

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1215 (Delegate Korman)

Environment and Transportation and
 Economic Matters

**Transportation Financing - Retail Delivery Fee and Transportation Network
 Company Impact Fee (Transportation Funding Act of 2024)**

This bill imposes a retail delivery fee on specified retail deliveries in the State by specified vendors and marketplace facilitators and a transportation network company (TNC) impact fee on passenger trips that originate in the State, the revenues of which are pledged to repayment of principal and interest on consolidated transportation bonds. Beginning in fiscal 2027, the fees are indexed to the Consumer Price Index for All Urban Consumers (CPI-U). The Comptroller must administer the fees and, after administrative cost recovery, deposit the proceeds in a specified account within the Transportation Trust Fund (TTF), which the Maryland Department of Transportation (MDOT) must allocate for specified purposes. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: General fund expenditures increase by \$1.1 million in FY 2025; future years reflect annualization and additional and ongoing administrative costs. Beginning in FY 2026, general fund revenues correspond with general fund expenditures. TTF revenues increase by an estimated \$180.8 million in FY 2026; future years reflect inflation and projected fee revenue growth. Transportation bond capacity increases by an estimated \$985.4 million over FY 2026-2029, including an estimated \$234.0 million in FY 2026. TTF expenditures increase by \$185.8 million in FY 2026; future years reflect projected fee revenue spending and ongoing debt service costs.

(\$ in millions)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
GF Revenue	\$0	\$0.5	\$0.4	\$0.5	\$0.5
SF Revenue	\$0	\$180.8	\$186.4	\$191.9	\$197.4
Bond Rev.	\$0	\$234.0	\$283.4	\$254.8	\$213.2
GF Expenditure	\$1.1	\$0.5	\$0.4	\$0.5	\$0.5
SF Expenditure	\$0	\$185.8	\$202.4	\$219.3	\$248.5
Net Effect	(\$1.1)	\$229.0	\$267.4	\$227.4	\$162.1

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local revenues increase to the extent MDOT distributes fee revenues to local jurisdictions in the form of capital transportation grants and/or locally operated transit system grants in accordance with the bill’s provisions. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Retail Delivery Fee and Transportation Network Company Impact Fee Account

The Retail Delivery Fee and TNC Impact Fee Account is established within TTF. MDOT must allocate the funds, in the manner MDOT determines is appropriate, for (1) capital needs identified in the Maryland Transit Administration’s triennial capital needs assessment and (2) distribution to counties and municipalities for purposes specified in § 8-408 (permitted uses of highway user revenues) of the Transportation Article. Any remaining fund balance must be allocated to the Locally Operated Transit System Grant Program.

Retail Delivery Fee

“Retail delivery” means a delivery to a person located in the State of tangible personal property purchased by a person located in the State as part of a retail sale that is subject to the sales and use tax. It does not include pickup at the vendor’s place of business, including curbside delivery. “Marketplace facilitator,” “retail sale,” “tangible personal property,” and “vendor” have the meanings stated under Title 11 (Sales and Use Tax) of the Tax-General Article.

The retail delivery fee and related requirements apply only to (1) a vendor that made retail sales totaling at least \$500,000 in the previous or current calendar year or (2) a marketplace facilitator that facilitated retail sales of marketplace sellers totaling at least \$100,000 in the previous or current calendar year.

A vendor or marketplace facilitator must pay a retail delivery fee equal to 50 cents (as adjusted for inflation beginning in fiscal 2027, as discussed below) on each retail delivery transaction the vendor or marketplace facilitator makes in the State. A retail delivery fee is assessed only once per transaction regardless of whether (1) the tangible personal property purchased is delivered in one shipment or multiple shipments or (2) the purchase contains one item or multiple items of personal property. The retail delivery fee does not apply to the sale or purchase of tangible personal property that is exempt from the sales and use tax.

A vendor or marketplace facilitator may collect the retail delivery fee from the buyer. If a vendor or marketplace facilitator collects the retail delivery fee from the buyer, the retail delivery fee must be (1) charged in addition to any other delivery fee assessed by the vendor or marketplace facilitator; (2) itemized as a separate line item on the buyer's receipt, invoice, or other bill of sale, distinct from the sales price, sales and use tax, or any other tax or fee imposed; and (3) listed on the receipt, invoice, or other bill of sale as "Road Impact Fee." The retail delivery fee may not be refunded to the buyer unless the retail delivery is canceled by the buyer, vendor, marketplace facilitator, or delivery provider.

A vendor or marketplace facilitator must collect and remit the retail delivery fee to the Comptroller in the manner prescribed by the Comptroller. A vendor or marketplace facilitator that did not make retail sales totaling at least \$500,000 or \$100,000 (respectively) in the previous calendar year must remit the retail delivery fee to the Comptroller beginning on or before the first day of the month that is 60 days after the month in which the vendor or marketplace facilitator makes retail sales totaling at least \$500,000 or \$100,000 (respectively) in the current calendar year.

