

HOUSE BILL 1306

Q7

4lr3031

By: **Delegate Fair**

Introduced and read first time: February 9, 2024

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Admissions and Amusement Tax – Food and Beverages**

3 FOR the purpose of authorizing a county or a municipal corporation to impose the
4 admissions and amusement tax on certain gross receipts derived from the sale of
5 food or beverages; prohibiting the imposition of the admissions and amusement tax
6 on certain sales of food or beverages; establishing a maximum tax rate that a county
7 or a municipal corporation may set on the sale of food or beverages; providing that a
8 certain combined maximum tax rate does not include a tax rate on the sale of food or
9 beverages; and generally relating to imposing the admissions and amusement tax on
10 the sale of food or beverages.

11 BY repealing and reenacting, with amendments,
12 Article – Tax – General
13 Section 4–101, 4–102(b) and (c), 4–103(b), and 4–105(b)
14 Annotated Code of Maryland
15 (2022 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article – Tax – General
18 Section 4–105(a)
19 Annotated Code of Maryland
20 (2022 Replacement Volume and 2023 Supplement)

21 BY adding to
22 Article – Tax – General
23 Section 4–105(a–2)
24 Annotated Code of Maryland
25 (2022 Replacement Volume and 2023 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Tax – General

4–101.

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

(b) (1) “Admissions and amusement charge”, unless expressly provided otherwise, means a charge for:

(i) admission to a place, including any additional separate charge for admission within an enclosure;

(ii) use of a game of entertainment;

(iii) use of a recreational or sports facility;

(iv) use or rental of recreational or sports equipment; and

(v) merchandise, refreshments, or a service sold or served in connection with entertainment at a nightclub or room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided.

(2) “Admissions and amusement charge” does not include a charge for admission to a political fundraising event.

(C) “FOOD OR BEVERAGES” MEANS:

(1) FOOD AS DEFINED IN § 11–206 OF THIS ARTICLE;

(2) AN ALCOHOLIC BEVERAGE AS DEFINED IN § 5–101 OF THIS ARTICLE;

(3) A SOFT DRINK, CARBONATED BEVERAGE, OR BOTTLED WATER; OR

(4) CANDY OR CONFECTIONERY.

[(c)] (D) “Game of entertainment” includes, in Anne Arundel County or Calvert County, the game of instant bingo permitted under a commercial bingo license.

[(d)] (E) “Person” includes:

(1) this State or a political subdivision, unit, or instrumentality of this State;

(2) another state or a political subdivision, unit, or instrumentality of that

1 state; and

2 (3) a unit or instrumentality of a political subdivision of this State or of
3 another state.

4 [(e)] (F) “Stadium Authority” means the Maryland Stadium Authority created
5 under § 10–604 of the Economic Development Article.

6 4–102.

7 (b) A county may impose, by resolution, a tax on:

8 (1) the gross receipts derived from any admissions and amusement charge
9 in that county; [and]

10 (2) an admission in that county for a reduced charge or at no charge to a
11 place if there is a charge for other admissions to the place; **AND**

12 **(3) THE GROSS RECEIPTS DERIVED FROM THE SALE OF FOOD OR**
13 **BEVERAGES AT A PLACE WHERE THERE ARE FACILITIES FOR THE CONSUMPTION OF**
14 **FOOD OR BEVERAGES ON THE PREMISES.**

15 (c) A municipal corporation may impose, by ordinance or resolution, a tax on:

16 (1) the gross receipts derived from any admissions and amusement charge
17 in that municipal corporation; [and]

18 (2) an admission in that municipal corporation for a reduced charge or at
19 no charge to a place if there is a charge for other admissions to the place; **AND**

20 **(3) THE GROSS RECEIPTS DERIVED FROM THE SALE OF FOOD OR**
21 **BEVERAGES AT A PLACE WHERE THERE ARE FACILITIES FOR THE CONSUMPTION OF**
22 **FOOD OR BEVERAGES ON THE PREMISES.**

23 4–103.

