Code of Virginia

§ 58.1-3700. License requirement; requiring evidence of payment of business license, business personal property, meals and admissions taxes.

Whenever a license is required by ordinance adopted pursuant to this chapter and whenever the local governing body shall impose a license fee or levy a license tax on any business, employment or profession, it shall be unlawful to engage in such business, employment or profession without first obtaining the required license. The governing body of any county, city or town may require that no business license under this chapter shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to the county, city or town have been paid which have been properly assessed against the applicant by the county, city or town.

Any person who engages in a business without obtaining a required local license, or after being refused a license, shall not be relieved of the tax imposed by the ordinance.

(Code 1950, § 58-239; 1984, c. 675; 1991, c. 267; 1993, cc. 93, 934; 1996, cc. 715, 720.)

§ 58.1-3700.1. Definitions.

For the purposes of this chapter and any local ordinances adopted pursuant to this chapter, unless otherwise required by the context:

"Affiliated group" means:

1. One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

a. Stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and

b. The common parent corporation directly owns stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

2. Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least eighty percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation; and

b. More than fifty percent of the total combined voting power of all classes of stock entitled to vote or more than fifty percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

3. Two or more entities if such entities satisfy the requirements in subdivision 1 or 2 of this definition as if they were corporations and the ownership interests therein were stock.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer

by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of § 58.1-3715 or unless the local ordinance provides for a different period for measuring the gross receipts of a business, such as for beginning businesses or to allow an option to use the same fiscal year as for federal income tax purposes.

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

"Definite place of business" means an office or a location at which occurs a regular and continuous course of dealing for thirty consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

"Entity" means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the Commonwealth or another state.

"Financial services" means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments.

"Fuel sale" or "fuel sales" shall mean retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in § 58.1-2201.

"Gas retailer" means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in § 58.1-2201.

"Gross receipts" means the whole, entire, total receipts, without deduction.

"Independent registered representative" means an independent contractor registered with the United States Securities and Exchange Commission.

"License year" means the calendar year for which a license is issued for the privilege of engaging in business.

"Professional services" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Department of Taxation may list in the BPOL guidelines promulgated pursuant to § 58.1-3701. The Department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

"Purchases" means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares

and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

"Real estate services" means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property.

"Security broker" means a "broker" as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

"Security dealer" means a "dealer" as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

(1996, cc. 715, 720; 2000, c. 557; 2006, c. 763; 2010, cc. 195, 283.)

§ 58.1-3701. Department to promulgate guidelines.

The Department of Taxation shall promulgate guidelines for the use of local governments in administering the taxes imposed under the authority of this chapter. In preparing such guidelines, the Department shall not be subject to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) for guidelines promulgated on or before July 1, 2001, but shall cooperate with and seek the counsel of local officials and interested groups and shall not promulgate such guidelines without first conducting a public hearing. Such guidelines shall be updated during the 1994 taxable year and available for distribution to local governments on July 1, 1995. Thereafter, the guidelines shall be updated triennially. After July 1, 2001, the guidelines shall be subject to the Administrative Process Act and accorded the weight of a regulation under § 58.1-205.

The Tax Commissioner shall have the authority to issue advisory written opinions in specific cases to interpret the provisions of this chapter and the guidelines issued pursuant to this section; however, the Tax Commissioner shall not be required to interpret any local ordinance. The guidelines and opinions issued pursuant to this section shall not be applicable as an interpretation of any other tax law.

(Code 1950, § 58-266.1; 1950, p. 155; 1956, c. 242; 1964, c. 424; 1968, c. 619; 1970, cc. 231, 547; 1974, cc. 196, 438; 1975, cc. 23, 621; 1976, cc. 521, 719; 1977, c. 320; 1978, cc. 772, 799, 817; 1979, cc. 565, 568, 570; 1980, cc. 318, 736; 1981, cc. 419, 636; 1982, cc. 348, 548, 552, 554, 558, 633; 1983, c. 554; 1984, cc. 247, 675, 695; 1994, c. 267; 1996, cc. 715, 720.)

