

CHAPTER 181

(Senate Bill 458)

AN ACT concerning

Tourism Promotion Act of 2008

FOR the purpose of requiring the Maryland Tourism Development Board to provide certain grants to the destination marketing organizations and certain financial assistance to the Office of Tourism Development; ~~for a certain fiscal year, requiring the Governor to include in the annual budget bill a certain proposed General Fund appropriation to the Maryland Tourism Development Board Fund; beginning in a certain fiscal year, requiring the Governor to include in the annual budget bill a certain proposed General Fund appropriation based on certain prior fiscal year appropriations; beginning in a certain fiscal year, requiring the Treasurer to deposit annually into the Fund a certain additional amount derived from sales tax revenues collected on certain retail sale of tourist-oriented goods and services; specifying the calculation for the additional amount to be deposited into the Fund; limiting the total annual funding that may be deposited into the Fund from certain sources; providing that any amount that may not be deposited into the Fund due to the limitation shall be deposited into the General Fund; requiring the Comptroller, on or before a certain date each year, to make a certain calculation regarding certain annual sales and use tax revenues collected on the retail sale of tourist-oriented goods and services under certain codes after consultation with the Department of Business and Economic Development; requiring the Comptroller to report by a certain time on a certain calculation to the Governor, certain agencies, and the General Assembly; requiring the Governor to consider whether to include a certain appropriation to the Maryland Tourism Development Board Fund in the proposed State budget under certain circumstances; providing that certain funding is not required to be included in the State budget; stating the intent of the General Assembly; encouraging certain local government to reevaluate certain policies governing the means by which revenues derived from local hotel and motel taxes are shared between local governments and the destination marketing organizations; requiring that the annual operating budget of the Office shall continue to be financed from the General Fund with additional support consistent with this Act; requiring that on or before a certain date each year, the Department of Business and Economic Development shall report to certain persons on a certain analysis of the effectiveness of this Act and provide a certain recommendation; providing for the effective date of certain provisions of this Act; and generally relating to promoting tourism in Maryland.~~

~~BY repealing and reenacting, without amendments,
Article 83A — Department of Business and Economic Development~~

~~Section 4-206
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article 83A – Department of Business and Economic Development
Section 4-207 and 4-208
Annotated Code of Maryland
(2003 Replacement Volume and 2007 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Economic Development
Section 4-214 and 4-216
Annotated Code of Maryland
(As enacted by Ch. 306 (H.B. 1050) of the Acts of the General Assembly of 2008)

Preamble

WHEREAS, Maryland is known as “America in Miniature” with unsurpassed natural, cultural, and historical amenities waiting to be discovered; and

WHEREAS, Maryland’s \$11 billion travel and tourism industry represents the State’s fourth largest industry which recent reports show employs over 100,000 people and generates an estimated \$3 billion in salaries and wages and \$895 million in State tax revenues on an annual basis; and

WHEREAS, Studies indicate that every dollar spent marketing the State of Maryland converts into a \$28.24 return on investment to Maryland’s economy; and

WHEREAS, Neighboring states realize the economic value of self-promotion and are outspending Maryland in a concerted effort to capture a regional market share of visitor spending, especially by baby boomers with their disposable income who are moving into the 45 to 54 age group; and

WHEREAS, State funding for travel and tourism development and promotion in Maryland has fluctuated over the years largely because of shifting priorities, depressed revenue attainment, and less than a full understanding of the dollar potential associated with a well-financed, clearly understood marketing strategy; and

WHEREAS, Prevailing economic conditions, coupled with competition from neighboring states and the predictability of a measurable return on investment, call for a bold, innovative, and well-funded plan to strengthen Maryland’s standing as a premiere destination for travelers; and

WHEREAS, The General Assembly envisions the Tourism Promotion Act of 2008 as a timely investment in Maryland’s future that will generate much-needed

revenues for State and local governments through the promotion of a State whose credit as “America in Miniature” is well-deserved; now, therefore,

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

~~Article 83A—Department of Business and Economic Development~~

~~4-206.~~

~~Subject to the approval of the Secretary, the Board has the following powers and duties:~~

- ~~(1) To adopt reasonable regulations to effectuate the provisions of this subtitle;~~
- ~~(2) To enter into contracts and agreements;~~
- ~~(3) To engage services;~~
- ~~(4) To request and obtain from any department, division, board, bureau, commission or other agency or unit of the State, assistance and data to enable it to carry out its powers and duties under this subtitle;~~
- ~~(5) To accept any federal funds granted by an act of Congress or by executive order for any of the purposes of this subtitle;~~
- ~~(6) To accept any gifts, donations, or bequests for any of the purposes of this subtitle; and~~
- ~~(7) Subject to the provisions of § 4-208 of this subtitle, to generate revenue through sales of goods and services relating to tourism.~~

