

# SENATE BILL 363

Q4, Q7

8lr0961

---

By: **Senator Muse**

Introduced and read first time: January 30, 2008

Assigned to: Budget and Taxation

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax - Surcharge - Tobacco Paraphernalia**

3 FOR the purpose of imposing a supplemental surcharge on the sale of tobacco  
4 paraphernalia; establishing the rate of the surcharge; and generally relating to  
5 imposing a supplemental surcharge on the sale of tobacco paraphernalia.

6 BY repealing and reenacting, with amendments,  
7 Article - Tax - General  
8 Section 1-101(s) and 11-102  
9 Annotated Code of Maryland  
10 (2004 Replacement Volume and 2007 Supplement)

11 BY adding to  
12 Article - Tax - General  
13 Section 11-104(g)  
14 Annotated Code of Maryland  
15 (2004 Replacement Volume and 2007 Supplement)

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

18 **Article - Tax - General**  
19 1-101.

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

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

23 (I) the tax imposed on the use of certain electricity under §  
24 11-1A-01 of this article[.];

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3                            (III) **THE TOBACCO PARAPHERNALIA SURCHARGE IMPOSED**  
4 **UNDER § 11-102(C) OF THIS ARTICLE.**

5 11-102.

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

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

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

10            (b) (1) Subject to paragraph (2) of this subsection, in addition to the tax  
11 imposed under subsection (a) of this section, a hotel surcharge is imposed in  
12 Dorchester County on the sale of a right to occupy a room or lodgings as a transient  
13 guest in an establishment that offers at least 380 rooms.

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

19            (c) **IN ADDITION TO THE TAX IMPOSED UNDER SUBSECTION (A) OF THIS**  
20 **SECTION, A TOBACCO PARAPHERNALIA SURCHARGE IS IMPOSED ON THE SALE**  
21 **OF EACH ITEM OF TOBACCO PARAPHERNALIA AS DEFINED IN § 10-101 OF THE**  
22 **CRIMINAL LAW ARTICLE.**

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

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

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

27                            1. fuels;

28                            2. utilities;

29                            3. space rentals; or

1                   4.     any controlled dangerous substance, as defined in §  
2 5–101 of the Criminal Law Article, unless the sale is made by a person who registers  
3 under and complies with Title 5, Subtitle 3 of the Criminal Law Article; or

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

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

8 11–104.

9                   **(G)   THE RATE OF THE TOBACCO PARAPHERNALIA SURCHARGE**  
10 **IMPOSED UNDER § 11–102(C) OF THIS SUBTITLE IS \$20 FOR EACH ITEM OF**  
11 **TOBACCO PARAPHERNALIA.**

12                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 July 1, 2008.