

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 641  
Budget and Taxation

(Senator Ramirez, *et al.*)

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Admissions and Amusement Tax - Returns and Penalties

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This bill increases the maximum penalties for (1) the willful failure to pay the admissions and amusement tax; (2) the willful failure to file an admissions and amusement tax return; (3) willfully making a false statement or misleading omission on an admissions and amusement tax return; and (4) the willful failure to keep specified admissions and amusement tax records. The penalties are increased from a fine of up to \$500 and/or imprisonment of up to six months to a fine of up to \$10,000 and/or imprisonment of up to five years.

The bill takes effect July 1, 2012.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** Potential meaningful. To the extent small businesses violate the provisions of the bill, they will be subject to significantly increased fines and penalties.

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Analysis

**Current Law:** Fines and penalties for (1) willful failure to pay the admissions and amusement tax; (2) the willful failure to file an admissions and amusement tax return; (3) willfully making a false statement or misleading omission on an admissions and

amusement tax return; and (4) the willful failure to keep specified admissions and amusement tax records are a fine of up to \$500 and/or imprisonment of up to six months.

**Background:** Counties and municipalities are authorized to tax the gross receipts derived from (1) the charge for admission to any place furnishing a performance such as a movie theater or sports stadium; (2) the use or rental of sporting or recreational facilities; (3) the merchandise, refreshments, or services sold or served in connection with entertainment at a nightclub or a room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided; (4) use of a game of entertainment; and (5) use or rental of recreational or sports equipment.

Counties and municipalities may also impose a tax on admission for a reduced charge or at no charge to a place that otherwise charges admission. An admissions and amusement tax may not be imposed in a municipality by a county if the municipality already imposes a similar tax or specifically exempts any gross receipts from the admissions and amusement tax.

The Maryland Stadium Authority is authorized to impose a tax on the gross receipts derived from any admissions and amusement charge for a facility owned or leased by the stadium authority. The stadium authority also may impose an additional tax for each person provided with a free admission or an admission at a reduced charge to a stadium authority facility. Currently, these taxes are imposed at both stadiums at Camden Yards (Orioles and Ravens).

Each unit of local government sets its own single tax rate or range of rates. This rate is expressed as a percentage of gross receipts, up to a maximum rate of 10%. The stadium authority may impose an admissions and amusement tax at its facilities of up to 8%.

The bill sets the penalties for the admissions and amusement tax so that they are in line with similar provisions related to the income tax and the sales and use tax.

**State Revenues:** General fund revenues increase minimally as a result of the bill's enhanced monetary penalties from cases heard in the District Court.

**State Expenditures:** General fund expenditures increase minimally as a result of the bill's enhanced incarceration penalties due to people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people affected by the bill's enhanced penalties is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,900

per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including variable medical care and variable operating costs) is about \$385 per month. Excluding all medical care, the average variable costs total \$170 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues increase minimally as a result of the bill's enhanced monetary penalties from cases heard in the circuit courts.

**Local Expenditures:** Expenditures increase minimally as a result of the bill's enhanced incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 339 (Delegate Niemann) - Ways and Means.

**Information Source(s):** Calvert, Charles, Frederick, and Montgomery counties; Commission on Criminal Sentencing Policy; Comptroller's Office; Judiciary

(Administrative Office of the Courts); Department of State Police; Office of the Public Defender; Department of Public Safety and Correctional Services; State's Attorneys' Association; Department of Legislative Services

**Fiscal Note History:** First Reader - February 13, 2012  
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