

HOUSE BILL 900

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CF SB 911

By: **Delegate Miller**

Introduced and read first time: February 5, 2020

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Alcohol and Tobacco Commission – Clarifications**

3 FOR the purpose of clarifying the authority, powers, and duties of officers and employees
4 of the Field Enforcement Division in the Office of the Executive Director of the
5 Alcohol and Tobacco Commission over certain matters; authorizing the officers and
6 employees to make certain cooperative arrangements with the Office of the
7 Comptroller; authorizing the Division to recommend certain changes to improve the
8 administration of certain provisions; authorizing the Executive Director to delegate
9 certain duties to certain persons; requiring the Executive Director to maintain
10 certain records; providing that authorized members of the Division are police officers
11 for certain purposes; providing that the Comptroller shall administer the laws
12 relating to the alcoholic beverages tax and the tobacco tax in cooperation with the
13 Executive Director; requiring the Comptroller to adopt certain regulations to
14 administer certain tax laws in cooperation with the Executive Director; requiring the
15 Comptroller to provide certain tax stamps and certificates and adopt certain
16 regulations in cooperation with the Executive Director; providing that certain
17 employees of the Field Enforcement Bureau of the Office of the Comptroller have
18 certain authority in cooperation with certain employees of the Division; requiring
19 the Division to advise certain officers of certain matters; authorizing the Division to
20 work cooperatively with certain officers on certain matters; requiring the Executive
21 Director to report each year to the General Assembly on certain matters; altering the
22 date as of which certain persons are to be transferred to the Office of the Executive
23 Director; making a technical correction; and generally relating to the Alcohol and
24 Tobacco Commission.

25 BY repealing and reenacting, with amendments,
26 Article – Alcoholic Beverages
27 Section 1–304, 1–313 through 1–315, and 1–317
28 Annotated Code of Maryland
29 (2016 Volume and 2019 Supplement)
30 (As enacted by the Chapter 12 of the Acts of the General Assembly of 2019)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Criminal Procedure
3 Section 2–101
4 Annotated Code of Maryland
5 (2018 Replacement Volume and 2019 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Public Safety
8 Section 3–201
9 Annotated Code of Maryland
10 (2018 Replacement Volume and 2019 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Tax – General
13 Section 2–102, 2–103, 2–105, and 2–107
14 Annotated Code of Maryland
15 (2016 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, with amendments,
17 Chapter 12 of the Acts of the General Assembly of 2019
18 Section 7

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

21 **Article – Alcoholic Beverages**

22 1–304.

23 (a) A member of the Commission may not:

24 (1) have a direct or indirect financial interest, ownership, or management,
25 including holding any stocks, bonds, or other similar financial interests, in the alcohol[,]
26 **OR** tobacco[, or motor fuel] industries;

27 (2) have an official relationship to a person who holds a license or permit
28 under this article or Title 16, Title 16.5, or Title 16.7 of the Business Regulation Article;

29 (3) be an elected official;

30 (4) receive or share in, directly or indirectly, the receipts or proceeds of any
31 activities conducted in the alcohol or tobacco industries;

32 (5) have a beneficial interest in any contract for the manufacture or sale of
33 any device or product or the provision of any independent consulting services in connection
34 with a holder of a license or permit issued under this article or Title 16, Title 16.5, or Title

1 16.7 of the Business Regulation Article; or

2 (6) accept a contribution of money or property worth at least \$100 from an
3 entity or individual associated with the alcohol or tobacco industries with respect to the
4 regulation of alcohol or tobacco.

5 (b) A member of the Commission shall file a financial disclosure statement with
6 the State Ethics Commission in accordance with Title 5, Subtitle 6 of the General
7 Provisions Article.

8 1-313.

9 (a) There is a Field Enforcement Division in the Office of the Executive Director.

