

HOUSE BILL 414

Q7
HB 640/06 – W&M

71r2625
CF 71r2311

By: **Delegates Barnes, Frush, and Pena-Melnyk**
Introduced and read first time: February 5, 2007
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Admissions and Amusement Tax – Food and Beverages**

3 FOR the purpose of authorizing a municipal corporation to impose an admissions and
4 amusement tax on the gross receipts derived from the sale of certain food and
5 beverages; altering certain limits and providing certain limits on a county's or
6 municipal corporation's authority to impose an admissions and amusement tax;
7 establishing a maximum tax rate on certain gross receipts that are subject to
8 the admissions and amusement tax; excluding that tax rate from calculation of
9 the maximum total tax rate for gross receipts that are subject to the admissions
10 and amusement tax and the sales and use tax; and generally relating to
11 authorizing a municipal corporation to impose an admissions and amusement
12 tax on the sale of certain food and beverages.

13 BY repealing and reenacting, without amendments,
14 Article – Tax – General
15 Section 4–101(a) and (b)
16 Annotated Code of Maryland
17 (2004 Replacement Volume and 2006 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Tax – General
20 Section 4–102(b), 4–103(b), and 4–105
21 Annotated Code of Maryland
22 (2004 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Tax – General**

4 4–101.

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

6 (b) (1) “Admissions and amusement charge”, unless expressly provided
7 otherwise, means a charge for:

8 (i) admission to a place, including any additional separate
9 charge for admission within an enclosure;

10 (ii) use of a game of entertainment;

11 (iii) use of a recreational or sports facility;

12 (iv) use or rental of recreational or sports equipment; and

13 (v) merchandise, refreshments, or a service sold or served in
14 connection with entertainment at a nightclub or room in a hotel, restaurant, hall, or
15 other place where dancing privileges, music, or other entertainment is provided.

16 (2) “Admissions and amusement charge” does not include a charge for
17 admission to a political fundraising event.

18 4–102.

19 (b) A municipal corporation may impose, by ordinance or resolution, a tax on:

20 (1) the gross receipts derived from any admission and amusement
21 charge in that municipal corporation; [and]

22 (2) an admission in that municipal corporation for a reduced charge or
23 at no charge to a place if there is a charge for other admissions to the place; **AND**

24 **(3) THE GROSS RECEIPTS DERIVED FROM THE SALE OF THE**
25 **FOLLOWING ITEMS AT A PLACE IN THAT MUNICIPAL CORPORATION WHERE**
26 **THERE ARE FACILITIES FOR FOOD OR BEVERAGE CONSUMPTION ON THE**
27 **PREMISES:**

- 1 (I) **FOOD AS DEFINED IN § 11-206(A)(4) OF THIS ARTICLE;**
2 (II) **AN ALCOHOLIC BEVERAGE AS DEFINED IN § 5-101 OF**
3 **THIS ARTICLE;**
4 (III) **A SOFT DRINK, CARBONATED BEVERAGE, OR BOTTLED**
5 **WATER; OR**
6 (IV) **CANDY OR CONFECTIONERY.**

7 4-103.

8 (b) The admissions and amusement tax may not be imposed by a county or
9 municipal corporation on gross receipts:

10 (1) derived from any charge **UNDER § 4-101(B)(1)(V) OF THIS**
11 **SUBTITLE** for merchandise, refreshments, or a service sold or served at a place where:

- 12 (i) dancing is prohibited; and
13 (ii) the only entertainment provided is mechanical music, radio,
14 or television;

15 (2) derived from any charge for admission to:

- 16 (i) a live boxing or wrestling match; or
17 (ii) a concert or theatrical event presented or offered by a not for
18 profit group that:

19 1. is organized and operated to present or offer an
20 annual series of scheduled musical concerts; or

21 2. is organized and operated for a cultural purpose and
22 receives a grant directly or indirectly from the Maryland State Arts Council;

23 (3) derived from any charge for admission to or use of:

- 24 (i) a facility or equipment in connection with a bingo game that
25 is operated in accordance with § 13-507 of the Criminal Law Article;

