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HOUSE BILL NO. 59

Offered January 10, 1996

A BILL to amend and reenact §§ 58.1-609.3 and 58.1-609.4 of the Code of Virginia, relating to commercial, industrial and educational sales and use tax exemptions.

Patron—Cranwell

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-609.3 and 58.1-609.4 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 on a continuing basis to one or more Virginia airports at least one day per week, 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

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60 products.

61 9. (i) Certified pollution control equipment and facilities as defined in § 58.1-3660; and (ii) ~~Effective~~
62 *effective* retroactive to July 1, 1994, and through June 30, ~~1996~~2001, certified pollution control
63 equipment and facilities as defined in § 58.1-3660 and which, in accordance with such section, ~~has~~*have*
64 been certified by the Department of Mines, Minerals and Energy for coal, oil and gas production,
65 including gas, natural gas, and coalbed methane gas.

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

68 11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of
69 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or
70 photocopying of products for sale or resale.

71 12. From July 1, 1994, through June 30, ~~1996~~2001, raw materials, fuel, power, energy, supplies,
72 machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling,
73 extraction, refining, or processing of natural gas or oil and the reclamation of the well area. For the
74 purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane
75 gas" as defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," "refining," and
76 "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw
77 natural gas into a usable condition consistent with commercial practices, and the gathering and
78 transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition.
79 Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the
80 preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or
81 oil for sale or resale, or in well area reclamation activities required by state or federal law.

82 § 58.1-609.4. Educational exemptions.

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

85 1. School lunches sold and served to pupils and employees of schools and subsidized by government;
86 school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use
87 by students attending a college or other institution of learning not conducted for profit, when sold (i) by
88 such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a
89 department or instructor of such institution of learning as required textbooks for students attending
90 courses at such institution.

91 2. Tangible personal property for use or consumption by a college or other institution of learning and
92 tangible personal property for use or consumption by, sold by, or donated to a noncommercial
93 educational telecommunications entity, said exemption to apply to each transaction in the chain of
94 commerce from manufacture to final disposition, provided that such college, institution of learning, or
95 telecommunications entity is not conducted for profit.

96 3. Tangible personal property purchased by an organization exempt from taxation under § 501 (c) (3)
97 of the Internal Revenue Code and organized exclusively for the purpose of providing education, training
98 and services to retarded citizens of the Commonwealth, provided that such property is used exclusively
99 for the purpose set forth herein and that such organization receives more than fifty percent of its total
100 funding from federal, state, or local governments.

101 4. Tangible personal property and services purchased by an educational institution doing business in
102 the Commonwealth which (i) admits regularly enrolled high school and college students and (ii)
103 provides a face-to-face educational experience in American government, a program which leads towards
104 the successful completion of United States history, civics, and problems in democracy courses in high
105 school, or which is acceptable for full credit towards an undergraduate or graduate level college degree,
106 provided such institution is conducted not for profit.

107 5. Books and other reading materials for use by nonprofit organizations organized solely to distribute
108 such books and reading materials to school-age children.

109 6. Tangible personal property purchased for use by a nonprofit, nonstock corporation which receives
110 no financial aid from the Commonwealth or the federal government and is organized exclusively for the
111 purpose of operating, at no charge to the pupils, a combination boarding and day school for the severely
112 physically handicapped children and young adults of the Commonwealth.

113 7. Tangible personal property sold or leased to a foundation which exclusively provides either
114 training and education of any type or duration for employees of governmental law-enforcement and
115 corrections agencies or education of the public in citizen cooperation with public authorities in crime
116 prevention and solution, provided such foundation is conducted not for profit.

