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HOUSE BILL NO. 2525

Offered January 8, 2003

Prefiled January 8, 2003

A BILL to amend and reenact §§ 15.2-1104.1, 30-19.1:3, 58.1-3, 58.1-609.10, 58.1-610, 58.1-623, 58.1-623.1, 58.1-629, 58.1-3510.1, 58.1-3510.3, and 58.1-3818, as it is currently effective and as it may become effective, of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 58.1-609.11, and to repeal §§ 30-19.05, 58.1-608.2, 58.1-609.4, 58.1-609.7, 58.1-609.8, and 58.1-609.9, of the Code of Virginia, relating to educational, medical-related, nonprofit civic and community service, nonprofit cultural, and miscellaneous sales and use tax exemptions.

Patrons—Orrock, Bloxom, Byron, Drake, Joannou, Johnson, Louderback, McDonnell, Melvin, Parrish, Ware and Watts; Senators: Bolling and Hanger

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1104.1, 30-19.1:3, 58.1-3, 58.1-609.10, 58.1-610, 58.1-623, 58.1-623.1, 58.1-629, 58.1-3510.1, 58.1-3510.3, and 58.1-3818, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 58.1-609.11 as follows:

§ 15.2-1104.1. Tax on admissions to charitable events.

A municipal corporation that generally levies an admissions tax may, by ordinance, elect not to levy an admissions tax on admission to an event, provided that the purpose of the event is solely to raise money for charitable purposes and that the net proceeds derived from the event will be transferred to an entity or entities that are exempt from sales and use tax pursuant to §§ ~~58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9, and 58.1-609.10~~ § 58.1-609.11.

§ 30-19.1:3. Limiting time for introduction and consideration of retail sales and use tax exemption bills.

A. Any bill establishing or expanding an exemption or exclusion from the retail sales and use tax pursuant to Chapter 6 (§ 58.1-600 et seq.) of Title 58.1 shall be introduced for consideration by the General Assembly no later than the first calendar day of any regular session of the General Assembly.

~~B. No bill described in subsection A of this section shall be drafted or otherwise prepared by the Division of Legislative Services until the Division has received the Department of Taxation's preliminary determination as provided by subsection A of § 30-19.05.~~

~~CB.~~ The provisions of this section shall not apply with respect to any bill delaying the effective date of any retail sales and use tax exemption.

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with a proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any person to whom tax information is divulged pursuant to § 58.1-2712.2, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;

2. Acts performed or words spoken or published in the line of duty under the law;

3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;

4. The sales price, date of construction, physical dimensions or characteristics of real property, or any information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent.

6. *Information regarding nonprofit entities exempt from sales and use tax under § 58.1-611, when requested by the General Assembly or any duly constituted committee of the General Assembly.*

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so

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58 classified as to prevent the identification of particular reports or returns and the items thereof or the
59 publication of delinquent lists showing the names of taxpayers who are currently delinquent, together
60 with any relevant information which in the opinion of the Department may assist in the collection of
61 such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing
62 whether a person, firm or corporation is licensed to do business in that locality and divulging, upon
63 written request, the name and address of any person, firm or corporation transacting business under a
64 fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue
65 is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner
66 with information obtained from local tax returns and other information pertaining to the income, sales
67 and property of any person, firm or corporation licensed to do business in that locality.

