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By: Senator Garagiola

Introduced and read first time: March 8, 2004

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 Assault Weapon User Fee

- 3 FOR the purpose of imposing a tax on the sale of certain assault weapons in the State;
- 4 establishing the rate of the assault weapon tax; altering the definition of "sales
- 5 tax" under the tax laws to include the assault weapon tax under the
- 6 administration of the sales tax; providing that certain credits and exemptions do
- 7 not apply to the assault weapon tax; exempting certain sales from the assault
- 8 weapon tax; providing certain persons a certain collection expense credit for
- 9 timely filing of an assault weapon tax return; requiring assault weapon dealers
- to file certain assault weapon tax returns to include certain information;
- defining certain terms; requiring the Secretary of State Police to submit a
- certain report; and generally relating to a tax on the sale or use of certain
- assault weapons in the State.
- 14 BY repealing and reenacting, with amendments,
- 15 Article Tax General
- 16 Section 1-101(s)
- 17 Annotated Code of Maryland
- 18 (1997 Replacement Volume and 2003 Supplement)
- 19 BY repealing and reenacting, without amendments,
- 20 Article Tax General
- 21 Section 11-101(a), (f), (h), and (l)
- 22 Annotated Code of Maryland
- 23 (1997 Replacement Volume and 2003 Supplement)
- 24 BY adding to
- 25 Article Tax General
- Section 11-1B-01 through 11-1B-05, inclusive, to be under the new subtitle
- 27 "Subtitle 1B. Assault Weapon Tax"; 11-501(c) and 11-502(d)
- 28 Annotated Code of Maryland
- 29 (1997 Replacement Volume and 2003 Supplement)

| 1 2 | SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows: | | | | | | | |
|----------|--|--|-------------------|--|--|--|--|--|
| 3 | Article - Tax - General | | | | | | | |
| 4 | 1-101. | | | | | | | |
| 5 6 | (s) article. | (1) | "Sales a | nd use tax" means the tax imposed under Title 11 of this | | | | |
| 7 | | (2) | "Sales a | nd use tax" includes: | | | | |
| 8 9 | 11-1A-01 of | this artic | (I) ele; AND | the tax imposed on the use of certain electricity under § | | | | |
| 10 11 | SUBTITLE | 1B OF T | (II) THIS ART | THE ASSAULT WEAPON TAX IMPOSED UNDER TITLE 11, FICLE. | | | | |
| 12 | 11-101. | | | | | | | |
| 13 | (a) | In this title the following words have the meanings indicated. | | | | | | |
| 14 | (f) | (1) | "Retail s | sale" means the sale of: | | | | |
| 15 | | | (i) | tangible personal property; or | | | | |
| 16 | | | (ii) | a taxable service. | | | | |
| 17 | | (2) | "Retail s | sale" includes: | | | | |
| 18 19 | of real estate | e by a bui | (i) ilder, con | a sale of tangible personal property for use or resale in the form tractor, or landowner; and | | | | |
| 22 | (ii) except as provided in paragraph (3)(i) of this subsection, use of tangible personal property as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, even if the buyer intends to transfer title to the property before or after that use. | | | | | | | |
| 24 | | (3) | "Retail s | sale" does not include: | | | | |
| | facilities, to if: | ols, toolii | (i) ng, machi | a transfer of title to tangible personal property after its use as nery, or equipment, including dies, molds, and patterns, | | | | |
| 28 29 | terms of a w | vritten co | ntract, to | 1. at the time of purchase, the buyer is obligated, under the make the transfer; and | | | | |
| 30 31 | to the person | n for who | om the bu | 2. the transfer is made for the same or greater consideration yer manufactures goods or performs work; | | | | |
| 32 | | | (ii) | a sale of tangible personal property if the buyer intends to: | | | | |

