

HOUSE BILL 1000

A1, C2

3lr0512

By: **Delegate Wilson**

Introduced and read first time: February 10, 2023

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2023

CHAPTER _____

1 AN ACT concerning

2 **Alcohol and Tobacco Commission – Updates**

3 FOR the purpose of requiring a person to hold a common carrier permit to ship premium
4 cigars or pipe tobacco in the State; requiring a remote tobacco seller shipping
5 premium cigars or pipe tobacco into the State to at least annually verify certain
6 license information as a condition of holding the common carrier permit; authorizing
7 the Executive Director of the Alcohol and Tobacco Commission to take certain action
8 regarding a certain license if the use of the licensed premises does not conform to
9 certain provisions of law relating to land use; authorizing the Executive Director to
10 conduct certain inspections and searches in a certain manner; including the Field
11 Enforcement Division of the Commission in the list of law enforcement agencies that
12 must receive a certain notification; authorizing the Comptroller and Executive
13 Director to dispose of or destroy seized contraband; authorizing, rather than
14 requiring, the Comptroller and the Executive Director to sell seized contraband at
15 auction and providing for the disposition of the proceeds of the auctions; requiring
16 the Governor's Office of Small, Minority, and Women Business Affairs to contract
17 with a third party to conduct a certain study concerning the alcoholic beverages
18 industry in the State; and generally relating to the Alcohol and Tobacco Commission.

19 BY repealing and reenacting, with amendments,
20 Article – Alcoholic Beverages
21 Section 2–151 and 2–152
22 Annotated Code of Maryland
23 (2016 Volume and 2022 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 16–210(a), 16–308.3, 16.5–208(a)(5) and (6), 16.5–217.1, 16.7–207(a)(5) and (6), and 16.7–213.1
Annotated Code of Maryland
(2015 Replacement Volume and 2022 Supplement)

BY adding to
Article – Business Regulation
Section 16.5–208(a)(7) and 16.7–207(a)(7)
Annotated Code of Maryland
(2015 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, without amendments,
Article – Health – General
Section 18–213.2(a)(1) and (7) and (b) and 24–307(b)
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 18–213.2(a)(8) and 24–307(c) and (f)
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – General
Section 2–303 and 13–841
Annotated Code of Maryland
(2022 Replacement Volume)

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

Article – Alcoholic Beverages

2–151.

(a) There is a common carrier permit.

(b) A holder of a common carrier permit may deliver wine, **PREMIUM CIGARS, OR PIPE TOBACCO** from a location inside or outside the State to a consumer in the State for the consumer's personal use under this part.

(c) A person shall be issued a common carrier permit before the person may engage in transporting wine from a direct wine shipper, **OR PREMIUM CIGARS OR PIPE**

1 **TOBACCO FROM A HOLDER OF A REMOTE TOBACCO SELLER LICENSE, ISSUED UNDER**
2 **§ 16.9–201 OF THE BUSINESS REGULATION ARTICLE**, to a consumer.

3 (d) The term of a common carrier permit is 1 year and begins on July 1.

4 (e) To complete delivery of a shipment, the common carrier shall require from a
5 consumer at the address listed on the shipping label:

6 (1) the signature of the consumer or another individual at the address who
7 is at least 21 years old; and

8 (2) government-issued photographic identification showing that the
9 signing individual is at least 21 years old.

10 (f) A common carrier shall refuse delivery when the intended receiving individual
11 appears to be under the age of 21 years or refuses to present valid identification.

12 (g) At the time of initial application for a common carrier permit and on request
13 of the [Comptroller] **EXECUTIVE DIRECTOR**, a common carrier shall submit to the
14 [Comptroller] **EXECUTIVE DIRECTOR** information concerning the training of its drivers
15 in verifying the age of recipients of direct wine shipments under this part.

