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HOUSE BILL NO. 747

Offered January 10, 2018

Prefiled January 9, 2018

A BILL to amend and reenact §§ 58.1-609.2 and 58.1-609.10 of the Code of Virginia, relating to sales tax exemption; veterinarians.

Patrons—Leftwich, Brewer and Helsel

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-609.2 and 58.1-609.10 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-609.2. Agricultural exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Commercial feeds; seeds; plants; fertilizers; liming materials; breeding and other livestock; semen; breeding fees; baby chicks; turkey poults; rabbits; quail; llamas; bees; agricultural chemicals; fuel for drying or curing crops; baler twine; containers for fruit and vegetables; farm machinery; medicines and drugs sold to a veterinarian provided they are used or consumed directly in the care, medication, and treatment of agricultural production animals or for resale to a farmer for direct use in producing an agricultural product for market; tangible personal property, except for structural construction materials to be affixed to real property owned or leased by a farmer, necessary for use in agricultural production for market and sold to or purchased by a farmer or contractor; and agricultural supplies provided the same are sold to and purchased by farmers for use in agricultural production, which also includes beekeeping and fish, quail, rabbit and worm farming for market.

2. Every agricultural commodity or kind of seafood sold or distributed by any person to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or consumption in the process of preparing, finishing, or manufacturing such agricultural or seafood commodity for the ultimate retail consumer trade, except when such agricultural or seafood commodity is actually sold or distributed as a marketable or finished product to the ultimate consumer. "Agricultural commodity," for the purposes of this subdivision, means horticultural, poultry, and farm products, livestock and livestock products, and products derived from bees and beekeeping.

3. Livestock and livestock products, poultry and poultry products, and farm and agricultural products, when produced by the farmer and used or consumed by him and the members of his family.

4. Machinery, tools, equipment, materials or repair parts therefor or replacement thereof; fuel or supplies; and fishing boats, marine engines installed thereon or outboard motors used thereon, and all replacement or repair parts in connection therewith; provided the same are sold to and purchased by watermen for use by them in extracting fish, bivalves or crustaceans from waters for commercial purposes.

5. Machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy or supplies, and cereal grains and other feed ingredients, including, but not limited to, drugs, vitamins, minerals, nonprotein nitrogen, and other supplements or additives, used directly in making feed for sale or resale. Making of feed shall include the mixing of liquid ingredients.

6. Machinery or tools and repair parts therefor or replacements thereof, fuel, power, energy or supplies, used directly in the harvesting of forest products for sale or for use as a component part of a product to be sold. Harvesting of forest products shall include all operations prior to the transport of the harvested product used for (i) removing timber or other forest products from the harvesting site, (ii) complying with environmental protection and safety requirements applicable to the harvesting of forest products, (iii) obtaining access to the harvesting site, and (iv) loading cut timber or other forest products onto highway vehicles for transportation to storage or processing facilities.

7. Agricultural produce, as defined in § 3.2-4738, and eggs, as described in § 3.2-5305, raised and sold by an individual at local farmers markets and roadside stands, when such individual's annual income from such sales does not exceed \$1,000.

§ 58.1-609.10. Miscellaneous exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil

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59 by an individual purchaser for other than business, commercial or industrial purposes. The Tax
60 Commissioner shall establish by regulation a system for use by dealers in classifying individual
61 purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil.
62 Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any
63 portion of such purchase for domestic use may, between the first day of the first month and the fifteenth
64 day of the fourth month following the year of purchase, apply for a refund of the tax paid on the
65 domestic use portion.

66 2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted
67 an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption
68 pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food,
69 prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and
70 meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

71 3. Tangible personal property for future use by a person for taxable lease or rental as an established
72 business or part of an established business, or incidental or germane to such business, including a
73 simultaneous purchase and taxable leaseback.

74 4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside
75 of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be
76 deemed to be delivery of goods for use or consumption outside of the Commonwealth.

77 5. Tangible personal property purchased with food coupons issued by the United States Department
78 of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special
79 Supplemental Food Program for Women, Infants, and Children.

80 6. Tangible personal property purchased for use or consumption in the performance of maintenance
81 and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the
82 Commonwealth.

83 7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised,
84 edited, reformatted or copied documents, including but not limited to documents stored on or transmitted
85 by electronic media, to its client or to third parties in the course of the professional's rendition of
86 services to its clientele.

87 8. School lunches sold and served to pupils and employees of schools and subsidized by government;
88 school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use
89 by students attending a college or other institution of learning, when sold (i) by such institution of
90 learning or (ii) by any other dealer, when such textbooks have been certified by a department or
91 instructor of such institution of learning as required textbooks for students attending courses at such
92 institution.

93 9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases,
94 and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or
95 other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed
96 free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed
97 physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and
98 fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by
99 a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his
100 professional practice, regardless of whether such practice is organized as a sole proprietorship,
101 partnership, or professional corporation, or any other type of corporation in which the shareholders and
102 operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician
103 assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for
104 use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise
105 exempt under this section; and samples of prescription drugs and medicines and their packaging
106 distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and
107 Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended). ~~With the exceptions of those medicines and~~
108 ~~drugs used for agricultural production animals that are exempt to veterinarians under subdivision 1 of~~
109 ~~§ 58.1-609.2, any veterinarian dispensing or selling medicines or drugs on prescription shall be deemed~~
110 ~~to be the user or consumer of all such medicines and drugs.~~

111 10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances,
112 catheters, urinary accessories, other durable medical equipment and devices, and related parts and
113 supplies specifically designed for those products; and insulin and insulin syringes, and equipment,
114 devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when
115 such items or parts are purchased by or on behalf of an individual for use by such individual. Durable
116 medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily
117 used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or
118 injury, and (iv) is appropriate for use in the home.

119 11. Drugs and supplies used in hemodialysis and peritoneal dialysis.

120 12. Special equipment installed on a motor vehicle when purchased by a handicapped person to

enable such person to operate the motor vehicle.

13. Special typewriters and computers and related parts and supplies specifically designed for those products used by handicapped persons to communicate when such equipment is prescribed by a licensed physician.

14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients.

b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.

15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.

16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising and are used in carrying out the work of the church; gifts including food for distribution outside the public church building; food, disposable serving items, cleaning supplies and teaching materials used in the operation of camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are used in carrying out the work of the church or churches; and property used in caring for or maintaining property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have installed, in the public church buildings used in carrying out the work of the church and its related ministries, including, but not limited to worship services; administrative rooms; and kindergarten, elementary, and secondary schools.

17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings, incontinence products and wound-care products, when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.

18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits.

19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.

20. Beginning July 1, 2018, and ending July 1, 2022, parts, engines, and supplies used for maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component parts. This exemption shall not apply to tools and other equipment not attached to or that does not become a part of the aircraft. For purposes of this subdivision, "aircraft" shall include both manned and unmanned systems.