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HOUSE BILL NO. 20**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Finance
on February 16, 1994)

(Patron Prior to Substitute—Delegate Cranwell)

*A BILL to amend and reenact §§ 58.1-609.3, 58.1-609.7, 58.1-609.8, and 58.1-609.9 of the Code of Virginia, relating to sales and use tax exemptions.***Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-609.3, 58.1-609.7, 58.1-609.8, and 58.1-609.9 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-609.3. Commercial and industrial exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in processing, manufacturing, refining, mining or converting products for sale or resale. *The provisions of this subsection do not apply to the exploration for or drilling, extraction, refining, or processing of oil, gas, natural gas and coalbed methane gas.*

3. Tangible personal property sold or leased to (i) a public service corporation subject to a state franchise or license tax upon gross receipts, (ii) a telecommunications company as defined in § 58.1-400.1 or (iii) a telephone company chartered in the Commonwealth which is exclusively a local mutual association and is not designated to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof, for use or consumption by such corporation, company, person or mutual association directly in the rendition of its public service; and tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by motor vehicle or railway, for use or consumption by such common carrier directly in the rendition of its public service.

4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subdivision.

5. Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

6. Tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service, as defined in § 58.1-1501, on a continuing basis to one or more Virginia airports for use or consumption by such airline directly in the rendition of its common carrier service.

7. Meals furnished by restaurants or food service operators to employees as a part of wages.

8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

9. Certified pollution control equipment and facilities as defined in § 58.1-3660.

10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption directly in the rendition of their services.

11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or photocopying of products for sale or resale.

12. *From July 1, 1994, through June 30, 1996, raw materials, fuel, power, energy, supplies, machinery or tools or repair parts therefor or replacements thereof, used directly in the exploration for or drilling, extraction, refining, or processing of natural gas or oil and the reclamation of the well area. For the purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane gas" as defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," "refining," and "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw natural gas into a usable condition consistent with commercial practices, and the gathering and transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition.*

§ 58.1-609.7. Medical-related exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, and veterinarians; and controlled drugs purchased for use by a licensed physician in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians engaged in the practice of medicine, but excluding hospitals, nursing homes, clinics, and similar corporations not otherwise exempt under this section. Any veterinarian dispensing or selling medicines or drugs on prescription shall be deemed to be the user or consumer of all such medicines and drugs.

2. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters, urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents which may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or on behalf of an individual for use by such individual. Durable medical equipment is equipment which (i) can withstand repeated use, (ii) is primarily and customarily used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

3. Drugs and supplies used in hemodialysis and peritoneal dialysis.

4. Tangible personal property for use or consumption by a nonprofit hospital or a nonprofit licensed nursing home.

5. Tangible personal property for use or consumption by community health centers exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and established for the purpose of providing health care services for areas of the Commonwealth containing a medically underserved population as defined by 42 U.S.C. § 254 c (b) (3).

6. Special equipment installed on a motor vehicle when purchased by a handicapped person to enable such person to operate the motor vehicle.

7. Tangible nonmedical personal property purchased by a nonprofit organization organized exclusively for the purpose of providing housing and ancillary assistance for ~~children~~ *individuals* suffering from leukemia or oncological diseases, for other ill ~~children~~ *individuals*, and for the families of such ~~children~~ *individuals* during periods of medical treatment of such ~~children~~ *individuals* at any hospital in the Commonwealth.

8. Tangible personal property purchased by a voluntary health organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively for the purpose of providing direct therapeutic and rehabilitative services, such as speech therapy, physical therapy, and camping and recreational activities, to the children and adults of this Commonwealth regardless of the nature of their disease or socio-economic position.

9. Special typewriters and computers and related parts and supplies specifically designed for those products used by handicapped persons to communicate when such equipment is prescribed by a licensed physician.

10. Tangible personal property purchased for use or consumption by health maintenance organizations licensed under Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 which are exempt from taxation under § 501 (c) (3) of the Internal Revenue Code.

11. Tangible personal property for use or consumption by a nonprofit, nonstock corporation which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized under the laws of the Commonwealth exclusively for the purpose of conducting a clinic furnishing free health

care services by licensed physicians and dentists.

12. Tangible personal property purchased for use or consumption by any nonprofit hospital cooperative or nonprofit hospital corporation organized and operated for the sole purpose of providing services exclusively to nonprofit hospitals. This exemption shall not apply to any nonprofit hospital, cooperative or nonprofit hospital corporation providing services of any kind or to any extent to other than nonprofit hospitals.