§ 58.1-3702. Authority of counties, cities and towns.

The provisions of this chapter shall be the sole authority for counties, cities and towns for the levying of the license taxes described herein.

(Code 1950, § 58-266.1; 1950, p. 155; 1956, c. 242; 1964, c. 424; 1968, c. 619; 1970, cc. 231, 547; 1974, cc. 196, 438; 1975, cc. 23, 621; 1976, cc. 521, 719; 1977, c. 320; 1978, cc. 772, 799, 817; 1979, cc. 565, 568, 570; 1980, cc. 318, 736; 1981, cc. 419, 636; 1982, cc. 348, 548, 552, 554, 558, 633; 1983, c. 554; 1984, cc. 247, 675, 695.)

§ 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of authority.

A. The governing body of any county, city or town may charge a fee for issuing a license in an amount not to exceed $100 for any locality with a population greater than 50,000, $50 for any locality with a population of 25,000 but no more than 50,000 and $30 for any locality with a population smaller than 25,000. For purposes of this section, population may be based on the most current final population estimates of the Weldon Cooper Center for Public Service of the University of Virginia. Such governing body may levy and provide for the assessment and collection of county, city or town license taxes on businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaged therein within the county, city or town subject to the limitations in (i) subsection C and (ii) subsection A of § 58.1-3706, provided such tax shall not be assessed and collected on any amount of gross receipts of each business upon which a license fee is charged. Any county, city or town with a population greater than 50,000 shall reduce the fee to an amount not to exceed $50 by January 1, 2000. The ordinance imposing such license fees and levying such license taxes shall include the provisions of § 58.1-3703.1.

B. Any county, city or town by ordinance may exempt in whole or in part from the license tax (i) the design, development or other creation of computer software for lease, sale or license and (ii) private businesses and industries entering into agreements for the establishment, installation, renovation, remodeling, or construction of satellite classrooms for grades kindergarten through three on a site owned by the business or industry and leased to the school board at no costs pursuant to § 22.1-26.1.

C. No county, city, or town shall impose a license fee or levy any license tax:

1. On any public service corporation or any motor carrier, common carrier, or other carrier of passengers or property formerly certified by the Interstate Commerce Commission or presently registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, except as provided in § 58.1-3731 or as permitted by other provisions of law;

2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of such county, city or town, provided such products are grown or produced by the person offering them for sale;

3. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months, provided the publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service;

4. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture;

5. On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in §§ 58.1-3712 and 58.1-3713;

6. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in such county, city or town. This subdivision shall not be construed as prohibiting any county, city or town from imposing a local license tax on a peddler at wholesale pursuant to § 58.1-3718;

7. Upon any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, campgrounds, bed and breakfast establishments, lodging houses, rooming houses, and boardinghouses; however, any county, city or town imposing such a license tax on January 1, 1974, shall not be precluded from the levy of such tax by the provisions of this subdivision;

8. [Repealed.]

9. On or measured by receipts for management, accounting, or administrative services provided on a group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural cooperative association under the provisions of Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1, or a member or subsidiary or affiliated association thereof, to other members of the same group. This exemption shall not exempt any such corporation from such license or other tax measured by receipts from outside the group;

10. On or measured by receipts or purchases by an entity which is a member of an affiliated group of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated entities from such license or other tax measured by receipts or purchases from outside the affiliated group. This exclusion also shall not preclude a locality from levying a wholesale merchant's license tax on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the fact that the wholesale merchant's license tax would be based upon purchases from an affiliated entity. Such tax shall be based on the purchase price of the goods sold to the nonaffiliated entity. As used in this subdivision, the term "sales by the affiliated entity to a nonaffiliated entity" means sales by the affiliated entity to a nonaffiliated entity where goods sold by the affiliated entity or its agent are manufactured or stored in the Commonwealth prior to their delivery to the nonaffiliated entity;

11. On any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of this title or on any agent of such company;

12. On any bank or trust company subject to taxation in Chapter 12 (§ 58.1-1200 et seq.) of this title;

13. Upon a taxicab driver, if the locality has imposed a license tax upon the taxicab company for which the taxicab driver operates;

14. On any blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired, or a nominee of the Department, as set forth in § 51.5-98;

15. [Expired.]

