

DEPARTMENT OF TAXATION

2020 Fiscal Impact Statement

1. **Patron** Robert B. Bell

2. **Bill Number** HB 342

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Meals Tax and County Food and Beverage Tax; Exemption for Farmers Markets and Roadside Stands

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would exempt sellers at farmers markets and roadside stands from having to collect meals tax or food and beverage tax on their sales when the seller's annual income from such sales at all local farmers markets and roadside stands does not exceed \$2,500.

Under current law, sellers at farmers markets and roadside stands are exempt from having to collect the Retail Sales and Use Tax on their sales when the seller's annual income from such sales does not exceed \$2,500 but there is no such exemption from the Meals Tax or County Food and Beverage Tax.

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:**

Localities that impose a tax on meals would experience an unknown negative revenue impact as a result of this bill. 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:**

Localities that impose a meals tax or 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.

Retail Sales and Use Tax

Sellers at farmers markets and roadside stands are exempted from having to collect the Retail Sales and Use Tax on their sales of agricultural produce and eggs when the seller's annual income from such sales does not exceed \$2,500.

Proposal

This bill would exempt sellers at farmers markets and roadside stands from having to collect meals tax or food and beverage tax on their sales when the seller's annual income from such sales at all local farmers markets and roadside stands does not exceed \$2,500.

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

cc : Secretary of Finance

Date: 2/27/2020 VB
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