

SENATE BILL 38

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Q4
SB 777/02 - B&T

2003 Regular Session
3lr0395

By: **Senators Green, Currie, Exum, Lawlah, and Britt**
Introduced and read first time: January 14, 2003
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Sales Tax for School Construction and Operating**
3 **Costs**

4 FOR the purpose of authorizing the County Council for Prince George's County to
5 impose a tax on retail sales in the county; defining certain terms; exempting
6 from the tax sales that are exempt from the State sales and use tax; limiting the
7 rate of the tax; imposing certain collection and administrative requirements on
8 vendors who make sales subject to the tax; authorizing certain vendors to deduct
9 a certain percentage of the gross tax collected for the cost of collection and
10 remittance of the tax; authorizing the County Council of Prince George's County
11 to provide by law for imposition of interest and penalties for failure to pay the
12 tax as required and to provide for collection of unpaid tax, interest, or penalties;
13 requiring that the net proceeds of the tax revenue be used only for certain
14 purposes; submitting this Act to a referendum of the legally qualified voters of
15 Prince George's County; and generally relating to authority for Prince George's
16 County to impose a tax on retail sales in the county.

17 BY adding to
18 Article 24 - Political Subdivisions - Miscellaneous Provisions
19 Section 9-607
20 Annotated Code of Maryland
21 (2001 Replacement Volume and 2002 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Tax - General
24 Section 11-102(b)
25 Annotated Code of Maryland
26 (1997 Replacement Volume and 2002 Supplement)

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

Article 24 - Political Subdivisions - Miscellaneous Provisions

2 9-607.

3 (A) IN THIS SECTION, "RETAIL SALE", "SALE", AND "TAXABLE PRICE" HAVE THE
4 MEANINGS STATED IN § 11-101 OF THE TAX - GENERAL ARTICLE.

5 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE COUNTY
6 COUNCIL FOR PRINCE GEORGE'S COUNTY MAY IMPOSE, BY ORDINANCE, AND
7 COLLECT A SALES TAX ON A RETAIL SALE IN PRINCE GEORGE'S COUNTY.

8 (C) A TAX IMPOSED UNDER THIS SECTION DOES NOT APPLY TO A SALE THAT
9 IS EXEMPT FROM THE STATE SALES AND USE TAX UNDER TITLE 11 OF THE TAX -
10 GENERAL ARTICLE.

11 (D) A TAX IMPOSED UNDER THIS SECTION MAY NOT EXCEED 1% OF THE
12 TAXABLE PRICE OF A SALE THAT IS SUBJECT TO THE TAX.

13 (E) A TAX IMPOSED UNDER THIS SECTION SHALL BE:

14 (1) COLLECTED FROM THE BUYER ON BEHALF OF THE COUNTY BY THE
15 VENDOR THAT MAKES A SALE THAT IS SUBJECT TO THE TAX; AND

16 (2) HELD IN TRUST BY THE VENDOR FOR THE COUNTY.

17 (F) (1) A VENDOR REQUIRED TO COLLECT A TAX IMPOSED UNDER THIS
18 SECTION SHALL FILE A RETURN WITH THE COUNTY ON OR BEFORE THE 21ST DAY OF
19 EACH MONTH.

20 (2) A RETURN REQUIRED UNDER THIS SECTION:

21 (I) SHALL BE MADE ON THE FORM THAT THE COUNTY REQUIRES;
22 AND

23 (II) SHALL CONTAIN THE INFORMATION THAT THE COUNTY
24 REQUIRES, INCLUDING:

25 1. THE GROSS PROCEEDS OF THE VENDOR DURING THE
26 PRECEDING MONTH FROM SALES THAT ARE SUBJECT TO THE TAX;

27 2. THE TAXABLE PRICE OF SALES FOR THAT MONTH ON
28 WHICH THE TAX IS COMPUTED; AND

29 3. THE TAX DUE.

30 (G) (1) A VENDOR THAT MAKES A SALE THAT IS SUBJECT TO A TAX IMPOSED
31 UNDER THIS SECTION SHALL PAY THE TAX THAT THE VENDOR COLLECTS FOR THAT
32 SALE WITH THE RETURN THAT COVERS THE PERIOD IN WHICH THE VENDOR MAKES
33 THAT SALE.

1 (2) FOR THE EXPENSE OF COLLECTION AND REMITTANCE OF A TAX
 2 IMPOSED UNDER THIS SECTION, A VENDOR THAT TIMELY FILES A RETURN AND
 3 REMITS THE TAX MAY DEDUCT AN AMOUNT EQUAL TO 1.5% OF THE GROSS TAX
 4 COLLECTED BY THE VENDOR.

5 (H) THE COUNTY COUNCIL MAY PROVIDE BY LAW FOR:

6 (1) THE IMPOSITION OF INTEREST AND PENALTIES FOR FAILURE TO PAY
 7 THE TAX AS REQUIRED; AND

8 (2) COLLECTION OF UNPAID TAX, INTEREST, OR PENALTIES.

9 (I) THE NET PROCEEDS DERIVED FROM A TAX IMPOSED UNDER THIS
 10 SECTION SHALL BE USED ONLY FOR THE PURPOSE OF PROVIDING OPERATING
 11 FUNDING FOR THE NEW PRINCE GEORGE'S COUNTY BOARD OF EDUCATION AND
 12 CAPITAL FUNDING FOR THE CONSTRUCTION, RENOVATION, AND UPGRADING OF
 13 PUBLIC SCHOOLS IN PRINCE GEORGE'S COUNTY, INCLUDING FUNDING OF DEBT
 14 SERVICE ON BONDS.

15 **Article - Tax - General**

16 11-102.

17 (b) (1) A county, municipal corporation, special taxing district, or other
 18 political subdivision of the State may not impose any retail sales or use tax except:

19 (i) a sales tax or use tax that was in effect on January 1, 1971;

20 (ii) a tax on the sale or use of:

21 1. fuels;

22 2. utilities;

23 3. space rentals; or

24 4. any controlled dangerous substance, as defined in § 5-101
 25 of the Criminal Law Article, unless the sale is made by a person who registers under
 26 and complies with Title 5, Subtitle 3 of the Criminal Law Article; [or]

27 (iii) a tax imposed by a code county on the sale or use of food and
 28 beverages authorized under Article 25B, § 13H of the Code; OR

29 (IV) A SALES TAX IMPOSED BY PRINCE GEORGE'S COUNTY UNDER
 30 ARTICLE 24, § 9-607 OF THE CODE.

31 (2) Paragraph (1) of this subsection may not be construed as conferring
 32 authority to impose a sales and use tax.

33 SECTION 2. AND BE IT FURTHER ENACTED, That before this Act becomes
 34 effective it shall first be submitted to a referendum of the legally qualified voters of

1 Prince George's County at the general election to be held in November of 2004. The
2 County governing body and the Board of Supervisors of Elections of Prince George's
3 County shall do those things necessary and proper to provide for and hold the
4 referendum required by this section. If a majority of the votes cast on the question are
5 "For the referred law" the provisions of this Act shall become effective on January 1,
6 2005, but if a majority of the votes cast on the question are "Against the referred law"
7 the provisions of this Act are of no effect and null and void.

8 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions
9 of Section 2 of this Act and for the sole purpose of providing for the referendum
10 required by Section 2 of this Act, this Act shall take effect July 1, 2003.