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By: **Delegates Frush, Menes, and Moe**  
Introduced and read first time: January 27, 2005  
Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Admissions and Amusement Tax - Food and Beverages**

3 FOR the purpose of authorizing a municipal corporation to impose an admissions and  
4 amusement tax on the gross receipts derived from the sale of certain food and  
5 beverages; establishing limits on a county's or municipal corporation's authority  
6 to impose an admissions and amusement tax; establishing a maximum tax rate  
7 on certain gross receipts that are subject to the admissions and amusement tax;  
8 excluding that tax rate from the calculation of the maximum total tax rate for  
9 gross receipts that are subject to the admissions and amusement tax and the  
10 sales and use tax; and generally relating to authorizing a municipal corporation  
11 to impose an admissions and amusement tax on the sale of certain food and  
12 beverages.

13 BY repealing and reenacting, without amendments,  
14 Article - Tax - General  
15 Section 4-101(b)  
16 Annotated Code of Maryland  
17 (2004 Replacement Volume)

18 BY repealing and reenacting, with amendments,  
19 Article - Tax - General  
20 Section 4-102(b), 4-103(b), and 4-105  
21 Annotated Code of Maryland  
22 (2004 Replacement Volume)

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

25 **Article - Tax - General**

26 4-101.

27 (b) (1) "Admissions and amusement charge", unless expressly provided  
28 otherwise, means a charge for:

- 1 (i) admission to a place, including any additional separate charge
- 2 for admission within an enclosure;
- 3 (ii) use of a game of entertainment;
- 4 (iii) use of a recreational or sports facility;
- 5 (iv) use or rental of recreational or sports equipment; and
- 6 (v) merchandise, refreshments, or a service sold or served in
- 7 connection with entertainment at a nightclub or room in a hotel, restaurant, hall, or
- 8 other place where dancing privileges, music, or other entertainment is provided.

9 (2) "Admissions and amusement charge" does not include a charge for

10 admission to a political fundraising event.

11 4-102.

12 (b) A municipal corporation may impose, by ordinance or resolution, a tax on:

13 (1) the gross receipts derived from any admission and amusement

14 charge in that municipal corporation; [and]

15 (2) an admission in that municipal corporation for a reduced charge or at

16 no charge to a place if there is a charge for other admissions to the place; AND

17 (3) THE GROSS RECEIPTS DERIVED FROM THE SALE OF THE FOLLOWING

18 ITEMS AT A PLACE IN THAT MUNICIPAL CORPORATION WHERE THERE ARE

19 FACILITIES FOR FOOD OR BEVERAGE CONSUMPTION ON THE PREMISES:

- 20 (I) FOOD AS DEFINED IN § 11-206(A)(4) OF THIS ARTICLE;
- 21 (II) AN ALCOHOLIC BEVERAGE AS DEFINED IN § 5-101 OF THIS
- 22 ARTICLE;
- 23 (III) A SOFT DRINK, CARBONATED BEVERAGE, OR BOTTLED WATER;
- 24 OR
- 25 (IV) CANDY OR CONFECTIONERY.

26 4-103.

27 (b) The admissions and amusement tax may not be imposed by a county or

28 municipal corporation on gross receipts:

29 (1) derived from any charge UNDER § 4-101(B)(1)(V) OF THIS SUBTITLE for

30 merchandise, refreshments, or a service sold or served at a place where:

- 31 (i) dancing is prohibited; and

1 (ii) the only entertainment provided is mechanical music, radio, or  
2 television;

3 (2) derived from any charge for admission to:

4 (i) a live boxing or wrestling match; or

5 (ii) a concert or theatrical event presented or offered by a not for  
6 profit group that:

7 1. is organized and operated to present or offer an annual  
8 series of scheduled musical concerts; or

9 2. is organized and operated for a cultural purpose and  
10 receives a grant directly or indirectly from the Maryland State Arts Council;

11 (3) derived from any charge for admission to or use of:

12 (i) a facility or equipment in connection with a bingo game that is  
13 operated in accordance with § 13-507 of the Criminal Law Article;

14 (ii) a bowling alley or lane; or

15 (iii) a charter fishing boat;

16 (4) derived from any charge for admission or for merchandise,  
17 refreshments, or a service, if the gross receipts are used exclusively for:

18 (i) a charitable, educational, or religious purpose;

19 (ii) a volunteer fire company or nonprofit rescue squad;

20 (iii) a fraternal, service, or veterans' organization chartered by a  
21 grant of Congress; or

22 (iv) the improvement, maintenance, or operation of an agricultural  
23 fair, if no net earnings inure to the benefit of any stockholder or member of the  
24 association that conducts the fair; [or]

25 (5) DERIVED FROM THE SALE OF:

26 (I) AN ALCOHOLIC BEVERAGE THAT IS SOLD FOR CONSUMPTION  
27 OFF THE PREMISES;

28 (II) FOOD OR BEVERAGES FOR CONSUMPTION OFF THE PREMISES  
29 IF SOLD BY A VENDOR THAT OPERATES A SUBSTANTIAL GROCERY OR MARKET  
30 BUSINESS AT THE SAME LOCATION WHERE THE FOOD IS SOLD, EVEN IF THE SALE IS  
31 SUBJECT TO THE STATE SALES AND USE TAX UNDER TITLE 11 OF THIS ARTICLE; OR

32 (III) FOOD OR BEVERAGES IN VENDING MACHINES; OR

1 (6) obtained at admission and used for the cost of prizes or as money  
2 winnings distributed, as part of its operation, by a commercial bingo game in Anne  
3 Arundel County.

4 4-105.

5 (a) Except as otherwise provided in this section, the admissions and  
6 amusement tax rate is:

7 (1) the rate that a county or municipal corporation sets, not exceeding  
8 10% of gross receipts subject to the admissions and amusement tax; or

9 (2) the rate that the Stadium Authority sets, not exceeding 8% of gross  
10 receipts subject to the admissions and amusement tax.

11 (b) THE TAX RATE SET BY A MUNICIPAL CORPORATION ON GROSS RECEIPTS  
12 SUBJECT TO THE ADMISSIONS AND AMUSEMENT TAX UNDER § 4-102(B)(3) OF THIS  
13 SUBTITLE MAY NOT EXCEED 1%.

14 (C) (1) [If] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF gross  
15 receipts subject to the admissions and amusement tax are also subject to the sales  
16 and use tax, a county or a municipal corporation may not set a rate so that, when  
17 combined with the sales and use tax, the total tax rate will exceed 10% of the gross  
18 receipts.

19 (2) THE MAXIMUM TOTAL TAX RATE UNDER PARAGRAPH (1) OF THIS  
20 SUBSECTION DOES NOT INCLUDE A TAX RATE SET BY A MUNICIPAL CORPORATION  
21 UNDER SUBSECTION (B) OF THIS SECTION.

22 [(c)] (D) If gross receipts subject to the admissions and amusement tax  
23 imposed by the Stadium Authority are also subject to an admissions and amusement  
24 tax imposed by a county or municipal corporation, the county or municipal  
25 corporation may not set a rate or collect the tax at a rate so that, when combined with  
26 the rate of the Stadium Authority, the total tax rate will exceed 10% of the gross  
27 receipts.

28 [(d)] (E) A municipal corporation may set an admissions and amusement tax  
29 rate that differs from the rate set by the county where the municipal corporation is  
30 located.

31 [(e)] (F) For purposes of setting admissions and amusement tax rates, a  
32 county, a municipal corporation, or the Stadium Authority may:

33 (1) establish different classes of admissions and amusement charges;  
34 and

35 (2) set different rates of tax for those classes.

1        [(f)]    (G)        The admissions and amusement tax that a county, a municipal  
2 corporation, or the Stadium Authority may impose on a reduced charge or free  
3 admission is:

4                (1)        5 cents, if the charge for any other admission is 50 cents or less;

5                (2)        10 cents, if the charge for any other admission is more than 50 cents  
6 but does not exceed \$1; and

7                (3)        15 cents, if the charge for any other admission is more than \$1.

8        [(g)]    (H)        If a county, a municipal corporation, or the Stadium Authority  
9 changes an admissions and amusement tax rate or changes a class to which a rate  
10 applies, the county, municipal corporation, or Stadium Authority shall give the  
11 Comptroller notice of the change at least 60 days before the effective date of the  
12 change.

13        SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 July 1, 2005.