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HOUSE BILL NO. 610

Offered January 19, 1996

A BILL to amend and reenact §§ 58.1-1000, 58.1-1001, 58.1-1003, 58.1-1008, 58.1-1010, 58.1-1011, 58.1-1014, 58.1-1018, 58.1-1019, 58.1-3830 and 58.1-3832 of the Code of Virginia and to repeal §§ 58.1-1004, 58.1-1006, 58.1-1009, 58.1-1012, 58.1-1013, 58.1-1015 and 58.1-1017 of the Code of Virginia, relating to the cigarette tax; penalties.

Patron—Watkins

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-1000, 58.1-1001, 58.1-1003, 58.1-1008, 58.1-1010, 58.1-1011, 58.1-1014, 58.1-1018, 58.1-1019, 58.1-3830 and 58.1-3832 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-1000. Definitions.

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Dealer" includes retail and wholesale dealers.

"Retail dealer" includes every person other than a wholesale dealer, as defined in this section, who sells or offers for sale any cigarettes.

"Retail sale" or "sale at retail" includes all sales except sales by wholesalers to retail dealers or other wholesalers for resale.

~~"Stamps" means the stamp or stamps by the use of which the tax levied under this chapter is paid and shall be officially designated as Virginia revenue stamps. The Department is hereby authorized to provide for the use of any type of stamp which will effectuate the purposes of this chapter including but not limited to decalcomania and metering devices.~~

"Storage" means any keeping or retention in this Commonwealth of cigarettes for any purpose except sale in the regular course of business or subsequent use solely outside this Commonwealth.

"Use" means the exercise of any right or power over cigarettes incident to the ownership thereof or by any transaction where possession is given, except that it shall not include the sale of cigarettes in the regular course of business.

"Wholesale dealer" *or "wholesaler"* includes persons who sell cigarettes at wholesale only to retail dealers for the purpose of resale only, or who sell at wholesale to institutional, commercial or industrial users. The phrase shall also include chain store distribution centers or houses which distribute cigarettes to their stores for sale at retail.

§ 58.1-1001. Tax levied; rate.

In addition to all other taxes now imposed by law, every person within this Commonwealth who sells, stores or receives cigarettes made of tobacco or any substitute thereof, for the purpose of distribution to any person within this Commonwealth, shall pay to this Commonwealth an excise tax of one and one-quarter mills on each such cigarette *sold or distributed for consumption or use within this Commonwealth. The tax shall be paid with respect to every sale or distribution of cigarettes for consumption or use in this Commonwealth unless (1) the purchaser is a registered wholesale dealer under § 58.1-1011, (2) the purchaser or the transaction is exempt under § 58.1-1010, or (3) the person who sells, stores or receives cigarettes can demonstrate that the tax has been paid on the cigarettes sold or distributed*.

§ 58.1-1003. How paid; records of dealers.

A. The taxes imposed by this chapter shall be paid by ~~affixing stamps equaling the amount of the tax in the manner and at the time herein set forth. The stamps shall be affixed to each individual package, bag, box or can in such a manner that their removal will require continued application of water or steam. Time allowed for affixing stamps shall be as follows: Every wholesale or retail dealer in this Commonwealth shall, within one hour after receipt of any unstamped cigarettes, begin affixing to the same the requisite denominations and amount of stamp or stamps that represent the proper tax levied by this chapter. Stamping shall be continued with reasonable diligence by the wholesale or retail dealer until all of the unstamped cigarettes have been stamped; however, any wholesale dealer engaged in interstate business shall be permitted to set aside such part of his stock as may be necessary for the conduct of such interstate business without affixing the stamps required by this chapter. Interstate stock shall be kept entirely separate from stamped stock in such a manner as to prevent the commingling of the interstate stock with the stamped stock~~ *the first person receiving such cigarettes for sale, use or consumption in this Commonwealth*.

B. Every wholesale dealer shall at the time of shipping or delivering any cigarettes make and retain a

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true duplicate invoice of the same which shall show full and complete details of the sale or delivery of the taxable article. *The invoices of a registered wholesale dealer shall state that the dealer is registered for the payment of the Virginia cigarette tax and provide such other information as the Tax Commissioner may require.* Wholesale and retail dealers shall also keep a record of purchases of all cigarettes, and retain all books, records, and memoranda pertaining to the purchase and sale of such cigarettes.

