

SENATE BILL 2

Q7

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CF HB 695

By: **Senators Miller and Ferguson**

Introduced and read first time: January 8, 2020

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Committee amendments withdrawn, March 9, 2020

Senate action: Adopted with substitute committee amendments, March 9, 2020

Read second time: March 9, 2020

CHAPTER _____

1 AN ACT concerning

2 ~~Digital Advertising Gross Revenues Taxation~~
3 **Taxation – Tobacco Tax, Sales and Use Tax, and Digital Advertising Gross**
4 **Revenues Tax**

5 FOR the purpose of altering the definition of “other tobacco products” to include certain
6 consumable products and the components or parts of those products and to exclude
7 certain other products; requiring the Governor, for certain fiscal years, to include in
8 the annual budget bill an appropriation for certain activities; altering the definition
9 of “electronic smoking device” to exclude certain batteries or battery chargers;
10 altering the sales and use tax rate imposed on sales of certain electronic smoking
11 devices and vaping liquid; prohibiting a county, a municipal corporation, a special
12 taxing district, or any other political subdivision, subject to a certain exception, from
13 imposing a tax on electronic smoking devices; altering the tobacco tax rate for certain
14 cigarettes and other tobacco products; imposing a tax on certain annual gross
15 revenues derived from certain digital advertising services in the State; ~~establishing~~
16 ~~a presumption that digital advertising services are provided in the State under~~
17 ~~certain circumstances;~~ providing for the calculation of the part of the annual gross
18 revenues of a person derived from digital advertising services in the State; providing
19 for the calculation of the tax; requiring certain persons that have certain annual
20 gross revenues derived from digital advertising services in the State to complete and
21 file with the Comptroller a certain return in a certain manner; requiring certain
22 persons that reasonably expect the person’s annual gross revenues derived from
23 digital advertising services to exceed a certain amount to complete and file with the
24 Comptroller a certain declaration of estimated tax in a certain manner; requiring a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 person required to file a certain return to maintain certain records; requiring a
 2 person to pay the digital advertising gross revenues tax in a certain manner;
 3 requiring the Comptroller to distribute digital advertising gross revenues tax
 4 revenue in a certain manner; requiring the Comptroller to make an assessment of
 5 certain digital advertising gross revenues tax due under certain circumstances;
 6 requiring the Comptroller to assess interest on unpaid digital advertising gross
 7 revenues taxes in a certain manner; providing certain criminal penalties for failing
 8 to file a certain return or filing a certain false return; requiring that the Comptroller
 9 administer the laws that relate to the digital advertising gross revenues tax;
 10 requiring that all cigarettes and other tobacco products used, possessed, or held in
 11 the State on or after a certain date are subject to the tax enacted under certain
 12 sections of this Act; authorizing the Comptroller to determine the method of
 13 assessing and collecting certain additional taxes; requiring certain additional taxes
 14 to be remitted to the Comptroller by a certain date; requiring the Comptroller to
 15 report to certain committees of the General Assembly on or before a certain date;
 16 requiring the Governor, for certain fiscal years, to include in the annual budget bill
 17 certain appropriations; declaring the intent of the General Assembly defining certain
 18 terms; altering the definition of certain terms; making certain conforming changes;
 19 providing for the application of this Act; and generally relating to a tax on digital
 20 advertising gross revenues the tobacco tax, sales and use tax, and a digital
 21 advertising gross revenues tax.

22 BY repealing and reenacting, without amendments,
 23 Article – Business Regulation
 24 Section 16.5–101(a) and 16.7–101(a), (d) through (g), and (j)
 25 Annotated Code of Maryland
 26 (2015 Replacement Volume and 2019 Supplement)

27 BY repealing and reenacting, with amendments,
 28 Article – Business Regulation
 29 Section 16.5–101(i) and 16.7–101(c)
 30 Annotated Code of Maryland
 31 (2015 Replacement Volume and 2019 Supplement)

32 BY repealing and reenacting, with amendments,
 33 Article – Health – General
 34 Section 13–1015
 35 Annotated Code of Maryland
 36 (2019 Replacement Volume)

37 BY repealing and reenacting, without amendments,
 38 Article – Tax – General
 39 Section 1–101(a) and (p), 11–104(a), and 12–101(a)
 40 Annotated Code of Maryland
 41 (2016 Replacement Volume and 2019 Supplement)

