

SENATE BILL 235

Q4

7lr1488
CF HB 470

By: **Senator Guzzone**

Introduced and read first time: January 20, 2017

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 14, 2017

CHAPTER _____

1 AN ACT concerning

2 **Sales and Use Tax – ~~Exemption – Service Performed by Person Practicing~~**
3 **Engineering Declaration of Legislative Intent – Services**

4 FOR the purpose of ~~providing an exemption from the sales and use tax for certain services~~
5 ~~performed by certain persons practicing engineering;~~ clarifying that the sales tax
6 applies to a security service by a detective who is authorized to provide private
7 detective services under certain provisions of law; declaring the intent of the General
8 Assembly regarding the application of the sales tax to taxable services; declaring the
9 intent of the General Assembly that a certain service is subject to the sales tax only
10 if it is provided by certain persons with certain authority; clarifying that the
11 Comptroller is prohibited from imposing the sales tax on certain services; defining a
12 certain term; providing for the application of this Act; and generally relating to the
13 sales and use tax.

14 ~~BY repealing and reenacting, without amendments,~~
15 ~~Article – Business Occupations and Professions~~
16 ~~Section 14–101(a) and (j)~~
17 ~~Annotated Code of Maryland~~
18 ~~(2010 Replacement Volume and 2016 Supplement)~~

19 BY adding to
20 Article – Tax – General
21 Section 11–101(c–1)
22 Annotated Code of Maryland
23 (2016 Replacement Volume)

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 BY ~~adding to~~ repealing and reenacting, without amendments,
 2 Article – Tax – General
 3 Section ~~11-219(e)~~ 11-101(m)(10)
 4 Annotated Code of Maryland
 5 (2016 Replacement Volume)

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

8 ~~Article – Business Occupations and Professions~~

9 ~~11-101.~~

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

11 (i) (1) ~~“Practice engineering” means to provide any service or creative work~~
 12 ~~the performance of which requires education, training, and experience in the application~~
 13 ~~of:~~

14 (i) ~~special knowledge of the mathematical, physical, and~~
 15 ~~engineering sciences; and~~

16 (ii) ~~the principles and methods of engineering analysis and design.~~

17 (2) ~~In regard to a building or other structure, machine, equipment, process,~~
 18 ~~works, system, project, or public or private utility, “practice engineering” includes:~~

19 (i) ~~consultation;~~

20 (ii) ~~design;~~

21 (iii) ~~evaluation;~~

22 (iv) ~~inspection of construction to ensure compliance with~~
 23 ~~specifications and drawings;~~

24 (v) ~~investigation;~~

25 (vi) ~~planning; and~~

26 (vii) ~~design coordination.~~

27 (3) ~~“Practice engineering” does not include the exclusive and sole~~
 28 ~~performance of nontechnical management activities.~~

29 ~~Article – Tax – General~~

1 ~~11-210.~~

2 ~~(E) (1) IN THIS SUBSECTION, "PRACTICE ENGINEERING" HAS THE~~
3 ~~MEANING STATED IN § 14-101 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS~~
4 ~~ARTICLE.~~

5 ~~(2) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF A~~
6 ~~SERVICE PERFORMED BY A PERSON PRACTICING ENGINEERING.~~

7 Article – Tax – General

8 11-101.

9 (C-1) "DETECTIVE" MEANS A PERSON WHO IS AUTHORIZED TO PROVIDE
10 PRIVATE DETECTIVE SERVICES UNDER TITLE 13 OF THE BUSINESS OCCUPATIONS
11 AND PROFESSIONS ARTICLE.

12 (m) "Taxable service" means:

13 (10) a security service, including:

14 (i) a detective, guard, or armored car service; and

15 (ii) a security systems service;

16 SECTION 2. AND BE IT FURTHER ENACTED, That:

17 (a) The General Assembly finds that the imposition of sales tax imposed on a
18 service not explicitly stated to be a "taxable service" under § 11-101(m) of the Tax – General
19 Article is inconsistent with the legislative intent of the law.

20 (b) The General Assembly finds that the sales tax imposed on security services by
21 a "detective" under § 11-101(m) of the Tax – General Article is intended to apply only to
22 security services provided by a person who is authorized to provide private detective
23 services under Title 13 of the Business Occupations and Professions Article.

24 (c) The Comptroller may not apply § 11-101(m) of the Tax – General Article or
25 COMAR 03.06.01.39B(2) to impose the sales tax on a detective service unless the service is
26 provided by a person who is authorized, or is required to be authorized, to provide private
27 detective services under Title 13 of the Business Occupations and Professions Article.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
29 apply retroactively, in accordance with §§ 13-1102(a) and 13-1104(g) of the Tax – General
30 Article, and shall be applied to and interpreted to affect any assessment of the sales tax
31 under COMAR 03.06.01.39B(2) for a detective service unless the service is provided by a

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1 person who is authorized, or is required to be authorized, to provide private detective
2 services under Title 13 of the Business Occupations and Professions Article.

3 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.