

DEPARTMENT OF TAXATION

2016 Fiscal Impact Statement

1. **Patron** Barry D. Knight

2. **Bill Number** HB 1191

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Retail Sales and Use Tax; Exempts
Commissary Sales at Correctional Facilities

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would provide an exemption from the Retail Sales and Use Tax for tangible personal property sold by the sheriff in the commissary at a local correctional facility. Additionally, the bill would exempt prepared foods sold within the correctional facility.

Under current law, these sales are subject to the sales and use tax.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department considers implementation of this bill as "routine" and does not require additional funding.

Revenue Impact

The exemption proposed in this bill would result in a state and local revenue loss, the magnitude of which is unknown, but expected to be minimal. The Department does not have data regarding the revenue from sales made in commissaries in correctional facilities in Virginia.

9. **Specific agency or political subdivisions affected:**

Department of Taxation
All localities

10. **Technical amendment necessary:** No.

11. Other comments:

Background

Virginia law authorizes sheriffs of local correctional facilities to operate commissaries or stores, in which they may make sales of merchandise to their inmates. The net profits generated from commissary sales made from inmate's accounts must be used within the correctional facility for educational, recreational, or other purposes that benefit the inmates. Any other profits may be used for the general operation of the sheriff's office.

Food Generally

The Retail Sales and Use Tax is imposed on the sale or use of tangible personal property in Virginia. Currently, the tax is imposed at the general rate of 5.3 percent, with an additional 0.7 percent regional tax imposed in the Hampton Roads and Northern Virginia regions. "Food purchased for human consumption," however, is subject to sales tax at the rate of 2.5%. Food purchased for human consumption includes most staple grocery food items and cold prepared foods packaged for home consumption. Specifically excluded from the definition of food for human consumption are alcoholic beverages, tobacco, and prepared hot foods sold for immediate consumption on and off the premises.

Sales Made by Government Entities

Virginia law provides an exemption from the Retail Sales and Use Tax for tangible personal property purchased for use or consumption by the United States, the Commonwealth, and any political subdivision of the Commonwealth. This exemption, however, is not available to inmates that are making purchases of tangible personal property from the government. Therefore, inmates making purchases of tangible personal property or prepared food in commissaries are subject to the Retail Sales and Use Tax on these purchases.

Sales of Art by Prisoners

The Department of Corrections may permit prisoners confined in state correctional facilities to sell to the public artistic products personally crafted by the prisoners, including paintings, pottery and leatherwork. Under current law, such sales qualify for an exemption from the Retail Sales and Use Tax.

Proposal

This bill would provide an exemption from the Retail Sales and Use Tax for tangible personal property sold in a commissary at a correctional facility. Additionally, the bill would exempt prepared foods sold within the correctional facility.

The effective date of this bill is not specified.

cc : Secretary of Finance

Date: 3/7/2016: KP
DLAS File Name: HB1191FER161