

HOUSE BILL 441

Q4

71r1660

By: **Delegates Rice, Ali, Feldman, Gutierrez, Hucker, Ivey, Manno, Montgomery, and Taylor**

Introduced and read first time: February 5, 2007

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Assault Weapon Tax**

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; requiring the Comptroller to
5 distribute the assault weapon tax revenue to a special fund to be used for
6 certain purposes; altering the definition of “sales tax” under the tax laws to
7 include the assault weapon tax under the administration of the sales tax;
8 providing that certain credits and exemptions do not apply to the assault
9 weapon tax; exempting certain sales from the assault weapon tax; providing
10 certain persons a certain collection expense credit for timely filing of an assault
11 weapon tax return; requiring assault weapon dealers to file certain assault
12 weapon tax returns to include certain information; defining certain terms;
13 requiring the Secretary of State Police to submit a certain report; and generally
14 relating to a tax on the sale or use of certain assault weapons in the State.

15 BY repealing and reenacting, with amendments,
16 Article – Tax – General
17 Section 1–101(s) and 2–1303
18 Annotated Code of Maryland
19 (2004 Replacement Volume and 2006 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Tax – General
22 Section 11–101(a), (h), (j), and (n)
23 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2004 Replacement Volume and 2006 Supplement)

BY adding to

Article – Tax – General

Section 11–1B–01 through 11–1B–05 to be under the new subtitle “Subtitle 1B. Assault Weapon Tax”; 11–501(c) and 11–502(d)

Annotated Code of Maryland

(2004 Replacement Volume and 2006 Supplement)

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

Article – Tax – General

1–101.

(s) (1) “Sales and use tax” means the tax imposed under Title 11 of this article.

(2) “Sales and use tax” includes:

(I) the tax imposed on the use of certain electricity under § 11–1A–01 of this article; **AND**

(II) **THE ASSAULT WEAPON TAX IMPOSED UNDER TITLE 11, SUBTITLE 1B OF THIS ARTICLE.**

2–1303.

After making the distributions required under §§ 2–1301 through 2–1302.1 of this subtitle, the Comptroller shall pay:

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

(2) **REVENUES FROM THE ASSAULT WEAPON TAX IMPOSED UNDER TITLE 11, SUBTITLE 1B OF THIS ARTICLE TO A SPECIAL FUND:**

(I) **80% TO BE USED ONLY FOR EDUCATION AID TO LOCAL GOVERNMENTS; AND**

- 1 **(II) 20% TO BE USED ONLY FOR VICTIM SERVICES; and**
- 2 **[(2)] (3)** the remaining sales and use tax revenue into the General
3 Fund of the State.
- 4 11–101.
- 5 (a) In this title the following words have the meanings indicated.
- 6 (h) (1) “Retail sale” means the sale of:
- 7 (i) tangible personal property; or
- 8 (ii) a taxable service.
- 9 (2) “Retail sale” includes:
- 10 (i) a sale of tangible personal property for use or resale in the
11 form of real estate by a builder, contractor, or landowner; and
- 12 (ii) except as provided in paragraph (3)(i) of this subsection, use
13 of tangible personal property as facilities, tools, tooling, machinery, or equipment,
14 including dies, molds, and patterns, even if the buyer intends to transfer title to the
15 property before or after that use.
- 16 (3) “Retail sale” does not include:
- 17 (i) a transfer of title to tangible personal property after its use
18 as facilities, tools, tooling, machinery, or equipment, including dies, molds, and
19 patterns, if:
- 20 1. at the time of purchase, the buyer is obligated, under
21 the terms of a written contract, to make the transfer; and
- 22 2. the transfer is made for the same or greater
23 consideration to the person for whom the buyer manufactures goods or performs work;
- 24 (ii) a sale of tangible personal property if the buyer intends to:
- 25 1. resell the tangible personal property in the form that
26 the buyer receives or is to receive the property;

1 2. use or incorporate the tangible personal property in a
2 production activity as a material or part of other tangible personal property to be
3 produced for sale; or

4 3. transfer the tangible personal property as a part of a
5 taxable service transaction; or

6 (iii) a sale of a taxable service if the buyer intends to resell the
7 taxable service in the form that the buyer receives or is to receive the service.