SENATE BILL 927

| 1 2 | 1. 2 buyer receives or is to receive the | resell the tangible personal property in the form that the property; |
|----------|--|--|
| | | use or incorporate the tangible personal property in a part of other tangible personal property to be |
| 6 7 | 5 3. 7 taxable service transaction; or | transfer the tangible personal property as a part of a |
| 8 9 | | ale of a taxable service if the buyer intends to resell the buyer receives or is to receive the service. |
| 10 11 | | a sale in which tangible personal property or a possessed, stored, or used in the State is acquired. |
| 12 13 | 2 (1) (1) "Use" mean 3 or store that is acquired by a sale | s an exercise of a right or power to use, consume, possess, for use of: |
| 14 | 4 (i) tan | gible personal property; or |
| 15 | 5 (ii) a ta | axable service. |
| 16 17 | | les an exercise of a right or power to use, consume, y a sale for use of tangible personal property: |
| 18 19 | 8 (i) for 9 contractor, or landowner; or | use or resale in the form of real estate by a builder, |
| | 1 facilities, tools, tooling, machiner | peept as provided in paragraph (3)(i) of this subsection, as as y, or equipment, including dies, molds, and patterns, er title to the property before or after that use. |
| 23 | 3 (3) "Use" does | not include: |
| | | ansfer of title to tangible personal property after its use as y, or equipment, including dies, molds, and patterns, |
| 27 28 | 7 1. 8 terms of a written contract, to mal | at the time of purchase, the buyer is obligated, under the te the transfer; and |
| 29 30 | | the transfer is made for the same or greater consideration manufactures goods or performs work; |
| 31 32 | 1 (ii) an 2 acquired by a sale for use if the bu | exercise of a right or power over tangible personal property yer intends to: |
| 33 34 | 3 1. 4 buyer receives or is to receive the | resell the tangible personal property in the form that the property; |

SENATE BILL 927

| • | | | | | | | | | |
|---|--|------------------|--|--|--|--|--|--|--|
| 1 2 production activity as 3 produced for sale; or | s a mater | 2. ial or par | use or incorporate the tangible personal property in a t of other tangible personal property to be | | | | | | |
| 4 5 service transaction; o | or | 3. | transfer the tangible personal property as part of a taxable | | | | | | |
| | (iii) an exercise of a right or power over a taxable service acquired by a sale for use if the buyer intends to resell the taxable service in the form that the buyer receives or is to receive the service. | | | | | | | | |
| 9 | | | SUBTITLE 1B. ASSAULT WEAPON TAX. | | | | | | |
| 10 11-1B-01. | | | | | | | | | |
| 11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS 12 INDICATED. | | | | | | | | | |
| 13 (B) "ASSAULT WEAPON" MEANS: | | | | | | | | | |
| 14 (1) ANY OF THE FIREARMS, COPIES, OR DUPLICATES IN ANY CALIBER OF 15 THE FIREARMS, KNOWN AS: | | | | | | | | | |
| 16 (I) NORINCO, MITCHELL, AND POLY TECHNOLOGIES AVTOMAT 17 KALASHNIKOVS (ALL MODELS); | | | | | | | | | |
| 18 | (II) | ACTIC | ON ARMS ISRAELI MILITARY INDUSTRIES UZI AND GALIL; | | | | | | |
| 19 | (III) | BARE | ΓΤΑ AR-70 (SC-70); | | | | | | |
| 20 | (IV) | COLT | AR-15; | | | | | | |
| 21 | (V) | FABRI | QUE NATIONALE FN/FAL, FN/LAR, AND FNC; | | | | | | |
| 22 | (VI) | SWD N | M-10, M-11, M-11/9, AND M-12; | | | | | | |
| 23 | (VII) | STEYF | R AUG; AND | | | | | | |
| 24 | (VIII) | INTRA | TEC TEC-9, TEC-DC9, AND TEC-22; OR | | | | | | |
| 25 (2) 26 STRIKER 12. | ANY R | EVOLV | ING SHOTGUN, INCLUDING THE STREET SWEEPER AND | | | | | | |
| 27 (C) "ASSAULT WEAPON DEALER" MEANS ANY PERSON ENGAGED IN THE 28 BUSINESS OF SELLING ASSAULT WEAPONS AT WHOLESALE OR RETAIL. | | | | | | | | | |
| 29 (D) "ASSAULT WEAPON TAX" MEANS THE TAX IMPOSED UNDER THIS 30 SUBTITLE. | | | | | | | | | |

