



6240 Old Dobbin Lane ■ Suite 110 ■ Columbia, MD 21045

February 28, 2020

The Honorable Anne R Kaiser
Chair, Ways & Means Committee
131 House Office Building
Annapolis, MD 21401

RE: HB 695 – Digital Advertising Gross Revenues – Taxation

OPPOSE

Dear Delegate Kaiser:

The Howard County Chamber is a 720-member organization that works to foster a healthy economic climate for businesses and enhanced quality of life for residents. We do this by advocating for policies that spur private investment and employment opportunities. One of the primary factors in job creation is creating an environment where people are able to obtain a top-notch education thereby allowing them to matriculate to quality schools of higher learning. Maryland has historically been a state known for high performing school systems and the Blueprint for Maryland's Future Fund (Blueprint) aims to further fund education in hopes of creating a brighter future for our residents. The goals for the Blueprint are ambitious and it is hard to question the outcomes sought. Questions do arise in how to pay for this initiative.

One such mechanism for funding the Blueprint is HB 695, which if enacted would allow Maryland to impose a targeted punitive tax on the gross revenue of digital advertising services. In creating this new law, Maryland would become the first state or locality in the United States to tax advertising revenue in the manner. The proposed tax contains a tiered tax rate structure (arbitrarily determined based on the advertising service provider's global annual gross revenues) that would allow for up to a monstrous tax of 10% of the annual gross revenue in the State derived from digital advertising services.

A highly educated workforce is paramount to our state's future success. Equally important is fostering an environment where business and commerce thrive. One can appreciate the goals of SB2. Unfortunately, this legislation is fraught with issues. Concerns can be categorized in two distinct areas, constitutional and implementation.

On the constitutional side, there are concerns that this legislation would violate federal law as states are prohibited from imposing "discriminatory taxes on electronic commerce." There are also concerns that this legislation discriminates against interstate and foreign commerce. HB 695 would impose the punitive digital advertising gross revenues tax only on large companies based on an arbitrary threshold of global annual gross revenues.

Constitutionality aside, there are concerns that the economic burden of this broad new tax will fall on Maryland residents and businesses that are consumers of advertising services within a digital interface—including websites and applications. This is because advertising service providers may (and most likely would) pass the tax through to their customers (including local Maryland brick and mortar businesses seeking to reach new customers online), who will be forced to pay higher prices, receive lower revenues, or find cheaper alternatives. It was noted that Maryland would be the first state to pass this form of legislation. The states of Arizona, Iowa, and Florida each passed broad advertising taxes years ago only to repeal the tax because it hurt their local economy and was impossible to administer. Since 1987, when the Florida services tax was repealed, broad advertising taxes have been considered in more than 40 states and rejected in every instance.

An advertising tax such as the tax proposed by HB 695 would create a huge new administrative burden on state government. Digital advertising is a very complex area, involving millions of ads placed across a litany of digital platforms. The Comptroller would likely need to hire new staff and engage an army of accountants and lawyers to administer and enforce the proposed new tax.

No one can question the importance of funding the Blueprint. For many Maryland students, their future depends upon more resources making their way to the classroom. Simultaneously we must fund the Blueprint in ways that do not hurt business and residents nor that places the state in a precarious situation. Legal challenges to this legislation could result in lengthy delays thereby limiting the revenue it was to create. There is widespread concern that the enactment of this law would not create a stable revenue stream to bolster Maryland education funding due to implementation challenges. For the reasons stated above, we request an “Unfavorable Vote” on HB 695.

Respectfully,

A handwritten signature in black ink that reads "Leonardo McClarty". The signature is written in a cursive, flowing style.

Leonardo McClarty, CCE
President/CEO, Howard County Chamber

CC: Howard County Chamber Board of Directors
Howard Chamber Legislative Affairs Committee