

HOUSE BILL 1240

Q4

2lr2331

By: **Delegate Mizeur**

Introduced and read first time: February 10, 2012

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **School Infrastructure Local Option Act**

3 FOR the purpose of authorizing the governing body of a county to impose, by law or
4 ordinance, a tax on retail sales; exempting from the county sales tax retail sales
5 that are exempt from the State sales and use tax; limiting the rate of the tax;
6 imposing certain collection and administrative requirements on vendors who
7 make sales subject to the tax; authorizing certain vendors to deduct a certain
8 percentage of the gross tax collected for the cost of collection and remittance of
9 the tax; authorizing the governing body of a county to provide, by law or
10 ordinance, for the imposition of interest and penalties for failure to pay the tax
11 as required and to provide for the collection of unpaid tax, interest, or penalties;
12 requiring that the net proceeds of the tax revenue be used only for certain
13 purposes; requiring the local governing body of a county to consult with the
14 Comptroller on certain policies and procedures under certain circumstances;
15 providing for the local governing body to reimburse the Comptroller for certain
16 expenditures under certain circumstances; providing that before a certain law
17 or ordinance takes effect it must first be submitted to a referendum of the
18 qualified voters of a county for approval at the next following general election;
19 defining certain terms; providing for the application of this Act; and generally
20 related to authorizing a local option tax on retail sales for certain purposes.

21 BY adding to

22 Article 24 – Political Subdivisions – Miscellaneous Provisions
23 Section 9–610
24 Annotated Code of Maryland
25 (2011 Replacement Volume)

26 BY repealing and reenacting, with amendments,

27 Article – Tax – General
28 Section 11–102(c)
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2010 Replacement Volume and 2011 Supplement)

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

Article 24 – Political Subdivisions – Miscellaneous Provisions

9–610.

(A) IN THIS SECTION, “RETAIL SALE”, “SALE”, AND “TAXABLE PRICE” HAVE THE MEANINGS INDICATED IN § 11–101 OF THE TAX – GENERAL ARTICLE.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE GOVERNING BODY OF A COUNTY MAY IMPOSE, BY LAW OR ORDINANCE, A SALES TAX ON A RETAIL SALE IN THE COUNTY.

(C) A TAX IMPOSED UNDER THIS SECTION DOES NOT APPLY TO A SALE THAT IS EXEMPT FROM THE STATE SALES AND USE TAX UNDER TITLE 11 OF THE TAX – GENERAL ARTICLE.

(D) A TAX IMPOSED UNDER THIS SECTION MAY NOT EXCEED 1% OF THE TAXABLE PRICE OF A SALE THAT IS SUBJECT TO THE TAX.

(E) A TAX IMPOSED UNDER THIS SECTION SHALL BE:

(1) COLLECTED FROM THE BUYER ON BEHALF OF THE COUNTY BY THE VENDOR THAT MAKES A SALE THAT IS SUBJECT TO THE TAX; AND

(2) HELD IN TRUST BY THE VENDOR FOR THE COUNTY.

(F) (1) A VENDOR REQUIRED TO COLLECT A TAX IMPOSED UNDER THIS SECTION SHALL FILE A TAX RETURN WITH THE COUNTY ON OR BEFORE THE 21ST DAY OF EACH MONTH.

(2) A RETURN REQUIRED UNDER THIS SECTION:

(I) SHALL BE MADE ON THE FORM THAT THE COUNTY REQUIRES; AND

(II) SHALL CONTAIN THE INFORMATION THAT THE COUNTY REQUIRES, INCLUDING:

1. THE GROSS PROCEEDS OF THE VENDOR DURING THE PRECEDING MONTH FROM SALES THAT ARE SUBJECT TO THE TAX;

1 **2. THE TAXABLE PRICE OF SALES FOR THAT MONTH**
2 **ON WHICH THE TAX IS COMPUTED; AND**

3 **3. THE TAX DUE.**

4 **(G) (1) A VENDOR THAT MAKES A SALE THAT IS SUBJECT TO A TAX**
5 **IMPOSED UNDER THIS SECTION SHALL PAY THE TAX THAT THE VENDOR**
6 **COLLECTS FOR THAT SALE WITH THE RETURN THAT COVERS THE PERIOD IN**
7 **WHICH THE VENDOR MAKES THAT SALE.**

