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HOUSE BILL NO. 1157

Offered January 16, 2012

A *BILL to amend and reenact §§ 4.1-128, 15.2-1200, 15.2-5517, 15.2-5814, 55-248.5, 58.1-3823, 58.1-3825, 58.1-3834, 58.1-3840, and 58.1-3842 of the Code of Virginia and to repeal §§ 58.1-3817, 58.1-3818, 58.1-3818.01, 58.1-3819 through 58.1-3822, 58.1-3824, 58.1-3825.1, 58.1-3825.2, 58.1-3830, 58.1-3831, 58.1-3832, and 58.1-3833 of the Code of Virginia, relating to local government taxing authority.*

Patrons—Merrick, Edmunds and Marshall, D.W.; Senator: Carrico

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-128, 15.2-1200, 15.2-5517, 15.2-5814, 55-248.5, 58.1-3823, 58.1-3825, 58.1-3834, 58.1-3840, and 58.1-3842 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-128. Local ordinances or resolutions regulating or taxing alcoholic beverages.

A. No county, city, or town shall, except as provided in § 4.1-205 or § 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by §§ 58.1-605, ~~58.1-3833~~ or § 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance which (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of subsection B of § 4.1-308, or the acts described in § 4.1-309 and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

§ 15.2-1200. General powers of counties.

A. Any county may adopt such measures as it deems expedient to secure and promote the health, safety and general welfare of its inhabitants which are not inconsistent with the general laws of the Commonwealth. Such power shall include, but shall not be limited to, the adoption of quarantine regulations affecting both persons and animals, the adoption of necessary regulations to prevent the spread of contagious diseases among persons or animals and the adoption of regulations for the prevention of the pollution of water which is dangerous to the health or lives of persons residing in the county.

B. Notwithstanding any contrary provision of law, counties shall have the all the powers of taxation granted to municipalities in § 15.2-1104, regardless of whether such powers are established by county charter.

§ 15.2-5517. One or more localities may create authority.

The governing body of a locality may by ordinance or resolution, or the governing bodies of two or more localities may by concurrent ordinances or resolutions or by agreement, create a tourism financing development authority for the purpose of supporting tourism infrastructure in localities. The name of the authority shall contain the word "authority." The authority shall be a public body politic and corporate. Any such locality that levies a transient occupancy tax pursuant to § ~~58.1-3819~~ 58.1-3840 shall designate any excess over two percent to be used for purposes of the authority except such revenues that are otherwise encumbered by the locality.

§ 15.2-5814. Entitlement to sales tax revenues derived from a major league baseball stadium.

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HB1157

59 A. In connection with the issuance of bonds by the Authority to finance or refinance a major league
 60 baseball stadium, the Authority shall be entitled to all sales tax revenues that are generated by
 61 transactions taking place upon the premises of the major league baseball stadium. Such entitlement shall
 62 continue for the lifetime of such bonds, but that entitlement shall not exceed thirty years. Sales tax
 63 revenues may be applied to repayment of the bonds, stadium operating expenses, master lease rental
 64 payments by the Commonwealth, capital expenditures and other purposes of the Authority. The State
 65 Comptroller shall remit such sales tax revenues to the Authority on a quarterly basis, subject to such
 66 reasonable processing delays as may be required by the Department of Taxation to calculate the actual
 67 net sales tax revenues generated by transactions taking place upon the premises of the major league
 68 baseball stadium. The State Comptroller shall make such remittances to the Authority, as provided
 69 herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act
 70 (§ 58.1-600 et seq.).

71 B. In connection with the issuance of bonds by the Authority to finance or refinance a major league
 72 baseball stadium, the local governing body of the locality in which the stadium is located may direct, by
 73 ordinance or resolution, that all local sales and use tax revenues generated by transactions taking place
 74 upon the premises of the major league stadium from taxes levied pursuant to §§ 58.1-605 and 58.1-606
 75 shall be remitted by the State Comptroller to the Authority for the repayment of bonds, stadium
 76 operating expenses, master lease rental payments by the Commonwealth, capital expenditures and other
 77 purposes of the Authority. Such remittances shall be for the same period and under the same conditions
 78 as remittances to the Authority paid in accordance with subsection A, mutatis mutandis.

