

HOUSE BILL 1372

J1, Q7

4lr1855

By: **Delegate Martinez**

Introduced and read first time: February 9, 2024

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Health and Taxation – Digital Social Media Services and the Mental Health Care**
3 **Fund for Children and Youth**

4 FOR the purpose of establishing the Mental Health Care Fund for Children and Youth as
5 a special, nonlapsing fund to improve access to mental health care services to
6 children and youth in the State; imposing a tax on certain annual revenues derived
7 from certain digital social media services in the State; providing for the calculation
8 and collection of the tax; requiring the Comptroller to distribute revenue from the
9 tax in a certain manner; and generally relating to the digital social media gross
10 revenues tax and mental health care services for children and youth.

11 BY adding to
12 Article – Health – General
13 Section 10–209
14 Annotated Code of Maryland
15 (2023 Replacement Volume)

16 BY repealing and reenacting, without amendments,
17 Article – State Finance and Procurement
18 Section 6–226(a)(2)(i)
19 Annotated Code of Maryland
20 (2021 Replacement Volume and 2023 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – State Finance and Procurement
23 Section 6–226(a)(2)(ii)189. and 190.
24 Annotated Code of Maryland
25 (2021 Replacement Volume and 2023 Supplement)

26 BY adding to
27 Article – State Finance and Procurement

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 6–226(a)(2)(ii)191.
 2 Annotated Code of Maryland
 3 (2021 Replacement Volume and 2023 Supplement)

4 BY repealing and reenacting, without amendments,
 5 Article – Tax – General
 6 Section 1–101(a)
 7 Annotated Code of Maryland
 8 (2022 Replacement Volume and 2023 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – Tax – General
 11 Section 1–101(g–2), 2–102(a), 13–201(3), 13–402(a)(5) and (6), 13–602(a), 13–702(a),
 12 13–1002(b) and (c), and 13–1101(b) and (c)
 13 Annotated Code of Maryland
 14 (2022 Replacement Volume and 2023 Supplement)

15 BY adding to
 16 Article – Tax – General
 17 Section 1–101(g–2); 2–4B–01 and 2–4B–02 to be under the new subtitle “Subtitle 4B.
 18 Digital Social Media Gross Revenues Tax Distribution”; 7.7–101 through
 19 7.7–301 to be under the new title “Title 7.7. Digital Social Media Gross
 20 Revenues Tax”; and 13–402(a)(7) and 13–1001(h)
 21 Annotated Code of Maryland
 22 (2022 Replacement Volume and 2023 Supplement)

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

25 **Article – Health – General**

26 **10–209.**

27 **(A) IN THIS SECTION, “FUND” MEANS THE MENTAL HEALTH CARE FUND**
 28 **FOR CHILDREN AND YOUTH.**

29 **(B) THERE IS A MENTAL HEALTH CARE FUND FOR CHILDREN AND YOUTH.**

30 **(C) THE PURPOSE OF THE FUND IS TO IMPROVE ACCESS TO MENTAL**
 31 **HEALTH CARE SERVICES FOR CHILDREN AND YOUTH IN THE STATE.**

32 **(D) THE SECRETARY SHALL ADMINISTER THE FUND.**

33 **(E) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
 34 **SUBJECT TO § 7–302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

1 **(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**
2 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

3 **(F) THE FUND CONSISTS OF:**

4 **(1) REVENUE DISTRIBUTED TO THE FUND UNDER TITLE 2, SUBTITLE**
5 **4B OF THE TAX – GENERAL ARTICLE;**

6 **(2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

7 **(3) INTEREST EARNINGS OF THE FUND; AND**

8 **(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
9 **THE BENEFIT OF THE FUND.**

10 **(G) THE FUND MAY BE USED ONLY FOR IMPROVING ACCESS TO MENTAL**
11 **HEALTH CARE SERVICES FOR CHILDREN AND YOUTH IN THE STATE.**

12 **(H) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**
13 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

14 **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**
15 **THE FUND.**

16 **(I) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**
17 **WITH THE STATE BUDGET.**

18 **(J) MONEY EXPENDED FROM THE FUND FOR IMPROVING ACCESS TO**
19 **MENTAL HEALTH CARE FOR CHILDREN AND YOUTH IN THE STATE IS SUPPLEMENTAL**
20 **TO AND IS NOT INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE**
21 **WOULD BE APPROPRIATED FOR IMPROVING ACCESS TO MENTAL HEALTH CARE FOR**
22 **CHILDREN AND YOUTH IN THE STATE.**

23 **Article – State Finance and Procurement**

24 6–226.