13. From July 1, 1989, through June 30, ~~1994~~ 1998, tangible personal property purchased for use or consumption by a nonprofit high blood pressure center which is used exclusively to provide medical assistance to indigent persons diagnosed with hypertension.

14. From July 1, 1989, through June 30, ~~1994~~ 1998, tangible personal property purchased for use or consumption by a tissue bank exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and established for purposes of harvesting, preserving, processing and distributing bones, skin and other human tissue to licensed physicians for clinical use.

15. Beginning July 1, 1994, any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

§ 58.1-609.8. Nonprofit civic and community service exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Tangible personal property purchased for use or consumption by or sold by a volunteer fire department or volunteer rescue squad or auxiliary of such department or squad not conducted for profit and construction materials to be incorporated into realty when sold to and used by such organization, rather than a contractor, in construction, maintenance, or repair of any property of such organization.

2. Tangible personal property, except property used in any form of recording and reproducing services, purchased by churches organized not for profit and which are exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters which do not contain paid advertising and are used in carrying out the work of the church; gifts for distribution outside the public church building; and food, disposable serving items, cleaning supplies and teaching materials used in the operation of camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are used in carrying out the work of the church or churches.

3. Tangible personal property sold or leased for use in nonprofit nutrition programs for the elderly qualifying under 42 U.S.C. § 3030 (e) through (g), as amended, as administered by the Virginia Department for the Aging, and the food and food products sold under such programs to elderly persons and the food and food products sold by such program participants to disabled or handicapped persons under the age of sixty.

4. Tangible personal property bought, sold or used by Virginia Federation of Humane Societies or any chartered, not-for-profit organization incorporated under the laws of this Commonwealth and organized for the purpose of preventing cruelty to animals and promoting humane care of animals, when such property is used for the operation of such organizations or the construction or maintenance of animal shelters.

5. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency or instrumentality thereof.

6. Tangible personal property purchased by an organization which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized primarily to distribute, during the Christmas season, food, toys, and clothing to persons in financial need, provided such tangible personal property is distributed at no cost to financially needy persons.

7. Tangible personal property, including food and food products, purchased for use or consumption by a residential youth shelter organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, provided such organization is organized exclusively for maintaining and operating group homes for the shelter and care of abused and neglected children in the Commonwealth on a long-term or short-term basis.

8. Tangible personal property purchased for use or consumption by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively for the purpose of

183 providing education, training, services, and assistance in independent living to foster care children and
184 youth without families.

185 9. Tangible personal property for use or consumption by, sold by or donated to a food bank or
186 organization exempt from taxation pursuant to § 501 (c) (3) of the Internal Revenue Code and organized
187 exclusively for the distribution of foods to infants, the ill, or the needy; the exemptions shall apply to
188 each transaction in the chain of commerce from manufacture to final disposition, provided that such
189 food bank or organization is not conducted for profit.

190 10. Tangible personal property for use or consumption by a licensed nonprofit adult care residence as
191 defined in § 63.1-172 or a licensed nonprofit adult day care center as defined in § 63.1-194.1.

192 11. From July 1, 1989, through June 30, 1994 1998, tangible personal property purchased for use or
193 consumption by or sold by a nonstock, nonprofit charitable organization, exempt from taxation under
194 § 501 (c) (3) of the Internal Revenue Code and from local real estate taxation, which is organized
195 exclusively to foster, sponsor and promote physical education, athletic programs and contests for youths
196 in the Commonwealth.

197 12. From July 1, 1989, through June 30, 1994 1998, tangible personal property purchased for use or
198 consumption by a shelter for homeless individuals operated by an organization exempt from taxation
199 pursuant to § 501 (c) (3) of the Internal Revenue Code, or tangible personal property purchased for use
200 or consumption by a § 501 (c) (3) organization that is organized exclusively for the purpose of
201 providing food, shelter, clothing or other items to homeless persons in the Commonwealth.

202 13. From July 1, 1989, through June 30, 1994 1998, tangible personal property purchased for use or
203 consumption by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code
204 and organized for the purpose of preparing and publishing a free travel guide for handicapped travelers.

205 14. From July 1, 1989, through June 30, 1994 1998, tangible personal property purchased for use or
206 consumption, or to be sold at retail, by any nonsectarian youth organization exempt from taxation under
207 § 501 (c) (3) of the Internal Revenue Code which is organized for the purposes of the character
208 development and citizenship training of its members using the methods now in common use by Girl
209 Scout or Boy Scout organizations in Virginia.

210 15. From July 1, 1990, through June 30, 1994 1998, tangible personal property purchased for use or
211 consumption by a nonprofit organization which under contract with a municipality operates Head Start
212 programs, extended day care programs, and a shelter for runaways.

