

20104813D

**HOUSE BILL NO. 785**

Offered January 8, 2020

Prefiled January 7, 2020

*A BILL to amend and reenact §§ 58.1-3818, 58.1-3819, 58.1-3823, as it is currently effective and as it may become effective, 58.1-3825.3, 58.1-3830, 58.1-3833, 58.1-3834, 58.1-3840, and 58.1-3842 of the Code of Virginia and to repeal §§ 58.1-3818.01, 58.1-3818.03, 58.1-3818.04, 58.1-3820, 58.1-3821, and 58.1-3831, relating to local taxing authority.*

Patrons—Watts, Kilgore, Ayala, Gooditis, Guzman, Herring, Hope, Hudson, Hurst, Keam, Kory, Krizek, Lopez, Plum, Samirah, Sickles, Simon, Sullivan and Tran

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-3818, 58.1-3819, 58.1-3823, as it is currently effective and as it may become effective, 58.1-3825.3, 58.1-3830, 58.1-3833, 58.1-3834, 58.1-3840, and 58.1-3842 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-3818. Admissions tax in counties.**

A. Fairfax, Arlington, Dinwiddie, Prince George and Brunswick Counties are *Any county* is hereby authorized to levy a tax on admissions charged for attendance at any event. ~~The tax shall not exceed 10 percent of the amount of charge for admission to any such event.~~ Notwithstanding any other provisions of law, the governing bodies of such counties shall prescribe by ordinance the terms, conditions, and amount of such tax and may classify between events conducted for charitable *purposes* and ~~those events~~ conducted for noncharitable purposes.

B. Notwithstanding the provisions of subsection A, Culpeper County and New Kent County are hereby authorized to levy a tax on admissions charged for attendance at any event as set forth in subsection A.

C. Notwithstanding the provisions of subsection A, Charlotte County, Clarke County, Madison County, Nelson County, and Sussex County are hereby authorized to levy a tax on admissions charged for attendance at any spectator event; however, a tax shall not be levied on admissions charged to participants in order to participate in any event. The tax shall not exceed 10 percent of the amount of charge for admission to any event. Notwithstanding any other provisions of law, the governing body of such county shall prescribe by ordinance the terms, conditions and amount of such tax and may classify between the events as set forth in § 58.1-3817.

D. Notwithstanding the provisions of subsections A, B and C *subsection A*, localities may, by ordinance, elect not to levy an admissions tax on admission to an event, provided that the purpose of the event is solely to raise money for charitable purposes and that the net proceeds derived from the event will be transferred to an entity or entities that are exempt from sales and use tax pursuant to § 58.1-609.11.

**§ 58.1-3819. Transient occupancy tax.**

A. 1. Any county, by duly adopted ordinance, may levy a transient occupancy tax on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days. Such tax shall be in such amount and on such terms as the governing body may, by ordinance, prescribe. ~~Such tax shall not exceed two percent of the amount of charge for the occupancy of any room or space occupied; however, Accomack County, Albemarle County, Alleghany County, Amherst County, Augusta County, Bedford County, Bland County, Botetourt County, Brunswick County, Campbell County, Caroline County, Carroll County, Craig County, Cumberland County, Dickenson County, Dinwiddie County, Floyd County, Franklin County, Frederick County, Giles County, Gloucester County, Goochland County, Grayson County, Greene County, Greensville County, Halifax County, Highland County, Isle of Wight County, James City County, King George County, Loudoun County, Madison County, Mecklenburg County, Montgomery County, Nelson County, Northampton County, Page County, Patrick County, Powhatan County, Prince Edward County, Prince George County, Prince William County, Pulaski County, Rockbridge County, Rockingham County, Russell County, Smyth County, Spotsylvania County, Stafford County, Tazewell County, Warren County, Washington County, Wise County, Wythe County, and York County may levy a transient occupancy tax not to exceed five percent, and~~

2. *Unless otherwise provided in this article, any county that imposes a transient occupancy tax at a rate greater than two percent shall, by ordinance, provide that (i) any excess from a rate over two percent shall be designated and spent solely for such purpose as was authorized under this article prior*

