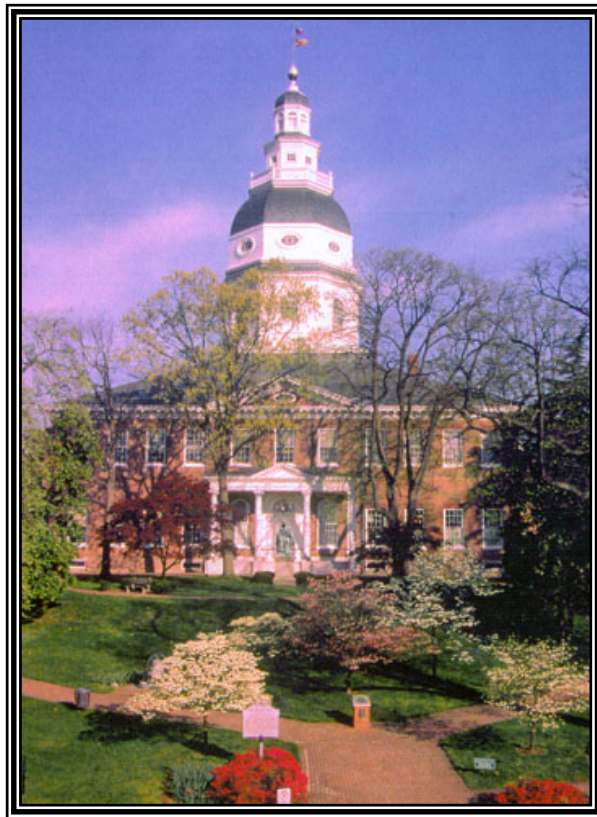


# 2011 LEGISLATIVE STATUS REPORT

## MARYLAND/DELAWARE

### INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION



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## 2011 LEGISLATIVE OVERVIEW

Maryland concluded its 428<sup>th</sup> General Assembly session at midnight on April 11, 2011. This session started January 12, 2011 and was the beginning of Governor O'Malley's second term after defeating Governor Robert Ehrlich in their rematch from four years ago. This was an unusual year because it was a slow start and a sudden ending. The November general election also brought about a large turnover in the General Assembly with 40 new legislators; 10 Senators and 30 Delegates, participating in their first legislative session. Maryland was largely unaffected by the Republican tide that swept the nation in November as the Senate gained 2 Democrats while the House gained 6 Republicans. Though it was a first session for many of the legislators, they were not in the least bashful. In fact, there were 1,355 House Bills and 11 House Joint Resolutions, and 998 Senate Bills and 6 Senate Joint Resolutions filed for a total of 2,370 bills and resolutions. Of this total, 707 passed (319 from the Senate, 388 from the House of Delegates and one Joint Resolution) and are on their way to the Governor for action.

As with the most recent sessions, this one started with officials looking on how to handle the \$1.6 billion budget gap without having the benefit of any federal stimulus funding as in years past. The Spending Affordability Committee met in December and recommended the Governor reduce the deficit by one-third. As enacted by the General Assembly, the \$34.1 billion State operating budget contains reductions of \$616 million, including \$319.8 million in reductions that are contingent upon the enactment of HB 72, the Budget Reconciliation and Financing Act of 2011 (BRFA). The General Assembly reduced the State's general fund by \$77.7 million, in addition to the Governor's proposal. As enacted, the budget and the BRFA together reduce the State's structural deficit by 42%. The legislature balanced the budget. The business community was concerned with the legislature possibly imposing tax increases on corporate profits, services, millionaires, gasoline and/or alcohol. Although the budget was balanced with no tax increases, there were numerous fees that doubled including recording documents in real estate transactions, obtaining birth certificates, vehicle titles and personalized license plates to name a few. On the last night of the session, Maryland's majority democratic assembly passed a 50% increase in Maryland's alcohol tax. The alcohol tax was highly debated and pushed through on the last day of the session. The Senate and House agreed to raise the sales tax on all alcoholic beverages from 6% to 9% starting July 1, 2011.

There were a few major issues and initiatives that weren't decided until the last days of the session in addition to the alcohol tax including requiring the State to build off-shore wind turbines to generate electricity, medical marijuana and in state tuition for undocumented students.

The Association followed 93 bills and eventually narrowed this number to 11 bills. These 11 consisted of Sunday sales, document fees, temporary tags, insurance, negligence and illegal immigrants.