68 C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax
69 Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director
70 of finance or other similar collector of county, city or town taxes who, for the performance of his
71 official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the
72 Commissioner of the Department of Social Services, upon written request, information on the amount of
73 income reported by persons on their state income tax returns who have applied for public assistance or
74 social services benefits as defined in § 63.2-100; (iii) provide to the chief executive officer of the
75 designated student loan guarantor for the Commonwealth of Virginia, upon written request, the names
76 and home addresses of those persons identified by the designated guarantor as having delinquent loans
77 guaranteed by the designated guarantor; (iv) provide current address information upon request to state
78 agencies and institutions for their confidential use in facilitating the collection of accounts receivable,
79 and to the clerk of a circuit or district court for their confidential use in facilitating the collection of
80 fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the
81 Virginia Employment Commission, after entering into a written agreement, such tax information as may
82 be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the
83 Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may
84 be necessary to facilitate the collection of state and local taxes and the administration of the alcoholic
85 beverage control laws; (vii) provide to the Director of the State Lottery Department such tax information
86 as may be necessary to identify those lottery ticket retailers who owe delinquent taxes; (viii) provide to
87 the Department of the Treasury for its confidential use such tax information as may be necessary to
88 facilitate the location of owners of unclaimed property; (ix) provide to the State Corporation
89 Commission, upon entering into a written agreement, such tax information as may be necessary to
90 facilitate the collection of taxes and fees administered by the Commission; (x) provide to the Executive
91 Director of the Potomac and Rappahannock Transportation Commission for its confidential use such tax
92 information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax; (xi)
93 provide to the Executive Secretary of the Charitable Gaming Commission such tax information as may
94 be necessary to identify those applicants for registration as a supplier of charitable gaming supplies who
95 have not filed required returns or who owe delinquent taxes; (xii) provide to the Department of Housing
96 and Community Development for its confidential use such tax information as may be necessary to
97 facilitate the administration of the Enterprise Zone Act (§ 59.1-270 et seq.); (xiii) provide current name
98 and address information to private collectors entering into a written agreement with the Tax
99 Commissioner, for their confidential use when acting on behalf of the Commonwealth or any of its
100 political subdivisions; however, the Tax Commissioner is not authorized to provide such information to
101 a private collector who has used or disseminated in an unauthorized or prohibited manner any such
102 information previously provided to such collector; and (xiv) provide current name and address
103 information as to the identity of the wholesale or retail dealer that affixed a tax stamp to a package of
104 cigarettes to any person who manufactures or sells at retail or wholesale cigarettes and who may bring
105 an action for injunction or other equitable relief for violation of Chapter 10.1, Enforcement of Illegal
106 Sale or Distribution of Cigarettes Act. The Tax Commissioner is further authorized to enter into written
107 agreements with duly constituted tax officials of other states and of the United States for the inspection
108 of tax returns, the making of audits, and the exchange of information relating to any tax administered by
109 the Department of Taxation. Any person to whom tax information is divulged pursuant to this section
110 shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

111 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
112 commissioner of revenue or other assessing official is authorized to (i) provide, upon written request
113 stating the reason for such request, the chief executive officer of any county or city with information
114 furnished to the commissioner of revenue by the Tax Commissioner relating to the name and address of
115 any dealer located within the county or city who paid sales and use tax, for the purpose of verifying the
116 local sales and use tax revenues payable to the county or city; (ii) provide to the Department of
117 Professional and Occupational Regulation for its confidential use the name, address, and amount of gross
118 receipts of any person, firm or entity subject to a criminal investigation of an unlawful practice of a
119 profession or occupation administered by the Department of Professional and Occupational Regulation,

only after the Department of Professional and Occupational Regulation exhausts all other means of obtaining such information; and (iii) provide to any representative of a condominium unit owners' association, property owners' association or real estate cooperative association, or to the owner of property governed by any such association, the names and addresses of parties having a security interest in real property governed by any such association; however, such information shall be released only upon written request stating the reason for such request, which reason shall be limited to proposing or opposing changes to the governing documents of the association, and any information received by any person under this subsection shall be used only for the reason stated in the written request. The treasurer or other local assessing official may require any person requesting information pursuant to clause (iii) of this subsection to pay the reasonable cost of providing such information. Any person to whom tax information is divulged pursuant to this subsection shall be subject to the prohibitions and penalties prescribed herein as though he were a tax official.

Notwithstanding the provisions of subsection A or B or any other provisions of this title, the treasurer or other collector of taxes for a county, city or town is authorized to provide information relating to any motor vehicle, trailer or semitrailer obtained by such treasurer or collector in the course of performing his duties to the commissioner of the revenue or other assessing official for such jurisdiction for use by such commissioner or other official in performing assessments.

This section shall not be construed to prohibit a local tax official from imprinting or displaying on a motor vehicle local license decal the year, make, and model and any other legal identification information about the particular motor vehicle for which that local license decal is assigned.

E. Notwithstanding any other provisions of law, state agencies and any other administrative or regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon written request, the name, address, and social security number of a taxpayer, necessary for the performance of the Commissioner's official duties regarding the administration and enforcement of laws within the jurisdiction of the Department of Taxation. The receipt of information by the Tax Commissioner or his agent which may be deemed taxpayer information shall not relieve the Commissioner of the obligations under this section.

F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published any confidential tax document which he knows or has reason to know is a confidential tax document. A confidential tax document is any correspondence, document, or tax return that is prohibited from being divulged by subsection A, B, C, or D of this section or by § 59.1-282.4. This prohibition shall not apply if such confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2 misdemeanor.

§ 58.1-609.10. Miscellaneous exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

2. An occasional sale, as defined in § 58.1-602.

3. Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5. ~~Ending June 30, 2001 sales of tangible personal property to a nonsectarian youth organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and sponsoring a national or international camping assembly within this Commonwealth for seven continuous days or more with attendance in excess of 20,000, which sale of tangible personal property is for use or consumption at such camping assembly.~~

65. Tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

181 76. Tangible personal property purchased for use or consumption in the performance of maintenance
182 and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the
183 Commonwealth.

