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SENATE BILL NO. 534

Offered January 26, 1998

A BILL to amend and reenact §§ 58.1-3819, 58.1-3833, and 58.1-3840 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 58.1-625.1; and to repeal §§ 58.1-3820 through 58.1-3823 of the Code of Virginia, relating to taxes on food and beverages and transient lodging.

Patron—Miller, K.G.

Referred to the Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3819, 58.1-3833, and 58.1-3840 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 58.1-625.1, as follows:

§ 58.1-625.1. Collection of transient occupancy and food and beverage taxes.

If any county, city or town elects to have its local transient occupancy tax, food and beverage tax, or both, collected by the Department as authorized pursuant to subsection F of § 58.1-3819 or subsection C of § 58.1-3833, such taxes shall be remitted to the Department in the same manner as the taxes levied pursuant to §§ 58.1-605 and 58.1-606. The Department shall collect such taxes and distribute them to the applicable localities in accordance with the procedures applicable to the taxes levied pursuant to §§ 58.1-605 and 58.1-606, mutatis mutandis.

§ 58.1-3819. Transient occupancy tax.

*A. Any county, city or town, by duly adopted ordinance, may levy a transient occupancy tax on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than thirty consecutive days. Such tax shall be in such amount and on such terms as the governing body may, by ordinance, prescribe. Such tax shall not exceed ~~two~~*five* and ~~one-half~~ percent of the amount of charge for the occupancy of any room or space occupied; however, in any county having a population of no less than 40,000 and no greater than 45,000, and in any county which had adopted the county executive form of government, and in any county having a population of no less than 57,000 and no greater than 57,450, and in any county having a population of no less than 12,600 and no greater than 12,800, and in any county having a population of no less than 86,000 and no greater than 86,500, such tax shall not exceed the rate of five percent. The revenues collected from that portion of the tax over two percent shall be designated and spent for promoting tourism, travel or business that generates tourism or travel in the locality. It is further provided that any county having a population of no less than 18,500 and no greater than 20,000; any county having a population of no less than 21,500 and no greater than 23,000; any county having a population of no less than 34,500 and no greater than 36,000; any county having a population of no less than 45,900 and no greater than 47,000; and any county having a population of no less than 50,000 and no greater than 55,000 may levy a transient occupancy tax not to exceed five percent, and any excess over two percent shall be designated and spent solely for tourism, marketing of tourism or initiatives that, as determined in consultation with the local tourism industry organizations, attract travelers to the locality and generate tourism revenues in the locality. If there are no local tourism industry organizations in the locality, the governing body shall hold a public hearing prior to making any determination relating to how to attract travelers to the locality and generate tourism revenues in the locality.*

B. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for thirty or more days in hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms.

C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town to levy such a transient occupancy tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis. Any city levying a transient occupancy tax at a rate exceeding five and one-half percent on January 1, 1998, shall be authorized to continue levying a transient occupancy tax at the rate in effect on such date. Any tax imposed pursuant to this section by a county shall not apply within the limits of any town located within such county if the town imposes a tax pursuant to this section.

D. Any county, city or town which requires local hotel and motel businesses, or any class thereof, to collect, account for and remit to such locality a local tax imposed on the consumer, may allow such businesses a commission for such service in the form of a deduction from the tax remitted. Such commission shall be provided for by ordinance, which shall set the rate thereof, no less than three percent, not to exceed five percent of the amount of tax due and accounted for. No commission shall be

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60 allowed if the amount due was delinquent.

61 E. All transient occupancy tax collections shall be deemed to be held in trust for the county, city or
62 town imposing the tax.

63 F. Any county, city or town may require that transient occupancy tax collections be remitted to the
64 Department for collection and distribution to the taxing locality as provided in § 58.1-625.1.

65 § 58.1-3833. County food and beverage tax.

