

# SENATE BILL 653

Q4, R2  
SB 589/12 – B&T

3lr1715  
CF 3lr1870

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By: **Senators Edwards and Brinkley**  
Introduced and read first time: February 1, 2013  
Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax – Mass Transit**

3 FOR the purpose of increasing the sales and use tax rate by a certain amount in  
4 certain counties; altering the sales and use tax rate that applies to certain sales  
5 in certain counties; creating the Mass Transit Account in the Transportation  
6 Trust Fund to pay the cost of light rail and subway transit facilities and transit  
7 service operated by the Maryland Transit Administration in certain counties;  
8 requiring that revenue from the increase in the sales and use tax rate under  
9 this Act be credited to the Mass Transit Account; prohibiting the Department of  
10 Transportation from budgeting more than a certain amount of certain funds in  
11 the Transportation Trust Fund to pay certain transit costs; authorizing the  
12 Department to budget funds in the Transportation Trust Fund to pay certain  
13 transit costs in excess of a certain amount only if the excess amount is paid from  
14 the Mass Transit Account; repealing certain obsolete provisions; defining a  
15 certain term; and generally relating to increasing the sales and use tax rate in  
16 certain counties and dedicating the revenue to mass transit in certain counties.

17 BY adding to  
18 Article – Tax – General  
19 Section 2–1302.2 and 11–104(a–1)  
20 Annotated Code of Maryland  
21 (2010 Replacement Volume and 2012 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article – Tax – General  
24 Section 2–1303, 11–104(b), (d), (f)(2), (g), (h)(2), and (i) and 11–301  
25 Annotated Code of Maryland  
26 (2010 Replacement Volume and 2012 Supplement)

27 BY repealing and reenacting, without amendments,  
28 Article – Tax – General

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 11–104(a)  
 2 Annotated Code of Maryland  
 3 (2010 Replacement Volume and 2012 Supplement)

4 BY repealing and reenacting, with amendments,  
 5 Article – Transportation  
 6 Section 3–216(c)(2)(i) and (d)(1)  
 7 Annotated Code of Maryland  
 8 (2008 Replacement Volume and 2012 Supplement)

9 BY repealing  
 10 Article – Transportation  
 11 Section 3–216(d)(3)  
 12 Annotated Code of Maryland  
 13 (2008 Replacement Volume and 2012 Supplement)

14 BY adding to  
 15 Article – Transportation  
 16 Section 3–216(d)(3) and 7–309  
 17 Annotated Code of Maryland  
 18 (2008 Replacement Volume and 2012 Supplement)

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

21 **Article – Tax – General**

22 **2–1302.2.**

23 **AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2–1301**  
 24 **THROUGH 2–1302.1 OF THIS SUBTITLE, THE COMPTROLLER SHALL PAY INTO**  
 25 **THE MASS TRANSIT ACCOUNT IN THE TRANSPORTATION TRUST FUND 7.7% OF**  
 26 **THE SALES AND USE TAX REVENUE COLLECTED ON SALES IN A COUNTY IN**  
 27 **WHICH THE MARYLAND TRANSIT ADMINISTRATION OR THE WASHINGTON**  
 28 **METROPOLITAN AREA TRANSIT AUTHORITY PROVIDES ANY SERVICE.**

29 **2–1303.**

30 After making the distributions required under §§ 2–1301 through [2–1302.1]  
 31 **2–1302.2** of this subtitle, the Comptroller shall pay:

32 (1) revenues from the hotel surcharge into the Dorchester County  
 33 Economic Development Fund established under § 10–130 of the Economic  
 34 Development Article; and

1           (2)    the remaining sales and use tax revenue into the General Fund of  
2 the State.

3 11–104.

4           (a)    Except as otherwise provided in this section, the sales and use tax rate is:

5           (1)    for a taxable price of less than \$1:

6                   (i)    1 cent if the taxable price is 20 cents;

7                   (ii)   2 cents if the taxable price is at least 21 cents but less than  
8 34 cents;

9                   (iii)  3 cents if the taxable price is at least 34 cents but less than  
10 51 cents;

11                  (iv)   4 cents if the taxable price is at least 51 cents but less than  
12 67 cents;

13                  (v)    5 cents if the taxable price is at least 67 cents but less than  
14 84 cents; and

15                  (vi)   6 cents if the taxable price is at least 84 cents; and

16           (2)    for a taxable price of \$1 or more:

17                   (i)    6 cents for each exact dollar; and

18                   (ii)   for that part of a dollar in excess of an exact dollar:

19                           1.    1 cent if the excess over an exact dollar is at least 1  
20 cent but less than 17 cents;

21                           2.    2 cents if the excess over an exact dollar is at least 17  
22 cents but less than 34 cents;

23                           3.    3 cents if the excess over an exact dollar is at least 34  
24 cents but less than 51 cents;

25                           4.    4 cents if the excess over an exact dollar is at least 51  
26 cents but less than 67 cents;

27                           5.    5 cents if the excess over an exact dollar is at least 67  
28 cents but less than 84 cents; and



1                   **(XIII) 13 CENTS IF THE TAXABLE PRICE IS AT LEAST \$1.84 BUT**  
2 **LESS THAN \$2; AND**

3                   **(2) FOR A TAXABLE PRICE OF \$2 OR MORE:**

4                   **(I) 13 CENTS FOR EACH EXACT MULTIPLE OF \$2; AND**

5                   **(II) FOR EACH PART OF \$2 IN EXCESS OF AN EXACT**  
6 **MULTIPLE OF \$2:**

7                   **1. 1 CENT IF THE EXCESS OVER AN EXACT MULTIPLE**  
8 **OF \$2 IS AT LEAST 1 CENT BUT LESS THAN 16 CENTS;**

9                   **2. 2 CENTS IF THE EXCESS OVER AN EXACT**  
10 **MULTIPLE OF \$2 IS AT LEAST 16 CENTS BUT LESS THAN 31 CENTS;**

11                   **3. 3 CENTS IF THE EXCESS OVER AN EXACT**  
12 **MULTIPLE OF \$2 IS AT LEAST 31 CENTS BUT LESS THAN 46 CENTS;**

13                   **4. 4 CENTS IF THE EXCESS OVER AN EXACT**  
14 **MULTIPLE OF \$2 IS AT LEAST 46 CENTS BUT LESS THAN 61 CENTS;**

15                   **5. 5 CENTS IF THE EXCESS OVER AN EXACT**  
16 **MULTIPLE OF \$2 IS AT LEAST 61 CENTS BUT LESS THAN 77 CENTS;**

17                   **6. 6 CENTS IF THE EXCESS OVER AN EXACT**  
18 **MULTIPLE OF \$2 IS AT LEAST 77 CENTS BUT LESS THAN 92 CENTS;**

19                   **7. 7 CENTS IF THE EXCESS OVER AN EXACT**  
20 **MULTIPLE OF \$2 IS AT LEAST 92 CENTS BUT LESS THAN \$1.07;**

21                   **8. 8 CENTS IF THE EXCESS OVER AN EXACT**  
22 **MULTIPLE OF \$2 IS AT LEAST \$1.07 BUT LESS THAN \$1.22;**

23                   **9. 9 CENTS IF THE EXCESS OVER AN EXACT**  
24 **MULTIPLE OF \$2 IS AT LEAST \$1.22 BUT LESS THAN \$1.38;**

25                   **10. 10 CENTS IF THE EXCESS OVER AN EXACT**  
26 **MULTIPLE OF \$2 IS AT LEAST \$1.38 BUT LESS THAN \$1.53;**

27                   **11. 11 CENTS IF THE EXCESS OVER AN EXACT**  
28 **MULTIPLE OF \$2 IS AT LEAST \$1.53 BUT LESS THAN \$1.68;**

1                                   **12. 12 CENTS IF THE EXCESS OVER AN EXACT**  
 2 **MULTIPLE OF \$2 IS AT LEAST \$1.68 BUT LESS THAN \$1.84; AND**

3                                   **13. 13 CENTS IF THE EXCESS OVER AN EXACT**  
 4 **MULTIPLE OF \$2 IS AT LEAST \$1.84 BUT LESS THAN \$2.**

5           (b)   **(1) [If EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
 6 **SUBSECTION, IF** a retail sale of tangible personal property or a taxable service is  
 7 made through a vending or other self-service machine, the sales and use tax rate is  
 8 6%, applied to 94.5% of the gross receipts from the vending machine sales.

9                                   **(2) IF A RETAIL SALE OF TANGIBLE PERSONAL PROPERTY OR A**  
 10 **TAXABLE SERVICE IS MADE THROUGH A VENDING OR ANY OTHER SELF-SERVICE**  
 11 **MACHINE IN A COUNTY IN WHICH THE MARYLAND TRANSIT ADMINISTRATION**  
 12 **OR THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY PROVIDES**  
 13 **ANY SERVICE, THE SALES AND USE TAX RATE IS 6.5%, APPLIED TO 93.9% OF THE**  
 14 **GROSS RECEIPTS FROM THE VENDING MACHINE SALES.**

15           (d)   The sales and use tax rate for the first retail sale of a manufactured  
 16 home, as defined in § 12-301(g) of the Public Safety Article, is the rate imposed under  
 17 subsection (a) **OR (A-1)** of this section applied to 60% of the taxable price.

