
VIRGINIA STATE BUDGET

2005 Session

Budget Bill - HB1500 (Chapter 951)

Bill Order » Part 4: General Provisions » Item 4-13

Item 4-13

PART 5: ENACTMENT NUMBERS 2 THROUGH 5

2. That §§ [4.1-230](#), [4.1-231](#), [16.1-69.6:1](#), [17.1-507](#), 19.2-163.2 and [58.1-615](#) of the Code of Virginia are amended and re-enacted, and that the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered [58.1-439.12:01](#) as follows:

§ [4.1-230](#). Applications for licenses; publication; notice to localities; fees; permits.

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing, under oath, setting forth any information required by the Board. Applications for banquet, tasting, mixed beverage special events, or club events licenses shall not be required to be under oath, but the information contained therein shall be certified as true by the applicant.

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for banquet, tasting, special events, club events, wine or beer shipper's, wine and beer shipper's, or museum licenses issued under the provisions of Chapter 2 (§ [4.1-200](#) et seq.) of this title, or beer or wine importer's licenses located outside the Commonwealth, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board.

The applicant shall cause a copy of such notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city or town wherein such applicant proposes to engage in such business. In the case of wine or beer shipper's licensees, wine and beer shipper's licensees, or operators of boats, dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for banquet, tasting, mixed beverage special events, club events, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, on each applicant for a license.

The Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee shall be ~~\$50~~ 65, plus ~~\$15~~ 20 for each criminal history records search required by the Board, except for banquet, tasting, mixed beverage special events, or mixed beverage club events licenses, in which case the application fee shall be \$15. Application fees shall be in addition to the state license ~~tax~~ fee required pursuant to § [4.1-231](#) and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be accompanied by a fee of \$ ~~125~~ 165 and \$ ~~300~~ 390, respectively. The fee for each such permit shall be subject to proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths. Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

The fee for a keg registration permit shall be \$ ~~50~~ 65 annually.

The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth shall be \$ ~~200~~ 260 annually.

§ 4.1-231. Taxes on state licenses.

A. The annual ~~taxes~~ fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$ ~~350~~ 450; and if more than 5,000 gallons manufactured during such year, \$ ~~2,860~~ 3,725 ;

b. Fruit distiller's license, \$ ~~2,860~~ 3,725;

c. Banquet facility license or museum license, \$ ~~145~~ 190;

d. Bed and breakfast establishment license, \$ ~~25~~ 35;

e. Tasting license, \$ ~~30~~ 40 per license granted; and

f. Equine sporting event license, \$ ~~100~~ 130.

2. Wine licenses. For each:

a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$ ~~145~~ 189, and if more than 5,000 gallons manufactured during such year, \$ ~~2,860~~ 3,725;

b. Wholesale wine license, \$ ~~715~~ 930 for any wholesaler who sells 150,000 gallons of wine or less per year, \$ ~~1,100~~ 1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and \$ ~~1,430~~ 1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;

c. Wine importer's license, \$ ~~285~~ 370;

d. Retail off-premises winery license, \$ ~~140~~ 145;

e. Farm winery license, ~~\$145~~ 190 for any Class A license and ~~\$2,860~~ 3,725 for any Class B license; and

f. Wine shipper's license, ~~\$50~~ 65.

3. Beer licenses. For each:

a. Brewery license, if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, ~~\$1,650~~ 2,150, and if more than 10,000 barrels manufactured during such year, ~~\$3,300~~ 4,300;

b. Bottler's license, ~~\$1,100~~ 1,430;

c. Wholesale beer license, ~~\$715~~ 930 for any wholesaler who sells 300,000 cases of beer a year or less, and ~~\$1,100~~ 1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and ~~\$1,430~~ 1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

d. Beer importer's license, ~~\$285~~ 370;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, ~~\$110~~ 145; for each such license to a common carrier of passengers by train or boat, \$ ~~110~~ 145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, ~~\$90~~ 120;

g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, ~~\$230~~ 300; and

h. Beer shipper's license, ~~\$50~~ 65.