8 **(2) FOR THE EXPENSE OF COLLECTION AND REMITTANCE OF A**
9 **TAX IMPOSED UNDER THIS SECTION, A VENDOR THAT TIMELY FILES A RETURN**
10 **AND REMITS THE TAX MAY DEDUCT AN AMOUNT EQUAL TO 1.5% OF THE GROSS**
11 **TAX COLLECTED BY THE VENDOR.**

12 **(H) THE GOVERNING BODY OF A COUNTY MAY PROVIDE, BY LAW OR**
13 **ORDINANCE, FOR:**

14 **(1) THE IMPOSITION OF INTEREST AND PENALTIES FOR FAILURE**
15 **TO PAY THE TAX AS REQUIRED; AND**

16 **(2) COLLECTION OF UNPAID TAX, INTEREST, OR PENALTIES.**

17 **(I) THE NET PROCEEDS DERIVED FROM A TAX IMPOSED BY A COUNTY**
18 **UNDER THIS SECTION SHALL BE USED ONLY FOR THE PURPOSE OF PROVIDING**
19 **CAPITAL FUNDING FOR THE CONSTRUCTION, RENOVATION, AND UPGRADING OF**
20 **PUBLIC SCHOOLS IN THE COUNTY, INCLUDING FUNDING OF DEBT SERVICE ON**
21 **BONDS.**

22 **(J) (1) BEFORE ANY LAW OR ORDINANCE UNDER THIS SECTION MAY**
23 **TAKE EFFECT, IT SHALL FIRST BE SUBMITTED TO THE QUALIFIED VOTERS OF**
24 **THE RESPECTIVE COUNTY FOR APPROVAL AT THE NEXT FOLLOWING GENERAL**
25 **ELECTION.**

26 **(2) THE GOVERNING BODY AND THE LOCAL BOARD OF ELECTIONS**
27 **SHALL DO THOSE THINGS NECESSARY AND PROPER TO PROVIDE FOR AND HOLD**
28 **THE REFERENDUM REQUIRED BY THIS SUBSECTION.**

29 **(3) IF THE MAJORITY OF THE VOTES CAST ON THE QUESTION ARE**
30 **“FOR THE REFERRED LAW” THE PROVISIONS OF THIS SECTION SHALL BECOME**
31 **EFFECTIVE ON THE 30TH DAY FOLLOWING THE OFFICIAL CANVASS OF VOTERS**
32 **FOR THE REFERENDUM, BUT IF A MAJORITY OF THE VOTES CAST ON THE**

1 **QUESTION ARE “AGAINST THE REFERRED LAW” THE PROVISIONS OF THIS**
 2 **SECTION ARE OF NO EFFECT AND NULL AND VOID.**

3 **Article – Tax – General**

4 11–102.

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

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

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

9 1. fuels;

10 2. utilities;

11 3. space rentals; or

12 4. any controlled dangerous substance, as defined in §
 13 5–101 of the Criminal Law Article, unless the sale is made by a person who registers
 14 under and complies with Title 5, Subtitle 3 of the Criminal Law Article; [or]

15 (iii) a tax imposed by a code county on the sale or use of food and
 16 beverages authorized under Article 25B, § 13H of the Code; **OR**

17 **(IV) A SALES TAX IMPOSED BY A COUNTY UNDER ARTICLE**
 18 **24, § 9–610 OF THE CODE.**

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

21 **SECTION 2. AND BE IT FURTHER ENACTED,** That, prior to implementing a
 22 retail sales tax under Section 1 of this Act, the local governing body of a county shall
 23 consult with the Comptroller to determine the policies and procedures that are
 24 necessary to implement the sales tax authorized by this Act. The local governing body
 25 shall reimburse the Comptroller for any expenditures associated with the guidance
 26 provided under this Act.

27 **SECTION 3. AND BE IT FURTHER ENACTED,** That this Act shall take effect
 28 July 1, 2012.