

SENATE BILL 787

Q7

EMERGENCY BILL

1lr2632
CF HB 1200

By: **Senator Ferguson**

Introduced and read first time: February 5, 2021

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 19, 2021

CHAPTER _____

1 AN ACT concerning

2 **Digital Advertising Gross Revenues Tax – ~~Exemption and Restriction~~ and**
3 **Tobacco Tax – Alterations and Implementation**

4 FOR the purpose of exempting, from a certain tax on certain annual gross revenues derived
5 from certain digital advertising services in the State, certain advertisement services
6 on certain digital interfaces; prohibiting a person who derives gross revenues from
7 digital advertising services in the State from passing on the cost of the tax to a
8 certain customer in a certain manner; altering the date on which certain cigarettes
9 and other tobacco products are required to be subject to a certain tax; altering the
10 date by which certain revenue is required to be remitted to the Comptroller; altering
11 the date by which the Comptroller's Office must submit a certain report to certain
12 committees of the General Assembly; repealing a certain statement of the intent of
13 the General Assembly; altering the taxable years to which a certain tax on certain
14 annual gross revenues derived from digital advertising services in the State applies;
15 defining certain terms; ~~providing for the application of this Act;~~ making this Act
16 subject to a certain contingency; an emergency measure; and generally relating to a
17 tax on digital advertising gross revenues and the tobacco tax.

18 BY repealing and reenacting, with amendments,

19 Article – Tax – General

20 Section 7.5–101

21 Annotated Code of Maryland

22 (2016 Replacement Volume and 2020 Supplement)

23 (As enacted by Chapter ~~_____ (H.B. 732 of the 2020 Regular Session)~~ 37 of the Acts of

24 the General Assembly of 2021)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,
 2 Article – Tax – General
 3 Section 7.5–102(a)
 4 Annotated Code of Maryland
 5 (2016 Replacement Volume and 2020 Supplement)
 6 (As enacted by Chapter ~~==== (H.B. 732 of the 2020 Regular Session)~~ 37 of the Acts of
 7 the General Assembly of 2021)

8 BY adding to
 9 Article – Tax – General
 10 Section 7.5–102(c)
 11 Annotated Code of Maryland
 12 (2016 Replacement Volume and 2020 Supplement)
 13 (As enacted by Chapter ~~==== (H.B. 732 of the 2020 Regular Session)~~ 37 of the Acts of
 14 the General Assembly of 2021)

15 BY repealing and reenacting, with amendments,
 16 Chapter 37 of the Acts of the General Assembly of 2021
 17 Section 3, 4, and 6

18 BY repealing
 19 Chapter 37 of the Acts of the General Assembly of 2021
 20 Section 5

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

23 **Article – Tax – General**

24 7.5–101.

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

26 (b) “Annual gross revenues” means income or revenue from all sources, before any
 27 expenses or taxes, computed according to generally accepted accounting principles.

28 (c) “Assessable base” means the annual gross revenues derived from digital
 29 advertising services in the State.

30 **(D) “BROADCAST ENTITY” MEANS AN ENTITY THAT IS PRIMARILY ENGAGED**
 31 **IN THE BUSINESS OF OPERATING A BROADCAST TELEVISION OR RADIO STATION.**

32 **[(d)] (E) (1)** “Digital advertising services” includes advertisement services on
 33 a digital interface, including advertisements in the form of banner advertising, search
 34 engine advertising, interstitial advertising, and other comparable advertising services.

1 **(2) “DIGITAL ADVERTISING SERVICES” DOES NOT INCLUDE**
2 **ADVERTISEMENT SERVICES ON DIGITAL INTERFACES OWNED OR OPERATED BY OR**
3 **OPERATED ON BEHALF OF A BROADCAST ENTITY OR NEWS MEDIA ENTITY.**

4 **[(e)] (F)** “Digital interface” means any type of software, including a website, part
5 of a website, or application, that a user is able to access.

