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HOUSE BILL NO. 785

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee on March 7, 2020)

(Patron Prior to Substitute—Delegate Watts)

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.

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, except the Counties of James City and York, 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 subsection A, B and C, 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, Greenville 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 to January 1, 2020, or (ii) if clause (i) is inapplicable, any excess from a rate over two percent but not exceeding five percent shall be designated and spent solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with the local tourism industry organizations, including representatives of lodging properties located in the county, attract travelers to the locality,

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60 increase occupancy at lodging properties, and generate tourism revenues in the locality. *Unless otherwise*  
 61 *provided in this article, for any county that imposes a transient occupancy tax pursuant to this section*  
 62 *or an additional transient occupancy tax pursuant to another provision of this article, any excess over*  
 63 *five percent, combining the rates of all taxes imposed pursuant to this article, shall not be restricted in*  
 64 *its use and may be spent in the same manner as general revenues.* If any locality has enacted an  
 65 additional transient occupancy tax pursuant to subsection C of § 58.1-3823, then the governing body of  
 66 the locality shall be deemed to have complied with the requirement that it consult with local tourism  
 67 industry organizations, including lodging properties. If there are no local tourism industry organizations  
 68 in the locality, the governing body shall hold a public hearing prior to making any determination  
 69 relating to how to attract travelers to the locality and generate tourism revenues in the locality.

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

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

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

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

85 **§ 58.1-3823. (For contingent expiration date, see Acts 2018, c. 850) Additional transient**  
 86 **occupancy tax for certain counties.**

87 A. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
 88 ~~58.1-3821, Hanover County, Chesterfield County, and Henrico County may impose:~~

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

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

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

106 B. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
 107 ~~58.1-3821, any~~ Any county with the county manager plan of government may impose an additional  
 108 transient occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any  
 109 room or space occupied, provided the county's governing body approves the construction of a county  
 110 conference center. The tax imposed hereunder shall not apply to rooms or spaces rented and  
 111 continuously occupied by the same individual or same group of individuals for 30 or more days. The  
 112 revenues collected from the additional tax shall be designated and spent for the design, construction,  
 113 debt payment, and operation of such conference center.

114 C. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
 115 ~~58.1-3821, the~~ The Counties of James City and York may impose an additional transient occupancy tax  
 116 not to exceed \$2 per room per night for the occupancy of any overnight guest room. The tax imposed  
 117 by this subsection shall not apply to travel campground sites or to rooms or spaces rented and  
 118 continuously occupied by the same individual or same group of individuals for 30 or more days. Of the  
 119 revenues generated by the tax authorized by this subsection, one-half of the revenues generated from  
 120 each night of occupancy of an overnight guest room shall be deposited into the Historic Triangle  
 121 Marketing Fund, created pursuant to subdivision E 1 of § 58.1-603.2, and one-half of the revenues shall

122 be retained by the locality in which the tax is imposed.

123 D. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
124 ~~58.1-3822~~, Bedford County may impose an additional transient occupancy tax not to exceed two percent  
125 of the amount of the charge for the occupancy of any room or space occupied. The tax imposed  
126 hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual  
127 or same group of individuals for 30 or more days.

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

133 E. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
134 ~~58.1-3822~~, Botetourt County may impose an additional transient occupancy tax not to exceed two  
135 percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed  
136 hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual  
137 or same group of individuals for 30 or more days.

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

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

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

147 **§ 58.1-3823. (For contingent effective date, see Acts 2018, c. 850) Additional transient occupancy**  
148 **tax for certain counties.**

149 A. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
150 ~~58.1-3824~~, Hanover County, Chesterfield County and Henrico County may impose:

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

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

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

168 B. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
169 ~~58.1-3824~~, ~~any~~ Any county with the county manager plan of government may impose an additional  
170 transient occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any  
171 room or space occupied, provided the county's governing body approves the construction of a county  
172 conference center. The tax imposed hereunder shall not apply to rooms or spaces rented and  
173 continuously occupied by the same individual or same group of individuals for 30 or more days. The  
174 revenues collected from the additional tax shall be designated and spent for the design, construction,  
175 debt payment, and operation of such conference center.

176 C. 1. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
177 ~~58.1-3824~~, ~~the~~ The Counties of James City and York may impose an additional transient occupancy tax  
178 not to exceed \$2 per room per night for the occupancy of any overnight guest room. The revenues  
179 collected from the additional tax shall be designated and expended solely for advertising the Historic  
180 Triangle area, which includes all of the City of Williamsburg and the Counties of James City and York,  
181 as an overnight tourism destination by the members of the Williamsburg Area Destination Marketing  
182 Committee of the Greater Williamsburg Chamber and Tourism Alliance. The tax imposed by this

183 subsection shall not apply to travel campground sites or to rooms or spaces rented and continuously  
184 occupied by the same individual or same group of individuals for 30 or more days.

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

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

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

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

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

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

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

228 D. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
229 ~~58.1-3822~~, Bedford County may impose an additional transient occupancy tax not to exceed two percent  
230 of the amount of the charge for the occupancy of any room or space occupied. The tax imposed  
231 hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual  
232 or same group of individuals for 30 or more days.