16. [Repealed.]

17. On an accredited religious practitioner in the practice of the religious tenets of any church or religious denomination. "Accredited religious practitioner" shall be defined as one who is engaged solely in praying for others upon accreditation by such church or religious denomination;

18. (a) On or measured by receipts of a charitable nonprofit organization except to the extent the organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Code § 511 et seq. For the purpose of this subdivision, "charitable nonprofit organization" means an organization which is described in Internal Revenue Code § 501(c) (3) and to which contributions are deductible by the contributor under Internal Revenue Code § 170, except that educational institutions shall be limited to schools, colleges and other similar institutions of learning.

(b) On or measured by gifts, contributions, and membership dues of a nonprofit organization. Activities conducted for consideration which are similar to activities conducted for consideration by for-profit businesses shall be presumed to be activities that are part of a business subject to licensure. For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal income tax under Internal Revenue Code § 501 other than charitable nonprofit organizations;

19. On any venture capital fund or other investment fund, except commissions and fees of such funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality in which the real estate is located provided the locality is otherwise authorized to tax such businesses and rental of real estate;

20. On total assessments paid by condominium unit owners for common expenses. "Common expenses" and "unit owner" have the same meanings as in § 55-79.41; or

21. On or measured by receipts of a qualifying transportation facility directly or indirectly owned or title to which is held by the Commonwealth or any political subdivision thereof or by the United States as described in § 58.1-3606.1 and developed and/or operated pursuant to a concession under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.) or similar federal law.

(Code 1950, § 58-266.1; 1950, p. 155; 1956, c. 242; 1964, c. 424; 1968, c. 619; 1970, cc. 231, 547; 1974, cc. 196, 438; 1975, cc. 23, 621; 1976, cc. 521, 719; 1977, c. 320; 1978, cc. 772, 799, 817; 1979, cc. 565, 568, 570; 1980, cc. 318, 736; 1981, cc. 419, 636; 1982, cc. 348, 548, 552, 554, 558, 633; 1983, c. 554; 1984, cc. 247, 675, 695; 1985, c. 531; 1987, cc. 617, 618, 715; 1988, cc. 480, 499; 1989, c. 314; 1991, cc. 540, 572; 1993, cc. 65, 326, 918; 1996, cc. 715, 720; 1997, cc. 62, 283, 903; 2000, c. 557; 2002, cc. 28, 717; 2005, c. 103; 2006, c. 922; 2010, c. 648.)

§ 58.1-3703.1. Uniform ordinance provisions.

A. Every ordinance levying a license tax pursuant to this chapter shall include provisions substantially similar to this subsection. As they apply to license taxes, the provisions required by this section shall override any limitations or requirements in Chapter 39 (§ 58.1-3900 et seq.) of this title to the extent that they are in conflict.

1. License requirement. Every person shall apply for a license for each business or profession when engaging in a business in this jurisdiction if (i) the person has a definite place of business in this jurisdiction; (ii) there is no definite place of business anywhere and the person resides in this jurisdiction; or (iii) there is no definite place of business in this jurisdiction but the person operates amusement machines or is classified as an itinerant merchant, peddler, carnival, circus, contractor subject to § 58.1-3715, or public service corporation. A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses or professions carried on

at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (a) each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction; (b) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and (c) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

Notwithstanding the foregoing, the governing body of any county, city or town with a population greater than 50,000 may waive the license requirements provided herein for businesses with gross receipts of less than $100,000.

