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**SENATE BILL NO. 465**  
**FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
 (Proposed by Senator O'Brien  
 on February 19, 2004)

(Patron Prior to Substitute—Senator Chichester)

*A BILL to amend and reenact §§ 58.1-1001, 58.1-1018, and 58.1-3840 of the Code of Virginia, to amend the Code of Virginia by adding in Article 1 of Chapter 10 of Title 58.1 a section numbered 58.1-1017.1, and to repeal Article 7 (§§ 58.1-3830, 58.1-3831, and 58.1-3832) of Chapter 38 of Title 58.1 of the Code of Virginia, relating to the taxation of cigarettes.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-1001, 58.1-1018, and 58.1-3840 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Article 1 of Chapter 10 of Title 58.1 a section numbered 58.1-1017.1 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~~ *one and one-quarter cents* on each such cigarette.

§ 58.1-1017.1. Distribution of cigarette tax revenues; Local Government Cigarette Tax Trust Fund established.

A. All revenues received by the Commonwealth from the tax imposed pursuant to this article shall be paid into the state treasury and deposited to the Local Government Cigarette Tax Trust Fund (the "Fund") established in subsection C.

B. All moneys in the Fund shall be distributed to the counties and cities of the Commonwealth. Each county's and city's share of such moneys shall be determined pro rata based upon the population of the respective county or city as compared to the total population in all counties and cities of the Commonwealth. The population for a county or city shall be determined using the most recent decennial census figures or the provisional population estimates as published by the Weldon Cooper Center for Public Services, whichever is most recent at the time of distribution of such moneys.

The Tax Commissioner shall determine the amount of to be credited to each county and city using the formula described in subsection B and shall make a monthly written certification to the Comptroller of the same. The certification shall cover all revenues collected by the Tax Commissioner during the month from the tax imposed pursuant to this article. The Tax Commissioner shall make such certification for each month no later than the tenth day of the immediately following month.

As soon as practicable after receipt of such certification but no later than 10 days after receipt, the Comptroller shall draw his warrant on the State Treasurer in the proper amount in favor of the county or city.

C. There is hereby created in the state treasury a special nonreverting fund to be known as the "Local Government Cigarette Tax Trust Fund." Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. The Fund shall be established on the books of the Comptroller and any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

§ 58.1-1018. Tax imposed on storage, use or consumption of cigarettes; exemption of products on which sales tax has been paid.

An excise tax is hereby imposed on the storage, use or other consumption in this Commonwealth of cigarettes purchased at retail in an amount equal to that set out in § 58.1-1001. Every person storing, using or otherwise consuming in this Commonwealth cigarettes purchased at retail shall be liable for the tax imposed by this article, and the liability shall not be extinguished until the tax has been paid to this Commonwealth; however, if such cigarettes have attached thereto the requisite stamps or if the excise tax imposed by Article 1 (§ 58.1-1000 et seq.) has been paid by the seller of such cigarettes, then the tax imposed by this article shall not be due.

All revenues received by the Commonwealth from the tax imposed pursuant to this article shall be paid into the state treasury and deposited to the Local Government Cigarette Tax Trust Fund established in § 58.1-1017.1 and shall be distributed as provided in subsection B thereof.

§ 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

60 through vending machines or on any tangible personal property purchased with food coupons issued by  
61 the United States Department of Agriculture under the Food Stamp Program or drafts issued through the  
62 Virginia Special Supplemental Food Program for Women, Infants, and Children. In addition, as set forth  
63 in § 51.5-98, no blind person operating a vending stand or other business enterprise under the  
64 jurisdiction of the Department for the Blind and Vision Impaired and located on property acquired and  
65 used by the United States for any military or naval purpose shall be required to collect and remit meals  
66 taxes.

67 B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this  
68 section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises  
69 consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of  
70 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the  
71 following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads  
72 consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

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

77 **2. That any revenues distributed to a county or city pursuant to this act shall not be used to**  
78 **calculate or reduce the share of federal, state, or local revenues or funds otherwise available to**  
79 **counties or cities of this Commonwealth, nor shall they be used to calculate or reduce any**  
80 **allocation of revenues or funds made pursuant to Title 33.1 of the Code of Virginia. Such share or**  
81 **allocation of revenues or funds that shall not be reduced includes, but is not limited to, state basic**  
82 **aid payments.**

83 **3. That Article 7 (§§ 58.1-3830, 58.1-3831 and 58.1-3832) of Chapter 38 of Title 58.1 of the Code of**  
84 **Virginia is repealed effective July 1, 2004.**