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

238 E. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~  
239 ~~58.1-3822~~, Botetourt County may impose an additional transient occupancy tax not to exceed two  
240 percent of the amount of the charge for the occupancy of any room or space occupied. The tax imposed  
241 hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual  
242 or same group of individuals for 30 or more days.

243 The revenue generated and collected from the two percent tax rate increase shall be designated and  
244 expended solely for advertising the Roanoke metropolitan area as an overnight tourist destination by

245 members of the Roanoke Valley Convention and Visitors Bureau. For purposes of this subsection,  
246 "advertising the Roanoke metropolitan area as an overnight tourism destination" means advertising that  
247 is intended to attract visitors from a sufficient distance so as to require an overnight stay.

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

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

252 **§ 58.1-3825.3. Additional transient occupancy tax in Arlington County.**

253 In addition to ~~such~~ *the* transient occupancy taxes as ~~are~~ *tax* authorized by §§ § 58.1-3819 and  
254 58.1-3820, beginning July 1, 2018, and ending July 1, 2021, Arlington County may impose an  
255 additional transient occupancy tax not to exceed one-fourth of one percent of the amount of the charge  
256 for the occupancy of any room or space occupied. The revenues collected from the additional tax shall  
257 be designated and spent for the purpose of promoting tourism and business travel in the county.

258 **§ 58.1-3830. Local cigarette taxes authorized; use of dual die or stamp to evidence payment.**

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

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

275 C. *The maximum tax rate imposed by a locality on cigarettes pursuant to the provisions of this*  
276 *section shall be as follows:*

277 1. *If such locality is (i) a city or town that, on January 1, 2020, had in effect a rate not exceeding*  
278 *two cents (\$0.02) per cigarette sold or (ii) a county, then the maximum rate shall be two cents (\$0.02)*  
279 *per cigarette sold.*

280 2. *If such locality is a city or town that, on January 1, 2020, had in effect a rate exceeding two*  
281 *cents (\$0.02) per cigarette sold, then the maximum rate shall be the rate in effect on January 1, 2020.*

282 **§ 58.1-3833. County food and beverage tax.**

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

306 offer food, food products, or beverages for immediate consumption at concession prices to elderly,  
 307 infirm, blind, handicapped, or needy persons in their homes or at central locations.

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

311 3. This tax shall be levied only if the tax is approved in a referendum within the county which shall  
 312 be held in accordance with ~~§ 24.2-684~~ and initiated either by a resolution of the board of supervisors or  
 313 on the filing of a petition signed by a number of registered voters of the county equal in number to 10  
 314 percent of the number of voters registered in the county, as appropriate on January 1 of the year in  
 315 which the petition is filed with the court of such county. However, no referendum initiated by a  
 316 resolution of the board of supervisors shall be authorized in a county in the three calendar years  
 317 subsequent to the electoral defeat of any referendum held pursuant to this section in such county. The  
 318 clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the  
 319 county once a week for three consecutive weeks prior to the election. If the voters affirm the levy of a  
 320 local meals tax, the tax shall be effective in an amount and on such terms as the governing body may  
 321 by ordinance prescribe. If such resolution of the board of supervisors or such petition states for what  
 322 projects and/or purposes the revenues collected from the tax are to be used, then the question on the  
 323 ballot for the referendum shall include language stating for what projects and/or purposes the revenues  
 324 collected from the tax are to be used.

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

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

- 336 a. The purpose or purposes of the bonds to be issued;
- 337 b. The estimated maximum amount of such bonds proposed in the notice required in subsection A of  
 338 ~~§ 15.2-2606~~;
- 339 c. The request for approval by the voters of a county food and beverage tax authorized and levied in  
 340 accordance with subdivision 3;
- 341 d. The language required to be included in the ballot question as set forth in subdivision 4; and
- 342 e. An explanation that the bonds shall be issued only if the county food and beverage tax is  
 343 approved in the referendum.

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

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

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

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

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

366 E. C. Notwithstanding any other provision of this section, no locality shall levy any tax under this  
 367 section upon (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition

368 to the sales price; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or  
 369 service charge added by the restaurant in addition to the sales price, but only to the extent that such  
 370 mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) alcoholic  
 371 beverages sold in factory sealed containers and purchased for off-premises consumption or food  
 372 purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C.  
 373 § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items:  
 374 sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily  
 375 of an assortment of vegetables, and nonfactory sealed beverages.

