

**A017-0304**

10 AN ACT Concerning

20 **Tax- General - Unauthorized Substances Tax**

30 FOR the purpose of instituting a tax on certain controlled substances; establishing certain rates  
40 of taxation; providing for exceptions from this article; providing for the method of collecting  
50 and paying taxes; creating report requirements; requiring confidentiality; directing revenues  
60 collected to certain funds; and generally pertaining to the Unauthorized Substance Tax.

70 BY creating  
80 Article- Unauthorized Substances Taxes  
90 Section § 14-101  
100 Annotated Code of Maryland  
110 (2003 Replacement Volume)

120 SECTION 1: BE IT ENACTED BY THE MARYLAND STUDENT LEGISLATURE, that the  
130 Laws of Maryland read as follows:

140 **Article – Tax- General - Unauthorized Substances Tax**

150 § 14-101

160 (a) Purpose: The purpose of this Article is to levy an excise tax to generate revenue for State  
170 and local law enforcement agencies and for the General Fund. Nothing in this Article may in  
180 any manner provide immunity from criminal prosecution for a person who possesses an illegal  
190 substance.

200 (b) Definitions: The following definitions apply in this Article:

- 210 (1) Controlled Substance- For the interests pursuant to this article solely, any unauthorized  
220 substance not prescribed by a legal practioner of medicine that induces mind or body  
altering affects.
- 230 (2) Dealer.- A person who actually or constructively possesses more than 42.5 grams of  
240 marijuana, seven or more grams of any other controlled substance that is sold by  
250 weight, or 10 or more dosage units of any other controlled substance that is not  
260 sold by weight.
- 270 (3) Local law enforcement agency. - A municipal police department, a county police  
280 department, or a sheriff's office.
- 290 (4) Marijuana. - All parts of the plant of the genus Cannabis, whether growing or not; the  
300 seeds of this plant; the resin extracted from any part of this plant; and every  
310 compound, salt, derivative, mixture, or preparation of this plant, its seeds, or its  
320 resin.
- 330 (5) State law enforcement agency. - Any State agency, force, department, or unit  
340 responsible for enforcing criminal laws.

350 (c) Excise tax on controlled substances.

- 360 (1)Controlled Substances. - An excise tax is levied on controlled substances possessed,  
370 either actually or constructively, by dealers at the following rates:
- 380 (a) At the rate of forty cents (40¢) for each gram, or fraction thereof, of  
390 harvested marijuana stems and stalks that have been separated from and  
400 are not mixed with any other parts of the marijuana plant.
- 410 (b) At the rate of three dollars and fifty cents (\$3.50) for each gram, or fraction  
420 thereof, of marijuana, other than separated stems and stalks taxed under  
430 subdivision (a) of this section.

- 440 (c) At the rate of fifty dollars (\$50.00) for each gram, or fraction thereof, of  
450 cocaine.  
460 (d) At the rate of two hundred dollars (\$200.00) for each gram, or fraction  
470 thereof, of any other controlled substance that is sold by weight.  
480 (e) At the rate of fifty dollars (\$50.00) for each 10 dosage units, or fraction  
490 thereof, of any low-street-value drug that is not sold by weight.  
500 (f) At the rate of two hundred dollars (\$200.00) for each 10 dosage units, or  
510 fraction thereof, of any other controlled substance that is not sold by  
520 weight.  
530 (f1)Weight. - A quantity of marijuana or other controlled  
540 substance is measured by the weight of the substance  
550 whether pure or impure or dilute, or by dosage units  
560 when the substance is not sold by weight, in the dealer's  
570 possession. A quantity of a controlled substance is dilute  
580 if it consists of a detectable quantity of pure controlled  
590 substance and any excipients or fillers.

600 (d) Exemptions

- 610 (1) Authorized Possession. - The tax levied in this Article does not apply to a  
620 substance in the possession of a dealer who is authorized by law to possess the  
630 substance. This exemption applies only during the time the dealer's possession  
640 of the substance is authorized by law.  
650 (2) Certain Marijuana Parts. - The tax levied in this Article does not apply to the  
660 following marijuana:  
670 (a) Harvested mature marijuana stalks when separated from and not  
680 mixed with any other parts of the marijuana plant.  
690 (b) Fiber or any other product of marijuana stalks described in  
700 subdivision (a) of this subsection, except resin extracted from the  
710 stalks.  
720 (c) Marijuana seeds that have been sterilized and are incapable of  
730 germination.  
740 (d) Roots of the marijuana plant.

750 (e) Reports; revenue stamps.

