

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 24. Tobacco Board.

§ 3.2-2400. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Grower" means any person actually engaged in the growing and producing of bright flue-cured tobacco or type 21 dark-fired tobacco.

"Handler" means any manufacturer, dealer, processor, or any other business entity that purchases tobacco directly from the grower.

"Warehouse" means any person authorized by law to conduct auction sales of loose-leaf tobacco.

Code 1950, § 3-240; 1966, c. 702, § 3.1-319; 1985, c. 448; 2002, c. 57; 2008, c. 860; 2012, cc. 803, 835.

§ 3.2-2401. Tobacco Board; composition and appointment of members.

The Tobacco Board is hereby established within the Department. The Tobacco Board shall consist of nine members. Each of the six production areas of flue-cured tobacco set out in § 3.2-2402 shall have a representative on the Tobacco Board, and three members shall represent, as nearly as possible, each important type 21 dark-fired tobacco-producing section in the Commonwealth. The Governor shall appoint members from nominations made by the Virginia Farm Bureau Federation and other organizations representing bright flue-cured tobacco growers or type 21 dark-fired tobacco growers in tobacco-producing counties. Each member shall be a citizen of the Commonwealth and engaged in producing tobacco in the Commonwealth. If the organizations fail to provide nominations, the Governor may appoint other nominees that meet the foregoing criteria.

Code 1950, § 3-241; 1966, c. 702, § 3.1-320; 1978, c. 540; 1985, c. 448; 1994, c. 964; 2008, c. 860; 2011, cc. 691, 714; 2012, cc. 803, 835; 2017, cc. 8, 66.

§ 3.2-2402. Production areas designated.

The following production areas of flue-cured tobacco are designated for the purposes of this chapter:

Area I -- Pittsylvania County;

Area II -- Counties of Henry, Patrick, Carroll, Franklin, Bedford, Campbell, and Appomattox;

Area III -- Halifax County;

Area IV -- Mecklenburg County;

Area V -- Counties of Charlotte, Lunenburg, Prince Edward, Nottoway, Cumberland, Amelia, Powhatan, and Chesterfield; and

Area VI -- Counties of Brunswick, Dinwiddie, Greensville, Prince George, Sussex, and Southampton and the City of Suffolk.

Code 1950, § 3-241; 1966, c. 702, § 3.1-320; 1978, c. 540; 1985, c. 448; 1994, c. 964; 2008, c. 860; 2012, cc. 803, 835.

§ 3.2-2403. Repealed.

§§ 3.2-2403, 3.2-2404. Repealed by Acts 2017, cc. 8 and 66, cl. 2.

§ 3.2-2405. Powers and duties of the Tobacco Board.

A. All funds levied and collected under this chapter shall be administered by the Tobacco Board.

B. The Tobacco Board shall plan and conduct campaigns of education, advertising, publicity, sales promotion, and research to increase the demand for, and the consumption of, bright flue-cured and type 21 dark-fired tobaccos.

C. The Tobacco Board may make contracts, expend moneys of the Bright Flue-Cured Tobacco Promotion Fund and the Dark-Fired Tobacco Promotion Fund, and do whatever else may be necessary to effectuate the purposes of this chapter.

D. The Tobacco Board may cooperate with other state, regional, and national agricultural organizations in research, advertising, publicity, education, and other means of promoting the sale, use, and exportation of bright flue-cured and type 21 dark-fired tobaccos, and expend moneys of the Bright Flue-Cured Tobacco Promotion Fund and the Dark-Fired Tobacco Promotion Fund for such purposes.

E. The Chairman shall make a report at the annual meeting of the Tobacco Board and furnish members with a statement of the total receipts and disbursements for the year. He shall file a copy of such report and the audit required by § 3.2-2407 with the Commissioner.

Code 1950, §§ 3-245 to 3-248; 1966, c. 702, §§ 3.1-324 to 3.1-327; 1978, c. 540; 2008, c. 860; 2012, cc. 803, 835; 2017, cc. 8, 66.

§ 3.2-2406. Collection of assessment.

An assessment of 40 cents (\$0.40) per 100 pounds shall be collected on all bright flue-cured and type 21 dark-fired tobaccos that are harvested in the Commonwealth and sold by the grower and shall be payable by the grower.

Code 1950, § 3-249; 1960, c. 47; 1966, c. 702, § 3.1-328; 1970, c. 408; 1974, c. 74; 1980, c. 87; 1990, c. 523; 2008, c. 860; 2012, cc. 803, 835; 2017, cc. 8, 66.