184 8. From July 1, 1995, through June 30, 2001, tangible personal property purchased for use or
185 consumption by a nonprofit organization exempt from taxation under §-501 (e) (3) of the Internal
186 Revenue Code and organized exclusively to promote efficiency and fairness in the offer and sale of
187 securities for the benefit of investors, securities issuers, and the general public, by providing for
188 electronic communication, filing, processing, dissemination and review of securities registration
189 materials, and by serving as a database for securities law information filed with regulators having
190 primary and immediate authority to administer the regulation of the commerce of securities.

191 9. From July 1, 1995, through June 30, 2001, tangible personal property purchased for use in the
192 construction of improvements which are to be used solely for affordable rental dwelling units for
193 persons who are of the age of at least 62 years, if at least part of the funds for site development and the
194 construction are provided by an organization exempt from taxation under §-501 (e) (3) of the Internal
195 Revenue Code and if the amount of funds which would otherwise have to be provided by the tax
196 exempt organization is reduced by the amount of the sales and use tax exemption. The rental units shall
197 be considered to be affordable if the rent charged meets the criteria of the Federal Low Income Housing
198 Tax Credit Program.

199 10. From July 1, 1995, through June 30, 2001, tangible personal property donated or sold for
200 distribution to individuals in the United States who have been victims of a natural disaster which has
201 been declared a disaster for federal aid purposes by the President of the United States.

202 11. From July 1, 1995, through June 30, 2001, copies of medical records purchased by an attorney or
203 his law firm for use in case preparations.

204 12. Beginning July 1, 1997, and ending July 1, 2006, tangible personal property purchased for use or
205 consumption by a nonstock, nonprofit corporation organized under the laws of the State of Delaware
206 which is exempt from taxation under §-501 (e) (3) of the Internal Revenue Code and was formed for the
207 purposes of (i) promoting the development of the private sector of the nation of Romania and (ii)
208 carrying out all other purposes and policies of, and complying with, the relevant sections of the Support
209 For East European Democracy Act of 1989 (P.L. 101-179, 22 U.S.C. §-5401 et seq.).

210 13. Beginning July 1, 1997, and ending July 1, 2006, tangible personal property purchased for use or
211 consumption by a nonprofit organization exempt from taxation under §-501 (e) (3) of the Internal
212 Revenue Code and organized exclusively to promote the social welfare and defend the human rights of
213 persons born and unborn.

214 14. From July 1, 1997, through June 30, 2001, livestock sold at auction by a chamber of commerce
215 exempt from taxation under §-501 (e) (6) of the Internal Revenue Code, provided that the proceeds of
216 such auction are distributed to contestants in a junior livestock show and sale.

217 15. Beginning July 1, 1997, and ending July 1, 2006, tangible personal property purchased for use or
218 consumption by any civic youth organization or corporation which is organized solely for the purpose of
219 promoting community little league-type baseball or softball.

220 16. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised,
221 edited, reformatted or copied documents, including but not limited to documents stored on or transmitted
222 by electronic media, to its client or to third parties in the course of the professional's rendition of
223 services to its clientele.

224 17. Beginning July 1, 1997, and ending July 1, 2006, lodging and meals for members paid by and
225 tangible personal property purchased for use or consumption by a nonprofit veterans association exempt
226 from taxation under §-501 (e) (19) of the Internal Revenue Code and which is organized to provide
227 scholarships to National Guard members and their families, extra life insurance for National Guard
228 members, and interest-free loans to National Guard members who have lost their full-time jobs, homes
229 or cars.

230 18. Beginning July 1, 1998, and ending July 1, 2006, tangible personal property purchased for use or
231 consumption by any organization which is organized solely for the purpose of operating a nonprofit
232 swim team for children ages eighteen and under.

233 19. Beginning July 1, 1998, and ending July 1, 2006, tangible personal property purchased for use or
234 consumption by a nonprofit corporation exempt from taxation under §-501 (e) (3) of the Internal
235 Revenue Code and organized exclusively to promote long-distance running as a competitive sport and
236 healthful exercise through publications, videos, races, training runs, safety workshops, clinics and
237 cooperative fitness events with local communities.

238 20. Beginning July 1, 1998, and ending July 1, 2006, tangible personal property purchased for use or
239 consumption by a nonprofit corporation organized under the laws of the Commonwealth which is
240 exempt from federal income taxation pursuant to §-501 (e) (3) of the Internal Revenue Code and is
241 organized and operated exclusively to sponsor and promote baseball programs for boys ages thirteen
242 through eighteen and to sponsor baseball tournaments from local through state levels.

