

DEPARTMENT OF TAXATION

2019 Fiscal Impact Statement

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| 1. Patron Siobhan S. Dunnavant | 2. Bill Number <u>SB 1425</u> |
| | House of Origin: |
| 3. Committee Passed House and Senate | <u> </u> Introduced |
| | <u> </u> Substitute |
| | <u> </u> Engrossed |
| 4. Title Local License Tax; Mobile Food Units | Second House: |
| | <u> </u> In Committee |
| | <u> </u> Substitute |
| | <u> X </u> Enrolled |

5. Summary/Purpose:

This bill would provide that when the owner of a new business that operates a mobile food unit has paid a license tax as required by the locality in which the mobile food unit is registered, the owner would not be required to pay a license tax to any other locality for conducting business from such mobile food unit in such a locality.

This exemption from paying the license tax in other localities would expire two years after the payment of the initial license tax in the locality in which the mobile food unit is registered, and during that two-year period, the owner would be entitled to exempt up to three mobile food units from license taxation in other localities. However, the owner of the mobile food unit would be required to register with the commissioner of the revenue or director of finance in any locality in which he conducts business from such mobile food unit, regardless of whether the owner is exempt from paying license tax in the locality.

The bill would define "mobile food unit" to mean a restaurant that is mounted on wheels and readily moveable from place to place at all times during operation. It would also define "new business" to mean a business that locates for the first time to do business in a locality. A business would not be deemed a new business based on a merger, acquisition, similar business combination, name change, or a change to its business form.

This bill would be effective July 1, 2019.

- 6. Budget amendment necessary:** No
- 7. Fiscal Impact Estimates are:** Not available. (See Line 8.)
- 8. Fiscal implications:**

Administrative Cost

This bill could result in unknown administrative costs to localities that impose a BPOL tax or fee. It would have no impact on state administrative costs.

Revenue Impact

This bill could have an unknown revenue impact on localities that impose a BPOL tax or fee. It would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

Localities that impose a BPOL tax or license fee

10. Technical amendment necessary: No

11. Other comments:

Under current law, localities are authorized to impose business, professional and occupational license (BPOL) taxes upon local businesses. The BPOL tax is levied on the privilege of engaging in business at a definite place of business within a Virginia locality.

According to the Weldon Cooper Center for Public Service, in Fiscal Year 2016, the BPOL tax was levied in every city, 51 counties, and 118 towns.

The BPOL tax is generally imposed by the locality in which an entity has its “definite place of business,” defined in state law as an office or a location where the business has a regular and continuous course of dealing for thirty consecutive days or more.

Businesses that are mobile, however, can be subject to license taxes or fees in multiple localities in certain situations. For example, localities in Virginia are authorized to impose a license tax or fee upon peddlers and itinerant merchants not to exceed \$500 per year, except in the case of dealers in precious metals. These taxes or fees may be charged by each locality in which the business operates.

“Itinerant Merchant” is defined as any person who engages in, does, or transacts any temporary or transient business in any locality and who, for the purpose of carrying on such business, occupies any location for a period of less than one year.

“Peddler” is defined as any person who carries from place to place any goods, wares or merchandise and offers to sell or barter the same, or actually sells or barter the same. Peddlers at wholesale and peddlers who sell ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale are exempt from the license tax.

For businesses not assessed a flat fee, the measure or basis of the BPOL tax generally is the gross receipts of the business. However, current law allows localities to assess the BPOL tax on either gross receipts or the Virginia taxable income of a business.

A locality may not assess a license tax on gross receipts upon which it charges a license fee. Additionally, the locality may not impose a license tax on a business with gross receipts less than \$100,000 in any locality with a population greater than 50,000; or less than \$50,000 in any locality with a population of 25,000 but no more than 50,000.

Proposal

This bill would provide that when the owner of a new business that operates a mobile food unit has paid a license tax as required by the locality in which the mobile food unit is registered, the owner would not be required to pay a license tax to any other locality for conducting business from such mobile food unit in such a locality.

This exemption from paying the license tax in other localities would expire two years after the payment of the initial license tax in the locality in which the mobile food unit is registered, and during that two-year period, the owner would be entitled to exempt up to three mobile food units from license taxation in other localities. However, the owner of the mobile food unit would be required to register with the commissioner of the revenue or director of finance in any locality in which he conducts business from such mobile food unit, regardless of whether the owner is exempt from paying license tax in the locality.

The bill would define “mobile food unit” to mean a restaurant that is mounted on wheels and readily moveable from place to place at all times during operation. It would also define “new business” to mean a business that locates for the first time to do business in a locality. A business would not be deemed a new business based on a merger, acquisition, similar business combination, name change, or a change to its business form.

Under current law, localities are authorized to impose business, professional and occupational license (BPOL) taxes upon local businesses. Generally, the BPOL tax is levied on the privilege of engaging in business at a definite place of business within a Virginia locality. Businesses that are mobile however, can be subject to license taxes or fees in multiple localities in certain situations.

This bill would be effective July 1, 2019.

cc : Secretary of Finance

Date: 3/7/2019 SK
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