INTRODUCED

HB785

58 to January 1, 2020, or (ii) if clause (i) is inapplicable, any excess from a rate over two percent but not  
59 exceeding five percent shall be designated and spent solely for tourism and travel, marketing of tourism  
60 or initiatives that, as determined after consultation with the local tourism industry organizations,  
61 including representatives of lodging properties located in the county, attract travelers to the locality,  
62 increase occupancy at lodging properties, and generate tourism revenues in the locality. *Unless otherwise*  
63 *provided in this article, for any county that imposes a transient occupancy tax pursuant to this section*  
64 *or an additional transient occupancy tax pursuant to another provision of this article, any excess over*  
65 *five percent, combining the rates of all taxes imposed pursuant to this article, shall not be restricted in*  
66 *its use and may be spent in the same manner as general revenues.* If any locality has enacted an  
67 additional transient occupancy tax pursuant to subsection C of § 58.1-3823, then the governing body of  
68 the locality shall be deemed to have complied with the requirement that it consult with local tourism  
69 industry organizations, including lodging properties. If there are no local tourism industry organizations  
70 in the locality, the governing body shall hold a public hearing prior to making any determination  
71 relating to how to attract travelers to the locality and generate tourism revenues in the locality.

72 B. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied  
73 by the same individual or same group of individuals for 30 or more days in hotels, motels, boarding  
74 houses, travel campgrounds, and other facilities offering guest rooms. In addition, that portion of any tax  
75 imposed hereunder in excess of two percent shall not apply to travel campgrounds in Stafford County.

76 C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town  
77 to levy such a transient occupancy tax. The county tax limitations imposed pursuant to § 58.1-3711 shall  
78 apply to any tax levied under this section, mutatis mutandis.

79 D. Any county, city or town that requires local hotel and motel businesses, or any class thereof, to  
80 collect, account for and remit to such locality a local tax imposed on the consumer may allow such  
81 businesses a commission for such service in the form of a deduction from the tax remitted. Such  
82 commission shall be provided for by ordinance, which shall set the rate thereof at no less than three  
83 percent and not to exceed five percent of the amount of tax due and accounted for. No commission shall  
84 be allowed if the amount due was delinquent.

85 E. All transient occupancy tax collections shall be deemed to be held in trust for the county, city or  
86 town imposing the tax.

87 **§ 58.1-3823. (For contingent expiration date, see Acts 2018, c. 850) Additional transient**  
88 **occupancy tax for certain counties.**

89 A. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
90 ~~58.1-3821, Hanover County, Chesterfield County and Henrico County may impose:~~

91 1. An additional transient occupancy tax not to exceed four percent of the amount of the charge for  
92 the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or  
93 spaces rented and continuously occupied by the same individual or same group of individuals for 30 or  
94 more days. The revenues collected from the additional tax shall be designated and spent for promoting  
95 tourism, travel or business that generates tourism or travel in the Richmond metropolitan area; and

96 2. An additional transient occupancy tax not to exceed two percent of the amount of the charge for  
97 the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or  
98 spaces rented and continuously occupied by the same individual or same group of individuals for 30 or  
99 more days. The revenues collected from the additional tax shall be designated and spent for expanding  
100 the Richmond Centre, a convention and exhibition facility in the City of Richmond.

101 3. An additional transient occupancy tax not to exceed one percent of the amount of the charge for  
102 the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or  
103 spaces rented and continuously occupied by the same individual or group of individuals for 30 or more  
104 days. The revenues collected from the additional tax shall be designated and spent for the development  
105 and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for promoting the  
106 use of the Richmond Centre and for promoting tourism, travel or business that generates tourism and  
107 travel in the Richmond metropolitan area.

108 B. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
109 ~~58.1-3821, any~~ Any county with the county manager plan of government may impose an additional  
110 transient occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any  
111 room or space occupied, provided the county's governing body approves the construction of a county  
112 conference center. The tax imposed hereunder shall not apply to rooms or spaces rented and  
113 continuously occupied by the same individual or same group of individuals for 30 or more days. The  
114 revenues collected from the additional tax shall be designated and spent for the design, construction,  
115 debt payment, and operation of such conference center.

116 C. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
117 ~~58.1-3821, the~~ The Counties of James City and York may impose an additional transient occupancy tax  
118 not to exceed \$2 per room per night for the occupancy of any overnight guest room. The tax imposed  
119 by this subsection shall not apply to travel campground sites or to rooms or spaces rented and

continuously occupied by the same individual or same group of individuals for 30 or more days. Of the revenues generated by the tax authorized by this subsection, one-half of the revenues generated from each night of occupancy of an overnight guest room shall be deposited into the Historic Triangle Marketing Fund, created pursuant to subdivision E 1 of § 58.1-603.2, and one-half of the revenues shall be retained by the locality in which the tax is imposed.

D. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through 58.1-3822,~~ Bedford County may impose an additional transient occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

The revenues collected from the additional tax shall be designated and spent solely for tourism and travel; marketing of tourism; or initiatives that, as determined after consultation with local tourism industry organizations, including representatives of lodging properties located in the county, attract travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues in the locality.

E. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through 58.1-3822,~~ Botetourt County may impose an additional transient occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

The revenue generated and collected from the two percent tax rate increase shall be designated and expended solely for advertising the Roanoke metropolitan area as an overnight tourist destination by members of the Roanoke Valley Convention and Visitors Bureau. For purposes of this subsection, "advertising the Roanoke metropolitan area as an overnight tourism destination" means advertising that is intended to attract visitors from a sufficient distance so as to require an overnight stay.

F. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis.

G. *The authority to impose a tax pursuant to this section shall be in addition to the authority provided by the provisions of § 58.1-3819.*

**§ 58.1-3823. (For contingent effective date, see Acts 2018, c. 850) Additional transient occupancy tax for certain counties.**

A. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through 58.1-3821,~~ Hanover County, Chesterfield County and Henrico County may impose:

1. An additional transient occupancy tax not to exceed four percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for promoting tourism, travel or business that generates tourism or travel in the Richmond metropolitan area; and

2. An additional transient occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for expanding the Richmond Centre, a convention and exhibition facility in the City of Richmond.

3. An additional transient occupancy tax not to exceed one percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for the development and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for promoting the use of the Richmond Centre and for promoting tourism, travel or business that generates tourism and travel in the Richmond metropolitan area.

B. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through 58.1-3821,~~ any Any county with the county manager plan of government may impose an additional transient occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any room or space occupied, provided the county's governing body approves the construction of a county conference center. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days. The revenues collected from the additional tax shall be designated and spent for the design, construction, debt payment, and operation of such conference center.

C. 1. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through 58.1-3821,~~ the The Counties of James City and York may impose an additional transient occupancy tax not to exceed \$2 per room per night for the occupancy of any overnight guest room. The revenues

181 collected from the additional tax shall be designated and expended solely for advertising the Historic  
182 Triangle area, which includes all of the City of Williamsburg and the Counties of James City and York,  
183 as an overnight tourism destination by the members of the Williamsburg Area Destination Marketing  
184 Committee of the Greater Williamsburg Chamber and Tourism Alliance. The tax imposed by this  
185 subsection shall not apply to travel campground sites or to rooms or spaces rented and continuously  
186 occupied by the same individual or same group of individuals for 30 or more days.

187 2. The Williamsburg Area Destination Marketing Committee shall consist of the members as  
188 provided herein. The governing bodies of the City of Williamsburg, the County of James City, and the  
189 County of York shall each designate one of their members to serve as members of the Williamsburg  
190 Area Destination Marketing Committee. These three members of the Committee shall have two votes  
191 apiece. In no case shall a person who is a member of the Committee by virtue of the designation of a  
192 local governing body be eligible to be selected a member of the Committee pursuant to subdivision a.

193 a. Further, one member of the Committee shall be selected by the Board of Directors of the  
194 Williamsburg Hotel and Motel Association; one member of the Committee shall be from The Colonial  
195 Williamsburg Foundation and shall be selected by the Foundation; one member of the Committee shall  
196 be an employee of Busch Gardens Europe/Water Country USA and shall be selected by Busch Gardens  
197 Europe/Water Country USA; one member of the Committee shall be from the Jamestown-Yorktown  
198 Foundation and shall be selected by the Foundation; one member of the Committee shall be selected by  
199 the Executive Committee of the Greater Williamsburg Chamber and Tourism Alliance; and one member  
200 of the Committee shall be the President and Chief Executive Officer of the Virginia Tourism Authority  
201 who shall serve ex officio. Each of these six members of the Committee shall have one vote apiece. The  
202 President of the Greater Williamsburg Chamber and Tourism Alliance shall serve ex officio with  
203 nonvoting privileges unless chosen by the Executive Committee of the Greater Williamsburg Chamber  
204 and Tourism Alliance to serve as its voting representative. The Executive Director of the Williamsburg  
205 Hotel and Motel Association shall serve ex officio with nonvoting privileges unless chosen by the Board  
206 of Directors of the Williamsburg Hotel and Motel Association to serve as its voting representative.