16 (h) At least once each year, in a manner acceptable to the [Comptroller]
17 **EXECUTIVE DIRECTOR**, a holder of a common carrier permit shall verify, **AS**
18 **APPROPRIATE**, that:

19 (1) the shipper of wine into the State under this part holds a valid direct
20 wine shipper's permit; **OR**

21 (2) **THE REMOTE TOBACCO SELLER SHIPPING PREMIUM CIGARS OR**
22 **PIPE TOBACCO INTO THE STATE HOLDS A VALID REMOTE TOBACCO SELLER LICENSE**
23 **UNDER § 16.9–201 OF THE BUSINESS REGULATION ARTICLE.**

24 (i) A holder of a common carrier permit that delivers wine solely under this part
25 may not be required to obtain a transportation permit issued under § 2–118 or § 2–119 of
26 this subtitle in addition to the common carrier permit.

27 (j) The permit fee is \$100.

28 **(K) A HOLDER OF A COMMON CARRIER PERMIT MAY NOT REQUIRE A**
29 **SIGNATURE FOR A SHIPMENT DELIVERED TO A LICENSED TOBACCONIST.**

30 2–152.

31 (a) ~~A~~ **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A** common
32 carrier shall report quarterly to the [Comptroller] **EXECUTIVE DIRECTOR**:

(1) the date of each delivery of wine **OR PREMIUM CIGARS OR PIPE TOBACCO** in the State; and

(2) the name and address of the direct wine shipper **OR HOLDER OF A REMOTE TOBACCO SELLER LICENSE** and the receiving consumer of each delivery.

(b) A common carrier shall maintain for 3 years complete and accurate records of all information needed to verify compliance with this part.

(C) A COMMON CARRIER FOR PREMIUM CIGARS AND PIPE TOBACCO MAY ELECT NOT TO REPORT AS REQUIRED UNDER SUBSECTION (A) OF THIS SECTION IF THE COMMON CARRIER COMPLIES WITH THE DELIVERY REQUIREMENTS UNDER § 2-151(E) OF THIS SUBTITLE.

Article – Business Regulation

16–210.

(a) Subject to the hearing provisions of § 16–211 of this subtitle, the Executive Director may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

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

(2) fraudulently or deceptively uses a license;

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

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

(5) buys cigarettes for resale:

(i) in violation of a license; or

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

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

(i) a felony; or

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

(7) has not paid a tax due before October 1 of the year after the tax became due; **OR**

(8) USES THE LICENSED PREMISES IN A MANNER THAT DOES NOT CONFORM TO ALL ZONING LAWS, REGULATIONS, OR ORDINANCES ADOPTED IN ACCORDANCE WITH THE LAND USE ARTICLE, ON A FINDING BY THE APPROPRIATE LOCAL ADMINISTRATIVE OFFICER OR UNIT RESPONSIBLE FOR ZONING ENFORCEMENT.

16–308.3.

(a) The Maryland Department of Health **OR THE EXECUTIVE DIRECTOR** may conduct AN unannounced [inspections] **INSPECTION OR SEARCH** of a licensed [retailer] **RETAILER’S PREMISES, WITHOUT A WARRANT**, to ensure the licensee’s compliance with the provisions of this title and § 10–107 of the Criminal Law Article.

(b) The Maryland Department of Health **OR THE EXECUTIVE DIRECTOR** may use an individual under the age of 21 years to assist in conducting an inspection under this section.

16.5–208.

(a) Subject to the hearing provisions of § 16.5–209 of this subtitle, the Executive Director may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee:

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

(6) violates this title or Title 16 of this article or regulations adopted under these titles; OR

(7) USES THE LICENSED PREMISES IN A MANNER THAT DOES NOT CONFORM TO ALL ZONING LAWS, REGULATIONS, OR ORDINANCES ADOPTED IN ACCORDANCE WITH THE LAND USE ARTICLE, ON A FINDING BY THE APPROPRIATE LOCAL ADMINISTRATIVE OFFICER OR UNIT RESPONSIBLE FOR ZONING ENFORCEMENT.

16.5–217.1.

