

Department of Legislative Services  
 Maryland General Assembly  
 2012 Session

FISCAL AND POLICY NOTE  
 Revised

Senate Bill 852

(Senator King, *et al.*)

Budget and Taxation

Ways and Means

Sales and Use Tax - Alcoholic Beverages - Calculation of Tax

This bill modifies the State sales and use tax rate applicable to charges for labor, materials, or property used in connection with the sale of an alcoholic beverage so that the general 6% sales tax rate applies to these items, rather than the 9% rate that applies to the sale of an alcoholic beverage. The bill specifies that the sales tax rate of 6% applies to a mandatory gratuity charge or service charge in the nature of a tip for serving food or any type of beverage to a group containing more than 10 individuals.

The bill takes effect July 1, 2012.

Fiscal Summary

**State Effect:** General fund revenues decrease by approximately \$750,000 annually beginning in FY 2013. Expenditures are not affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
GF Revenue	(\$750,000)	(\$750,000)	(\$750,000)	(\$750,000)	(\$750,000)
Expenditure	0	0	0	0	0
Net Effect	(\$750,000)	(\$750,000)	(\$750,000)	(\$750,000)	(\$750,000)

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

**Local Effect:** None.

**Small Business Effect:** Minimal.

## Analysis

**Current Law:** Chapters 571 and 572 of 2011 increased the State sales and use tax rate imposed on alcoholic beverages from 6% to 9%. Chapter 572 required a supplementary appropriation of \$47.5 million in fiscal 2012 for public school construction projects in local jurisdictions. Chapter 571 required a supplementary appropriation of \$15.0 million in fiscal 2012 to be used to fund a waiting list initiative for the Developmental Disabilities Administration.

**Background:** The sales and use tax is the State's second largest source of general fund revenue, accounting for approximately \$4.0 billion in both fiscal 2012 and 2013, according to the December 2011 revenue forecast. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

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

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

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The bill addresses concerns raised by the Maryland Restaurant Association regarding the application of the 9% sales tax rate to mandatory gratuities and items such as labor and material (glassware) used in conjunction with the sale of an alcoholic beverage.

**State Fiscal Effect:** The bill clarifies the imposition of the State sales tax rate on sales of alcoholic beverages related to mandatory gratuities as well as labor and materials used in conjunction with the sale of an alcoholic beverage.

The fiscal estimate for Chapters 571 and 572 was based on the number of gallons of alcoholic beverages that were sold in the State prior to the 9% tax rate taking effect, as alcoholic beverage excise taxes are imposed at the wholesale level on a gallonage basis. As such, the estimated additional revenues associated with the 9% tax rate did not include items such as labor or tangible personal property (glassware) that may be included in the sale of alcoholic beverages in circumstances where a purchaser is renting such items in conjunction with a large party. However, the Comptroller's Office has interpreted the law to require that the 9% tax rate be imposed on these items. As a result, general fund revenues will decrease under the bill.

The Comptroller's Office reports collecting approximately \$38.0 million in sales tax revenues in the first six months of fiscal 2012 from the additional tax rate imposed on alcoholic beverages. It is estimated that general fund revenues will decrease by approximately \$750,000 annually beginning in fiscal 2013 as a result of the clarifying changes made by the bill, based on U.S. Census data for catering, restaurant, and hotel sales of alcoholic beverages, as well as current sales tax collections.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 918 (Delegate Hixson, *et al.*) - Ways and Means.

**Information Source(s):** Comptroller's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2012  
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