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HOUSE BILL NO. 1428

Offered January 23, 2004

A BILL to amend the Code of Virginia by adding a section numbered 58.1-1001.1, relating to a nonparticipating manufacturer fee on cigarettes.

Patron—Louderback

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 58.1-1001.1 as follows:

§ 58.1-1001.1. Nonparticipating manufacturer fee.

A. As used in this section:

1. "Nonparticipating manufacturer" has the same meaning as set forth in § 3.1-336.3.

2. "Manufacturer" means "tobacco product manufacturer" as defined in § 3.1-336.1.

B. There is hereby imposed and shall be paid to the Commonwealth a fee upon each package of nonparticipating manufacturer cigarettes to which a stamp is affixed as required under § 58.1-1003. The fee is in the amount of 15 mills on each cigarette, and is in addition to all other fees and taxes now imposed by law. The Department shall collect the fee each month directly from each nonparticipating manufacturer. Except as otherwise provided in this section, the fee shall be collected, paid, administered, and enforced in the same manner as the tax on cigarettes levied by § 58.1-1001.

C. A nonparticipating manufacturer whose cigarettes are being offered for sale in the Commonwealth on the effective date of this section shall pay the fee imposed by this section within 30 days after such effective date.

If cigarettes of a nonparticipating manufacturer are not being offered for sale in the Commonwealth on the effective date of this section, then the nonparticipating manufacturer shall prepay the fee imposed by this section for the number of cigarettes of the nonparticipating manufacturer that the Department reasonably projects will be sold in the first calendar month in which cigarettes of the nonparticipating manufacturer are sold in the Commonwealth before its cigarettes may begin to be offered for sale in the Commonwealth. The prepayment amount shall be determined by multiplying 15 mills times the number of cigarettes that the Department reasonably projects that the nonparticipating manufacturer will sell in the Commonwealth in that first calendar month, or \$50,000, whichever is more.

The Department may require a nonparticipating manufacturer to provide any information reasonably necessary to determine the fee payment amount and, in the case of prepayment, shall establish regulations providing for reimbursement to nonparticipating manufacturers if actual sales are less than projected sales and for additional payment by nonparticipating manufacturers if actual sales are greater than projected sales.

D. Each person permitted to affix the state tax stamp to cigarettes shall file with the Department a report between the first and tenth of each month, stating the number and denominations of stamps affixed to individual packages of nonparticipating manufacturer cigarettes, by manufacturer and brand family, sold by the person for each place of business during the preceding month. This reporting requirement shall be enforced in the same manner as the monthly reporting requirement imposed by § 58.1-1008.

E. Cigarettes of a nonparticipating manufacturer that has not paid the fee imposed by this section shall be treated as cigarettes of a nonparticipating manufacturer that has not provided the certification required by § 3.1-336.4. In addition, a person shall not affix to any package of nonparticipating manufacturer cigarettes the stamp required under § 58.1-1003 after receiving notice from the Department that the nonparticipating manufacturer of those cigarettes has not paid in full the fee imposed by this section. Any person affixing stamps in violation of this subsection shall be subject to the penalties provided in § 58.1-1013 for failing to affix stamps.

2. That the provisions of this act shall be effective on January 1, 2005.

INTRODUCED

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