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HOUSE BILL NO. 1942

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact §§ 58.1-609.2 and 58.1-1707 of the Code of Virginia, relating to sales tax and litter tax with regard to certain agricultural produce sales.

Patrons—Pollard, Bell, Robert B., Gilbert, Kilgore, Landes and Toscano

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-609.2 and 58.1-1707 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-609.2. Agricultural exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Commercial feeds; seeds; plants; fertilizers; liming materials; breeding and other livestock; semen; breeding fees; baby chicks; turkey poults; rabbits; quail; llamas; bees; agricultural chemicals; fuel for drying or curing crops; baler twine; containers for fruit and vegetables; farm machinery; medicines and drugs sold to a veterinarian provided they are used or consumed directly in the care, medication, and treatment of agricultural production animals or for resale to a farmer for direct use in producing an agricultural product for market; tangible personal property, except for structural construction materials to be affixed to real property owned or leased by a farmer, necessary for use in agricultural production for market and sold to or purchased by a farmer or contractor; and agricultural supplies provided the same are sold to and purchased by farmers for use in agricultural production, which also includes beekeeping and fish, quail, rabbit and worm farming for market.

2. Every agricultural commodity or kind of seafood sold or distributed by any person to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or consumption in the process of preparing, finishing, or manufacturing such agricultural or seafood commodity for the ultimate retail consumer trade, except when such agricultural or seafood commodity is actually sold or distributed as a marketable or finished product to the ultimate consumer. "Agricultural commodity," for the purposes of this subdivision, means horticultural, poultry, and farm products, livestock and livestock products, and products derived from bees and beekeeping.

3. Livestock and livestock products, poultry and poultry products, and farm and agricultural products, when produced by the farmer and used or consumed by him and the members of his family.

4. Machinery, tools, equipment, materials or repair parts therefor or replacement thereof; fuel or supplies; and fishing boats, marine engines installed thereon or outboard motors used thereon, and all replacement or repair parts in connection therewith; provided the same are sold to and purchased by watermen for use by them in extracting fish, bivalves or crustaceans from waters for commercial purposes.

5. Machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy or supplies, and cereal grains and other feed ingredients, including, but not limited to, drugs, vitamins, minerals, nonprotein nitrogen, and other supplements or additives, used directly in making feed for sale or resale. Making of feed shall include the mixing of liquid ingredients.

6. Machinery or tools and repair parts therefor or replacements thereof, fuel, power, energy or supplies, used directly in the harvesting of forest products for sale or for use as a component part of a product to be sold. Harvesting of forest products shall include all operations prior to the transport of the harvested product necessary for (i) removing timber or other forest products from the harvesting site, (ii) complying with environmental protection and safety requirements applicable to the harvesting of forest products, (iii) obtaining access to the harvesting site, and (iv) loading cut timber or other forest products onto highway vehicles for transportation to storage or processing facilities.

7. Up to \$2,400 in value of agricultural produce, as defined in § 3.2-4738, that is raised and sold by individuals throughout the Commonwealth in local farmers markets and at roadside stands.

§ 58.1-1707. Tax levied.

A. There is hereby levied and imposed upon every person in the Commonwealth engaged in business as a manufacturer, wholesaler, distributor or retailer of products enumerated in § 58.1-1708 an annual litter tax of ten dollars for each establishment from which such business is conducted, *except for individuals who raise and sell agricultural produce, as defined in § 3.2-4738, in local farmers markets and at roadside stands and whose annual income from such sales does not exceed \$2,400.*

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59 B. In addition to the tax levied in subsection A, each person engaged in business as a manufacturer,
60 wholesaler, distributor or retailer of products enumerated in category 2, 4 or 5 of § 58.1-1708 shall pay
61 an additional annual litter tax of fifteen dollars for each establishment from which such business is
62 conducted.

63 C. For purposes of the tax levied in this section, a vending machine shall not be deemed a separate
64 establishment. Any person engaged in the business of selling goods, wares and merchandise through the
65 use of coin-operated vending machines shall pay an annual litter tax only with respect to each
66 establishment from which goods, wares or merchandise are stored, kept or assembled for purposes of
67 supplying such vending machines.