

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 386
Ways and Means

(Delegate Hornberger, *et al.*)

Admissions and Amusement Tax - Limitations on Municipal Corporations -
Agricultural Tourism

This bill prohibits a municipality from imposing an admissions and amusement tax on gross receipts derived from any admissions and amusement charge for any activities related to agricultural tourism. **The bill takes effect July 1, 2019.**

Fiscal Summary

State Effect: None.

Local Effect: Potential significant decrease in municipal admissions and amusement tax revenues beginning in FY 2020. Municipal expenditures are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Current Law: Counties and municipalities are authorized to tax the gross receipts derived from (1) the charge for admission to any place furnishing a performance such as a movie theater or sports stadium; (2) the use or rental of sporting or recreational facilities; (3) the merchandise, refreshments, or services sold or served in connection with entertainment at a nightclub or a room in a hotel; restaurant; hall; or other place where dancing privileges, music, or other entertainment is provided; (4) use of a game of entertainment; and (5) use or rental of recreational or sports equipment.

Counties and municipalities may also impose a tax on admission for a reduced charge or at no charge to a place that otherwise charges admission. An admissions and amusement tax may not be imposed in a municipality by a county if the municipality already imposes a similar tax or specifically exempts any gross receipts from the admissions and amusement tax.

The Maryland Stadium Authority is authorized to impose a tax on the gross receipts derived from any admissions and amusement charge for a facility owned or leased by the stadium authority. The stadium authority also may impose an additional tax for each person provided with a free admission or an admission at a reduced charge to a stadium authority facility. Currently, these taxes are imposed at both stadiums at Camden Yards (Orioles and Ravens).

Each county or municipality sets its own single tax rate or range of rates. This rate is expressed as a percentage of gross receipts, up to a maximum rate of 10%. The stadium authority may impose an admissions and amusement tax at its facilities of up to 8%. In those instances where gross receipts are subject to both a local and a stadium authority admissions and amusement tax, the stadium authority tax takes precedence. The stadium authority imposes the maximum 8% rate at both stadiums at Camden Yards. Therefore, Baltimore City may only impose a maximum 2% admissions and amusement tax on those receipts.

The local admissions and amusement tax is further limited by the State sales and use tax. The maximum tax rate on the gross receipts subject to both the State sales and use tax and the local admissions and amusement tax may not exceed 11%. Therefore, if the 6% State sales and use tax applies to these receipts, the local admissions and amusement tax may not exceed 5%. This limitation on the local tax arises primarily on performances accompanied by some type of food service (*e.g.*, dinner theaters).

Counties, municipalities, and the stadium authority are authorized to classify different types of activities, and the rate of tax need not be the same for each type. If a municipality does not levy a tax, the county tax, if any, applies within the municipality. All counties (with the exception of Caroline and Frederick counties), Baltimore City, and most municipalities impose an admissions and amusement tax. There are numerous statewide and county-specific admissions and amusement tax exemptions set out under State law.

Several jurisdictions, including Baltimore, Harford, and St. Mary's counties, currently exempt agricultural tourism activities from their local admissions and amusement taxes.

Background: Harford County is prohibited from imposing an admissions and amusement tax on gross receipts derived from any admissions and amusement charge for (1) golf

entertainment; (2) a business that provides drive-in movie entertainment; (3) any activities related to agricultural tourism; and (4) a roller skating rink.

House Bill 1286 of 2017 would have prohibited a municipality in Harford County from imposing an admissions and amusement tax on gross receipts derived from any admissions and amusement charge for (1) golf entertainment; (2) a business that provides drive-in movie entertainment; (3) any activities related to agricultural tourism; and (4) a roller skating rink. The bill received a favorable with amendments report from the House Ways and Means Committee and passed the House of Delegates. In the Senate, the bill received a hearing in the Budget and Taxation Committee, but no further action was taken.

House Bill 549 of 2018 would have prohibited a municipality from imposing an admissions and amusement tax on gross receipts derived from any admissions and amusement charge for (1) golf entertainment; (2) a business that provides drive-in movie entertainment; (3) any activities related to agricultural tourism; and (4) a roller skating rink. The bill received a hearing in the House Ways and Means Committee, but no further action was taken.

Local Fiscal Effect: Municipal admissions and amusement tax revenues decrease beginning in fiscal 2020. The amount of the revenue decrease depends on the amount of gross receipts from agricultural tourism establishments that are subject to municipal admissions and amusement taxes. The amount of the revenue decrease could be significant. The Department of Legislative Services has identified 103 agricultural tourism locations that may be located in municipalities based on each establishment's mailing address.

Based on data from the Uniform Financial Reports, municipalities collected approximately \$10.9 million in admissions and amusement taxes in fiscal 2017. As a point of reference, if the exemptions specified by the bill account for 5% of municipal admissions and amusement tax revenues, municipal revenues could decrease by approximately \$545,000 annually beginning in fiscal 2020.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; City of College Park; Harford and Montgomery counties; Maryland Municipal League; Maryland Department of Agriculture; Comptroller's Office; Department of Legislative Services

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