**Other gubernatorial and legislative initiatives, which were highly debated and generated considerable attention, included:** a bill to implement combined reporting (*failed*); increase the gas tax (*failed*); direct shipment of wine to consumers (*passed*); banning roxarsone that contains traces of arsenic in chicken feed (*failed*); taking your dog to a restaurant (*passed*); taking your own bottle

of wine to a restaurant (*failed*); banning BPA from infant formula containers by 2014 (*passed*); legislation banning drilling for natural gas (*failed*); cut fees and taxes for Rocky Gap resort to entice a casino operator (*passed*); recognizing same sex marriages (*failed*); making it illegal to read a text message while driving (*passed*); making talking on a cell phone while driving a primary offense (*failed*); instating a Maryland health exchange to rate health policies based on price and quality (*passed*); barring employers from checking credit histories when hiring (*passed*); limiting housing developments that utilize septic systems (*failed*); extending the “millionaires tax”, a tax bracket for state residents with more than \$1 million in annual income (*failed*); collective bargaining rights for home health care providers (*passed*); mandating certain drunk driving offenders to install ignition interlock systems (*passed*); mandated recycling program for bars and restaurants (*failed*); giving homeowners better notice of the foreclosure process (*passed*); enact an alternative minimum assessment structured as a gross receipts tax (*failed*); subjected 29 tax credits to automatic termination every five years unless reenacted by the General Assembly (*failed*); Invest Maryland legislation that will stimulate job growth and economic development by allowing the State to borrow up to \$100 million from future tax receipts to generate around \$70 million to \$75 million in venture capital to invest in emerging Maryland technology companies (*passed*); increasing Maryland’s minimum wage to nearly \$10 an hour by 2013 and indexed it to the consumer price index beginning in 2014 (*failed*); mandating that employers pay employees their normal compensation, less any government per diem, when employees are called to jury duty (*failed*); legislation that would have protected transgendered individuals from discrimination in employment, housing and credit (*failed*); legislation that would have prohibited the use of class action waivers in written agreements (*failed*); expanding the definition of a Tier 1 renewable source to include waste-to-energy and refuse-derived fuel (*passed*); protect oyster sanctuaries and striped bass from poaching (*passed*); recall John Hanson statue from the National Statuary Hall and replace him with Harriet Tubman (*failed*); effort to expand the list of controlled dangerous substances to include synthetic marijuana (*failed*); banning the use of disposable, non-recyclable plastic bags and assessing consumers a five cent fee per recyclable paper and plastic bag used at grocery and convenience stores (*failed*); create a regulatory program to identify priority chemicals of high concern in children’s products based solely on hazard (*failed*); increasing the tobacco tax by \$1.00 (*failed*); cameras on school buses in order to provide evidence of passing a school bus while picking up or dropping off students (*passed*); allowing for table games at the video gaming facilities (*failed*); altering the rate of the sales and use tax from 6% to 5% (*failed*); inclusion of Garrett County in the Baltimore and Washington, D.C. television broadcast area (*failed*); requiring a specified campaign finance entity to include closed captioning for certain individuals (*failed*); labor and employment – employment standards and conditions – definition of employers (*referred to interim study*); public-private partnerships to promote broad band internet access (*failed*).

Listed below are several bills that the Association along with its Legislative Committee monitored:

***HB 319, Motor Vehicle Dealers - Issuance of Temporary Registration Plate - Lapsed Security – Registration (passed):*** authorizing a licensed motor vehicle dealer to issue a temporary registration plate to a vehicle buyer who is subject to a penalty for lapsed security for another vehicle; establishing an exception for specified vehicles to the prohibition against the Motor

Vehicle Administration issuing a new registration if the vehicle owner is subject to a penalty for lapsed security; and making a technical correction.

***Electric Vehicle Recharging Property:*** Chapter 490 of 2010 established a three-year motor vehicle excise tax credit of up to \$2,000 for the purchase of plug-in hybrid vehicles (PHEVs). House Bill 163 (passed) allows an income tax credit for 20% of the cost of qualifying PHEV recharging equipment, not to exceed the lesser of \$400 for each recharging system or the State income tax imposed in the tax year. Under the bill, the credit allowed is subject to a maximum of one recharging system for an individual and 30 recharging systems for a business entity and is subject to the issuance of tax credit certificates by the Maryland Energy Administration. The administration is authorized to award credits for tax years 2011 through 2013, totaling not more than \$400,000 for tax year 2011, \$500,000 for tax year 2012, and \$600,000 for tax year 2013.

***The Transportation Trust Fund (TTF)*** is a non-lapsing special fund that provides funding for transportation projects. It consists of tax and fee revenues, operating revenues, bond proceeds, and fund transfers. The Maryland Department of Transportation (MDOT) issues bonds backed by TTF revenues and invests the TTF fund balance to generate investment income. House Bill 72 (passed) the Budget Reconciliation and Financing Act of 2011 (BRFA), implements several modifications to statutory provisions relating to transportation revenues and policy. Transportation Trust Fund revenues are expected to increase by approximately \$63.9 million starting in fiscal 2012 due to the actions described below.

