

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 994

(Senator Jones-Rodwell, *et al.*)

Budget and Taxation

Ways and Means

Sales and Use Tax - Alcoholic Beverages - Supplementary Appropriation

This bill increases the State sales and use tax rate imposed on alcoholic beverages from 6% to 9%. The bill requires a supplementary appropriation of \$15.0 million in fiscal 2012 to be used to fund a Waiting List initiative for the Developmental Disabilities Administration.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: General fund revenues increase by \$84.8 million in FY 2012 and by \$90.7 million in FY 2016. General fund expenditures for a Waiting List initiative for the Developmental Disabilities Administration increase by \$15.0 million in FY 2012. General fund expenditures increase by \$187,200 in FY 2012 for computer programming changes. The FY 2012 State budget includes \$22.5 million in funding for selected local governments, contingent on passage of this bill.

(\$ in millions)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	\$84.8	\$86.2	\$87.7	\$89.2	\$90.7
GF Expenditure	\$15.2	\$0	\$0	\$0	\$0
Net Effect	\$69.6	\$86.2	\$87.7	\$89.2	\$90.7

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: State excise tax rates for alcoholic beverages in Maryland are \$1.50 per gallon for distilled spirits, 40 cents per gallon for wine, and 9 cents per gallon for beer. The State's 6% sales tax is also imposed on the sale of alcoholic beverages.

Background: Total alcoholic beverage excise tax revenues in Maryland are estimated at \$31.2 million for fiscal 2012. Compared to other states, Maryland has relatively low excise tax rates on alcoholic beverages. The tax on distilled spirits was last increased in 1955, and the tax on beer and wine was last increased in 1972. **Appendix 1** shows alcoholic beverage tax rates for the 50 states and the District of Columbia as of January 2010. A federal excise tax on alcoholic beverages is also imposed – these rates are \$13.50 per gallon for distilled spirits, \$1.07 per gallon for wine, and \$0.58 per gallon for beer.

As noted in Appendix 1, the government directly controls the sales of distilled spirits in 18 states, including Pennsylvania, Virginia, and West Virginia. Sales of wine are controlled by the government in four states, including Pennsylvania. In these states, sales of these products are subject to a variety of taxes and fees.

The sales and use tax is the State's second largest source of general fund revenue, accounting for \$3.7 billion in fiscal 2011 and over \$4 billion in fiscal 2012.

Except for Delaware, all of Maryland's surrounding states and the District of Columbia impose a sales tax on alcoholic beverages. **Exhibit 1** shows the sales and use tax rates in each of those jurisdictions. As shown in the exhibit, in lieu of its general sales and use tax rate of 6%, the District of Columbia imposes a 9% sales tax rate for off-premises sales and a 10% sales tax rate for on-premises sales of alcoholic beverages.

Exhibit 1
Sales and Use Tax Rates in Maryland and Surrounding States

Delaware	0%
District of Columbia	6% 9% for off- premises sales of alcoholic beverages 10% for on-premises sales of alcoholic beverages
Maryland	6%
Pennsylvania	6% plus 1% or 2% in certain local jurisdictions
Virginia	5%; 2.5% for food, both rates include 1% for local jurisdictions
West Virginia	6%; 3% for food

Developmental Disabilities Administration (DDA)

A developmental disability is a condition attributable to a mental or physical impairment that results in substantial functional limitations in major life activities and which is likely to continue indefinitely. Examples include autism, blindness, cerebral palsy, deafness, epilepsy, intellectual disability, and multiple sclerosis. DDA provides direct services to these individuals in three State residential centers and through funding of a coordinated service delivery system that supports the integration of these individuals into the community. Because the majority of the individuals served are Medicaid-eligible, the State receives federal matching funds for services provided to Medicaid enrolled individuals.

The Waiting List Equity Fund (WLEF) was established to ensure that funding associated with serving individuals in a State residential center follows them to the community when they are transitioned to a community-based care setting and that any funds remaining be used to provide community-based services to individuals on the waiting list. WLEF funds may not be used to supplant funds for emergency placements or transitioning youth.

State Revenues: State sales and use tax revenues will increase by approximately \$84.8 million in fiscal 2012 and by \$90.7 million in fiscal 2016. Chapter 10 of 2008 altered the distribution of sales and use tax revenues by requiring that for fiscal 2009 through 2013, 5.3% of revenues be distributed to the Transportation Trust Fund (TTF). Beginning in fiscal 2014, the percentage of revenues distributed to TTF increases to 6.5%. The Budget Reconciliation and Financing Act of 2011 (HB 72) repeals the sales

and use tax distribution to TTF which was established by Chapter 10 of 2008. Accordingly, beginning in fiscal 2012, contingent on passage of HB 72, sales and use tax revenues will no longer be distributed to TTF.

The Comptroller's Office does not track the number of each type of alcoholic beverage unit that is sold in the State. Sales are instead tracked by the number of gallons, as that is how alcoholic beverage excise taxes are imposed at the wholesale level. In fiscal 2010, there were 100.8 million gallons of beer, 10.1 million gallons of distilled spirits, and 13.7 million gallons of wine sold in the State. As a result, the actual amount of sales and use tax revenue attributable to the retail sale of alcoholic beverages is not known. However, using data from the *2007 Economic Census*, the Comptroller's monthly sales tax collection reports for fiscal 2010, and the projected gallonage of distilled spirits, wine, and beer sold in the State, it is estimated that approximately \$197.1 million in sales tax collections will be attributable to sales of alcoholic beverages in fiscal 2012. The revenue estimates for the proposed rate increases assume that sales of distilled spirits will decrease by 8.0% from current levels and that sales of wine and beer will decrease by 3.0% from current levels when the new tax rate is fully phased in. It is estimated that revenues will increase by approximately 1.7% annually thereafter.

