

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 58.1-611.1 of the Code of Virginia, relating to sales tax; exemption for*  
3 *food purchased for human consumption and essential personal hygiene products.*

4  
5 Approved

[S 451]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 58.1-611.1 of the Code of Virginia is amended and reenacted as follows:**

8 **§ 58.1-611.1. Exemption for food purchased for human consumption and essential personal**  
9 **hygiene products.**

10 *A. Before January 1, 2023, the tax imposed by §§ 58.1-603 and 58.1-604 on food purchased for*  
11 *human consumption and essential personal hygiene products shall be one and one-half percent of the*  
12 *gross sales price. The revenue from the tax shall be distributed as follows: (i) the revenue from the tax*  
13 *at the rate of one-half percent shall be distributed as provided in subsection A of § 58.1-638 and (ii) the*  
14 *revenue from the tax at the rate of one percent shall be distributed as provided in subsections B, C, and*  
15 *D of § 58.1-638.*

16 ~~*B. The provisions of this section shall not affect the imposition of tax on food purchased for human*~~  
17 ~~*consumption and essential personal hygiene products pursuant to §§ 58.1-605 and 58.1-606.*~~

18 ~~*C. On and after January 1, 2023, and except for taxes imposed pursuant to §§ 58.1-605 and*~~  
19 ~~*58.1-606, no tax shall be imposed under this chapter, or pursuant to any authority granted under this*~~  
20 ~~*chapter, on food purchased for human consumption or essential personal hygiene products.*~~

21 *C. Beginning February 1, 2023, an amount equal to the revenue that would have been distributed*  
22 *pursuant to clause (ii) of subsection A shall be distributed as provided in subsections B, C, and D of*  
23 *§ 58.1-638 based on the estimates of the population of cities and counties ages five to 19.*

24 *D. 1. As used in this section, "food purchased for human consumption" has the same meaning as*  
25 *"food" defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations*  
26 *adopted pursuant to that Act, except it shall not include seeds and plants which produce food for human*  
27 *consumption. For the purpose of this section, "food purchased for human consumption" shall not include*  
28 *food sold by any retail establishment where the gross receipts derived from the sale of food prepared by*  
29 *such retail establishment for immediate consumption on or off the premises of the retail establishment*  
30 *constitutes more than 80 percent of the total gross receipts of that retail establishment, including but not*  
31 *limited to motor fuel purchases, regardless of whether such prepared food is consumed on the premises*  
32 *of that retail establishment. For purposes of this section, "retail establishment" means each place of*  
33 *business for which any "dealer," as defined in § 58.1-612, is required to apply for and receive a*  
34 *certificate of registration pursuant to § 58.1-613.*

35 *2. As used in this section, "essential personal hygiene products" means (i) nondurable incontinence*  
36 *products such as diapers, disposable undergarments, pads, and bed sheets and (ii) menstrual cups and*  
37 *pads, pantyliners, sanitary napkins, tampons, and other products used to absorb or contain menstrual*  
38 *flow. "Essential personal hygiene products" does not include any item that is otherwise exempt pursuant*  
39 *to this chapter.*

ENROLLED

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