

SENATE BILL 400

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Q4

2004 Regular Session
4r2770
CF 4r1926

By: **Senator Hogan**

Introduced and read first time: February 5, 2004

Assigned to: Budget and Taxation

Committee Report: Favorable

Senate action: Adopted

Read second time: March 30, 2004

CHAPTER _____

1 AN ACT concerning

2 **Streamlined Sales and Use Tax Agreement**

3 FOR the purpose of adopting a certain Streamlined Sales and Use Tax Agreement,
4 subject to a certain contingency; requiring the Comptroller under certain
5 circumstances to prepare and submit certain proposed regulations and draft
6 legislation regarding changes to the State's laws, regulations, or policies needed
7 to bring the State into compliance with the Agreement and certain other
8 changes recommended by the Comptroller; and generally relating to the
9 contingent adoption by the State of the Streamlined Sales and Use Tax
10 Agreement.

11 BY repealing and reenacting, with amendments,
12 Article - Tax - General
13 Section 11-106
14 Annotated Code of Maryland
15 (1997 Replacement Volume and 2003 Supplement)

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

18 **Article - Tax - General**

19 11-106.

20 (a) In this section, "Agreement" means the Streamlined Sales and Use Tax
21 Agreement as adopted by the member states of the Streamlined Sales and Use Tax
22 Project on November 12, 2002.

1 (b) (1) [The] SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE
2 State of Maryland hereby [acknowledges] ADOPTS the Streamlined Sales and Use
3 Tax Agreement as adopted by the member states of the Streamlined Sales and Use
4 Tax Project on November 12, 2002.

5 (2) THE ADOPTION OF THE AGREEMENT BY THE STATE OF MARYLAND
6 AS PROVIDED IN THIS SECTION IS CONTINGENT ON THE ENACTMENT OF
7 LEGISLATION BY THE U.S. CONGRESS CONSENTING TO THE AGREEMENT AND
8 AUTHORIZING STATES THAT ARE PARTIES TO THE AGREEMENT TO REQUIRE REMOTE
9 SELLERS TO COLLECT AND REMIT THE SALES AND USE TAXES OF THOSE STATES.

10 [(2)] (3) [On or before November 15, 2003] WITHIN 90 DAYS AFTER THE
11 ENACTMENT OF LEGISLATION BY THE U.S. CONGRESS CONSENTING TO THE
12 AGREEMENT AND AUTHORIZING STATES THAT ARE PARTIES TO THE AGREEMENT TO
13 REQUIRE REMOTE SELLERS TO COLLECT AND REMIT THE SALES AND USE TAXES OF
14 THOSE STATES, the Comptroller shall prepare and submit to the Governor and,
15 subject to § 2-1246 of the State Government Article, the Senate Budget and Taxation
16 Committee and the House Committee on Ways and Means [a report] PROPOSED
17 REGULATIONS AND DRAFT LEGISLATION that:

18 (i) [identifies] IDENTIFY AND IMPLEMENT:

19 1. any changes to State statutes, regulations, or policies that
20 need to be made in order to bring the State into compliance with the Agreement; and

21 2. any other changes to State laws that would not be
22 required but that the Comptroller recommends should reasonably be made in
23 connection with implementing the Agreement; and

24 (ii) for each change identified under item (i) of this paragraph:

25 1. estimates the impact of that change on State sales and use
26 tax revenue; and

27 2. identifies and explains any fiscal or policy issues that
28 would be associated with the change.

29 (C) NOTWITHSTANDING THE ADOPTION OF THE AGREEMENT UNDER THIS
30 SECTION, UNLESS AND UNTIL FURTHER LEGISLATION IS ENACTED BY THE GENERAL
31 ASSEMBLY TO IMPLEMENT NECESSARY CHANGES TO BRING THE STATE IN
32 COMPLIANCE WITH THE AGREEMENT:

33 (1) NO PROVISION OF THE AGREEMENT IN WHOLE OR IN PART
34 INVALIDATES OR AMENDS ANY PROVISION OF THE LAW OF THIS STATE;

35 (2) ADOPTION OF THE AGREEMENT DOES NOT AMEND OR MODIFY ANY
36 OTHER PROVISION OF THIS TITLE OR OTHER LAW OF THIS STATE; AND

1 (3) IMPLEMENTATION OF ANY CONDITION OF THE AGREEMENT IN THIS
2 STATE, WHETHER ADOPTED BEFORE, AT, OR AFTER ADOPTION OF THE AGREEMENT
3 BY THIS STATE, MUST BE BY THE ACTION OF THIS STATE.

4 (D) (1) (I) THE AGREEMENT ADOPTED BY THIS SECTION BINDS AND
5 INURES ONLY TO THE BENEFIT OF THIS STATE AND THE OTHER MEMBER STATES.

6 (II) NO PERSON, OTHER THAN A MEMBER STATE, IS AN INTENDED
7 BENEFICIARY OF THE AGREEMENT.

8 (III) ANY BENEFIT TO A PERSON OTHER THAN A STATE MUST BE
9 ESTABLISHED BY THE LAW OF THIS STATE AND THE OTHER MEMBER STATES AND
10 NOT BY THE TERMS OF THE AGREEMENT.

11 (2) (I) NO PERSON SHALL HAVE ANY CAUSE OF ACTION OR DEFENSE
12 UNDER THE AGREEMENT OR BY VIRTUE OF THE STATE'S ADOPTION OF THE
13 AGREEMENT.

14 (II) NO PERSON MAY CHALLENGE, IN ANY ACTION BROUGHT
15 UNDER ANY PROVISION OF LAW, ANY ACTION OR INACTION BY ANY DEPARTMENT,
16 AGENCY, OR OTHER INSTRUMENTALITY OF THIS STATE, OR ANY POLITICAL
17 SUBDIVISION OF THIS STATE, ON THE GROUND THAT THE ACTION OR INACTION IS
18 INCONSISTENT WITH THE AGREEMENT.

19 (3) NO LAW OF THIS STATE, OR THE APPLICATION THEREOF, MAY BE
20 DECLARED INVALID AS TO ANY PERSON OR CIRCUMSTANCE ON THE GROUND THAT
21 THE PROVISION OR APPLICATION IS INCONSISTENT WITH THE AGREEMENT.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2004.