(a) The Maryland Department of Health **OR THE EXECUTIVE DIRECTOR** may conduct AN unannounced [inspections] **INSPECTION OR SEARCH** of a licensed [retailer]

1 **RETAILER’S PREMISES, WITHOUT A WARRANT**, to ensure the licensee’s compliance with
2 the provisions of this title and § 10–107 of the Criminal Law Article.

3 (b) The Maryland Department of Health **OR THE EXECUTIVE DIRECTOR** may
4 use an individual under the age of 21 years to assist in conducting an inspection under this
5 section.

6 **(C) DURING AN INSPECTION OR SEARCH UNDER THIS SECTION, A PREMIUM**
7 **CIGAR OR PIPE TOBACCO LICENSED RETAILER IS NOT SUBJECT TO SEIZURE**
8 **WITHOUT A WARRANT.**

9 16.7–207.

10 (a) Subject to the hearing provisions of § 16.7–208 of this subtitle, the Executive
11 Director may deny a license to an applicant, reprimand a licensee, or suspend or revoke a
12 license if the applicant or licensee:

13 (5) violates federal, State, or local law regarding the sale of electronic
14 smoking devices; [or]

15 (6) violates this title, Title 16, or Title 16.5 of this article or regulations
16 adopted under these titles; OR

17 **(7) USES THE LICENSED PREMISES IN A MANNER THAT DOES NOT**
18 **CONFORM TO ALL ZONING LAWS, REGULATIONS, OR ORDINANCES ADOPTED IN**
19 **ACCORDANCE WITH THE LAND USE ARTICLE, ON A FINDING BY THE APPROPRIATE**
20 **LOCAL ADMINISTRATIVE OFFICER OR UNIT RESPONSIBLE FOR ZONING**
21 **ENFORCEMENT.**

22 16.7–213.1.

23 (a) The Maryland Department of Health **OR THE EXECUTIVE DIRECTOR** may
24 conduct AN unannounced [inspections] **INSPECTION OR SEARCH** of A licensed [retailers]
25 **RETAILER’S PREMISES, WITHOUT A WARRANT**, to ensure the licensee’s compliance with
26 the provisions of this title and § 10–107 of the Criminal Law Article.

27 (b) The Maryland Department of Health **OR THE EXECUTIVE DIRECTOR** may
28 use an individual under the age of 21 years to assist in conducting an inspection under this
29 section.

30 **Article – Health – General**

31 18–213.2.

32 (a) (1) In this section the following words have the meanings indicated.

(7) “First responder” means a:

- (i) Firefighter;
- (ii) Emergency medical technician;
- (iii) Rescue squad member;
- (iv) Law enforcement officer;
- (v) Correctional officer; or
- (vi) Sworn member of the State Fire Marshal’s office.

(8) “Law enforcement officer” means any individual who, in an official capacity, is authorized by law to make arrests and who is a member of one of the following law enforcement agencies:

- (i) The Department of State Police;
- (ii) The Baltimore City Police Department;
- (iii) The police department, bureau, or force of any county;
- (iv) The police department, bureau, or force of any incorporated city or town;
- (v) The office of the sheriff of any county;
- (vi) The police department, bureau, or force of any bicounty agency or constituent institution of the University System of Maryland, Morgan State University, St. Mary’s College, or of any institution under the jurisdiction of the Maryland Higher Education Commission;
- (vii) The Maryland Aviation Administration police force of the Department of Transportation, the Maryland Transit Administration police force of the Department of Transportation, the Maryland Transportation Authority police force, and the Maryland Port Administration police force of the Department of Transportation;
- (viii) The law enforcement officers of the Department of Natural Resources;
- (ix) The Field Enforcement Bureau of the Comptroller’s Office;
- (x) **THE FIELD ENFORCEMENT DIVISION OF THE ALCOHOL AND TOBACCO COMMISSION;**

(XI) The Intelligence and Investigative Division of the Department of Public Safety and Correctional Services; or

[(xi)] (XII) The Maryland Capitol Police of the Department of General Services.

