

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 422 (Delegate Frush, *et al.*)
Ways and Means

Sales Tax on Food and Beverages - Commercial Entertainment Zones

This bill authorizes the governing body of a county to impose a maximum 1% sales tax on the sale of food and beverages in commercial entertainment zones located in municipalities.

The bill is effective July 1, 2003.

Fiscal Summary

State Effect: General fund revenues would not be materially affected by an additional sales tax imposed in commercial entertainment zones in municipalities.

Local Effect: Local revenues could increase by \$859,600 in FY 2004 and by \$967,400 in FY 2008. Administrative expenses could total \$25,800 in FY 2004 and \$29,000 by FY 2008.

Small Business Effect: Meaningful.

Analysis

Current Law: A county, municipal corporation, special taxing district, or other political subdivision of the State may not impose any retail sales or use tax except: (1) a sales tax or use tax that was in effect on January 1, 1971; (2) a tax on the sale or use of fuels, utilities, space rentals, or any controlled dangerous substance; or (3) a tax imposed by a code county on the sale or use of food and beverages authorized under Article 25B, Section 13H.

Background: There are 156 municipalities in Maryland. Not all municipalities in Maryland have commercial entertainment zones. According to the Maryland State Police, 109 municipalities are expected to qualify for the State Aid for Police Protection program in fiscal 2004. However, even those municipalities that do not have a police department have road maintenance and road cleaning programs and would be eligible for funds provided by this bill.

Ocean City is authorized to impose a 1.0% tax surcharge on food and beverages sold at restaurants and bars within city limits under Article 25B, Section 13H. The additional tax revenue is dedicated to retiring the debt on the Ocean City Convention Center and the tax surcharge sunsets when the debt is retired.

Local Fiscal Effect: The Comptroller's Office advises that in fiscal 2001 approximately \$411.3 million was collected statewide in seven industry categories with significant sales in taxable food and beverages. This is approximately \$8.2 billion in total taxable sales statewide in fiscal 2001. Assuming annual growth of 3%, total taxable sales statewide would increase to approximately \$8.7 billion in fiscal 2004 and approximately \$9.8 billion by fiscal 2008.

For illustrative purposes only, it is assumed that 1.0% of all economic activity in taxable food and beverages statewide occurs inside a commercial entertainment zone in a municipality. Accordingly, total taxable sales in commercial entertainment zones statewide in fiscal 2004 is estimated to be \$87.3 million. Assuming local governing bodies impose an additional 1.0% tax on food and beverages in commercial entertainment zones in municipalities, local revenues would increase by approximately \$859,564 in fiscal 2004 and by approximately \$967,446 in fiscal 2008. These estimates assume vendors keep 1.5% of the gross tax to cover collection costs. Local governing bodies are authorized to keep 3.0% of the gross tax to cover administration costs.

Accordingly, municipalities that have designated entertainment zones would receive increased revenue from the imposition of the tax. Municipal revenues would increase by approximately \$833,777 in fiscal 2004 and by approximately \$938,423 in fiscal 2008.

See **Exhibit 1** for more information on aggregate county and municipal revenues. Due to the method by which the Comptroller apportions sales tax revenues to the counties, the county's actual collections could differ significantly from the estimate above. Legislative Services advises, however, that there is no alternative, more accurate measure of retail sales taking place in the counties.

Exhibit 1
Projected Increase in Sales and Use Tax Revenues

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>
Gross Revenues	\$859,564	\$885,350	\$911,911	\$939,268	\$967,446
Administrative Fee	\$25,787	\$26,561	\$27,357	\$28,178	\$29,023
Net Revenues	\$833,777	\$858,790	\$884,554	\$911,090	\$938,423

Small Business Effect: Restaurants that are small businesses in commercial entertainment zones in municipalities could be negatively impacted as customers could choose to avoid the higher tax rate on food and beverages. Also, there will be additional initial costs associated with reprogramming cash registers and ongoing administrative costs from remitting the tax collections. In most cases, these costs will be offset by the vendor commission.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Town of Sykesville, City of Greenbelt, City of Hagerstown, City of Laurel, Cecil County, Montgomery County, Prince George's County, Harford County, St. Mary's County, Ocean City, Comptroller's Office, Town of La Plata, Baltimore City, Carroll County, Department of Legislative Services

Fiscal Note History: First Reader - March 12, 2003
mam/hlb

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