213 16. From July 1, 1990, through June 30, 1994 1998, tangible personal property purchased for use or
214 consumption by a nonstock, nonprofit charitable corporation exempt from taxation under § 501 (c) (3) of
215 the Internal Revenue Code and from local property taxes and organized and operated to offer social
216 services, including, but not limited to, aid or assistance to travelers who, for financial or other reasons,
217 find themselves stranded or otherwise in distress and in need of temporary assistance (traveler's aid);
218 family life education; assistance to persons interested in the adoption of children or acting as foster care
219 parents; counseling to persons in financial need or distress and the provision of services related thereto;
220 counseling for individuals living with persons afflicted with mental health problems or the mentally
221 retarded, as well as providing services directly to the mentally ill or mentally retarded; and related social
222 welfare activities.

223 17. From July 1, 1990, through June 30, 1994 1998, tangible personal property purchased for use or
224 consumption by a nonstock, nonprofit charitable corporation exempt from taxation under § 501 (c) (3) of
225 the Internal Revenue Code and organized and operated to offer social services, including, but not limited
226 to, transitional housing for homeless individuals, employment counseling, placement and referral services
227 to persons in financial need, health-related assistance, child care for children whose parents are either
228 employed or enrolled in job training programs, emergency assistance (including the provision of food) to
229 persons in financial need who may face eviction or termination of utility services, and related social
230 welfare activities.

231 18. From July 1, 1990, through June 30, 1994 1998, tangible personal property purchased for use or
232 consumption by a nonprofit organization exempt from taxation pursuant to § 501 (c) (3) of the Internal
233 Revenue Code and which provides equipment, furniture, motor vehicles, and other types of tangible
234 personal property to assist mentally retarded or mentally ill citizens of the Commonwealth.

235 19. From July 1, 1991, through June 30, 1994 1998, tangible personal property purchased for use or
236 consumption by a community action agency as defined in § 2.1-588.

237 20. Effective retroactive to January 1, 1984, and through June 30, 1994 1998, tangible personal
238 property for use or consumption, or further distribution, or sold by an organization exempt from taxation
239 under § 501 (c) (3) of the Internal Revenue Code and which is organized and operated exclusively for
240 the purposes of providing education, training, certification in emergency cardiac care, research, and other
241 related services to reduce disability and death from cardiovascular diseases and stroke.

242 21. Effective retroactive to January 1, 1984, and through June 30, 1994 1998, tangible personal
243 property for use or consumption, or further distribution, or sold by an organization exempt from taxation
244 under § 501 (c) (3) of the Internal Revenue Code and which is organized and operated exclusively for

the purpose of eliminating all lung disease, including asthma, emphysema, lung cancer and pneumonia, through medical research, public education focusing on disease prevention and education, patient education including information on coping with lung disease, smoking and air pollution prevention, and professional education and training.

22. Effective retroactive to January 1, 1984, and through June 30, 1994 1998, tangible personal property for use or consumption, or further distribution, or sold by a statewide organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized and operated exclusively for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training.

23. Effective retroactive to January 1, 1984, and through June 30, 1994 1998, tangible personal property for use or consumption, or further distribution, or sold by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code which is organized exclusively for the purpose of eliminating cancer as a major health problem by preventing cancer, saving lives from cancer, and diminishing suffering from cancer through research, education and service.

24. From July 1, 1991, through June 30, 1994 1998, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively for the purpose of promoting and supporting conservation and environmental issues throughout the Commonwealth by encouraging the protection and restoration of waters, wildlife and land; safeguarding the public health by eliminating pollution; nurturing and improving wildlife stocks; promoting the highest standards of sportsmanship and strengthening farmer-sportsmen understanding; and performing other environmental services.

25. From July 1, 1991, through June 30, 1994 1998, tangible personal property purchased for use or consumption by a nonprofit charitable organization which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized exclusively to provide immediate and affordable counseling, and regularly scheduled workshops to address the psychological, educational, and professional concerns of women and their families.

26. From July 1, 1991, through June 30, 1994 1998, tangible personal property purchased for use or consumption by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized exclusively to advance the moral character and to promote sportsmanship, team spirit, fair play, honesty, and patriotism among youth by providing and supervising clean and wholesome activities for the youth in Appomattox County who participate in its programs.