(b) If, while transporting a person to a medical care facility or while acting in the performance of duty, a first responder comes into contact exposure while treating or transporting a person who dies at the scene or while being transported and who is subsequently determined, as a result of information obtained in conjunction with a postmortem examination by the Chief Medical Examiner or a designee of the Chief Medical Examiner to have had a contagious disease or virus at the time of death, the physician performing the postmortem examination shall notify the first responder and the first responder's employer or the employer's designee of the first responder's possible contact exposure to the contagious disease or virus.

24–307.

(b) A person who distributes tobacco products for commercial purposes, including a person licensed under Title 16 of the Business Regulation Article, may not distribute to an individual under the age of 21 years:

(1) A tobacco product;

(2) Tobacco paraphernalia; or

(3) A coupon redeemable for a tobacco product.

(c) (1) A person who violates subsection (b) of this section is subject to a civil penalty not exceeding:

(i) \$300 for a first violation;

(ii) \$1,000 for a second violation occurring within 24 months after the first violation; and

(iii) \$3,000 for each subsequent violation occurring within 24 months after the preceding violation.

(2) The local health departments shall report violations of subsection (b) of this section to the [Comptroller's Office] **EXECUTIVE DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION**.

(3) Issuance of a civil citation for a violation of this section precludes prosecution under § 10–107 of the Criminal Law Article arising out of the same violation.

(4) If a violation is committed by a person acting on behalf of a retailer, the civil penalty imposed under paragraph (1) of this subsection shall be paid by the retailer.

(f) (1) The Maryland Department of Health, in collaboration and consultation with the [Office of the Comptroller] **EXECUTIVE DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION**, local health departments, and local law enforcement agencies, shall develop ongoing strategies for enforcement of §§ 10–107 and 10–108 of the Criminal Law Article.

(2) On or before October 1 each year, the Department shall report to the General Assembly, in accordance with § 2–1257 of the State Government Article, on:

(i) The development of enforcement strategies required under paragraph (1) of this subsection; and

(ii) Training and assistance to tobacco retailers to improve compliance with § 10–107 of the Criminal Law Article.

Article – Tax – General

2–303.

The Comptroller shall distribute the proceeds from sales of contraband alcoholic beverages and conveyances under § 13–841(a) **OR (D)** of this article to the General Fund.

13–841.

(a) (1) Contraband alcoholic beverages that are seized under this title and forfeited may be disposed of or destroyed in the manner allowed under §§ 6–105, 6–106, and 6–328 of the Alcoholic Beverages Article.

(2) The Comptroller **OR THE EXECUTIVE DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION, AS APPROPRIATE**, shall sell at public auction a conveyance that is seized under this title in connection with contraband alcoholic beverages and forfeited.

(b) (1) The Comptroller **OR THE EXECUTIVE DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION, AS APPROPRIATE**, ~~shall sell~~ **MAY DISPOSE OF OR DESTROY** contraband tobacco products seized under this title and forfeited, **OR MAY SELL THE CONTRABAND TOBACCO PRODUCTS** to a State institution, a nonprofit charitable institution, a licensed cigarette wholesaler, or a licensed cigarette manufacturer in the manner the Comptroller **OR EXECUTIVE DIRECTOR** determines.

(2) The Comptroller **OR THE EXECUTIVE DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION, AS APPROPRIATE**, shall sell at public auction a

conveyance that is seized under this title in connection with contraband tobacco products and forfeited.

(c) (1) If either the Comptroller or, on appeal, a court determines that seized conveyance or motor fuel is not subject to forfeiture:

(i) the Comptroller is not required to return the motor fuel seized to the owner or other interested person who filed the claim for return of the property, but may, at the option of the Comptroller, pay to the person an amount equal to the value of the motor fuel as determined by the average wholesale value on the date of seizure for the Baltimore Terminal as reported by a nationally recognized oil price reporting service on the date of seizure; and

(ii) the Comptroller shall return the conveyance to the registered owner and shall have no further liability to the registered owner.

