
By: **Senator Klausmeier**

Introduced and read first time: January 21, 2005

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Credit for Prohibiting Smoking on Business Premises**

3 FOR the purpose of providing for certain credits against the State income tax for
4 prohibiting smoking on the premises of certain business establishments;
5 limiting the credit to a certain amount; providing for the issuance of certain
6 eligibility certificates by the board of license commissioners; requiring a
7 taxpayer claiming the credit to obtain and file with the income tax return a
8 certain eligibility certificate; providing for revocation of a certain eligibility
9 certificate and the recapture of the credit under certain circumstances; defining
10 a certain term; providing for the application of this Act; and generally relating to
11 a credit against the State income tax for prohibiting smoking on the premises of
12 certain business establishments.

13 BY adding to

14 Article - Tax - General

15 Section 10-725

16 Annotated Code of Maryland

17 (2004 Replacement Volume)

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

20 **Article - Tax - General**

21 10-725.

22 (A) IN THIS SECTION, "BOARD" MEANS THE BOARD OF LICENSE
23 COMMISSIONERS OF A COUNTY OR THE ALCOHOLIC BEVERAGE CONTROL BOARD OF
24 THE CITY OF ANNAPOLIS.

25 (B) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL OR
26 A CORPORATION MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX AS
27 PROVIDED UNDER THIS SECTION IF:

1 (I) THE INDIVIDUAL OR CORPORATION VOLUNTARILY PROHIBITS
2 SMOKING ON THE PREMISES OF AN ESTABLISHMENT IN THE STATE THAT IS OWNED
3 OR OPERATED BY THE INDIVIDUAL OR CORPORATION; AND

4 (II) SMOKING ON THE PREMISES OF THE ESTABLISHMENT IS
5 ALLOWED UNDER THE LAWS OF THE STATE AND THE POLITICAL SUBDIVISION IN
6 WHICH THE ESTABLISHMENT IS LOCATED.

7 (2) AN INDIVIDUAL OR CORPORATION THAT VOLUNTARILY PROHIBITS
8 SMOKING ON THE PREMISES OF AN ESTABLISHMENT IN THE STATE BEFORE JULY 1,
9 2005 AS PROVIDED UNDER THIS SECTION, MAY CLAIM THE CREDIT ALLOWED UNDER
10 THIS SECTION IF THE INDIVIDUAL OR CORPORATION CONTINUES TO PROHIBIT
11 SMOKING ON THE PREMISES OF THE ESTABLISHMENT ON AND AFTER JULY 1, 2005.

12 (C) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS SECTION
13 EQUALS THE LESSER OF:

14 (1) 15% OF THE STATE INCOME TAX FOR THAT TAXABLE YEAR,
15 CALCULATED BEFORE APPLICATION OF THE CREDIT UNDER THIS SECTION AND §§
16 10-701 AND 10-701.1 OF THIS SUBTITLE, BUT AFTER APPLICATION OF THE OTHER
17 CREDITS ALLOWABLE UNDER THIS SUBTITLE; OR

18 (2) \$5,000.

19 (D) (1) ON APPLICATION BY AN INDIVIDUAL OR CORPORATION CLAIMING
20 THE CREDIT UNDER THIS SECTION, THE BOARD OF THE JURISDICTION WHERE AN
21 ESTABLISHMENT IS LOCATED SHALL ISSUE AN ELIGIBILITY CERTIFICATE IF THE
22 INDIVIDUAL OR CORPORATION DEMONSTRATES THAT SMOKING HAS BEEN
23 PROHIBITED ON THE PREMISES OF THE ESTABLISHMENT OWNED OR OPERATED BY
24 THE INDIVIDUAL OR CORPORATION.

25 (2) TO CLAIM THE CREDIT ALLOWED UNDER THIS SECTION, AN
26 INDIVIDUAL OR CORPORATION SHALL ATTACH A COPY OF THE ELIGIBILITY
27 CERTIFICATE ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO THE STATE
28 INCOME TAX RETURN.

29 (E) (1) THE BOARD MAY REVOKE AN ELIGIBILITY CERTIFICATE ISSUED
30 UNDER SUBSECTION (D) OF THIS SECTION IF, WITHIN 2 YEARS FROM THE CLOSE OF
31 THE TAXABLE YEAR IN WHICH THE CREDIT IS CLAIMED, THE BOARD DETERMINES
32 THAT THE INDIVIDUAL OR CORPORATION VIOLATED THE SMOKING PROHIBITION
33 THAT GAVE RISE TO THE CREDIT.

34 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE BOARD
35 SHALL NOTIFY THE COMPTROLLER OF A REVOCATION UNDER PARAGRAPH (1) OF
36 THIS SUBSECTION AND SHALL NOTIFY THE INDIVIDUAL OR CORPORATION THAT
37 CLAIMED THE CREDIT OF THE REVOCATION.

38 (3) THE INDIVIDUAL OR CORPORATION SHALL HAVE AN OPPORTUNITY
39 TO APPEAL THE DETERMINATION OF THE BOARD PRIOR TO NOTIFICATION OF THE
40 COMPTROLLER.

1 (4) IF THE BOARD REVOKES ITS ELIGIBILITY CERTIFICATE UNDER
2 PARAGRAPH (1) OF THIS SUBSECTION, THE COMPTROLLER SHALL MAKE AN
3 ASSESSMENT AGAINST THE INDIVIDUAL OR CORPORATION TO RECAPTURE 200% OF
4 THE AMOUNT OF THE TAX CREDIT THE INDIVIDUAL OR CORPORATION CLAIMED
5 UNDER THIS SECTION.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2005, and shall be applicable to all taxable years beginning after December 31,
8 2004.