66 A. Any county, city or town is hereby authorized to levy a tax on food and beverages sold, for
67 human consumption, by a restaurant, as such term is defined in subdivision 9 of § 35.1-1, not to exceed
68 eight and one-half percent, when added to the state and local general sales and use tax, of the amount
69 charged for such food and beverages. Such tax shall not be levied on food and beverages sold through
70 vending machines or by any person described in subdivisions 1, 2, 3, and 5 of § 35.1-25, as well as
71 nonprofit cafeterias in public schools, nursing homes, and hospitals. Grocery stores and convenience
72 stores selling prepared foods ready for human consumption at a delicatessen counter shall be subject to
73 the tax, for that portion of the grocery store or convenience store selling such items. The food and
74 beverage tax levied on meals sold by grocery store delicatessens and convenience stores shall be limited
75 to prepared sandwiches and single-meal platters.

76 This tax shall be levied only if the tax is approved in a referendum within the county which shall be
77 held in accordance with § 24.1-165 and initiated either by a resolution of the board of supervisors or on
78 the filing of a petition signed by a number of registered voters of the county equal in number to ten
79 percent of the number of voters registered in the county, as appropriate on January 1 of the year in
80 which the petition is filed with the court of such county. The clerk of the circuit court shall publish
81 notice of the election in a newspaper of general circulation in the county once a week for three
82 consecutive weeks prior to the election. If the voters affirm the levy of a local meals tax, the tax shall
83 be effective in an amount and on such terms as the governing body may by ordinance prescribe.

84 B. The term "beverage" as set forth herein shall mean alcoholic beverages as defined in § 4.1-100
85 and nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax
86 currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.) of this title.

87 C. Collection of such tax shall be in a manner prescribed by the governing body.

88 B. Notwithstanding the provisions of subsection A of this section, any county with a population of at
89 least 70,000 but no more than 100,000, any county with a population of at least 17,910 but no more
90 than 18,000, any county with a population of at least 34,000 but no more than 34,400, and any county
91 having a county manager plan of government are hereby authorized to levy a tax on food and beverages
92 sold for human consumption by a restaurant, as such term is defined in § 35.1-1 and as modified in
93 subsection A above and subject to the same exemptions, not to exceed four percent of the amount
94 charged for such food and beverages, provided that the governing body of the respective county holds a
95 public hearing before adopting a local food and beverage tax, and the governing body by unanimous
96 vote adopts such tax by local ordinance. The tax shall be effective in an amount and on such terms as
97 the governing body may by ordinance prescribe. Any county, city or town may require that food and
98 beverage tax collections be remitted to the Department for collection and distribution to the taxing
99 locality as provided in § 58.1-625.1.

100 D. Any city levying a food and beverage tax at a rate exceeding five and one-half percent on
101 January 1, 1998, shall be authorized to continue levying a food and beverage tax at the rate in effect on
102 such date. Any tax imposed pursuant to this section by a county shall not apply within the limits of any
103 town located within such county if the town imposes a tax pursuant to this section.

104 C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town
105 to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax
106 levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax
107 collections shall be deemed to be held in trust for the county, city or town imposing the applicable tax.

108 D. No county which has heretofore adopted an ordinance pursuant to subsection A of this section
109 shall be required to submit an amendment to its meals tax ordinance to the voters in a referendum.

110 § 58.1-3840. Certain excise taxes permitted.

111 The provisions of Chapter 6 (§ 58.1-600 et seq.) of this title to the contrary notwithstanding, any city
112 or town having general taxing powers established by charter pursuant to or consistent with the
113 provisions of § 15.1-841 may impose excise taxes on cigarettes, admissions, transient room rentals,
114 meals, and travel campgrounds, provided that no such taxes may be imposed on food and beverages sold
115 through vending machines or on any tangible personal property purchased with food coupons issued by
116 the United States Department of Agriculture under the Food Stamp Program or drafts issued through the
117 Virginia Special Supplemental Food Program for Women, Infants, and Children. In addition, as set forth
118 in § 63.1-164, no blind person operating a vending stand or other business enterprise under the
119 jurisdiction of the Department for the Visually Handicapped and located on property acquired and used
120 by the United States for any military or naval purpose shall be required to collect and remit meals taxes.
121 Any city or town may impose a transient occupancy tax as provided in § 58.1-3819 and a food and

- 122 *beverage tax as provided in Article 7.1 (§ 58.1-3833 et seq.) of this chapter.*
123 **2. That §§ 58.1-3820 through 58.1-3823 of the Code of Virginia are repealed.**
124 **3. That the provisions of this act shall become effective on January 1, 1999.**

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