

**Department of Legislative Services**  
 Maryland General Assembly  
 2009 Session

**FISCAL AND POLICY NOTE**

Senate Bill 40 (Senator Harrington)  
 Budget and Taxation

**Sales and Use Tax - Snack Tax**

This bill imposes the State sales and use tax on snack food by repealing the current exemption. Snack food includes potato chips and sticks, corn chips, tortilla chips, pretzels, cheese puffs and curls, pork rinds, extruded pretzels and chips, popped popcorn, nuts and edible seeds, and specified snack mixtures.

The bill takes effect July 1, 2009.

**Fiscal Summary**

**State Effect:** General fund revenues increase by \$22.3 million in FY 2010 and Transportation Trust Fund (TTF) revenues increase by \$1.2 million. Future year revenues represent a 4% annual growth rate based on prior year sales data. Expenditures are not affected.

(\$ in millions)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	\$22.3	\$23.1	\$23.9	\$24.8	\$25.3
SF Revenue	\$1.2	\$1.3	\$1.3	\$1.4	\$1.8
Expenditure	0	0	0	0	0
Net Effect	\$23.5	\$24.4	\$25.2	\$26.1	\$27.1

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

## Analysis

**Current Law:** The State sales and use tax is not imposed on the sale of food by retail stores, including snack foods.

**Background:** The General Assembly approved a tax on the retail sale of snack food at the first special session of 1991. The “snack tax” was repealed at the 1996 session with a delayed effective date of July 1, 1997. At the 2004 session, the Senate approved a provision in the Budget Reconciliation and Financing Act that would have imposed a 5% sales and use tax on snack food; however, this provision was not included in the enacted legislation.

The sales and use tax is the State’s second largest source of general fund revenue accounting for \$3.7 billion in both fiscal 2009 and 2010, according to the December 2008 revenue forecast. In addition, the TTF is projected to receive \$0.2 billion in sales and use tax revenues in both fiscal 2009 and 2010.

**State Revenues:** Total sales tax revenues increase by approximately \$23.5 million in fiscal 2010 as shown in **Exhibit 1**. The estimate is based on available data in the industry trade publication *Snack Food & Wholesale Bakery*, data provided by the Snack Food Association, manufacturing sales data from the 2002 Economic Census, and the following facts and assumptions:

- specified snack food sales totaled approximately \$22.5 billion for calendar 2007;
- snack food sales in Maryland are proportionate to its share of the U.S. population (1.85%);
- total sales in Maryland will decline by 6% annually as a result of the tax increase; and
- revenues increase by about 4% annually which reflects the industry average from 2006 to 2007.

Chapter 10 of the 2008 session altered the distribution of sales and use tax revenues by requiring that, for fiscal 2009 through 2013, 5.3% of revenues be distributed to the TTF. Beginning in fiscal 2014, the amount distributed to the TTF increases to 6.5%. As a result, general fund revenues increase by \$22.3 million and TTF revenues increase by \$1.2 million as shown in **Exhibit 1**.

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**Exhibit 1**  
**Estimated Revenues from Taxing Specified Snack Foods**  
**(\$ in Millions)**

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
GF	\$22.3	\$23.1	\$23.9	\$24.8	\$25.3
TTF	1.2	1.3	1.3	1.4	1.8
<b>Total</b>	<b>\$23.5</b>	<b>\$24.4</b>	<b>\$25.2</b>	<b>\$26.1</b>	<b>\$27.1</b>

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**Small Business Effect:** Small businesses, like convenience stores, that sell snack foods could be negatively impacted if consumers alter their purchasing behavior due to the imposition of the tax.

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**Additional Information**

**Prior Introductions:** HB 39 of the 2007 special session received a hearing in the House Ways and Means Committee, but no further action was taken on the bill.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, *2002 Economic Census*, Snack Food Association, *Snack Food and Wholesale Bakery – 2008 State of the Industry*, Department of Legislative Services

**Fiscal Note History:** First Reader - February 2, 2009  
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