

# SENATE BILL 210

Q3, R2, M3

2lr0035

(PRE-FILED)

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By: **Chair, Budget and Taxation Committee (By Request – Departmental – Transportation)**

Requested: September 30, 2021

Introduced and read first time: January 12, 2022

Assigned to: Budget and Taxation

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 8, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Tax Credits – Employer–Provided Commuter Benefits – Expansion and**  
3 **Administration**

4 FOR the purpose of expanding the types of commuter benefits for which a business entity  
5 may claim a tax credit to include a certain carpool program, telework program, active  
6 transportation program, and multimodal commuter program; requiring the  
7 Department of Transportation to administer an application process for the tax credit;  
8 limiting the total amount of tax credits that may be authorized each year; and  
9 generally relating to tax credits for employer–provided commuter benefits.

10 BY repealing and reenacting, with amendments,

11 Article – Environment

12 Section 2–901

13 Annotated Code of Maryland

14 (2013 Replacement Volume and 2021 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

16 That the Laws of Maryland read as follows:

17 **Article – Environment**

18 2–901.

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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.



(a) (1) In this section the following words have the meanings indicated.

(2) (I) “ACTIVE TRANSPORTATION” MEANS ANY SELF-PROPELLED, ~~HUMAN-POWERED~~ MODE OF TRANSPORTATION SUCH AS WALKING OR BICYCLING, BICYCLING, OR SCOOTERING.

(II) “ACTIVE TRANSPORTATION” INCLUDES:

1. BICYCLING BICYCLING ON A BICYCLE WITH AN ELECTRIC COMPONENT; AND

2. OPERATING A SCOOTER WITH AN ELECTRIC COMPONENT.

(3) “ACTIVE TRANSPORTATION SUBSIDY” MEANS THE AMOUNT PAID BY AN EMPLOYER TO AN EMPLOYEE ON A REGULAR BASIS TO COVER THE COSTS ASSOCIATED WITH ACTIVE TRANSPORTATION, INCLUDING THE COSTS ASSOCIATED WITH:

(I) BICYCLE MAINTENANCE;

(II) ~~BICYCLE~~ SHARED BICYCLE AND SCOOTER MEMBERSHIPS;

~~AND~~

(III) ~~BICYCLING AND WALKING GEAR~~ GEAR SUCH AS HELMETS, HYDRATION PACKS, BOTTLES WITH CAGES, SPARE TUBES, PATCH KITS, PUMPS, TIRE LEVERS, CYCLING MULTITOLS, BIKE SHOES AND GLOVES, SADDLE BAGS, REFLECTIVE ACCESSORIES, AND LOCKS; AND

(IV) WALKING GEAR SUCH AS REFLECTIVE ACCESSORIES AND WALKING OR RUNNING SHOES.

[(2)] (4) “Business entity” means:

(i) A person conducting or operating a trade or business in Maryland; or

(ii) An organization operating in Maryland that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code.

(5) “CARPOOL” MEANS USING A PRIVATELY OWNED OR EMPLOYER-OWNED VEHICLE TO SHARE A COMMUTE WITH TWO OR MORE INDIVIDUALS.

1           **(6) (I) “CARPOOL SUBSIDY” MEANS THE AMOUNT PAID BY AN**  
2 **EMPLOYER TO AN EMPLOYEE ON A REGULAR BASIS TO COVER THE COSTS OF**  
3 **NORMALLY OPERATING A VEHICLE USED FOR CARPOOLING, INCLUDING EMPLOYER**  
4 **PAYMENT OR REIMBURSEMENT OF:**

- 5                           **1. E-ZPASS AND TOLL FEES;**  
6                           **2. PARKING FEES; AND**  
7                           **3. OTHER COSTS ASSOCIATED WITH CARPOOLING, AS**  
8 **APPROPRIATE.**

9           **(II) “CARPOOL SUBSIDY” DOES NOT INCLUDE PAYMENT OR**  
10 **REIMBURSEMENT OF THE COST OF MAINTAINING OR PURCHASING A VEHICLE USED**  
11 **FOR CARPOOLING.**

12           **[(3)] (7) “Cash in lieu of parking program” means an employer-funded**  
13 **program under which an employer offers to provide a cash allowance to an employee in an**  
14 **amount equal to the parking subsidy that the employer would otherwise pay or incur to**  
15 **provide the employee a parking space.**

16           **[(4)] (8) “Guaranteed ride home” means immediate transportation**  
17 **provided by a business entity for an employee who:**