~~4-207.~~

~~Subject to the approval of the Secretary, the Board shall:~~

- ~~(1) Draft and implement:
 - ~~(i) A 5-year strategic plan for the promotion and development of tourism in Maryland; and~~
 - ~~(ii) An annual marketing plan consistent with the strategic plan;~~~~

- ~~(2) Submit to the Maryland Economic Development Commission for its review the 5-year strategic plan and annual marketing plan;~~
- ~~(3) Establish an annual operating budget consistent with the marketing plan;~~
- ~~(4) Protect, preserve, promote, and restore the natural, historical, scenic, and cultural resources in the State;~~
- ~~(5) Encourage the development of new tourism resources, products, businesses, and attractions in the State;~~
- ~~(6) Facilitate the movement and activities of tourists to, from, and within the State through signs, information aids, and other services;~~
- ~~(7) Improve the safety and security of tourists in the State;~~
- ~~(8) Encourage and facilitate training and education of individuals for jobs in the tourism industry, and provide a healthy environment for the development of human resources in tourism businesses;~~
- ~~(9) Encourage residents to pursue careers in the tourism industry;~~
- ~~(10) Produce a climate conducive to small tourism business growth and viability;~~
- ~~(11) Review existing and proposed taxes, fees, licenses, regulations, and regulatory procedures affecting tourism and tourism businesses in the State and evaluate their impact on the ability of the tourism industry to create employment and generate income;~~
- ~~(12) Support the conducting of research necessary to evaluate, plan, and execute effective tourism programs;~~
- ~~(13) Cooperate with other public and private agencies and organizations in the development and promotion of the State's tourism and travel industries;~~
- ~~(14) Encourage, assist, and coordinate the tourism activities of local and regional promotional organizations;~~
- ~~(15) Publish and submit to the Commission and the Secretary an annual report and other material that the Board considers appropriate;~~
- ~~(16) Set policies regarding the expenditures of appropriated and other funds for tourism advertising, written and graphic materials, cooperative and~~

~~matching promotional programs, and other tourism and travel developmental and promotional activities for the State; [and]~~

~~(17) Spend funds of the Maryland Tourism Development Board Fund for the planning, advertising, promotion, assistance, and development of tourism and travel industries in this State;~~

~~(18) BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR THEREAFTER, ANNUALLY PROVIDE GRANTS TO THE DESTINATION MARKETING ORGANIZATIONS, OF NOT LESS THAN \$2.5 MILLION IN TOTAL, FOR THE PURPOSE OF ATTRACTING VISITORS TO THE STATE; AND~~

~~(19) BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR THEREAFTER, PROVIDE FINANCIAL ASSISTANCE TO THE OFFICE OF TOURISM DEVELOPMENT FOR PURPOSES CONSISTENT WITH THE INTENT OF THIS TITLE.~~

~~4-208.~~

~~(a) There is a Maryland Tourism Development Board Fund.~~

~~(b) The Fund is established to provide a continuing fund for the Board to fund programs relating to the planning, advertising, promotion, assistance, and development of the tourism industry in the State.~~

~~(c) The Fund is a special, continuous, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.~~

~~(d) The Treasurer shall invest and reinvest the Fund in the same manner as other State funds and credit any investment earnings to the General Fund.~~

~~(e) The Fund consists of:~~

~~(1) Moneys appropriated in the State budget to the Fund; and~~

~~(2) All funds accepted by the Board in accordance with § 4-206 of this subtitle.~~

~~(f) Expenditures from the Fund may be made only by the Board in accordance with an appropriation.~~

~~(g) (1) In this subsection, "Governor's proposed General Fund appropriation" means the General Fund appropriation included by the Governor in the annual budget bill as submitted to the General Assembly, including any proposed supplemental budget, before any amendment by the General Assembly.~~

~~(2) The Governor shall include in the annual budget bill a proposed General Fund appropriation to the Fund in an amount not less than \$6,000,000 for fiscal year 2006 [and each fiscal year thereafter] THROUGH FISCAL YEAR 2009.~~

~~(3) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL A PROPOSED GENERAL FUND APPROPRIATION TO THE FUND IN AN AMOUNT NOT LESS THAN \$10,000,000 FOR FISCAL YEAR 2010.~~

