

Department of Legislative Services
 Maryland General Assembly
 2011 Session

FISCAL AND POLICY NOTE
 Revised

House Bill 1213
 Ways and Means

(Delegate Howard)

Budget and Taxation

Sales and Use Tax - Alcoholic Beverages - Supplementary Appropriation

This bill increases the State sales and use tax rate imposed on alcoholic beverages from 6% to 9%. The bill requires a supplementary appropriation of \$47.5 million in fiscal 2012 for public school construction projects in local jurisdictions. The Board of Public Works (BPW) must approve the individual projects for each local jurisdiction.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: General fund revenues increase by \$84.8 million in FY 2012 and by \$90.7 million in FY 2016. General fund expenditures increase by \$47.5 million in FY 2012 for public school construction projects and by \$187,200 for computer programming changes.

(\$ in millions)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	\$84.8	\$86.2	\$87.7	\$89.2	\$90.7
GF Expenditure	\$47.7	\$0	\$0	\$0	\$0
Net Effect	\$37.1	\$86.2	\$87.7	\$89.2	\$90.7

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: State excise tax rates for alcoholic beverages in Maryland are \$1.50 per gallon for distilled spirits, 40 cents per gallon for wine, and 9 cents per gallon for beer. The State's 6% sales tax is also imposed on the sale of alcoholic beverages.

Background: Total alcoholic beverage tax revenues in Maryland are estimated at \$31.2 million for fiscal 2012. Compared to other states, Maryland has relatively low tax rates on alcoholic beverages. The tax on distilled spirits was last increased in 1955, and the tax on beer and wine was last increased in 1972. **Appendix 1** shows alcoholic beverage tax rates for the 50 states and the District of Columbia as of January 2010. A federal excise tax on alcoholic beverages is also imposed – these rates are \$13.50 per gallon for distilled spirits, \$1.07 per gallon for wine, and \$0.58 per gallon for beer.

As noted in Appendix 1, the government directly controls the sales of distilled spirits in 18 states, including Pennsylvania, Virginia, and West Virginia. Sales of wine are controlled by the government in four states, including Pennsylvania. In these states, sales of these products are subject to a variety of taxes and fees.

The sales and use tax is the State's second largest source of general fund revenue, accounting for \$3.7 billion in fiscal 2011 and \$3.8 billion in fiscal 2012, according to the December 2010 revenue forecast.

Except for Delaware, all of Maryland's surrounding states and the District of Columbia impose a sales tax on alcoholic beverages. **Exhibit 1** shows the sales and use tax rates in each of those jurisdictions. As shown in the exhibit, in lieu of its general sales and use tax rate of 6%, the District of Columbia imposes a 9% sales tax rate for off-premises sales and a 10% sales tax rate for on-premises sales of alcoholic beverages.

Exhibit 1 Sales and Use Tax Rates in Maryland and Surrounding States

Delaware	0%
District of Columbia	6% 9% for off- premises sales of alcoholic beverages 10% for on-premises sales of alcoholic beverages
Maryland	6%
Pennsylvania	6% plus 1% or 2% in certain local jurisdictions
Virginia	5%; 2.5% for food, both rates include 1% for local jurisdictions
West Virginia	6%; 3% for food

State Revenues: State sales and use tax revenues will increase by approximately \$84.8 million in fiscal 2012 and by \$90.7 million in fiscal 2016. Chapter 10 of 2008 altered the distribution of sales and use tax revenues by requiring that for fiscal 2009 through 2013, 5.3% of revenues be distributed to the Transportation Trust Fund (TTF). Beginning in fiscal 2014, the percentage of revenues distributed to TTF increases to 6.5%. The Budget Reconciliation and Financing Act of 2011 (HB 72) repeals the sales and use tax distribution to TTF which was established by Chapter 10 of 2008. Accordingly, beginning July 1, 2011, contingent on passage of HB 72, sales and use tax revenues will no longer be distributed to TTF.

The Comptroller's Office does not track the number of each type of alcoholic beverage unit that is sold in the State. Sales are instead tracked by the number of gallons, as that is how alcoholic beverage excise taxes are imposed at the wholesale level. In fiscal 2010, there were 100.8 million gallons of beer, 10.1 million gallons of distilled spirits, and 13.7 million gallons of wine sold in the State. As a result, the actual amount of sales and use tax revenue attributable to the retail sale of alcoholic beverages is not known. However, using data from the *2007 Economic Census*, the Comptroller's monthly sales tax collection reports for fiscal 2010, and the projected gallonage of distilled spirits, wine, and beer sold in the State, it is estimated that approximately \$197.1 million in sales tax collections will be attributable to sales of alcoholic beverages in fiscal 2012. The revenue estimates for the proposed rate increases assume that sales of distilled spirits will decrease by 8.0% from current levels and that sales of wine and beer will decrease by 3.0% from current levels when the new tax rate is phased in. It is estimated that revenues will increase by approximately 1.7% annually thereafter.

However, the actual amount of the increase in sales tax revenues depends on the number of alcoholic beverage units sold each year and the prices charged for alcoholic beverages, which may be higher or lower than estimated. In addition, the bill imposes the sales and use tax on alcoholic beverages on a percentage basis, while Maryland's sales and use tax is currently calculated using a bracket system that always rounds up. To the extent that prices are such that the calculation of the sales and use tax would be rounded down, this "breakage" issue will reduce estimated revenues.