42 BY adding to

Article – Tax – General

Section 1–101(g–1); 2–4A–01 and 2–4A–02 to be under the new subtitle “Subtitle 4A. Digital Advertising Gross Revenues Tax Revenue Distribution”; 7.5–101 through 7.5–301 to be under the new title “Title 7.5. Digital Advertising Gross Revenues Tax”; and 11–104(j), 13–402(a)(6), and 13–1001(g)

Annotated Code of Maryland

(2016 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 2–102, 12–101(d), 12–102, 12–105, 13–402(a)(4) and (5), 13–602(a), 13–702(a), 13–1002(b) and (c), and 13–1101(b) and (c)

Annotated Code of Maryland

(2016 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, without amendments,

Article – Education

Section 5–219(b)

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Education

Section 5–219(f)

Annotated Code of Maryland

(2018 Replacement Volume and 2019 Supplement)

~~BY repealing and reenacting, without amendments,~~

~~Article – Tax – General~~

~~Section 1–101(a) and (p)~~

~~Annotated Code of Maryland~~

~~(2016 Replacement Volume and 2019 Supplement)~~

~~BY adding to~~

~~Article – Tax – General~~

~~Section 1–101(g–1); 2–4A–01 and 2–4A–02 to be under the new subtitle “Subtitle 4A. Digital Advertising Gross Revenues Tax Revenue Distribution”; 7.5–101 through 7.5–301 to be under the new title “Title 7.5. Digital Advertising Gross Revenues Tax”; and 13–402(a)(6) and 13–1001(g)~~

~~Annotated Code of Maryland~~

~~(2016 Replacement Volume and 2019 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article – Tax – General~~

~~Section 2–102, 13–402(a)(4) and (5), 13–602(a), 13–702(a), 13–1002(b) and (c), and 13–1101(b) and (c)~~

~~Annotated Code of Maryland~~

~~(2016 Replacement Volume and 2019 Supplement)~~

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

Article – Business Regulation

16.5–101.

(a) In this title the following words have the meanings indicated.

(i) **(1) “Other tobacco products” means, EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A PRODUCT THAT IS:**

[(1) any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or

(2) any other tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff]

(I) INTENDED FOR HUMAN CONSUMPTION OR LIKELY TO BE CONSUMED, WHETHER SMOKED, HEATED, CHEWED, ABSORBED, DISSOLVED, INHALED, OR INGESTED IN ANY OTHER MANNER, AND THAT IS MADE OF OR DERIVED FROM, OR THAT CONTAINS:

1. TOBACCO; OR

2. NICOTINE; OR

(II) A COMPONENT OR PART USED IN A CONSUMABLE PRODUCT DESCRIBED UNDER ITEM (I) OF THIS PARAGRAPH.

(2) “OTHER TOBACCO PRODUCTS” INCLUDES:

(I) CIGARS, PREMIUM CIGARS, PIPE TOBACCO, CHEWING TOBACCO, SNUFF, AND SNUS; AND

(II) FILTERS, ROLLING PAPERS, PIPES, AND HOOKAHS.

(3) “OTHER TOBACCO PRODUCTS” DOES NOT INCLUDE:

(I) CIGARETTES;

(II) ELECTRONIC SMOKING DEVICES; OR

1 (III) DRUGS, DEVICES, OR COMBINATION PRODUCTS
2 AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER THE
3 FEDERAL FOOD, DRUG, AND COSMETIC ACT.

4 16.7–101.

5 (a) In this title the following words have the meanings indicated.

6 (c) (1) “Electronic smoking device” means a device that can be used to deliver
7 aerosolized or vaporized nicotine to an individual inhaling from the device.

8 (2) “Electronic smoking device” includes:

9 (i) an electronic cigarette, an electronic cigar, an electronic cigarillo,
10 an electronic pipe, an electronic hookah, a vape pen, and vaping liquid; and

11 (ii) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS
12 SUBSECTION, any component, part, or accessory of such a device regardless of whether or
13 not it is sold separately, including any substance intended to be aerosolized or vaporized
14 during use of the device.

15 (3) “Electronic smoking device” does not include:

16 (I) a drug, device, or combination product authorized for sale by the
17 U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act; OR

18 (II) A BATTERY OR BATTERY CHARGER WHEN SOLD
19 SEPARATELY.