21. Beginning July 1, 1998, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit organization which is exempt from federal income taxation pursuant to § 501 (c) (3) of the Internal Revenue Code and is organized exclusively to advance the moral character of and promote sportsmanship, team spirit, fair play, honesty and patriotism among youth by providing and supervising a community soccer program.

22. Beginning July 1, 1998, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively to promote the many historic, cultural and natural qualities of a unique region that was once a stage for Civil War activity and continues to be a rich resource of rural and traditional town cultures and recreational activities.

23. Beginning July 1, 1998, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal Revenue Code which is organized for the purpose of fostering economic development by working with owners or managers of small businesses to create jobs, make capital investments, and increase sales, and which receives funding from the Department of Business Assistance, the U.S. Small Business Administration, and political subdivisions of the Commonwealth.

24. Beginning July 1, 2000, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit corporation located within the boundaries of the Eighth Planning District established pursuant to § 15.2-4203, exempt from taxation under § 501 (c) (3) of the Internal Revenue Code which is organized to provide for the funding, construction and operation of a community rowing boathouse for use by public and private high schools, community rowing clubs and individuals through educational and recreational programs.

25. Beginning July 1, 2001, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to support and conduct nonpartisan research and analysis of issues concerning domestic and foreign policy of the United States and to educate the general public with respect thereto.

26. Beginning July 1, 2001, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized for the purpose of, including but not limited to (i) educating the public concerning model railroading, and (ii) promoting all facets of railroading as a hobby, especially N-scale modular model railroading.

27. Beginning July 1, 2001, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to provide educational and historical opportunities to citizens of the United States through exhibits and programs that permit individuals to visit the past and seek new discoveries.

28. Beginning July 1, 2001, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to protect the integrity of America's elections.

29. Beginning July 1, 2001, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to (i) protect the game and fish by law enforcement, (ii) to use all available means to restock forests and streams with game and fish, (iii) to promote sound principles of conservation to the public, and (iv) to use all means of developing and conserving the woods, waters and wildlife.

30. Beginning July 1, 2001, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to advocate on behalf of senior Americans at the federal and state levels and to create and circulate information and educational materials that are vital to the interest of senior citizens.

31. Beginning July 1, 2001, and ending July 1, 2006, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized to be educational and motivational by acquiring and spreading before the citizens of the United States information on the condition of the naval and maritime forces and equipment of the United States, and to awaken interest and cooperation in all matters tending to aid, improve, and develop their efficiency.

8. School lunches sold and served to pupils and employees of schools and subsidized by government; school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by students attending a nonprofit college or other institution of learning, when sold (i) by such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending

304 courses at such institution.

305 9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases,
306 and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or
307 other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed
308 free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed
309 physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and
310 fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use
311 by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his
312 professional practice, regardless of whether such practice is organized as a sole proprietorship,
313 partnership, or professional corporation, or any other type of corporation in which the shareholders and
314 operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician
315 assistants engaged in the practice of medicine, optometry, or nursing, but excluding nursing homes,
316 clinics, and similar corporations not otherwise exempt under this section; medicines and drugs
317 purchased for use or consumption by a licensed hospital; and samples of prescription drugs and
318 medicines and their packaging distributed free of charge to authorized recipients in accordance with the
319 Federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended). Any veterinarian
320 dispensing or selling medicines or drugs on prescription shall be deemed to be the user or consumer of
321 all such medicines and drugs.

322 10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances,
323 catheters, urinary accessories, other durable medical equipment and devices, and related parts and
324 supplies specifically designed for those products; and insulin and insulin syringes, and equipment,
325 devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when
326 such items or parts are purchased by or on behalf of an individual for use by such individual. Durable
327 medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily
328 used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or
329 injury, and (iv) is appropriate for use in the home.

330 11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

331 12. Special equipment installed on a motor vehicle when purchased by a handicapped person to
332 enable such person to operate the motor vehicle.

333 13. Special typewriters and computers and related parts and supplies specifically designed for those
334 products used by handicapped persons to communicate when such equipment is prescribed by a licensed
335 physician.

336 14. a. (i) any nonprescription drugs and proprietary medicines purchased for the cure, mitigation,
337 treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and
338 proprietary medicines distributed free of charge by the manufacturer, including packaging materials and
339 constituent elements and ingredients.

340 b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to
341 regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision
342 shall not apply to cosmetics.

343 15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt
344 from taxation under § 501 (c) (3) of the Internal Revenue Code or (ii) the Commonwealth, any political
345 subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

346 § 58.1-609.11. Exemptions for nonprofit entities.