4. Wine and beer licenses. For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, ~~\$230~~ 300; for each such license to a common carrier of passengers by train or boat, ~~\$230~~ 300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, ~~\$575~~ 750;

b. Retail on-premises wine and beer license to a hospital, ~~\$110~~ 145;

c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, ~~\$175~~ 230;

d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, ~~\$460~~ 600;

e. Banquet license, ~~\$30~~ 40 per license granted by the Board;

f. Gourmet brewing shop license, ~~\$175~~ 230; and

g. Wine and beer shipper's license, ~~\$50~~ 65.

5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, ~~\$430~~ 560;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, ~~\$750~~ 975; and

(iii) With a seating capacity at tables for more than 150 persons, ~~\$1,100~~ 1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, ~~\$575~~ 750;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, ~~\$1,430~~ 1,860; and

(iii) With an average yearly membership of more than 500 resident members, ~~\$2,125~~ 2,765.

c. Mixed beverage caterer's license, ~~\$1,430~~ 1,860.

d. Mixed beverage special events license, ~~\$35~~ 45 for each day of each event.

e. Mixed beverage club events licenses, ~~\$25~~ 35 for each day of each event.

f. Annual mixed beverage special events license, ~~\$430~~ 560.

g. Mixed beverage carrier license:

(i) ~~\$145~~ 190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(ii) ~~\$430~~ 560 for each common carrier of passengers by boat;

(iii) ~~\$1,135~~ 1,475 for each license granted to a common carrier of passengers by airplane;

h. Annual mixed beverage amphitheater license, ~~\$430~~ 560; and

i. Annual mixed beverage motor sports race track license, ~~\$430~~ 560.

6. Temporary licenses. For each temporary license authorized by § [4.1-211](#), one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to

be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period of less than 12 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

§ 16.1-69.6:1. Number of judges.

For the several judicial districts there shall be full-time general district court judges and juvenile and domestic relations district court judges, the number as hereinafter set forth, who shall during their service reside within their respective districts, except as provided in § 16.1-69.16, and whose compensation and powers shall be the same as now and hereafter prescribed for general district court judges and juvenile and domestic relations district court judges.

The number of judges of the districts shall be as follows:

MsoNormal	MsoNormal	Juvenile and Domestic
MsoNormal	General District Court	Relations District
MsoNormal	Court Judges	Court Judges
First	4	3
Second	7	7
Two-A	1	1
Third	3	3
Fourth	6	5
Fifth	3	2
Sixth	4	2
Seventh	4	3
Eighth	3	3

Ninth	3	3
Tenth	3	3
Eleventh	2	2
Twelfth	4	5
Thirteenth	8	5
Fourteenth	4	4
Fifteenth	5	6 7
Sixteenth	4	4
Seventeenth	4	2
Eighteenth	2	2
Nineteenth	10	7
Twentieth	3	2
Twenty-first	2	2
Twenty-second	2	3
Twenty-third	5	4
Twenty-fourth	4	5
Twenty-fifth	5	4

The general district court judges of the twenty-fifth district shall render assistance on a regular basis to the general district court judges of the twenty-sixth district by appropriate designation.

Twenty-sixth	4	4
Twenty-seventh	4	3 4
Twenty-eighth	2	2
Twenty-ninth	3	2
Thirtieth	2	2
Thirty-first	4	5

The election or appointment of any district judge shall be subject to the provisions of § [16.1-69.9:3](#).

§ [17.1-507](#). Number of judges; residence requirement; compensation; powers; etc.

A. For the several judicial circuits there shall be judges, the number as hereinafter set forth, who shall during their service reside within their respective circuits and whose compensation and powers shall be the same as now and hereafter prescribed for circuit judges.

The number of judges of the circuits shall be as follows:

First -- 4 5

Second -- 10

Third -- 4

Fourth -- 9

Fifth -- 3

Sixth -- 2

Seventh -- 5

Eighth -- 4

Ninth -- 4

Tenth -- 3

Eleventh -- 3

Twelfth -- 5

Thirteenth -- 8

Fourteenth -- 4 5

Fifteenth -- 7 8

Sixteenth -- 5

Seventeenth -- 4

Eighteenth -- 3

Nineteenth -- 15

Twentieth -- 4

Twenty-first -- 3

Twenty-second -- 3 4

Twenty-third -- 6

Twenty-fourth -- 5

Twenty-fifth -- 4

Twenty-sixth -- 5

Twenty-seventh -- 5

Twenty-eighth -- 2

Twenty-ninth -- 3 4

Thirtieth -- 3

Thirty-first -- 5

B. No additional circuit court judge shall be authorized or provided for any judicial circuit until the Judicial Council has made a study of the need for such additional circuit court judge and has reported its findings and recommendations to the Courts of Justice Committees of the House of Delegates and Senate. The boundary of any judicial circuit shall not be changed until a study has been made by the Judicial Council and a report of its findings and recommendations made to said Committees.

