

SENATE BILL 766

Q5, R2

2lr2087

By: **Senator Edwards**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Motor Fuel – Mass Transit Tax – Transit Funding**

3 FOR the purpose of imposing a certain additional tax on certain motor fuel in certain
4 jurisdictions; establishing the rate of the tax as a certain percentage of the sales
5 price charged by a distributor for motor fuel sold to a retail service station
6 dealer in certain jurisdictions; requiring the tax to be imposed at a certain time
7 and collected and paid in a certain manner; requiring a distributor to file a
8 motor fuel mass transit tax return at certain times; allowing a distributor to
9 deduct a certain amount of the motor fuel mass transit tax due to reimburse the
10 distributor for certain expenses; providing that certain exemptions, refunds,
11 procedures, and penalties that apply to the motor fuel tax also apply to the
12 motor fuel mass transit tax, unless certain regulations provide otherwise;
13 requiring the Comptroller to adopt regulations implementing the motor fuel
14 mass transit tax; requiring regulations adopted by the Comptroller to address
15 certain matters; requiring that motor fuel mass transit tax revenue be
16 distributed in a certain manner; creating the Mass Transit Account in the
17 Transportation Trust Fund to pay the cost of light rail and subway transit
18 facilities and transit service operated by the Maryland Transit Administration
19 in certain jurisdictions; requiring that certain motor fuel mass transit tax
20 revenue be credited to the Mass Transit Account; prohibiting the Department of
21 Transportation from budgeting more than a certain amount of certain funds in
22 the Transportation Trust Fund to pay certain transit costs; authorizing the
23 Department to budget funds in the Transportation Trust Fund to pay certain
24 transit costs in excess of a certain amount only if the excess amount is paid from
25 the Mass Transit Account; requiring persons who hold motor fuel on the date
26 that the motor fuel mass transit tax is first imposed to remit any motor fuel
27 mass transit tax that is due on the motor fuel; repealing certain obsolete
28 provisions; defining certain terms; and generally relating to imposing a motor
29 fuel mass transit tax on motor fuel and dedicating the revenue to mass transit.

30 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Tax – General
 2 Section 1–101(n–1); 2–11A–01 through 2–11A–03 to be under the new subtitle
 3 “Subtitle 11A. Motor Fuel Mass Transit Tax Distribution”; and 9–401
 4 through 9–407 to be under the new subtitle “Subtitle 4. Motor Fuel Mass
 5 Transit Tax”
 6 Annotated Code of Maryland
 7 (2010 Replacement Volume and 2011 Supplement)

8 BY repealing and reenacting, with amendments,
 9 Article – Transportation
 10 Section 3–216(c)(2)(i) and (d)(1)
 11 Annotated Code of Maryland
 12 (2008 Replacement Volume and 2011 Supplement)

13 BY repealing
 14 Article – Transportation
 15 Section 3–216(d)(3)
 16 Annotated Code of Maryland
 17 (2008 Replacement Volume and 2011 Supplement)

18 BY adding to
 19 Article – Transportation
 20 Section 3–216(d)(3) and 7–309
 21 Annotated Code of Maryland
 22 (2008 Replacement Volume and 2011 Supplement)

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

25 **Article – Tax – General**

26 1–101.

27 (N–1) **“MOTOR FUEL MASS TRANSIT TAX” MEANS THE TAX IMPOSED**
 28 **UNDER TITLE 9, SUBTITLE 4 OF THIS ARTICLE.**

29 **SUBTITLE 11A. MOTOR FUEL MASS TRANSIT TAX DISTRIBUTION.**

30 **2–11A–01.**

31 **FROM THE MOTOR FUEL MASS TRANSIT TAX REVENUE, THE**
 32 **COMPTROLLER SHALL DISTRIBUTE THE AMOUNT NECESSARY TO PAY REFUNDS**
 33 **RELATING TO THE MOTOR FUEL MASS TRANSIT TAX TO A REFUND ACCOUNT.**

34 **2–11A–02.**

1 AFTER MAKING THE DISTRIBUTION REQUIRED UNDER § 2-11A-01 OF
2 THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE AMOUNT
3 NECESSARY TO ADMINISTER THE MOTOR FUEL MASS TRANSIT TAX TO AN
4 ADMINISTRATIVE COST ACCOUNT.

5 **2-11A-03.**

6 AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2-11A-01 AND
7 2-11A-02 OF THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE THE
8 REMAINING MOTOR FUEL MASS TRANSIT TAX REVENUE TO THE MASS TRANSIT
9 ACCOUNT IN THE TRANSPORTATION TRUST FUND UNDER § 7-309 OF THE
10 TRANSPORTATION ARTICLE.

11 **SUBTITLE 4. MOTOR FUEL MASS TRANSIT TAX.**

12 **9-401.**

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
14 INDICATED.

15 (B) “DISTRIBUTOR” MEANS A PERSON WHO ENGAGES IN THE BUSINESS
16 OF SELLING MOTOR FUEL AT WHOLESALE TO RETAIL SERVICE STATION
17 DEALERS FOR RETAIL SALE IN THE STATE.