347 A. Any nonprofit organization that holds a valid certificate of exemption from the Department of
348 Taxation, or any nonprofit church that holds a valid self-executing certificate of exemption, that exempts
349 it from collecting or paying state and local retail sales or use taxes as of June 30, 2003, pursuant to
350 §§ 58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9, or § 58.1-609.10, as such sections are in effect on
351 June 30, 2003, shall remain exempt from the collection or payment of such taxes under the same terms
352 and conditions as provided under such sections as such sections existed on June 30, 2003.

353 B. On and after July 1, 2004, in addition to the exemptions described in subsection A, the tax
354 imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not
355 apply to purchases made by any nonprofit entity that, pursuant to this section, (i) files an appropriate
356 application with the Department of Taxation, (ii) meets the applicable criteria, and (iii) is issued a
357 certificate of exemption from the Department of Taxation for the period of time covered by the
358 certificate.

359 C. To qualify for the exemption under subsection B, a nonprofit entity must meet the applicable
360 criteria under this subsection as follows.

361 1. a. The entity is exempt from federal income taxation (i) under § 501 (c) (3) of the Internal
362 Revenue Code or (ii) under § 501 (c) (4) of the Internal Revenue Code and, if it is exempt under § 501
363 (c) (4) of the Internal Revenue Code, it is organized for a charitable purpose; or

364 b. The entity has annual gross receipts less than \$5,000, and the entity is organized for at least one
365 of the purposes set forth in § 501 (c) (3) of the Internal Revenue Code, or one of the charitable

purposes set forth in § 501 (c) (4) of the Internal Revenue Code; and

2. The entity is in compliance with all applicable state solicitation laws, and where applicable, provides appropriate verification of such compliance; and

3. The entity's annual general administrative costs, including salaries and fundraising, relative to its annual gross revenue, under generally accepted accounting principles, is not greater than 40 percent; and

4. If the entity's gross annual revenue was \$250,000 or greater in the previous year, then the entity must provide a financial audit performed by an independent certified public accountant; and

5. If the entity filed a federal 990 or 990 EZ tax form, or the successor forms to such forms, with the Internal Revenue Service, then it must provide a copy of such form to the Department of Taxation; and

6. If the entity did not file a federal 990 or 990 EZ tax form, or the successor forms to such forms, with the Internal Revenue Service, then the entity must provide the following information:

a. A list of the Board of Directors or other responsible agents of the entity, composed of at least 2 individuals, with names and addresses where the individuals physically can be found; and

b. The location where the financial records of the entity are available for public inspection.

D. On and after July 1, 2004, in addition to the criteria set forth in subsection C, the Department of Taxation shall ask each entity for: an estimate of total taxable purchases for the next year (and where possible, for the total taxable purchases made in the preceding year); provided, however, that no information provided pursuant to this subsection (including the failure to provide requested information) shall be a basis for the Department of Taxation to refuse to exempt an entity.

E. The duration of each exemption granted by the Department of Taxation shall be no less than 5 years and no greater than 7 years. During the period of such exemption, the failure of an exempt entity to maintain compliance with the applicable criteria set forth in subsection C shall constitute grounds for revocation of the exemption by the Department. At the end of the period of such exemption, to maintain or renew the exemption, each entity must provide the Department of Taxation the same information as required upon initial exemption and meet the same criteria.

F. For purposes of this section, the Department of Taxation and the Department of Agriculture and Consumer Services shall be allowed to share information when necessary to supplement the information required.

G. The Department of Taxation shall file an annual report no later than December 1, 2004, and December 1 of each succeeding year with the Chairman of the House Finance Committee, the Chairman of the House Appropriations Committee, and the Chairman of the Senate Finance Committee, setting forth the annual fiscal impact of the sales and use tax exemptions for nonprofit entities.

§ 58.1-610. Contractors.

A. Any person who contracts orally, in writing, or by purchase order, to perform construction, reconstruction, installation, repair, or any other service with respect to real estate or fixtures thereon, and in connection therewith to furnish tangible personal property, shall be deemed to have purchased such tangible personal property for use or consumption. Any sale, distribution, or lease to or storage for such person shall be deemed a sale, distribution, or lease to or storage for the ultimate consumer and not for resale, and the dealer making the sale, distribution, or lease to or storage for such person shall be obligated to collect the tax to the extent required by this chapter.

B. Any person who contracts to perform services in this Commonwealth and is furnished tangible personal property for use under the contract by the person, or his agent or representative, for whom the contract is performed, and a sales or use tax has not been paid to this Commonwealth by the person supplying the tangible personal property, shall be deemed to be the consumer of the tangible personal property so used, and shall pay a use tax based on the fair market value of the tangible personal property so used, irrespective of whether or not any right, title or interest in the tangible personal property becomes vested in the contractor. This subsection, however, shall not apply to the industrial materials exclusion or the other industrial exclusions set out in § 58.1-609.3, including those set out in subdivisions 2, 3 and 4 thereof; the media-related exemptions set out in subdivision 2 of § 58.1-609.6; the governmental exclusions set out in subdivision 4 of § 58.1-609.1; the agricultural exclusions set forth in subdivision 1 of § 58.1-609.2; or the exclusion for baptistries set forth in former subdivision 2 of § 58.1-609.8.