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

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

13 (i) shall be sworn police officers;

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

16 1. the unlawful importation of alcoholic beverages **AND**
17 **TOBACCO** into the State;

18 2. the unlawful manufacture of alcoholic beverages **AND**
19 **TOBACCO** in the State;

20 3. the transportation and distribution throughout the State
21 of alcoholic beverages **AND TOBACCO** that are manufactured illegally and on which any
22 alcoholic beverages taxes **OR TOBACCO TAXES** imposed by the State are due and unpaid;
23 and

24 4. the manufacture, sale, barter, transportation,
25 distribution, or other form of owning, handling, or dispersing alcoholic beverages **OR**
26 **TOBACCO** by any person not licensed or authorized under this article [or], provisions of the
27 Tax – General Article relating to alcoholic beverages **OR TOBACCO, OR PROVISIONS OF**
28 **THE BUSINESS REGULATION ARTICLE RELATING TO TOBACCO**; and

29 (iii) may make cooperative arrangements for and work and cooperate
30 with **THE OFFICE OF THE COMPTROLLER**, local State's Attorneys, sheriffs, bailiffs,
31 police, and other prosecuting and peace officers to enforce this article.

32 (c) The Field Enforcement Division:

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

(2) may recommend changes to improve the administration of this article [and], provisions of the Tax – General Article relating to alcoholic beverages **AND TOBACCO, AND PROVISIONS OF THE BUSINESS REGULATION ARTICLE RELATING TO TOBACCO.**

1–314.

The Executive Director may delegate authority under this article [and], provisions of the Tax – General Article relating to alcoholic beverages **AND TOBACCO, AND PROVISIONS OF THE BUSINESS REGULATION ARTICLE RELATING TO TOBACCO** to the Division director to issue or refuse to issue licenses and permits.

1–315.

(a) Except as provided in subsection (b) of this section, the Executive Director may delegate authority to conduct hearings on violations of this article or of any regulations adopted under this article [or], the provisions of the Tax – General Article relating to alcoholic beverages **OR TOBACCO, OR THE PROVISIONS OF THE BUSINESS REGULATION ARTICLE RELATING TO TOBACCO** to the Division director or any other employee of the Executive Director's office.

(b) The Division director or any other employee of the Executive Director's office delegated authority to conduct hearings under subsection (a) of this section:

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

(2) shall report the findings and recommendations to the Executive Director to take the action that the Executive Director considers appropriate.

1–317.

(a) The Executive Director shall:

(1) maintain a record of:

(i) each license issued or approved under this article **AND TITLES 16, 16.5, AND 16.7 OF THE BUSINESS REGULATION ARTICLE**; and

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

(2) allow any person to inspect the records at the Office of the Executive Director during regular business hours.

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

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

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

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

(2) may be destroyed after:

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

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

Article – Criminal Procedure

2–101.

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

(b) “Emergency” means a sudden or unexpected happening or an unforeseen combination of circumstances that calls for immediate action to protect the health, safety, welfare, or property of a person from actual or threatened harm or from an unlawful act.

(c) “Police officer” means a person who in an official capacity is authorized by law to make arrests and is:

(1) a member of the Department of State Police;

(2) a member of the Police Department of Baltimore City;

(3) a member of the Baltimore City School Police Force;

(4) a member of the police department, bureau, or force of a county;

(5) a member of the police department, bureau, or force of a municipal corporation;

(6) a member of the Maryland Transit Administration Police Force or

Maryland Transportation Authority Police Force;

(7) a member of the University System of Maryland Police Force or Morgan State University Police Force;

(8) a special police officer who is appointed to enforce the law and maintain order on or protect property of the State or any of its units;

(9) a member of the Maryland Capitol Police of the Department of General Services;

(10) the sheriff of a county whose usual duties include the making of arrests;

(11) a regularly employed deputy sheriff of a county who is compensated by the county and whose usual duties include the making of arrests;

(12) a member of the Natural Resources Police Force of the Department of Natural Resources;