20 (d) “Electronic smoking devices manufacturer” means a person that:

21 (1) manufactures, mixes, or otherwise produces electronic smoking devices
22 intended for sale in the State, including electronic smoking devices intended for sale in the
23 United States through an importer; and

24 (2) (i) sells electronic smoking devices to a consumer, if the consumer
25 purchases or orders the devices through the mail, a computer network, a telephonic
26 network, or another electronic network, a licensed electronic smoking devices wholesaler
27 distributor, or a licensed electronic smoking devices wholesaler importer in the State;

28 (ii) if the electronic smoking devices manufacturer also holds a
29 license to act as an electronic smoking devices retailer or a vape shop vendor, sells electronic
30 smoking devices to consumers located in the State; or

1 (iii) unless otherwise prohibited or restricted under local law, this
2 article, or the Criminal Law Article, distributes sample electronic smoking devices to a
3 licensed electronic smoking devices retailer or vape shop vendor.

4 (e) “Electronic smoking devices retailer” means a person that:

5 (1) sells electronic smoking devices to consumers;

6 (2) holds electronic smoking devices for sale to consumers; or

7 (3) unless otherwise prohibited or restricted under local law, this article,
8 the Criminal Law Article, or § 24–305 of the Health – General Article, distributes sample
9 electronic smoking devices to consumers in the State.

10 (f) “Electronic smoking devices wholesaler distributor” means a person that:

11 (1) obtains at least 70% of its electronic smoking devices from a holder of
12 an electronic smoking devices manufacturer license under this subtitle or a business entity
13 located in the United States; and

14 (2) (i) holds electronic smoking devices for sale to another person for
15 resale; or

16 (ii) sells electronic smoking devices to another person for resale.

17 (g) “Electronic smoking devices wholesaler importer” means a person that:

18 (1) obtains at least 70% of its electronic smoking devices from a business
19 entity located in a foreign country; and

20 (2) (i) holds electronic smoking devices for sale to another person for
21 resale; or

22 (ii) sells electronic smoking devices to another person for resale.

23 (j) “Vape shop vendor” means an electronic smoking devices business that derives
24 at least 70% of its revenues, measured by average daily receipts, from the sale of electronic
25 smoking devices and related accessories.

26 **Article – Health – General**

27 13–1015.

28 (a) For fiscal year 2011 and fiscal year 2012, the Governor shall include at least
29 \$6,000,000 in the annual budget in appropriations for activities aimed at reducing tobacco
30 use in Maryland as recommended by the Centers for Disease Control and Prevention,
31 including:

1 (1) Media campaigns aimed at reducing smoking initiation and
 2 encouraging smokers to quit smoking;

3 (2) Media campaigns educating the public about the dangers of secondhand
 4 smoke exposure;

5 (3) Enforcement of existing laws banning the sale or distribution of tobacco
 6 products to individuals under the age of 21 years;

7 (4) Promotion and implementation of smoking cessation programs; and

8 (5) Implementation of school-based tobacco education programs.

9 (b) (1) For fiscal [year 2013 and each fiscal year thereafter.] YEARS 2013
 10 THROUGH 2021, the Governor shall include at least \$10,000,000 in the annual budget in
 11 appropriations for the purposes described in subsection (a) of this section.

12 (2) FOR FISCAL YEAR 2022 AND EACH FISCAL YEAR THEREAFTER,
 13 THE GOVERNOR SHALL INCLUDE AT LEAST \$18,250,000 IN THE ANNUAL BUDGET IN
 14 APPROPRIATIONS FOR THE PURPOSES DESCRIBED IN SUBSECTION (A) OF THIS
 15 SECTION.

16 Article – Tax – General

17 11–104.

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

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

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

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

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

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

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

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

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

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

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

4 1. 1 cent if the excess over an exact dollar is at least 1 cent
5 but less than 17 cents;

6 2. 2 cents if the excess over an exact dollar is at least 17 cents
7 but less than 34 cents;

8 3. 3 cents if the excess over an exact dollar is at least 34 cents
9 but less than 51 cents;

10 4. 4 cents if the excess over an exact dollar is at least 51 cents
11 but less than 67 cents;

12 5. 5 cents if the excess over an exact dollar is at least 67 cents
13 but less than 84 cents; and

14 6. 6 cents if the excess over an exact dollar is at least 84
15 cents.

