

HOUSE BILL 737

C3, Q3

8lr0587

By: **Delegates Elliott, Bartlett, Bates, Benson, G. Clagett, Donoghue, Hammen, Hecht, Hubbard, Kipke, Krebs, Kullen, McKee, Mizeur, Montgomery, Morhaim, Nathan-Pulliam, Oaks, Pena-Melnyk, Reznik, Riley, Schuh, Stull, Tarrant, V. Turner, and Weldon**

Introduced and read first time: February 4, 2008

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Coverage – Personal Responsibility**

3 FOR the purpose of imposing a surcharge on the income tax of certain individuals with
4 income above a certain level; providing that the surcharge does not apply if
5 certain individuals had certain health care coverage or did not reside in the
6 State; providing for certain exceptions; requiring the revenues from the
7 surcharge to be distributed to the Health Care Coverage Fund to be used for
8 certain purposes; requiring an employer to base withholding for certain
9 employees on a certain number of exemptions under certain circumstances;
10 requiring the Comptroller to widely publicize the requirements of this Act for a
11 certain purpose; defining certain terms; providing for the application of certain
12 provisions of this Act; providing for a delayed effective date for certain
13 provisions of this Act; and generally relating to personal responsibility for
14 health care coverage through an income tax surcharge.

15 BY repealing and reenacting, with amendments,
16 Article – Insurance
17 Section 15–1301(f)(1)
18 Annotated Code of Maryland
19 (2006 Replacement Volume and 2007 Supplement)

20 BY adding to
21 Article – Tax – General
22 Section 10–106.2
23 Annotated Code of Maryland
24 (2004 Replacement Volume and 2007 Supplement)

25 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Tax – General
2 Section 10–910(b)
3 Annotated Code of Maryland
4 (2004 Replacement Volume and 2007 Supplement)

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

7 **Article – Insurance**

8 15–1301.

- 9 (f) (1) “Creditable coverage” means coverage of an individual under:
- 10 (i) an employer sponsored plan;
- 11 (ii) a health benefit plan;
- 12 (iii) Part A or Part B of Title XVIII of the Social Security Act;
- 13 (iv) Title XIX OR TITLE XXI of the Social Security Act, other
14 than coverage consisting solely of benefits under § 1928 of that Act;
- 15 (v) Chapter 55 of Title 10 of the United States Code;
- 16 (vi) a medical care program of the Indian Health Service or of a
17 tribal organization;
- 18 (vii) a State health benefits risk pool;
- 19 (viii) a health plan offered under the Federal Employees Health
20 Benefits Program (FEHBP), Title 5, Chapter 89 of the United States Code;
- 21 (ix) a public health plan as defined by federal regulations
22 authorized by the Public Health Service Act, § 2701(c)(1)(i), as amended by P.L.
23 104–191; or
- 24 (x) a health benefit plan under § 5(e) of the Peace Corps Act, 22
25 U.S.C. 2504(e).

26 **Article – Tax – General**

27 **10–106.2.**

28 (A) (1) IN THIS SECTION, “HEALTH CARE COVERAGE” MEANS
29 CREDITABLE COVERAGE AS DEFINED IN § 15–1301 OF THE INSURANCE
30 ARTICLE.

1 **(2) “HEALTH CARE COVERAGE” INCLUDES A LOW-COST, HIGH**
2 **DEDUCTIBLE HEALTH BENEFIT PLAN.**

3 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND**
4 **SUBSECTIONS (C) AND (D) OF THIS SECTION, IN ADDITION TO THE STATE**
5 **INCOME TAX UNDER § 10-105(A) OF THIS SUBTITLE, IF THE FEDERAL ADJUSTED**
6 **GROSS INCOME OF AN INDIVIDUAL EXCEEDS \$50,000, THE INDIVIDUAL IS**
7 **SUBJECT TO A SURCHARGE OF \$1,000, UNLESS THE INDIVIDUAL AND EACH**
8 **DEPENDENT CHILD OF THE INDIVIDUAL HAD HEALTH CARE COVERAGE:**

9 **(I) FOR AT LEAST 6 MONTHS OF THE TAXABLE YEAR; AND**

10 **(II) ON DECEMBER 31 OF THE TAXABLE YEAR.**

11 **(2) FOR A MARRIED COUPLE FILING A JOINT RETURN, THE**
12 **SURCHARGE UNDER THIS SECTION:**

13 **(I) IS IMPOSED IF THE JOINT FEDERAL ADJUSTED GROSS**
14 **INCOME OF THE MARRIED COUPLE EXCEEDS \$100,000; AND**

15 **(II) EQUALS:**

16 **1. \$2,000 UNLESS AT LEAST ONE SPOUSE AND EACH**
17 **DEPENDENT CHILD OF THE MARRIED COUPLE HAD HEALTH CARE COVERAGE;**
18 **OR**

19 **2. \$1,000 IF EACH DEPENDENT CHILD OF THE**
20 **MARRIED COUPLE AND EITHER THE HUSBAND OR WIFE, BUT NOT BOTH, HAD**
21 **HEALTH CARE COVERAGE.**