A vendor or marketplace facilitator that collects the retail delivery fee from the buyer must collect the retail delivery fee in the same manner as the sales and use tax. A vendor or marketplace facilitator using a third-party entity to collect and remit the sales and use tax may elect to have the third-party entity collect and remit the retail delivery fee. A vendor or marketplace facilitator that pays the retail delivery fee on behalf of a buyer must remit the fee to the Comptroller as if the retail delivery fee had been collected from the buyer on the date of the retail delivery.

Specified audit, assessment, refund, penalty, interest, enforcement, collection remedies, appeal, and administrative provisions apply to the retail delivery fee. The Comptroller must pay interest on an overpayment refunded or credited to a vendor or marketplace facilitator, as specified.

Transportation Network Company Impact Fees

The bill establishes a TNC impact fee on passenger trips that originate in the State. A TNC must collect the TNC impact fee. The fee is 50 cents per passenger trip (25 cents per passenger trip provided using a fuel cell electric vehicle or plug-in electric drive vehicle). (The fee is adjusted for inflation beginning in fiscal 2027, as discussed below.)

A TNC may collect the TNC impact fee from a passenger on behalf of a transportation network operator. If a TNC collects the TNC impact fee from the passenger, (1) the TNC impact fee must be charged in addition to any other tax or fee and (2) the TNC must show the impact fee as a separate line item on the passenger's receipt, invoice, or other bill of sale, distinct from the transaction price and any other tax or fee imposed. The receipt,

invoice, or other bill of sale must list the impact fee as “Transportation Network Company Impact Fee.” A TNC that pays the TNC impact fee on behalf of a passenger must remit the fee to the Comptroller as if the fee had been collected from the passenger on the date of the passenger trip.

A TNC must report the TNC impact fee on a form prescribed by the Comptroller and remit the TNC impact fee to the Comptroller no later than 30 days after the end of a calendar quarter, or as otherwise specified by the Comptroller in regulations. Specified audit, assessment, refund, penalty, interest, enforcement, collection remedies, appeal, and administrative provisions apply to the TNC impact fee. The Comptroller must pay interest on an overpayment refunded or credited to a TNC, as specified.

The Comptroller may adopt regulations or other requirements or procedures to carry out the bill’s provisions relating to the TNC impact fee, including requirements and procedures regarding the administration, collection, and enforcement of the TNC impact fee.

These provisions may not be construed to have any effect on transportation network service assessments imposed by local jurisdictions in accordance with § 10-406 of the Public Utilities Article.

Indexing of Retail Delivery and Transportation Network Company Impact Fees to the Consumer Price Index

By June 1, 2026, and each June 1 thereafter, the Comptroller must determine and announce the growth in the CPI-U and the retail delivery and TNC fees effective for the fiscal year beginning the following July 1. For each fee, the amount of the fee increase is equal to the percentage growth in the CPI-U multiplied by the fee in effect for the previous fiscal year, rounded to the nearest one-tenth of 1 cent. The percentage growth in the CPI-U is determined by averaging the CPI-U for the 12 months preceding April 30 to the average index for the prior 12 months. If there is a decline or no growth in the CPI-U, the fees remain unchanged. Any fee increase may not exceed 8% of the fee in effect for the previous year.

Current Law:

Commission on Transportation Revenue and Infrastructure Needs

Chapter 455 of 2023 established the Commission on Transportation Revenue and Infrastructure Needs to, among other things, study and make recommendations concerning the current structure and State funding sources of TTF. The commission submitted an [interim report](#) of its findings and recommendations in January 2024 and must submit a final report by January 1, 2025.

Retail Delivery Fees and Marketplace Facilitators

State law does not provide for the assessment of a fee on retail deliveries in the State, as contemplated under the bill. To date, Colorado and Minnesota have enacted legislation imposing retail delivery fees similar to the fee imposed under the bill.

“Marketplace facilitator,” as it applies to the State sales and use tax, means a person that (1) facilitates a retail sale by a marketplace seller by listing or advertising for sale in a marketplace tangible personal property, digital code, or a digital product and (2) regardless of whether the person receives compensation or other consideration in exchange for the person’s services, directly or indirectly, through agreements with third parties, collects payment from a buyer and transmits the payment to the marketplace seller (a person that makes a retail sale or sale for use through a physical or electronic marketplace operated by a marketplace facilitator). Chapter 735 of 2019 required marketplace facilitators to collect the applicable sales and use tax due on a retail sale or sale for use by a marketplace seller to a buyer in the State.

Transportation Network Service Assessments

Chapter 204 of 2015 established a regulatory framework for transportation network services that encompasses TNCs (*i.e.*, companies such as Uber and Lyft) and transportation network operators (*i.e.*, the drivers). Local governments are authorized to assess transportation network services (*i.e.*, trips) that originate in their jurisdiction – generally up to 25 cents per trip – subject to specified requirements, as discussed below.