C. If the Judicial Council finds the need for an additional circuit court judge after a study is made pursuant to subsection B, the study shall be made available to the Compensation Board and the Courts of Justice Committees of the House of Delegates and Senate and Council shall publish notice of such finding in a publication of general circulation among attorneys licensed to practice in the Commonwealth. The Compensation Board shall make a study of the need to provide additional courtroom security and deputy court clerk staffing. This study shall be reported to the Courts of Justice Committees of the House of Delegates and the Senate, and to the Department of Planning and Budget.

§ 19.2-163.2. Commission to appoint public defenders in selected locations; compensation, assistants, offices, etc., of public defenders.

The duties of the Public Defender Commission, hereinafter referred to as "the Commission," are:

1. To recommend to the General Assembly the areas in which a public defender office is to be established, and to establish such an office in:

- a. the City of Virginia Beach;
- b. the City of Petersburg;
- c. the Cities of Buena Vista, Lexington, Staunton and Waynesboro and the Counties of Augusta and Rockbridge;
- d. the City of Roanoke;
- e. the City of Portsmouth;
- f. the City of Richmond;
- g. the Counties of Clarke, Frederick, Page, Shenandoah and Warren, and the City of Winchester;
- h. the City and County of Fairfax;
- i. the City of Alexandria;

- j. the City of Radford and the Counties of Bland, Pulaski and Wythe;
- k. the Counties of Fauquier, Loudoun and Rappahannock;
- l. the City of Suffolk;
- m. the City of Franklin and the Counties of Isle of Wight and Southampton;
- n. the City of Bedford and the County of Bedford;
- o. the City of Danville;
- p. the Counties of Halifax, Lunenburg and Mecklenburg;
- q. the City of Fredericksburg and the Counties of King George, Stafford and Spotsylvania;
- r. the City of Lynchburg;
- s. the City of Martinsville and the Counties of Henry and Patrick;
- t. the City of Charlottesville and the County of Albemarle; ~~and~~
- u. the City of Norfolk;
- v. *the County of Arlington and the City of Falls Church;*
- w. *the City of Newport News;*
- x. *the City of Chesapeake; and*
- y. *the City of Hampton.*

2. To appoint a public defender for each of the above offices to serve at the pleasure of the Commission, who shall devote his full time to his duties and not engage in the private practice of law. The Commission shall fix the compensation of each public defender and all other personnel in each public defender office.

3. To authorize the public defender to employ such assistants as authorized by the Commission. Such assistants shall devote such time to the performance of their duties as may be required by the public defender or the Commission and may engage in the private practice of law.

4. To authorize the public defender to employ such staff, including secretarial and investigative personnel, as may be necessary to carry out the duties imposed upon the public defender office.

5. To authorize the public defender to secure such office space as needed, to purchase or rent office equipment, to purchase supplies and to incur such expenses as are necessary to carry out the duties imposed upon him.

6. To receive and expend moneys appropriated by the General Assembly of Virginia and to receive other moneys as they become available to it and expend the same in order to carry out the duties imposed upon it.

7. In any case in which a public defender or his assistant represents an indigent person charged with an offense and such person is convicted, such sum as would have been allowed a court-appointed attorney as compensation and as

reasonable expenses shall be taxed against the person defended as a part of the costs of the prosecution, and, if collected, shall be paid to the Commonwealth or to the appropriate county, city or town if payment was made to the Commonwealth by a locality for defense of a local ordinance violation. An abstract of such costs shall be docketed in the judgment lien docket and execution book of the court.

8. To require and ensure that each public defender office collects and maintains caseload data and fields in a case management database on an annual basis.

