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HOUSE BILL NO. 1778

Offered January 9, 2019

Prefiled December 26, 2018

A BILL to amend and reenact § 58.1-3840 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-3819.01, relating to transient occupancy tax; state parks.

Patron—Bloxom

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3840 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-3819.01 as follows:

§ 58.1-3819.01. Imposition of transient occupancy tax in state parks.

Unless otherwise specifically provided, a locality may elect to impose transient occupancy taxes under this article in state parks under the control of the Department of Conservation and Recreation pursuant to Chapter 2 (§ 10.1-200 et seq.) of Title 10.1 to the same extent that it could impose such tax if such parks were privately owned and operated.

§ 58.1-3840. Certain excise taxes permitted.

A. The provisions of Chapter 6 (§ 58.1-600 et seq.) to the contrary notwithstanding, any city or town having general taxing powers established by charter pursuant to or consistent with the provisions of § 15.2-1104 may impose excise taxes on cigarettes, admissions, transient room rentals, meals, and travel campgrounds. *A city or town may elect to impose such excise tax on transient room rentals and travel campgrounds in state parks under the control of the Department of Conservation and Recreation pursuant to Chapter 2 (§ 10.1-200 et seq.) of Title 10.1 to the same extent that it could impose such tax if such parks were privately owned and operated.* No such taxes on meals may be imposed on (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price of the meal; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price of the meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20 percent of the sales price; or (iii) 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. No such taxes on meals may be imposed when sold or provided by (a) restaurants, as such term is defined in § 35.1-1, to their employees as part of their compensation when no charge is made to the employee; (b) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations, the first three times per calendar year and, beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of meals (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (c) churches that serve meals for their members as a regular part of their religious observances; (d) public or private elementary or secondary schools or institutions of higher education to their students or employees; (e) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (f) day care centers; (g) homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; or (h) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees.

Also, the tax shall not be levied on meals: (1) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; (2) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or (3) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

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

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59 B. Notwithstanding any other provision of this section, no city or town shall levy any tax under this
60 section upon alcoholic beverages sold in factory sealed containers and purchased for off-premises
61 consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of
62 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the
63 following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads
64 consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

65 C. Any city or town that is authorized to levy a tax on admissions may levy the tax on admissions
66 paid for any event held at facilities that are not owned by the city or town at a lower rate than the rate
67 levied on admissions paid for any event held at its city- or town-owned civic centers, stadiums, and
68 amphitheaters.

69 D. ~~Expired.~~