C. Any person who contracts orally, in writing, or by purchase order to perform any service in the nature of equipment rental, and the principal part of that service is the furnishing of equipment or machinery which will not be under the exclusive control of the contractor, shall be liable for the sales or use tax on the gross proceeds from such contract to the same extent as the lessor of tangible personal property.

D. Tangible personal property incorporated in real property construction which loses its identity as tangible personal property shall be deemed to be tangible personal property used or consumed within the meaning of this section. Any person selling fences, venetian blinds, window shades, awnings, storm

windows and doors, locks and locking devices, floor coverings (as distinguished from the floors themselves), cabinets, kitchen equipment, window air conditioning units or other like or comparable items, shall be deemed to be a retailer of such items and not a using or consuming contractor with respect to them, whether he sells to and installs such items for contractors or other customers and whether or not such retailer fabricates such items.

E. Nothing in this section shall be construed to (i) affect or limit the resale exclusion provided for in this chapter, or the industrial materials and other industrial exclusions set out in § 58.1-609.3, the exclusion for baptistries set out in *former* subdivision 2 of § 58.1-609.8, or the partial exclusion for the sale of modular buildings as set out in § 58.1-610.1, or (ii) impose any sales or use tax with respect to the use in the performance of contracts with the United States, this Commonwealth, or any political subdivision thereof, of tangible personal property owned by a governmental body which actually is not used or consumed in the performance thereof.

F. Notwithstanding the other provisions of this section, any person engaged in the business of furnishing and installing locks and locking devices shall be deemed a retailer of such items and not a using or consuming contractor with respect to them.

§ 58.1-623. Sales or leases presumed subject to tax; exemption certificates.

A. All sales or leases are subject to the tax until the contrary is established. The burden of proving that a sale, distribution, lease, or storage of tangible personal property is not taxable is upon the dealer unless he takes from the taxpayer a certificate to the effect that the property is exempt under this chapter.

B. The certificate mentioned in this section shall relieve the person who takes such certificate from any liability for the payment or collection of the tax, except upon notice from the Tax Commissioner that such certificate is no longer acceptable. Such certificate shall be signed by and bear the name and address of the taxpayer; shall indicate the number of the certificate of registration, if any, issued to the taxpayer; shall indicate the general character of the tangible personal property sold, distributed, leased, or stored, or to be sold, distributed, leased, or stored under a blanket exemption certificate; and shall be substantially in such form as the Tax Commissioner may prescribe. If an exemption pertains to a nonprofit organization, other than a nonprofit church, that has qualified for a sales and use tax exemption under §§ 58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9 or § 58.1-609.10 § 58.1-609.11, the exemption certificate shall be valid until the scheduled expiration of the applicable provision of such section, which expiration date shall be stated on the exemption certificate or certificate of registration issued to the organization.

C. If a taxpayer who gives a certificate under this section makes any use of the property other than an exempt use or retention, demonstration, or display while holding the property for resale, distribution, or lease in the regular course of business, such use shall be deemed a taxable sale by the taxpayer as of the time the property or service is first used by him, and the cost of the property to him shall be deemed the sales price of such retail sale. If the sole use of the property other than retention, demonstration, or display in the regular course of business is the rental of the property while holding it for sale, distribution, or lease, the taxpayer may elect to pay the tax on the amount of the rental charged, rather than the cost of the property to him.

D. If a taxpayer gives a certificate under this section with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased, but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales or distributions from the mass of commingled goods shall be deemed to be sales or distributions of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold or distributed.

§ 58.1-623.1. Misuse of exemption certificates; suspension of exemptions; penalties.

A. Whenever the Tax Commissioner determines that any person has misused an exemption certificate, the Tax Commissioner, after giving such person ten days' notice in writing specifying the time and place of hearing and requiring him to show cause why the exemption should not be suspended, may suspend the exemption held by such person. The notice may be personally served or served by registered mail directed to the last known address of such person.

B. Any person who knowingly uses or gives an exemption certificate during a period of suspension of an exemption under this section shall be guilty of a Class 1 misdemeanor.

C. It shall be the duty of any person whose exemption is suspended under the provisions of this section to notify each dealer from whom purchases or leases of tangible personal property are made, of the suspension of its exemption, and of the invalidity of any exemption certificates filed with such dealers.