16 **(J) (1) (I) IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE THE**
17 **MEANINGS INDICATED.**

18 **(II) “ELECTRONIC SMOKING DEVICE” HAS THE MEANING**
19 **STATED IN § 16.7–101 OF THE BUSINESS REGULATION ARTICLE.**

20 **(III) “VAPING LIQUID” HAS THE MEANING STATED IN § 16.7–101**
21 **OF THE BUSINESS REGULATION ARTICLE.**

22 **(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,**
23 **THE SALES AND USE TAX RATE FOR ELECTRONIC SMOKING DEVICES IS 12% OF THE**
24 **TAXABLE PRICE.**

25 **(3) THE SALES AND USE TAX FOR VAPING LIQUID SOLD IN A**
26 **CONTAINER THAT CONTAINS 5 MILLILITERS OR LESS OF VAPING LIQUID IS 60% OF**
27 **THE TAXABLE PRICE.**

28 12–101.

29 (a) In this title the following words have the meanings indicated.

1 (d) “Other tobacco product” [means:

2 (1) any cigar or roll for smoking, other than a cigarette, made in whole or
3 in part of tobacco; or

4 (2) any other tobacco or product made primarily from tobacco, other than a
5 cigarette, that is intended for consumption by smoking or chewing or as snuff] HAS THE
6 MEANING STATED FOR “OTHER TOBACCO PRODUCTS” IN § 16.5–101 OF THE
7 BUSINESS REGULATION ARTICLE.

8 12–102.

9 (a) Except as provided in § 12–104 of this subtitle, a tax is imposed on cigarettes
10 and other tobacco products in the State.

11 (b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
12 SUBSECTION, A county, municipal corporation, special taxing district, or other political
13 subdivision of the State may not impose a tax on cigarettes [or], other tobacco products, OR
14 ELECTRONIC SMOKING DEVICES AS DEFINED UNDER § 16.7–101 OF THE BUSINESS
15 REGULATION ARTICLE.

16 (2) IF A COUNTY IMPOSED A TAX ON ELECTRONIC SMOKING DEVICES
17 ON JANUARY 1, 2020, THE COUNTY MAY CONTINUE TO IMPOSE A TAX ON
18 ELECTRONIC SMOKING DEVICES AT THE SAME RATE THAT WAS IN EFFECT ON
19 JANUARY 1, 2020.

20 12–105.

21 (a) The tobacco tax rate for cigarettes is:

22 (1) [\$1.00 for each package of 10 or fewer cigarettes;

23 (2) \$2.00] \$3.75 for each package of [at least 11 and not more than] 20
24 cigarettes; AND

25 [(3)] (2) [10.0] 17.5 cents for each cigarette in a package of more than 20
26 cigarettes]; and

27 (4) 10.0 cents for each cigarette in a package of free sample cigarettes].

28 (b) (1) Except as provided in paragraph (2) of this subsection, the tobacco tax
29 rate for other tobacco products is [30%] 53% of the wholesale price of the tobacco products.

30 (2) (i) In this paragraph, “premium cigars” has the meaning stated in §
31 16.5–101 of the Business Regulation Article.

1 (ii) Except as provided in subparagraph (iii) of this paragraph, the
2 tobacco tax rate for cigars is 70% of the wholesale price of the cigars.

3 (iii) The tobacco tax rate for premium cigars is 15% of the wholesale
4 price of the premium cigars.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
6 as follows:

7 **Article – Education**

8 5–219.

9 (b) There is The Blueprint for Maryland’s Future Fund.

10 (f) The Fund consists of:

11 (1) Revenue distributed to the Fund under §§ ~~2–4A–02~~, 2–605.1, and
12 2–1303 of the Tax – General Article;

13 (2) Money appropriated in the State budget for the Fund; and

14 (3) Any other money from any other source accepted for the benefit of the
15 Fund.

16 **Article – Tax – General**

17 1–101.

18 (a) In this article the following words have the meanings indicated.

