

LD9751673

## SENATE BILL NO. 721

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance  
on February 13, 1995)

(Patron Prior to Substitute—Senator Holland, C. A.)

*A BILL to amend and reenact §§ 58.1-609.3, 58.1-609.6 and 58.1-609.7 of the Code of Virginia, relating to retail sales and use tax exemptions.***Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-609.3, 58.1-609.6 and 58.1-609.7 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 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. (i) Certified pollution control equipment and facilities as defined in § 58.1-3660; and

60 (ii) *From July 1, 1994, through June 30, 1996, certified pollution control equipment and facilities as*  
61 *defined in § 58.1-3660 and which, in accordance with such section, have been certified by the*  
62 *Department of Mines, Minerals and Energy for coal, oil and gas production, including gas, natural gas,*  
63 *and coalbed methane gas.*

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

66 11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of  
67 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or  
68 photocopying of products for sale or resale.

69 12. From July 1, 1994, through June 30, 1996, raw materials, fuel, power, energy, supplies,  
70 machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling,  
71 extraction, refining, or processing of natural gas or oil and the reclamation of the well area. For the  
72 purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane  
73 gas" as defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," "refining," and  
74 "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw  
75 natural gas into a usable condition consistent with commercial practices, and the gathering and  
76 transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition.  
77 Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the  
78 preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or  
79 oil for sale or resale, or in well area reclamation activities required by state or federal law.

80 § 58.1-609.6. Media-related exemptions.

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

83 1. Leasing, renting or licensing of copyright audio or video tapes, and films for public exhibiion at  
84 motion picture theaters or by licensed radio and television stations.

85 2. Broadcasting equipment and parts and accessories thereto and towers used or to be used by  
86 commercial radio and television companies, cable television systems, or concerns which are under the  
87 regulation and supervision of the Federal Communications Commission and amplification, transmission  
88 and distribution equipment used or to be used by cable television systems.

89 3. Any publication issued daily, or regularly at average intervals not exceeding three months, and  
90 advertising supplements and any other printed matter ultimately distributed with or as part of such  
91 publications; however, newsstand sales of the same are taxable. *As used in this subdivision, the term*  
92 *"newsstand sales" shall not include sales of back copies of publications by the publisher or his agent.*

93 4. Catalogs, letters, brochures, reports, and similar printed materials, except administrative supplies,  
94 the envelopes, containers and labels used for packaging and mailing same, and paper furnished to a  
95 printer for fabrication into such printed materials, when stored for twelve months or less in the  
96 Commonwealth and distributed for use without the Commonwealth. As used in this subdivision,  
97 "administrative supplies" includes, but is not limited to, letterhead, envelopes, and other stationery; and  
98 invoices, billing forms, payroll forms, price lists, time cards, computer cards, and similar supplies.  
99 Notwithstanding the provisions of subdivision 5 of this section or the definition of "advertising"  
100 contained in § 58.1-602, any advertising business located outside the Commonwealth which purchases  
101 printing from a printer within the Commonwealth shall not be deemed the user or consumer of the  
102 printed materials when such purchases would have been exempt under this subdivision.

103 5. Advertising as defined in § 58.1-602.

104 6. *From July 1, 1995, through June 30, 1997,*

105 a. (i) *The lease, rental, license, sale, other transfer, or use of any audio or video tape, film or other*  
106 *audiovisual work where the transferee or user acquires or has acquired the work for the purpose of*  
107 *licensing, distributing, broadcasting, commercially exhibiting or reproducing the work or using or*  
108 *incorporating the work into another such work; (ii) the provision of production services or fabrication*  
109 *in connection with the production of any portion of such audiovisual work, including, but not limited to,*  
110 *scriptwriting, photography, sound, musical composition, special effects, animation, adaptation, dubbing,*  
111 *mixing, editing, cutting and provision of production facilities or equipment; (iii) the transfer or use of*  
112 *tangible personal property, including, but not limited to, scripts, musical scores, storyboards, artwork,*  
113 *film, tapes and other media, incident to the performance of such services or fabrication. However,*  
114 *audiovisual works and incidental tangible personal property described in clauses (i) and (iii) shall be*  
115 *subject to tax as otherwise provided in this chapter to the extent of the value of their tangible*  
116 *components prior to their use in the production of any audiovisual work and prior to their enhancement*  
117 *by any production service; and*

118 b. *Equipment and parts and accessories thereto used or to be used in the production of such*  
119 *audiovisual works.*

120 § 58.1-609.7. Medical-related exemptions.

121 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, *nurse practitioners, physicians's assistants*, 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 individuals suffering from leukemia or oncological diseases, for other ill individuals, and for the families of such individuals during periods of medical treatment of such 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, 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, 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 procuring, preserving, processing, allocating or distributing bones, organs, blood, skin and other human tissue to licensed physicians for clinical use.

15. Beginning July 1, 1996, any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings. The terms "nonprescription drugs"

183 and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of  
184 Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

185 16. From July 1, 1994, through June 30, 1998, tangible personal property purchased for use or  
186 consumption or sold by a volunteer medical services organization exempt from taxation under § 501 (c)  
187 (3) of the Internal Revenue Code and established to provide reconstructive surgery and related health  
188 care to indigent children and young adults in developing countries and the United States.