~~C. Any wholesaler or retailer who fails or refuses to comply with any of the above provisions shall be guilty of a Class 1 misdemeanor.~~

§ 58.1-1008. Monthly returns of dealers; payment of tax.

A. Every wholesale dealer ~~qualifying~~ *registered* as such with the Department *or any other person in the Commonwealth selling or distributing cigarettes at wholesale for consumption or use in the Commonwealth* shall ~~be required to~~ file a ~~report between the first and tenth~~ *return on the twentieth* of each month, covering the ~~purchase or receipt by them~~*sale* of all cigarettes during the preceding month. The ~~report~~ *return* shall give in detail the different kinds and quantities of cigarettes ~~so purchased or received by them~~ *sold* during the preceding month. The ~~report~~ *return* shall also list all orders for cigarettes purchased through such wholesale dealer *or other person* from without this Commonwealth on a drop shipment and consigned direct to the person ordering such cigarettes through such wholesale dealer *or other person*. ~~If, upon examination of invoices of any wholesale dealer, such dealer is unable to furnish evidence to the Department of sufficient stamp purchases to cover unstamped cigarettes purchased by him, the prima facie presumption shall arise that such cigarettes were sold without the proper stamps affixed thereto in violation of § 58.1-1003. Any wholesaler failing or refusing to file the report required by this section in the manner and time allowed shall be guilty of a Class 2 misdemeanor.~~

B. Every retail dealer of cigarettes in the Commonwealth shall file a return on the twentieth of each month reporting the purchase of cigarettes from any person other than a wholesale dealer subject to tax under this chapter. All cigarettes acquired by retail dealers are presumed to be subject to tax unless the retail dealer has invoices showing that the cigarettes were purchased from a wholesale dealer registered for the Virginia cigarette tax.

C. A return shall be filed by each registered dealer even though the dealer is not liable to remit any tax for the period covered by the return.

D. At the time of transmitting the return, the dealer shall remit to the Tax Commissioner the amount of tax due. In the event cigarettes are returned to the dealer by the purchaser after the tax has been paid, the dealer shall be entitled to credit or reimbursement of the amount of tax so paid in the manner prescribed by the Tax Commissioner.

E. When any person required to file a return under this section fails to make any return and pay the full amount of the tax, there shall be imposed, in addition to other penalties provided herein, a specific penalty to be added to the tax in the amount of six percent of the amount of the proper tax if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed thirty percent in the aggregate. In no case, however, shall the penalty be less than ten dollars, and the minimum penalty shall apply whether or not any tax is due for the period for which the return was required. In the case of a false or fraudulent return where willful intent exists to defraud the Commonwealth of any tax due under this chapter, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth of any such tax, a specific penalty of fifty percent of the amount of the proper tax shall be assessed. All penalties and interest imposed by this chapter shall be payable by the dealer and collectible by the Tax Commissioner in the same manner as if they were part of the tax imposed.

F. In any return filed under the provisions of this chapter, a registered dealer may credit against the tax shown to be due the amount of cigarette tax previously returned and paid on cigarettes sold on credit to a person whose accounts owed to the dealer have been found to be worthless within the period covered by the return. The credit, however, shall not exceed the amount of the uncollected cigarette tax determined by treating prior payments on each debt as consisting of the same proportion of sales price, cigarette tax, purchases of other products and services, and other nontaxable charges as in the total debt originally owed to the dealer. The amount of cigarette tax on accounts for which a credit has been taken that are thereafter in whole or in part paid to the dealer shall be included in the first return filed after such collection.

§ 58.1-1010. Sale of untaxed cigarettes by wholesale dealers.

A. A wholesale dealer who is duly ~~qualified~~*registered* as such under § 58.1-1011 may sell cigarettes without ~~the Virginia revenue stamps affixed thereto~~ *payment of the tax imposed by this chapter,* provided such cigarettes are sold and shipped or delivered in interstate commerce to a person outside this Commonwealth. Such wholesaler shall have on file a record of such sale, the original purchase order, a copy of the invoice therefor, and a receipt from a common carrier, contract carrier, or post office showing shipment for delivery in such other state, or, if delivered by such dealer to the purchaser at a point outside of this Commonwealth, a receipt showing such delivery in addition to the record,

original purchase order, and copy of the invoice relating to such sale.