§ 3.2-2407. Bright Flue-Cured Tobacco Promotion Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Bright Flue-Cured Tobacco Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys levied and collected under this chapter on all bright flue-cured tobacco shall be paid into the state treasury and credited to the Fund.

Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the administration and enforcement of this chapter with respect to bright flue-cured tobacco, including the collection of assessments, the payment of personal services and expenses of agents of the Tobacco Board, and the payment of rent, services, materials, and supplies necessary to effectuate the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by the Tobacco Board on warrants issued by the

Comptroller upon written request signed by a duly authorized officer of the Tobacco Board.

The Auditor of Public Accounts shall audit all the accounts of the Tobacco Board as is provided for in § 30-133.

Code 1950, §§ 3-253, 3-254; 1966, c. 702, §§ 3.1-332, 3.1-333; 1978, c. 540; 2008, c. 860; 2012, cc. 803, 835; 2017, cc. 8, 66.

§ 3.2-2407.1. Dark-Fired Tobacco Promotion Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Dark-Fired Tobacco Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys levied and collected under this chapter on type 21 dark-fired tobacco shall be paid into the state treasury and credited to the Fund.

Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the administration and enforcement of this chapter with respect to type 21 dark-fired tobacco, including the collection of assessments, the payment of personal services and expenses of agents of the Tobacco Board, and the payment of rent, services, materials, and supplies necessary to effectuate the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by the Tobacco Board on warrants issued by the Comptroller upon written request signed by a duly authorized officer of the Tobacco Board.

The Auditor of Public Accounts shall audit all the accounts of the Tobacco Board as is provided for in § 30-133.

2012, cc. 803, 835; 2017, cc. 8, 66.

§ 3.2-2408. Collection and disposition of tax; reports.

Every grower shall pay the excise taxes on bright flue-cured and all type 21 dark-fired tobacco to the warehouse or handler where and when the tobacco is first sold. Each warehouse or handler is designated an agent of the Department for the purpose of collecting such excise tax. The tax shall be paid to the Department, to the credit of the Tobacco Board, on or before the tenth day of the month following its collection. Taxes paid on bright flue-cured tobacco shall be promptly paid into the state treasury to the credit of the Bright Flue-Cured Tobacco Promotion Fund and taxes paid on type 21 dark-fired tobacco shall be promptly paid into the state treasury to the credit of the Dark-Fired Tobacco Promotion Fund.

Code 1950, § 3-250; 1966, c. 702, § 3.1-329; 2002, c. 57; 2008, c. 860; 2012, cc. 803, 835.

§ 3.2-2409. Records to be kept by warehouse and handler.

Each warehouse or handler shall keep a complete record of the excise tax collected by him and shall preserve such record for a period of not less than three years from the time of collection. Such record shall be open to the inspection of the Tobacco Board and its duly authorized agents.

Code 1950, § 3-251; 1966, c. 702, § 3.1-330; 2002, c. 57; 2008, c. 860; 2012, cc. 803, 835.

§ 3.2-2410. Collection of unpaid assessment and interest thereon.

If the assessment imposed by this chapter is not paid when due or any funds collected by a warehouse or handler are not remitted to the Tobacco Board as required in this chapter, the

amount due shall bear interest at the rate of one percent per month from the due date until payment.

If any person defaults in any payment of the assessment or interest thereon, or fails to remit any funds collected to the Tobacco Board, the amount shall be collected by civil action in the name of the Commonwealth at the relation of the Tobacco Board, and the person adjudged in default shall pay the cost of such action. The Attorney General, at the request of the Tobacco Board, shall institute action for the collection of the amount of any assessment past due under this chapter, including interest thereon.

The Tobacco Board, in its discretion, may waive or remit such interest, or a portion thereof, for good cause shown. In determining whether to waive interest charges or request a civil action, the Board shall consider any history of previous violations, the seriousness of the violation, and the good faith demonstrated in any attempt to achieve compliance with the chapter after notice of the violation.

Code 1950, § 3-252; 1966, c. 702, § 3.1-331; 2002, c. 57; 2008, c. 860; 2012, cc. 803, 835; 2017, cc. 8, 66.

§ 3.2-2411. Violation a misdemeanor.

It is a Class 1 misdemeanor for any person knowingly to violate any provision of this chapter.

Code 1950, § 3-255; 1966, c. 702, § 3.1-334; 2008, c. 860.