(2) If a seized conveyance or motor fuel is forfeited, the Comptroller shall:

(i) 1. Use the contraband motor fuel for any public purpose; or

2. sell the contraband motor fuel to any person; and

(ii) sell the seized conveyance to any person.

(d) (1) In the manner required under Title 2 of this article for distributions of revenue, the Comptroller shall distribute the net proceeds from the sale of any conveyance or other property under this section after paying:

[(1)] (I) the costs incurred in conjunction with the seizure and disposal of the property;

[(2)] (II) the cost of the sale; and

[(3)] (III) any bona fide lien against the conveyance.

(2) IF THE EXECUTIVE DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION SELLS AT PUBLIC AUCTION A CONVEYANCE OR OTHER PROPERTY SEIZED UNDER THIS SECTION, THE EXECUTIVE DIRECTOR SHALL TRANSFER THE NET PROCEEDS OF THE SALE TO THE COMPTROLLER FOR DISTRIBUTION UNDER TITLE 2 OF THIS ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, "Office" means the Governor's Office of Small, Minority, and Women Business Affairs.

1 (b) The Office shall contract with an independent consultant to complete a study
2 of the structure and composition of the wholesale and distribution sector of the alcoholic
3 beverages industry in the State and to make recommendations on identifying and
4 eliminating barriers to minority participation in that industry.

5 (c) The study shall include:

6 (1) current minority-owned business participation rates and data;

7 (2) historical minority-owned business participation rates and data;

8 (3) how the structure of the wholesale and distribution sector of the
9 Maryland alcoholic beverages industry compares to similar structures in other licensing
10 states;

11 (4) how the participation of minority-owned businesses in Maryland
12 compares to minority-owned business participation in other states, where available; and

13 (5) information about the procedures by which applicants procure exclusive
14 contracts to provide alcoholic beverage service for product brands within the State.

15 (d) The recommendations shall include:

16 (1) identifying barriers to minority participation within the distribution
17 tier of the alcoholic beverages industry;

18 (2) how the State can enhance minority-owned business participation in
19 the alcoholic beverage wholesalers and distribution industry;

20 (3) other data that may need to be collected or authorized to fully
21 understand the opportunity of minority business enterprises to participate in the alcoholic
22 beverage distribution industry; and

23 (4) whether a disparity study of authorization and utilization can and
24 should be conducted to identify potential discrimination within the industry that could
25 warrant remedial action.

26 (e) The Office shall consult with the Office of the Attorney General, the
27 Department of Transportation, and the Alcohol and Tobacco Commission in developing the
28 solicitation for an independent consultant under this section.

29 (f) (1) Each holder of a State or local alcoholic beverages license or permit
30 must cooperate with the Office and the independent consultant in providing the following
31 information:

32 (i) services provided by a wholesaler to a supplier or manufacturer
33 in exchange for distribution rights within the State;

(ii) a list of suppliers that licensed wholesalers distribute on behalf of;

(iii) lists of brands distributed within the State by each wholesaler; and

(iv) the percentage of wholesaler revenues for each brand owner account service.

(2) Each holder of a State or local alcoholic beverages license or permit, or applicant for a license or permit, shall cooperate with requests from the Office or the independent consultant and provide the requested information within 75 days after receiving the request.

(3) The Office of the Comptroller and each local licensing board shall cooperate with requests from the Office or the independent consultant and provide the requested information within 75 days after receiving the request.

(g) Information provided in accordance with this section by each holder of a State or local alcoholic beverages license or permit, or applicant for a license or permit:

(1) shall:

(i) constitute confidential commercial information and confidential financial information; and

(ii) be treated as confidential by the independent consultant and the State; and

(2) may be:

(i) used only for purposes authorized under this section; and

(ii) disclosed to the public only in an anonymized or aggregated format.

(h) On or before December 1, 2024, the Office shall submit the completed report and recommendations, along with any additional information the Office considers pertinent, to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.