117 8. Tangible personal property purchased for use, consumption, or sale at retail by an elementary or
118 secondary school conducted not for profit, or Parent Teacher Association or other group associated with
119 an elementary or secondary school conducted not for profit for use in fund-raising activities, the net
120 proceeds (gross receipts less direct expenses) of which are contributed directly to the school or used to
121 purchase certified school equipment, and certified school equipment purchased by such groups for

contribution directly to the school. For the purposes of this subdivision, "certified school equipment" means that equipment for which the Parent Teacher Association or other group has received certification from the school that it will accept a donation of equipment. The certification provided by the school shall be in accordance with regulations promulgated by the Tax Commissioner. Notwithstanding the other provisions of this subdivision, the tax shall not apply to the sale of class rings, school photographs, and other fund-raising programs from which an elementary or secondary school conducted not for profit receives a commission or the net proceeds after the payment of vendors and other direct expenses.

9. a. From July 1, 1989, through June 30, ~~1996~~2001, 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 primarily for the purpose of operating a state-licensed day-care center or a preschool that hires only certified public school teachers and which has a regularly prescribed curriculum.

b. From July 1, 1990, through June 30, ~~1996~~2001, 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 primarily for the purpose of operating a state-licensed day-care center or a preschool that hires only certified public school teachers or teachers who are college graduates holding a degree from an accredited four-year institution of higher education and certified by an organization recognized by the U.S. Department of Education or by some other nationally recognized organization, and which has a regularly prescribed curriculum.

10. From July 1, 1989, through June 30, ~~1996~~2001, personal property purchased for use or consumption by a private, nonprofit corporation exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, which operates a county public library, and such library is also used as a recreational center for county residents.

11. From July 1, 1989, through June 30, ~~1996~~2001, 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 primarily for the purpose of operating a public library.

12. From July 1, 1990, through June 30, ~~1996~~2001, tangible personal property and services purchased for use by an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, which is organized and operated primarily for the purpose of encouraging participation in the free enterprise system through information programs directed to secondary schools and college students, college scholarship programs, and recognition of achievement in the American free enterprise system.

13. From July 1, 1990, through June 30, ~~1996~~2001, 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 primarily for the purpose of operating an arts center which offers and sponsors a year-round schedule of art education classes for adults and children, a continuous series of exhibits focusing on twentieth century art, and a wide range of seminars for the public at no or nominal charge.

14. From July 1, 1991, through June 30, ~~1996~~2001, tangible personal property purchased for use or consumption by a nonprofit volunteer organization which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized and operated exclusively for the purpose of enhancing education by assisting a city public library with its physical and service needs.

15. (i) From July 1, 1991, through June 30, ~~1996~~2001, 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 to combat illiteracy by tutoring and training adults and by increasing community awareness of the illiteracy problem within the metropolitan Richmond area.

(ii) From July 1, 1995, through June 30, ~~1996~~2001, 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 to combat illiteracy by tutoring and training adults and by increasing community awareness of the illiteracy problem within the Roanoke Valley area.

16. From July 1, 1995, through June 30, ~~1996~~2001, tangible personal property purchased for use or consumption by a nonprofit volunteer organization which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized exclusively for the purpose of raising funds for grant aid to any state, county or municipal library open to the public within the boundaries of the Eighth Planning District established pursuant to § 15.1-1403.

17. From July 1, 1995, through June 30, ~~1996~~2001, 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 to provide educational and recreational services for at-risk youth and which maintains a partnership with a magnet school within the boundaries of the Twenty-third Planning District established pursuant to § 15.1-1403.

18. From July 1, 1995, through June 30, ~~1996~~2001, tangible personal property purchased for use or consumption by a nonprofit organization exempt from taxation under § 501 (c) (3) of the Internal

183 Revenue Code and organized to provide specialized information and referral services, education
184 programs and advocacy on behalf of deaf and hard-of-hearing persons within the boundaries of the
185 Eighth Planning District established pursuant to § 15.1-1403.
186 19. From July 1, 1995, through June 30, ~~1996~~2001, tangible personal property purchased for use or
187 consumption by a nonprofit research, educational, and communications organization exempt from
188 taxation under § 501 (c) (3) of the Internal Revenue Code and organized exclusively to promote
189 highway safety.