

DEPARTMENT OF TAXATION 2003 Fiscal Impact Statement

1. **Patron:** Joannou

3. **Committee:** Senate Finance

4. **Title:** Local Meals Tax: Penalty for
Use of Funds Collected

2. **Bill No:** HB 2089

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. Summary/Purpose:

This bill would provide that the use of funds collected by restaurants, businesses and other persons from the local food and beverage tax and the local meals tax for purposes other than remittance to the county, city or town constitutes embezzlement pursuant to Code of Virginia § 18.2-111. This statute deems embezzlement as larceny and is punishable in accordance with the larceny statute in Code of Virginia § 18.2-95.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Not Available. (See Line 8).

7. **Budget amendment necessary:** No.

8. Fiscal implications:

This bill would have no impact on state revenues. The impact on local revenues is unknown.

9. Specific agency or political subdivisions affected:

All counties, cities and towns that impose the local food and beverage tax and the local meals tax

10. **Technical amendment necessary:** No.

11. Other comments:

Under this bill, a person who makes use of funds collected from the local food and beverage tax and the local meals tax would be guilty of grand larceny if the amount embezzled is \$200 or more. This crime is punishable by imprisonment in a state facility for one to twenty years or, in the discretion of the court, confinement in jail for not more than 12 months or a fine not to exceed \$2,500, either or both. If the amount embezzled is less than \$200, the person would be guilty of petit larceny, punishable as a Class 1 misdemeanor (confinement in jail for not more than 12 months and a fine not to exceed \$2,500, either or both).

Under current law, all food and beverage tax collections and all meals tax collections are deemed held in trust for the county, city or town imposing the applicable tax. Under the general local tax enforcement provisions, any person who willfully fails to collect or truthfully account for and pay over the local food and beverage tax (and other local taxes held in trust) is guilty of a Class 1 misdemeanor.

The criminal punishment established by this bill (for embezzlement classified as grand larceny) is harsher than the punishment imposed on persons who fail to pay or collect state taxes held in trust for the Commonwealth (retail sales tax and withholding tax). A person who fails to pay these state taxes "held in trust" is guilty of a Class 1 misdemeanor.

cc: Secretary of Finance

Date: 2/4/03/VHM

Document: S:\2003leg\WorkInProgress\OTPwork\HouseBills\HB2089FE161.DOC

HB 2089 - Engrossed

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