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SENATE BILL NO. 285

Offered January 8, 2014

Prefiled January 6, 2014

A BILL to amend and reenact § 58.1-1021.04:3 of the Code of Virginia, relating to civil penalty for untaxed tobacco products.

Patron—Howell

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1021.04:3 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1021.04:3. Unlawful importation, transportation, or possession of tobacco products.

A. It shall be unlawful for any person who is not a licensed distributor in the Commonwealth pursuant to this article to import, transport, or possess, for resale, any tobacco products in the Commonwealth, or under circumstances and conditions that indicate that tobacco products are being imported, transported, or possessed in a manner as to knowingly and intentionally evade or attempt to evade the tax imposed by this article. Such tobacco products shall may be subject to seizure, forfeiture, and destruction by the Department or any law-enforcement officer of the Commonwealth. All fixtures, equipment, materials, and personal property used in substantial connection with the sale or possession of tobacco products involved in a knowing and intentional violation of this article shall be subject to seizure and forfeiture according to the procedures contained in Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, applied mutatis mutandis.

B. Any person, except as otherwise provided by law, who imports, transports, or possesses for resale tobacco products upon which the tax imposed by this article has not been paid shall be required to pay any tax owed pursuant to this article. In addition, if such person imports, transports, or possesses such tobacco products in a manner as to knowingly and intentionally evade or attempt to evade the tax imposed by this article, he shall be required to pay a civil penalty of (i) \$2.50 per tobacco product, up to \$500, for the first violation by a legal entity within a 36-month period; (ii) \$5 per tobacco product, up to \$1,000, for the second violation by the legal entity within a 36-month period; and (iii) \$10 per tobacco product, up to \$50,000, for the third or subsequent violation by the legal entity within a 36-month period, to be assessed and collected by the Department as other taxes are collected.

Where willful intent exists to defraud the Commonwealth of the tax levied under this article, such person shall be required to pay a civil penalty of \$25 per tobacco product, up to \$250,000, to be assessed and collected by the Department as other taxes are collected.

INTRODUCED

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