

# DEPARTMENT OF TAXATION

## 2020 Fiscal Impact Statement

1. **Patron** Wendy W. Gooditis

3. **Committee** House Finance

4. **Title** County Food and Beverage Tax; Maximum Rate

2. **Bill Number** HB 317

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would authorize counties to increase the tax rate on food and beverages sold for human consumption by a restaurant to a rate equal to the highest rate imposed by an adjacent city if such rate is higher than four percent.

Under current law, every county is authorized to establish, by referendum, a tax on food and beverages sold for human consumption by a restaurant at a maximum rate of four percent of the amount charged for such food and beverages. Cities and towns that have general taxing powers in their charters may levy a tax on food and beverages at an unrestricted rate.

If enacted during the 2020 Regular Session of the General Assembly, this bill would become effective July 1, 2020.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

### 8. **Fiscal implications:**

Counties that choose to exercise the authority to increase their tax rate granted by this bill would experience an unknown positive revenue impact. During Fiscal Year 2017, the 38 cities, 50 counties, and 112 towns that imposed a local tax on meals collected a combined total of approximately \$533 million therefrom.

This bill would have no impact on state revenues.

### 9. **Specific agency or political subdivisions affected:**

Counties that impose a food and beverage tax.

**10. Technical amendment necessary:** No.

**11. Other comments:**

County Food and Beverages Tax

Every county is authorized to levy a tax on food and beverages sold for human consumption, by a restaurant at a maximum rate of four percent of the amount charged for such food and beverages. The tax must not be levied on food and beverages sold: i) through vending machines; or by: ii) boardinghouses that do not accommodate transients; iii) cafeterias operated by industrial plants for employees; iv) volunteer fire departments and rescue squads, and nonprofit churches and organizations on an occasional basis, not exceeding three times per calendar year, as a fundraising activity; v) churches to their members; vi) nonprofit cafeterias in public schools; vii) hospitals, nursing homes, medical clinics, convalescent homes; viii) day care centers; ix) home for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; and x) age restricted apartment complexes. The tax also may not be levied on i) discretionary gratuities; ii) mandatory gratuities and service charges that do not exceed 20% of the sales price; and iii) alcoholic beverages sold in factory sealed containers. The tax does apply to prepared foods ready for human consumption sold at grocery stores and convenience stores.

As of 2017, 50 counties imposed the food and beverages tax. With the exception of Dickenson County, every county imposed the tax at the maximum rate.

City Meals Tax

Currently, any city or town having general taxing powers as established by charter may impose a local meals tax through the adoption of an ordinance by the local governing body. The tax does not apply to: 1) discretionary gratuities paid in addition to the sales price of the meal; 2) mandatory gratuities, to the extent they do not exceed 20% of the sales price; 3) food and beverages sold through vending machines; or 4) food and beverages purchased with food coupons or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children. Similarly, the tax does not apply when food is sold or provided by: 1) restaurants as employee meals, considered compensation; 2) volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; educational, charitable, fraternal, or benevolent organizations, on an occasional basis as a fundraising activity; 3) churches regularly serving meals for their members; 4) public or private elementary, secondary schools, colleges, and universities, to their students or employees; 5) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents; 6) day care centers; 7) homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; or 8) 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.

As of 2017, all Virginia cities and 112 towns impose a meals tax, with the median rate being 6% and 5% respectively.

## Proposal

This bill would authorize counties to increase the tax rate on food and beverages sold for human consumption by a restaurant to a rate equal to the highest rate imposed by an adjacent city if such rate is higher than four percent.

If enacted during the 2020 Regular Session of the General Assembly, this bill would become effective July 1, 2020.

## Similar Legislation

**House Bill 342** would exempt farmer's markets and roadside stands from having to collect the meals tax or food and beverage tax if the farmer's annual income from such sales does not exceed \$2,500.

cc : Secretary of Finance

Date: 1/11/2020 VB  
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