

HOUSE BILL 434

R2

71r2373

By: **Delegates Barkley, Ali, Aumann, Bronrott, G. Clagett, Dumais, Feldman, Kaiser, Lawton, Lee, Manno, Montgomery, Rice, Rosenberg, and Waldstreicher**

Introduced and read first time: February 5, 2007

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Transportation Funding – Mass Transit Funding – Sales and Use Tax**

3 FOR the purpose of altering the distribution of sales and use tax revenue; creating a
4 Mass Transit Account within the Transportation Trust Fund; providing for the
5 distribution of certain sales and use tax revenue to the Mass Transit Account
6 within the Transportation Trust Fund; altering the sales and use tax rate;
7 pledging certain taxes collected to pay the principal and interest on certain
8 bonds; limiting the use of the Mass Transit Account to funding certain transit
9 expenses; providing that certain revenues distributed to the Mass Transit
10 Account are in addition to and may not supplant certain other funds for mass
11 transit; and generally relating to certain taxes used for certain transportation
12 funding.

13 BY repealing

14 Article – Transportation

15 The subtitle designation “Subtitle 4. Transportation Revenue Sharing Fund” of
16 Title 3

17 Annotated Code of Maryland

18 (2001 Replacement Volume and 2006 Supplement)

19 BY adding to

20 Article – Tax – General

21 Section 2–1302.2

22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2004 Replacement Volume and 2006 Supplement)

2 BY repealing and reenacting, with amendments,
3 Article – Tax – General
4 Section 2–1303, 11–104(a) and (b), and 11–301
5 Annotated Code of Maryland
6 (2004 Replacement Volume and 2006 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article – Transportation
9 Section 3–215(b) and 3–216
10 Annotated Code of Maryland
11 (2001 Replacement Volume and 2006 Supplement)

12 BY adding to
13 Article – Transportation
14 Section 3–401 to be under the new subtitle “Subtitle 4. Mass Transit Account”
15 Annotated Code of Maryland
16 (2001 Replacement Volume and 2006 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the subtitle designation “Subtitle 4. Transportation Revenue
19 Sharing Fund” of Title 3 of Article – Transportation of the Annotated Code of
20 Maryland be repealed.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
22 read as follows:

23 **Article – Tax – General**

24 **2–1302.2.**

25 **AFTER MAKING THE DISTRIBUTION REQUIRED UNDER §§ 2–1301**
26 **THROUGH 2–1302.1 OF THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE**
27 **MONTHLY 10% OF THE REMAINING SALES AND USE TAX REVENUE TO THE MASS**
28 **TRANSIT ACCOUNT OF THE TRANSPORTATION TRUST FUND ESTABLISHED**
29 **UNDER § 3–216 OF THE TRANSPORTATION ARTICLE.**

30 2–1303.

31 After making the distributions required under §§ 2–1301 through [2–1302.1]
32 **2–1302.2** of this subtitle, the Comptroller shall pay:

1 (1) revenues from the hotel surcharge into the Dorchester County
2 Economic Development Fund established under Article 83A, § 5–216 of the Code; and

3 (2) the remaining sales and use tax revenue into the General Fund of
4 the State.

5 11–104.

6 (a) Except as otherwise provided in this section, the sales and use tax rate is:

7 (1) for a taxable price of less than [\$1] **\$2:**

8 (i) 1 cent if the taxable price is 20 cents; [and]

9 (ii) [1 cent for each additional 20 cents or part of 20 cents; and]
10 **2 CENTS IF THE TAXABLE PRICE IS AT LEAST 21 CENTS BUT LESS THAN 37**
11 **CENTS;**