~~(4) BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL A PROPOSED GENERAL FUND APPROPRIATION TO THE FUND IN AN AMOUNT NOT LESS THAN THE PRIOR FISCAL YEAR'S GENERAL FUND APPROPRIATION MINUS 5%.~~

~~(H) (1) IN ADDITION TO THE PROPOSED GENERAL FUND APPROPRIATION TO THE FUND BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR THEREAFTER, THE TREASURER SHALL DEPOSIT INTO THE FUND AN AMOUNT, AS CALCULATED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THAT HAS BEEN DERIVED FROM SALES TAX REVENUES COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES UNDER THE CLASSIFICATION CODES THE COMPTROLLER DEEMS APPLICABLE AFTER CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT.~~

~~(2) IF THE INCREASE IN THE AMOUNT OF SALES TAX REVENUES COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES IN THE FISCAL YEAR 2 YEARS PRIOR TO THE FISCAL YEAR IN WHICH EACH DEPOSIT SHALL BE MADE INTO THE FUND UNDER PARAGRAPH (1) OF THIS SUBSECTION IS AT LEAST 3% OVER THE AMOUNT OF SALES TAX REVENUES COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES IN THE FISCAL YEAR 3 YEARS PRIOR TO THE FISCAL YEAR IN WHICH EACH DEPOSIT SHALL BE MADE INTO THE FUND, THE COMPTROLLER SHALL CALCULATE THE AMOUNT THAT THE TREASURER IS TO DEPOSIT INTO THE FUND TO BE AN AMOUNT EQUAL TO ONE HALF OF THE AMOUNT OF THE SALES TAX REVENUES COLLECTED ABOVE A 3% INCREASE.~~

~~(I) (1) THE TOTAL ANNUAL FUNDING DEPOSITED INTO THE FUND UNDER SUBSECTIONS (G) AND (H) OF THIS SECTION IN ANY FISCAL YEAR MAY NOT EXCEED THE AMOUNT DEPOSITED INTO THE FUND UNDER SECTIONS (G) AND (H) OF THIS SECTION IN THE FISCAL YEAR IMMEDIATELY PRECEDING THE CURRENT FISCAL YEAR BY MORE THAN \$5,000,000.~~

~~(2) BASED ON THE LIMITATION OF THE AMOUNT THAT MAY BE DEPOSITED INTO THE FUND UNDER PARAGRAPH (1) OF THIS SUBSECTION, ANY AMOUNT OF SALES TAX REVENUES COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES THAT MAY NOT BE DEPOSITED INTO THE FUND SHALL BE CREDITED TO THE GENERAL FUND.~~

Article - Economic Development

4-214.

The Board shall:

(1) set policies for spending money on tourism advertising, written and graphic materials, cooperative and matching promotional programs, and other tourism and travel developmental and promotional activities for the State; [and]

(2) spend money of the Fund to plan, advertise, promote, assist, and develop the tourism and travel industries in the State; AND

(3) BEGINNING IN FISCAL YEAR 2011, PROVIDE GRANTS OF NOT LESS THAN \$2,500,000 IN TOTAL EACH FISCAL YEAR TO DESTINATION MARKETING ORGANIZATIONS FOR THE PURPOSE OF ATTRACTING VISITORS TO THE STATE.

4-216.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "TOURISM TAX INCREMENT" MEANS THE AMOUNT, IF ANY, BY WHICH THE TOURISM TAX REVENUES COLLECTED IN THE FISCAL YEAR 2 YEARS BEFORE A PARTICULAR FISCAL YEAR EXCEEDS THE TOURISM TAX REVENUES COLLECTED IN THE FISCAL YEAR 3 YEARS BEFORE THE PARTICULAR FISCAL YEAR.

(3) "TOURISM TAX REVENUES" MEANS SALES AND USE TAX REVENUES COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES, AS DETERMINED BY THE COMPTROLLER UNDER SUBSECTION (C)(3) OF THIS SECTION.

(B) The Governor shall include in the annual budget bill a proposed General Fund appropriation to the Fund in an amount not less than \$6,000,000 for each fiscal year.

