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SENATE BILL NO. 704

Offered January 26, 1998

A BILL to amend and reenact §§ 58.1-3, 60.2-114 and 60.2-623 of the Code of Virginia, relating to the release of tax and employment information to private attorneys acting as agents of the Commonwealth; penalty.

Patron—Stolle

Referred to the Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3, 60.2-114 and 60.2-623 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3. Secrecy of information; penalties.

A. Except in accordance with proper judicial order or as otherwise provided by law, the Tax Commissioner or agent, clerk, commissioner of the revenue, treasurer, or any other state or local tax or revenue officer or employee, or any former officer or employee of any of the aforementioned offices shall not divulge any information acquired by him in the performance of his duties with respect to the transactions, property, including personal property, income or business of any person, firm or corporation. Such prohibition specifically includes any copy of a federal return or federal return information required by Virginia law to be attached to or included in the Virginia return. Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor. The provisions of this subsection shall not be applicable, however, to:

1. Matters required by law to be entered on any public assessment roll or book;

2. Acts performed or words spoken or published in the line of duty under the law;

3. Inquiries and investigations to obtain information as to the process of real estate assessments by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information obtained shall be privileged;

4. The sales price, date of construction, physical dimensions or characteristics of real property, or to any information required for building permits;

5. Copies of or information contained in an estate's probate tax return, filed with the clerk of court pursuant to § 58.1-1714, when requested by a beneficiary of the estate or an heir at law of the decedent.

B. Nothing contained in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof or the publication of delinquent lists showing the names of taxpayers who are currently delinquent, together with any relevant information which in the opinion of the Department may assist in the collection of such delinquent taxes. This section shall not be construed to prohibit a local tax official from disclosing whether a person, firm or corporation is licensed to do business in that locality and divulging, upon written request, the name and address of any person, firm or corporation transacting business under a fictitious name. Additionally, notwithstanding any other provision of law, the commissioner of revenue is authorized to provide, upon written request stating the reason for such request, the Tax Commissioner with information obtained from local tax returns and other information pertaining to the income, sales and property of any person, firm or corporation licensed to do business in that locality.

C. Notwithstanding the provisions of subsection A or B or any other provision of this title, the Tax Commissioner is authorized to: (i) divulge tax information to any commissioner of the revenue, director of finance or other similar collector of county, city or town taxes who, for the performance of his official duties, requests the same in writing setting forth the reasons for such request; (ii) provide to the Commissioner of the Department of Social Services, upon written request, information on the amount of income reported by persons on their state income tax returns who have applied for public assistance benefits as defined in § 63.1-87; (iii) provide to the Executive Director of the State Education Assistance Authority, upon written request, the names and home addresses of those persons identified by the Authority as having defaulted on loans guaranteed by the Authority; (iv) provide current address information upon request to state agencies and institutions for their confidential use in facilitating the collection of accounts receivable, and to the clerk of a circuit or district court for their confidential use in facilitating the collection of fines, penalties and costs imposed in a proceeding in that court; (v) provide to the Commissioner of the Virginia Employment Commission, after entering into a written agreement, such tax information as may be necessary to facilitate the collection of unemployment taxes and overpaid benefits; (vi) provide to the Alcoholic Beverage Control Board, upon entering into a written agreement, such tax information as may be necessary to facilitate the collection of state and local

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60 taxes and the administration of the alcoholic beverage control laws; (vii) provide to the Director of the
61 State Lottery Department such tax information as may be necessary to identify those lottery ticket
62 retailers who owe delinquent taxes; (viii) provide to the Department of the Treasury for its confidential
63 use such tax information as may be necessary to facilitate the location of owners of unclaimed property;
64 (ix) provide to the State Corporation Commission, upon entering into a written agreement, such tax
65 information as may be necessary to facilitate the collection of taxes and fees administered by the
66 Commission; (x) provide to the Executive Director of the Potomac and Rappahannock Transportation
67 Commission for its confidential use such tax information as may be necessary to facilitate the collection
68 of the motor vehicle fuel sales tax; ~~and~~ (xi) provide to the Executive Secretary of the Charitable Gaming
69 Commission such tax information as may be necessary to identify those applicants for registration as a
70 supplier of charitable gaming supplies who have not filed required returns or who owe delinquent taxes;
71 *and (xii) upon a written or electronic request containing a statement of purpose, provide current name*
72 *and address information to private collectors entering into a written agreement with the Tax*
73 *Commissioner or any political subdivisions of the Commonwealth; however, the Tax Commissioner is*
74 *not authorized to provide such information to a private collector who has used or disseminated in an*
75 *unauthorized or prohibited manner any such information previously provided to such collector.*

76 The Tax Commissioner is further authorized to enter into written agreements with duly constituted
77 tax officials of other states and of the United States for the inspection of tax returns, the making of
78 audits, and the exchange of information relating to any tax administered by the Department of Taxation.
79 Any person to whom tax information is divulged pursuant to this section shall be subject to the
80 prohibitions and penalties prescribed herein as though he were a tax official.