79 C. In connection with the issuance of bonds by the Authority to finance or refinance a major league
 80 baseball stadium, the local governing body of the locality in which the stadium is located may direct, by
 81 ordinance or resolution, that all admissions tax revenues of such locality generated by admissions to the
 82 major league stadium from taxes levied pursuant to §§ ~~58.1-3818~~ and 58.1-3840 shall be remitted to the
 83 Authority for the repayment of bonds, stadium operating expenses, master lease rental payments by the
 84 Commonwealth, capital expenditures and other purposes of the Authority. Any levy pursuant to this
 85 section may be for the lifetime of such bonds, but such levy shall not exceed thirty years.

86 § 55-248.5. Exemptions; exception to exemption.

87 A. Except as specifically made applicable by § 55-248.21:1, the following conditions are not
 88 governed by this chapter:

89 1. Residence at a public or private institution, if incidental to detention or the provision of medical,
 90 geriatric, educational, counseling, religious or similar services;

91 2. Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the
 92 occupant is the purchaser or a person who succeeds to his interest;

93 3. Occupancy by a member of a fraternal or social organization in the portion of a structure operated
 94 for the benefit of the organization;

95 4. Occupancy in a hotel, motel, vacation cottage, boardinghouse or similar lodging held out for
 96 transients, unless let continuously to one occupant for more than ~~thirty~~ 30 days, including occupancy in
 97 a lodging subject to taxation as provided in *former* § 58.1-3819 *as such section was in effect on June*
 98 *30, 2012*;

99 5. Occupancy by an employee of a landlord whose right to occupancy is conditioned upon
 100 employment in and about the premises or an ex-employee whose occupancy continues less than sixty
 101 days;

102 6. Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

103 7. Occupancy under a rental agreement covering premises used by the occupant primarily in
 104 connection with business, commercial or agricultural purposes;

105 8. Occupancy in a public housing unit or other housing unit subject to regulation by the Department
 106 of Housing and Urban Development where such regulation is inconsistent with this chapter;

107 9. Occupancy by a tenant who pays no rent; and

108 10. Occupancy in single-family residences where the owner(s) are natural persons or their estates
 109 who own in their own name no more than ten single-family residences subject to a rental agreement; or
 110 in the case of condominium units or single-family residences located in any city or in any county having
 111 either the urban county executive form or county manager plan of government, no more than four.

112 B. Notwithstanding the provisions of subsection A, the landlord may specifically provide for the
 113 applicability of the provisions of this chapter in the rental agreement.

114 § 58.1-3823. Transient occupancy tax for certain counties.

115 A. ~~In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through~~
 116 ~~58.1-3822, Hanover County, Chesterfield County and Henrico County may impose:~~

117 1. ~~An additional transient occupancy tax not to exceed four percent of the amount of the charge for~~
 118 ~~the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or~~
 119 ~~spaces rented and continuously occupied by the same individual or same group of individuals for 30 or~~
 120 ~~more days. The revenues collected from the additional tax shall be designated and spent for promoting~~

121 tourism, travel or business that generates tourism or travel in the Richmond metropolitan area; and

122 2. An additional transient occupancy tax not to exceed two percent of the amount of the charge for
123 the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or
124 spaces rented and continuously occupied by the same individual or same group of individuals for 30 or
125 more days. The revenues collected from the additional tax shall be designated and spent for expanding
126 the Richmond Centre, a convention and exhibition facility in the City of Richmond.

127 3. An additional transient occupancy tax not to exceed one percent of the amount of the charge for
128 the occupancy of any room or space occupied. The tax imposed hereunder shall not apply to rooms or
129 spaces rented and continuously occupied by the same individual or group of individuals for 30 or more
130 days. The revenues collected from the additional tax shall be designated and spent for the development
131 and improvement of the Virginia Performing Arts Foundation's facilities in Richmond, for promoting the
132 use of the Richmond Centre and for promoting tourism, travel or business that generates tourism and
133 travel in the Richmond metropolitan area.