B. Such duly ~~qualified~~*registered* wholesaler may sell cigarettes without ~~the Virginia revenue stamps affixed thereto~~ *payment of the tax imposed by this chapter,* provided:

1. Such cigarettes are sold to a person who is engaged in business as a dealer in cigarettes in another state;

2. Such cigarettes are purchased exclusively for resale in the other state; and

3. Such cigarettes are at the time of sale properly stamped by the Virginia wholesaler with revenue stamps authorized and issued by the other state for use upon such cigarettes *or the tax has been, or will be, paid on such cigarettes if the other state does not require stamps.* A wholesaler shall have on file a record of each such sale, the original purchase order, a copy of the invoice therefor, a receipt from the purchaser showing that such purchase was made exclusively for resale in the other state, and a record showing the purchase and use of such revenue stamps of the other state *or the payment of tax if the other state does not require stamps*. Any such wholesaler with a place of business in a city located partly within and partly without this Commonwealth, or in a county adjoining such city, shall not be required to obtain such receipt from a purchaser from the other state, if the other state imposes a cigarette tax and if the cigarette tax in the other state is at a higher rate than the tax imposed by the Commonwealth of Virginia.

C. Cigarettes may be sold by duly ~~qualified~~*registered* wholesalers, without ~~revenue stamps affixed thereto~~ *payment of the tax imposed by this chapter,* when sold to the United States or to any instrumentality thereof for resale to or for the use or consumption by members of the armed services of the United States, or when sold to the Veterans Canteen Service of the Veterans Administration for resale to veterans of the armed services of the United States who are hospitalized or domiciled in hospitals and homes of the Veterans Administration, provided the books and records, including original purchase orders and copies of invoices showing such sales, are kept on file.

D. Cigarettes may be sold by duly ~~qualified~~ *registered* wholesalers, without ~~revenue stamps affixed thereto~~*payment of the tax imposed by this chapter,* when sold and delivered to ships regularly engaged in foreign commerce or coastwise shipping between points in this Commonwealth and points outside of this Commonwealth for resale to or for use or consumption upon such ship or in foreign commerce.

E. The Department is authorized to adopt ~~rules and~~ regulations with respect to the enforcement of the provisions of this section to prevent any evasion of the tax herein imposed.

F. A failure to comply with any provision of this section with respect to any sale of ~~unstamped~~ *untaxed* cigarettes shall subject the wholesaler to the payment of the tax thereon imposed by this chapter.

G. Any person who ~~violates any of the provisions~~ *sells untaxed cigarettes in violation* of this section shall be guilty of a Class 2 misdemeanor.

§ 58.1-1011. Qualification for dealer's certificate of registration; penalty.

~~Every wholesaler who desires to qualify as such with the Department shall make application to the Department on blanks prescribed for this purpose, which shall be supplied upon request. The application blanks will require such information relative to the nature of business engaged in by the wholesaler as the Department deems necessary to the qualifying of the wholesaler. If the Department after review of his application, believes the wholesaler to be qualified, the Department shall issue to the wholesaler a permit qualifying him as a wholesaler, as defined in this chapter, and he shall be allowed the discount on purchases of stamps as set out herein for wholesalers purchasing stamps for their individual use. The Department shall not sell stamps to any wholesaler until the wholesaler has complied with the provisions of this section. The Department may at any time revoke the permit issued to any wholesaler as hereinabove provided who is found guilty of violating any of the provisions of this chapter, or any of the rules of the Department adopted and promulgated under authority of this chapter.~~

A. Every person desiring to engage in or conduct business as a wholesale dealer of cigarettes at a place of business in this Commonwealth shall file with the Tax Commissioner an application for a certificate of registration for each place of business in the Commonwealth which sells, stores or receives cigarettes for the purpose of sale or distribution for consumption or use in this Commonwealth. A person with no place of business in the Commonwealth who is engaged in or conducting business as a wholesale dealer of cigarettes in another state may voluntarily register as a dealer under this section and such voluntary registration shall constitute an agreement to comply with and be subject to the same laws, regulations, policies, and administrative requirements relating to the Commonwealth's cigarette taxes as a registered dealer with a place of business in the Commonwealth.