- 18                           (i) **Receives any of the commuter benefits described in subsection**  
19 **(b)(1) or (2) of this section or commutes by way of a nonmotorized method of transportation;**  
20 **and**  
21                           (ii) **Is required to leave work early for illness or other verifiable**  
22 **reason.**

23           **[(5)] (9) “Instrument” means a pass, token, fare card, voucher, or similar**  
24 **item.**

25           **[(6)] (10) “Parking subsidy” means:**

26                           (i) **The difference between the out-of-pocket amount paid by an**  
27 **employer on a regular basis to secure the availability of an employee parking space not**  
28 **owned by the employer and the price charged to the employee for use of that space; or**

29                           (ii) **For parking owned or leased by the employer as an integral part**  
30 **of a larger facility, the fair market value of a parking space provided by the employer for**  
31 **parking commuter vehicles, as determined:**

- 32                           1. **By considering typical costs paid or incurred by users of**  
33 **nearby equivalent paid parking spaces, by evaluating the annual amortized cost of**

1 constructing and operating the parking space divided by the number of workdays per year  
2 the space is ordinarily used; or

3 2. By other reasonable and justifiable means.

4 **(11) “TELEWORK” MEANS A FLEXIBLE WORK ARRANGEMENT UNDER**  
5 **WHICH AN EMPLOYEE PERFORMS THE DUTIES AND RESPONSIBILITIES OF THE**  
6 **EMPLOYEE’S POSITION, INCLUDING OTHER EMPLOYER–AUTHORIZED ACTIVITIES,**  
7 **FROM AN APPROVED WORKSITE DIFFERENT FROM THE LOCATION AT WHICH THE**  
8 **EMPLOYEE WOULD OTHERWISE WORK.**

9 **(12) “TELEWORK SUBSIDY” MEANS THE AMOUNT PAID BY AN**  
10 **EMPLOYER TO AN EMPLOYEE ON A REGULAR BASIS TO COVER THE COSTS**  
11 **ASSOCIATED WITH TELEWORKING, INCLUDING EMPLOYER PAYMENT OR**  
12 **REIMBURSEMENT OF:**

13 **(I) PRORATED INTERNET SERVICE COSTS;**

14 **(II) PRORATED COMPUTER EQUIPMENT COSTS;**

15 **(III) PRORATED TELEPHONE EQUIPMENT COSTS;**

16 **(IV) PRORATED SOFTWARE AND SUPPLY COSTS FOR SOFTWARE**  
17 **AND SUPPLIES NOT PROVIDED BY THE EMPLOYER BUT NECESSARY FOR THE**  
18 **EMPLOYEE TO PERFORM THE EMPLOYEE’S JOB RESPONSIBILITIES; AND**

19 **(V) MEMBERSHIP COSTS FOR CO–WORKING SPACE AND**  
20 **TELEWORK CENTERS.**

21 (b) A business entity may claim a tax credit in an amount equal to 50% of the cost  
22 of providing the following commuter benefits to the business entity’s employees:

23 (1) If provided for the purpose of travel between the employee’s residence  
24 and place of employment, any portion of the cost of transportation to or from a location in  
25 the State in a vehicle or an instrument that is used to offset any portion of the cost of  
26 transportation to or from a location in the State in a vehicle:

27 (i) With a seating capacity of at least six adult individuals; and

28 (ii) At least 80% of the annual mileage of which is incurred:

29 1. For the purpose of transporting individuals between their  
30 residences and their places of employment; and

31 2. On trips where the number of employees transported  
32 together is at least one–half of that vehicle’s adult seating capacity;

1 (2) An instrument that:

2 (i) Entitles an individual, at no additional cost or at a reduced fare,  
3 to transportation to or from a location in the State on a publicly or privately owned mass  
4 transit system other than a taxi service; or

5 (ii) Is redeemable at a transit pass sales outlet for the purpose stated  
6 in item (i) of this item; [or]

7 (3) For an employee who resides or works in the State:

8 (i) A cash in lieu of parking program; or

9 (ii) A guaranteed ride home;

10 (4) AN EMPLOYER-FUNDED CARPOOL PROGRAM UNDER WHICH AN  
11 EMPLOYER PROVIDES A CARPOOL SUBSIDY TO AN EMPLOYEE WHO MEETS THE  
12 FOLLOWING REQUIREMENTS:

13 (I) THE PURPOSE OF TRAVEL IS TO TRAVEL TO AND FROM  
14 WORK, TRAVELING BETWEEN EITHER AN EMPLOYEE'S RESIDENCE AND PLACE OF  
15 EMPLOYMENT OR A DESIGNATED MEETING PLACE, SUCH AS A PARK AND RIDE LOT,  
16 AND THE EMPLOYEE'S PLACE OF EMPLOYMENT;

17 (II) AT LEAST TWO PEOPLE ARE TRAVELING TOGETHER FOR  
18 MORE THAN 80% OF THE TRIP;

19 (III) EACH INDIVIDUAL PARTICIPATING IN THE CARPOOL  
20 PROGRAM IS REGISTERED WITH THE COMMUTER CONNECTIONS PROGRAM; AND

21 (IV) THE CARPOOLING TAKES PLACE ON A WEEKDAY BETWEEN  
22 THE HOURS OF 5:00 A.M. AND 7:00 P.M.;

23 (5) AN EMPLOYER-FUNDED TELEWORK PROGRAM UNDER WHICH AN  
24 EMPLOYER PROVIDES A TELEWORK SUBSIDY TO AN EMPLOYEE WHOSE  
25 TELEWORKING TAKES PLACE ON A WEEKDAY BETWEEN THE HOURS OF 5:00 A.M. AND  
26 7:00 P.M.;

27 (6) AN EMPLOYER-FUNDED ACTIVE TRANSPORTATION PROGRAM  
28 UNDER WHICH AN EMPLOYER PROVIDES AN ACTIVE TRANSPORTATION SUBSIDY TO  
29 AN EMPLOYEE WHO USES ACTIVE TRANSPORTATION TO OR FROM WORK ON A  
30 WEEKDAY BETWEEN THE HOURS OF 5:00 A.M. AND 7:00 P.M.; OR

1           **(7) AN EMPLOYER–FUNDED MULTIMODAL COMMUTER PROGRAM**  
2 **UNDER WHICH AN EMPLOYER PROVIDES A COMBINATION OF SUBSIDIES, PAYMENTS,**  
3 **OR REIMBURSEMENTS UNDER ITEMS (1) THROUGH (6) OF THIS SUBSECTION TO AN**  
4 **EMPLOYEE WHO:**

5           **(I) USES MULTIPLE MODES OF TRANSPORTATION TO OR FROM**  
6 **WORK ON A WEEKDAY BETWEEN THE HOURS OF 5:00 A.M. AND 7:00 P.M.; AND**

7           **(II) IF NECESSARY, USES A RIDE HAIL SERVICE FOR UP TO 5**  
8 **MILES OF A MULTIMODAL COMMUTER TRIP TO CONNECT A COMMUTER TO TRANSIT,**  
9 **CARPOOL, OR VANPOOL FOR TRAVEL TO OR FROM WORK IN THE STATE.**

10           (c) The credit allowed under this section may not exceed \$100 per individual  
11 employee per month.

12           (d) (1) The credit allowed under this section may not exceed the total tax  
13 otherwise payable by the business entity for that taxable year, determined before the  
14 application of the credit under this section but after the application of any other credit.

15           (2) The unused amount of the credit under this section for any taxable year  
16 may not be carried over to any other taxable year.

17           **(E) (1) ON APPLICATION BY A BUSINESS ENTITY, THE DEPARTMENT OF**  
18 **TRANSPORTATION SHALL ISSUE A TAX CREDIT CERTIFICATE IN THE AMOUNT**  
19 **ALLOWED UNDER SUBSECTION (B) OF THIS SECTION.**

20           **(2) FOR ANY FISCAL YEAR, THE TOTAL AMOUNT OF TAX CREDIT**  
21 **CERTIFICATES ISSUED BY THE DEPARTMENT OF TRANSPORTATION FOR THE**  
22 **CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED \$1,000,000.**

23           **(3) THE DEPARTMENT OF TRANSPORTATION SHALL APPROVE ALL**  
24 **APPLICATIONS THAT QUALIFY FOR A TAX CREDIT CERTIFICATE UNDER THIS**  
25 **SUBSECTION ON A FIRST–COME, FIRST–SERVED BASIS.**

26           **(4) THE DEPARTMENT OF TRANSPORTATION SHALL ADOPT**  
27 **REGULATIONS TO ESTABLISH AN APPLICATION PROCESS FOR THE TAX CREDIT**  
28 **ALLOWED UNDER THIS SECTION.**

29           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
30 1, 2022.