24 (b) The admissions and amusement tax may not be imposed by a county or
25 municipal corporation on gross receipts:

26 (1) **EXCEPT AS PROVIDED IN § 4–102(B)(3) AND (C)(3) OF THIS**
27 **SUBTITLE**, derived from any charge for merchandise, refreshments, or a service sold or
28 served at a place where:

29 (i) dancing is prohibited; and

30 (ii) the only entertainment provided is mechanical music, radio, or

1 television;

2 (2) derived from any charge for admission to:

3 (i) a live boxing or wrestling match; or

4 (ii) a concert or theatrical event presented or offered by a nonprofit
5 group that:

6 1. is organized and operated to present or offer an annual
7 series of scheduled musical concerts; or

8 2. is organized and operated for a cultural purpose and
9 receives a grant directly or indirectly from the Maryland State Arts Council;

10 (3) derived from any charge for admission to or use of:

11 (i) a facility or equipment in connection with a bingo game that is
12 operated in accordance with § 13–507 of the Criminal Law Article;

13 (ii) a bowling alley or lane;

14 (iii) a charter fishing boat; or

15 (iv) a nontethered hot air balloon;

16 (4) derived from any charge for admission or for merchandise,
17 refreshments, or a service, if the gross receipts are used exclusively for:

18 (i) a charitable, educational, or religious purpose;

19 (ii) a volunteer fire company or nonprofit rescue squad;

20 (iii) a fraternal, service, or veterans' organization chartered by a
21 grant of Congress; or

22 (iv) the improvement, maintenance, or operation of an agricultural
23 fair, if no net earnings inure to the benefit of any stockholder or member of the association
24 that conducts the fair; [or]

25 (5) obtained at admission and used for the cost of prizes or as money
26 winnings distributed, as part of its operation, by a commercial bingo game in Anne Arundel
27 County; OR

28 (6) DERIVED FROM THE SALE OF:

1 **(I) AN ALCOHOLIC BEVERAGE THAT IS SOLD FOR**
2 **CONSUMPTION OFF THE PREMISES;**

3 **(II) FOOD OR BEVERAGES FOR CONSUMPTION OFF THE**
4 **PREMISES IF SOLD BY A VENDOR THAT OPERATES A SUBSTANTIAL GROCERY OR**
5 **MARKET BUSINESS AT THE SAME LOCATION WHERE THE FOOD OR BEVERAGES ARE**
6 **SOLD, REGARDLESS OF WHETHER THE SALE IS SUBJECT TO THE SALES AND USE TAX;**
7 **OR**

8 **(III) FOOD OR BEVERAGES FROM VENDING MACHINES.**

9 4–105.

10 (a) Except as otherwise provided in this section, the admissions and amusement
11 tax rate is:

12 (1) the rate that a county or municipal corporation sets, not exceeding 10%
13 of gross receipts subject to the admissions and amusement tax; or

14 (2) the rate that the Stadium Authority sets, not exceeding 8% of gross
15 receipts subject to the admissions and amusement tax.

16 **(A–2) THE TAX RATE SET BY A COUNTY OR MUNICIPAL CORPORATION ON**
17 **GROSS RECEIPTS DERIVED FROM THE SALE OF FOOD OR BEVERAGES UNDER §**
18 **4–102(B)(3) AND (C)(3) OF THIS SUBTITLE MAY NOT EXCEED 2%.**

19 (b) **(1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
20 **SUBSECTION, IF** gross receipts subject to the admissions and amusement tax are also
21 subject to the sales and use tax, a county or a municipal corporation may not set a rate so
22 that, when combined with the sales and use tax, the total tax rate will exceed 11% of the
23 gross receipts.

24 **(2) THE MAXIMUM TOTAL TAX RATE UNDER PARAGRAPH (1) OF THIS**
25 **SUBSECTION DOES NOT INCLUDE A TAX RATE SET BY A COUNTY OR MUNICIPAL**
26 **CORPORATION UNDER SUBSECTION (A–2) OF THIS SECTION.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
28 1, 2024.