207 In no case shall more than one person of the same local government, including the governing body  
208 of the locality, serve as a member of the Committee at the same time.

209 If at any time a person who has been selected to the Committee by other than a local governing  
210 body becomes or is (a) a member of the local governing body of the City of Williamsburg, the County  
211 of James City, or the County of York, or (b) an employee of one of such local governments, the person  
212 shall be ineligible to serve as a member of the Committee while a member of the local governing body  
213 or an employee of one of such local governments. In such case, the body that selected the person to  
214 serve as a member of the Commission shall promptly select another person to serve as a member of the  
215 Committee.

216 3. The Williamsburg Area Destination Marketing Committee shall maintain all authorities granted by  
217 this section. The Greater Williamsburg Chamber and Tourism Alliance shall serve as the fiscal agent for  
218 the Williamsburg Area Destination Marketing Committee with specific responsibilities to be defined in a  
219 contract between such two entities. The contract shall include provisions to reimburse the Greater  
220 Williamsburg Chamber and Tourism Alliance for annual audits and any other agreed-upon expenditures.  
221 The Williamsburg Area Destination Marketing Committee shall also contract with the Greater  
222 Williamsburg Chamber and Tourism Alliance to provide administrative support services as the entities  
223 shall mutually agree.

224 4. The provisions in subdivision 2 relating to the composition and voting powers of the Williamsburg  
225 Area Destination Marketing Committee shall be a condition of the authority to impose the tax provided  
226 herein.

227 For purposes of this subsection, "advertising the Historic Triangle area" as an overnight tourism  
228 destination means advertising that is intended to attract visitors from a sufficient distance so as to  
229 require an overnight stay of at least one night.

230 D. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
231 ~~58.1-3822,~~ Bedford County may impose an additional transient occupancy tax not to exceed two percent  
232 of the amount of the charge for the occupancy of any room or space occupied. The tax imposed  
233 hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual  
234 or same group of individuals for 30 or more days.

235 The revenues collected from the additional tax shall be designated and spent solely for tourism and  
236 travel; marketing of tourism; or initiatives that, as determined after consultation with local tourism  
237 industry organizations, including representatives of lodging properties located in the county, attract  
238 travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues in the  
239 locality.

240 E. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
241 ~~58.1-3822,~~ Botetourt County may impose an additional transient occupancy tax not to exceed two  
242 percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed

hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days.

The revenue generated and collected from the two percent tax rate increase shall be designated and expended solely for advertising the Roanoke metropolitan area as an overnight tourist destination by members of the Roanoke Valley Convention and Visitors Bureau. For purposes of this subsection, "advertising the Roanoke metropolitan area as an overnight tourism destination " means advertising that is intended to attract visitors from a sufficient distance so as to require an overnight stay.

F. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis.

G. *The authority to impose a tax pursuant to this section shall be in addition to the authority provided by the provisions of § 58.1-3819.*

**§ 58.1-3825.3. Additional transient occupancy tax in Arlington County.**

In addition to ~~such~~ the transient occupancy taxes as are tax authorized by §§ § 58.1-3819 and ~~58.1-3820~~, beginning July 1, 2018, and ending July 1, 2021, Arlington County may impose an additional transient occupancy tax not to exceed one-fourth of one percent of the amount of the charge for the occupancy of any room or space occupied. The revenues collected from the additional tax shall be designated and spent for the purpose of promoting tourism and business travel in the county.

**§ 58.1-3830. Local cigarette taxes authorized; 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 40 (§ 58.1-1000 et seq.) of this title shall be construed to deprive counties, cities, and towns of the right~~ Any county, city, or town is authorized to levy taxes upon the sale or use of cigarettes; ~~provided such county, city or town had such power prior to January 1, 1977.~~ The governing body of any county, city, or town which ~~that~~ 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.