19 **(G–1) “DIGITAL ADVERTISING GROSS REVENUES TAX” MEANS THE TAX**
20 **IMPOSED UNDER TITLE 7.5 OF THIS ARTICLE.**

21 (p) (1) “Person” means an individual, receiver, trustee, guardian, personal
22 representative, fiduciary, or representative of any kind and any partnership, firm,
23 association, corporation, or other entity.

24 (2) “Person”, unless expressly provided otherwise, does not include a
25 governmental entity or a unit or instrumentality of a governmental entity.

26 2–102.

27 In addition to the duties set forth elsewhere in this article and in other articles of the
28 Code, the Comptroller shall administer the laws that relate to:

- 1 (1) the admissions and amusement tax;
- 2 (2) the alcoholic beverage tax;
- 3 (3) the boxing and wrestling tax;
- 4 (4) **THE DIGITAL ADVERTISING GROSS REVENUES TAX;**
- 5 **(5)** the income tax;
- 6 **[(5)] (6)** the Maryland estate tax;
- 7 **[(6)] (7)** the Maryland generation–skipping transfer tax;
- 8 **[(7)] (8)** the motor carrier tax;
- 9 **[(8)] (9)** the motor fuel tax;
- 10 **[(9)] (10)** the sales and use tax;
- 11 **[(10)] (11)** the savings and loan association franchise tax; and
- 12 **[(11)] (12)** the tobacco tax.

13 **SUBTITLE 4A. DIGITAL ADVERTISING GROSS REVENUES TAX REVENUE**
 14 **DISTRIBUTION.**

15 **2–4A–01.**

16 **FROM THE DIGITAL ADVERTISING GROSS REVENUES TAX REVENUE, THE**
 17 **COMPTROLLER SHALL DISTRIBUTE EACH QUARTER THE AMOUNT NECESSARY TO**
 18 **ADMINISTER THE DIGITAL ADVERTISING GROSS REVENUES TAX LAWS IN THE**
 19 **PREVIOUS QUARTER TO AN ADMINISTRATIVE COST ACCOUNT.**

20 **2–4A–02.**

21 **AFTER MAKING THE DISTRIBUTION REQUIRED UNDER § 2–4A–01 OF THIS**
 22 **SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE REMAINING DIGITAL**
 23 **ADVERTISING GROSS REVENUES TAX REVENUE TO THE BLUEPRINT FOR**
 24 **MARYLAND’S FUTURE FUND ESTABLISHED UNDER § 5–219 OF THE EDUCATION**
 25 **ARTICLE.**

26 **TITLE 7.5. DIGITAL ADVERTISING GROSS REVENUES TAX.**

27 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

1 **7.5-101.**

2 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "ANNUAL GROSS REVENUES" MEANS INCOME OR REVENUE FROM ALL
5 SOURCES, BEFORE ANY EXPENSES OR TAXES, COMPUTED ACCORDING TO
6 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

7 (C) "ASSESSABLE BASE" MEANS THE ANNUAL GROSS REVENUES DERIVED
8 FROM DIGITAL ADVERTISING SERVICES IN THE STATE.

9 (D) "DIGITAL ADVERTISING SERVICES" INCLUDES ADVERTISEMENT
10 SERVICES ON A DIGITAL INTERFACE, INCLUDING ADVERTISEMENTS IN THE FORM OF
11 BANNER ADVERTISING, SEARCH ENGINE ADVERTISING, INTERSTITIAL
12 ADVERTISING, AND OTHER COMPARABLE ADVERTISING SERVICES.

13 (E) "DIGITAL INTERFACE" MEANS ANY TYPE OF SOFTWARE, INCLUDING A
14 WEBSITE, PART OF A WEBSITE, OR APPLICATION, THAT A USER IS ABLE TO ACCESS.

15 (F) "USER" MEANS AN INDIVIDUAL OR ANY OTHER PERSON WHO ACCESSES
16 A DIGITAL INTERFACE WITH A DEVICE.

17 **7.5-102.**

18 (A) A TAX IS IMPOSED ON ANNUAL GROSS REVENUES OF A PERSON DERIVED
19 FROM DIGITAL ADVERTISING SERVICES IN THE STATE.