12 (iii) **3 CENTS IF THE TAXABLE PRICE IS AT LEAST 37 CENTS**
13 **BUT LESS THAN 55 CENTS;**

14 (iv) **4 CENTS IF THE TAXABLE PRICE IS AT LEAST 55 CENTS**
15 **BUT LESS THAN 73 CENTS;**

16 (v) **5 CENTS IF THE TAXABLE PRICE IS AT LEAST 73 CENTS**
17 **BUT LESS THAN 91 CENTS;**

18 (vi) **6 CENTS IF THE TAXABLE PRICE IS AT LEAST 91 CENTS**
19 **BUT LESS THAN \$1.10;**

20 (vii) **7 CENTS IF THE TAXABLE PRICE IS AT LEAST \$1.10 BUT**
21 **LESS THAN \$1.28;**

22 (viii) **8 CENTS IF THE TAXABLE PRICE IS AT LEAST \$1.28 BUT**
23 **LESS THAN \$1.46;**

24 (ix) **9 CENTS IF THE TAXABLE PRICE IS AT LEAST \$1.46 BUT**
25 **LESS THAN \$1.64;**

1 (X) **10 CENTS IF THE TAXABLE PRICE IS AT LEAST \$1.64 BUT**
2 **LESS THAN \$1.82; AND**

3 (XI) **11 CENTS IF THE TAXABLE PRICE IS AT LEAST \$1.82 BUT**
4 **LESS THAN \$2.00; AND**

5 (2) for a taxable price of [\$1] **\$2** or more:

6 (i) [5] **11 cents for each exact [dollar] MULTIPLE OF \$2; and**

7 (ii) [1 cent for each 20 cents or part of 20 cents in excess of an
8 exact dollar.] **FOR EACH PART OF \$2 IN EXCESS OF AN EXACT MULTIPLE OF \$2:**

9 **1. 1 CENT IF THE EXCESS OVER AN EXACT MULTIPLE**
10 **OF \$2 IS LESS THAN 19 CENTS;**

11 **2. 2 CENTS IF THE EXCESS OVER AN EXACT**
12 **MULTIPLE OF \$2 IS AT LEAST 19 CENTS BUT LESS THAN 37 CENTS;**

13 **3. 3 CENTS IF THE EXCESS OVER AN EXACT**
14 **MULTIPLE OF \$2 IS AT LEAST 37 CENTS BUT LESS THAN 55 CENTS;**

15 **4. 4 CENTS IF THE EXCESS OVER AN EXACT**
16 **MULTIPLE OF \$2 IS AT LEAST 55 CENTS BUT LESS THAN 73 CENTS;**

17 **5. 5 CENTS IF THE EXCESS OVER AN EXACT**
18 **MULTIPLE OF \$2 IS AT LEAST 73 CENTS BUT LESS THAN 91 CENTS;**

19 **6. 6 CENTS IF THE EXCESS OVER AN EXACT**
20 **MULTIPLE OF \$2 IS AT LEAST 91 CENTS BUT LESS THAN \$1.10;**

21 **7. 7 CENTS IF THE EXCESS OVER AN EXACT**
22 **MULTIPLE OF \$2 IS AT LEAST \$1.10 BUT LESS THAN \$1.28;**

23 **8. 8 CENTS IF THE EXCESS OVER AN EXACT**
24 **MULTIPLE OF \$2 IS AT LEAST \$1.28 BUT LESS THAN \$1.46;**

25 **9. 9 CENTS IF THE EXCESS OVER AN EXACT**
26 **MULTIPLE OF \$2 IS AT LEAST \$1.46 BUT LESS THAN \$1.64;**

1 **10. 10 CENTS IF THE EXCESS OVER AN EXACT**
 2 **MULTIPLE OF \$2 IS AT LEAST \$1.64 BUT LESS THAN \$1.82; AND**

3 **11. 11 CENTS IF THE EXCESS OVER AN EXACT**
 4 **MULTIPLE OF \$2 IS AT LEAST \$1.82 BUT LESS THAN \$2.00.**

5 (b) If a retail sale of tangible personal property or a taxable service is made
 6 through a vending or other self-service machine, the sales and use tax rate is [5%]
 7 **5.5%**, applied to [95.25%] **94.8%** of the gross receipts from the vending machine sales.

8 11-301.