D. To facilitate the administration of this section, notwithstanding the provisions of § 58.1-623, the Tax Commissioner is authorized to issue exemption permits to any person who is entitled to an exemption, and to require the use of such permits in making purchases. If the Tax Commissioner issues an exemption permit to a nonprofit organization, other than a nonprofit church, that has qualified for a

sales and use tax exemption under §§ ~~58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9 or § 58.1-609.10,~~
the provisions of subsection F of § ~~30-19.05~~ shall apply with respect thereto.

ED. In lieu of the suspension of a person's exemption under subsection A of this section, the Tax Commissioner may assess a penalty of up to \$1,000 for the misuse of an exemption certificate by that person or by any other person who, with the consent or knowledge of the exemption holder, has misused the certificate. The penalty shall be assessed and collected as a part of the tax, and the person so assessed may appeal the penalty pursuant to the provisions of Article 2 (§ 58.1-1820 et seq.) of Chapter 18 of this title.

FE. In any instance in which the Tax Commissioner determines that there has been any misuse of an exemption certificate, the person holding the exemption shall be liable for the full amount of tax, and any interest thereon, applicable to any purchase improperly made with his exemption certificate.

GF. The suspension of the exemption shall require that the person pay the full amount of the tax at the time of purchase and apply for a refund of the tax so paid. No interest shall be paid on any such refund. Upon application of the person whose certificate has been suspended, the Tax Commissioner, for good cause shown, may reinstate the person's certificate; however, any such suspension period shall run for at least one year.

HG. Notwithstanding § 58.1-3, the Tax Commissioner may report any gross misuses of exemption certificates to the Secretary of Finance and the chairmen of the money committees, for their confidential use, prior to the beginning of the following session of the General Assembly.

§ 58.1-629. Sale of business.

If any dealer liable for any tax, penalty, or interest levied hereunder sells out his business or stock of goods or quits the business, he shall make a final return and payment within fifteen days after the date of selling or quitting the business. His successors or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, penalties, and interest due and unpaid until such former owner produces a receipt from the Tax Commissioner showing that they have been paid or a certificate stating that no taxes, penalties, or interest is due. If the purchaser of a business or stock of goods fails to withhold the purchase money as above provided, he shall be personally liable for the payment of the taxes, penalties, and interest due and unpaid on account of the operation of the business by any former owner. Nothing herein shall be deemed to qualify or limit the exemption as to such a sale as is covered by ~~subdivision 2 of § 58.1-609.10~~ subdivision 2 of § 58.1-609.10.

§ 58.1-3510.1. Daily rental property tax.

A. The governing body of any county, city or town may levy a tax in an amount not to exceed one percent, in addition to the tax levied pursuant to § 58.1-605, on the gross proceeds of any person engaged in the short-term rental business as defined in § 58.1-3510. "Gross proceeds" means the total amount charged to each person for the rental of daily rental property, excluding any state and local sales tax paid under the provisions of Chapter 6 (§ 58.1-600 et seq.) of this title.

B. Any person engaged in the short-term rental business as defined in § 58.1-3510 shall collect the rental tax from the lessee of the daily rental property at the time of the rental. The lessor of the daily rental property shall transmit a quarterly return to the commissioner of the revenue of the county, city or town wherein the tax is collected, indicating the gross proceeds derived from the short-term rental business. The commissioner of the revenue shall assess the tax due, and the treasurer or director of finance shall collect the daily rental property tax.

C. Notwithstanding the provisions of subsection B of this section, no tax shall be collected or assessed on (i) rentals by the Commonwealth, any political subdivision of the Commonwealth or the United States or (ii) any rental of durable medical equipment as defined in ~~subdivision 2 of § 58.1-609.7~~ subdivision 10 of § 58.1-609.10.

§ 58.1-3510.3. Exemptions; penalties.

Provisions in §§ 58.1-609.1 through ~~58.1-609.10~~ 58.1-609.11 of Chapter 6 relating to exemptions, §§ 58.1-635 and 58.1-636 relating to penalties, and § 58.1-625 relating to the manner of collecting the local retail sales and use tax applicable in Chapter 6 (§ 58.1-600 et seq.) of this title, shall apply mutatis mutandis to the daily rental property tax, except that the commissioner of revenue shall assess the tax due, and the treasurer or director of finance shall collect the daily rental property tax, instead of the Department of Taxation. Any other provision in Chapter 6 shall apply if adopted by local ordinance pursuant to § 58.1-3510.1.

§ 58.1-3818. (Contingent expiration date) Admissions tax in certain counties.

