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## HOUSE BILL NO. 1942

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance  
on February 2, 2011)

(Patron Prior to Substitute—Delegate Pollard)

*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.***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. *Agricultural produce, as defined in § 3.2-4738, and eggs, as described in § 3.2-5305, raised and sold by an individual at local farmers markets and roadside stands, when such individual's annual income from such sales does not exceed \$1,000.*

§ 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~~ \$10 for each establishment from which such business is conducted. *However, the tax under this subsection shall not be imposed on an individual who raises and sells agricultural produce, as defined in § 3.2-4738, and an individual who sells eggs, as described in § 3.2-5305, in local farmers markets or at roadside stands provided that his annual income from such sales does not exceed \$1,000, and that any container he provides to hold purchased items has been previously used.*

60 B. In addition to the tax levied in subsection A, each person engaged in business as a manufacturer,  
61 wholesaler, distributor or retailer of products enumerated in category 2, 4 or 5 of § 58.1- shall pay an  
62 additional annual litter tax of ~~fifteen dollars~~ \$15 for each establishment from which such business is  
63 conducted. *However, the tax under this subsection shall not be imposed on an individual who raises*  
64 *and sells agricultural produce, as defined in § 3.2-4738, and an individual who sells eggs, as described*  
65 *in § 3.2-5305, in local farmers markets or at roadside stands provided that his annual income from such*  
66 *sales does not exceed \$1,000, and that any container he provides to hold purchased items has been*  
67 *previously used..*

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