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HOUSE BILL NO. 1338

Offered January 10, 2018

A *BILL to amend and reenact §§ 58.1-3830 and 58.1-3831 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-3831.1, relating to cigarette tax; counties authorized to hold referendum.*

Patron—Campbell

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3830 and 58.1-3831 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-3831.1 as follows:

§ 58.1-3830. Local taxes not prohibited; use of dual die or stamp to evidence payment of both county, city, or town and state tax on cigarettes.

A. No provision of Chapter 10 (§ 58.1-1000 et seq.) of this title shall be construed to deprive counties, cities and towns of the right to levy taxes upon the sale or use of cigarettes, provided such county, city or town had such power prior to January 1, 1977, *or such county has adopted the tax following the approval of a referendum pursuant to § 58.1-3831.1.* The governing body of any county, city or town which levies a cigarette tax and permits the use of meter impressions or stamps to evidence its payment may authorize an officer of the county, city or town or joint enforcement authority to enter into an arrangement with the Department of Taxation under which a tobacco wholesaler who so desires may use a dual die or stamp to evidence the payment of both the county, city, or town tax, and the state tax, and the Department is hereby authorized to enter into such an arrangement. The procedure under such an arrangement shall be such as may be agreed upon by and between the authorized county, city, town or joint enforcement authority officer and the Department.

B. Any county cigarette tax imposed shall not apply within the limits of any town located in such county where such town now, or hereafter, imposes a town cigarette tax. However, if the governing body of any such town shall provide that a county cigarette tax, as well as the town cigarette tax, shall apply within the limits of such town, then such cigarette tax may be imposed by the county within such town.

§ 58.1-3831. Tax in certain counties.

Notwithstanding the provisions of § 58.1-3831.1, Fairfax and Arlington Counties shall have the power to levy tax upon the sale or use of cigarettes. Such tax shall be in such amount and on such terms as the governing body may by ordinances prescribe, not to exceed five cents per pack or the amount levied under state law, whichever is greater. The provisions of § 58.1-3830 shall apply to such counties, *mutatis mutandis.*

§ 58.1-3831.1. Cigarette tax; referendum.

A. Any county is hereby authorized, subject to the requirements of subsection B, to levy tax upon the sale or use of cigarettes. Such tax shall be in such amount and on such terms as the board of supervisors may by ordinance prescribe, not to exceed five cents (\$0.05) per pack or the amount levied under state law, whichever is greater. The provisions of § 58.1-3830 shall apply, *mutatis mutandis.*

B. 1. A tax upon the sale or use of cigarettes shall be levied only if the tax is approved in a referendum within the county that shall be held in accordance with § 24.2-684 and initiated either by a resolution of the board of supervisors or on the filing of a petition signed by a number of the registered voters of the county equal in number to 10 percent of the number of voters registered in the county, as appropriate on January 1 of the year in which the petition is filed with the circuit court of such county. The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election. The question on the ballots used in such referendum shall be:

"Shall a tax upon the sale or use of cigarettes be permitted in _____ County not to exceed five cents (\$0.05) per pack or the amount levied under state law, whichever is greater?"

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral board to the State Board of Elections, the clerk of the county, and the circuit court. The court shall enter of record the results of such referendum.

2. If the majority of the votes cast in such referendum shall be for the proposition, the board of supervisors of such county may levy the tax authorized pursuant to subsection A on or after 30 days following the entry of the order.

3. Once a referendum has been held in a county pursuant to this section, no other referendum on the

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59 *same question shall be held in the same county for a period of 23 months.*