**§ 58.1-3833. County food and beverage tax.**

A. 1. Any county is hereby authorized to levy a tax on food and beverages sold, for human consumption, by a restaurant, as such term is defined in § 35.1-1; ~~not to exceed four percent of the amount charged for such food and beverages.~~ Such tax shall not be levied on food and beverages sold through vending machines or by (i) boardinghouses that do not accommodate transients; (ii) cafeterias operated by industrial plants for employees only; (iii) restaurants to their employees as part of their compensation when no charge is made to the employee; (iv) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (v) churches that serve meals for their members as a regular part of their religious observances; (vi) public or private elementary or secondary schools or institutions of higher education to their students or employees; (vii) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (viii) day care centers; (ix) homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; or (x) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees. Also, the tax shall not be levied on food and beverages: (a) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; ~~or~~ (b) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or (c) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

2. Grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall be subject to the tax, for that portion of the grocery store or convenience store selling such items.

3. This tax shall be levied only if the tax is approved in a referendum within the county which 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 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 court of such county. However, no referendum initiated by a resolution of the board of supervisors shall be authorized in a county in the three calendar years subsequent to the electoral defeat of any referendum held pursuant to this section in 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. If the voters affirm the levy of a local meals tax, the tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe. If such resolution of the board of supervisors or such petition states for what projects and/or purposes the revenues collected from the tax are to be used, then the question on the ballot for the referendum shall include language stating for what projects and/or purposes the revenues collected from the tax are to be used.

4. Any referendum held for the purpose of approving a county food and beverage tax pursuant to this section shall, in the language of the ballot question presented to voters, contain the following text in a paragraph unto itself: "If this food and beverage tax is adopted and a maximum tax rate of four percent is imposed, then the total tax imposed on all prepared food and beverage shall be ..." followed by the total, expressed as a percentage, of all existing ad valorem taxes applicable to the transaction added to the four percent county food and beverage tax to be approved by the referendum.

5. Notwithstanding any other provision of this section, if a county that has not imposed a county food and beverage tax adopts an ordinance or resolution pursuant to subdivision 1 of § 15.2-2607 providing for the payment of the principal and premium, if any, and interest on bonds issued in accordance with the Public Finance Act (§ 15.2-2600 et seq.) from revenue collected from a county food and beverage tax, then the ballot may provide, as a single question:

- a. The purpose or purposes of the bonds to be issued;
- b. The estimated maximum amount of such bonds proposed in the notice required in subsection A of § 15.2-2606;
- c. The request for approval by the voters of a county food and beverage tax authorized and levied in accordance with subdivision 3;
- d. The language required to be included in the ballot question as set forth in subdivision 4; and
- e. An explanation that the bonds shall be issued only if the county food and beverage tax is approved in the referendum.

Any referendum placed on the ballot pursuant to this subdivision 5 shall be submitted according to the procedures specified in § 24.2-684.

The term "beverage" as set forth herein shall mean alcoholic beverages as defined in § 4.1-100 and nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax shall be in a manner prescribed by the governing body.

B. Notwithstanding the provisions of subsection A, Roanoke County, Rockbridge County, Frederick County, Arlington County, and Montgomery County are hereby authorized to levy a tax on food and beverages sold for human consumption by a restaurant, as such term is defined in § 35.1-1 and as modified in subsection A and subject to the same exemptions, not to exceed four percent of the amount charged for such food and beverages, provided that the governing body of the respective county holds a public hearing before adopting a local food and beverage tax, and the governing body by unanimous vote adopts such tax by local ordinance. The tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe.

C. B. Nothing herein contained shall affect any authority heretofore granted to any county, city or town to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax collections shall be deemed to be held in trust for the county, city or town imposing the applicable tax. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to § 18.2-111.

D. No county which has heretofore adopted an ordinance pursuant to subsection A shall be required to submit an amendment to its meals tax ordinance to the voters in a referendum.