B. Every application for a certificate of registration shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and any other information the Tax Commissioner may require. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; and in the case of a corporation, by an executive officer or some person specifically authorized by the corporation

to sign the application.

C. When the required application has been made, the Tax Commissioner shall issue to each applicant a separate certificate of registration for each place of business which sells, stores or receives cigarettes for the purpose of sale or distribution for consumption or use within this Commonwealth. A certificate of registration is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

D. Whenever any person fails to comply with any provision of this chapter or any regulation relating thereto, the Tax Commissioner, upon hearing after giving such person ten day's notice in writing, specifying the time and place of hearing and requiring him to show cause why his certificate should not be revoked or suspended, may revoke or suspend any one or more of the certificates of registration held by such person. The notice may be personally served or served by registered or certified mail directed to the last known address of such person.

E. Any person who engages in business as a wholesale dealer of cigarettes in this Commonwealth without obtaining a certificate of registration, or after a certificate of registration has been suspended or revoked, and each officer of any corporation which so engages in business shall be guilty of a Class 2 misdemeanor. Each day's continuance in business in violation of this section shall constitute a separate offense.

F. If the holder of a certificate of registration ceases to conduct his business at the place specified in this certificate, the certificate shall thereupon expire, and such holder shall so inform the Tax Commissioner in writing within thirty days after he has ceased to conduct business at such place. If the holder of a certificate of registration desires to change his place of business to another place in this Commonwealth, he shall so inform the Tax Commissioner in writing and his certificate shall be revised accordingly.

G. This section shall also apply to any retail dealer of cigarettes in the Commonwealth who desires to purchase cigarettes from a person other than a registered wholesale dealer subject to tax under this chapter.

§ 58.1-1014. Permits required for transporting or distributing cigarettes; penalty.

Any person*, other than a common carrier subject to § 58.1-1005 or a dealer registered pursuant to § 58.1-1011,* who transports or distributes *more than sixty packs of* cigarettes in any manner whatsoever within this Commonwealth who ~~has~~*does* not *have* a permit issued under this chapter, shall, before transporting or distributing any of such tobacco products as enumerated and defined herein, secure a permit from the Department or be granted a waiver therefrom when the Commissioner is of the opinion that such permit is unnecessary. The Department shall, before issuing or waiving any such permit, ascertain from the applicant the nature of his business and the names of each county and city to which the applicant desires to transport or distribute cigarettes. A permit when so issued shall be conspicuously displayed on the vehicle for which it is issued. Failure to properly display the permit as required shall be deemed a violation of this section. Any person having been issued a permit who engages in any practices which are deemed by the Department to be injurious to the collection of the tax provided herein may have his permit revoked by the Department and no further permit shall be issued for six months and not then unless the Department is satisfied it is advisable. Duplicate permit cards will be issued to replace permits lost or damaged upon application. Any person found transporting or distributing *more than sixty packs of* cigarettes without first securing a permit as required above shall be guilty of a Class 1 misdemeanor.

§ 58.1-1018. Tax imposed on storage, use or consumption of cigarettes; exemption of products on which sales tax has been paid.

An excise tax is hereby imposed on the storage, use or other consumption in this Commonwealth of *more than sixty packs of* cigarettes purchased at retail in an amount equal to that set out in § 58.1-1001. Every person *, other than a common carrier subject to § 58.1-1005 or a dealer registered pursuant to § 58.1-1011,* storing, using or otherwise consuming in this Commonwealth *more than sixty packs of* cigarettes purchased at retail shall be liable for the tax imposed by this article, and the liability shall not be extinguished until the tax has been paid to this Commonwealth; however, ~~if such cigarettes have attached thereto the requisite stamps or~~ if the excise tax imposed by Article 1 (§ 58.1-1000 et seq.) has been paid by the seller of such cigarettes, *or the seller purchased them from a registered dealer,* then the tax imposed by this article shall not be due.

§ 58.1-1019. Monthly returns and payment of tax.

