

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 55

An Act to amend the Code of Virginia by adding a section numbered 58.1-609.14, relating to sales tax; exemption for personal protective equipment; emergency.

[H 2185]

Approved March 11, 2021

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 58.1-609.14 as follows:

§ 58.1-609.14. Personal protective equipment exemption.

A. As used in this section:

"Business" means a person doing business in Virginia, including a self-employed individual.

"COVID-19 Emergency Temporary Standard" means the Emergency Temporary Standard, Infectious Disease Prevention: SARS-CoV-2 Virus That Causes COVID-19, promulgated by the Department of Labor and Industry and in effect at 16VAC25-220, or any permanent regulation intended to succeed such regulation.

"COVID-19 safety protocol" means safety protocols that comply with the COVID-19 Emergency Temporary Standard and that meet the following criteria:

- 1. Reasonably prevent the spread of COVID-19;*
- 2. Comply with all applicable federal, state, and local laws;*
- 3. Are consistent with best practices for infection prevention and workplace hygiene;*
- 4. Promote remote work to the fullest extent possible, including increasing the number of telework-eligible employees; and*
- 5. Implement enhanced cleaning, screening, testing, and contact tracing procedures and any additional infection-control measures that are reasonable in light of the work performed at the worksite and the rate of infection in the surrounding community.*

"Other than business use" means, with respect to a purchased item or service, that (i) the business uses the purchased item or service more than 50 percent of the time for nonbusiness purposes or (ii) the business transfers a purchased item to a person other than the business or transfers the use of a purchased service to a person other than the business.

"Personal protective equipment" means only the following:

- 1. Disinfecting products approved for use against SARS-CoV-2 and COVID-19;*
- 2. Coveralls, full body suits, gowns, and vests;*
- 3. Engineering controls such as substitution, isolation, ventilation, and equipment modification to reduce exposure to SARS-CoV-2 and COVID-19 disease-related workplace hazards and job tasks; engineering controls also include UVC sanitation equipment, indoor air quality equipment such as ionization, HEPA filtration, and physical barriers;*
- 4. Face coverings, face shields, and filtering facepiece respirators;*
- 5. Gloves;*
- 6. Hand sanitizer;*
- 7. Hand-washing facilities;*
- 8. HVAC, testing, and physical modifications to comply with the American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standards 62.1 and 62.2 (ASHRAE 2019a, 2019b);*
- 9. Medical and nonmedical masks;*
- 10. Physical barriers and electronic sensors or systems designed to maintain or monitor physical distancing of employees from other employees, other persons, and the general public, including acrylic sneeze guards, permanent or temporary walls, electronic employee monitors, and proximity sensors in employee badges;*
- 11. Respiratory protection equipment;*
- 12. Safety glasses;*
- 13. Signs related to COVID-19;*
- 14. Temperature-checking devices and monitors; and*
- 15. Testing and related equipment related to COVID-19.*

"Qualifying business" means a business that has in place a COVID-19 safety protocol.

B. The tax imposed by this chapter, or pursuant to any authority granted thereunder, shall not apply to personal protective equipment purchased by a qualifying business or to training related to COVID-19 purchased by a qualifying business. To use the exemption, a qualifying business shall, pursuant to the provisions of § 58.1-623, verify to the seller that the sale is tax exempt. No exemption shall be allowed under this section for a purchase by a qualifying business for other than business use.

C. 1. If the Department receives information that a business has made a tax-exempt purchase under this section and used the purchase for other than business use, the Department shall notify the business. The business shall remit the tax due on the purchase to the Department, plus a penalty of 10 percent of the tax due, plus interest at the rate prescribed by § 58.1-15 accruing from the date of purchase.

2. If the Department receives information that a business is not following its COVID-19 safety protocol, the Department shall notify the business that its qualification for the exemption provided by this section is revoked. Effective as of the date that the Department sends the notification, such business shall not claim any exemption under this section.

D. The Department shall issue guidelines clarifying what equipment and training are tax exempt under this section.

2. That the Department of Taxation shall issue the guidelines required by this act on or before 30 days after the effective date of this act.

3. That no refund or retroactive exemption shall be issued or may be claimed under the provisions of this act for any purchase made before the effective date of this act.

4. That the sales tax exemption provided under § 58.1-609.14 of the Code of Virginia, as created by this act, shall expire on the first day following the expiration of the last executive order issued by the Governor related to the COVID-19 pandemic and the termination of the COVID-19 Emergency Temporary Standard and any permanent COVID-19 regulations adopted by the Virginia Safety and Health Codes Board.

5. That an emergency exists and this act is in force from its passage.