(C) (1) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE COMPTROLLER SHALL CALCULATE THE AMOUNT OF THE QUALIFYING TOURISM TAX INCREMENT FOR THE CURRENT FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE QUALIFYING TOURISM TAX INCREMENT IS:

(I) IF THE TOURISM TAX INCREMENT EXCEEDS 3% OF THE TOURISM TAX REVENUES COLLECTED IN THE FISCAL YEAR 3 YEARS BEFORE THE CURRENT FISCAL YEAR, ONE-HALF OF THE AMOUNT OF THE TOURISM TAX INCREMENT ABOVE THE 3% INCREASE; OR

(II) IF THE TOURISM TAX INCREMENT DOES NOT EXCEED 3%, ZERO.

(3) THE COMPTROLLER SHALL:

(I) DETERMINE THE CLASSIFICATION CODES THAT SHALL BE INCLUDED IN TOURISM TAX REVENUES UNDER THIS SUBSECTION AFTER CONSULTING WITH THE DEPARTMENT; AND

(II) ON OR BEFORE AUGUST 1 OF EACH YEAR, REPORT THE AMOUNT OF THE QUALIFYING TOURISM TAX INCREMENT TO THE GOVERNOR, THE DEPARTMENT, THE DEPARTMENT OF BUDGET AND MANAGEMENT, AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(4) THE GOVERNOR SHALL CONSIDER WHETHER TO INCLUDE THE AMOUNT OF THE QUALIFYING TOURISM TAX INCREMENT IN THE APPROPRIATION TO THE FUND IN THE PROPOSED STATE BUDGET FOR THE NEXT FISCAL YEAR, IN ADDITION TO THE AMOUNT TO BE INCLUDED IN THE BUDGET BILL UNDER SUBSECTION (B) OF THIS SECTION.

(5) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE FUNDING IN THE STATE BUDGET OF THE QUALIFYING TOURISM TAX INCREMENT.

(6) IF THE PROPOSED STATE BUDGET FOR A PARTICULAR FISCAL YEAR INCLUDES AN APPROPRIATION TO THE FUND UNDER THIS SUBSECTION, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE TOTAL ANNUAL FUNDING APPROPRIATED TO THE FUND IN ANY FISCAL YEAR NOT EXCEED BY MORE THAN \$5,000,000 THE SUM OF:

(I) THE PORTION OF THE QUALIFYING TOURISM TAX INCREMENT THAT THE GOVERNOR INCLUDED IN THE PROPOSED STATE BUDGET FOR THE FISCAL YEAR IMMEDIATELY PRECEDING THE PARTICULAR FISCAL YEAR; AND

(II) THE AMOUNT STATED IN SUBSECTION (B) OF THIS SECTION.

(D) ON OR BEFORE OCTOBER 1 OF EACH YEAR BEGINNING IN 2012, IN COOPERATION WITH THE BOARD AND THE MARYLAND ASSOCIATION OF DESTINATION MARKETING ORGANIZATIONS, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE EFFECTIVENESS OF THE FUNDING PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION IN INCREASING VISITOR ATTENDANCE AND VISITOR SPENDING IN MARYLAND.

SECTION 2. AND BE IT FURTHER ENACTED, That local governments in Maryland are encouraged to reevaluate their respective policies governing the means by which revenues derived from local hotel and motel taxes are shared between local governments and the destination marketing organizations consistent with the intent and purpose of this Act in order to increase visitor attendance and visitor spending throughout Maryland.

~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

~~(a) The annual operating budget of the Office of Tourism Development within the Department of Business and Economic Development shall continue to be financed from the General Fund, subject to approval through the normal budgetary process, with additional support consistent with this Act; and~~

~~(b) On or before October 1 of each year beginning with October 1, 2013, the Department of Business and Economic Development, in cooperation with the Maryland Tourism Development Board and the Maryland Association of Destination Marketing Organizations, shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, to the General Assembly on:~~

~~(1) The effectiveness of this Act from the standpoint of an analysis of its impact on increasing visitor attendance and visitor spending in Maryland; and~~

~~(2) Its recommendation whether the Office of Tourism Development is able to become fiscally self-sufficient through the Maryland Tourism Development Board Fund within a certain designated time frame.~~

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before August 1, 2008, the Comptroller shall calculate and report the amount of the qualifying tourism

tax increment for fiscal year 2009 as provided under § 4-216(c) of the Economic Development Article, as enacted by this Act. For purposes of determining the qualifying tourism tax increment under § 4-216 of the Economic Development Article, as enacted by this Act, for fiscal years 2010 and 2011 only, the Comptroller shall adjust the calculation of revenues based on a 5% sales and use tax rate for fiscal years 2008 and 2009.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect October 1, 2008.

SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.