- 1 (ii) a bowling alley or lane; or
- 2 (iii) a charter fishing boat;
- 3 (4) derived from any charge for admission or for merchandise,
4 refreshments, or a service, if the gross receipts are used exclusively for:
- 5 (i) a charitable, educational, or religious purpose;
- 6 (ii) a volunteer fire company or nonprofit rescue squad;
- 7 (iii) a fraternal, service, or veterans' organization chartered by a
8 grant of Congress; or
- 9 (iv) the improvement, maintenance, or operation of an
10 agricultural fair, if no net earnings inure to the benefit of any stockholder or member
11 of the association that conducts the fair; [or]

12 **(5) DERIVED FROM THE SALE OF:**

13 **(I) AN ALCOHOLIC BEVERAGE THAT IS SOLD FOR**
14 **CONSUMPTION OFF THE PREMISES;**

15 **(II) FOOD OR BEVERAGES FOR CONSUMPTION OFF THE**
16 **PREMISES IF SOLD BY A VENDOR THAT OPERATES A SUBSTANTIAL GROCERY OR**
17 **MARKET BUSINESS AT THE SAME LOCATION WHERE THE FOOD IS SOLD, EVEN IF**
18 **THE SALE IS SUBJECT TO THE STATE SALES AND USE TAX UNDER TITLE 11 OF**
19 **THIS ARTICLE; OR**

20 **(III) FOOD OR BEVERAGES IN VENDING MACHINES; OR**

21 ~~[(5)]~~ **(6)** obtained at admission and used for the cost of prizes or as
22 money winnings distributed, as part of its operation, by a commercial bingo game in
23 Anne Arundel County.

24 4-105.

25 (a) Except as otherwise provided in this section, the admissions and
26 amusement tax rate is:

1 (1) the rate that a county or municipal corporation sets, not exceeding
2 10% of gross receipts subject to the admissions and amusement tax; or

3 (2) the rate that the Stadium Authority sets, not exceeding 8% of gross
4 receipts subject to the admissions and amusement tax.

5 **(B) THE TAX RATE SET BY A MUNICIPAL CORPORATION ON GROSS**
6 **RECEIPTS SUBJECT TO THE ADMISSIONS AND AMUSEMENT TAX UNDER §**
7 **4-102(B)(3) OF THIS SUBTITLE MAY NOT EXCEED 1%.**

8 [(b)] (C) (1) [If] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,**
9 **IF** gross receipts subject to the admissions and amusement tax are also subject to the
10 sales and use tax, a county or a municipal corporation may not set a rate so that, when
11 combined with the sales and use tax, the total tax rate will exceed 10% of the gross
12 receipts.

13 **(2) THE MAXIMUM TOTAL TAX RATE UNDER PARAGRAPH (1) OF**
14 **THIS SUBSECTION DOES NOT INCLUDE A TAX RATE SET BY A MUNICIPAL**
15 **CORPORATION UNDER SUBSECTION (B) OF THIS SECTION.**

16 [(c)] (D) If gross receipts subject to the admissions and amusement tax
17 imposed by the Stadium Authority are also subject to an admissions and amusement
18 tax imposed by a county or municipal corporation, the county or municipal corporation
19 may not set a rate or collect the tax at a rate so that, when combined with the rate of
20 the Stadium Authority, the total tax rate will exceed 10% of the gross receipts.

21 [(d)] (E) A municipal corporation may set an admissions and amusement
22 tax rate that differs from the rate set by the county where the municipal corporation is
23 located.

24 [(e)] (F) For purposes of setting admissions and amusement tax rates, a
25 county, a municipal corporation, or the Stadium Authority may:

26 (1) establish different classes of admissions and amusement charges;
27 and

28 (2) set different rates of tax for those classes.

29 [(f)] (G) The admissions and amusement tax that a county, a municipal
30 corporation, or the Stadium Authority may impose on a reduced charge or free
31 admission is:

32 (1) 5 cents, if the charge for any other admission is 50 cents or less;

1 (2) 10 cents, if the charge for any other admission is more than 50
2 cents but does not exceed \$1; and

3 (3) 15 cents, if the charge for any other admission is more than \$1.

4 [(g)] (H) If a county, a municipal corporation, or the Stadium Authority
5 changes an admissions and amusement tax rate or changes a class to which a rate
6 applies, the county, municipal corporation, or Stadium Authority shall give the
7 Comptroller notice of the change at least 60 days before the effective date of the
8 change.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 July 1, 2007.