

2010 Legislation Effective July 1st, 2010

Alcohol Beverage Control Issues

HB 630 Wine and beer; licensee may ship through approved fulfillment warehouse.

Summary as passed:

Alcoholic beverage control; third party shipment of wine and beer. Creates a fulfillment warehouse license, which authorizes an agricultural cooperative association with a place of business in the Commonwealth and under the direction and control of a Virginia wine or beer shipper's licensee to (i) solicit and receive orders for wine or beer, (ii) pack and ship wine or beer in accordance with a license or other approval by the Commonwealth or the state where located, and (iii) take other action as permitted by the Board. The bill creates a marketing portal license, which allows an authorized agricultural cooperative association to solicit and receive orders for wine or beer through the use of the Internet from persons in Virginia on behalf of holders of wine or beer shipper's licenses. The bill also prohibits licensed wholesalers or any person under common control of such licensee from obtaining the fulfillment warehouse license. The bill sets the annual license taxes for these two new licenses. This bill is identical to SB 483 (Hurt).

SB 628 Mixed beverage licensees; ABC Board to prescribe terms under which licensees may infuse spirits.

Summary as passed Senate:

Alcoholic beverage control; mixed beverage licensees; flavored distilled spirits. Requires the Alcoholic Beverage Control Board to adopt regulations prescribing the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits.

HB 144 DUI; DCJS to establish model policy for law-enforcement personnel for questioning those suspected.

Summary as passed:

Last drink inquiry protocol. Provides that the Department of Criminal Justice Services has the power and duty to establish, publish and disseminate a model policy for law-enforcement personnel to use in questioning individuals suspected of driving while intoxicated concerning the physical location of the individual's last consumption of an alcoholic beverage and for communicating that information to the Alcoholic Beverage Control Board.

Employment / Insurance Issues

HB 535 Unemployment benefits; minimum earnings requirement postpones scheduled increase.

Summary as introduced:

Unemployment benefits; minimum earnings requirement. Postpones the scheduled increase, from \$2,700 to \$3,000, in the minimum amount of wages an employee must have earned in the two highest earnings quarters of his base period in order to be eligible for unemployment benefits. The increase will apply to claims filed on or after July 3, 2011; it is currently scheduled to apply to claims filed on or after July 4, 2010.

HB 550 Unemployment benefits; VEC to negotiate terms of repayment benefits which recipient is not entitled.

Summary as passed House:

Repayment of unemployment benefits. Allows the Virginia Employment Commission to negotiate the

terms of repayment for benefits to which a recipient is not entitled. The Commission may deduct up to 50 percent of future benefits, forego collection of the payable amount until the recipient has found employment, or determine and institute an individualized repayment plan for the recipient. The Commission may reinstitute any other method of collecting an overpayment if the individual fails to enter into or comply with the terms of a repayment plan.

HB 807 Workers' compensation; insurance carriers to file proof of coverage within 30 days of inception.

Summary as introduced:

Workers' compensation insurance; proof of coverage. Authorizes workers' compensation insurance carriers to file proof of coverage within 30 days of an insurance policy's inception. The filing shall be made electronically in the form prescribed by, and to the agent designated by, the Workers' Compensation Commission. SB 597 is identical.

HB 1095 Individual health insurance coverage; sets parameters of period an individual is not covered.

Summary as introduced:

Individual health insurance coverage; COBRA period. Sets the parameters of the period an individual is not covered by health insurance as beginning the day after an individual's termination of coverage and ending when an application for coverage is submitted. When an application is submitted by mail, the date of the postmark is the date the application is submitted.

SB 465 Group life insurance coverage; extended to persons mutually agreed upon by insurer and policyholder.

Summary as passed Senate:

Group life insurance coverage. Allows coverage under a group life insurance policy to be extended to insure any person in whom the insured group member has an insurable interest, as may mutually be agreed upon by the insurer and the group policyholder. HB 352 is identical.

SB 417 Individual health insurance coverage; resident of State shall not be required to obtain a policy.

Summary as enacted with Governor's Recommendations:

Individual health insurance coverage; requirement to obtain. Provides that a resident of the Commonwealth shall not be required to obtain or maintain a policy of individual insurance coverage except as required by a court or the Department of Social Services where the individual is named a party in a judicial or administrative proceeding. This applies regardless of whether the person has or is eligible for health insurance coverage under any policy or program provided by or through his employer or a plan sponsored by the Commonwealth or the federal government. The measure also states that no provision of Title 38.2 renders a resident liable for any penalty, assessment, fee, or fine as a result of his failure to procure or obtain health insurance coverage. The measure does not apply to individuals voluntarily accepting coverage under a state-administered Medicare or Medicaid program, or to students required by institutions of higher education to be insured as a condition of enrollment. The measure states that it does not impair the rights of persons to privately contract for health insurance for current or former family members. SB 283, SB 311, and HB 10 are identical

HB 943 Small Business Jobs Grant Fund; created.