134 B. In addition to such transient occupancy taxes as are authorized by §§ 58.1-3819 through
135 58.1-3822, any county with the county manager plan of government may impose an additional transient
136 occupancy tax not to exceed two percent of the amount of the charge for the occupancy of any room or
137 space occupied, provided the county's governing body approves the construction of a county conference
138 center. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied
139 by the same individual or same group of individuals for 30 or more days. The revenues collected from
140 the additional tax shall be designated and spent for the design, construction, debt payment, and operation
141 of such conference center.

142 CA. 1. In addition to such *the* transient occupancy taxes as are *tax* authorized by §§ 58.1-3819
143 through 58.1-3822 § 58.1-3840, the Counties of James City and York may impose an additional *a*
144 transient occupancy tax not to exceed \$2 per room per night for the occupancy of any overnight guest
145 room. The revenues collected from the ~~additional~~ tax *under this section* shall be designated and
146 expended solely for advertising the Historic Triangle area, which includes all of the City of
147 Williamsburg and the Counties of James City and York, as an overnight tourism destination by the
148 members of the Williamsburg Area Destination Marketing Committee of the Greater Williamsburg
149 Chamber and Tourism Alliance. The tax imposed by this subsection shall not apply to travel
150 campground sites or to rooms or spaces rented and continuously occupied by the same individual or
151 same group of individuals for 30 or more days.

152 2. The Williamsburg Area Destination Marketing Committee shall consist of the members as
153 provided herein. The governing bodies of the City of Williamsburg, the County of James City, and the
154 County of York shall each designate one of their members to serve as members of the Williamsburg
155 Area Destination Marketing Committee. These three members of the Committee shall have two votes
156 apiece. In no case shall a person who is a member of the Committee by virtue of the designation of a
157 local governing body be eligible to be selected a member of the Committee pursuant to subdivision a.

158 a. Further, one member of the Committee shall be selected by the Board of Directors of the
159 Williamsburg Hotel and Motel Association; one member of the Committee shall be from The Colonial
160 Williamsburg Foundation and shall be selected by the Foundation; one member of the Committee shall
161 be an employee of Busch Gardens Europe/Water Country USA and shall be selected by Busch Gardens
162 Europe/Water Country USA; one member of the Committee shall be from the Jamestown-Yorktown
163 Foundation and shall be selected by the Foundation; one member of the Committee shall be selected by
164 the Executive Committee of the Greater Williamsburg Chamber and Tourism Alliance; and one member
165 of the Committee shall be the President and Chief Executive Officer of the Virginia Tourism Authority
166 who shall serve ex officio. Each of these six members of the Committee shall have one vote apiece. The
167 President of the Greater Williamsburg Chamber and Tourism Alliance shall serve ex officio with
168 nonvoting privileges unless chosen by the Executive Committee of the Greater Williamsburg Chamber
169 and Tourism Alliance to serve as its voting representative. The Executive Director of the Williamsburg
170 Hotel and Motel Association shall serve ex officio with nonvoting privileges unless chosen by the Board
171 of Directors of the Williamsburg Hotel and Motel Association to serve as its voting representative.

172 In no case shall more than one person of the same local government, including the governing body
173 of the locality, serve as a member of the Committee at the same time.

174 If at any time a person who has been selected to the Committee by other than a local governing
175 body becomes or is (a) a member of the local governing body of the City of Williamsburg, the County
176 of James City, or the County of York, or (b) an employee of one of such local governments, the person
177 shall be ineligible to serve as a member of the Committee while a member of the local governing body
178 or an employee of one of such local governments. In such case, the body that selected the person to
179 serve as a member of the Commission shall promptly select another person to serve as a member of the
180 Committee.

181 3. The Williamsburg Area Destination Marketing Committee shall maintain all authorities granted by

182 this section. The Greater Williamsburg Chamber and Tourism Alliance shall serve as the fiscal agent for
 183 the Williamsburg Area Destination Marketing Committee with specific responsibilities to be defined in a
 184 contract between such two entities. The contract shall include provisions to reimburse the Greater
 185 Williamsburg Chamber and Tourism Alliance for annual audits and any other agreed-upon expenditures.
 186 The Williamsburg Area Destination Marketing Committee shall also contract with the Greater
 187 Williamsburg Chamber and Tourism Alliance to provide administrative support services as the entities
 188 shall mutually agree.

