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HOUSE BILL NO. 1188

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact § 58.1-609.10 of the Code of Virginia, as it shall become effective, relating to sales and use tax; Internet.

Patron—Frederick

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-609.10 of the Code of Virginia, as it shall become effective, is amended and reenacted as follows:

§ 58.1-609.10. (Effective July 1, 2004) 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. 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.

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

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

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 courses at such institution.

9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician assistants engaged in the practice of medicine, optometry, or nursing, but excluding nursing homes,

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59 clinics, and similar corporations not otherwise exempt under this section; medicines and drugs purchased
60 for use or consumption by a licensed hospital; and samples of prescription drugs and medicines and
61 their packaging distributed free of charge to authorized recipients in accordance with the federal Food,
62 Drug, and Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended). Any veterinarian dispensing or selling
63 medicines or drugs on prescription shall be deemed to be the user or consumer of all such medicines
64 and drugs.

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

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

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

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

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

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

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

89 16. *Tangible personal property or a service acquired by use of the Internet.*