25 (a) (2) (i) Notwithstanding any other provision of law, and unless
26 inconsistent with a federal law, grant agreement, or other federal requirement or with the
27 terms of a gift or settlement agreement, net interest on all State money allocated by the
28 State Treasurer under this section to special funds or accounts, and otherwise entitled to
29 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
30 Fund of the State.

1 (ii) The provisions of subparagraph (i) of this paragraph do not apply
2 to the following funds:

3 189. the Teacher Retention and Development Fund; [and]

4 190. the Protecting Against Hate Crimes Grant Fund; AND

5 **191. THE MENTAL HEALTH CARE FUND FOR CHILDREN**
6 **AND YOUTH.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
8 as follows:

9 **Article – Tax – General**

10 1–101.

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

12 **(G–2) “DIGITAL SOCIAL MEDIA GROSS REVENUES TAX” MEANS THE TAX**
13 **IMPOSED UNDER TITLE 7.7 OF THIS ARTICLE.**

14 **[(g–2)] (G–3)** (1) “Executive Director” means the Executive Director of the
15 Alcohol, Tobacco, and Cannabis Commission.

16 (2) “Executive Director” includes a deputy, an inspector, or any other
17 individual acting within the scope of the Executive Director’s authority.

18 2–102.

19 (a) In addition to the duties set forth elsewhere in this article and in other articles
20 of the Code, the Comptroller shall administer the laws that relate to:

21 (1) the admissions and amusement tax;

22 (2) the boxing and wrestling tax;

23 (3) the digital advertising gross revenues tax;

24 (4) **THE DIGITAL SOCIAL MEDIA GROSS REVENUES TAX;**

25 **(5)** the income tax;

26 **[(5)] (6)** the Maryland estate tax;

27 **[(6)] (7)** the Maryland generation–skipping transfer tax;

- 1 [(7)] (8) the motor carrier tax;
- 2 [(8)] (9) the motor fuel tax;
- 3 [(9)] (10) the sales and use tax; and
- 4 [(10)] (11) the savings and loan association franchise tax.

5 **SUBTITLE 4B. DIGITAL SOCIAL MEDIA GROSS REVENUES TAX DISTRIBUTION.**

6 **2-4B-01.**

7 FROM THE DIGITAL SOCIAL MEDIA GROSS REVENUES TAX REVENUE, THE
8 COMPTROLLER SHALL DISTRIBUTE EACH QUARTER THE AMOUNT NECESSARY TO
9 ADMINISTER THE DIGITAL SOCIAL MEDIA GROSS REVENUES TAX LAWS IN THE
10 PREVIOUS QUARTER TO AN ADMINISTRATIVE COST ACCOUNT.

11 **2-4B-02.**

12 AFTER MAKING THE DISTRIBUTION REQUIRED UNDER § 2-4B-01 OF THIS
13 SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE REMAINING DIGITAL
14 SOCIAL MEDIA GROSS REVENUES TAX REVENUE TO THE MENTAL HEALTH CARE
15 FUND FOR CHILDREN AND YOUTH ESTABLISHED UNDER § 10-209 OF THE
16 HEALTH – GENERAL ARTICLE.

17 **TITLE 7.7. DIGITAL SOCIAL MEDIA GROSS REVENUES TAX.**

18 **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS.**

19 **7.7-101.**

20 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
21 INDICATED.