18           (f)   **(2)**   The sales and use tax rate for the sale of a modular building is the  
 19 rate imposed under subsection (a) **OR (A-1)** of this section applied to 60% of the  
 20 taxable price.

21           (g)   The sales and use tax rate for the sale of an alcoholic beverage, as defined  
 22 in § 5-101 of this article, is:

23                                   (1)   9% of the charge for the alcoholic beverage; and

24                                   (2)   **(I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**  
 25 **PARAGRAPH,** 6% of a charge that is made in connection with the sale of an alcoholic  
 26 beverage and is stated as a separate item of the consideration and made known to the  
 27 buyer at the time of sale for:

28   [(i)]   **1.**   any labor or service rendered;

29   [(ii)] **2.**   any material used; or

30   [(iii)] **3.**   any property sold; **AND**

31   **(II) IN A COUNTY IN WHICH THE MARYLAND TRANSIT**  
 32 **ADMINISTRATION OR THE WASHINGTON METROPOLITAN AREA TRANSIT**

1 **AUTHORITY PROVIDES ANY SERVICE, 6.5% OF A CHARGE THAT IS MADE IN**  
2 **CONNECTION WITH THE SALE OF AN ALCOHOLIC BEVERAGE AND IS STATED AS A**  
3 **SEPARATE ITEM OF THE CONSIDERATION AND MADE KNOWN TO THE BUYER AT**  
4 **THE TIME OF SALE FOR:**

5 **1. ANY LABOR OR SERVICE RENDERED;**

6 **2. ANY MATERIAL USED; OR**

7 **3. ANY PROPERTY SOLD.**

8 (h) (2) If a retail sale of dyed diesel fuel is made by a marina, the sales  
9 and use tax rate is:

10 **(I) EXCEPT AS PROVIDED IN ITEM (II) OF THIS PARAGRAPH,**  
11 **6%, applied to 94.5% of the gross receipts from the dyed diesel fuel sales; AND**

12 **(II) IN A COUNTY IN WHICH THE MARYLAND TRANSIT**  
13 **ADMINISTRATION OR THE WASHINGTON METROPOLITAN AREA TRANSIT**  
14 **AUTHORITY PROVIDES ANY SERVICE, 6.5% APPLIED TO 93.9% OF THE GROSS**  
15 **RECEIPTS FROM THE DYED DIESEL FUEL SALES.**

16 (i) (1) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
17 **SUBSECTION, THE sales and use tax rate for a mandatory gratuity or service charge**  
18 **in the nature of a tip for serving food or any type of beverage to a group of more than**  
19 **10 individuals is 6%.**

20 **(2) IN A COUNTY IN WHICH THE MARYLAND TRANSIT**  
21 **ADMINISTRATION OR THE WASHINGTON METROPOLITAN AREA TRANSIT**  
22 **AUTHORITY PROVIDES ANY SERVICE, THE SALES AND USE TAX RATE FOR A**  
23 **MANDATORY GRATUITY OR SERVICE CHARGE IN THE NATURE OF A TIP FOR**  
24 **SERVING FOOD OR ANY TYPE OF BEVERAGE TO A GROUP OF MORE THAN 10**  
25 **INDIVIDUALS IS 6.5%.**

26 11-301.

27 **(A) [The] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION,**  
28 **THE sales and use tax is computed on:**

29 (1) the taxable price of each separate sale;

30 (2) if a combined sale is made, the combined taxable price of all retail  
31 sales on the same occasion by the same vendor to the same buyer; or

1 (3) if retail sales of tangible personal property or a taxable service are  
2 made through vending or other self-service machines, 94.5% of the gross receipts from  
3 the retail sales.

4 **(B) IF A RETAIL SALE OF TANGIBLE PERSONAL PROPERTY OR A**  
5 **TAXABLE SERVICE IS MADE THROUGH A VENDING OR ANY OTHER SELF-SERVICE**  
6 **MACHINE IN A COUNTY IN WHICH THE MARYLAND TRANSIT ADMINISTRATION**  
7 **OR THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY PROVIDES**  
8 **ANY SERVICE, THE SALES AND USE TAX RATE IS 6.5%, APPLIED TO 93.9% OF THE**  
9 **GROSS RECEIPTS FROM THE VENDING MACHINE SALES.**

#### 10 Article – Transportation

11 3–216.