Generally, a county or municipality that licensed or regulated taxicab services on or before January 1, 2015, either directly or through the Public Service Commission, may impose an assessment on trips that originate within the county or municipality. Except for an exempt jurisdiction, an assessment may be up to 25 cents per trip. The revenue generated from the assessments must be used for transportation purposes. An exempt jurisdiction is a county or municipality that imposed a tax, fee, or charge on for-hire transportation services provided on a per-ride or per-passenger basis operated in that county or municipality on or before January 1, 2015 (in practice, this applies to Baltimore City).

A TNC must collect the assessments (and other revenues from an exempt jurisdiction) and remit the funds to the Comptroller within 30 days after each quarter. After an allocation of up to 5% for administrative expenses, the Comptroller must then distribute the assessment revenue to the appropriate local jurisdictions. The Act established the Transportation Network Assessment Fund to receive and disburse the assessment revenues. No part of the fund may revert or be credited to the general fund or another special fund.

State Fiscal Effect: Exhibit 1 displays the bill’s estimated effects on State revenues and expenditures. As shown in the exhibit, retail delivery and TNC impact fees are estimated to generate \$150.5 million and \$30.8 million, respectively, in fiscal 2026 – a portion of which are retained by the general fund to cover Comptroller administrative costs (as detailed below), and the remainder of which are deposited in the Retail Delivery Fee and TNC Impact Fee Account within TTF. Future years reflect projected inflation, modest growth in TNC trips, as well as growth in electric and fuel cell vehicle trips.

Exhibit 1
Projected State Fiscal Effects
Fiscal 2025-2029
(\$ in Millions)

	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
State Revenues					
<i>By Source</i>					
Retail Delivery Fee	\$0.0	\$150.5	\$154.0	\$157.4	\$160.8
TNC Impact Fee	0.0	30.8	32.8	34.9	37.1
Transportation Bonds	0.0	234.0	283.4	254.8	213.2
<i>By Fund Type</i>					
General Fund	\$0.0	\$0.5	\$0.4	\$0.5	\$0.5
TTF – Fee Account	0.0	180.8	186.4	191.9	197.4
Transportation Bonds	0.0	234.0	283.4	254.8	213.2
State Expenditures					
General Fund	\$1.1	\$0.5	\$0.4	\$0.5	\$0.5
TTF	0.0	185.8	202.4	219.3	248.5
<i>Fee Account</i>	<i>0.0</i>	<i>180.8</i>	<i>186.4</i>	<i>191.9</i>	<i>197.4</i>
<i>Debt Service</i>	<i>0.0</i>	<i>5.0</i>	<i>16.0</i>	<i>27.4</i>	<i>51.1</i>
Net State Effect	(\$1.1)	\$229.0	\$267.4	\$227.4	\$162.1

TNC: transportation network company
TTF: Transportation Trust Fund
Fee Account: Retail Delivery Fee and TNC Impact Fee Account

Note: Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

As also shown in the exhibit, TTF revenues generated by the bill’s changes are estimated to increase MDOT bond capacity by an estimated \$985.4 million over fiscal 2026 through 2029, including an estimated \$234.0 million in fiscal 2026. MDOT expenditures increase by an estimated \$185.8 million in fiscal 2026, reflecting the disposition of fee account revenues in accordance with the bill (\$180.8 million) and debt service (\$5.0 million). Future years reflect projected fee account spending and ongoing debt service costs.

Estimated retail delivery fee revenues are based on an analysis of Colorado retail delivery fee revenues, National Household Travel Survey data on Maryland household online purchases for delivery, and U.S. Census Bureau data on U.S. e-commerce sales. Estimated TNC impact fee revenues are based on an analysis of fiscal 2023 TNC assessment fee collections in Maryland. The Department of Legislative Services advises that actual fee revenues under the bill may vary from the above estimate based on actual retail deliveries and TNC trips.

Comptroller’s Office

As discussed above, the bill requires the Comptroller to administer two new fee types, which take effect July 1, 2025. In order for the Comptroller to begin collecting the fees on July 1, 2025, implementation and administrative costs are incurred beginning in fiscal 2025, prior to the bill’s effective date.

Thus, general fund expenditures (as reflected in the exhibit) for the Comptroller’s Office increase by an estimated \$1,082,020 in fiscal 2025, which reflects (1) one-time information technology (IT) programming costs to update existing forms and/or develop new forms and (2) the cost of hiring one senior tax attorney beginning October 1, 2024, to assist the Comptroller’s legal division in developing guidance and regulations and managing any increase in litigation or administrative appeals resulting from the bill. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$74,764
One-time IT Programming	\$1,000,000
Other Operating Expenses	<u>7,256</u>
Total FY 2025 State Expenditures	\$1,082,020

In fiscal 2026, general fund expenditures for the Comptroller’s Office increase by an estimated \$460,400, which reflects ongoing operating expenses and the cost of hiring four revenue examiners and one field auditor to assist the Comptroller’s Office in processing and auditing fee returns. Future years reflect salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. As noted

above, beginning in fiscal 2026, the Comptroller retains a portion of fee revenue collections to cover its administrative costs.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Public Service Commission; Colorado Department of Revenue; U.S. Census Bureau; U.S. Department of Transportation; Department of Legislative Services

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