189 4. The provisions in subdivision 2 relating to the composition and voting powers of the Williamsburg
 190 Area Destination Marketing Committee shall be a condition of the authority to impose the tax provided
 191 herein.

192 For purposes of this subsection, "advertising the Historic Triangle area" as an overnight tourism
 193 destination means advertising that is intended to attract visitors from a sufficient distance so as to
 194 require an overnight stay of at least one night.

195 ~~DB.~~ The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under
 196 this section, mutatis mutandis.

197 § 58.1-3825. Additional transient occupancy tax in Rockbridge County and the Cities of Lexington
 198 and Buena Vista.

199 In addition to ~~such~~ *the* transient occupancy taxes as are tax authorized by this chapter § 58.1-3840,
 200 Rockbridge County and the Cities of Lexington and Buena Vista may impose ~~an additional~~ *a* transient
 201 occupancy tax not to exceed two percent of the amount of charge for the occupancy of any room or
 202 space occupied. The authority to impose such tax is hereby individually granted to the local governing
 203 bodies of such county and cities. However, if such tax is adopted, the local governing body of such
 204 county or cities adopting the tax shall appropriate the revenues collected therefrom to the Virginia Horse
 205 Center Foundation to be used by the Foundation for the sole purpose of making principal and interest
 206 payments on a promissory note or notes signed or executed by the Virginia Horse Center Foundation or
 207 the Virginia Equine Center Foundation prior to January 1, 2004, with the Rockbridge Industrial
 208 Development Authority as the obligee or payee, as part of an agreement for the Authority to issue bonds
 209 on behalf of or for improvements at the Virginia Horse Center Foundation, Virginia Equine Center
 210 Foundation, or Virginia Equine Center.

211 For purposes of this section, such note or notes signed or executed prior to January 1, 2004, shall
 212 include any notes or other indebtedness incurred to refinance such note or notes, regardless of the date
 213 of refinancing, provided that such refinancing shall not include any debt or the payment of any debt for
 214 any activity relating to the Virginia Horse Center Foundation, Virginia Equine Center Foundation, or
 215 Virginia Equine Center that occurs on or after January 1, 2004.

216 The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by
 217 the same individual or same group of individuals for 30 or more days. Such tax may no longer be
 218 imposed in such county or such cities after final payment of the note or notes described herein.

219 § 58.1-3834. Apportionment of food and beverage or meals tax.

220 In any case where a business is located partially within two or more local jurisdictions by reason of
 221 the boundary line between the local jurisdictions passing through such place of business, and one or
 222 more of the local jurisdictions imposes the food and beverage or meals tax, the tax rate shall be
 223 computed by applying the apportionment formula in § 58.1-3709 to the food and beverage or meals tax
 224 rate of each applicable local jurisdiction. Such apportioned rate shall be rounded to the nearest one-half
 225 percent; ~~provided, the total tax rate shall not exceed the rate authorized in § 58.1-3833.~~

226 § 58.1-3840. Certain excise taxes permitted.

227 A. The provisions of Chapter 6 (§ 58.1-600 et seq.) of this title to the contrary notwithstanding, any
 228 city or town having general taxing powers established by charter pursuant to or consistent with the
 229 provisions of § 15.2-1104 *or any county* may impose excise taxes on cigarettes, admissions, transient
 230 room rentals, meals, and travel campgrounds *in conformity with this section. The county tax limitations*
 231 *imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis.*

232 B. *Meals tax.* - 1. No such taxes on meals may be imposed on (i) that portion of the amount paid by
 233 the purchaser as a discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the
 234 amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in
 235 addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service
 236 charge does not exceed 20% *percent* of the sales price; or (iii) food and beverages sold through vending
 237 machines or on any tangible personal property purchased with food coupons issued by the United States
 238 Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special
 239 Supplemental Food Program for Women, Infants, and Children. No such taxes on meals may be
 240 imposed when sold or provided by: (a) restaurants, as such term is defined in subdivision 9 a of
 241 § 35.1-1, to their employees as part of their compensation when no charge is made to the employee; (b)
 242 volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; educational,
 243 charitable, fraternal, or benevolent organizations, on an occasional basis, not exceeding three times per

