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HOUSE BILL NO. 412
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE
Proposed by Delegate Hull
on January 28, 2004)
(Patron Prior to Substitute—Delegate Welch)

A BILL to amend and reenact § 58.1-3840 of the Code of Virginia, relating to the local taxes on meals and transient room rentals.

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3840 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3840. Certain excise taxes permitted.

A. The provisions of Chapter 6 (§ 58.1-600 et seq.) of this title to the contrary notwithstanding, any city or town having general taxing powers established by charter pursuant to or consistent with the provisions of § 15.2-1104*, and, not withstanding the provisions of § 58.1-3830 et seq. and § 58.1-3833, any county* may impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds, provided that no such taxes may be imposed on food and beverages sold through vending machines or on any 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. In addition, as set forth in § 51.5-98, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and located on property acquired and used by the United States for any military or naval purpose shall be required to collect and remit meals taxes.

B. Notwithstanding any other provision of this section, no *county,* city or town shall levy any tax under this section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

C. Any *county,* city or town that is authorized to levy a tax on admissions may levy the tax on admissions paid for any event held at facilities that are not owned by the *county,* city or town at a lower rate than the rate levied on admissions paid for any event held at its city- or town-owned civic centers, stadiums and amphitheatres

D. Notwithstanding any other provision of this section, beginning January 1, 2004, no county, city or town shall levy any new tax under this section upon meals, or increase the rate of any such tax already so levied, unless such tax or tax rate increase is first approved by a referendum in the county, city or town which shall be held in accordance with § 24.2-684 and initiated either by a resolution of the county board of suprevisors or city or town council or on the filing of a petition signed by a number of registered voters of the city or town equal in number to 10 percent of the number of voters registered in the county, city or town, on January 1 of the year in which the petition is filed with the court of such county, city or town. The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the county, city or town once a week for three consecutive weeks prior to the election. If the voters affirm the levy of a local meals tax, the tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe. If such resolution of the county board of suprevisors or city or town council or such petition states for what projects and/or purposes the revenues collected from the tax are to be used, then the question on the ballot for the referendum shall include language stating for what projects and/or purposes the revenues collected from the tax are to be used.

E. Notwithstanding any other provision of this section, beginning January 1, 2004, no county, city or town shall levy any tax under this section upon transient room rentals at a rate that exceeds two percent of the amount of charge for the occupancy of any room or space occupied; except that any such city or town may levy a tax on transient room rentals at a rate not to exceed five percent, where any excess over two percent shall be designated and spent solely for "tourism promotion," in consultation with local tourism industry organizations and in direct support of the local tourism industry. If there are no local tourism industry organizations in the locality, the governing body shall hold a public hearing prior to making any determination relating to how to allocate the revenue to be dedicated to tourism promotion. For purposes of this section, "tourism promotion" shall include direct funding to a local tourism promotion agency including, but not limited to, a convention and visitors bureau or tourism development authority, and also shall include financial support for advertising or marketing activities, publishing and distributing pamphlets and similar materials, conducting research, or engaging in similar

60   *promotional activities that attract tourists or business travelers to the area for the use of lodging, or*
61   *meeting and convention facilities located in the area. The tax rate limits of this section shall not apply*
62   *to the tax rate of any city or county that had a rate in excess of such limits as of January 1, 2004;*
63   *however, such city or county may not impose a tax rate in excess of the rate in effect on January 1,*
64   *2004.*
65   **2. That the provisions of this enactment shall not affect any tax, including rate thereof, on either**
66   **meals or transient rooms, or both, duly adopted by any county, city or town prior to January 1,**
67   **2004; however, any new tax, or increase in the rate of an existing tax, on either meals or transient**
68   **rooms, or both, shall be subject to the limitations prescribed in this enactment.**