

# SENATE BILL 21

Q4, Q7, A1

8lr4584

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By: **Senator Muse**

Introduced and read first time: October 29, 2007

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Alcoholic Beverages Surcharge – Maryland Children’s Health Program**

3 FOR the purpose of establishing the Maryland Children’s Health Program Fund in the  
4 Department of Health and Mental Hygiene; requiring that the Fund be used for  
5 certain purposes related to the Maryland Children’s Health Program; providing  
6 for the administration of the Fund; imposing a supplemental surcharge on the  
7 sale of alcoholic beverages; establishing the rate of the surcharge; providing for  
8 the distribution of certain revenues to the Fund; and generally relating to  
9 imposing and distributing a supplemental surcharge on the sale of alcoholic  
10 beverages.

11 BY adding to

12 Article – Health – General  
13 Section 15–305  
14 Annotated Code of Maryland  
15 (2005 Replacement Volume and 2007 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Tax – General  
18 Section 1–101(s), 2–1303, and 11–102  
19 Annotated Code of Maryland  
20 (2004 Replacement Volume and 2007 Supplement)

21 BY adding to

22 Article – Tax – General  
23 Section 11–104(g)  
24 Annotated Code of Maryland  
25 (2004 Replacement Volume and 2007 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article - Health - General**

2 **15-305.**

3 (A) IN THIS SECTION, "FUND" MEANS THE MARYLAND CHILDREN'S  
4 HEALTH PROGRAM FUND.

5 (B) THERE IS A MARYLAND CHILDREN'S HEALTH PROGRAM FUND IN  
6 THE DEPARTMENT.

7 (C) THE PURPOSE OF THE FUND IS TO PROVIDE ADDITIONAL FUNDING  
8 FOR THE MARYLAND CHILDREN'S HEALTH PROGRAM.

9 (D) THE DEPARTMENT SHALL ADMINISTER THE FUND.

10 (E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT  
11 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

12 (2) THE TREASURER SHALL HOLD THE FUND SEPARATELY, AND  
13 THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

14 (F) THE FUND CONSISTS OF:

15 (1) REVENUE FROM THE ALCOHOLIC BEVERAGES SURCHARGE  
16 IMPOSED UNDER § 11-102(C) OF THE TAX - GENERAL ARTICLE; AND

17 (2) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED  
18 FOR THE BENEFIT OF THE FUND.

19 (G) THE FUND MAY BE USED ONLY FOR THE MARYLAND CHILDREN'S  
20 HEALTH PROGRAM.

21 (H) (1) THE TREASURER SHALL INVEST THE MONEY OF THE FUND IN  
22 THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.

23 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE  
24 CREDITED TO THE GENERAL FUND OF THE STATE.

25 (I) MONEY EXPENDED FROM THE FUND FOR THE MARYLAND  
26 CHILDREN'S HEALTH PROGRAM IS SUPPLEMENTAL TO AND IS NOT INTENDED  
27 TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE APPROPRIATED.

28 **Article - Tax - General**

1 1-101.

2 (s) (1) "Sales and use tax" means the tax imposed under Title 11 of this  
3 article.

4 (2) "Sales and use tax" includes:

5 (I) the tax imposed on the use of certain electricity under §  
6 11-1A-01 of this article[.];

7 [(3)] (II) ["Sales and use tax" includes] the hotel surcharge imposed  
8 under § 11-102(b) of this article; **AND**

9 (III) **THE ALCOHOLIC BEVERAGES SURCHARGE IMPOSED**  
10 **UNDER § 11-102(C) OF THIS ARTICLE.**

11 2-1303.

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

14 (1) revenues from the hotel surcharge into the Dorchester County  
15 Economic Development Fund established under Article 83A, § 5-216 of the Code;  
16 [and]

17 (2) **REVENUES FROM THE ALCOHOLIC BEVERAGES SURCHARGE**  
18 **IMPOSED UNDER § 11-102(C) OF THIS ARTICLE INTO THE MARYLAND**  
19 **CHILDREN'S HEALTH PROGRAM FUND ESTABLISHED UNDER § 15-305 OF THE**  
20 **HEALTH - GENERAL ARTICLE; AND**

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

23 11-102.

24 (a) Except as otherwise provided in this title, a tax is imposed on:

25 (1) a retail sale in the State; and

26 (2) a use, in the State, of tangible personal property or a taxable  
27 service.

28 (b) (1) Subject to paragraph (2) of this subsection, in addition to the tax  
29 imposed under subsection (a) of this section, a hotel surcharge is imposed in

1 Dorchester County on the sale of a right to occupy a room or lodgings as a transient  
2 guest in an establishment that offers at least 380 rooms.

3 (2) The hotel surcharge imposed under paragraph (1) of this  
4 subsection may not be imposed if the Maryland Economic Development Corporation  
5 certifies to the Comptroller that the bonds issued by the Maryland Economic  
6 Development Corporation secured by the Dorchester County Economic Development  
7 Fund established under § 5–216 of Article 83A of the Code have been paid in full.

8 (c) **IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTION (A) OF THIS**  
9 **SECTION, AN ALCOHOLIC BEVERAGES SURCHARGE IS IMPOSED ON THE SALE OF**  
10 **ALCOHOLIC BEVERAGES AS DEFINED IN § 5–101 OF THIS ARTICLE.**

11 (D) (1) A county, municipal corporation, special taxing district, or other  
12 political subdivision of the State may not impose any retail sales or use tax except:

13 (i) a sales tax or use tax that was in effect on January 1, 1971;

14 (ii) a tax on the sale or use of:

15 1. fuels;

16 2. utilities;

17 3. space rentals; or

18 4. any controlled dangerous substance, as defined in §  
19 5–101 of the Criminal Law Article, unless the sale is made by a person who registers  
20 under and complies with Title 5, Subtitle 3 of the Criminal Law Article; or

21 (iii) a tax imposed by a code county on the sale or use of food and  
22 beverages authorized under Article 25B, § 13H of the Code.

23 (2) Paragraph (1) of this subsection may not be construed as  
24 conferring authority to impose a sales and use tax.

25 11–104.

26 (G) **THE RATE OF THE ALCOHOLIC BEVERAGES SURCHARGE IMPOSED**  
27 **UNDER § 11–102(C) OF THIS SUBTITLE IS 5% OF THE TAXABLE PRICE.**

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 June 1, 2008.