

SENATE BILL 787

Q7

1lr2632
CF HB 1200

By: **Senator Ferguson**

Introduced and read first time: February 5, 2021

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Digital Advertising Gross Revenues Tax – Exemption and Restriction**

3 FOR the purpose of exempting, from a certain tax on certain annual gross revenues derived
4 from certain digital advertising services in the State, certain advertisement services
5 on certain digital interfaces; prohibiting a person who derives gross revenues from
6 digital advertising services in the State from passing on the cost of the tax to a
7 certain customer in a certain manner; defining certain terms; providing for the
8 application of this Act; making this Act subject to a certain contingency; and
9 generally relating to a tax on digital advertising gross revenues.

10 BY repealing and reenacting, with amendments,

11 Article – Tax – General

12 Section 7.5–101

13 Annotated Code of Maryland

14 (2016 Replacement Volume and 2020 Supplement)

15 (As enacted by Chapter ____ (H.B. 732 of the 2020 Regular Session) of the Acts of the

16 General Assembly of 2021)

17 BY repealing and reenacting, without amendments,

18 Article – Tax – General

19 Section 7.5–102(a)

20 Annotated Code of Maryland

21 (2016 Replacement Volume and 2020 Supplement)

22 (As enacted by Chapter ____ (H.B. 732 of the 2020 Regular Session) of the Acts of the

23 General Assembly of 2021)

24 BY adding to

25 Article – Tax – General

26 Section 7.5–102(c)

27 Annotated Code of Maryland

28 (2016 Replacement Volume and 2020 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(As enacted by Chapter ____ (H.B. 732 of the 2020 Regular Session) of the Acts of the General Assembly of 2021)

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

Article – Tax – General

7.5–101.

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

(b) “Annual gross revenues” means income or revenue from all sources, before any expenses or taxes, computed according to generally accepted accounting principles.

(c) “Assessable base” means the annual gross revenues derived from digital advertising services in the State.

(D) “BROADCAST ENTITY” MEANS AN ENTITY THAT IS PRIMARILY ENGAGED IN THE BUSINESS OF OPERATING A BROADCAST TELEVISION OR RADIO STATION.

[(d)] (E) (1) “Digital advertising services” includes advertisement services on a digital interface, including advertisements in the form of banner advertising, search engine advertising, interstitial advertising, and other comparable advertising services.

(2) “DIGITAL ADVERTISING SERVICES” DOES NOT INCLUDE ADVERTISEMENT SERVICES ON DIGITAL INTERFACES OWNED OR OPERATED BY OR OPERATED ON BEHALF OF A BROADCAST ENTITY OR NEWS MEDIA ENTITY.

[(e)] (F) “Digital interface” means any type of software, including a website, part of a website, or application, that a user is able to access.

(G) (1) “NEWS MEDIA ENTITY” MEANS AN ENTITY ENGAGED PRIMARILY IN THE BUSINESS OF NEWSGATHERING, REPORTING, OR PUBLISHING ARTICLES OR COMMENTARY ABOUT NEWS, CURRENT EVENTS, CULTURE, OR OTHER MATTERS OF PUBLIC INTEREST.

(2) “NEWS MEDIA ENTITY” DOES NOT INCLUDE AN ENTITY THAT IS PRIMARILY AN AGGREGATOR OR REPUBLISHER OF THIRD–PARTY CONTENT.

[(f)] (H) “User” means an individual or any other person who accesses a digital interface with a device.

7.5–102.

(a) A tax is imposed on annual gross revenues of a person derived from digital

1 advertising services in the State.

2 (C) A PERSON WHO DERIVES GROSS REVENUES FROM DIGITAL
3 ADVERTISING SERVICES IN THE STATE MAY NOT DIRECTLY PASS ON THE COST OF
4 THE TAX IMPOSED UNDER THIS SECTION TO A CUSTOMER WHO PURCHASES THE
5 DIGITAL ADVERTISING SERVICES BY MEANS OF A SEPARATE FEE, SURCHARGE, OR
6 LINE-ITEM.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be applicable to
8 all taxable years beginning after December 31, 2020.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2021, contingent on the taking effect of Chapter ____ (H.B. 732 of 2020 Regular Session)
11 of the Acts of the General Assembly of 2021, and if Chapter ____ (H.B. 732 of the 2020
12 Regular Session) does not become effective, this Act, with no further action required by the
13 General Assembly, shall be null and void.