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SENATE BILL NO. 269

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact §§ 58.1-1001, 58.1-3830, 58.1-3831, and 58.1-3840 of the Code of Virginia, relating to state and local cigarette taxes.

 Patron—Potts

 Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-1001, 58.1-3830, 58.1-3831, and 58.1-3840 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-1001. Tax levied; rate.

In addition to all other taxes now imposed by law, every person within this Commonwealth who sells, stores or receives cigarettes made of tobacco or any substitute thereof, for the purpose of distribution to any person within this Commonwealth, shall pay to this Commonwealth an excise tax of ~~one and one-quarter mills~~ *five cents* on each such cigarette.

§ 58.1-3830. Local taxes not prohibited; use of dual die or stamp to evidence payment of both county, city, or town and state tax on cigarettes.

A. No provision of Chapter 10 (§ 58.1-1000 et seq.) of this title shall be construed to deprive counties, cities and towns of the right to levy taxes upon the sale or use of cigarettes, provided such county, city or town had such power prior to January 1, 1977. *No locality may impose a tax upon the sale or use of cigarettes at a rate that is higher than the rate in effect in the locality on January 1, 2004.*

The governing body of any county, city or town which levies a cigarette tax and permits the use of meter impressions or stamps to evidence its payment may authorize an officer of the county, city or town or joint enforcement authority to enter into an arrangement with the Department of Taxation under which a tobacco wholesaler who so desires may use a dual die or stamp to evidence the payment of both the county, city, or town tax, and the state tax, and the Department is hereby authorized to enter into such an arrangement. The procedure under such an arrangement shall be such as may be agreed upon by and between the authorized county, city, town or joint enforcement authority officer and the Department.

B. Any county cigarette tax imposed shall not apply within the limits of any town located in such county where such town now, or hereafter, imposes a town cigarette tax. However, if the governing body of any such town shall provide that a county cigarette tax, as well as the town cigarette tax, shall apply within the limits of such town, then such cigarette tax may be imposed by the county within such town.

§ 58.1-3831. Tax in certain counties.

Fairfax and Arlington Counties shall have the power to levy tax upon the sale or use of cigarettes. Such tax shall be in such amount and on such terms as the governing body may by ordinances prescribe, not to exceed five cents per pack ~~or the amount levied under state law, whichever is greater.~~ The provisions of § 58.1-3830 shall apply to such counties, mutatis mutandis.

§ 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 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.

No locality may impose a tax upon the sale or use of cigarettes at a rate that is higher than the rate in effect in the locality on January 1, 2004.

B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises

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59 consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of
60 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the
61 following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads
62 consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

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

67 **2. That the General Assembly shall appropriate the additional net revenues collected from the**
68 **increase in the state cigarette tax pursuant to this act for the following purposes:**

69 (i) For all fiscal years, increasing the average salary of state police officers and sheriffs' deputies of
70 the Commonwealth so that such salaries are approximately equal to the United States national
71 average salary for such persons or persons employed in a similar position, as necessary;

72 (ii) For all fiscal years, increasing the average salary of a K through 12 teacher of the
73 Commonwealth so that it is approximately equal to the United States national average salary for a
74 K through 12 teacher, as necessary; and

75 (iii) For all fiscal years, providing for additional Medicaid funding to include (a) increases in the
76 reimbursement rates for congregate living and day supports under the Medicaid Mental
77 Retardation Waiver; (b) increases in direct care provider rates for the Mental Retardation,
78 Developmental Disabilities, Elderly and Disabled, and Consumer Directed Personal Care Services
79 Waivers; (c) additional Mental Retardation Waiver slots for individuals on the Urgent Care
80 Waiting List; (d) additional Developmental Disabilities Waiver slots; and (e) funds for individuals
81 who are ready and have chosen to move from state health institutions into the community.