
By: **Delegates Oaks, Marriott, V. Jones, Kirk, McIntosh, and Paige**
Introduced and read first time: February 9, 2001
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Ammunition Tax**

3 FOR the purpose of imposing a tax on the sale of ammunition in the State;
4 establishing the rate of the ammunition tax; altering the definition of "sales tax"
5 under the tax laws to include the ammunition tax under the administration of
6 the sales tax; providing that certain credits and exemptions do not apply to the
7 ammunition tax; exempting certain sales from the ammunition tax; providing
8 certain persons a certain collection expense credit for timely filing of an
9 ammunition tax return; requiring ammunition dealers to file certain
10 ammunition tax returns to include certain information; defining certain terms;
11 and generally relating to a tax on the sale or use of ammunition in the State.

12 BY repealing and reenacting, with amendments,
13 Article - Tax - General
14 Section 1-101(s)
15 Annotated Code of Maryland
16 (1997 Replacement Volume and 2000 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article - Tax - General
19 Section 11-101(a), (f), (h), and (l)
20 Annotated Code of Maryland
21 (1997 Replacement Volume and 2000 Supplement)

22 BY adding to
23 Article - Tax - General
24 Section 11-1B-01 through 11-1B-05, inclusive, to be under the new subtitle
25 "Subtitle 1B. Ammunition Tax"; 11-501(c), and 11-502(d)
26 Annotated Code of Maryland
27 (1997 Replacement Volume and 2000 Supplement)

1 Preamble

2 WHEREAS, There has been in recent years an alarming increase in the
3 number of murders and other violent crimes perpetrated in Maryland; and

4 WHEREAS, A high percentage of these murders and other violent crimes
5 involve the use of firearms; and

6 WHEREAS, In addition to the immeasurable social costs resulting therefrom,
7 violent crimes committed with firearms continue to place an enormous strain on State
8 and local public finances due to increased costs of emergency medical services, public
9 safety, and correctional services; now, therefore,

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

12 **Article - Tax - General**

13 1-101.

14 (s) (1) "Sales and use tax" means the tax imposed under Title 11 of this
15 article.

16 (2) "Sales and use tax" includes the tax imposed on the use of certain
17 electricity under § 11-1A-01 of this article.

18 (3) "SALES AND USE TAX" INCLUDES THE AMMUNITION TAX IMPOSED
19 UNDER TITLE 11, SUBTITLE 1B OF THIS ARTICLE.

20 11-101.

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

22 (f) (1) "Retail sale" means the sale of:

23 (i) tangible personal property; or

24 (ii) a taxable service.

25 (2) "Retail sale" includes:

26 (i) a sale of tangible personal property for use or resale in the form
27 of real estate by a builder, contractor, or landowner; and

28 (ii) except as provided in paragraph (3)(i) of this subsection, use of
29 tangible personal property as facilities, tools, tooling, machinery, or equipment,
30 including dies, molds, and patterns, even if the buyer intends to transfer title to the
31 property before or after that use.

32 (3) "Retail sale" does not include:

1 (i) a transfer of title to tangible personal property after its use as
2 facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns,
3 if:

4 1. at the time of purchase, the buyer is obligated, under the
5 terms of a written contract, to make the transfer; and

6 2. the transfer is made for the same or greater consideration
7 to the person for whom the buyer manufactures goods or performs work;

8 (ii) a sale of tangible personal property if the buyer intends to:

9 1. resell the tangible personal property in the form that the
10 buyer receives or is to receive the property;

11 2. use or incorporate the tangible personal property in a
12 production activity as a material or part of other tangible personal property to be
13 produced for sale; or

14 3. transfer the tangible personal property as a part of a
15 taxable service transaction; or

16 (iii) a sale of a taxable service if the buyer intends to resell the
17 taxable service in the form that the buyer receives or is to receive the service.

18 (h) "Sale for use" means a sale in which tangible personal property or a
19 taxable service that is consumed, possessed, stored, or used in the State is acquired.

20 (l) (1) "Use" means an exercise of a right or power to use, consume, possess,
21 or store that is acquired by a sale for use of:

22 (i) tangible personal property; or

23 (ii) a taxable service.

24 (2) "Use" includes an exercise of a right or power to use, consume,
25 possess, or store that is acquired by a sale for use of tangible personal property:

26 (i) for use or resale in the form of real estate by a builder,
27 contractor, or landowner; or

28 (ii) except as provided in paragraph (3)(i) of this subsection, as
29 facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns,
30 even if the buyer intends to transfer title to the property before or after that use.