244 calendar year as a fundraising activity, the gross proceeds of which are to be used by such church,
 245 religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious
 246 purposes; (c) churches that serve meals for their members as a regular part of their religious
 247 observances; (d) public or private elementary or secondary schools, or public or private colleges and
 248 universities, to their students or employees; (e) hospitals, medical clinics, convalescent homes, nursing
 249 homes, or other extended care facilities to patients or residents thereof; (f) day care centers; (g) homes
 250 for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; or (h) age-restricted
 251 apartment complexes or residences with restaurants, not open to the public, where meals are served and
 252 fees are charged for such food and beverages and are included in rental fees.

253 ~~Also, the~~2. *The meals tax shall not be levied on meals: (a) when used or consumed and paid for by*
 254 *the Commonwealth, any political subdivision of the Commonwealth, or the United States; or (b)*
 255 *provided by a public or private nonprofit charitable organization or establishment to elderly, infirm,*
 256 *blind, handicapped, or needy persons in their homes, or at central locations; or (c) provided by private*
 257 *establishments that contract with the appropriate agency of the Commonwealth to offer food, food*
 258 *products, or beverages for immediate consumption at concession prices to elderly, infirm, blind,*
 259 *handicapped, or needy persons in their homes or at central locations.*

260 ~~In addition, as~~3. *As set forth in § 51.5-98, no blind person operating a vending stand or other*
 261 *business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired and*
 262 *located on property acquired and used by the United States for any military or naval purpose shall be*
 263 *required to collect and remit meals taxes.*

264 B4. *Notwithstanding any other provision of this section, no county, city, or town shall levy any tax*
 265 *under this section upon alcoholic beverages sold in factory sealed containers and purchased for*
 266 *off-premises consumption or food purchased for human consumption as "food" is defined in the Food*
 267 *Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act,*
 268 *except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged*
 269 *single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed*
 270 *beverages.*

271 5. *In any case where a business is located partially within two or more local jurisdictions by reason*
 272 *of the boundary line between the local jurisdictions passing through the place of business, and one or*
 273 *more of the local jurisdictions imposes the meals tax, the tax rate shall be computed by applying the*
 274 *apportionment formula in § 58.1-3709 to the meals tax rate of each applicable local jurisdiction. The*
 275 *apportioned rate shall be rounded to the nearest one-half percent.*

276 6. *All meals tax collections shall be deemed to be held in trust for the county, city, or town imposing*
 277 *the respective meals tax.*

278 C. *Admissions tax. - 1. In accordance with the provisions of Article X, Section 1 of the Constitution*
 279 *of Virginia, events to which admission is charged shall be divided into the following classes for the*
 280 *purposes of taxation:*

281 a. *Admissions charged for attendance at any event, the gross receipts of which go wholly to a*
 282 *charitable purpose or purposes.*

283 b. *Admissions charged for attendance at public and private elementary, secondary, and college*
 284 *school-sponsored events, including events sponsored by school-recognized student organizations.*

285 c. *Admissions charged for entry into museums, botanical or similar gardens, and zoos.*

286 d. *Admissions charged to participants in order to participate in sporting events.*

287 e. *Admissions charged for entry into major league baseball games and events at any major league*
 288 *baseball stadium that has seating for at least 40,000 persons, and any other spectator event.*

289 f. *Admissions charged to any off-track horse race wagering facility.*

290 g. *All other admissions.*

291 *Any county, city, or town may elect to impose an admissions tax on one or more, all, or none of the*
 292 *classes of admissions set forth in this subsection. Any county, city, or town may, by ordinance, elect not*
 293 *to levy an admissions tax on admission to an event, provided that the purpose of the event is solely to*
 294 *raise money for charitable purposes and that the net proceeds derived from the event will be transferred*
 295 *to an entity or entities that are exempt from sales and use tax pursuant to § 58.1-609.11.*