22 (B) “ANNUAL GROSS REVENUES” MEANS INCOME OR REVENUE FROM ALL
23 SOURCES, BEFORE ANY EXPENSES OR TAXES, COMPUTED ACCORDING TO
24 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

25 (C) “ASSESSABLE BASE” MEANS THE ANNUAL GROSS REVENUES DERIVED
26 FROM DIGITAL SOCIAL MEDIA SERVICES IN THE STATE.

27 (D) (1) “DIGITAL SOCIAL MEDIA SERVICE” MEANS A SERVICE PROVIDED
28 TO THE PUBLIC THROUGH AN INTERNET WEBSITE OR A MOBILE APPLICATION THAT:

1 (I) INCLUDES FEATURES THAT ALLOW A USER TO SHARE
2 IMAGES, TEXT, OR VIDEO THROUGH THE INTERNET WITH OTHER USERS OF THE
3 SERVICE WHOM THE USER HAS MET, IDENTIFIED, OR BECOME AWARE OF THROUGH
4 THE USE OF THE SERVICE; AND

5 (II) HAS MORE THAN 1,000,000 MONTHLY ACTIVE USERS IN THE
6 UNITED STATES OR GENERATES MORE THAN \$500,000,000 IN ANNUAL GROSS
7 REVENUE, ADJUSTED ANNUALLY FOR INFLATION.

8 (2) "DIGITAL SOCIAL MEDIA SERVICE" DOES NOT INCLUDE A SERVICE
9 THAT IS PRIMARILY USED FOR:

10 (I) THE SALE OR PROVISION OF PROFESSIONAL SERVICES;

11 (II) THE SALE OF COMMERCIAL PRODUCTS; OR

12 (III) IF THE SERVICE DOES NOT INCLUDE THE ABILITY FOR
13 CONTENT TO BE SENT BY A USER DIRECTLY TO ANOTHER USER, THE PROVISION OF
14 NEWS OR INFORMATION.

15 (E) "USER" MEANS AN INDIVIDUAL OR ANY OTHER PERSON WHO ACCESSES
16 A DIGITAL INTERFACE WITH A DEVICE.

17 7.7-102.

18 (A) A TAX IS IMPOSED ON ANNUAL GROSS REVENUES OF A PERSON DERIVED
19 FROM DIGITAL SOCIAL MEDIA SERVICES IN THE STATE.

20 (B) (1) FOR PURPOSES OF THIS TITLE, THE PART OF THE ANNUAL GROSS
21 REVENUES OF A PERSON DERIVED FROM DIGITAL SOCIAL MEDIA SERVICES IN THE
22 STATE SHALL BE DETERMINED USING AN APPORTIONMENT FRACTION:

23 (I) THE NUMERATOR OF WHICH IS THE ANNUAL GROSS
24 REVENUES OF A PERSON DERIVED FROM DIGITAL SOCIAL MEDIA SERVICES IN THE
25 STATE; AND

26 (II) THE DENOMINATOR OF WHICH IS THE ANNUAL GROSS
27 REVENUES OF A PERSON DERIVED FROM DIGITAL SOCIAL MEDIA SERVICES IN THE
28 UNITED STATES.

29 (2) THE COMPTROLLER SHALL ADOPT REGULATIONS THAT
30 DETERMINE THE STATE FROM WHICH REVENUES FROM DIGITAL SOCIAL MEDIA

1 SERVICES ARE DERIVED.

2 7.7-103.

3 THE DIGITAL SOCIAL MEDIA GROSS REVENUES TAX RATE IS:

4 (1) 5% OF THE ASSESSABLE BASE FOR A PERSON WITH GLOBAL
5 ANNUAL GROSS REVENUES OF \$500,000,000 THROUGH \$1,000,000,000;

6 (2) 7.5% OF THE ASSESSABLE BASE FOR A PERSON WITH GLOBAL
7 ANNUAL GROSS REVENUES OF \$1,000,000,001 THROUGH \$10,000,000,000; AND

8 (3) 10% OF THE ASSESSABLE BASE FOR A PERSON WITH GLOBAL
9 ANNUAL GROSS REVENUES EXCEEDING \$10,000,000,000.