31 (3) "Use" does not include:

32 (i) a transfer of title to tangible personal property after its use as
33 facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns,
34 if:

1 (1) A RETAIL SALE OF AMMUNITION IN THE STATE; AND

2 (2) A USE OF AMMUNITION IN THE STATE.

3 11-1B-03.

4 (A) A REBUTTABLE PRESUMPTION EXISTS THAT ANY SALE OF AMMUNITION
5 IN THE STATE IS SUBJECT TO THE AMMUNITION TAX IMPOSED UNDER THIS
6 SUBTITLE.

7 (B) THE PERSON REQUIRED TO PAY THE AMMUNITION TAX HAS THE BURDEN
8 OF PROVING THAT A SALE OF AMMUNITION IN THE STATE IS NOT SUBJECT TO THE
9 AMMUNITION TAX.

10 (C) (1) THE EXEMPTIONS UNDER SUBTITLE 2 OF THIS TITLE DO NOT APPLY
11 TO THE AMMUNITION TAX.

12 (2) THE AMMUNITION TAX DOES NOT APPLY TO A SALE OF AMMUNITION
13 TO A POLICE FORCE OR OTHER AGENCY OF THE UNITED STATES, ANY STATE, OR A
14 POLITICAL SUBDIVISION OF ANY STATE.

15 11-1B-04.

16 THE AMMUNITION TAX RATE IS:

17 (1) 50 CENTS PER ROUND OF AMMUNITION FOR AMMUNITION OTHER
18 THAN ANTIPERSONNEL AMMUNITION; AND

19 (2) \$5 PER ROUND OF AMMUNITION FOR ANTIPERSONNEL AMMUNITION.
20 11-1B-05.

21 (A) THE PROVISIONS OF § 11-105 OF THIS TITLE DO NOT APPLY TO THE
22 AMMUNITION TAX.

23 (B) A PERSON WHO TIMELY FILES AN AMMUNITION TAX RETURN IS ALLOWED,
24 FOR THE EXPENSE OF COLLECTING AND PAYING THE TAX, A CREDIT EQUAL TO 0.5%
25 OF THE GROSS AMOUNT OF AMMUNITION TAX THAT THE PERSON IS TO PAY TO THE
26 COMPTROLLER.

27 11-501.

28 (C) (1) A BUYER WHO FAILS TO PAY TO THE VENDOR THE AMMUNITION TAX
29 ON A PURCHASE OR USE SUBJECT TO THE TAX AS REQUIRED UNDER § 11-403 OF THIS
30 TITLE SHALL COMPLETE AND FILE WITH THE COMPTROLLER AN AMMUNITION TAX
31 RETURN ON OR BEFORE THE 21ST DAY OF THE MONTH THAT FOLLOWS THE MONTH
32 IN WHICH THE BUYER MAKES THAT PURCHASE OR USE.

33 (2) A RETURN FILED BY A BUYER UNDER THIS SUBSECTION SHALL
34 STATE SEPARATELY, FOR ANTIPERSONNEL AMMUNITION AND FOR ALL OTHER
35 AMMUNITION, FOR THE PERIOD THAT THE RETURN COVERS:

1 (I) THE NUMBER OF ROUNDS OF THE AMMUNITION SUBJECT TO
2 THE AMMUNITION TAX; AND

3 (II) THE AMMUNITION TAX DUE.

4 11-502.

5 (D) (1) EACH AMMUNITION DEALER SHALL COMPLETE AND FILE WITH THE
6 COMPTROLLER AN AMMUNITION TAX RETURN ON OR BEFORE THE 21ST DAY OF THE
7 MONTH THAT FOLLOWS THE MONTH IN WHICH THE DEALER MAKES A RETAIL SALE
8 OR SALE FOR USE OF AMMUNITION.

9 (2) A RETURN FILED BY AN AMMUNITION DEALER UNDER THIS
10 SUBSECTION SHALL STATE SEPARATELY, FOR ANTIPERSONNEL AMMUNITION AND
11 FOR ALL OTHER AMMUNITION, FOR THE PERIOD THAT THE RETURN COVERS:

12 (I) THE NUMBER OF ROUNDS OF THE AMMUNITION SOLD BY THE
13 DEALER; AND

14 (II) THE AMMUNITION TAX DUE.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect July 1, 2001.