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SENATE BILL NO. 968

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance
on February 15, 1999)

(Patron Prior to Substitute—Senator Reynolds)

*A BILL to amend and reenact §§ 58.1-3833 and 58.1-3840 of the Code of Virginia, relating to tax on food and beverages.***Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-3833 and 58.1-3840 of the Code of Virginia are amended and reenacted and as follows:**

§ 58.1-3833. County food and beverage tax.

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

This tax shall be levied only if the tax is approved in a referendum within the county which shall be held in accordance with § 24.2-684 and initiated either by a resolution of the board of supervisors or on the filing of a petition signed by a number of registered voters of the county equal in number to ten percent of the number of voters registered in the county, as appropriate on January 1 of the year in which the petition is filed with the court of such county. The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election. If the voters affirm the levy of a local meals tax, the tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe.

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

B. Notwithstanding the provisions of subsection A of this section, any county with a population of at least 70,000 but no more than 100,000, any county with a population of at least 17,910 but no more than 18,000, any county with a population of at least 34,000 but no more than 34,400, and any county having a county manager plan of government are hereby authorized to levy a tax on food and beverages sold for human consumption by a restaurant, as such term is defined in § 35.1-1 and as modified in subsection A above and subject to the same exemptions, not to exceed four percent of the amount charged for such food and beverages, provided that the governing body of the respective county holds a public hearing before adopting a local food and beverage tax, and the governing body by unanimous vote adopts such tax by local ordinance. The tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe.

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

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

58.1-3840. Certain excise taxes permitted.

A. The provisions of Chapter 6 (§ 58.1-600 et seq.) of this title to the contrary notwithstanding, any city or town having general taxing powers established by charter pursuant to or consistent with the provisions of § ~~15.1-841~~ 15.2-1104 may impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds; ~~provided that no such taxes may.~~

B. No tax levied under this section shall be imposed on food and beverages sold through vending machines or on any tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

C. Grocery stores and convenience stores selling prepared foods ready for human consumption at a

60 *delicatessen counter shall be subject to the tax on meals for that portion of the grocery store or*
61 *convenience store selling such items. Any tax levied pursuant to this section on meals sold by grocery*
62 *store delicatessens and convenience stores shall be limited to prepared sandwiches, beverages prepared*
63 *on premise, or single-meal platters.* In addition, as set forth in § 63.1-164, no blind person operating a
64 vending stand or other business enterprise under the jurisdiction of the Department for the Visually
65 Handicapped and located on property acquired and used by the United States for any military or naval
66 purpose shall be required to collect and remit meals taxes.