8 (j) “Sale for use” means a sale in which tangible personal property or a
9 taxable service that is consumed, possessed, stored, or used in the State is acquired.

10 (n) (1) “Use” means an exercise of a right or power to use, consume,
11 possess, or store that is acquired by a sale for use of:

12 (i) tangible personal property; or

13 (ii) a taxable service.

14 (2) “Use” includes an exercise of a right or power to use, consume,
15 possess, or store that is acquired by a sale for use of tangible personal property:

16 (i) for use or resale in the form of real estate by a builder,
17 contractor, or landowner; or

18 (ii) except as provided in paragraph (3)(i) of this subsection, as
19 facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns,
20 even if the buyer intends to transfer title to the property before or after that use.

21 (3) “Use” does not include:

22 (i) a transfer of title to tangible personal property after its use
23 as facilities, tools, tooling, machinery, or equipment, including dies, molds, and
24 patterns, if:

25 1. at the time of purchase, the buyer is obligated, under
26 the terms of a written contract, to make the transfer; and

27 2. the transfer is made for the same or greater
28 consideration to the person for whom the buyer manufactures goods or performs work;

1 (ii) an exercise of a right or power over tangible personal
2 property acquired by a sale for use if the buyer intends to:

3 1. resell the tangible personal property in the form that
4 the buyer receives or is to receive the property;

5 2. use or incorporate the tangible personal property in a
6 production activity as a material or part of other tangible personal property to be
7 produced for sale; or

8 3. transfer the tangible personal property as part of a
9 taxable service transaction; or

10 (iii) an exercise of a right or power over a taxable service
11 acquired by a sale for use if the buyer intends to resell the taxable service in the form
12 that the buyer receives or is to receive the service.

13 **SUBTITLE 1B. ASSAULT WEAPON TAX.**

14 **11-1B-01.**

15 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) "ASSAULT WEAPON" MEANS:

18 (1) ANY OF THE FIREARMS, COPIES, OR DUPLICATES IN ANY
19 CALIBER OF THE FIREARMS, KNOWN AS:

20 (I) NORINCO, MITCHELL, AND POLY TECHNOLOGIES
21 AVTOMAT KALASHNIKOV'S (ALL MODELS);

22 (II) ACTION ARMS ISRAELI MILITARY INDUSTRIES UZI AND
23 GALIL;

24 (III) BARETTA AR-70 (SC-70);

25 (IV) COLT AR-15;

26 (V) FABRIQUE NATIONALE FN/FAL, FN/LAR, AND FNC;

1 (VI) SWD M-10, M-11, M-11/9, AND M-12;

2 (VII) STEYR AUG; AND

3 (VIII) INTRATEC TEC-9, TEC-DC9, AND TEC-22; OR

4 (2) ANY REVOLVING SHOTGUN, INCLUDING THE STREET
5 SWEEPER AND STRIKER 12.

6 (C) "ASSAULT WEAPON DEALER" MEANS ANY PERSON ENGAGED IN THE
7 BUSINESS OF SELLING ASSAULT WEAPONS AT WHOLESALE OR RETAIL.

8 (D) "ASSAULT WEAPON TAX" MEANS THE TAX IMPOSED UNDER THIS
9 SUBTITLE.

10 11-1B-02.

11 IN ADDITION TO THE TAX IMPOSED UNDER § 11-102 OF THIS TITLE, A TAX
12 IS IMPOSED ON:

13 (1) A RETAIL SALE OF AN ASSAULT WEAPON IN THE STATE; AND

14 (2) A USE, AS DEFINED IN § 11-101(N) OF THIS TITLE, OF AN
15 ASSAULT WEAPON IN THE STATE.

16 11-1B-03.

17 (A) A REBUTTABLE PRESUMPTION EXISTS THAT ANY SALE OF AN
18 ASSAULT WEAPON IN THE STATE IS SUBJECT TO THE ASSAULT WEAPON TAX
19 IMPOSED UNDER THIS SUBTITLE.

20 (B) THE PERSON REQUIRED TO PAY THE ASSAULT WEAPON TAX HAS
21 THE BURDEN OF PROVING THAT A SALE OF AN ASSAULT WEAPON IN THE STATE
22 IS NOT SUBJECT TO THE ASSAULT WEAPON TAX.