20 ~~(B) FOR PURPOSES OF THIS TITLE, DIGITAL ADVERTISING SERVICES ARE
21 PROVIDED IN THE STATE IF THE DIGITAL ADVERTISING SERVICES APPEAR ON THE
22 DEVICE OF A USER:~~

23 ~~(1) WITH AN INTERNET PROTOCOL ADDRESS THAT INDICATES THAT
24 THE USER'S DEVICE IS LOCATED IN THE STATE; OR~~

25 ~~(2) WHO IS KNOWN OR REASONABLY SUSPECTED TO BE USING THE
26 DEVICE IN THE STATE.~~

27 **(B) (1) FOR PURPOSES OF THIS TITLE, THE PART OF THE ANNUAL GROSS**
28 **REVENUES OF A PERSON DERIVED FROM DIGITAL ADVERTISING SERVICES IN THE**
29 **STATE SHALL BE DETERMINED USING AN APPORTIONMENT FRACTION:**

1 **(I) THE NUMERATOR OF WHICH IS THE ANNUAL GROSS**
2 **REVENUES OF A PERSON DERIVED FROM DIGITAL ADVERTISING SERVICES IN THE**
3 **STATE; AND**

4 **(II) THE DENOMINATOR OF WHICH IS THE ANNUAL GROSS**
5 **REVENUES OF A PERSON DERIVED FROM DIGITAL ADVERTISING SERVICES IN THE**
6 **UNITED STATES.**

7 **(2) THE COMPTROLLER SHALL ADOPT REGULATIONS THAT**
8 **DETERMINE THE STATE FROM WHICH REVENUES FROM DIGITAL ADVERTISING**
9 **SERVICES ARE DERIVED.**

10 **7.5-103.**

11 **THE DIGITAL ADVERTISING GROSS REVENUES TAX RATE IS:**

12 **(1) 2.5% OF THE ASSESSABLE BASE FOR A PERSON WITH GLOBAL**
13 **ANNUAL GROSS REVENUES OF \$100,000,000 THROUGH \$1,000,000,000;**

14 **(2) 5% OF THE ASSESSABLE BASE FOR A PERSON WITH GLOBAL**
15 **ANNUAL GROSS REVENUES OF \$1,000,000,001 THROUGH \$5,000,000,000;**

16 **(3) 7.5% OF THE ASSESSABLE BASE FOR A PERSON WITH GLOBAL**
17 **ANNUAL GROSS REVENUES OF \$5,000,000,001 THROUGH \$15,000,000,000; AND**

18 **(4) 10% OF THE ASSESSABLE BASE FOR A PERSON WITH GLOBAL**
19 **ANNUAL GROSS REVENUES EXCEEDING \$15,000,000,000.**

20 **SUBTITLE 2. RETURNS.**

21 **7.5-201.**

22 **(A) EACH PERSON THAT, IN A CALENDAR YEAR, HAS ANNUAL GROSS**
23 **REVENUES DERIVED FROM DIGITAL ADVERTISING SERVICES IN THE STATE OF AT**
24 **LEAST \$1,000,000 SHALL COMPLETE, UNDER OATH, AND FILE WITH THE**
25 **COMPTROLLER A RETURN, ON OR BEFORE APRIL 15 THE NEXT YEAR.**

26 **(B) (1) EACH PERSON THAT REASONABLY EXPECTS THE PERSON'S**
27 **ANNUAL GROSS REVENUES DERIVED FROM DIGITAL ADVERTISING SERVICES IN THE**
28 **STATE TO EXCEED \$1,000,000 SHALL COMPLETE, UNDER OATH, AND FILE WITH THE**
29 **COMPTROLLER A DECLARATION OF ESTIMATED TAX, ON OR BEFORE APRIL 15 OF**
30 **THAT YEAR.**

1 **(2) A PERSON REQUIRED UNDER PARAGRAPH (1) OF THIS**
2 **SUBSECTION TO FILE A DECLARATION OF ESTIMATED TAX FOR A TAXABLE YEAR**
3 **SHALL COMPLETE AND FILE WITH THE COMPTROLLER A QUARTERLY ESTIMATED**
4 **TAX RETURN ON OR BEFORE JUNE 15, SEPTEMBER 15, AND DECEMBER 15 OF THAT**
5 **YEAR.**

