

2006 SPECIAL SESSION I

INTRODUCED

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SENATE BILL NO. 5026

Offered September 15, 2006

A *BILL to amend and reenact §§ 32.1-366, 58.1-1001, 58.1-1018, 58.1-1021.02, 58.1-1021.05, and 58.1-3831 of the Code of Virginia, relating to increases in the taxes on cigarettes and tobacco products with the revenues from such increases deposited into the Transportation Trust Fund.*

Patron—Potts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-366, 58.1-1001, 58.1-1018, 58.1-1021.02, 58.1-1021.05, and 58.1-3831 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-366. Virginia Health Care Fund established.

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Health Care Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and any moneys remaining in the Fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. For purposes of the Comptroller's preliminary and final annual reports required by § 2.2-813, however, all deposits to and disbursements from the Fund shall be accounted for as part of the general fund of the state treasury.

B. All revenue received by the Commonwealth pursuant to the provisions of (i) §§ 58.1-1001 and 58.1-1018, *with such revenue computed at the tax rates in effect on January 1, 2007*, (ii) Article 2.1 (§ 58.1-1021.01 et seq.) of Chapter 10 of Title 58.1, *with such revenue computed at the rate of two-thirds of all such revenue received pursuant to such article*, and (iii) § 3.1-336.2:2 shall be paid into the state treasury and deposited to the Fund. The Comptroller shall also deposit 40 percent of the Commonwealth's allocation pursuant to the Master Settlement Agreement with tobacco product manufacturers, as defined in § 3.1-1106, to the Fund. The Fund shall also consist of all recoveries received during a fiscal year resulting from expenditures incurred in the Medicaid program during a prior fiscal year or years to the extent that such amounts represent recoveries of state funds that would otherwise be deposited to the general fund of the state treasury.

§ 58.1-1001. Tax levied; rate.

A. Except as provided in subsection B, 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 on each such cigarette sold, stored or received before August 1, 2004; an excise tax of one cent on each such cigarette sold, stored or received on and after August 1, 2004, through midnight on June 30, 2005; ~~and~~ an excise tax of 1.5 cents on each such cigarette sold, stored or received on and after July 1, 2005, *through midnight on June 30, 2007; and an excise tax of 5.25 cents on each such cigarette sold, stored or received on and after July 1, 2007.*

B. In addition to all other taxes now imposed by law, every person within the Commonwealth who sells, stores, or receives roll-your-own tobacco, for the purpose of distribution within the Commonwealth, shall pay to the Commonwealth a cigarette excise tax at the rate of ~~40~~30% of the manufacturer's sales price of such roll-your-own tobacco.

C. ~~The~~*A portion of the revenues generated by the taxes imposed under this section on and after August 1, 2004, shall be collected by the Department and deposited into the Virginia Health Care Fund established under § 32.1-366. The amount of the revenues deposited into the Fund shall be determined in accordance with the provisions of subsection B of such section.*

§ 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.

~~The~~*A portion of the revenues generated by the tax imposed under this section on and after August 1, 2004, shall be collected by the Department and deposited into the Virginia Health Care Fund established*

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59 under § 32.1-366. *The amount of the revenues deposited into the Fund shall be determined in*
60 *accordance with the provisions of subsection B of such section.*

61 § 58.1-1021.02. Tax on tobacco products.

62 A. In addition to all other taxes now imposed by law, there is hereby imposed a tax upon the
63 privilege of selling or dealing in tobacco products in the Commonwealth by any person engaged in
64 business as a distributor thereof, at the rate of ~~40~~15 percent of the manufacturer's sales price of such
65 tobacco products. Such tax shall be imposed at the time the distributor (i) brings or causes to be brought
66 into the Commonwealth from outside the Commonwealth tobacco products for sale; (ii) makes,
67 manufactures, or fabricates tobacco products in the Commonwealth for sale in the Commonwealth; or
68 (iii) ships or transports tobacco products to retailers in the Commonwealth to be sold by those retailers.
69 It is the intent and purpose of this article that the distributor who first possesses the tobacco product
70 subject to this tax in the Commonwealth shall be the distributor liable for the tax. It is further the intent
71 and purpose of this article to impose the tax once, and only once on all tobacco products for sale in the
72 Commonwealth.

73 B. No tax shall be imposed pursuant to this section upon tobacco products not within the taxing
74 power of the Commonwealth under the Commerce Clause of the United States Constitution.

75 § 58.1-1021.05. Use of revenues.

76 ~~The~~A portion of the revenues generated by the taxes imposed under this article shall be collected by
77 the Department and deposited into the Virginia Health Care Fund established under § 32.1-366. *The*
78 *amount of the revenues deposited into the Fund shall be determined in accordance with the provisions*
79 *of subsection B of such section.*

80 § 58.1-3831. Tax in certain counties.

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

85 **2. That all net revenues generated from the increases in taxes pursuant to the provisions of this**
86 **act shall be deposited into the Transportation Trust Fund established under § 33.1-23.03:1 of the**
87 **Code of Virginia.**

88 **3. That the provisions of this act shall become effective on July 1, 2007.**