(13) an authorized employee of the Field Enforcement Bureau of the Comptroller's Office;

(14) AN AUTHORIZED MEMBER OF THE FIELD ENFORCEMENT DIVISION OF THE ALCOHOL AND TOBACCO COMMISSION;

(15) a member of the Maryland–National Capital Park and Planning Commission Park Police;

[(15)] (16) a member of the Housing Authority of Baltimore City Police Force;

[(16)] (17) a member of the Crofton Police Department;

[(17)] (18) a member of the WMATA Metro Transit Police, subject to the jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area Transit Authority Compact, which is codified at § 10–204 of the Transportation Article;

[(18)] (19) a member of the Intelligence and Investigative Division of the Department;

[(19)] (20) a member of the State Forest and Park Service Police Force of the Department of Natural Resources;

[(20)] (21) a member of the Washington Suburban Sanitary Commission Police Force;

(e) “Motorcycle profiling” means the arbitrary use of the fact that an individual rides a motorcycle or wears motorcycle–related clothing or paraphernalia as a factor in deciding to stop, question, take enforcement action, arrest, or search the individual or vehicle.

(f) (1) “Police officer” means an individual who:

(i) is authorized to enforce the general criminal laws of the State;
and

(ii) is a member of one of the following law enforcement agencies:

1. the Department of State Police;
2. the Police Department of Baltimore City;
3. the police department, bureau, or force of a county;
4. the police department, bureau, or force of a municipal corporation;
5. the Maryland Transit Administration police force;
6. the Maryland Transportation Authority Police;
7. the police forces of the University System of Maryland;
8. the police force of Morgan State University;
9. the office of the sheriff of a county;
10. the police forces of the Department of Natural Resources;
11. the police force of the Maryland Capitol Police of the Department of General Services;
12. the police force of a State, county, or municipal corporation if the special police officers are appointed under Subtitle 3 of this title;
13. the Housing Authority of Baltimore City Police Force;
14. the Baltimore City School Police Force;
15. the Crofton Police Department;
16. the Washington Suburban Sanitary Commission Police Force;

17. the Ocean Pines Police Department;

18. the police force of the Baltimore City Community College;

19. the police force of the Hagerstown Community College;

20. the parole and probation employees of the Warrant Apprehension Unit of the Division of Parole and Probation in the Department who are authorized to make arrests;

21. the police force of the Anne Arundel Community College;
or

22. the police department of the Johns Hopkins University established in accordance with Title 24, Subtitle 12 of the Education Article.

(2) "Police officer" includes:

(i) a member of the Field Enforcement Bureau of the Comptroller's Office;

(ii) **A MEMBER OF THE FIELD ENFORCEMENT DIVISION OF THE ALCOHOL AND TOBACCO COMMISSION;**

(iii) the State Fire Marshal or a deputy State fire marshal;

[(iii)] (iv) an investigator of the Intelligence and Investigative Division of the Department;

[(iv)] (v) a Montgomery County fire and explosive investigator as defined in § 2–208.1 of the Criminal Procedure Article;

[(v)] (vi) an Anne Arundel County or City of Annapolis fire and explosive investigator as defined in § 2–208.2 of the Criminal Procedure Article;

[(vi)] (vii) a Prince George's County fire and explosive investigator as defined in § 2–208.3 of the Criminal Procedure Article;

[(vii)] (viii) a Worcester County fire and explosive investigator as defined in § 2–208.4 of the Criminal Procedure Article;

[(viii)] (ix) a City of Hagerstown fire and explosive investigator as defined in § 2–208.5 of the Criminal Procedure Article; and

[(ix)] (x) a Howard County fire and explosive investigator as

defined in § 2–208.6 of the Criminal Procedure Article.