State Expenditures: The bill requires a supplementary appropriation of \$47.5 million in fiscal 2012 to be used for public school construction projects. BPW must approve projects, which may or may not be eligible for funding under the Public School Construction Program. In approving funding for projects, BPW must consider requests from the local jurisdictions and projects that (1) benefit older school buildings; (2) benefit schools with high proportions of children eligible for free and reduced price meals; (3) can be completed within one year; (4) eliminate or reduce the use of relocatable classrooms; (5) are designated as A or B by the Interagency Committee on Public School Construction and are not fully funded in the fiscal 2012 Capital Improvement Program

approved by BPW; or (6) reduce energy consumption or incorporate high performance “green” building principles. **Exhibit 2** shows the required funding amount for each jurisdiction and/or region and compares the required funding amount on a per pupil basis.

Exhibit 2
Additional State Funding for Public School Construction
Fiscal 2012

<u>County</u>	<u>Amount</u>	<u>Per Pupil Amount</u>
Anne Arundel	\$5,000,000	\$67.88
Baltimore City	9,000,000	114.48
Baltimore	7,000,000	69.77
Eastern Shore	1,250,000	27.07
Howard	4,000,000	80.09
Montgomery	9,000,000	64.10
Northeast Maryland	1,250,000	23.61
Prince George’s	9,000,000	75.12
Southern Maryland	1,250,000	21.27
Western Maryland	750,000	7.46
Total	\$47,500,000	\$57.85

The Comptroller’s Office will incur a one-time expenditure increase of \$187,200 in fiscal 2012 to make programming changes to its SMART system in order to accommodate the new sales and use tax rates.

Small Business Effect: The sales tax increase on alcoholic beverages may result in a decline in sales for all retailers and wholesalers of alcoholic beverages. Those businesses located near the State’s borders may be more adversely affected as customers in those areas could cross the border into other jurisdictions to purchase alcoholic beverages.

Retailers will also incur increased programming and administrative costs associated with collecting and remitting revenues from the new sales and use tax rate. The *2007 Economic Census* indicates that there are approximately 11,000 retailers that sell alcoholic beverages in the State.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptrollers Office, Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2011
ncs/jrb Revised - House Third Reader - April 11, 2011

Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix 1
Alcoholic Beverage Taxes by State
January 2010

State	Distilled Spirits¹ (\$ per Gallon)	Wine² (\$ per Gallon)	Beer³ (\$ per Gallon)
Alabama	*	\$1.70	\$0.53
Alaska	\$12.80	2.50	1.07
Arizona	3.00	.84	0.16
Arkansas	2.50	.75	0.23
California	3.30	.20	0.20
Colorado	2.28	.28	0.08
Connecticut	4.50	.60	0.19
Delaware	5.46	.97	0.16
Florida	6.50	2.25	0.48
Georgia	3.79	1.51	0.32
Hawaii	5.98	1.38	0.93
Idaho	*	.45	0.15
Illinois	8.55	1.39	0.235
Indiana	2.68	.47	0.115
Iowa	*	1.75	0.19
Kansas	2.50	.30	0.18
Kentucky	1.92	.50	0.08
Louisiana	2.50	.11	0.32
Maine	*	.60	0.35
Maryland	1.50	.40	0.09
Massachusetts	4.05	.55	0.11
Michigan	*	.51	0.20
Minnesota	5.03	.30	0.15
Mississippi	*	.35	0.43
Missouri	2.00	.30	0.06
Montana	*	1.06	0.14
Nebraska	3.75	.95	0.31
Nevada	3.60	.70	0.16
New Hampshire	*	**	0.30
New Jersey	5.50	.875	0.15
New Mexico	6.06	1.70	0.41
New York	6.44	.30	0.14
North Carolina	*	.79	0.53
North Dakota	2.50	.50	0.16
Ohio	*	.30	0.18
Oklahoma	5.56	.72	0.40
Oregon	*	.67	0.08
Pennsylvania	*	**	0.08
Rhode Island	3.75	.60	0.10

State	Distilled Spirits¹ (\$ per Gallon)	Wine² (\$ per Gallon)	Beer³ (\$ per Gallon)
South Carolina	2.72	.90	0.77
South Dakota	3.93	.93	0.27
Tennessee	4.40	1.21	0.14
Texas	2.40	.20	0.20
Utah	*	**	0.41
Vermont	*	.55	0.265
Virginia	*	1.51	0.26
Washington	*	.87	0.261
West Virginia	*	1.00	0.18
Wisconsin	3.25	.25	0.06
Wyoming	*	**	0.02
District of Columbia	1.50	.30	0.09
U.S. Median	3.75	0.67	0.19

¹22 states and the District of Columbia have different rates for products with certain percentages of alcohol and/or other sales/excise taxes.

²37 states have different rates for products with certain percentages of alcohol and/or other sales/excise taxes.

³23 states have different rates for products with certain percentages of alcohol and/or other sales/excise taxes.

*In 18 states, the government directly controls the sales of distilled spirits. Revenue in these states is generated from various taxes, fees, and net liquor sales.

**All wine sales are through state stores. Revenue in these states is generated from various taxes, fees, and net profits.

Source: Federation of Tax Administrators