296 2. *Any county, city, or town that is authorized to levy a tax on admissions may levy the tax on*
 297 *admissions paid for any event held at facilities that are not owned by the county, city, or town at a*
 298 *lower rate than the rate levied on admissions paid for any event held at its county-, city-, or town-owned*
 299 *civic centers, stadiums and amphitheatres.*

300 3. *All admissions tax collections shall be deemed to be held in trust for the county, city, or town*
 301 *imposing the respective admissions tax.*

302 D. ~~[Expired.]~~

303 D. *Transient occupancy tax. - 1. No tax imposed on transient room rentals shall apply to rooms or*
 304 *spaces rented and continuously occupied by the same individual or same group of individuals for 30 or*

305 *more days in hotels; motels; boarding houses; condominiums, apartments, townhouses, or like buildings;*
306 *travel campgrounds; or other facilities offering guest rooms.*

307 2. *Any county, city, or town that requires local hotel and motel businesses, or any class thereof, to*
308 *collect, account for, and remit to that locality a local tax imposed on the consumer may allow the*
309 *businesses a commission for such service in the form of a deduction from the tax remitted. The*
310 *commission shall be provided for by ordinance, which shall set the rate at no less than three percent*
311 *and not to exceed five percent of the amount of tax due and accounted for. No commission shall be*
312 *allowed if the amount due was delinquent.*

313 3. *All transient occupancy tax collections shall be deemed to be held in trust for the county, city, or*
314 *town imposing the respective transient occupancy tax.*

315 E. *Cigarette tax. - All cigarette tax collections shall be deemed to be held in trust for the county,*
316 *city, or town imposing the respective cigarette tax. Any county, city, or town having a tax upon the sale*
317 *or use of cigarettes may by ordinance provide for the administration and enforcement of any such*
318 *cigarette tax. The local ordinance may:*

319 1. *Provide for the registration of any distributor, wholesaler, vendor, retailer or other person selling,*
320 *storing, or possessing cigarettes within or transporting cigarettes within or into such taxing jurisdiction*
321 *for sale or use. Such registration may be conditioned upon the filing of a bond with a surety company*
322 *authorized to do business in Virginia as surety, which bond shall not exceed one and one-half times the*
323 *average monthly liability of such taxpayer. The county, city, or town may revoke registration if the*
324 *required bond is impaired, but for no other reason. Any distributor, wholesaler, retailer, or other person*
325 *whose business and residence is outside the taxing jurisdiction, who shall sell, store, or possess in the*
326 *taxing jurisdiction therein any cigarettes shall by virtue of such sale, storage, or possession submit*
327 *himself to its legal jurisdiction and appoint as his attorney for any service of lawful process the officer*
328 *or person as may be designated in the local ordinance for that purpose. A copy of any process served*
329 *on the designated officer or person shall be sent forthwith by registered mail to the distributor,*
330 *wholesaler, or retailer.*

331 2. *Provide for the use of a tax stamp or meter impression as evidence of payment of the tax or other*
332 *method or system of reporting payment and collection of such tax.*

333 3. *Provide that tobacco products found in quantities of more than six cartons within the taxing*
334 *jurisdiction shall be conclusively presumed for sale or use within the jurisdiction and the tobacco*
335 *products may be seized and confiscated if:*

336 a. *They are in transit and are not accompanied by a bill of lading or other document indicating the*
337 *true name and address of the consignor or seller and of the consignee or purchaser and the brands and*
338 *quantity of cigarettes so transported, or they are in transit and accompanied by a bill of lading or other*
339 *document that is false or fraudulent, in whole or in part; or*

340 b. *They are in transit and are accompanied by a bill of lading or other document indicating:*

341 (1) *A consignee or purchaser in another state or the District of Columbia who is not authorized by*
342 *the law of the other jurisdiction to receive or possess the tobacco products on which the taxes imposed*
343 *by the other jurisdiction have not been paid, unless the tax of the state or District of destination has*
344 *been paid and the tobacco products bear the tax stamps of that state or District; or*