376 **§ 58.1-3834. Apportionment of food and beverage or meals tax.**

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

383 **§ 58.1-3840. Certain excise taxes permitted.**

384 A. The provisions of Chapter 6 (§ 58.1-600 et seq.) to the contrary notwithstanding, any city or town  
 385 having general taxing powers established by charter pursuant to or consistent with the provisions of  
 386 § 15.2-1104 *and, to the extent authorized in this chapter, any county* may impose excise taxes on  
 387 cigarettes, admissions, transient room rentals, meals, and travel campgrounds. No such taxes on meals  
 388 may be imposed on (i) that portion of the amount paid by the purchaser as a discretionary gratuity in  
 389 addition to the sales price of the meal; (ii) that portion of the amount paid by the purchaser as a  
 390 mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal,  
 391 but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the  
 392 sales price; or (iii) food and beverages sold through vending machines or on any tangible personal  
 393 property purchased with food coupons issued by the United States Department of Agriculture under the  
 394 Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for  
 395 Women, Infants, and Children. No such taxes on meals may be imposed when sold or provided by (a)  
 396 restaurants, as such term is defined in § 35.1-1, to their employees as part of their compensation when  
 397 no charge is made to the employee; (b) volunteer fire departments and volunteer emergency medical  
 398 services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or  
 399 benevolent organizations, the first three times per calendar year and, beginning with the fourth time, on  
 400 the first \$100,000 of gross receipts per calendar year from sales of meals (excluding gross receipts from  
 401 the first three times), as a fundraising activity, the gross proceeds of which are to be used by such  
 402 church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or  
 403 religious purposes; (c) churches that serve meals for their members as a regular part of their religious  
 404 observances; (d) public or private elementary or secondary schools or institutions of higher education to  
 405 their students or employees; (e) hospitals, medical clinics, convalescent homes, nursing homes, or other  
 406 extended care facilities to patients or residents thereof; (f) day care centers; (g) homes for the aged,  
 407 infirm, handicapped, battered women, narcotic addicts, or alcoholics; or (h) age-restricted apartment  
 408 complexes or residences with restaurants, not open to the public, where meals are served and fees are  
 409 charged for such food and beverages and are included in rental fees.

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

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

421 B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this  
 422 section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises  
 423 consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of  
 424 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the  
 425 following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads  
 426 consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

427 C. Any city or town that is authorized to levy a tax on admissions may levy the tax on admissions  
 428 paid for any event held at facilities that are not owned by the city or town at a lower rate than the rate

429 levied on admissions paid for any event held at its city- or town-owned civic centers, stadiums, and  
430 amphitheaters.

431 D. [Expired.]

432 **§ 58.1-3842. Combined transient occupancy and food and beverage tax.**

433 A. Rappahannock County and Madison County, by duly adopted ordinance, are hereby authorized to  
434 levy a tax on occupancy in a bed and breakfast establishment on which the county is authorized to levy  
435 a transient occupancy tax under § 58.1-3819 and on food and beverages sold for human consumption  
436 within such establishment on which the county is authorized to levy a food and beverage tax under  
437 § 58.1-3833, when the charges for the occupancy of the room or space and for the sale of food and  
438 beverages are assessed in the aggregate and not separately stated. Such tax shall not exceed ~~four~~ 11  
439 percent of the total amount charged for the occupancy of the room or space occupied and for the food  
440 and beverages. Such tax shall be in such amount and on such terms as the governing body may, by  
441 ordinance, prescribe. The tax shall be in addition to the sales tax currently imposed by the county  
442 pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax shall be in a manner  
443 prescribed by the governing body. All taxes collected under the authority of this article shall be deemed  
444 to be held in trust for the county imposing the tax.

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

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

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

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

461 **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**  
462 **of Virginia are repealed.**

463 **3. That the provisions of this act amending § 58.1-3830 shall become effective on July 1, 2021.**

464 **4. That notwithstanding the provisions of this act, no county that held a referendum pursuant to**  
465 **§ 58.1-3833 of the Code of Virginia prior to July 1, 2020, that was defeated may impose a tax**  
466 **pursuant to § 58.1-3833 of the Code of Virginia until six years after the date of such referendum,**  
467 **unless a successful referendum was held after the defeated referendum and before July 1, 2020.**

468 **5. That the Division of Legislative Services (the Division) shall convene a work group of**  
469 **stakeholders to identify and make recommendations as to other amendments necessary, including**  
470 **repealing obsolete provisions and making technical amendments to existing provisions, to the Code**  
471 **of Virginia to effectuate the provisions of this act. The Division also shall identify the different**  
472 **legal authorities and requirements that apply to cities and counties that are not related to taxation,**  
473 **including those related to the provision of local services and related to sovereign immunity. The**  
474 **Division shall submit a summary of its recommendations and a draft of any recommended changes**  
475 **to the Chairmen of the House Committees on Appropriations and Finance and the Senate**  
476 **Committee on Finance and Appropriations no later than October 31, 2020.**

477 **6. That the Department of Taxation (the Department) shall convene a work group of stakeholders**  
478 **to identify and make recommendations for (i) modernizing the process for using stamps to certify**  
479 **that tax has been paid on cigarettes and (ii) unifying the stamping process so that it is**  
480 **administered solely by the Department of Taxation. The Department shall submit a summary of its**  
481 **recommendations, including any proposed amendments to the Code of Virginia, to the Chairmen**  
482 **of the House Committees on Appropriations and Finance and the Senate Committee on Finance**  
483 **and Appropriations no later than October 31, 2020.**