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HOUSE BILL NO. 814

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding in Title 58.1 a chapter numbered 10.1, consisting of sections numbered 58.1-1023 through 58.1-1028, relating to the imposition of a tax on cigarette manufacturers and creating a Public Education Disparity Reduction Fund.

Patron—Plum

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 58.1 a chapter numbered 10.1, consisting of sections numbered 58.1-1023 through 58.1-1028, as follows:

CHAPTER 10.1.

CIGARETTE TAX ACT.

§ 58.1-1023. Cigarette tax; definitions.

As used in this section:

"Cigarettes" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. The term shall not be construed to include cigars, cheroots, stogies or little cigars.

"Manufacturer" means any person who manufactures or produces cigarettes within the Commonwealth.

§ 58.1-1024. Administration and collection of tax.

The Department shall administer the provisions of this chapter, and it shall collect, supervise, and enforce the collection of all taxes and penalties that may be due under the provisions of this chapter. The Department shall promulgate regulations for its administration, enforcement of the provisions of this chapter, and collection of the taxes, fees, and penalties imposed by this chapter.

§ 58.1-1025. Rate of tax.

There shall be imposed a tax at the rate of .5 mills for each cigarette manufactured or produced in the Commonwealth.

§ 58.1-1026. Tax returns.

Every manufacturer, on or before the twentieth day of each calendar month, shall file with the Department, on a form prescribed by it, a return under the penalties of perjury, stating the number of cigarettes manufactured or produced in the Commonwealth during the preceding calendar month. The return shall contain or be accompanied by such further information as the Department shall require. The manufacturer, at the time of filing the return, shall pay to the Department the excise tax imposed under § 58.1-1025.

§ 58.1-1027. Returns, examination; determination of tax; penalties; failure to file; limitation on assessment of penalty.

If the Department determines that the correct amount of tax is greater or less than that shown in the return, the tax shall be recomputed and the correct tax determined. If the amount paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess may be credited against a subsequent tax or shall be refunded if requested by the taxpayer.

If the amount paid is less than the amount which should have been paid, the deficiency, together with interest thereon at the rate provided in § 58.1-15, shall become due and payable.

If any part of the deficiency is due to negligent or intentional disregard of this chapter or of regulations of the Department, but without intent to defraud, there shall be added, as a penalty, ten percent of the total amount of the deficiency in the tax, and interest shall be collected at the rate of one percent per month on the amount of such deficiency in the tax from the time it was due.

If any part of the deficiency is due to a fraudulent intent to evade the tax, then there shall be added, as a penalty, 100 percent of such deficiency and, in such a case, the whole amount of tax unpaid, together with the penalty, shall become due and payable, and an additional one percent per month on the tax shall be added from the date such tax was due until paid.

If any person fails or refuses to file a return or pay the tax required to be paid under this chapter, the Department shall proceed to determine the tax due from such information as the Department can obtain, shall assess the tax so determined against such person, and shall notify him of the amount thereof. Such tax shall become due and payable, together with a penalty of twenty-five percent of such tax, or five dollars per day for each day after the date set for the filing of the return, whichever is

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60 greater.

61 Whenever notice is required under the provisions of this chapter, such notice shall be given either in
62 person or by registered mail addressed to the last known address of the taxpayer.

63 No deficiency, interest or penalty shall be assessed for any month after the expiration of three years
64 from the date set for the filing of the return for such month, except in cases of fraud, or where no
65 return has been filed for the period covered by the deficiency.

66 § 58.1-1028. Revenues; disposition.

67 The proceeds derived from payment of taxes, fees and penalties provided for under this chapter shall
68 be paid into the state treasury. The Comptroller shall credit such taxes as special revenues to the
69 "Public Education Disparity Reduction Fund," which is hereby created, for expenditure solely for public
70 education purposes. No portion of the special revenues shall revert to the general fund of the
71 Commonwealth at the end of any fiscal year, and all interest or other earnings accrued as a result of
72 the existence of this special fund in the state treasury shall inure to the benefit and credit of the Public
73 Education Disparity Reduction Fund. However, the cost of collecting the taxes levied hereby shall be
74 paid out of such special fund.