

SENATE BILL 622

Q4

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CF HB 337

By: **Senators King, Currie, DeGrange, Kasemeyer, Kramer, Madaleno, Peters, Robey, and Rosapepe**

Introduced and read first time: February 6, 2009

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Streamlined Sales and Use Tax Agreement**

3 FOR the purpose of removing a certain contingency on the adoption by the State of the
4 Streamlined Sales and Use Tax Agreement; requiring the Comptroller on or
5 before a certain date to prepare and submit certain draft legislation and
6 proposed regulations relating to the implementation of the Agreement to the
7 Governor, the Senate Budget and Taxation Committee, and the House
8 Committee on Ways and Means; and generally relating to the implementation of
9 the Streamlined Sales and Use Tax Agreement.

10 BY repealing and reenacting, with amendments,
11 Article – Tax – General
12 Section 11–106
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2008 Supplement)

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

17 **Article – Tax – General**

18 11–106.

19 (a) In this section, “Agreement” means the Streamlined Sales and Use Tax
20 Agreement as adopted by the member states of the Streamlined Sales and Use Tax
21 Project [on November 12, 2002].

22 (b) (1) Subject to the provisions of this subsection, the State of Maryland
23 hereby adopts the Streamlined Sales and Use Tax Agreement as adopted by the
24 member states of the Streamlined Sales and Use Tax Project [on November 12, 2002].

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) [The adoption of the Agreement by the State of Maryland as
2 provided in this section is contingent on the enactment of legislation by the U.S.
3 Congress consenting to the Agreement and authorizing states that are parties to the
4 Agreement to require remote sellers to collect and remit the sales and use taxes of
5 those states.

6 (3) Within 90 days after the enactment of legislation by the U.S.
7 Congress consenting to the Agreement and authorizing states that are parties to the
8 Agreement to require remote sellers to collect and remit the sales and use taxes of
9 those states,] **ON OR BEFORE OCTOBER 1, 2009**, the Comptroller shall prepare and
10 submit to the Governor and, subject to § 2-1246 of the State Government Article, the
11 Senate Budget and Taxation Committee and the House Committee on Ways and
12 Means proposed regulations and draft legislation that:

13 (i) identify and implement:

14 1. any changes to State statutes, regulations, or policies
15 that need to be made in order to bring the State into compliance with the Agreement;
16 and

17 2. any other changes to State laws that would not be
18 required but that the Comptroller recommends should reasonably be made in
19 connection with implementing the Agreement; and

20 (ii) for each change identified under item (i) of this paragraph:

21 1. estimates the impact of that change on State sales
22 and use tax revenue; and

23 2. identifies and explains any fiscal or policy issues that
24 would be associated with the change.

25 (c) Notwithstanding the adoption of the Agreement under this section,
26 unless and until further legislation is enacted by the General Assembly to implement
27 necessary changes to bring the State in compliance with the Agreement:

28 (1) no provision of the Agreement in whole or in part invalidates or
29 amends any provision of the law of this State;

30 (2) adoption of the Agreement does not amend or modify any other
31 provision of this title or other law of this State; and

32 (3) implementation of any condition of the Agreement in this State,
33 whether adopted before, at, or after adoption of the Agreement by this State, must be
34 by the action of this State.

1 (d) (1) (i) The Agreement adopted by this section binds and inures
2 only to the benefit of this State and the other member states.

3 (ii) No person, other than a member state, is an intended
4 beneficiary of the Agreement.

5 (iii) Any benefit to a person other than a state must be
6 established by the law of this State and the other member states and not by the terms
7 of the Agreement.

8 (2) (i) No person shall have any cause of action or defense under
9 the Agreement or by virtue of the State's adoption of the Agreement.

10 (ii) No person may challenge, in any action brought under any
11 provision of law, any action or inaction by any department, agency, or other
12 instrumentality of this State, or any political subdivision of this State, on the ground
13 that the action or inaction is inconsistent with the Agreement.

14 (3) No law of this State, or the application thereof, may be declared
15 invalid as to any person or circumstance on the ground that the provision or
16 application is inconsistent with the Agreement.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 July 1, 2009.