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SENATE BILL NO. 147

Offered January 9, 2008

Prefiled January 4, 2008

A BILL to amend and reenact § 58.1-625 of the Code of Virginia, as it is currently effective, and to repeal § 58.1-625 of the Code of Virginia, as it shall become effective, and § 58.1-626 of the Code of Virginia, as it is currently effective and as it shall become effective, relating to sales and use tax; absorption by seller.

 Patron—Stosch

 Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-625 of the Code of Virginia, as it is currently effective, is amended and reenacted as follows:

§ 58.1-625. (Effective until July 1, 2012) Collection of tax.

The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter may be maintained in this Commonwealth by any dealer who is not registered under § 58.1-613 or is delinquent in the payment of the taxes imposed under this chapter.

Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as herein provided.

Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until he can affirmatively show that the tax has since been refunded to the purchaser or credited to his account.

Any dealer who neglects, fails, or refuses to collect such tax upon every taxable sale, distribution, lease, or storage of tangible personal property made by him, his agents, or employees shall be liable for and pay the tax himself, and such dealer shall not thereafter be entitled to sue for or recover in this Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid. Moreover, any dealer who neglects, fails, or refuses to pay or collect the tax herein provided, either by himself or through his agents or employees, shall be guilty of a Class 1 misdemeanor.

All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the Commonwealth.

Notwithstanding the foregoing provisions of this section, any dealer is authorized ~~during the period of time set forth in §§ 58.1-611.2 and 58.1-611.3 or subdivision 18 of § 58.1-609.1~~ not to collect the tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to absorb such tax himself. A dealer electing to absorb such taxes shall be liable for payment of such taxes to the Tax Commissioner in the same manner as he is for tax collected from a purchaser pursuant to this section.

2. That § 58.1-625 of the Code of Virginia, as it shall become effective, and § 58.1-626 of the Code of Virginia, as it is currently effective and as it shall become effective, are repealed.

INTRODUCED

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