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HOUSE BILL NO. 2315

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate Welch
on January 24, 2007)

(Patron Prior to Substitute—Delegate Welch)

*A BILL to amend and reenact § 58.1-3840 of the Code of Virginia, relating to local meals tax.***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 may impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds. No such taxes on meals may be imposed on (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the sales price; or (iii) 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 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 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 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. (Expires January 1, 2008) Any city or town that is authorized to levy a tax on admissions may also levy a surcharge on admissions charged for attendance at any event at a major league baseball stadium, as defined in § 15.2-5800, located in the city or town if the stadium has a seating capacity of at least 40,000 seats. The surcharge shall not exceed two percent of the charge for admissions.

E. *Notwithstanding any other provision of this section, no city shall levy any new tax or tax rate increase upon meals that results in a tax rate greater than 5.5 percent, unless such tax or tax rate increase is first approved by a referendum in the city, which shall be held in accordance with § 24.2-684 and initiated either by a resolution of the city council or on the filing of a petition signed by a number of registered voters of the city equal to 10% of the number of voters registered in the city on January 1 of the year in which the petition is filed with the court of such city. The clerk of the circuit court shall publish notice of the referendum in a newspaper of general circulation in the city once a week for three consecutive weeks prior to the referendum. 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. Any such resolution of the city council or such petition shall state for what projects or purposes the revenues collected from the tax are to be used, and the question on the ballot for the referendum shall include language stating for what projects or purposes the revenues collected from the tax are to be used.*

2. That the provisions of this act shall not affect the rate of the meals tax imposed by any city before the effective date of this act. However, the provisions of this act requiring a referendum shall apply equally to new taxes or higher taxes enacted in all cities, whether on the effective date of this act the cities are imposing rates greater than 5.5 percent or less than 5.5 percent.

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