23 (C) (1) THE EXEMPTIONS UNDER SUBTITLE 2 OF THIS TITLE DO NOT
24 APPLY TO THE ASSAULT WEAPON TAX.

1 **(2) THE ASSAULT WEAPON TAX DOES NOT APPLY TO A SALE OF AN**
2 **ASSAULT WEAPON TO A POLICE FORCE OR OTHER AGENCY OF THE UNITED**
3 **STATES, ANY STATE, OR A POLITICAL SUBDIVISION OF ANY STATE.**

4 **(3) IF A PERSON WHO BUYS AN ASSAULT WEAPON IN A RETAIL**
5 **SALE PAYS THE ASSAULT WEAPON TAX WHEN THE RETAIL SALE IS MADE OR**
6 **WHEN THE PERSON FIRST USES THE ASSAULT WEAPON IN THE STATE, THE**
7 **PERSON IS NOT REQUIRED TO PAY THE TAX AGAIN WHEN THE PERSON USES**
8 **THAT ASSAULT WEAPON IN THE STATE.**

9 **11-1B-04.**

10 **THE ASSAULT WEAPON TAX RATE IS 10% OF THE TAXABLE PRICE OF THE**
11 **ASSAULT WEAPON.**

12 **11-1B-05.**

13 **(A) THE PROVISIONS OF § 11-105 OF THIS TITLE DO NOT APPLY TO THE**
14 **ASSAULT WEAPON TAX.**

15 **(B) A PERSON WHO TIMELY FILES AN ASSAULT WEAPON TAX RETURN IS**
16 **ALLOWED, FOR THE EXPENSE OF COLLECTING AND PAYING THE TAX, A CREDIT**
17 **EQUAL TO 0.5% OF THE GROSS AMOUNT OF ASSAULT WEAPON TAX THAT THE**
18 **PERSON IS TO PAY TO THE COMPTROLLER.**

19 **11-501.**

20 **(C) (1) A BUYER WHO FAILS TO PAY TO THE VENDOR THE ASSAULT**
21 **WEAPON TAX ON A PURCHASE OR USE SUBJECT TO THE TAX AS REQUIRED**
22 **UNDER § 11-403 OF THIS TITLE SHALL COMPLETE AND FILE WITH THE**
23 **COMPTROLLER AN ASSAULT WEAPON TAX RETURN ON OR BEFORE THE 21ST**
24 **DAY OF THE MONTH THAT FOLLOWS THE MONTH IN WHICH THE BUYER MAKES**
25 **THAT PURCHASE OR USE.**

26 **(2) A RETURN FILED BY A BUYER UNDER THIS SUBSECTION**
27 **SHALL STATE FOR THE PERIOD THAT THE RETURN COVERS:**

28 **(I) THE TOTAL VALUE OF THE ASSAULT WEAPON THAT IS**
29 **SUBJECT TO THE ASSAULT WEAPON TAX; AND**

1 **(II) THE ASSAULT WEAPON TAX DUE.**

2 11-502.

3 **(D) (1) EACH ASSAULT WEAPON DEALER SHALL COMPLETE AND FILE**
4 **WITH THE COMPTROLLER AN ASSAULT WEAPON TAX RETURN ON OR BEFORE**
5 **THE 21ST DAY OF THE MONTH THAT FOLLOWS THE MONTH IN WHICH THE**
6 **DEALER MAKES A RETAIL SALE OR SALE FOR USE OF AN ASSAULT WEAPON.**

7 **(2) A RETURN FILED BY AN ASSAULT WEAPON DEALER UNDER**
8 **THIS SUBSECTION SHALL STATE FOR THE PERIOD THAT THE RETURN COVERS:**

9 **(I) THE GROSS PROCEEDS OF THE VENDOR FROM THE SALE**
10 **OF ASSAULT WEAPONS SOLD BY THE DEALER; AND**

11 **(II) THE ASSAULT WEAPON TAX DUE.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Secretary of State
13 Police shall assess the impact on the sale of assault weapons in the State of the
14 assault weapon tax imposed under this Act. On or before December 31, 2008, the
15 Secretary shall submit a report to the Governor and, subject to § 2-1246 of the State
16 Government Article, the President of the Senate and the Speaker of the House of
17 Delegates regarding the Secretary's findings.

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