However, the actual amount of the increase in sales tax revenues depends on the number of alcoholic beverage units sold each year and the prices charged for alcoholic beverages, which may be higher or lower than estimated. In addition, the bill imposes the sales and use tax on alcoholic beverages on a percentage basis, while Maryland's sales and use tax is currently calculated using a bracket system that always rounds up. To the extent that prices are such that the calculation of the sales and use tax would be rounded down, this "breakage" issue will reduce estimated revenues.

State Expenditures: The bill requires a supplementary appropriation of \$15.0 million in fiscal 2012 to be used to fund a Waiting List initiative for the Developmental Disabilities Administration. As a result, general fund expenditures will increase by \$15.0 million in fiscal 2012. Priority must be given to individuals in the Crisis Prevention and Crisis Relocation categories of the Waiting List.

The Comptroller's Office will incur a one-time expenditure increase of \$187,200 in fiscal 2012 to make programming changes to its SMART system in order to accommodate the new sales and use tax rates.

The fiscal 2012 State budget includes \$22.5 million in funding for selected local governments, contingent on passage of this bill. These expenditures include \$12.2 million for the Guaranteed Tax Base Program (Baltimore City); \$8.8 million for the Disparity Grant Program (Prince George's County); and \$1.4 million to provide grants to local school systems for which total direct education aid in fiscal 2012 is less

than the amount received in fiscal 2011 by more than 6.5% (Allegany and Garrett counties). The \$8.8 million and \$1.4 million are also contingent on the passage of House Bill 72 or Senate Bill 87, the Budget Reconciliation and Financing Act of 2011.

Small Business Effect: The sales tax increase on alcoholic beverages may result in a decline in sales for all retailers and wholesalers of alcoholic beverages. Those businesses located near the State's borders may be more adversely affected as customers in those areas could cross the border into other jurisdictions to purchase alcoholic beverages.

Retailers will also incur increased programming and administrative costs associated with collecting and remitting revenues from the new sales and use tax rate. The *2007 Economic Census* indicates that there are approximately 11,000 retailers that sell alcoholic beverages in the State.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - March 22, 2011
ncs/jrb Revised - Senate Third Reader - April 6, 2011
Revised - Enrolled Bill - May 10, 2011
Revised - Clarification - June 23, 2011

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Appendix 1
Alcoholic Beverage Taxes by State
January 2010

State	Distilled Spirits¹ (\$ per Gallon)	Wine² (\$ per Gallon)	Beer³ (\$ per Gallon)
Alabama	*	\$1.70	\$0.53
Alaska	\$12.80	2.50	1.07
Arizona	3.00	.84	0.16
Arkansas	2.50	.75	0.23
California	3.30	.20	0.20
Colorado	2.28	.28	0.08
Connecticut	4.50	.60	0.19
Delaware	5.46	.97	0.16
Florida	6.50	2.25	0.48
Georgia	3.79	1.51	0.32
Hawaii	5.98	1.38	0.93
Idaho	*	.45	0.15
Illinois	8.55	1.39	0.235
Indiana	2.68	.47	0.115
Iowa	*	1.75	0.19
Kansas	2.50	.30	0.18
Kentucky	1.92	.50	0.08
Louisiana	2.50	.11	0.32
Maine	*	.60	0.35
Maryland	1.50	.40	0.09
Massachusetts	4.05	.55	0.11
Michigan	*	.51	0.20
Minnesota	5.03	.30	0.15
Mississippi	*	.35	0.43
Missouri	2.00	.30	0.06
Montana	*	1.06	0.14
Nebraska	3.75	.95	0.31
Nevada	3.60	.70	0.16
New Hampshire	*	**	0.30
New Jersey	5.50	.875	0.15
New Mexico	6.06	1.70	0.41
New York	6.44	.30	0.14
North Carolina	*	.79	0.53
North Dakota	2.50	.50	0.16
Ohio	*	.30	0.18
Oklahoma	5.56	.72	0.40
Oregon	*	.67	0.08
Pennsylvania	*	**	0.08

State	Distilled Spirits¹ (\$ per Gallon)	Wine² (\$ per Gallon)	Beer³ (\$ per Gallon)
Rhode Island	3.75	.60	0.10
South Carolina	2.72	.90	0.77
South Dakota	3.93	.93	0.27
Tennessee	4.40	1.21	0.14
Texas	2.40	.20	0.20
Utah	*	**	0.41
Vermont	*	.55	0.265
Virginia	*	1.51	0.26
Washington	*	.87	0.261
West Virginia	*	1.00	0.18
Wisconsin	3.25	.25	0.06
Wyoming	*	**	0.02
District of Columbia	1.50	.30	0.09
U.S. Median	3.75	0.67	0.19

¹22 states and the District of Columbia have different rates for products with certain percentages of alcohol and/or other sales/excise taxes.

²37 states have different rates for products with certain percentages of alcohol and/or other sales/excise taxes.

³23 states have different rates for products with certain percentages of alcohol and/or other sales/excise taxes.

*In 18 states, the government directly controls the sales of distilled spirits. Revenue in these states is generated from various taxes, fees, and net liquor sales.

**All wine sales are through state stores. Revenue in these states is generated from various taxes, fees, and net profits.

Source: Federation of Tax Administrators