345 (2) *A consignee or purchaser in the Commonwealth but outside the taxing jurisdiction who does not*
346 *possess a Virginia sales and use tax certificate or a Virginia retail cigarette license and, where*
347 *applicable, both a business license and retail cigarette license issued by the local jurisdiction of*
348 *destination; or*

349 c. *They are not in transit and the tax has not been paid, nor have approved arrangements for*
350 *payment been made, provided that this subdivision shall not apply to cigarettes in the possession of*
351 *distributors or public warehouses that have filed notice and appropriate proof with the taxing*
352 *jurisdiction that those cigarettes are temporarily within the taxing jurisdiction and will be sent to*
353 *consignees or purchasers outside the jurisdiction in the normal course of business.*

354 4. *Provide that cigarettes and other property, other than motor vehicles, used in the furtherance of*
355 *any illegal evasion of the tax that are seized and confiscated may be disposed of by sale or other*
356 *method deemed appropriate by the local taxing authority. No credit from any sale or other disposition*
357 *shall be allowed toward any tax or penalties owed.*

358 5. *Provide that persons violating any provision thereof shall be deemed guilty of a Class 1*
359 *misdemeanor and require the payment of penalties for late payment not to exceed 10 percent per month,*
360 *penalties for fraud or evasion of the tax not to exceed 50 percent, and interest not to exceed three*
361 *quarters of one percent per month, upon any tax found to be overdue and unpaid. The mere possession*
362 *of untaxed cigarettes in quantities of not more than six cartons shall not be a violation of any such*
363 *ordinance.*

364 6. *Provide for the forfeiture and sale of any property seized, provided, however, that proper notice of*
365 *the seizure shall be given to the known holders of property interests in such property and the notice*
366 *shall include procedures for administrative appeal as well as affirmative defenses, which may be*

367 asserted by such holders which procedures must be set forth in reasonable detail.

368 7. Provide that any coin-operated vending machine in which any cigarettes are found, stored, or
 369 possessed and bearing a counterfeit or bogus cigarette tax stamp or impression, or any unstamped
 370 tobacco products, or any cigarettes upon which the tax has not been paid, may be declared contraband
 371 property and shall be subject to confiscation and sale as provided in subdivision 6. When any vending
 372 machine is found containing such cigarettes it shall be presumed that such cigarettes were intended for
 373 distribution, sale, or use therefrom. In lieu of immediate seizure and confiscation of any vending
 374 machines used in an illegal evasion of the tax, the vending machine may be sealed by appropriate
 375 enforcement authorities to prevent continued illegal sale or removal of any cigarettes, and the vending
 376 machine may be left unmoved until other civil and criminal penalties are imposed or waived. Notice
 377 requirements shall be the same as if the machine had been seized. A seal may be removed and the
 378 machine declared eligible for operation only by authorized enforcement authorities. Nothing in this
 379 subsection shall prevent seizure and confiscation of a vending machine at any time after it is sealed.

380 8. Provide that any counterfeit stamps or counterfeit impression devices may also be seized and
 381 confiscated.

382 9. Provide for the delegation of its administrative and enforcement authority under its cigarette tax
 383 ordinance to one agency or authority pursuant to the provisions of § 15.2-1300. The agency or authority
 384 may promulgate rules and regulations governing (i) the display of cigarette stamps in vending machines,
 385 (ii) tax liens against property of taxpayers hereunder, (iii) extending varying discount rates and
 386 establish different classes of taxpayers for those required to collect and remit the tax, (iv) requirements
 387 concerning keeping and production of records, (v) administrative and jeopardy assessment of tax where
 388 reasonably justified, (vi) required notice to authorities of sale of taxpayer's business, (vii) audit
 389 requirements and authority, (viii) criteria for authority of distributors and others to possess untaxed
 390 cigarettes, and (ix) any other provisions consistent with the powers granted by this section or
 391 necessarily implied therefrom. The ordinance may further provide that the agency or authority created
 392 may issue a common revenue stamp, employ legal counsel and bring appropriate court action in its own
 393 name where necessary to enforce payment of the cigarette taxes or penalties owed any member
 394 jurisdiction, and provide cigarette tax agents and the necessary enforcement supplies and equipment
 395 needed to effectively enforce the cigarette tax ordinance promulgated by each county, city, or town. Any
 396 cigarette tax agent shall meet the requirements of training or experience as may be promulgated from
 397 time to time by the enforcement authority. When performing their duties, cigarette tax agents shall be
 398 required to carry proper identification and may be armed for their own protection and for the
 399 enforcement of the ordinance. Any cigarette tax agent shall have the power of arrest upon reasonable
 400 and probable cause that a violation of any tobacco tax ordinance has been committed.