Summary as introduced:

Small Business Jobs Grant Fund. Establishes the Small Business Jobs Grant Program and Fund to be administered by the Department of Business Assistance (DBA). The purpose of the Fund is to provide grants to small businesses that create at least five new full-time positions within a 12-month period paying at least the prevailing average annual wage in the locality in which the business is located. Grants will range between \$500 and \$2,000 per new full-time position based on the education, training and experience required. In awarding grants, priority must be given to small businesses creating new full-time

positions in areas with an annual average unemployment rate of more than 125% of the statewide average unemployment rate.

Tax Issues

SB 472 Major business facility job tax credit; reduces number of qualified full-time jobs required.

Summary as passed:

Major business facility job tax credit. Amends the Major Business Facility Job Tax Credit. Current law provides a \$1,000 tax credit for major business facilities that create at least 100 qualified full-time jobs. The legislation reduces the number of qualified full-time jobs required to be created to 50. In enterprise zones or economically distressed areas, the base or threshold is lowered from 50 newly created jobs to 25. The changes also allow the credit to be taken over a two-year period for taxable years beginning January 1, 2009, through December 31, 2012, rather than December 31, 2010.

HB 754 Wireless E-911 charges; establishes rate & procedures for collection & remittance of by sellers.

Summary as passed:

Prepaid wireless E-911 charges; collection by retailers. Establishes the rate and procedures for the collection and remittance of prepaid wireless E-911 charges by dealers of prepaid wireless service in the Commonwealth. The bill would establish a charge of \$0.50 per retail purchase of prepaid wireless services that allow access to the 911 system. The dealer is required to remit prepaid wireless E-911 charges to the Department of Taxation, and liability for the charge is placed on the end user. The Department of Taxation would be required to establish guidelines implementing this measure, which shall include an exemption for small dealers. Dealers will be allowed to retain a discount of five percent of collected prepaid wireless E-911 charges. The provisions of the bill would apply to retail transactions occurring on or after January 1, 2011. **SB 441** is identical.

HB 820 Cigarette tax; penalties for unstamped cigarettes.

Summary as passed House:

Cigarette tax; penalties for unstamped cigarettes. Changes the civil penalties for unstamped cigarettes as follows: \$2.50 per pack, up to \$500, for the first violation by a legal entity within a 36-month period; \$5 per pack, up to \$1,000, for the second violation by the legal entity within a 36-month period; and \$10 per pack, up to \$50,000, for the third or subsequent violation by the legal entity within a 36-month period. If willful intent exists to defraud the Commonwealth, the penalty is \$25 per pack, up to \$250,000. The same penalties apply to any person who sells, purchases, transports, receives, or possesses unstamped cigarettes

HB 874 Cigarette tax; changes time for affixing tax stamps to cigarette packs.

Summary as passed House:

Cigarette tax; when to affix tax stamps. Changes the time for affixing tax stamps to cigarette packs from one business day after receipt of unstamped cigarettes to prior to shipping to other wholesale dealers or retail outlets.

SB 478 Tobacco products tax; moist snuff tax shall be computed based on net weight listed by manufacturer.

Summary as passed:

Tobacco products tax; moist snuff. Changes the tax on moist snuff from 10 percent of the manufacturer's sales price to \$0.18 per ounce. The bill also would provide that loose leaf tobacco would be subject to the Commonwealth's tobacco products tax on a unit and weight basis. The provisions of the bill would become effective on January 1, 2011

HB 1329 Motor fuels sales tax; defines gross sales and sales price for purposes of tax in Northern Virginia.

Summary as introduced:

State motor fuels sales tax in Northern Virginia. Defines "gross sales" and "sales price" for purposes of the state motor fuels sales tax in Northern Virginia. "Gross sales" means the same as its definition in provisions of the Retail Sales and Use Tax and would exclude separately stated federal diesel excise taxes. "Sales price" means the same as its definition in provisions of the Retail Sales and Use Tax but would include all transportation and delivery charges, even if separately stated.

HB 1356 License fees and taxes, local; exempts campgrounds and bed and breakfast establishments.

Summary as passed:

Local license fees and taxes; campgrounds, bed and breakfast establishments. Adds campgrounds and bed and breakfast establishments to those real property rental businesses that are not exempt from local license fees and taxes.