10 SUBTITLE 2. RETURNS.

11 7.7-201.

12 (A) EACH PERSON THAT, IN A CALENDAR YEAR, HAS ANNUAL GROSS
13 REVENUES DERIVED FROM DIGITAL SOCIAL MEDIA SERVICES IN THE STATE OF AT
14 LEAST \$1,000,000 SHALL COMPLETE, UNDER OATH, AND FILE WITH THE
15 COMPTROLLER A RETURN, ON OR BEFORE APRIL 15 OF THE NEXT YEAR.

16 (B) (1) EACH PERSON THAT REASONABLY EXPECTS THE PERSON'S
17 ANNUAL GROSS REVENUES DERIVED FROM DIGITAL SOCIAL MEDIA SERVICES IN THE
18 STATE TO EXCEED \$1,000,000 SHALL COMPLETE, UNDER OATH, AND FILE WITH THE
19 COMPTROLLER A DECLARATION OF ESTIMATED TAX, ON OR BEFORE APRIL 15 OF
20 THAT YEAR.

21 (2) A PERSON REQUIRED UNDER PARAGRAPH (1) OF THIS
22 SUBSECTION TO FILE A DECLARATION OF ESTIMATED TAX FOR A TAXABLE YEAR
23 SHALL COMPLETE AND FILE WITH THE COMPTROLLER A QUARTERLY ESTIMATED
24 TAX RETURN ON OR BEFORE JUNE 15, SEPTEMBER 15, AND DECEMBER 15 OF THAT
25 YEAR.

26 (C) A PERSON REQUIRED TO FILE A RETURN UNDER THIS SECTION SHALL
27 FILE WITH THE RETURN AN ATTACHMENT THAT STATES ANY INFORMATION THAT
28 THE COMPTROLLER REQUIRES TO DETERMINE ANNUAL GROSS REVENUES DERIVED
29 FROM DIGITAL SOCIAL MEDIA SERVICES IN THE STATE.

30 7.7-202.

1 (V) A DIGITAL SOCIAL MEDIA GROSS REVENUES TAX RETURN;

2 [(v)] (VI) an E-9-1-1 fee return;

3 [(vi)] (VII) a financial institution franchise tax return;

4 [(vii)] (VIII) an inheritance tax return;

5 [(viii)] (IX) a Maryland estate tax return;

6 [(ix)] (X) a motor carrier tax return;

7 [(x)] (XI) a motor fuel tax return;

8 [(xi)] (XII) an other tobacco products tax return;

9 [(xii)] (XIII) a public service company franchise tax return;

10 [(xiii)] (XIV) a sales and use tax return;

11 [(xiv)] (XV) a savings and loan association franchise tax return;

12 [(xv)] (XVI) a tire recycling fee return;

13 [(xvi)] (XVII) a tobacco tax return; or

14 [(xvii)] (XVIII) a transportation services assessment return.

15 13-402.

16 (a) If a notice and demand for a return is made under § 13-303 of this title and
17 the person or governmental unit fails to file the return, the tax collector shall:

18 (5) for public service company franchise tax:

19 (i) estimate gross receipts from the best information in the
20 possession of the tax collector; and

21 (ii) assess the tax due on the estimated gross receipts; [and]

22 (6) for digital advertising gross revenues tax:

23 (i) estimate gross revenues from the best information in possession
24 of the tax collector; and

25 (ii) assess the tax due on the estimated assessable base; AND

1 **(7) FOR DIGITAL SOCIAL MEDIA GROSS REVENUES TAX:**

2 **(I) ESTIMATE GROSS REVENUES FROM THE BEST**
3 **INFORMATION IN POSSESSION OF THE TAX COLLECTOR; AND**

4 **(II) ASSESS THE TAX DUE ON THE ESTIMATED ASSESSABLE**
5 **BASE.**

6 13-602.