18 (C) “RETAIL SERVICE STATION DEALER” HAS THE MEANING STATED IN
19 § 10-101 OF THE BUSINESS REGULATION ARTICLE.

20 **9-402.**

21 IN ADDITION TO THE TAX IMPOSED UNDER SUBTITLE 3 OF THIS TITLE, A
22 TAX IS IMPOSED ON MOTOR FUEL THAT IS SOLD BY A DISTRIBUTOR TO A RETAIL
23 SERVICE STATION DEALER IN ANNE ARUNDEL COUNTY, BALTIMORE CITY,
24 BALTIMORE COUNTY, MONTGOMERY COUNTY, OR PRINCE GEORGE’S COUNTY.

25 **9-403.**

26 THE MOTOR FUEL MASS TRANSIT TAX RATE IS 2.1% OF THE SALES PRICE
27 CHARGED BY A DISTRIBUTOR FOR MOTOR FUEL SOLD TO A RETAIL SERVICE
28 STATION DEALER FOR RETAIL SALE IN ANNE ARUNDEL COUNTY, BALTIMORE
29 CITY, BALTIMORE COUNTY, MONTGOMERY COUNTY, OR PRINCE GEORGE’S
30 COUNTY.

31 **9-404.**

1 (A) THE MOTOR FUEL MASS TRANSIT TAX IS IMPOSED AT THE TIME OF
2 SALE OF MOTOR FUEL BY A DISTRIBUTOR TO A RETAIL SERVICE STATION
3 DEALER.

4 (B) A DISTRIBUTOR SHALL PAY THE MOTOR FUEL MASS TRANSIT TAX IN
5 ACCORDANCE WITH § 9-405 OF THIS SUBTITLE.

6 (C) A DISTRIBUTOR SHALL STATE SEPARATELY THE AMOUNT OF THE
7 MOTOR FUEL MASS TRANSIT TAX AND ADD THE AMOUNT OF THE TAX TO THE
8 SALES PRICE OF MOTOR FUEL.

9 (D) THE MOTOR FUEL MASS TRANSIT TAX IS:

10 (1) A DEBT OF A RETAIL SERVICE STATION DEALER TO THE
11 DISTRIBUTOR UNTIL PAID; AND

12 (2) RECOVERABLE AT LAW BY A DISTRIBUTOR FROM A RETAIL
13 SERVICE STATION DEALER IN THE SAME MANNER AS OTHER DEBTS.

14 **9-405.**

15 (A) A DISTRIBUTOR SHALL COMPLETE, UNDER OATH, AND FILE WITH
16 THE COMPTROLLER A MOTOR FUEL MASS TRANSIT TAX RETURN FOR EACH
17 MONTH IN WHICH THE DISTRIBUTOR SELLS MOTOR FUEL IN ANNE ARUNDEL
18 COUNTY, BALTIMORE CITY, BALTIMORE COUNTY, MONTGOMERY COUNTY, OR
19 PRINCE GEORGE'S COUNTY.

20 (B) THE MOTOR FUEL MASS TRANSIT TAX RETURN IS DUE AT THE TIME
21 A MOTOR FUEL TAX RETURN IS DUE UNDER § 9-308(A) OF THIS TITLE.

22 (C) A DISTRIBUTOR MAY DEDUCT 0.5% OF THE MOTOR FUEL MASS
23 TRANSIT TAX DUE ON A MONTHLY BASIS TO REIMBURSE THE DISTRIBUTOR FOR
24 EXPENSES INCURRED FOR THE STATE IN KEEPING RECORDS AND COLLECTING
25 THE MOTOR FUEL MASS TRANSIT TAX.

26 **9-406.**

27 EXCEPT AS OTHERWISE PROVIDED IN REGULATIONS ADOPTED BY THE
28 COMPTROLLER:

29 (1) EXEMPTIONS AND REFUNDS THAT APPLY TO THE MOTOR FUEL
30 TAX ALSO APPLY TO THE MOTOR FUEL MASS TRANSIT TAX; AND

1 **(2) PROCEDURES AND PENALTIES THAT APPLY TO THE MOTOR**
2 **FUEL TAX UNDER TITLE 13 OF THIS ARTICLE ALSO APPLY TO THE MOTOR FUEL**
3 **MASS TRANSIT TAX.**

4 **9-407.**

5 **(A) THE COMPTROLLER SHALL ADOPT REGULATIONS TO IMPLEMENT**
6 **THIS SUBTITLE.**

7 **(B) REGULATIONS ADOPTED BY THE COMPTROLLER UNDER THIS**
8 **SECTION SHALL:**

9 **(1) ESTABLISH REQUIREMENTS FOR THE MAINTENANCE OF**
10 **RECORDS BY DISTRIBUTORS AND OTHER PERSONS AS NECESSARY TO**
11 **ADMINISTER THE MOTOR FUEL MASS TRANSIT TAX AND PROVIDE FOR**
12 **INSPECTION OF THOSE RECORDS BY THE COMPTROLLER; AND**

13 **(2) PROVIDE FOR ALL ASPECTS OF THE LICENSING OF**
14 **DISTRIBUTORS, INCLUDING:**

15 **(I) QUALIFICATIONS FOR A LICENSE;**

16 **(II) THE APPLICATION PROCESS;**

17 **(III) TERM OF A LICENSE;**

18 **(IV) RIGHTS OF LICENSE HOLDERS;**

19 **(V) CANCELLATION OF A LICENSE; AND**

20 **(VI) THE PROCESS FOR APPEALING A DECISION TO DENY OR**
21 **CANCEL A LICENSE.**

22 **Article – Transportation**

23 **3-216.**

24 (c) (2) (i) The Gasoline and Motor Vehicle Revenue Account, the
25 Driver Education Account, **THE MASS TRANSIT ACCOUNT**, and the Motorcycle
26 Safety Program Account shall be maintained in the Transportation Trust Fund.