12 (c) (2) (i) The Gasoline and Motor Vehicle Revenue Account, the  
13 Driver Education Account, **THE MASS TRANSIT ACCOUNT**, and the Motorcycle  
14 Safety Program Account shall be maintained in the Transportation Trust Fund.

15 (d) (1) **[After] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,**  
16 **AFTER** meeting its debt service requirements, the Department may use the funds in  
17 the Transportation Trust Fund for any lawful purpose related to the exercise of its  
18 rights, powers, duties, and obligations.

19 [(3) (i) During the period of fiscal years 1988 through 1992 as  
20 included in the annual State Report on Transportation, the Department shall utilize  
21 all of its share of the revenues attributable to the 5 cent increase of the motor fuel tax  
22 under the provisions of Chapter 291 of the Acts of 1987 and credited to the  
23 Transportation Trust Fund under § 2–1104 of the Tax – General Article and the  
24 proceeds of any increased indebtedness based on that revenue and credited to the  
25 Transportation Trust Fund to fund Department projects for the construction,  
26 reconstruction, and rehabilitation of the State highway system.

27 (ii) During the period of fiscal year 1988 through fiscal year  
28 1992 the total level of State funds appropriated to the State Highway Administration  
29 for construction, reconstruction and rehabilitation of the State highway system,  
30 including the revenues referred to in subparagraph (i) above, shall be at least 70  
31 percent of the total appropriation of State funds in the consolidated transportation  
32 capital program.

33 (iii) The Secretary of the Department shall submit, subject to §  
34 2–1246 of the State Government Article, to the Legislative Policy Committee and the  
35 Department of Legislative Services a report:

36 1. Prior to the beginning of each session through the  
37 1991 session, detailing the intended use of the new revenues; and



1                   2.     Prior to the beginning of each session beginning with  
2 the 1989 session and through the 1993 session, detailing the actual use of the new  
3 revenues in the prior fiscal year.]

4                   **(3) (I) IN THIS PARAGRAPH, "TRANSIT COSTS" MEANS THE**  
5 **COST OF LIGHT RAIL AND METRO SUBWAY TRANSIT FACILITIES AND TRANSIT**  
6 **SERVICE OPERATED BY THE MARYLAND TRANSIT ADMINISTRATION IN A**  
7 **COUNTY IN WHICH THE MARYLAND TRANSIT ADMINISTRATION OR THE**  
8 **WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY PROVIDES ANY**  
9 **SERVICE.**

10                   **(II) FOR EACH FISCAL YEAR:**

11                   **1. OF THE FUNDS IN THE TRANSPORTATION TRUST**  
12 **FUND THAT ARE NOT CREDITED TO THE MASS TRANSIT ACCOUNT, THE**  
13 **DEPARTMENT MAY NOT BUDGET AN AMOUNT TO PAY TRANSIT COSTS IN EXCESS**  
14 **OF THE AMOUNT BUDGETED FOR THAT PURPOSE IN FISCAL YEAR 2012; AND**

15                   **2. THE DEPARTMENT MAY BUDGET FUNDS IN THE**  
16 **TRANSPORTATION TRUST FUND TO PAY TRANSIT COSTS IN EXCESS OF THE**  
17 **AMOUNT BUDGETED FOR THAT PURPOSE IN FISCAL YEAR 2012 ONLY IF THE**  
18 **EXCESS AMOUNT IS PAID FROM THE MASS TRANSIT ACCOUNT.**

19 **7-309.**

20                   **(A) THERE IS A MASS TRANSIT ACCOUNT IN THE TRANSPORTATION**  
21 **TRUST FUND.**

22                   **(B) THERE SHALL BE CREDITED TO THE MASS TRANSIT ACCOUNT THE**  
23 **PORTION OF SALES AND USE TAX REVENUE AS PROVIDED IN § 2-1302.2 OF THE**  
24 **TAX – GENERAL ARTICLE.**

25                   **(C) FUNDS IN THE MASS TRANSIT ACCOUNT SHALL BE USED TO PAY**  
26 **THE COST OF LIGHT RAIL AND METRO SUBWAY TRANSIT FACILITIES AND**  
27 **TRANSIT SERVICE IN A COUNTY IN WHICH THE MARYLAND TRANSIT**  
28 **ADMINISTRATION OR THE WASHINGTON METROPOLITAN AREA TRANSIT**  
29 **AUTHORITY PROVIDES ANY SERVICE.**

30                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 July 1, 2013.