Every person owning or having in his possession or custody *more than sixty packs of* cigarettes, the storage, use or other consumption of which is subject to the tax imposed by this article, shall, on or before the ~~tenth~~ *twentieth* day of the month following, file with the Department a return for the preceding month in such form as may be prescribed by the Department showing the cigarettes purchased by such person, and such other information as the Department may deem necessary for the proper administration of this article. The return shall be accompanied by a remittance of the amount of tax

herein imposed.

§ 58.1-3830. Local taxes not prohibited; use of dual die or stamp to evidence payment of county, city, or town tax on cigarettes.

A. No provision of Chapter 10 (§ 58.1-1000 et seq.) of this title shall be construed to deprive counties, cities and towns of the right to levy taxes upon the sale or use of cigarettes, provided such county, city or town had such power prior to January 1, 1977. ~~The governing body of any county, city or town which levies a cigarette tax and permits the use of meter impressions or stamps to evidence its payment may authorize an officer of the county, city or town or joint enforcement authority to enter into an arrangement with the Department of Taxation under which a tobacco wholesaler who so desires may use a dual die or stamp to evidence the payment of both the county, city, or town tax, and the state tax, and the Department is hereby authorized to enter into such an arrangement. The procedure under such an arrangement shall be such as may be agreed upon by and between the authorized county, city, town or joint enforcement authority officer and the Department.~~ *Any locality or taxpayer possessing on July 1, 1996, dies that purport to evidence payment of both a local cigarette tax and Virginia cigarette tax may continue to use such dual dies on and after July 1, 1996, but the meter impression shall not be considered evidence that the Virginia cigarette tax has been paid. The continued use of such dual dies shall be consistent with the terms of the agreement with the Department pursuant to this section which, prior to its amendment, permitted arrangements to use dual dies, but the county, city, town or joint enforcement authority officer previously authorized to enter into the agreement by the local governing body shall have the authority to modify the terms and conditions of the continued use of such dual dies as may be necessary to enforce the local cigarette tax in the absence of Virginia cigarette tax stamps and meter impressions.*

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

§ 58.1-3832. Local ordinances to administer and enforce local taxes on sale or use of cigarettes.

Any county, city or town having a tax upon the sale or use of cigarettes may by ordinance, provide for the administration and enforcement of any such cigarette tax. Such local ordinance may:

1. Provide for the registration of any distributor, wholesaler, vendor, retailer or other person selling, storing or possessing cigarettes within or transporting cigarettes within or into such taxing jurisdiction for sale or use. Such registration may be conditioned upon the filing of a bond with a surety company authorized to do business in Virginia as surety, which bond shall not exceed one and one-half times the average monthly liability of such taxpayer. The county, city or town may revoke registration if such bond is impaired, but for no other reason. Any such distributor, wholesaler, retailer or other person whose business and residence is outside the taxing jurisdiction, who shall sell, store or possess in the taxing jurisdiction therein any cigarettes shall, by virtue of such sale, storage or possession submit himself to its legal jurisdiction and appoint as his attorney for any service of lawful process such officer or person as may be designated in the local ordinance for that purpose. A copy of any such process served on the said officer or person shall be sent forthwith by registered mail to the distributor, wholesaler or retailer.

2. Provide for the use of a tax stamp or meter impression as evidence of payment of the tax or other method or system of reporting payment and collection of such tax.

3. Provide that tobacco products found in quantities of more than six cartons within the taxing jurisdiction shall be conclusively presumed for sale or use within the jurisdiction and may be seized and confiscated if:

a. They are in transit, and are not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and of the consignee or purchaser, and the brands and quantity of cigarettes so transported, or are in transit and accompanied by a bill of lading or other document which is false or fraudulent, in whole or in part; or

b. They are in transit and are accompanied by a bill of lading or other document indicating:

(1) A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such tobacco products on which the taxes imposed by such other jurisdiction have not been paid, unless the tax of the state or District of destination has been paid and the said products bear the tax stamps of that state or District *or payment is established by other evidence*; or

(2) A consignee or purchaser in the Commonwealth of Virginia but outside the taxing jurisdiction who does not possess a Virginia sales and use tax certificate~~, a Virginia retail cigarette license~~ and, where applicable, both a business license and retail cigarette license issued by the local jurisdiction of destination; or

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c. They are not in transit and the tax has not been paid, nor have approved arrangements for payment been made, provided that this subparagraph shall not apply to cigarettes in the possession of distributors or public warehouses which have filed notice and appropriate proof with the taxing jurisdiction that those cigarettes are temporarily within the taxing jurisdiction and will be sent to consignees or purchasers outside the jurisdiction in the normal course of business.