(3) “Police officer” does not include:

(i) an individual who serves as a police officer only because the individual occupies another office or position;

(ii) a sheriff, the Secretary of State Police, a commissioner of police, a deputy or assistant commissioner of police, a chief of police, a deputy or assistant chief of police, or another individual with an equivalent title who is appointed or employed by a government to exercise equivalent supervisory authority; or

(iii) a member of the Maryland National Guard who:

1. is under the control and jurisdiction of the Military Department;

2. is assigned to the military property designated as the Martin State Airport; and

3. is charged with exercising police powers in and for the Martin State Airport.

(g) “SWAT team” means an agency–designated unit of law enforcement officers who are selected, trained, and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units.

Article – Tax – General

2–102.

(A) In addition to the duties set forth elsewhere in this article and in other articles of the Code, the Comptroller shall administer the laws that relate to:

(1) the admissions and amusement tax;

(2) [the alcoholic beverage tax;

(3)] the boxing and wrestling tax;

[(4)] (3) the income tax;

[(5)] (4) the Maryland estate tax;

[(6)] (5) the Maryland generation–skipping transfer tax;

1 ~~[(7)]~~ **(6)** the motor carrier tax;
2 ~~[(8)]~~ **(7)** the motor fuel tax;
3 ~~[(9)]~~ **(8)** the sales and use tax; AND
4 ~~[(10)]~~ **(9)** the savings and loan association franchise tax]; and
5 **(11)** the tobacco tax].

6 **(B) IN COOPERATION WITH THE EXECUTIVE DIRECTOR OF THE ALCOHOL**
7 **AND TOBACCO COMMISSION, AND IN ADDITION TO THE DUTIES SET FORTH**
8 **ELSEWHERE IN THIS ARTICLE AND IN OTHER ARTICLES OF THE CODE, THE**
9 **COMPTROLLER SHALL ADMINISTER THE LAWS THAT RELATE TO:**

10 **(1) THE ALCOHOLIC BEVERAGE TAX; AND**

11 **(2) THE TOBACCO TAX.**

12 2–103.

13 The Comptroller shall adopt reasonable regulations:

14 **(1) to administer the provisions of the tax laws listed in [§ 2–102] §**
15 **2–102(A) of this subtitle; AND**

16 **(2) IN COOPERATION WITH THE EXECUTIVE DIRECTOR OF THE**
17 **ALCOHOL AND TOBACCO COMMISSION, TO ADMINISTER THE PROVISIONS OF THE**
18 **TAX LAWS LISTED IN § 2–102(B) OF THIS SUBTITLE.**

19 2–105.

20 (a) The Comptroller shall design the license form required for:

21 (1) the motor fuel tax laws; and

22 (2) the sales and use tax laws.

23 (b) The Comptroller:

24 (1) shall determine:

25 (i) the design of tax stamps and certificates required for the
26 alcoholic beverage tax and for the tobacco tax; and

(ii) the form of any other evidence of tax payment; and

(2) may adopt any other method or device that the Comptroller considers necessary to:

(i) prevent fraud or evasion of the alcoholic beverage tax; or

(ii) comply with any restrictions that the federal government imposes on alcoholic beverages during a war or an emergency.

(c) **[The] IN COOPERATION WITH THE EXECUTIVE DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION, THE** Comptroller:

(1) shall provide tax stamps and certificates to indicate that the alcoholic beverage tax or tobacco tax has been paid; and

(2) may adopt reasonable regulations to prevent abuse but ensure the adequate availability of tax stamps and certificates, including regulations that:

(i) limit excessive disbursement of tax stamps and certificates; and

(ii) require proof of need for tax stamps and certificates.

2–107.

