

SENATE BILL 190

Q4

5lr0860
CF HB 1065

By: **Senators Madaleno, Eckardt, Guzzone, King, ~~and Manne~~ Manno, and McFadden**

Introduced and read first time: February 2, 2015

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2015

CHAPTER _____

1 AN ACT concerning

2 **Sales and Use Tax – Taxable Price – Accommodations**

3 FOR the purpose of clarifying the definition of “taxable price” for the State sales and use
4 tax as it applies to the sale or use of an accommodation facilitated by an
5 accommodations intermediary; altering the definition of “vendor” under the State
6 sales and use tax to include an accommodations intermediary; defining certain
7 terms; making a conforming change; and generally relating to clarifying the taxable
8 price for an accommodation under the State sales and use tax.

9 BY repealing and reenacting, without amendments,
10 Article – Tax – General
11 Section 11–101(a) and (l)(1)
12 Annotated Code of Maryland
13 (2010 Replacement Volume and 2014 Supplement)

14 BY adding to
15 Article – Tax – General
16 Section 11–101(a–1), (a–2), (a–3), ~~(a–4)~~, and (l)(5) and (6)
17 Annotated Code of Maryland
18 (2010 Replacement Volume and 2014 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Tax – General
21 Section 11–101(k)(1) and (o)(1)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2014 Supplement)

3 Preamble

4 WHEREAS, The clear intent of the State's existing sales and use tax law is to impose
5 the tax on all consideration paid by transient guests in furtherance of the rental of sleeping
6 accommodations; and

7 WHEREAS, The purpose of this Act is to affirm that intent by clarifying the scope of
8 certain terms used in the sales and use tax law, thereby facilitating the full and proper
9 collection of the tax as originally intended; now, therefore,

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

12 Article – Tax – General

13 11–101.

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

15 (A-1) "ACCOMMODATION" MEANS A RIGHT TO OCCUPY A ROOM OR LODGINGS
16 AS A TRANSIENT GUEST.

17 ~~(A-2) (1) "ACCOMMODATION FEE" MEANS A FEE CHARGED BY AN~~
18 ~~ACCOMMODATIONS INTERMEDIARY TO A BUYER OF AN ACCOMMODATION FOR~~
19 ~~FACILITATING THE SALE OR USE OF THE ACCOMMODATION.~~

20 ~~(2) "ACCOMMODATION FEE" DOES NOT INCLUDE A COMMISSION PAID~~
21 ~~BY AN ACCOMMODATIONS PROVIDER TO A PERSON AFTER FACILITATING THE SALE~~
22 ~~OR USE OF AN ACCOMMODATION.~~

23 ~~(A-3) (A-2) (1) "ACCOMMODATIONS INTERMEDIARY" MEANS A PERSON,~~
24 ~~OTHER THAN AN ACCOMMODATIONS PROVIDER, WHO FACILITATES THE SALE OR~~
25 ~~USE OF AN ACCOMMODATION AND CHARGES A BUYER THE TAXABLE PRICE FOR THE~~
26 ~~ACCOMMODATION.~~

27 (2) FOR PURPOSES OF THIS SUBSECTION, A PERSON SHALL BE
28 CONSIDERED TO FACILITATE THE SALE OR USE OF AN ACCOMMODATION IF THE
29 PERSON BROKERS, COORDINATES, OR IN ANY OTHER WAY ARRANGES FOR THE SALE
30 OR USE OF AN ACCOMMODATION BY A BUYER.

1 ~~(A-4)~~ **(A-3)** “ACCOMMODATIONS PROVIDER” MEANS A PERSON THAT OWNS,
2 OPERATES, OR MANAGES AN ACCOMMODATION AND MAKES THE ACCOMMODATION
3 AVAILABLE FOR SALE OR USE TO A BUYER.

4 (k) (1) “Tangible personal property” means:

5 (i) corporeal personal property of any nature; or

6 (ii) [a right to occupy a room or lodgings as a transient guest] AN
7 ACCOMMODATION.

8 (l) (1) “Taxable price” means the value, in money, of the consideration of any
9 kind that is paid, delivered, payable, or deliverable by a buyer to a vendor in the
10 consummation and complete performance of a sale without deduction for any expense or
11 cost, including the cost of:

12 (i) any labor or service rendered;

13 (ii) any material used; or

14 (iii) any property sold.

15 **(5) “TAXABLE PRICE” INCLUDES, FOR THE SALE OR USE OF AN**
16 **ACCOMMODATION FACILITATED BY AN ACCOMMODATIONS INTERMEDIARY, THE**
17 **FULL AMOUNT OF THE CONSIDERATION PAID BY A BUYER FOR THE SALE OR USE OF**
18 **AN ACCOMMODATION, ~~INCLUDING ANY ACCOMMODATION FEE~~, BUT NOT INCLUDING**
19 **ANY TAX THAT IS REMITTED TO A TAXING AUTHORITY.**

20 **(6) “TAXABLE PRICE” DOES NOT INCLUDE, FOR THE SALE OR USE OF**
21 **AN ACCOMMODATION FACILITATED BY AN ACCOMMODATIONS INTERMEDIARY, A**
22 **COMMISSION PAID BY AN ACCOMMODATIONS PROVIDER TO A PERSON AFTER**
23 **FACILITATING THE SALE OR USE OF AN ACCOMMODATION.**

24 (o) (1) “Vendor” means a person who:

25 (i) engages in the business of an out-of-state vendor, as defined in
26 § 11-701 of this title;

27 (ii) engages in the business of a retail vendor, as defined in § 11-701
28 of this title; [or]

29 (iii) holds a special license issued under § 11-707 of this title; OR

30 **(IV) IS AN ACCOMMODATIONS INTERMEDIARY.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2015.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.