

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 609

An Act to amend the Code of Virginia by adding a section numbered 8.01-184.1, relating to declaratory judgment to adjudicate constitutional nexus for imposition of sales and use tax.

[S 668]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-184.1 as follows:

§ 8.01-184.1. Declaratory judgment to adjudicate constitutional nexus.

A. Circuit courts shall have original jurisdiction over civil actions seeking declaratory judgment where:

1. The party seeking declaratory relief is a business that (i) is organized under the laws of the Commonwealth or a sole proprietorship owned by a Commonwealth domiciliary, or (ii) has qualified to do business in the Commonwealth; and

2. The responding party is a government official of another state, or political subdivision of another state, who asserts that the business in question is obliged to collect sales or use taxes for such state or political subdivision based upon conduct of the business that occurs wholly or partially within the Commonwealth.

B. Any business meeting the requirements and facing the circumstances described in subsection A shall be entitled to declaratory relief on the issue of whether the requirement of another state, or political subdivision of another state, that the business collect and remit sales or use taxes to that state, or political subdivision, in the factual circumstances of the business' operations giving rise to the demand, constitutes an undue burden on interstate commerce within the meaning of Article I, Section 8, Clause 3 of the United States Constitution.