4. Provide that cigarettes and other property, other than motor vehicles, used in the furtherance of any illegal evasion of the tax so seized and confiscated may be disposed of by sale or other method deemed appropriate by the local taxing authority. No credit from any sale or other disposition shall be allowed toward any tax or penalties owed.

5. Provide that persons violating any provision thereof shall be deemed guilty of a Class 1 misdemeanor, and require the payment of penalties for late payment not to exceed ten percent per month, penalties for fraud or evasion of the tax not to exceed fifty percent, and interest not to exceed three quarters of one percent per month, upon any tax found to be overdue and unpaid. The mere possession of untaxed cigarettes in quantities of not more than six cartons shall not be a violation of any such ordinance.

6. Provide for the forfeiture and sale of any property seized; provided, however, that proper notice of such seizure shall be given to the known holders of property interests in such property and shall include procedures for administrative appeal as well as affirmative defenses which may be asserted by such holders which procedures must be set forth in reasonable detail.

7. Provide that any coin-operated vending machine, in which any cigarettes are found, stored or possessed bearing a counterfeit or bogus cigarette tax stamp or impression or any unstamped tobacco products *if the local ordinance requires a stamp or meter impression,* or any cigarettes upon which the tax has not been paid, may be declared contraband property and shall be subject to confiscation and sale as provided in subsection 6. When any such vending machine is found containing such cigarettes it shall be presumed that such cigarettes were intended for distribution, sale or use therefrom. In lieu of immediate seizure and confiscation of any vending machines used in an illegal evasion of the tax it may be sealed by appropriate enforcement authorities to prevent continued illegal sale or removal of any cigarettes, and may be left unmoved until other civil and criminal penalties are imposed or waived. Notice requirements shall be the same as if the machine had been seized. Such seal may be removed and the machine declared eligible for operation only by authorized enforcement authorities. Nothing in this section shall prevent seizure and confiscation of a vending machine at any time after it is sealed.

8. Provide that any counterfeit stamps or counterfeit impression devices may also be seized and confiscated.

9. Any county, city or town may enact an ordinance which would delegate its administrative and enforcement authority under its cigarette tax ordinance to one agency or authority pursuant to the provisions of § 15.1-21. Such agency or authority may promulgate rules and regulations governing the display of cigarette stamps in vending machines, tax liens against property of taxpayers hereunder, extend varying discount rates and establish different classes of taxpayers or those required to collect and remit the tax, requirements concerning keeping and production of records, administrative and jeopardy assessment of tax where reasonably justified, required notice to authorities of sale of taxpayer's business, audit requirements and authority, and criteria for authority of distributors and others to possess untaxed cigarettes and any other provisions consistent with the powers granted by this section or necessarily implied therefrom. Such ordinance may further provide that such agency or authority created may issue a common revenue stamp, employ legal counsel, bring appropriate court action, in its own name where necessary to enforce payment of the cigarette taxes or penalties owed any member jurisdiction and provide cigarette tax agents, and the necessary enforcement supplies and equipment needed to effectively enforce the cigarette tax ordinance promulgated by each such county, city or town. Any cigarette tax agents shall meet such requirements of training or experience as may be promulgated from time to time by the enforcement authority when performing their duties and shall be required to carry proper identification and may be armed for their own protection and for the enforcement of such ordinance. Any such agent shall have the power of arrest upon reasonable and probable cause that a violation of any tobacco tax ordinance has been committed.

2. That §§ 58.1-1004, 58.1-1006, 58.1-1009, 58.1-1012, 58.1-1013, 58.1-1015, and 58.1-1017 of the Code of Virginia are repealed.

3. That the Department of Taxation shall allow persons who apply for a certificate of registration pursuant to § 58.1-1011 to return unused stamps for credit against subsequent tax liability but may limit the amount of such credit to a reasonable percentage of average tax liability not to exceed five percent of stamp sales for the prior year. Cigarettes to which a Virginia tax stamp has been applied prior to July 1, 1996, shall not be subject to tax when sold on and after July 1, 1996.