22 **(C) THIS SECTION DOES NOT APPLY TO A NONRESIDENT, INCLUDING A**
23 **NONRESIDENT SPOUSE OR A NONRESIDENT DEPENDENT.**

24 **(D) THE COMPTROLLER SHALL PROVIDE FOR EXCEPTIONS TO**
25 **SUBSECTION (B) OF THIS SECTION FOR AN INDIVIDUAL:**

26 **(1) JUST ENTERING THE WORKFORCE;**

27 **(2) RECENTLY MOVING INTO THE STATE;**

28 **(3) WHO IS UNEMPLOYED FOR 4 OR MORE CONSECUTIVE WEEKS;**

1 (4) WHO IS UNABLE TO OBTAIN HEALTH CARE COVERAGE
2 BECAUSE THE INDIVIDUAL:

3 (I) IS NOT ELIGIBLE FOR HEALTH BENEFITS THROUGH AN
4 EMPLOYER-SPONSORED PLAN;

5 (II) HAS BEEN TURNED DOWN FOR HEALTH BENEFITS
6 THROUGH AN INDIVIDUAL PLAN; AND

7 (III) HAS BEEN UNABLE TO ENROLL IN THE MARYLAND
8 HEALTH INSURANCE PLAN, BECAUSE THE MARYLAND HEALTH INSURANCE
9 PLAN HAS REACHED ITS ENROLLMENT CAPACITY; OR

10 (5) WHO OBJECTS TO HEALTH INSURANCE ON RELIGIOUS
11 GROUNDS, PROVIDED THAT THE INDIVIDUAL FILES A SWORN AFFIDAVIT WITH
12 THE TAX RETURN STATING THAT THE INDIVIDUAL'S SINCERELY HELD
13 RELIGIOUS BELIEFS ARE THE BASIS OF THE INDIVIDUAL'S REFUSAL TO OBTAIN
14 AND MAINTAIN HEALTH CARE COVERAGE.

15 (E) THE TAXPAYER SHALL INDICATE ON THE INCOME TAX RETURN, IN
16 THE FORM REQUIRED BY THE COMPTROLLER, THE PRESENCE OF HEALTH CARE
17 COVERAGE THAT MEETS THE REQUIREMENTS OF SUBSECTION (B) OF THIS
18 SECTION FOR THE INDIVIDUAL, EACH SPOUSE IN THE CASE OF A MARRIED
19 COUPLE, AND EACH DEPENDENT CHILD.

20 (F) NOTWITHSTANDING § 2-609 OF THIS ARTICLE, AFTER DEDUCTING A
21 REASONABLE AMOUNT FOR ADMINISTRATIVE COSTS, THE COMPTROLLER
22 SHALL DISTRIBUTE THE REVENUES FROM THE SURCHARGE TO THE HEALTH
23 CARE COVERAGE FUND ESTABLISHED UNDER § 15-701 OF THE HEALTH -
24 GENERAL ARTICLE, TO BE USED FOR EXPANSION OF ELIGIBILITY UNDER THE
25 MARYLAND MEDICAL ASSISTANCE PROGRAM OR FOR SUBSIDIES OF PRIVATE
26 HEALTH INSURANCE.

27 10-910.

28 (b) (1) Except as provided in [paragraph (2)] PARAGRAPHS (2) AND (3)
29 of this subsection, an employer shall base withholding for an employee:

30 (i) on the number of exemptions stated in the exemption
31 certificate that the employee files; or

32 (ii) if the employee fails to file an exemption certificate or files
33 an invalid certificate under subsection (c) of this section, on 1 exemption.

1 (2) If the Comptroller notifies an employer that an employee has an
2 unpaid tax liability, that the employee failed to file a required Maryland income tax
3 return, or that an employee is subject to a tax refund interception request, the
4 employer shall base withholding for the employee:

5 (i) on a number of exemptions not exceeding the actual number
6 of exemptions allowed on the employee's prior year's income tax return, as specified by
7 the Comptroller; or

8 (ii) if the employee failed to file a required Maryland income tax
9 return, on 1 exemption.

10 (3) (I) **IN THIS PARAGRAPH, "HEALTH CARE COVERAGE" HAS**
11 **THE MEANING STATED IN § 10-106.2 OF THIS TITLE.**

12 (II) **AN EMPLOYER SHALL BASE WITHHOLDING FOR AN**
13 **EMPLOYEE ON ZERO EXEMPTIONS IF THE COMPENSATION OF THE EMPLOYEE IS**
14 **EXPECTED TO EXCEED \$50,000 IN ANY TAX YEAR AND THE EMPLOYEE DOES NOT**
15 **HAVE HEALTH CARE COVERAGE FROM THE EMPLOYER OR HAS NOT PRESENTED**
16 **THE EMPLOYER WITH A CERTIFICATION OF OTHER HEALTH CARE COVERAGE.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That the State Comptroller
18 shall widely publicize the requirements of this Act to provide an adequate opportunity
19 for individuals to obtain health care coverage and avoid a surcharge.

20 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
21 take effect January 1, 2009, and shall be applicable to all taxable years beginning after
22 December 31, 2008.

23 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
24 Section 3 of this Act, this Act shall take effect July 1, 2008.