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## SENATE BILL NO. 1038

Offered January 10, 2001

Prefiled January 10, 2001

A *BILL* to amend the Code of Virginia by adding a section numbered 58.1-3961.1, relating to padlocking businesses for failure to pay taxes.

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Patron—Stolle

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Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 58.1-3961.1 as follows:**

§ 58.1-3961.1. Authority of treasurers to padlock business enterprises.

A. The treasurer or other tax collector of any county, city, or town may place padlocks on the doors of a business enterprise if the business enterprise is (i) more than 120 days delinquent in the payment of any tax on tangible personal property, merchants' capital tax, or any business license tax or fee assessed pursuant to Chapter 37 (§ 58.1-3700 et seq.) of this title or (ii) more than sixty days delinquent in the reporting or remittance of any local excise tax collected by the business enterprise from another party (including but not limited to a consumer, customer, or patron) and held in trust for the locality. In addition, such treasurer or other tax collector may place padlocks on the doors of a business enterprise if a summons or warrant has been issued for the enterprise's failure to (i) obtain a license to engage in its business, employment or profession or (ii) report or remit any local excise tax.

B. 1. Such treasurer or other tax collector shall provide the business enterprise with notice of his intent to place padlocks on the doors of such enterprise at least seven days prior to taking such action. Such notice shall be deemed to be made when mailed by first-class mail to the business enterprise at its last known address or physically delivered at the business enterprise to any officer, director, member, or owner of the enterprise. For purposes of this subsection, "last known address" means the address shown on the most recent tax return filed by or on behalf of the business enterprise or the address provided in correspondence by or on behalf of the business enterprise indicating a change of the enterprise's address.

2. If after the expiration of such seven-day period, the business enterprise (i) has not made full payment of the delinquent tax liability or has not reported or remitted such local excise taxes, as applicable; (ii) has not posted bond as provided in subdivision 3. a., and (iii) has not made proper application for correction of such tax liability as provided in §§ 58.1-3703.1 A. 5. or 58.1-3983.1, such treasurer or other tax collector may place padlocks on the doors of the business enterprise. If notice of an intent to padlock was made due to the business enterprise's failure to obtain a business license and, after the expiration of such seven-day period, (a) such license was not obtained and (b) such enterprise neither has made proper application for correction of such tax liability as provided in §§ 58.1-3703.1 A. 5. nor has posted bond as provided in subdivision 3. a., such treasurer or other tax collector may place padlocks on the doors of the business enterprise.

3. a. Within such seven-day period, the business enterprise may post bond equaling the amount of the delinquent tax liability in lieu of payment of such tax liability. As long as such bond remains posted, padlocks shall not be placed on the doors of the business enterprise during the pendency of all appeals of such tax liability.

b. However, no such bond shall be required if the business enterprise makes an application for correction of such tax liability as provided in §§ 58.1-3703.1 A. 5. or 58.1-3983.1.

C. Padlocks shall not be placed on the doors of a business enterprise during the pendency of any application for correction of an assessment properly filed under §§ 58.1-3703.1 A. 5. or 58.1-3983.1. If the Tax Commissioner issues a final determination or order pursuant to § 58.1-3703.1 A. 5. or § 58.1-3983.1 that upholds any portion of a tax liability appealed under such sections, and any portion of such tax liability remains unpaid after sixty days following such final determination or order and the business enterprise has not appealed such final determination or order to the appropriate circuit court, such treasurer or other tax collector may place padlocks on the doors of such business enterprise after providing notice as described in subdivision B. 1. However, in lieu of making payment of such tax liability, the business enterprise may post bond as described in subdivision B. 3. a.

D. Any business enterprise aggrieved by an action authorized under this section and made by such treasurer or other tax collector may apply for injunctive and other equitable relief to the circuit court of the county or city wherein the tax assessment was made; provided, however, that this section shall not authorize a cause of action for damages arising from padlocking.

**59**     *E. For purposes of this section, the term "business enterprise" shall include but is not limited to*  
**60**     *businesses and individuals carrying on a business.*

**61**     **2. That the provisions of this act shall not create any additional rights to appeal local taxes.**