(a) Authorized employees of the Field Enforcement Bureau of the Comptroller's Office:

(1) shall be individuals who are sworn police officers; and

(2) have all the powers, duties, and responsibilities of a peace officer for the purpose of enforcing the laws pertaining to:

(i) admissions and amusement tax;

(ii) [alcoholic beverage tax;

(iii)] income tax;

[(iv)] **(III)** motor carrier tax;

[(v)] **(IV)** motor fuel and lubricants;

[(vi)] **(V)** motor fuel tax;

1 [(vii)] (VI) sales and use tax;

2 [(viii) tobacco tax; and]

3 [(ix)] (VII) transient vendors within the meaning of Title 17, Subtitle
4 20A of the Business Regulation Article; AND

5 **(VIII) IN COOPERATION WITH THE AUTHORIZED EMPLOYEES OF**
6 **THE FIELD ENFORCEMENT DIVISION OF THE ALCOHOL AND TOBACCO**
7 **COMMISSION:**

8 **1. ALCOHOLIC BEVERAGE TAX; AND**

9 **2. TOBACCO TAX.**

10 (b) (1) The Department of State Police shall help the Field Enforcement
11 Bureau in enforcing the motor carrier tax, motor fuel tax and motor fuel and lubricants
12 laws.

13 (2) The Comptroller shall pay the salaries and expenses of all Department
14 of State Police staff assigned to the Field Enforcement Bureau.

15 (c) (1) (i) Except for the Sheriff, constables and bailiffs of Baltimore
16 County, each law enforcement officer shall enforce the alcoholic beverage tax and tobacco
17 tax laws.

18 (ii) A State's Attorney or other prosecutor may prosecute alleged
19 violations of the alcoholic beverage tax or tobacco tax laws.

20 (2) The Field Enforcement Bureau **OF THE COMPTROLLER'S OFFICE**
21 **AND THE FIELD ENFORCEMENT DIVISION OF THE ALCOHOL AND TOBACCO**
22 **COMMISSION:**

23 (i) shall advise a State's Attorney and law enforcement officers
24 about enforcement problems; and

25 (ii) otherwise may work cooperatively with law enforcement officers
26 and prosecutors to carry out the duties of the unit.

27 (3) This subsection does not restrict the appropriation of money by a
28 political subdivision of the State to aid in the enforcement of the alcoholic beverage tax and
29 tobacco tax laws.

30 (d) (1) Each unit of the State government shall cooperate with the
31 Comptroller's Office by making available, on request, any information in the unit's
32 possession as may be of assistance in the administration and enforcement of the motor

1 carrier tax, motor fuel tax, and motor fuel and lubricants laws.

2 (2) The Field Enforcement Bureau shall cooperate with and help the
3 federal government, other states, and local governments and law enforcement personnel of
4 those jurisdictions to enforce the motor carrier tax, motor fuel tax, and motor fuel and
5 lubricants laws.

6 (e) On or before October 1 each year, the [Comptroller's Office] **EXECUTIVE**
7 **DIRECTOR OF THE ALCOHOL AND TOBACCO COMMISSION** shall report to the General
8 Assembly, in accordance with § 2–1257 of the State Government Article, on:

9 (1) the aggregate number of licensed tobacco retailers that committed a
10 violation of § 10–107 of the Criminal Law Article and the aggregate number of minors who
11 committed a violation of [§ 10–108] **§ 10–107** of the Criminal Law Article during the
12 reporting period;

13 (2) the number of prior violations for licensed tobacco retailers and minors
14 that committed a violation during the reporting period; and

15 (3) the subsequent action taken by the [Comptroller's Office] **EXECUTIVE**
16 **DIRECTOR** against each violator and, for each action taken, the number of violations
17 committed by the violator.

18 Chapter 12 of the Acts of 2019

19 SECTION 7. AND BE IT FURTHER ENACTED, That all persons who, as of [June 30]
20 **MAY 31**, 2020, are employees in budgeted positions of the Office of the Comptroller and whose
21 positions are transferred to the Office of the Executive Director of the Alcohol and Tobacco
22 Commission as provided by this Act are hereby transferred to the Office of the Executive
23 Director of the Alcohol and Tobacco Commission without any change or loss of rights pay,
24 working conditions, benefits, rights, or status, and shall retain any merit system and
25 retirement status they may have on the date of transfer.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
27 1, 2020.