401 10. Authorize, if the county, city, or town imposing a cigarette tax permits the use of meter
 402 impressions or stamps to evidence its payment, an officer of the county, city, or town or joint
 403 enforcement authority to enter into an arrangement with the Department of Taxation under which a
 404 tobacco wholesaler who so desires may use a dual die or stamp to evidence the payment of both the
 405 county, city, or town tax, and the state tax. The Department is hereby authorized to enter into such an
 406 arrangement. The procedure under such an arrangement shall be such as may be agreed upon by and
 407 between the authorized county, city, town, or joint enforcement authority officer and the Department.

408 § 58.1-3842. Combined transient occupancy and food and beverage tax.

409 A. Rappahannock County and Madison County, by duly adopted ordinance, are hereby authorized to
 410 levy a tax on occupancy in a bed and breakfast establishment ~~on which the county is authorized to levy~~
 411 ~~a transient occupancy tax under § 58.1-3819~~ and on food and beverages sold for human consumption
 412 within such establishment ~~on which the county is authorized to levy a food and beverage tax under~~
 413 ~~§ 58.1-3833~~, when the charges for the occupancy of the room or space and for the sale of food and
 414 beverages are assessed in the aggregate and not separately stated. ~~Such tax shall not exceed four percent~~
 415 ~~of the total amount charged for the occupancy of the room or space occupied and for the food and~~
 416 ~~beverages.~~ Such tax shall be in such amount and on such terms as the governing body may, by
 417 ordinance, prescribe. The tax shall be in addition to the sales tax currently imposed by the county
 418 pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.). Collection of such tax shall be in a manner
 419 prescribed by the governing body. All taxes collected under the authority of this article shall be deemed
 420 to be held in trust for the county imposing the tax.

421 B. If a bed and breakfast establishment separately states charges for the occupancy of the room or
 422 space and for the sale of food and beverages, a transient occupancy tax ~~levied under § 58.1-3819~~ and a
 423 food and beverage tax ~~levied under § 58.1-3833~~ pursuant to § 58.1-3840 shall apply to such separately
 424 stated charges, as applicable.

425 C. Any tax imposed pursuant to this article shall not apply within the limits of any town located in
 426 such county, where such town now, or hereafter, imposes a town meals tax or a town transient
 427 occupancy tax on the same subject. If the governing body of any town within a county, however,

428 provides that a county tax authorized by this article shall apply within the limits of such town, then such
429 tax may be imposed within such towns.

430 D. This tax shall be levied only if a food and beverage tax has been approved in a referendum
431 within the county as provided by subsection A of § ~~58.1-3833~~. No county in which the levy of a food
432 and beverage tax has been approved in a referendum pursuant to subsection A of § ~~58.1-3833~~ shall be
433 required to submit an amendment to its meals tax ordinance or a further question to the voters in a
434 referendum prior to adopting an ordinance adopting or amending the tax authorized by this article.

435 E. Nothing herein contained shall affect any authority heretofore granted to any county to levy a
436 food and beverage tax or a transient occupancy tax.

437 2. That §§ 58.1-3817, 58.1-3818, 58.1-3818.01, 58.1-3819 through 58.1-3822, 58.1-3824, 58.1-3825.1,
438 58.1-3825.2, 58.1-3830, 58.1-3831, 58.1-3832, and 58.1-3833, of the Code of Virginia are repealed.

439 3. That the provisions of this act shall become effective on January 1, 2013.