- 1 11-1B-02.
- 2 IN ADDITION TO THE TAX IMPOSED UNDER § 11-102 OF THIS TITLE, A TAX IS 3 IMPOSED ON:
- 4 (1) A RETAIL SALE OF AN ASSAULT WEAPON IN THE STATE; AND
- 5 (2) A USE, AS DEFINED IN \S 11-101(L) OF THIS TITLE, OF AN ASSAULT 6 WEAPON IN THE STATE.
- 7 11-1B-03.
- 8 (A) A REBUTTABLE PRESUMPTION EXISTS THAT ANY SALE OF AN ASSAULT 9 WEAPON IN THE STATE IS SUBJECT TO THE ASSAULT WEAPON TAX IMPOSED UNDER 10 THIS SUBTITLE.
- 11 (B) THE PERSON REQUIRED TO PAY THE ASSAULT WEAPON TAX HAS THE 12 BURDEN OF PROVING THAT A SALE OF AN ASSAULT WEAPON IN THE STATE IS NOT
- 13 SUBJECT TO THE ASSAULT WEAPON TAX.
- 14 (C) (1) THE EXEMPTIONS UNDER SUBTITLE 2 OF THIS TITLE DO NOT APPLY 15 TO THE ASSAULT WEAPON TAX.
- 16 (2) THE ASSAULT WEAPON TAX DOES NOT APPLY TO A SALE OF AN
- 17 ASSAULT WEAPON TO A POLICE FORCE OR OTHER AGENCY OF THE UNITED STATES,
- 18 ANY STATE, OR A POLITICAL SUBDIVISION OF ANY STATE.
- 19 (3) IF A PERSON WHO BUYS AN ASSAULT WEAPON IN A RETAIL SALE
- 20 PAYS THE ASSAULT WEAPON TAX WHEN THE RETAIL SALE IS MADE OR WHEN THE
- 21 PERSON FIRST USES THE ASSAULT WEAPON IN THE STATE, THE PERSON IS NOT
- 22 REQUIRED TO PAY THE TAX AGAIN WHEN THE PERSON USES THAT ASSAULT WEAPON
- 23 IN THE STATE.
- 24 11-1B-04.
- 25 THE ASSAULT WEAPON TAX RATE IS 10% OF THE TAXABLE PRICE OF THE
- 26 ASSAULT WEAPON.
- 27 11-1B-05.
- 28 (A) THE PROVISIONS OF § 11-105 OF THIS TITLE DO NOT APPLY TO THE
- 29 ASSAULT WEAPON TAX.
- 30 (B) A PERSON WHO TIMELY FILES AN ASSAULT WEAPON TAX RETURN IS
- 31 ALLOWED, FOR THE EXPENSE OF COLLECTING AND PAYING THE TAX, A CREDIT
- 32 EQUAL TO 0.5% OF THE GROSS AMOUNT OF ASSAULT WEAPON TAX THAT THE PERSON
- 33 IS TO PAY TO THE COMPTROLLER.

1 11-501.

- $2 \hspace{0.4cm} \text{(C)} \hspace{0.4cm} \text{(1)} \hspace{0.4cm} \text{A BUYER WHO FAILS TO PAY TO THE VENDOR THE ASSAULT WEAPON}$
- 3 TAX ON A PURCHASE OR USE SUBJECT TO THE TAX AS REQUIRED UNDER § 11-403 OF
- 4 THIS TITLE SHALL COMPLETE AND FILE WITH THE COMPTROLLER AN ASSAULT
- 5 WEAPON TAX RETURN ON OR BEFORE THE 21ST DAY OF THE MONTH THAT FOLLOWS
- 6 THE MONTH IN WHICH THE BUYER MAKES THAT PURCHASE OR USE.
- 7 (2) A RETURN FILED BY A BUYER UNDER THIS SUBSECTION SHALL
- 8 STATE FOR THE PERIOD THAT THE RETURN COVERS:
- 9 (I) THE TOTAL VALUE OF THE ASSAULT WEAPON THAT IS SUBJECT 10 TO THE ASSAULT WEAPON TAX: AND
- 11 (II) THE ASSAULT WEAPON TAX DUE.
- 12 11-502.
- 13 (D) (1) EACH ASSAULT WEAPON DEALER SHALL COMPLETE AND FILE WITH
- 14 THE COMPTROLLER AN ASSAULT WEAPON TAX RETURN ON OR BEFORE THE 21ST
- 15 DAY OF THE MONTH THAT FOLLOWS THE MONTH IN WHICH THE DEALER MAKES A
- 16 RETAIL SALE OR SALE FOR USE OF AN ASSAULT WEAPON.
- 17 (2) A RETURN FILED BY AN ASSAULT WEAPON DEALER UNDER THIS
- 18 SUBSECTION SHALL STATE FOR THE PERIOD THAT THE RETURN COVERS:
- 19 (I) THE GROSS PROCEEDS OF THE VENDOR FROM THE SALE OF
- 20 ASSAULT WEAPONS SOLD BY THE DEALER; AND
- 21 (II) THE ASSAULT WEAPON TAX DUE.
- 22 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of State
- 23 Police shall assess the impact on the sale of assault weapons in the State of the
- 24 assault weapon tax imposed under this Act. On or before December 31, 2005, the
- 25 Secretary shall submit a report to the Governor and, subject to § 2-1246 of the State
- 26 Government Article, the President of the Senate and the Speaker of the House of
- 27 Delegates regarding the Secretary's findings.
- 28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 29 July 1, 2004.