9. To report annually on or before October 1 to the Virginia State Crime Commission, the House and Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance detailing Virginia's ranking amongst the fifty states in terms of pay allowed for court-appointed counsel, cost effectiveness of the various public defender offices and the cost effectiveness of establishing public defender offices in those localities that do not offer public defender services.

10. To establish four regional capital defense units by the end of fiscal year 2004.

§ 58.1-439.12:01. Credit for cigarettes manufactured and exported.

A. For purposes of this section:

"Base year export volume" means the number of cigarettes manufactured by a corporation, which cigarettes were also exported by such manufacturer during its taxable year beginning in calendar year 2004.

"Cigarette or cigarettes" means the same as that term is defined in § 58.1-1031.

"Current year export volume" means the number of cigarettes manufactured by a corporation, which cigarettes were also exported by such manufacturer in the taxable year for which credit under this section is claimed. The term shall only apply for taxable years beginning on and after January 1, 2006.

"Exported" or "exports" means the shipment of cigarettes to a foreign country.

"Manufactured" or "manufactures" means manufactured in Virginia.

B. For taxable years beginning on and after January 1, 2006, but before January 1, 2016, any corporation that manufactures cigarettes in Virginia, which cigarettes are exported by such manufacturer, shall be allowed a credit against the tax imposed by § 58.1-400 for such exported cigarettes as follows:

- 1. If the current year export volume of the corporation is less than 50 percent of the base year export volume for the corporation, no credit shall be allowed for the taxable year.*
- 2. If the current year export volume of the corporation is at least 50 percent but less than 60 percent of the base year export volume for the corporation, the credit allowed shall equal \$0.20 per 1,000 cigarettes of the current year export volume.*
- 3. If the current year export volume of the corporation is at least 60 percent but less than 80 percent of the base year export volume for the corporation, the credit allowed shall equal \$0.25 per 1,000 cigarettes of the current year export volume.*
- 4. If the current year export volume of the corporation is at least 80 percent but less than 100 percent of the base year export volume for the corporation, the credit allowed shall equal \$0.30 per 1,000 cigarettes of the current year export volume.*

5. If the current year export volume of the corporation is at least 100 percent but less than 120 percent of the base year export volume for the corporation, the credit allowed shall equal \$0.35 per 1,000 cigarettes of the current year export volume.

6. If the current year export volume of the corporation is at least 120 percent of the base year export volume for the corporation, the credit allowed shall equal \$0.40 per 1,000 cigarettes of the current year export volume.

C. In no event shall the credit allowed under this section for any taxable year to any corporation exceed the lesser of \$6 million or 50 percent of the corporation's income tax liability to the Commonwealth for such taxable year.

D. The total amount of tax credits granted under this section for each fiscal year of the Commonwealth shall not exceed \$6 million. A corporation meeting the requirements of this section shall be eligible to receive a tax credit to the extent the corporation reserves such tax credit through the Department as provided herein.

The Department shall establish policies and procedures for the reservation of tax credits by eligible corporations. Such policies and procedures shall provide (i) requirements for applying for reservations of tax credits; (ii) a system for allocating the available amount of tax credits among eligible corporations; (iii) a method for the issuance of reservations to eligible corporations that did not initially receive a reservation in any year, if the Department determines that tax credit reservations were issued to other corporations that did not use, or were determined to be wholly or partially ineligible for, a reserved tax credit; and (iv) a procedure for the cancellation and reallocation of tax credit reservations allocated to eligible corporations that, after reserving tax credits, have been determined to be ineligible for all or a portion of the tax credits reserved. In no case shall a corporation be allowed to carry over any tax credit to be applied against any income tax for taxable years subsequent to the taxable year of export.

Actions of the Department relating to the approval or denial of applications for reservations for tax credits pursuant to this section shall be exempt from the provisions of the Administrative Process Act pursuant (§ 2.2-4000 et seq.).

E. A corporation claiming the credit under this section for a taxable year shall submit with its application for reservation of tax credits and its state income tax return a written statement certifying its base year export volume and current year export volume. It shall also submit with such application and return a listing of its export volumes as reported on its monthly reports to the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury for each month of the taxable year and a listing for each month of the taxable year of its export volumes.