SB 57 RS&UT; dealers selling and installing countertops shall be deemed retailers for purposes thereof.

Summary as introduced:

Retail sales and use tax; countertops. Provides that dealers selling and installing countertops shall be deemed retailers for purposes of the sales and use tax. As a retailer, the dealer would be required to collect the tax from the customer. Under current law, dealers selling and installing countertops are deemed to be the ultimate users and consumers of the countertops and pay the sales and use tax instead of collecting it from customers.

Under current law, dealers selling and installing fences, venetian blinds, window shades, awnings, storm windows and doors, locks and locking devices, floor coverings, cabinets, kitchen equipment, and window or air conditioning units are deemed to be retailers and collect the sales and use tax from customers as opposed to paying it. The bill would provide the same tax treatment to dealers selling and installing countertops.

SB 130 Retail Sales and Use Tax; exemptions include certain computer equipment and enabling software.

Summary as passed Senate:

Sales and use tax exemption; certain computer equipment and enabling software. Expands the sales and use tax exemption for the purchase by certain entities of particular computer equipment by including enabling software, and clarifies what enabling hardware is covered under the current exemption by specifying that it includes chillers and backup generators. The expansion and clarification apply to purchases made on or after July 1, 2010, but prior to June 30, 2020. If purchases were made on or after July 1, 2009, but prior to July 1, 2010, the purchase is eligible for a grant in an amount equal to any tax imposed.

General Issues

HB 83 Pawnbrokers; local government may by an ordinance require daily report to be electronically filed.

Summary as introduced:

Pawnbrokers; daily reports. Authorizes any local governing body to enact an ordinance requiring a pawnbroker to maintain and file a daily report electronically through the use of a disk, electronic transmission, or any other electronic means of reporting approved by a law-enforcement officer. Currently, such authorization is limited to any town with a population between 13,000 and 14,000.

HB 109 Firearms; repealing requirement for sellers of pistols to send report to clerk of circuit court.

Summary as introduced:

Certain firearms taxes; destruction of records. Repeals local authority to impose a license tax of not more than \$25 on persons engaged in the business of selling pistols and revolvers. Also, a recordkeeping requirement for such persons is deleted and the clerk of the circuit court shall destroy any such existing records.

SB 408 Concealed weapons; person may carry a handgun in motor vehicle or vessel if secured in compartment.

Summary as passed:

Possession of concealed weapons in vehicles. Creates a new exemption to the general prohibition against carrying concealed weapons by allowing a person who may lawfully possess a firearm to carry a handgun in a private motor vehicle or vessel if the handgun is locked in a container or compartment.

HB 869 Masks; prohibition on wearing in certain places, exception.

Summary as passed House:

Prohibition on wearing a mask; public emergency exception. Adds to the existing exemptions in the section making it a Class 6 felony for a person over the age of 16 to wear a mask in public or on private property without the owner's written consent an exception when the Governor has declared a disaster or state of emergency in response to a public health emergency and defines the mask appropriate for the emergency. This bill is identical to SB 532.

SB 64 Signs; provides local government authority to regulate.

Summary as enacted with Governor's Recommendations:

Regulation of signage in highway rights of way. Allows county employees and volunteers who are acting as agents of the Commonwealth Transportation Commissioner to remove and confiscate signs from the public right-of-way. If a sign is confiscated by an employee or volunteer, the sign owner shall have the right to reclaim the sign within five business days of the date of such confiscation. Finally, the legislation clarifies that a sign installed (on private property) that does not require use of tools or equipment does not trigger the requirement to call Miss Utility before installing the sign. This bill is identical to HB 553.

SB 253 School calendar; requirement that school begin after Labor Day may be waived by Board of Education.

Summary as introduced:

Opening of the school year. Provides that the requirement that the school calendar begin after Labor Day may be waived by the Board of Education, provided the school board certifies that it meets one of the good cause requirements in current law. This bill is identical to HB 557.

SB 27 Warranty registration cards; prohibits seller from conditioning coverage or performance of warranty.

Summary as introduced:

Warranty registration cards. Prohibits a seller from conditioning the coverage or performance of a warranty, in connection with the sale of personal, family, or household goods, upon the purchaser's returning a warranty registration card, or from providing that the duration of a warranty is dependent upon the return of a warranty registration card. These prohibitions do not apply if the requirement that the purchaser return a warranty registration card is conspicuously disclosed in any advertising and marketing materials that reference the goods' warranty. A seller may use warranty registration cards as a suggested method of proof of the date the goods were purchased. A violation constitutes a prohibited practice under the Virginia Consumer Protection Act.