7 (a) Except as provided in subsections (b) and (c) of this section, a tax collector
8 shall assess interest on unpaid tax from the due date to the date on which the tax is paid if
9 a person who is required to estimate and pay digital advertising gross revenues tax,
10 **DIGITAL SOCIAL MEDIA GROSS REVENUES TAX**, financial institution franchise tax,
11 public service company franchise tax, or income tax under § 7.5-301, **§ 7.7-301**, § 8-210(b),
12 § 8-405(b), or § 10-902 of this article:

13 (1) fails to pay an installment when due; or

14 (2) estimates a tax that is:

15 (i) less than 90% of the tax required to be shown on the return for
16 the current taxable year; and

17 (ii) less than 110% of the tax paid for the prior taxable year, reduced
18 by the credit allowed under § 10-703 of this article.

19 13-702.

20 (a) Except as provided in subsections (b) and (c) of this section, a tax collector
21 shall assess a penalty not exceeding 25% of the amount underestimated, if a person who is
22 required to estimate and pay digital advertising gross revenues tax, **DIGITAL SOCIAL**
23 **MEDIA GROSS REVENUES TAX**, financial institution franchise tax, public service company
24 franchise tax, or income tax under § 7.5-301, **§ 7.7-301**, § 8-210(b), § 8-405(b), or §
25 10-902 of this article:

26 (1) fails to pay an installment when due; or

27 (2) estimates a tax that is:

28 (i) less than 90% of the tax required to be shown on the return for
29 the current taxable year; and

30 (ii) less than 110% of the tax paid for the prior taxable year, reduced
31 by the credit allowed under § 10-703 of this article.

1 13-1001.

2 (H) A PERSON WHO IS REQUIRED TO FILE A DIGITAL SOCIAL MEDIA GROSS
3 REVENUES TAX RETURN AND WHO WILLFULLY FAILS TO FILE THE RETURN AS
4 REQUIRED UNDER TITLE 7.7 OF THIS ARTICLE IS GUILTY OF A MISDEMEANOR AND,
5 ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT
6 NOT EXCEEDING 5 YEARS OR BOTH.

7 13-1002.

8 (b) A person, including an officer of a corporation, who willfully files a false digital
9 advertising gross revenues tax return, A FALSE DIGITAL SOCIAL MEDIA GROSS
10 REVENUES TAX RETURN, a false financial institution franchise tax return, a false public
11 service company franchise tax return, or a false income tax return with the intent to evade
12 the payment of tax due under this article is guilty of perjury and, on conviction, is subject
13 to the penalty for perjury.

14 (c) Subsections (a) and (b) of this section apply to the alcoholic beverage, digital
15 advertising gross revenues, DIGITAL SOCIAL MEDIA GROSS REVENUES, financial
16 institution franchise, public service company franchise, and income taxes.

17 13-1101.

18 (b) An assessment of digital advertising gross revenues tax, DIGITAL SOCIAL
19 MEDIA GROSS REVENUES TAX, financial institution franchise tax, public service company
20 franchise tax, income tax, or estate tax may be made at any time if:

21 (1) a false return is filed with the intent to evade the tax;

22 (2) a willful attempt is made to evade the tax;

23 (3) a return is not filed as required under Title 7, Title 7.5, TITLE 7.7, Title
24 8, or Title 10 of this article;

25 (4) an amended estate tax return is not filed as required under Title 7 of
26 this article;

27 (5) an incomplete return is filed; or

28 (6) a report of federal adjustment is not filed within the period required
29 under § 13-409 of this title.

30 (c) If a report of federal adjustment is filed within the time required under §
31 13-409 of this title, the tax collector shall assess the digital advertising gross revenues tax,
32 DIGITAL SOCIAL MEDIA GROSS REVENUES TAX, financial institution franchise tax,

1 public service company franchise tax, income tax, or estate tax within 1 year after the date
2 on which the tax collector receives the report.

3 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be
4 applicable to all taxable years beginning after December 31, 2024.

5 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July
6 1, 2024.