§ 58.1-615. Returns by dealers.

A. Every dealer required to collect or pay the sales or use tax shall, on or before the twentieth day of the month following the month in which the tax shall become effective, transmit to the Tax Commissioner a return showing the gross sales, gross proceeds, or cost price, as the case may be, arising from all transactions taxable under this chapter during the preceding calendar month, and thereafter a like return shall be prepared and transmitted to the Tax Commissioner by every dealer on or before the twentieth day of each month, for the preceding calendar month. In the case of dealers regularly keeping books and accounts on the basis of an annual period which varies 52 to 53 weeks, the Tax Commissioner may make rules and regulations for reporting consistent with such accounting period.

Notwithstanding any other provision of this chapter, a dealer may be required by the Tax Commissioner to file sales or use tax returns on an accounting period less frequent than monthly when, in the opinion of the Tax Commissioner, the administration of the taxes imposed by this chapter would be enhanced. If a dealer is required to file other than monthly, each such return shall be due on or before the twentieth day of the month following the close of the period. Each such return shall contain all information required for monthly returns.

A sales or use tax return shall be filed by each registered dealer even though the dealer is not liable to remit to the Tax Commissioner any tax for the period covered by the return.

B. 1. In addition to the amounts required under the provisions of this section and § 58.1-616, any dealer as defined by § 58.1-612 or direct payment permit holder pursuant to § 58.1-624, with taxable sales and purchases of \$1,300,000 or greater for the 12-month period beginning July 1, and ending June 30 of the immediately preceding calendar year, shall be required to make a payment equal to 90 percent of the sales and use tax liability for the previous June. *Beginning July 1, 2005, for the payment required in 2006, the payment required under this subdivision shall only apply to such dealers or direct payment permit holders with taxable sales and purchases of \$50,000,000 or greater for such period of time and the payment required shall equal 20 percent of the sales and use tax liability for the previous June.*

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Such tax payments shall be made on or before the 30th day of June, if payment is made by electronic funds transfer, as defined in § 58.1-202.1. If payment is made by other than electronic funds transfer, such payment shall be made on or before the 25th day of June. For purposes of this provision, taxable sales or purchases shall be computed without regard to the number of certificates of registration held by the dealer. Every dealer or direct payment permit holder shall be entitled to a credit for the payment under this subsection on the return for June of the current year due July 20. The provisions of this subsection shall not apply to persons who are required to file only a Form ST-7, Consumer User Tax Return.

2. In lieu of the penalties provided in § 58.1-635, except with respect to fraudulent returns, failure to make a timely payment or full payment of the sales and use tax liability as provided in this subsection shall subject the dealer or direct payment permit holder to a penalty of six percent of the amount of tax underpayment that should have been properly paid to the Tax Commissioner. Interest will accrue as provided in § 58.1-15. The payment required by this subsection shall become delinquent on the first day following the due date set forth in this subsection if not paid.

The provisions of this subsection shall expire on August 1, 2006.

C. Any return required to be filed with the Tax Commissioner under this section shall be deemed to have been filed with the Tax Commissioner on the date that such return is delivered by the dealer to the commissioner of the revenue or the treasurer for the locality in which the dealer is located and receipt is acknowledged by the commissioner of the revenue or treasurer. The commissioner of the revenue or the treasurer shall stamp such date on the return, and shall mail the return to the Tax Commissioner no later than the following business day. The commissioner of the revenue or the treasurer may collect from the dealer the cost of postage for such mailing.

3. That the Tax Commissioner shall develop and publish guidelines for purposes of implementing the provisions of the second enactment of this act in regard to the tax credit for the manufacturer and export of cigarettes, including guidelines addressing an adjustment to the credit allowed pursuant to such second enactment for cigarettes that are exported but later returned to the manufacturer. The development of such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) of the Code of Virginia.

4. That the provisions of the first enactment of this act shall expire midnight on June 30, 2006. The provisions of the second and, third and sixth enactments of this act shall have no expiration date.

5. This act is effective on its passage as provided in § 1-12 C, Code of Virginia.

6. That the seventh enactment of Chapter 1042 of the Acts of Assembly of 2003 is repealed.