by regulation.

6 (b) If the holder of an exemption certificate changes the use of any special fuel
7 obtained under that certificate to a taxable use, the holder shall give the [Comptroller]
8 **EXECUTIVE DIRECTOR** written notice of the change within 5 days after the first change.

9 9–328.

10 Subject to the hearing provisions of § 9–329 of this subtitle, the [Comptroller]
11 **EXECUTIVE DIRECTOR** may deny a license or exemption certificate to any applicant, if
12 the applicant:

13 (1) fraudulently or deceptively has obtained or attempts to obtain a license
14 or exemption certificate for the applicant or another person;

15 (2) previously has had a license or exemption certificate canceled for cause;
16 or

17 (3) in the judgment of the [Comptroller] **EXECUTIVE DIRECTOR**, has not
18 filed an application in good faith.

19 9–329.

20 (a) Except as otherwise provided in § 10–226 of the State Government Article,
21 before the [Comptroller] **EXECUTIVE DIRECTOR** takes any action under § 9–328 of this
22 subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall give the person against whom
23 the action is contemplated an opportunity for a hearing before the [Comptroller]
24 **EXECUTIVE DIRECTOR**.

25 (b) (1) The [Comptroller] **EXECUTIVE DIRECTOR** shall give notice and hold
26 the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

27 (2) The notice shall be sent so that the applicant has at least 5 days' notice
28 before the hearing.

29 (c) The [Comptroller] **EXECUTIVE DIRECTOR** may administer oaths in
30 connection with any proceeding under this section.

31 9–330.

1 Subject to § 9–331 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** may
2 cancel a license or exemption certificate if the licensee or certificate holder:

3 (1) files false information under this subtitle;

4 (2) fails to file a report required under this subtitle;

5 (3) fails to give the [Comptroller] **EXECUTIVE DIRECTOR** the notice of a
6 change in use required under § 9–327(b) of this subtitle;

7 (4) fails to pay any motor fuel tax, interest, or penalty due under this
8 subtitle;

9 (5) violates any requirement for the class of license held;

10 (6) violates any regulation adopted under this subtitle;

11 (7) fails to maintain the bond required under Title 13 of this article;

12 (8) stops engaging for more than 6 consecutive months in the business for
13 which licensed; or

14 (9) fails to keep records required under this article, Title 10, Subtitle 3 of
15 the Business Regulation Article, or an applicable regulation.

16 9–331.

17 (A) If the [Comptroller] **EXECUTIVE DIRECTOR** cancels a license or exemption
18 certificate under § 9–330 of this subtitle, the [Comptroller] **EXECUTIVE DIRECTOR** shall
19 notify the licensee or certificate holder in writing sent to the last known address of the
20 licensee or certificate holder.

21 (B) The notice shall be sent by certified mail, return receipt requested, under a
22 postmark of the United States Postal Service.

23 9–332.

24 (A) Any person aggrieved by a cancellation under § 9–330 of this subtitle or by a
25 final decision of the [Comptroller] **EXECUTIVE DIRECTOR** in a contested case as defined
26 in § 10–202 of the State Government Article may appeal to the appropriate circuit court.

27 (B) The appeal shall be filed within 30 days after the mailing date of the final
28 decision or notice of cancellation.

29 9–333.

1 (A) A licensee may request in writing that the [Comptroller] **EXECUTIVE**
2 **DIRECTOR** cancel a license held by the licensee.

3 (B) The [Comptroller] **EXECUTIVE DIRECTOR** shall notify the licensee in
4 writing of the decision on the request. If the request is granted, the cancellation takes effect
5 on the last day of the month in which the request is received.

6 9-335.

7 The [Comptroller] **EXECUTIVE DIRECTOR** shall surrender the bond filed by a
8 licensee if:

9 (1) the license is revoked or canceled; and

10 (2) the licensee has paid all motor fuel taxes, interest, and penalties that
11 are due.

12 9-336.

13 (a) The Motor Vehicle Administration shall send promptly to the [Comptroller]
14 **EXECUTIVE DIRECTOR** the name and address of a person who registers a motor vehicle
15 propelled by special fuel for operation on public highways.

16 (b) The [Comptroller] **EXECUTIVE DIRECTOR** shall notify immediately the
17 Motor Vehicle Administration if:

18 (1) the [Comptroller] **EXECUTIVE DIRECTOR** cancels a license or
19 exemption certificate issued under this subtitle or suspends or revokes an identification
20 marker, a permit, or temporary authority issued to a motor carrier under Subtitle 2 of this
21 title for failure to comply with the provisions of this subtitle or Subtitle 2 of this title; or

22 (2) the [Comptroller] **EXECUTIVE DIRECTOR** knows that a licensee,
23 exemption certificate holder, or motor carrier has violated the provisions of this subtitle or
24 Subtitle 2 of this title.

25 (c) On receipt of a notice under subsection (b) of this section, the Motor Vehicle
26 Administration shall suspend or revoke the appropriate registration.

27 (d) **(1)** If the [Comptroller] **EXECUTIVE DIRECTOR** is satisfied with the
28 corrective action taken by the licensee or certificate holder, the [Comptroller] **EXECUTIVE**
29 **DIRECTOR** may reinstate the license or exemption certificate.

30 **(2)** If the license or exemption certificate is reinstated, the [Comptroller]
31 **EXECUTIVE DIRECTOR** shall give the Motor Vehicle Administration notice of the
32 reinstatement and the Motor Vehicle Administration shall reinstate the registration of the
33 licensee or exemption certificate holder.

1 9-337.

2 (a) A person may not engage in the business of a dealer, a distributor, a special
3 fuel seller, a special fuel user, or a turbine fuel seller without a license issued by the
4 [Comptroller] **EXECUTIVE DIRECTOR** under this subtitle.