9 The sales and use tax is computed on:

10 (1) the taxable price of each separate sale;

11 (2) if a combined sale is made, the combined taxable price of all retail
 12 sales on the same occasion by the same vendor to the same buyer; or

13 (3) if retail sales of tangible personal property or a taxable service are
 14 made through vending or other self-service machines, [95.25%] **94.8%** of the gross
 15 receipts from the retail sales.

16 **Article – Transportation**

17 3-215.

18 (b) The tax levied and imposed by this section consists of that part of the
 19 following taxes that are retained to the credit of the Department after distributions to
 20 the political subdivisions:

21 (1) The motor fuel tax revenue distributed under §§ 2-1103(2) and
 22 2-1104(4) of the Tax – General Article;

23 (2) The income tax revenue distributed under § 2-614 of the
 24 Tax – General Article;

25 (3) The excise tax imposed on vehicles by Part II of Title 13, Subtitle 8
 26 of this article; [and]

27 (4) The sales and use tax revenues distributed under § 2-1302.1 of the
 28 Tax – General Article; **AND**

1 **(5) THE SALES AND USE TAX REVENUES DISTRIBUTED UNDER §**
2 **2-1302.2 OF THE TAX – GENERAL ARTICLE.**

3 3-216.

4 (a) There is a Transportation Trust Fund for the Department.

5 (b) Except as otherwise expressly provided by statute, there shall be credited
6 to the Transportation Trust Fund for the account of the Department all taxes, fees,
7 charges, and revenues collected or received by or paid, appropriated, or credited to the
8 account of the Department or any of its units in the exercise of their rights, powers,
9 duties, or obligations, including the cash proceeds of the sale of consolidated
10 transportation bonds, notes, or other evidences of obligation issued by the
11 Department, any General Fund appropriations, and the proceeds of any State loan or
12 federal grant made for transportation purposes.

13 (c) (1) There shall be maintained in the Transportation Trust Fund one or
14 more sinking fund accounts to which shall be credited and from which shall be paid,
15 from the proceeds of the taxes levied and imposed for that purpose or from any other
16 funds of the Department, amounts sufficient at all times to meet the debt service on
17 all bonds of prior issues and consolidated transportation bonds from time to time
18 outstanding and unpaid.

19 (2) (i) The Gasoline and Motor Vehicle Revenue Account, the
20 Driver Education Account, [and] the Motorcycle Safety Program Account, **AND THE**
21 **MASS TRANSIT ACCOUNT** shall be maintained in the Transportation Trust Fund.

22 (ii) In each fiscal year, the Department shall budget from
23 federal funds available to the Department, other funds in the Transportation Trust
24 Fund, and any other funds available to the Department, an amount sufficient to fund
25 projects and programs determined by the Secretary to be necessary to achieve the
26 bicycle and pedestrian transportation goals identified for the fiscal year under Title 2,
27 Subtitle 6 of this article.

28 (d) (1) After meeting its debt service requirements, the Department may
29 use the funds in the Transportation Trust Fund for any lawful purpose related to the
30 exercise of its rights, powers, duties, and obligations.

31 (2) Expenditures under this subsection shall be made in accordance
32 with any appropriation provided for in any applicable budget bill or supplementary
33 appropriation bill. However, an appropriation proposed to be made to any unit in the

1 Department or proposed to be made for any designated transportation activity,
2 function, or undertaking that has been reduced by the General Assembly may not be
3 restored, for the same purpose as originally proposed, except in an emergency, by the
4 budget amendment procedure of § 7-209 of the State Finance and Procurement
5 Article, or otherwise if the General Assembly in striking or reducing the appropriation,
6 prohibited its restoration. However, except for emergency capital projects, if the
7 General Assembly explicitly reduces in the budget bill an appropriation proposed for a
8 major capital project as defined in § 2-103.1(a)(4) of this article, the appropriation may
9 not be restored for the same purpose as originally proposed by the budget amendment
10 procedure of § 7-209 of the State Finance and Procurement Article or otherwise unless
11 the General Assembly, in striking or reducing the appropriation, expressly authorized
12 its restoration.