- The certificate of title fee for vehicles was increased from \$50 to \$100; however, rental car transactions are exempt from the increase for three years. Half of the revenue from the certificate of title fee is dedicated to the TTF and half will continue to be credited to the Motor Vehicle Administration (MVA) to assist in meeting its cost recovery requirement. The increase is estimated to generate approximately \$52.4 million in the first year for the TTF.
- The annual “vanity tag” fee was also increased from \$25 to \$50, which is estimated to increase TTF revenues by approximately \$2.5 million.
- The vehicle dealer processing charge was increased from \$100 to \$200 for three years and then rises to \$300 permanently, generating approximately \$5.3 million in TTF revenues beginning in fiscal 2012.
- The dealer vendor credit was lowered from the lesser of \$24 or 1.2% of the gross excise tax the dealer collects to the lesser of \$12 or 0.6%, increasing TTF revenues by approximately \$3.7 million in fiscal 2012.
- As introduced, the BRFA of 2011 would have permanently transferred the interest income from the TTF to the general fund; however, an exemption was provided for the TTF.

***Used Car Dealers in Baltimore City:*** Under current law, in Howard, Montgomery, and Prince George's counties, a new or used automobile dealer may operate on a Sunday. In Anne Arundel County, a dealer may sell or show new or used trailers, mobile homes, or motorcycles but not other motor vehicles. Motorcycle sales are also allowed on Sundays in Worcester County. ***SB 125 / HB 624*** (both passed) allow used car dealers in Baltimore City to conduct business on Sunday, instead of Saturday, if the dealer notifies the Maryland Motor Vehicle Administration in advance.

***Employer Use of Credit Reports - SB 132 / HB 87 (Chs. 28 and 29)*** limit an employer's ability to use an individual's credit report or credit history to deny employment to a job applicant, discharge an employee, or determine a job applicant's or employee's compensation or terms of employment. An employer may request, or use the credit report or credit history of a job applicant or employee, if the individual has received an offer of employment and the employer has a bona fide, job-related reason, for requesting the information. In addition, only certain positions or types of employment fall under the bona fide purposes established by the Act for requesting or using credit reports or credit histories. Certain types of employment or businesses are exempt from the Act's requirements including financial institutions, and if federal law requires credit report or credit history checks as a condition of employment for a job.

If an employer violates the provisions of the Act, the aggrieved job applicant or employee may file a written complaint with the Commissioner of Labor and Industry. If the commissioner determines that the employer has committed a violation of the Act, the commissioner must try to resolve the matter informally. If the matter cannot be resolved informally, the commissioner may assess a fine against the employer not exceeding \$500 for a first offense, or up to \$2,500 for any subsequent offenses. Upon failure of the employer to comply with the administrative procedures if a complaint was filed, the bill authorizes the commissioner or the job applicant or employee to bring an action to the circuit court where the employer or job applicant or employee is located.

***Leased Motor Vehicles - HB 908 (passed):*** prohibits a person who leases vehicles from failing to include a dealer processing or freight charge when determining the adjusted capitalized cost used to calculate the base lease payment shown in an advertisement for a leased vehicle. Under Maryland law, the "adjusted capitalized cost" serves as the basis for determining the base lease payment of a vehicle. The adjusted capitalized cost is computed by subtracting from the capitalized cost any "capitalized cost reduction" which is generally the down payment plus any trade-in value. The adjusted capitalized cost is then paid throughout the lease term to the estimated residual value of the vehicle. The bill also prohibits a person who leases vehicles from advertising to the general public a capitalized cost reduction in connection with a vehicle lease unless the capitalized cost reduction is offered to all potential lessees. Violation of the bill is an unfair and deceptive trade practice under MCPA. An individual aggrieved by a violation of the bill's provisions, however, is limited to the damage remedies available under the provisions governing consumer vehicle leasing contracts.

In closing, this session was better than most we have experienced, but let me forewarn all of our members this may be the calm before the storm. Most hurricanes hit us in the fall and this year we may get it from both sides – storms and legislation.

Legislatively, we are facing a “Special Session” (September or October) to address redistricting. It is important to note that while the legislature is in session, they can address other issues such as taxes. Word is out that “the place to go” in fixing the State’s structural deficit is to expand the sales tax to include more services. Interestingly, there is no mention of reduced spending or cost-cutting measures.

In preparing for these additional taxes, we have no reason to complain. We need members and we need them now! It is amazing the great job just a few members can do. Think how powerful we could be if we double our membership. How about a 2011 six-month pledge – one new member enrolled (membership form on website) by each current member between June and December?

In the event you require additional information you can access the MIADA Legislative Profile simply by visiting [www.legislativeservices.com/mcadlrs11.htm](http://www.legislativeservices.com/mcadlrs11.htm) which is the direct link to the profile.