

Letter from State Law Department—H.B. 387.

May 7, 1969.

Honorable Marvin Mandel
Governor of Maryland
State House
Annapolis, Maryland 21404

Re: House Bill 387

Dear Governor Mandel:

As requested by you, we have reviewed for constitutionality House Bill 387. It is our opinion for the following reasons that this bill is in conflict with Article 15 of the Maryland Declaration of Rights and Article III, Section 29, of the Maryland Constitution and, therefore, should not be signed into law.

House Bill 387 adds new Sections 572-1 to 572-10, inclusive, to the Code of Public Local Laws of Allegany County. These sections provide generally for levying a distribution and production tax on natural gas, or other gases, taken from the earth in Allegany County. This is a county tax and all receipts gained from the imposition of this tax are to be accounted for and paid into the General Funds of Allegany County.

It is our opinion that this bill violates the equality and uniformity provisions of Article 15 of the Maryland Declaration of Rights because Section 572-1(i) creates an exemption from taxation for State purposes upon the gas, the property rights attached thereto, and all the values created thereby while like properties in other counties of the State would continue to be subject to State taxation. Section 572-1(i) provides as follows:

“During the period of expiration and the period of active production of gas, the tax hereby imposed is *in lieu of all other taxes* upon the gas, the property rights attached thereto or inherent therein, and the values created thereby, upon all leases or rights to develop and operate any lands for gas, the values created thereby and the property right attached thereto or inherent therein. After the period of active production of gas and during such times as no gas is being produced, the general property tax laws shall prevail as to all property rights and values.” (emphasis supplied)

Article 15 of the Maryland Declaration of Rights states in pertinent part that:

“. . . the General Assembly shall, by uniform rules, provide for the separate assessment, classification and subclassification of land, improvements on land and personal property, as it may deem proper; and all taxes thereafter provided to be levied by the State for the support of the general State Government, and by the Counties and by the City of Baltimore for their respective purposes, shall be uniform within each class or subclass of land, improvements on land and personal property which the respective taxing powers may have directed to be subjected to the tax levy; yet fines, duties or taxes may properly and justly be imposed, or laid with a political view for the good government and benefit of the community.”