27 (d) (1) **[After] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,**
28 **AFTER** meeting its debt service requirements, the Department may use the funds in

1 the Transportation Trust Fund for any lawful purpose related to the exercise of its
2 rights, powers, duties, and obligations.

3 [(3) (i) During the period of fiscal years 1988 through 1992 as
4 included in the annual State Report on Transportation, the Department shall utilize
5 all of its share of the revenues attributable to the 5 cent increase of the motor fuel tax
6 under the provisions of Chapter 291 of the Acts of 1987 and credited to the
7 Transportation Trust Fund under § 2–1104 of the Tax – General Article and the
8 proceeds of any increased indebtedness based on that revenue and credited to the
9 Transportation Trust Fund to fund Department projects for the construction,
10 reconstruction, and rehabilitation of the State highway system.

11 (ii) During the period of fiscal year 1988 through fiscal year
12 1992 the total level of State funds appropriated to the State Highway Administration
13 for construction, reconstruction and rehabilitation of the State highway system,
14 including the revenues referred to in subparagraph (i) above, shall be at least 70
15 percent of the total appropriation of State funds in the consolidated transportation
16 capital program.

17 (iii) The Secretary of the Department shall submit, subject to §
18 2–1246 of the State Government Article, to the Legislative Policy Committee and the
19 Department of Legislative Services a report:

20 1. Prior to the beginning of each session through the
21 1991 session, detailing the intended use of the new revenues; and

22 2. Prior to the beginning of each session beginning with
23 the 1989 session and through the 1993 session, detailing the actual use of the new
24 revenues in the prior fiscal year.]

25 **(3) (I) IN THIS PARAGRAPH, “TRANSIT COSTS” MEANS THE**
26 **COST OF LIGHT RAIL AND METRO SUBWAY TRANSIT FACILITIES AND TRANSIT**
27 **SERVICE OPERATED BY THE MARYLAND TRANSIT ADMINISTRATION IN ANNE**
28 **ARUNDEL COUNTY, BALTIMORE CITY, BALTIMORE COUNTY, MONTGOMERY**
29 **COUNTY, AND PRINCE GEORGE’S COUNTY.**

30 **(II) FOR EACH FISCAL YEAR:**

31 **1. OF THE FUNDS IN THE TRANSPORTATION TRUST**
32 **FUND THAT ARE NOT CREDITED TO THE MASS TRANSIT ACCOUNT, THE**
33 **DEPARTMENT MAY NOT BUDGET AN AMOUNT TO PAY TRANSIT COSTS IN EXCESS**
34 **OF THE AMOUNT BUDGETED FOR THAT PURPOSE IN FISCAL YEAR 2012; AND**

35 **2. THE DEPARTMENT MAY BUDGET FUNDS IN THE**
36 **TRANSPORTATION TRUST FUND TO PAY TRANSIT COSTS IN EXCESS OF THE**

1 AMOUNT BUDGETED FOR THAT PURPOSE IN FISCAL YEAR 2012 ONLY IF THE
2 EXCESS AMOUNT IS PAID FROM THE MASS TRANSIT ACCOUNT.

3 **7-309.**

4 (A) THERE IS A MASS TRANSIT ACCOUNT IN THE TRANSPORTATION
5 TRUST FUND.

6 (B) THERE SHALL BE CREDITED TO THE MASS TRANSIT ACCOUNT A
7 PORTION OF MOTOR FUEL MASS TRANSIT TAX REVENUE AS PROVIDED IN §
8 2-11A-03 OF THE TAX - GENERAL ARTICLE.

9 (C) FUNDS IN THE MASS TRANSIT ACCOUNT SHALL BE USED TO PAY
10 THE COST OF LIGHT RAIL AND METRO SUBWAY TRANSIT FACILITIES AND
11 TRANSIT SERVICE OPERATED BY THE ADMINISTRATION IN ANNE ARUNDEL
12 COUNTY, BALTIMORE CITY, BALTIMORE COUNTY, MONTGOMERY COUNTY, AND
13 PRINCE GEORGE'S COUNTY.

14 SECTION 2. AND BE IT FURTHER ENACTED, That each person holding
15 motor fuel for sale at the start of business on July 1, 2012, shall compile and file an
16 inventory of the motor fuel held at the close of business on June 30, 2012, and remit
17 within 30 days any motor fuel mass transit tax that is due on the motor fuel.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2012.