A. Fairfax, Arlington, Dinwiddie, Prince George and Brunswick Counties are hereby authorized to levy a tax on admissions charged for attendance at any event. The tax shall not exceed ten percent of the amount of charge for admission to any such event. Notwithstanding any other provisions of law, the governing bodies of such counties shall prescribe by ordinance the terms, conditions and amount of such tax and may classify between events conducted for charitable and those conducted for noncharitable purposes.

550 B. Notwithstanding the provisions of subsection A of this section, any county with a population of at
551 least 27,500 but not more than 28,250 and any county with a population of at least 10,400 but not more
552 than 10,490 as determined by the 1990 United States Census are hereby authorized to levy a tax on
553 admissions charged for attendance at any event as set forth in subsection A.

554 C. Notwithstanding the provisions of subsection A of this section, any county with a population of at
555 least 12,450 but not more than 12,850 is hereby authorized to levy a tax on admissions charged for
556 attendance at any spectator event; however, a tax shall not be levied on admissions charged to
557 participants in order to participate in any event. The tax shall not exceed ten percent of the amount of
558 charge for admission to any event. Notwithstanding any other provisions of law, the governing body of
559 such county shall prescribe by ordinance the terms, conditions and amount of such tax and may classify
560 between the events as set forth in § 58.1-3817.

561 D. Notwithstanding the provisions of subsections A, B and C of this section, any county in which a
562 major league baseball stadium, as defined in § 15.2-5800, is located is hereby authorized to levy (i) a
563 tax on admissions charged at any event at such stadium and (ii) a surcharge on admissions charged for
564 attendance at any event at such stadium if it has a seating capacity of at least 40,000 seats. The tax on
565 admissions shall not exceed ten percent. Such surcharge shall not exceed two percent of the charge for
566 admissions. Notwithstanding any other provisions of law, the governing bodies of such counties shall
567 prescribe by ordinance the terms, conditions and amounts of such tax and surcharge and may classify
568 between events conducted for charitable and those conducted for noncharitable purposes.

569 E. Notwithstanding the provisions of subsections A, B, C and D of this section, localities may, by
570 ordinance, elect not to levy an admissions tax on admission to an event, provided that the purpose of the
571 event is solely to raise money for charitable purposes and that the net proceeds derived from the event
572 will be transferred to an entity or entities that are exempt from sales and use tax pursuant to
573 §§ 58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9, and 58.1-609.10 § 58.1-609.11.

574 § 58.1-3818. (Contingent effective date) Admissions tax in certain counties.

575 A. Fairfax, Arlington, Dinwiddie, Prince George and Brunswick Counties are hereby authorized to
576 levy a tax on admissions charged for attendance at any event. The tax shall not exceed ten percent of
577 the amount of charge for admission to any such event. Notwithstanding any other provisions of law, the
578 governing bodies of such counties shall prescribe by ordinance the terms, conditions and amount of such
579 tax and may classify between events conducted for charitable and those conducted for noncharitable
580 purposes.

581 B. Notwithstanding the provisions of subsection A of this section, any county with a population of at
582 least 27,500 but not more than 28,250 and any county with a population of at least 10,400 but not more
583 than 10,490 as determined by the 1990 United States Census are hereby authorized to levy a tax on
584 admissions charged for attendance at any event as set forth in subsection A.

585 C. Notwithstanding the provisions of subsection A of this section, any county with a population of at
586 least 12,450 but not more than 12,850 is hereby authorized to levy a tax on admissions charged for
587 attendance at any spectator event; however, a tax shall not be levied on admissions charged to
588 participants in order to participate in any event. The tax shall not exceed ten percent of the amount of
589 charge for admission to any event. Notwithstanding any other provisions of law, the governing body of
590 such county shall prescribe by ordinance the terms, conditions and amount of such tax and may classify
591 between the events as set forth in § 58.1-3817.

592 D. Notwithstanding the provisions of subsections A, B and C of this section, localities may, by
593 ordinance, elect not to levy an admissions tax on admission to an event, provided that the purpose of the
594 event is solely to raise money for charitable purposes and that the net proceeds derived from the event
595 will be transferred to an entity or entities that are exempt from sales and use tax pursuant to
596 §§ 58.1-609.4, 58.1-609.7, 58.1-609.8, 58.1-609.9, and 58.1-609.10 § 58.1-609.11.

597 2. That §§ 30-19.05, 58.1-608.2, 58.1-609.4, 58.1-609.7, 58.1-609.8, and 58.1-609.9 of the Code of
598 Virginia are repealed.

599 3. That the Department of Taxation in consultation with the Virginia Coalition for Nonprofits and
600 other interested parties shall promulgate by July 1, 2004, all reasonable rules and regulations
601 necessary to carry out the provisions of this act.

602 4. That all the provisions of this act, except for the third enactment, shall become effective on July
603 1, 2004.