

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1306  
Ways and Means

(Delegate Fair)

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Admissions and Amusement Tax - Food and Beverages

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This bill authorizes counties and municipalities to impose a local admissions and amusement tax, of up to 2%, on the gross receipts derived from the sale of specified food or beverages at a place where there are facilities for the consumption of food or beverages on the premises. The tax may not be imposed on revenue derived from the sale of (1) alcoholic beverages sold for consumption off the premises; (2) food or beverages for consumption off the premises if sold by a vendor that operates a substantial grocery or market business at the same location where the food or beverages are sold, regardless of whether the sale is subject to the sales and use tax; or (3) food or beverages from a vending machine. The admissions and amusement tax authorized by the bill is not subject to a specified limitation when applied to items that are also subject to the State sales and use tax. **The bill takes effect July 1, 2024.**

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Fiscal Summary

**State Effect:** None.

**Local Effect:** County and municipal revenues increase by a potentially significant amount beginning in FY 2025, to the extent local jurisdictions opt to impose an admissions and amusement tax on the gross receipts of certain food and beverage sales. Based on one set of assumptions, local revenues could increase by approximately \$325 million annually. Expenditures are not affected.

**Small Business Effect:** Meaningful.

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## Analysis

**Bill Summary:** The bill defines food or beverages as (1) specified food; (2) an alcoholic beverage; (3) a soft drink, carbonated beverage, or bottled water; or (4) candy or confectionery.

Food is generally defined as food for human consumption and includes the following foods and their products: (1) beverages, including coffee, coffee substitutes, cocoa, fruit juices, and tea; (2) condiments; (3) eggs; (4) fish, meat, and poultry; (5) fruit, grain, and vegetables; (6) milk, including ice cream; and (7) sugar. Food does not include: (1) an alcoholic beverage; (2) a soft drink or carbonated beverage; or (3) candy or confectionery.

**Current Law:** Counties and municipalities are authorized to tax the gross receipts derived from the following:

- the charge for admission to any place furnishing a performance such as a movie theater or sports stadium;
- the use or rental of sporting or recreational facilities;
- the merchandise, refreshments, or services sold or served in connection with entertainment at a nightclub or a room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided;
- use of a game of entertainment; and
- use or rental of recreational or sports equipment.

Counties and municipalities may also impose a tax on admission for a reduced charge or at no charge to a place that otherwise charges admission. An admissions and amusement tax may not be imposed in a municipality by a county if the municipality already imposes a similar tax or specifically exempts any gross receipts from the admissions and amusement tax.

### *Maryland Stadium Authority*

The Maryland Stadium Authority (MSA) is authorized to impose a tax on the gross receipts derived from any admissions and amusement charge for a facility owned or leased by the stadium authority. The stadium authority also may impose an additional tax for each person provided with a free admission or an admission at a reduced charge to a stadium authority facility. The stadium authority began collecting these taxes in 1992, when the Baltimore Orioles professional baseball club began playing at Camden Yards. Currently, these taxes are imposed at both stadiums at Camden Yards (Orioles Park at Camden Yards and the M&T Bank Stadium for the Baltimore Ravens professional football team).

### *Tax Rate Setting Authority*

Each unit of local government sets its own single tax rate or range of rates. This rate is expressed as a percentage of gross receipts, up to a maximum rate of 10%. MSA may impose an admissions and amusement tax at its facilities of up to 8%.

In those instances where gross receipts are subject to both a local and a stadium authority admissions and amusement tax, the stadium authority tax takes precedence. The stadium authority imposes the maximum 8% rate at both stadiums at Camden Yards. Therefore, Baltimore City may only impose a maximum 2% admissions and amusement tax on those receipts.

The local admissions and amusement tax is further limited by the State sales and use tax. The maximum tax rate on the gross receipts subject to both the State sales and use tax and the local admissions and amusement tax may not exceed 11%. Therefore, if the 6% State sales and use tax applies to these receipts, the local admissions and amusement tax may not exceed 5%. This limitation on the local tax arises primarily on performances accompanied by some type of food service (*e.g.*, dinner theaters).

Counties, municipalities, and the stadium authority are authorized to classify different types of activities, and the rate of tax need not be the same for each type. If a municipal government does not levy a tax, the county tax, if any, applies within the municipality. All counties (with the exception of Caroline and Frederick counties), Baltimore City, and most municipalities impose an admissions and amusement tax.

### *Exemptions*

The following are exempt from the admissions and amusement tax in all counties and municipalities:

- merchandise, refreshments, or a service sold or served at places where dancing is prohibited and the only entertainment is mechanical music, radio, or television;
- merchandise, refreshments, or a service from which the gross receipts are used exclusively for a charitable, religious, or educational purpose; a volunteer fire company or nonprofit rescue squad; or a fraternal, service, or veterans' organization;
- merchandise, refreshments, or a service from which the gross receipts are used exclusively for improvement, maintenance, or operation of an agricultural fair if no net earnings inure to the benefit of any stockholder or member of the association that conducts the fair;

- concerts and theatrical events of nonprofit groups organized to present annual series of musical concerts and nonprofit cultural organizations that receive direct appropriations of State funds through the Maryland State Arts Council;
- admission to live boxing or wrestling matches;
- the use of bowling alleys; and
- admission to, or use of, charter fishing boats; and sports wagering.

Counties are estimated to collect approximately \$46.3 million in admissions and amusement taxes in fiscal 2024. Additional information on local admissions and amusement tax rates and revenues can be found in the [County Revenue Outlook Report – Fiscal 2024](#). A copy of the report is available on the Department of Legislative Services [website](#).

**Local Fiscal Effect:** County and municipal revenues increase by a potentially significant amount beginning in fiscal 2025, to the extent local jurisdictions opt to impose an admissions and amusement tax on the gross receipts of certain food and beverage sales.

As a point of reference, the Comptroller’s Office collected approximately \$1 billion in State sales and use tax revenues from the following sales and use tax categories in fiscal 2022: (1) restaurants, lunchrooms, and delicatessens without a beer/wine/liquor license; (2) hotels, and motels, selling food with a beer/wine/liquor license; and (3) restaurants and nightclubs with a beer/wine/liquor license. Assuming a maximum 2% admissions and amusement tax rate imposed on all items subject to the State sales and use tax, local revenues could increase by approximately \$325 million annually.

The potential revenue increase could be particularly beneficial to municipalities since a sizeable portion of the revenue yield from the additional admissions and amusement tax would be paid by nonmunicipal residents (*i.e.*, county residents who live outside the municipal boundaries or visitors to the municipality). For example, Baltimore City advises that city revenues could increase by between \$23 million and \$46 million annually, depending on the rate set by the city government. The estimate is based on sales tax collections from the city for food and drink items.

**Small Business Effect:** Small businesses that sell food and beverages will be subject to higher taxes to the extent they are imposed by local jurisdictions. However, it is possible that any increase in costs due to the increased tax will be passed on to consumers. The National Restaurant Association reports that in 2022, there were 11,313 eating and drinking establishments in Maryland, with an estimated \$16.3 billion in sales. There were approximately 240,300 food service and restaurant jobs in the State.

## Additional Information

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Baltimore City; Montgomery and Worcester counties; Maryland Municipal League; Comptroller's Office; Department of Legislative Services

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