13 (3) (i) During the period of fiscal years 1988 through 1992 as
14 included in the annual State Report on Transportation, the Department shall utilize
15 all of its share of the revenues attributable to the 5 cent increase of the motor fuel tax
16 under the provisions of Chapter 291 of the Acts of 1987 and credited to the
17 Transportation Trust Fund under § 2-1104 of the Tax – General Article and the
18 proceeds of any increased indebtedness based on that revenue and credited to the
19 Transportation Trust Fund to fund Department projects for the construction,
20 reconstruction, and rehabilitation of the State highway system.

21 (ii) During the period of fiscal year 1988 through fiscal year
22 1992 the total level of State funds appropriated to the State Highway Administration
23 for construction, reconstruction and rehabilitation of the State highway system,
24 including the revenues referred to in subparagraph (i) above, shall be at least 70
25 percent of the total appropriation of State funds in the consolidated transportation
26 capital program.

27 (iii) The Secretary of the Department shall submit, subject to §
28 2-1246 of the State Government Article, to the Legislative Policy Committee and the
29 Department of Legislative Services a report:

30 1. Prior to the beginning of each session through the
31 1991 session, detailing the intended use of the new revenues; and

32 2. Prior to the beginning of each session beginning with
33 the 1989 session and through the 1993 session, detailing the actual use of the new
34 revenues in the prior fiscal year.

35 (4) Of the new revenues derived under the provisions of Chapter 291
36 of the Acts of 1987 and credited to the Department, \$31,000,000 shall be transferred to

1 the Maryland Emergency Medical Service System Fund at such time as determined by
2 the Secretary of Budget and Management.

3 (5) For each fiscal year, the Department shall use the funds in the
4 Transportation Trust Fund for the purposes specified in subsection (c)(2)(ii) of this
5 section, which may include construction and maintenance of:

6 (i) Public bicycle areas as defined in § 21–101(o) of this article;

7 (ii) Bicycle ways as defined in § 21–101(d) of this article; and

8 (iii) Sidewalks as defined in § 21–101(w) of this article.

9 (6) Each year, before the General Assembly considers the proposed
10 Maryland Transportation Plan and the Consolidated Transportation Program, the
11 Department shall report to the General Assembly, in accordance with § 2–1246 of the
12 State Government Article, on:

13 (i) The expenditures made toward the attainment of the bicycle
14 and pedestrian transportation goals during the preceding fiscal year under Title 2,
15 Subtitle 6 of this article; and

16 (ii) The progress made toward attainment of the bicycle and
17 pedestrian transportation goals identified for the fiscal year under Title 2, Subtitle 6 of
18 this article.

19 (e) (1) Except as otherwise provided in this subsection, this section is
20 effective notwithstanding any other provision of law.

21 (2) Nothing in this section may adversely affect in any way the
22 security of any of the following bonds while they are outstanding and unpaid:

23 (i) State highway construction bonds, second issue;

24 (ii) State highway construction bonds, third issue;

25 (iii) County highway construction bonds; or

26 (iv) County highway construction bonds, second issue.

27 (3) It is the intent of the General Assembly that, as long as any of the
28 bonds listed in paragraph (2) of this subsection are outstanding and unpaid:

1 (i) The sinking fund requirements established for the payment
2 of the principal of and interest on those bonds shall remain unchanged, as if this
3 section had not been enacted; and

4 (ii) The taxes and revenues pledged to the payment of the
5 principal of and interest on those bonds as they become due and payable may not be
6 repealed, diminished, or applied to any other purpose until:

7 1. The bonds and the interest on them have become due
8 and fully paid; or

9 2. Adequate and complete provision for payment of the
10 principal and interest has been made.

11 (f) (1) No part of the Transportation Trust Fund may revert or be
12 credited to the general funds of this State. No part of the Transportation Trust Fund
13 may revert or be credited to a special fund of the State, unless otherwise provided by
14 law. No part of the Transportation Trust Fund may revert or be credited to a special
15 fund of the State pursuant to the provisions of § 7-209(e)(2) of the State Finance and
16 Procurement Article, unless the transfer is approved by the Legislative Policy
17 Committee. Failure of the Legislative Policy Committee to reject the transfer within
18 15 days after presentation before the Legislative Policy Committee shall be deemed to
19 be approval.