81 D. Notwithstanding the provisions of subsection A or B or any other provision of this title, the
82 commissioner of revenue is authorized to provide, upon written request stating the reason for such
83 request, the chief executive officer of any county or city with information furnished to the commissioner
84 of revenue by the Tax Commissioner relating to the name and address of any dealer located within the
85 county or city who paid sales and use tax, for the purpose of verifying the local sales and use tax
86 revenues payable to the county or city. The commissioner of revenue is authorized to provide to the
87 Department of Professional and Occupational Regulation for its confidential use the name, address, and
88 amount of gross receipts of any person, firm or entity subject to a criminal investigation of an unlawful
89 practice of a profession or occupation administered by the Department of Professional and Occupational
90 Regulation, only after the Department of Professional and Occupational Regulation exhausts all other
91 means of obtaining such information. Any person to whom tax information is divulged pursuant to this
92 section shall be subject to the prohibitions and penalties prescribed herein as though he were a tax
93 official.

94 This section shall not be construed to prohibit a local tax official from imprinting or displaying on a
95 motor vehicle local license decal the year, make, and model and any other legal identification
96 information about the particular motor vehicle for which that local license decal is assigned.

97 E. Notwithstanding any other provisions of law, state agencies and any other administrative or
98 regulatory unit of state government shall divulge to the Tax Commissioner or his authorized agent, upon
99 written request, the name, address, and social security number of a taxpayer, necessary for the
100 performance of the Commissioner's official duties regarding the administration and enforcement of laws
101 within the jurisdiction of the Department of Taxation. The receipt of information by the Tax
102 Commissioner or his agent which may be deemed taxpayer information shall not relieve the
103 Commissioner of the obligations under this section.

104 F. Additionally, it shall be unlawful for any person to disseminate, publish, or cause to be published
105 any confidential tax document which he knows or has reason to know is a confidential tax document. A
106 confidential tax document is any correspondence, document, or tax return that is prohibited from being
107 divulged by subsection A, B, C, or D of this section. This prohibition shall not apply if such
108 confidential tax document has been divulged or disseminated pursuant to a provision of law authorizing
109 disclosure. Any person violating the provisions of this subsection shall be guilty of a Class 2
110 misdemeanor.

111 § 60.2-114. Records and reports.

112 A. Each employing unit shall keep true and accurate work records, containing such information as
113 the Commission may prescribe. Such records shall be open to inspection and be subject to being copied
114 by the Commission or its authorized representatives, at any reasonable time and as often as may be
115 necessary. The Commission may require from any employing unit any sworn or unsworn reports, with
116 respect to persons employed by it, which the Commission deems necessary for the effective
117 administration of this title. Information thus obtained shall not be published or be open to public
118 inspection, other than to public employees in the performance of their public duties, in any manner
119 revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate,
120 nor shall such information be used in any judicial or administrative proceeding other than one arising
121 out of the provisions of this title; however, the Commission shall make its records about a claimant

available to the Workers' Compensation Commission if it requests such records. However, any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such communication is not inconsistent with the proper administration of this title.

B. Each employing unit shall report to the Commission the initial employment of any person, as defined in § 60.2-212, within thirty-five days of such employment. Information to be provided shall include (i) the employee's name, address and social security number and (ii) the employer's name, address, and federal or Virginia Employment Commission identification number. This information may be provided by mailing a copy of the employee's W-4 forms, transmitting magnetic tape in a format prescribed by the Commission, or by any other means determined by the Commission to result in timely reporting. Notwithstanding any other provisions of law, the Commission shall transmit this information to the Department of Social Services pursuant to Title 63.1 within twenty-one days of its receipt by the Commission. The Commission shall have the authority to promulgate regulations to administer this provision, including any exemptions which are needed to reduce unnecessary or burdensome reporting. The Department of Social Services shall reimburse the Commission for administrative costs incurred pursuant to this section.

C. *Notwithstanding the provisions of subsection A, the Commission shall, upon written request, furnish any agency or political subdivision of the Commonwealth such information as it may require for the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political subdivisions. Such information shall not be published or used in any administrative or judicial proceeding, except in matters arising out of the collection of fines, penalties, and costs owed to the Commonwealth or its political subdivisions.*

ED. Any member or employee of the Commission and any member, employee or agent of any agency or political subdivision of the Commonwealth who violates any provision of this section shall be fined not less than \$20 nor more than \$200, or confined in jail for not longer than ninety days, or both guilty of a Class 2 misdemeanor.

§ 60.2-623. Procedure generally; confidentiality of information.

A. The manner in which disputed claims shall be presented, reports required from the claimant and from employers, the conduct of hearings and appeals before any deputy, appeal tribunal or the Commission, and transcripts prepared shall be in accordance with regulations prescribed by the Commission for determining the rights of the parties. Such regulations need not conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed and a timely request for a hearing before the Commission has been made in accordance with regulations prescribed by the Commission.

B. Information furnished the Commission under the provisions of this chapter shall not be published or be open to public inspection, other than to public employees in the performance of their public duties. Neither such information, nor any determination or decision rendered under the provisions of §§ 60.2-619, 60.2-620 or § 60.2-622, shall be used in any judicial or administrative proceeding other than one arising out of the provisions of this title; however, the Commission shall make its records about a claimant available to the Workers' Compensation Commission if it requests such records. The Commission may also, in its discretion, furnish copies of the transcript of hearings to any party.

C. *Notwithstanding the provisions of subsection B, the Commission shall, upon written request, furnish any agency or political subdivision of the Commonwealth such information as it may require for the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political subdivisions. Such information shall not be published or used in any administrative or judicial proceeding, except in matters arising out of the collection of fines, penalties, and costs owed to the Commonwealth or its political subdivisions.*