

**DEPARTMENT OF TAXATION  
2021 Fiscal Impact Statement**

1. **Patron** Emmett W. Hanger, Jr.
3. **Committee** Senate Finance and Appropriations
4. **Title** Combined transient occupancy and food and beverage tax; technical amendments

2. **Bill Number** SB 1438  
**House of Origin:**  
  X   **Introduced**  
      **Substitute**  
      **Engrossed**
- Second House:**  
      **In Committee**  
      **Substitute**  
      **Enrolled**

**5. Summary/Purpose:**

This bill would clarify that for purposes of the combined transient occupancy and food and beverage tax that is authorized in Rappahannock and Madison Counties, the rate limit for the tax shall be the same as if the two taxes were imposed separately. The bill would also clarify that a referendum is not required as a prerequisite to the imposition of the food and beverage tax portion of the combined tax.

Under current law, Rappahannock and Madison Counties are authorized to impose a combined transient occupancy and food and beverage tax at a rate not to exceed four percent of the charge for occupancy of a room and for the sale of food and beverages. The food and beverage tax portion of the combined tax may not be imposed until approved in a local referendum. Chapters 1214 and 1263 of the 2020 Acts of Assembly eliminated the referendum requirement for the food and beverage tax generally.

If enacted during the Regular Session of the 2021 General Assembly, this bill would become effective July 1, 2021.

6. **Budget amendment necessary:** No.
7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)
8. **Fiscal implications:**

Administrative Costs

This bill would have an unknown impact on the administrative costs in Rappahannock and Madison Counties. This bill would have no impact on state administrative costs.

Revenue Impact

This bill would have an unknown impact on revenues in Rappahannock and Madison Counties to the extent that the authorization provided by the bill affects the rate of the tax imposed in those two localities. This bill would have no impact on state revenues.

**9. Specific agency or political subdivisions affected:**

Rappahannock County  
Madison County

**10. Technical amendment necessary:** No.

**11. Other comments:**

Combined Transient Occupancy and Food and Beverage Tax

In 2004, Rappahannock County was authorized to impose a combined transient occupancy tax and food and beverage tax at a rate not to exceed four percent. The law change did not alter the requirement that any food and beverage tax be approved by referendum in the locality prior to its imposition. The tax was only to be imposed on occupancy in a bed and breakfast establishment and on food and beverage in an establishment otherwise authorized to collect the food and beverage tax when the charges for occupancy and the sale of food are assessed in the aggregate.

In 2011, Madison County also gained authorization to impose a combined transient occupancy tax and food and beverage tax, subject to the same limitations and requirements as Rappahannock County.

Equalization of County Taxing Authority

Chapters 1217 and 1263 of the 2020 *Acts of Assembly* provide that, effective May 1, 2021, counties may impose a food and beverage tax not to exceed six percent without the need to hold a referendum on the issue. Prior to the new law taking effect, counties are required to hold a referendum prior to imposing the tax and the maximum rate allowable for the tax is four percent. The Acts also provide that, effective July 1, 2020, counties may impose a transient occupancy tax at a rate greater than two percent so long as any revenue from the tax imposed at a rate greater than two percent is used either for a previously permitted lawful purpose, if no such purpose was supplied by prior law, for tourism. Revenue from a transient occupancy tax greater than five percent is not restricted in its use and may be used as general fund revenues.

Proposal

This bill would clarify that for purposes of the combined transient occupancy and food and beverage tax that is authorized in Rappahannock and Madison Counties, the rate limit for the tax shall be the same as if the two taxes were imposed separately. The bill would also clarify that a referendum is not required as a prerequisite to the imposition of the food and beverage tax portion of the combined tax.

If enacted during the Regular Session of the 2021 General Assembly, this bill would become effective July 1, 2021.

## Similar Legislation

**House Bill 1939** would clarify that the term “single-serving” for purposes of local meals or food and beverage taxes has the same meaning as “serving” or “serving size” as those terms are defined in the Code of Federal Regulations.

**House Bill 2158** and **Senate Bill 1398** would impose transient occupancy and sales taxes on the entire amount paid by the transient for use or possession of the room.

cc : Secretary of Finance

Date: 1/20/2021 VB  
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