- 760 (1)Revenue Stamps. - The Comptroller shall issue stamps to affix to unauthorized  
770 substances to indicate payment of the tax required by this Article. Dealers  
780 shall report the taxes payable under this Article at the time and on the form  
790 prescribed by the Comptroller. Dealers are not required to give their name,  
800 address, social security number, or other identifying information on the  
810 form. Upon payment of the tax, the Comptroller shall issue stamps in an  
820 amount equal to the amount of the tax paid. Taxes may be paid and stamps  
830 may be issued either by mail or in person.  
840 (2) Reports. - Every local law enforcement agency and every State law enforcement  
850 agency must report to the State Police Department within 48 hours after  
860 seizing an unauthorized substance, or making an arrest of an individual in  
870 possession of an unauthorized substance, listed in this subsection upon which  
880 a stamp has not been affixed. The report must be in the form prescribed by  
890 the Comptroller and it must include the time and place of the arrest or seizure,  
900 the amount, location, and kind of substance, the identification of an individual  
910 in possession of the substance and that individual's social security number,  
920 and any other information prescribed by the Comptroller. The report must be  
930 made when the arrest or seizure involves any of the following unauthorized  
940 substances upon which a stamp has not been affixed as required by this  
950 Article:  
960 (a) More than 42.5 grams of marijuana.  
970 (b) Seven or more grams of any other controlled substance that is sold

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by weight.  
(c) Ten or more dosage units of any other controlled substance that is not sold by weight.

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(f) When tax payable.  
(1) The tax imposed by this Article is payable by any dealer who actually or constructively possesses an unauthorized substance in this State upon which the tax has not been paid, as evidenced by a stamp. The tax is payable within 48 hours after the dealer acquires actual or constructive possession of a non-tax-paid unauthorized substance, exclusive of Saturdays, Sundays, and legal holidays of this State, in which case the tax is payable on the next working day. Upon payment of the tax, the dealer shall permanently affix the appropriate stamps to the unauthorized substance. Once the tax due on an unauthorized substance has been paid, no additional tax is due under this Article even though the unauthorized substance may be handled by other dealers.

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(g) Assessments.  
(1) Notwithstanding any other provision of law, an assessment against a dealer who possesses an unauthorized substance to which a stamp has not been affixed as required by this Article shall be made as provided in this section. The Comptroller shall assess a tax, applicable penalties, and interest based on personal knowledge or information available to the Comptroller. The Comptroller shall notify the dealer in writing of the amount of the tax, penalty, and interest due, and demand its immediate payment. The notice and demand shall be either mailed to the dealer at the dealer's last known address or served on the dealer in person. If the dealer does not pay the tax, penalty, and interest immediately upon receipt of the notice and demand, the Comptroller shall collect the tax, penalty, and interest pursuant to proper procedure, including causing execution to be issued immediately against the personal property of the dealer, unless the dealer files with the Comptroller a bond in the amount of the asserted liability for the tax, penalty, and interest. The Comptroller shall use all means available to collect the tax, penalty, and interest from any property in which the dealer has a legal, equitable, or beneficial interest.

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(h) Confidentiality of information.  
(1) Notwithstanding any other provision of law, information obtained pursuant to this Article is confidential and may not be disclosed or, unless independently obtained, used in a criminal prosecution other than a prosecution for a violation of this Article. Stamps issued pursuant to this Article may not be used in a criminal prosecution other than a prosecution for a violation of this Article. A person who discloses information obtained pursuant to this Article is guilty of a Class 1 misdemeanor. This section does not prohibit the Comptroller from publishing statistics that do not disclose the identity of dealers or the contents of particular returns or reports.

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(i) Use of tax proceeds.  
(1) Special Account. - The Comptroller shall credit the proceeds of the tax levied by this Article to a special nonreverting account, to be called the State Unauthorized Substances Tax Account, until the tax proceeds are unencumbered. The Comptroller shall remit the unencumbered tax proceeds as provided in this section on a quarterly or more frequent basis. Tax proceeds are unencumbered when either of the following occurs:  
(a) The tax has been fully paid and the taxpayer has no current right to seek a refund.

1500 (b) The taxpayer has been notified of the final assessment of the tax  
1510 and has neither fully paid nor timely contested the tax  
1520 (c) Distribution. - The Comptroller shall remit seventy-five percent  
1530 (75%) of the part of the unencumbered tax proceeds that  
1540 was collected by assessment to the State or local law  
1550 enforcement agency that conducted the investigation of a dealer  
1560 that led to the assessment. If more than one State or local law  
1570 enforcement agency conducted the investigation, the  
1580 Comptroller shall determine the equitable share for each agency  
1590 based on the contribution each agency made to the investigation.  
1600 The Comptroller shall credit the remaining unencumbered tax  
1610 proceeds to the General Fund.  
1620 (d) Refunds - The refund of a tax that has already been distributed shall  
1630 be drawn initially from the State Unauthorized Substances Tax  
1640 Account. The amount of refunded taxes that had been distributed  
1650 to a law enforcement agency under this section and any interest  
1660 shall be subtracted from succeeding distributions from the  
1670 Account to that law enforcement agency. The amount of  
1680 refunded taxes that had been credited to the General Fund under  
1690 this section and any interest shall be subtracted from succeeding  
1700 credits to the General Fund from the Account.

1710 SECTION 2: AND BE IT FURTHER ENACTED, That this Act shall take effect October 1,  
1720 2004.

1730 MANDATES: Governor Robert L. Ehrlich  
1740 Lt. Governor Michael S. Steele  
1750 Comptroller William Donald Schaffer  
1760 Senate President Thomas V. "Mike" Miller  
1770 Speaker of the House of Delegates Michael E. Busch

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