5 (b) A dealer, distributor, special fuel seller, special fuel user, or turbine fuel seller
6 may not receive motor fuel without a license issued by the [Comptroller] **EXECUTIVE**
7 **DIRECTOR** under this subtitle.

8 (c) A person may not transfer motor fuel on which motor fuel tax is due and has
9 not been paid to a person who does not hold a license or exemption certificate issued by the
10 [Comptroller] **EXECUTIVE DIRECTOR** under this subtitle.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the Commission shall conduct
12 a feasibility study for maintaining a statewide database of individuals trained in an alcohol
13 awareness program, in which:

14 (1) an accurate statewide database of all alcoholic beverages licenses is to
15 be annually updated; and

16 (2) a list of licenses:

17 (i) is to be maintained for at least 3 years before being archived; but

18 (ii) is not to be destroyed.

19 SECTION 3. AND BE IT FURTHER ENACTED, That the initial terms of the
20 members of the Alcohol, Tobacco, and Motor Fuel Commission appointed under Section 1
21 of this Act shall expire as follows:

22 (1) one member on June 30, 2021;

23 (2) one member on June 30, 2022;

24 (3) one member on June 30, 2023; and

25 (4) two members on June 30, 2024.

26 SECTION 4. AND BE IT FURTHER ENACTED, That, as provided in this Act:

27 (a) It is the intent of the General Assembly that:

28 (1) the transfer of the Field Enforcement Division and the personnel of the
29 Division to the Alcohol, Tobacco, and Motor Fuel Commission under this Act shall take
30 effect not later than July 1, 2020;

1 (2) the transfer shall be conducted in a manner that will minimize the costs
2 of the transfer and will result in a more cost-efficient operation for the regulation of
3 alcoholic beverages, tobacco, and motor fuel for the protection of the public health, safety,
4 and welfare of the State.

5 (b) The Office of the Executive Director of the Alcohol, Tobacco, and Motor Fuel
6 Commission is the successor of the Office of the Comptroller in matters concerning the
7 regulation of alcohol, tobacco, and motor fuel.

8 (c) In every law, executive order, rule, regulation, policy, or document created by
9 an official, an employee, or a unit of this State, the names and titles of those agencies and
10 officials mean the names and titles of the successor agency or official.

11 SECTION 5. AND BE IT FURTHER ENACTED, That nothing in this Act affects the
12 term of office of an appointed or elected member of any commission, office, department,
13 agency, or other unit. An individual who is a member of a unit on the effective date of this
14 Act shall remain for the balance of the term to which appointed or elected, unless the
15 member sooner dies, resigns, or is removed under provisions of law.

16 SECTION 6. AND BE IT FURTHER ENACTED, That any transaction or
17 employment status affected by or flowing from any change of nomenclature or any statute
18 amended by this Act and validly entered into or existing before the effective date of this Act
19 and every right, duty, or interest flowing from a statute amended by this Act remains valid
20 after the effective date of this Act and may be terminated, completed, consummated, or
21 enforced as required or allowed by any statute amended by this Act as though the
22 amendment had not occurred. If a change in nomenclature involves a change in name or
23 designation of any State unit, the successor unit shall be considered in all respects as
24 having the powers and obligations granted the former unit.

25 SECTION 7. AND BE IT FURTHER ENACTED, That all persons who, as of June
26 30, 2020, are employees in budgeted positions of the Office of the Comptroller and whose
27 positions are transferred to the Office of the Executive Director of the Alcohol, Tobacco, and
28 Motor Fuel Commission as provided by this Act are hereby transferred to the Office of the
29 Executive Director of the Alcohol, Tobacco, and Motor Fuel Commission without any change
30 or loss of rights or status, and shall retain any merit system and retirement status they
31 may have on the date of transfer.

32 SECTION 8. AND BE IT FURTHER ENACTED, That all findings and
33 determinations, permits and licenses, applications for permits and licenses, rules and
34 regulations, proposed rules and regulations, standards and guidelines, proposed standards
35 and guidelines, orders and other directives, forms, plans, memberships, special funds,
36 appropriations, grants, loans, applications and commitments for grants, loans, and tax
37 credits, contracts, real and personal property, equipment, artifacts, collections,
38 investigations, administrative and judicial proceedings, rights to sue and be sued, and all
39 other duties and responsibilities associated with those functions transferred by this Act
40 shall continue in effect under the Office of the Executive Director of the Alcohol, Tobacco,

1 and Motor Fuel Commission until completed, withdrawn, canceled, modified, or otherwise
2 changed in accordance with law.

3 SECTION 9. AND BE IT FURTHER ENACTED, That:

4 (1) the continuity of every commission, office, department, agency, or other
5 unit is retained; and

6 (2) the personnel records, files, furniture, fixtures, and other properties
7 and all appropriations, credits, assets, liabilities, and obligations of each retained unit are
8 continued as the personnel, records, files, furniture, fixtures, properties, appropriations,
9 credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

10 SECTION 10. AND BE IT FURTHER ENACTED, That letterhead, business cards,
11 and other documents reflecting the renaming of the Office of the Comptroller to be the
12 Office of the Executive Director of the Alcohol, Tobacco, and Motor Fuel Commission may
13 not be used until all letterhead, business cards, and other documents already in print and
14 reflecting the name of the Office before the effective date of this Act have been used.

15 SECTION 11. AND BE IT FURTHER ENACTED, That the publisher of the
16 Annotated Code of Maryland, in consultation with and subject to the approval of the
17 Department of Legislative Services, shall correct, with no further action required by the
18 General Assembly, cross-references and terminology rendered incorrect by this Act. The
19 publisher shall adequately describe any correction made in an editor's note following the
20 section affected.

21 SECTION 12. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 June 1, 2020.