E. C. Notwithstanding any other provision of this section, no locality shall levy any tax under this section upon (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such

mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

**§ 58.1-3834. Apportionment of food and beverage or meals tax.**

In any case where a business is located partially within two or more local jurisdictions by reason of the boundary line between the local jurisdictions passing through such place of business, and one or more of the local jurisdictions imposes the food and beverage or meals tax, the tax rate shall be computed by applying the apportionment formula in § 58.1-3709 to the food and beverage or meals tax rate of each applicable local jurisdiction. Such apportioned rate shall be rounded to the nearest one-half percent; ~~provided, the total tax rate shall not exceed the rate authorized in § 58.1-3833.~~

**§ 58.1-3840. Certain excise taxes permitted.**

A. The provisions of Chapter 6 (§ 58.1-600 et seq.) to the contrary notwithstanding, any city or town having general taxing powers established by charter pursuant to or consistent with the provisions of § 15.2-1104 *and any county* may impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds. No such taxes on meals may be imposed on (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) food and beverages sold through vending machines or on any tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children. No such taxes on meals may be imposed when sold or provided by (a) restaurants, as such term is defined in § 35.1-1, to their employees as part of their compensation when no charge is made to the employee; (b) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations, the first three times per calendar year and, beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of meals (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (c) churches that serve meals for their members as a regular part of their religious observances; (d) public or private elementary or secondary schools or institutions of higher education to their students or employees; (e) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (f) day care centers; (g) homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; or (h) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.

Also, the tax shall not be levied on meals: (1) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; (2) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or (3) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

In addition, as set forth in § 51.5-98, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and located on property acquired and used by the United States for any military or naval purpose shall be required to collect and remit meals taxes.

B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

C. Any city or town that is authorized to levy a tax on admissions may levy the tax on admissions paid for any event held at facilities that are not owned by the city or town at a lower rate than the rate levied on admissions paid for any event held at its city- or town-owned civic centers, stadiums, and amphitheaters.

427 D. [Expired.]

428 **§ 58.1-3842. Combined transient occupancy and food and beverage tax.**

429 A. Rappahannock County and Madison County, by duly adopted ordinance, are hereby authorized to  
430 levy a tax on occupancy in a bed and breakfast establishment on which the county is authorized to levy  
431 a transient occupancy tax under § 58.1-3819 and on food and beverages sold for human consumption  
432 within such establishment on which the county is authorized to levy a food and beverage tax under  
433 § 58.1-3833, when the charges for the occupancy of the room or space and for the sale of food and  
434 beverages are assessed in the aggregate and not separately stated. Such tax shall not exceed four percent  
435 of the total amount charged for the occupancy of the room or space occupied and for the food and  
436 beverages; *however, nothing in this section shall be construed to prohibit Rappahannock County and*  
437 *Madison County from imposing a tax pursuant to the provisions of § 58.1-3833 without limit on the rate*  
438 *that may be imposed, so long as such tax is not combined with such county's transient occupancy tax*  
439 *pursuant to the provisions of this section.* Such tax shall be in such amount and on such terms as the  
440 governing body may, by ordinance, prescribe. The tax shall be in addition to the sales tax currently  
441 imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax  
442 shall be in a manner prescribed by the governing body. All taxes collected under the authority of this  
443 article shall be deemed to be held in trust for the county imposing the tax.

444 B. If a bed and breakfast establishment separately states charges for the occupancy of the room or  
445 space and for the sale of food and beverages, a transient occupancy tax levied under § 58.1-3819 and a  
446 food and beverage tax levied under § 58.1-3833 shall apply to such separately stated charges, as  
447 applicable.

448 C. Any tax imposed pursuant to this article shall not apply within the limits of any town located in  
449 such county, where such town now, or hereafter, imposes a town meals tax or a town transient  
450 occupancy tax on the same subject. If the governing body of any town within a county, however,  
451 provides that a county tax authorized by this article shall apply within the limits of such town, then such  
452 tax may be imposed within such towns.

453 D. This tax shall be levied only if a food and beverage tax has been approved in a referendum  
454 within the county as provided by subsection A of ~~§ 58.1-3833~~. No county in which the levy of a food  
455 and beverage tax has been approved in a referendum pursuant to subsection A of ~~§ 58.1-3833~~ shall be  
456 required to submit an amendment to its meals tax ordinance or a further question to the voters in a  
457 referendum prior to adopting an ordinance adopting or amending the tax authorized by this article.

458 E. Nothing herein contained shall affect any authority heretofore granted to any county to levy a  
459 food and beverage tax or a transient occupancy tax.

460 2. That §§ 58.1-3818.01, 58.1-3818.03, 58.1-3818.04, 58.1-3820, 58.1-3821, and 58.1-3831 of the Code  
461 of Virginia are repealed.