6 **(C) A PERSON REQUIRED TO FILE A RETURN UNDER THIS SECTION SHALL**
7 **FILE WITH THE RETURN AN ATTACHMENT THAT STATES ANY INFORMATION THAT**
8 **THE COMPTROLLER REQUIRES TO DETERMINE ANNUAL GROSS REVENUES DERIVED**
9 **FROM DIGITAL ADVERTISING SERVICES IN THE STATE.**

10 **7.5–202.**

11 **A PERSON REQUIRED TO FILE A RETURN UNDER § 7.5–201 OF THIS SUBTITLE**
12 **SHALL MAINTAIN RECORDS OF DIGITAL ADVERTISING SERVICES PROVIDED IN THE**
13 **STATE AND THE BASIS FOR THE CALCULATION OF THE DIGITAL ADVERTISING GROSS**
14 **REVENUES TAX OWED.**

15 **SUBTITLE 3. TAX PAYMENT.**

16 **7.5–301.**

17 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, EACH**
18 **PERSON REQUIRED TO FILE A RETURN UNDER § 7.5–201 OF THIS TITLE SHALL PAY**
19 **THE DIGITAL ADVERTISING GROSS REVENUES TAX WITH THE RETURN THAT COVERS**
20 **THE PERIOD FOR WHICH THE TAX IS DUE.**

21 **(B) A PERSON REQUIRED TO FILE ESTIMATED DIGITAL ADVERTISING GROSS**
22 **REVENUES TAX RETURNS UNDER § 7.5–201(B) OF THIS TITLE SHALL PAY:**

23 **(1) AT LEAST 25% OF THE ESTIMATED DIGITAL ADVERTISING GROSS**
24 **REVENUES TAX SHOWN ON THE DECLARATION OR AMENDED DECLARATION FOR A**
25 **TAXABLE YEAR:**

26 **(I) WITH THE DECLARATION OR AMENDED DECLARATION THAT**
27 **COVERS THE YEAR; AND**

28 **(II) WITH EACH QUARTERLY RETURN FOR THAT YEAR; AND**

29 **(2) ANY UNPAID DIGITAL ADVERTISING GROSS REVENUES TAX FOR**
30 **THE YEAR SHOWN ON THE PERSON’S RETURN THAT COVERS THAT YEAR WITH THE**
31 **RETURN.**

32 **13–402.**

1 (a) If a notice and demand for a return is made under § 13–303 of this title and
2 the person or governmental unit fails to file the return, the tax collector shall:

3 (4) for motor carrier tax:

4 (i) compute the tax by using a miles per gallon factor based on the
5 use, in the State, of 40 gallons of motor fuel for each commercial motor vehicle in the
6 person's fleet on each day during the period for which the return is not filed; and

7 (ii) assess the tax due; [and]

8 (5) for public service company franchise tax:

9 (i) estimate gross receipts from the best information in the
10 possession of the tax collector; and

11 (ii) assess the tax due on the estimated gross receipts; **AND**

12 **(6) FOR DIGITAL ADVERTISING GROSS REVENUES TAX:**

13 **(I) ESTIMATE GROSS REVENUES FROM THE BEST**
14 **INFORMATION IN POSSESSION OF THE TAX COLLECTOR; AND**

15 **(II) ASSESS THE TAX DUE ON THE ESTIMATED ASSESSABLE**
16 **BASE.**

17 13–602.

18 (a) Except as provided in subsections (b) and (c) of this section, a tax collector
19 shall assess interest on unpaid tax from the due date to the date on which the tax is paid if
20 a person who is required to estimate and pay **DIGITAL ADVERTISING GROSS REVENUES**
21 **TAX**, financial institution franchise tax, public service company franchise tax, or income
22 tax under **§ 7.5–301**, § 8–210(b), § 8–405(b), or § 10–902 of this article:

23 (1) fails to pay an installment when due; or

24 (2) estimates a tax that is:

25 (i) less than 90% of the tax required to be shown on the return for
26 the current taxable year; and

27 (ii) less than 110% of the tax paid for the prior taxable year, reduced
28 by the credit allowed under § 10–703 of this article.

29 13–702.