27. From July 1, 1991, through June 30, 1994 1998, tangible personal property purchased and sold by a nonprofit organization exempt from taxation under § 501 (c) (3) or (4) of the Internal Revenue Code, organized exclusively to provide aid and assistance to (i) the blind or visually impaired or programs devoted to the prevention of the loss of eyesight; (ii) the deaf or hearing impaired; (iii) drug abuse and drug awareness programs; (iv) diabetes and diabetes detection; and (v) cultural and educational opportunities for the musically talented boys and girls of the Commonwealth, for use in fund-raising activities, provided the net proceeds (gross receipts less expenses) from such sales are contributed directly to or used to fund the charitable purposes for which the organization is organized.

28. From July 1, 1991, through June 30, 1994 1998, tangible personal property purchased for use or consumption in the performance of emergency services by Radio Emergency Associated Communications Teams which are nonprofit organizations that operate and maintain public service communications and provide emergency services to motorists and their local communities.

§ 58.1-609.9. Nonprofit cultural organization exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Historical documents, maps, rare books and manuscripts acquired for use or consumption by a nonprofit state historical society, exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, which has a research library, a museum, and an educational department, all open to the public.

2. Tangible personal property purchased for use or consumption by (i) a nonprofit museum of fine arts which is located on property owned by a city in Virginia and which receives more than one-half its operating budget from appropriations by the city or (ii) a nonprofit regional science-technology museum.

3. Tangible personal property purchased for the use or consumption of a nonstock corporation, exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, whose principal activity is conducted on real property owned by any city in the Commonwealth, organized exclusively for the purpose of operating, managing, promoting and improving a public park and museum for recreational and educational purposes.

4. Tangible personal property purchased for charitable or educational purposes by an organization exempt under § 501 (c) (3) of the Internal Revenue Code and organized exclusively (i) to care for the spiritual needs of American Indians, (ii) to communicate to the non-Indian the values, customs,

306 philosophy and special needs of the American Indian, (iii) to meet the urgent needs of American Indians
307 through nationwide charitable distribution programs, and (iv) to encourage awareness of American
308 Indian arts, crafts and customs provided such property is distributed by the organization through its
309 nationwide charitable distribution program.

310 5. From July 1, 1989, through June 30, ~~1994~~ 1999, tangible personal property purchased for use or
311 consumption by a nonprofit foundation exempt from taxation under § 501 (c) (3) of the Internal
312 Revenue Code and organized for the purpose of promoting a permanent memorial to a former Chief
313 Justice of the Supreme Court of the United States.

314 6. From July 1, 1989, through June 30, ~~1994~~ 1999, tangible personal property purchased for use or
315 consumption by a nonprofit museum exempt from taxation under § 501 (c) (3) of the Internal Revenue
316 Code and operating for the purpose of commemorating and preserving in a central repository the culture
317 and history of black people in Virginia through a collection of memoirs, artifacts, displays, exhibits and
318 other related historical data.

319 7. From July 1, 1989, through June 30, ~~1994~~ 1999, tangible personal property purchased for use or
320 consumption by a nonstock, nonprofit organization which (i) is exempt from taxation under § 501 (c) (3)
321 of the Internal Revenue Code, (ii) operates exclusively for educational and charitable purposes to
322 promote the study, performance and public awareness of music by presenting performances of live music
323 to youths and family groups, (iii) receives funding annually from at least three local governments in
324 Virginia and from the Virginia Commission for the Arts, and (iv) charges no fees for children to attend
325 the musical performances.

326 8. From July 1, 1989, through June 30, ~~1994~~ 1999, tangible personal property purchased for use or
327 consumption by a nonprofit cultural organization, exempt from taxation under § 501 (c) (3) of the
328 Internal Revenue Code, which educates children about the arts, humanities and nature on a regular basis
329 through museum exhibits, classes and performances.

330 9. From July 1, 1989, through June 30, ~~1994~~ 1999, tangible personal property purchased for use or
331 consumption by a national and international, nonprofit, scientific, and educational organization, exempt
332 from taxation under § 501 (c) (3) of the Internal Revenue Code, whose resources are devoted to
333 preserving ecologically significant areas in order to safeguard rare or endangered species or critical
334 natural habitats.

335 10. Tangible personal property purchased for use or consumption by a nonstock, nonprofit
336 organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and organized
337 exclusively to provide a public park and botanical garden for the entertainment and recreation of the
338 citizens of the Commonwealth and to promote the advancement of botanical science through research
339 and education of science students.

340 11. From July 1, 1990, through June 30, ~~1994~~ 1999, tangible personal property purchased for use or
341 consumption by a nonprofit organization which is exempt from taxation pursuant to § 501 (c) (3) of the
342 Internal Revenue Code and which coordinates and promotes art in the Roanoke Valley.