

SENATE BILL 792

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Q4

2001 Regular Session
11r2795
CF 11r1155

By: **Senators Ruben and Teitelbaum (Montgomery County Administration)**
Introduced and read first time: February 12, 2001
Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax - Exemption - Biotechnology and Internet Infrastructure**

3 FOR the purpose of exempting from the sales and use tax the sale or use of certain
4 communications equipment, certain supercomputing equipment, and certain
5 tangible personal property used to construct, expand, or renovate certain
6 biotechnology manufacturing facilities; defining certain terms; allowing for the
7 application of the sales and use tax to the sale of certain communications
8 equipment to certain entities; requiring a certain certification prior to qualifying
9 for the exemption; requiring a reduction of certain amounts due under a lease
10 agreement under certain circumstances; and generally relating to exempting
11 from the sales and use tax the sale or use of certain communications equipment,
12 certain supercomputing equipment, and certain materials used for
13 biotechnology facilities.

14 BY adding to
15 Article - Tax - General
16 Section 11-210(e) and 11-217.1
17 Annotated Code of Maryland
18 (1997 Replacement Volume and 2000 Supplement)

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

21 **Article - Tax - General**

22 11-210.

23 (E) (1) IN THIS SUBSECTION, "INTERNET INFRASTRUCTURE FACILITY"
24 MEANS A BUILDING OR A PORTION OF A BUILDING SOLD OR PROVIDED FREE TO AN
25 UNAFFILIATED THIRD PARTY AND INTENDED TO BE USED PRIMARILY FOR THE:

26 (I) INTERCONNECTION OF MULTIPLE INTERNET SERVICE
27 PROVIDERS;

1 (II) INTERCONNECTION OF THE INTERNET TO TELEPHONE LINES
2 OR OTHER TELECOMMUNICATIONS CONNECTIONS, EITHER DIRECTLY OR BY WAY OF
3 A NETWORK;

4 (III) HOSTING OF CONTENT FOR THE INTERNET; OR

5 (IV) STORAGE OF DATA THAT IS AVAILABLE TO THE PUBLIC
6 INTERNET FOR REAL-TIME DOWNLOAD TO CUSTOMERS.

7 (2) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OR USE OF:

8 (I) COMMUNICATIONS EQUIPMENT FOR USE IN AN INTERNET
9 INFRASTRUCTURE FACILITY; OR

10 (II) SUPERCOMPUTING EQUIPMENT FOR USE IN THE
11 DEVELOPMENT, ANALYSIS, INTERPRETATION, OR INTEGRATION OF GENOMIC,
12 PROTEOMIC, AND RELATED BIOLOGICAL AND MEDICAL INFORMATION.

13 (3) THE EXEMPTION IN PARAGRAPH (2)(I) OF THIS SUBSECTION DOES
14 NOT APPLY TO THE SALE OF COMMUNICATIONS EQUIPMENT TO THE FOLLOWING
15 ENTITIES:

16 (I) A CABLE TELEVISION OPERATOR FRANCHISED BY A POLITICAL
17 SUBDIVISION OF THE STATE, OR ITS AFFILIATES OR SUBSIDIARIES;

18 (II) A TELEPHONE COMPANY OR TELECOMMUNICATIONS CARRIER
19 REGULATED BY THE PUBLIC SERVICE COMMISSION, OR ITS AFFILIATES OR
20 SUBSIDIARIES;

21 (III) A CELLULAR TELEPHONE COMPANY OR ITS AFFILIATES OR
22 SUBSIDIARIES; OR

23 (IV) A COMPANY THAT IS USING THE INTERNET INFRASTRUCTURE
24 FACILITY TO PROVIDE SERVICE FOR ITSELF OR ITS SUBCONTRACTORS.

25 11-217.1.

26 (A) THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OR USE OF
27 TANGIBLE PERSONAL PROPERTY INCORPORATED BY AN OWNER IN THE
28 CONSTRUCTION, EXPANSION, OR RENOVATION OF A FACILITY UTILIZED PRIMARILY
29 FOR BIOTECHNOLOGY MANUFACTURING.

30 (B) SUBSECTION (A) OF THIS SECTION APPLIES ONLY TO THE OWNER OF A
31 FACILITY WHERE THE OCCUPANT HAS BEEN CERTIFIED AS A QUALIFIED BUSINESS
32 ENTITY ELIGIBLE FOR A JOBS CREATION TAX CREDIT UNDER ARTICLE 83A, TITLE 5,
33 SUBTITLE 11 OF THE CODE.

34 (C) UNLESS OTHERWISE AGREED TO IN WRITING, IF THE TANGIBLE
35 PERSONAL PROPERTY ELIGIBLE FOR A TAX EXEMPTION UNDER SUBSECTION (A) OF
36 THIS SECTION IS PURCHASED BY AN OWNER IN FURTHERANCE OF A LEASE WHERE

1 THE TENANT HAS BEEN CERTIFIED FOR THE JOBS CREATION TAX CREDIT SPECIFIED
2 IN SUBSECTION (B) OF THIS SECTION, THE LESSOR SHALL REDUCE BY THE AMOUNT
3 OF THE TAX EXEMPTION RECEIVED UNDER THIS SECTION THE AMOUNT OF TAXES
4 OR OTHER MONEYS FOR WHICH THE LESSEE IS CONTRACTUALLY LIABLE UNDER
5 THE LEASE AGREEMENT.

6 (D) TO QUALIFY FOR AN EXEMPTION UNDER SUBSECTION (A) OF THIS
7 SECTION, AN OWNER SHALL FILE AN APPLICATION FOR AN EXEMPTION
8 CERTIFICATE WITH THE COMPTROLLER.

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