1 (a) Except as provided in subsections (b) and (c) of this section, a tax collector
2 shall assess a penalty not exceeding 25% of the amount underestimated, if a person who is
3 required to estimate and pay **DIGITAL ADVERTISING GROSS REVENUES TAX**, financial
4 institution franchise tax, public service company franchise tax, or income tax under §
5 **7.5-301**, § 8-210(b), § 8-405(b), or § 10-902 of this article:

6 (1) fails to pay an installment when due; or

7 (2) estimates a tax that is:

8 (i) less than 90% of the tax required to be shown on the return for
9 the current taxable year; and

10 (ii) less than 110% of the tax paid for the prior taxable year, reduced
11 by the credit allowed under § 10-703 of this article.

12 13-1001.

13 **(G) A PERSON WHO IS REQUIRED TO FILE A DIGITAL ADVERTISING GROSS**
14 **REVENUES TAX RETURN AND WHO WILLFULLY FAILS TO FILE THE RETURN AS**
15 **REQUIRED UNDER TITLE 7.5 OF THIS ARTICLE IS GUILTY OF A MISDEMEANOR AND,**
16 **ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT**
17 **NOT EXCEEDING 5 YEARS OR BOTH.**

18 13-1002.

19 (b) A person, including an officer of a corporation, who willfully files **A FALSE**
20 **DIGITAL ADVERTISING GROSS REVENUES TAX RETURN**, a false financial institution
21 franchise tax return, a false public service company franchise tax return, or a false income
22 tax return with the intent to evade the payment of tax due under this article is guilty of
23 perjury and, on conviction, is subject to the penalty for perjury.

24 (c) Subsections (a) and (b) of this section apply to the alcoholic beverage, **DIGITAL**
25 **ADVERTISING GROSS REVENUES**, financial institution franchise, public service company
26 franchise, and income taxes.

27 13-1101.

28 (b) An assessment of **DIGITAL ADVERTISING GROSS REVENUES TAX**, financial
29 institution franchise tax, public service company franchise tax, income tax, or estate tax
30 may be made at any time if:

31 (1) a false return is filed with the intent to evade the tax;

32 (2) a willful attempt is made to evade the tax;

1 (3) a return is not filed as required under Title 7, **TITLE 7.5**, Title 8, or
2 Title 10 of this article;

3 (4) an amended estate tax return is not filed as required under Title 7 of
4 this article;

5 (5) an incomplete return is filed; or

6 (6) a report of federal adjustment is not filed within the period required
7 under § 13–409 of this title.

8 (c) If a report of federal adjustment is filed within the time required under §
9 13–409 of this title, the tax collector shall assess the **DIGITAL ADVERTISING GROSS**
10 **REVENUES TAX**, financial institution franchise tax, public service company franchise tax,
11 income tax, or estate tax within 1 year after the date on which the tax collector receives the
12 report.

13 SECTION 3. AND BE IT FURTHER ENACTED, That:

14 (1) as provided in § 12–105 of the Tax – General Article, as enacted by
15 Section 1 of this Act, all cigarettes and other tobacco products used, possessed, or held in
16 the State on or after July 1, 2020, by any person for sale or use in the State shall be subject
17 to the tax on cigarettes and other tobacco products as enacted under Section 1 of this Act;

18 (2) the Comptroller may provide an alternative method of assessing and
19 collecting the additional tax; and

20 (3) the revenue attributable to this requirement shall be remitted to the
21 Comptroller no later than September 30, 2020.

22 SECTION 4. AND BE IT FURTHER ENACTED, That on or before December 31,
23 2020, the Comptroller’s Office shall report to the Senate Budget and Taxation Committee
24 and the House Committee on Ways and Means, in accordance with § 2–1257 of the State
25 Government Article, on the change in consumption of cigarettes, other tobacco products,
26 and electronic smoking devices in the State over the immediately preceding 12 months.

27 SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General
28 Assembly that the Comptroller distribute, as necessary, the sales and use tax and tobacco
29 tax collected in fiscal year 2021 under Section 1 of this Act to:

30 (1) the expenditure accounts of the appropriate units of State government
31 to fund costs associated with the Coronavirus Disease 2019 (COVID–19); and

32 (2) the Revenue Stabilization Account established under § 7–311 of the
33 State Finance and Procurement Article.

1 SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
2 effect July 1, 2021, and shall be applicable to all taxable years beginning after December
3 31, 2020.

4 ~~SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in~~
5 ~~Section 6 of this Act, this Act shall take effect July 1, 2020, and shall be applicable to all~~
6 ~~taxable years beginning after December 31, 2020.~~

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.