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HOUSE BILL NO. 2390

Offered January 20, 1997

A BILL to amend and reenact § 58.1-3703 of the Code of Virginia, relating to limitations on localities levying the business, professional and occupational license tax.

Patrons—Woodrum, Jackson and Thomas

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3703 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3703. (For applicability provisions - See the Editor's note) Counties, cities and towns may impose local license taxes and fees; limitation of authority.

A. The governing body of any county, city or town may charge a fee for issuing a license in an amount not to exceed \$100 for any locality with a population greater than 50,000, fifty dollars for any locality with a population of 25,000 but no more than 50,000 and thirty dollars for any locality with a population smaller than 25,000, and may levy and provide for the assessment and collection of county, city or town license taxes on businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaged therein within the county, city or town subject to the limitations provided in subsection B of this section. Any county, city or town with a population greater than 50,000 shall reduce the fee to an amount not to exceed fifty dollars by January 1, 2000. The ordinance imposing such license fees and levying such license taxes shall include the provisions of § 58.1-3703.1.

B. Any county, city or town by ordinance may exempt in whole or in part from the license tax the design, development or other creation of computer software for lease, sale or license.

C. No county, city, or town shall impose a license fee or levy any license tax:

1. On any public service corporation except as provided in § 58.1-3731 or as permitted by other provisions of law;

2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of such county, city or town; ~~provided, if~~ such products are grown or produced by the person offering such products for sale;

3. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months, provided the publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service;

4. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture;

5. On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in §§ 58.1-3712 and 58.1-3713;

6. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in such county, city or town. This subdivision shall not be construed as prohibiting any county, city or town from imposing a local license tax on a peddler at wholesale pursuant to § 58.1-3718;

7. Upon any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, lodging houses, rooming houses and boardinghouses; however, any county, city or town imposing such a license tax on January 1, 1974, shall not be precluded from the levy of such tax by the provisions of this subdivision;

8. Upon a wholesaler or retailer for the privilege of selling bicentennial medals on a nonprofit basis for the benefit of the Virginia Independence Bicentennial Commission or any local bicentennial commission;

9. On or measured by receipts for management, accounting, or administrative services provided on a group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural cooperative association under the provisions of Chapter 3, Article 2 (§ 13.1-312 et seq.), of Chapter 3 of Title 13.1, or a member or subsidiary or affiliated association thereof, to other members of the same group. This exemption shall not exempt any such corporation from such license or other tax measured by receipts from outside the group;

10. On or measured by receipts or purchases by a corporation which is a member of an affiliated

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60 group of corporations from other members of the same affiliated group. This exclusion shall not exempt
61 affiliated corporations from such license or other tax measured by receipts or purchases from outside the
62 affiliated group. This exclusion also shall not preclude a locality from levying a wholesale merchant's
63 license tax on an affiliated corporation on those sales by the affiliated corporation to a nonaffiliated
64 person, company, or corporation, notwithstanding the fact that the wholesale merchant's license tax
65 would be based upon purchases from an affiliated corporation. Such tax shall be based on the purchase
66 price of the goods sold to the nonaffiliated person, company, or corporation. As used in this subdivision,
67 the term "sales by the affiliated corporation to a nonaffiliated person, company or corporation" ~~shall~~
68 ~~mean~~ means sales by the affiliated corporation to a nonaffiliated person, company or corporation where
69 goods sold by the affiliated corporation or its agent are manufactured or stored in the Commonwealth
70 prior to their delivery to the nonaffiliated person, company or corporation.

71 11. On any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of this title
72 or on any agent of such company;

73 12. On any bank or trust company subject to taxation in Chapter 12 (§ 58.1-1200 et seq.) of this
74 title;

75 13. Upon a taxicab driver, if the locality has imposed a license tax upon the taxicab company for
76 which the taxicab driver operates;

77 14. On any blind person operating a vending stand or other business enterprise under the jurisdiction
78 of the Department for the Visually Handicapped, or a nominee of the Department, as set forth in
79 § 63.1-164;

80 15. (Expires July 1, 1997) On any hospital, college, university, or other institution of learning not
81 organized or conducted for pecuniary profit which by reason of its purposes or activities is exempt from
82 income tax under the laws of the United States unless such tax was enacted by the local governing body
83 prior to January 15, 1991. The provisions of this subdivision shall expire on July 1, 1997;

84 16. [Repealed.]

85 17. On an accredited religious practitioner in the practice of the religious tenets of any church or
86 religious denomination. "Accredited religious practitioner" shall be defined as one who is engaged solely
87 in praying for others upon accreditation by such church or religious denomination;

88 18. (a) On or measured by receipts of a charitable nonprofit organization except to the extent the
89 organization has receipts from an unrelated trade or business the income of which is taxable under
90 Internal Revenue Code § 511 et seq. For the purpose of this subdivision, "charitable nonprofit
91 organization" means an organization which is described in Internal Revenue Code § 501 (c) (3) and to
92 which contributions are deductible by the contributor under Internal Revenue Code § 170, except that
93 educational institutions shall be limited to schools, colleges and other similar institutions of learning.

94 (b) On or measured by gifts, contributions, and membership dues of a nonprofit organization.
95 Activities conducted for consideration which are similar to activities conducted for consideration by
96 for-profit businesses shall be presumed to be activities that are part of a business subject to licensure.
97 For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal
98 income tax under Internal Revenue Code § 501 other than charitable nonprofit organizations; ~~or~~

99 19. On any venture capital fund or other investment fund, except commissions and fees of such
100 funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality
101 in which the real estate is located provided the locality is otherwise authorized to tax such businesses
102 and rental of real estate; *or*

103 20. *On or measured by receipts of any nonprofit day-care center which is exempt from taxation*
104 *under § 501(c)(3) of the Internal Revenue Code.*