

**DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement**

1. Patron Edward T. Scott

2. Bill Number HB 1451

3. Committee Passed by House and Senate

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. Title Combined Transient Occupancy and Food
and Beverage Tax; Madison County

Second House:

☐ In Committee

☐ Substitute

☒ Enrolled

5. Summary/Purpose:

This bill would authorize Madison County to levy a combined transient occupancy and food and beverage tax on the aggregate charges for rooms and meals in bed and breakfast establishments when such charges are not separately stated. Under the terms of the bill, Madison County would be authorized to impose the tax at a maximum rate of four percent of the total amount charged for the occupancy of the room and for the food and beverages. Madison County would only be permitted to levy this tax if a food and beverage tax has been approved in a referendum within the county.

Under current law, Rappahannock County is the only county that is authorized to levy a combined transient occupancy and food and beverage tax on the aggregate charges for rooms and meals in bed and breakfast establishments, provided the requirements set forth above are met.

The effective date of this bill is not specified.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Preliminary. (See Line 8.)

8. Fiscal implications:

This bill would have no impact on state revenues.

This bill applies only to Madison County. Currently, Madison County imposes a 4% food and beverage tax. The county is also authorized to impose a 2% transient occupancy tax, but has not chosen to do so. The provisions of this bill depend on Madison County adopting a transient occupancy tax. The provisions of this bill would apply only in those cases when a bed and breakfast establishment combines the charges for transient accommodations and meals. As it is not known whether Madison County would enact this tax, the local revenue impact is unknown.

9. Specific agency or political subdivisions affected:

Madison County

10. Technical amendment necessary: No.

11. Other comments:

Transient Occupancy Tax

Under current law, any county may impose a transient occupancy tax at a maximum rate of two percent, upon the adoption of an ordinance, on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. The tax, however, does not apply to rooms rented on a continuous basis by the same individual or group for 30 or more continuous days. The tax applies to rooms intended or suitable for dwelling and sleeping. Therefore, the tax does not apply to such rooms used for alternative purposes, such as banquet rooms and meeting rooms.

Only those counties with specific statutory authority may impose an additional tax or a tax in excess of 2 percent.

Local Food and Beverage Tax

Under current law, every county is authorized to levy a tax on food and beverages sold for human consumption at a maximum rate of four percent of the amount charged for such food and beverages. The tax may not be levied on food and beverages sold through vending machines, by nonprofit cafeterias in public schools, by nursing homes, and by hospitals. The tax does apply to prepared foods ready for human consumption sold at grocery stores and convenience stores.

In order for a locality to impose the tax, it must be approved in a referendum within the county and must be initiated either by a resolution of the board of supervisors or on the filing of a petition signed by a number of registered voters of the county equal in number to 10 percent of the number of voters registered in the county, as appropriate on January 1 of the year in which the petition is filed with the court of such county. If the board of supervisors' resolution or the petition states the purposes for which revenues collected from the tax are to be used, then the question on the ballot for the referendum must include language stating these purposes.

The Counties of Arlington, Frederick, Montgomery, Roanoke, and Rockbridge are currently authorized to levy a tax on food and beverages sold for human consumption without approval in a referendum. In order to be exempt from the referendum requirement, the governing body of these localities must hold a public hearing before adopting a local food and beverage tax and must, by unanimous vote, adopt the tax by local ordinance.

Rappahannock County, Combined Transient and Food and Beverage Tax

Prior to 1999, if both the transient occupancy tax and the local food and beverage tax were imposed by any county, hotels and other businesses that provided transient accommodations were required to charge and collect the transient occupancy tax. Restaurants and other businesses selling meals were required to charge and collect the food and beverage tax. Businesses which provided both transient accommodations and meals were required to separately state the taxable charges for accommodations and separately state the taxable charges for meals.

In 1999, legislation was enacted that authorized Rappahannock County to permit bed and breakfast establishments that provide both transient accommodations and food and beverages to combine charges for rooms and meals and to apply the transient occupancy and food and beverage taxes to that combined charge at a rate not exceeding four percent.

Proposal

This bill would treat Madison County in the same manner as Rappahannock County by authorizing Madison County to permit bed and breakfast establishments providing both transient accommodations and food and beverages to combine charges for rooms and meals and to apply the transient occupancy and food and beverage taxes to that combined charge at a rate not exceeding four percent.

The effective date of this bill is not specified.

Similar Bills

House Bill 1452 would add the counties of Accomack, Brunswick, Madison and Washington to the list of localities that are currently authorized to impose a transient occupancy tax at a maximum rate of five percent. Revenues from the portion of the tax in excess of two percent would be required to be used solely for tourism or marketing of tourism.

Senate Bill 980 would extend the sunset date for the additional transient occupancy tax in Arlington County from January 1, 2012 to January 1, 2015.

Senate Bill 984 would add Brunswick County and Washington County to the list of localities that are currently authorized to impose a transient occupancy tax at a maximum rate of five percent. Revenues from the portion of the tax in excess of two percent would be required to be used solely for tourism or marketing of tourism.

cc : Secretary of Finance

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