6 **(G) (1) “NEWS MEDIA ENTITY” MEANS AN ENTITY ENGAGED PRIMARILY**
7 **IN THE BUSINESS OF NEWSGATHERING, REPORTING, OR PUBLISHING ARTICLES OR**
8 **COMMENTARY ABOUT NEWS, CURRENT EVENTS, CULTURE, OR OTHER MATTERS OF**
9 **PUBLIC INTEREST.**

10 **(2) “NEWS MEDIA ENTITY” DOES NOT INCLUDE AN ENTITY THAT IS**
11 **PRIMARILY AN AGGREGATOR OR REPUBLISHER OF THIRD-PARTY CONTENT.**

12 **[(f)] (H)** “User” means an individual or any other person who accesses a digital
13 interface with a device.

14 7.5–102.

15 (a) A tax is imposed on annual gross revenues of a person derived from digital
16 advertising services in the State.

17 **(C) A PERSON WHO DERIVES GROSS REVENUES FROM DIGITAL**
18 **ADVERTISING SERVICES IN THE STATE MAY NOT DIRECTLY PASS ON THE COST OF**
19 **THE TAX IMPOSED UNDER THIS SECTION TO A CUSTOMER WHO PURCHASES THE**
20 **DIGITAL ADVERTISING SERVICES BY MEANS OF A SEPARATE FEE, SURCHARGE, OR**
21 **LINE-ITEM.**

22 Chapter 37 of the Acts of 2021

23 SECTION 3. AND BE IT FURTHER ENACTED, That:

24 (1) as provided in § 12–105 of the Tax – General Article, as enacted by
25 Section 1 of this Act, all cigarettes and other tobacco products used, possessed, or held in
26 the State on or after [July 1, 2020] MARCH 14, 2021, by any person for sale or use in the
27 State shall be subject to the tax on cigarettes and other tobacco products as enacted under
28 Section 1 of this Act;

29 (2) the Comptroller may provide an alternative method of assessing and
30 collecting the additional tax; and

31 (3) the revenue attributable to this requirement shall be remitted to the
32 Comptroller no later than [September 30, 2020] JUNE 13, 2021.

1 SECTION 4. AND BE IT FURTHER ENACTED, That on or before December 31,
 2 [2020] 2021, the Comptroller's Office shall report to the Senate Budget and Taxation
 3 Committee and the House Committee on Ways and Means, in accordance with § 2-1257 of
 4 the State Government Article, on the change in consumption of cigarettes, other tobacco
 5 products, and electronic smoking devices in the State over the immediately preceding 12
 6 months.

7 [SECTION 5. AND BE IT FURTHER ENACTED, That it is the intent of the General
 8 Assembly that the Comptroller distribute, as necessary, the sales and use tax and tobacco
 9 tax collected in fiscal year 2021 under Section 1 of this Act to:

10 (1) the expenditure accounts of the appropriate units of State government
 11 to fund costs associated with the Coronavirus Disease 2019 (COVID-19); and

12 (2) the Revenue Stabilization Account established under § 7-311 of the
 13 State Finance and Procurement Article.]

14 SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be
 15 applicable to all taxable years beginning after December 31, [2020] 2021.

16 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be applicable to~~
 17 ~~all taxable years beginning after December 31, 2020.~~

18 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July~~
 19 ~~1, 2021, contingent on the taking effect of Chapter _____ (H.B. 732 of 2020 Regular Session)~~
 20 ~~of the Acts of the General Assembly of 2021, and if Chapter _____ (H.B. 732 of the 2020~~
 21 ~~Regular Session) does not become effective, this Act, with no further action required by the~~
 22 ~~General Assembly, shall be null and void.~~

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
 24 measure, is necessary for the immediate preservation of the public health or safety, has
 25 been passed by a ye and nay vote supported by three-fifths of all the members elected to
 26 each of the two Houses of the General Assembly, and shall take effect from the date it is
 27 enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.