20 (2) Notwithstanding any other provision of law, for fiscal year 1984
21 only, \$29,000,000 of the funds in the Transportation Trust Fund which are not
22 required by law to be distributed to the counties or Baltimore City and which have not
23 been pledged or otherwise committed to the payment of or as security for the payment
24 of any bonds or debt issued or incurred pursuant to this article shall be transferred
25 and credited to the general funds of the State on or before June 30, 1984 and shall be
26 available for appropriation from the general funds in fiscal year 1984.

27 **SUBTITLE 4. MASS TRANSIT ACCOUNT.**

28 **3-401.**

29 (A) **THERE IS A MASS TRANSIT ACCOUNT IN THE TRANSPORTATION**
30 **TRUST FUND.**

31 (B) **ALL REVENUES DISTRIBUTED TO THE TRANSPORTATION TRUST**
32 **FUND UNDER § 2-1302.2 OF THE TAX - GENERAL ARTICLE SHALL BE CREDITED**
33 **TO THE MASS TRANSIT ACCOUNT.**

1 **(C) FUNDS FROM THE MASS TRANSIT ACCOUNT MAY ONLY BE USED AS**
2 **FOLLOWS:**

3 **(1) CAPITAL AND OPERATING EXPENSES OF THE WASHINGTON**
4 **METROPOLITAN AREA TRANSIT AUTHORITY (WMATA), INCLUDING**
5 **ADDITIONAL FUNDING FOR THE MAINTENANCE AND IMPROVEMENT OF THE**
6 **TRANSPORTATION SYSTEM OF WMATA CONSISTENT WITH:**

7 **(I) FEDERAL LAW PROVIDING ADDITIONAL FEDERAL**
8 **GRANTS TO WMATA FOR THE MAINTENANCE AND IMPROVEMENT OF THE**
9 **TRANSPORTATION SYSTEM AND REQUIRING WMATA COMPACT JURISDICTIONS**
10 **TO IDENTIFY A DEDICATED FUNDING SOURCE FOR THOSE PURPOSES; AND**

11 **(II) LAWS ENACTED BY THE DISTRICT OF COLUMBIA AND**
12 **THE COMMONWEALTH OF VIRGINIA DEDICATING REVENUES FOR THE**
13 **PURPOSES SPECIFIED IN ITEM (I) OF THIS ITEM;**

14 **(2) CAPITAL AND OPERATING EXPENSES OF THE MARYLAND**
15 **TRANSIT ADMINISTRATION; AND**

16 **(3) GRANTS TO LOCAL JURISDICTIONS FOR MASS TRANSIT**
17 **CAPITAL AND OPERATING EXPENSES.**

18 **(D) (1) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THAT**
19 **THE MASS TRANSIT ACCOUNT BE THE SOLE SOURCE OF FUNDING FOR THE**
20 **CAPITAL AND OPERATING EXPENSES OF THE MARYLAND TRANSIT**
21 **ADMINISTRATION, THE CAPITAL AND OPERATING EXPENSES OF THE**
22 **WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY, OR LOCAL GRANTS**
23 **TO LOCAL JURISDICTIONS FOR MASS TRANSIT CAPITAL AND OPERATING**
24 **EXPENSES.**

25 **(2) THE REVENUES CREDITED TO THE MASS TRANSIT ACCOUNT**
26 **UNDER THIS SECTION ARE IN ADDITION TO AND MAY NOT SUPPLANT ANY FUNDS**
27 **WITHIN THE TRANSPORTATION TRUST FUND NECESSARY TO PAY THE**
28 **PROJECTED MASS TRANSIT OPERATING AND CAPITAL COSTS IDENTIFIED IN THE**
29 **DEPARTMENT'S APPROVED CONSOLIDATED TRANSPORTATION PROGRAM FOR**
30 **FISCAL YEARS 2007 THROUGH 2012.**

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2007.