2. Due dates and penalties.

a. Each person subject to a license tax shall apply for a license prior to beginning business if he was not subject to licensure in this jurisdiction on or before January 1 of the license year, or no later than March 1 of the license year if he had been issued a license for the preceding year. Any locality is authorized to adopt a later application date that is on or before May 1 of the license year. The application shall be on forms prescribed by the assessing official.

b. The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before the locality's fixed due date for filing license applications or a later date, including installment payment dates, or 30 or more days after beginning business, at the locality's option.

c. The assessing official may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of 10 percent of the portion paid after the due date.

d. A penalty of 10 percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the treasurer or other collecting official may impose a 10 percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

"Events beyond the taxpayer's control" include, but are not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

e. Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and any penalties charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any BPOL tax from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under §

58.1-3916.

No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

3. Situs of gross receipts.

a. General rule. Whenever the tax imposed by this ordinance is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within this jurisdiction. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of § 58.1-3715;

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality;

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then to the definite place of business at which the rental of such property is managed; and

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.

b. Apportionment. If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

c. Agreements. The assessor may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the Department of Taxation pursuant to § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it

is not then known which assessment is correct and which is erroneous.

4. Limitations and extensions.

a. Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this ordinance, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

b. Notwithstanding § 58.1-3903, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.

c. The period for collecting any local license tax shall not expire prior to the period specified in § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to this subdivision of the ordinance, two years after the final determination of an appeal for which collection has been stayed pursuant to subdivision 5 b or 5 d of this ordinance, or two years after the final decision in a court application pursuant to § 58.1-3984 or a similar law for which collection has been stayed, whichever is later.

5. Administrative appeals to commissioner of the revenue or other assessing official.

a. Definitions. For purposes of this section:

"Amount in dispute," when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

"Appealable event" means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the local assessing official's (i) examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a local license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

"Frivolous" means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.

"Jeopardized by delay" means a finding, based upon specific facts, that a taxpayer designs to (i) depart quickly from the locality; (ii) remove his property therefrom; (iii) conceal himself or his property therein; or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

b. Filing and contents of administrative appeal. Any person assessed with a local license tax as a result of an appealable event as defined in this section may file an administrative appeal of the assessment within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, with the commissioner of the revenue or other local assessing official. The appeal must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the amount in dispute, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed at issue in the appeal shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision.

c. Notice of right of appeal and procedures. Every assessment made by a commissioner of the revenue or other assessing official pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be

followed in the jurisdiction, the name and address to which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for filing the appeal.

d. Suspension of collection activity during appeal. Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the commissioner of the revenue or other assessing official, unless the treasurer or other official responsible for the collection of such tax (i) determines that collection would be jeopardized by delay as defined in this section; (ii) is advised by the commissioner of the revenue or other assessing official that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the commissioner of the revenue or other assessing official that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of subdivision 2 e of this subsection, but no further penalty shall be imposed while collection action is suspended.

e. Procedure in event of nondecision. Any taxpayer whose administrative appeal to the commissioner of the revenue or other assessing official pursuant to the provisions of subdivision 5 of this subsection has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the commissioner of the revenue or other assessing official, elect to treat the appeal as denied and appeal the assessment to the Tax Commissioner in accordance with the provisions of subdivision 6 of this subsection. The Tax Commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of a final determination on the part of the commissioner of the revenue or other assessing official was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the commissioner or other assessing official to make his determination.

6. Administrative appeal to the Tax Commissioner.

a. Any person assessed with a local license tax as a result of a determination, upon an administrative appeal to the commissioner of the revenue or other assessing official pursuant to subdivision 5 of this subsection, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment to the Tax Commissioner within 90 days of the date of the determination by the commissioner of the revenue or other assessing official. The appeal shall be in such form as the Tax Commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the commissioner of the revenue or other assessing official. The Tax Commissioner shall permit the commissioner of the revenue or other assessing official to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The appeal shall proceed in the same manner as an application pursuant to § 58.1-1821, and the Tax Commissioner may issue an order correcting such assessment pursuant to § 58.1-1822.

b. Suspension of collection activity during appeal. On receipt of a notice of intent to file an appeal to the Tax Commissioner under subdivision 6 a of this subsection, collection activity with respect to the amount in dispute shall be suspended until a final determination is issued by the Tax Commissioner, unless the treasurer or other official responsible for the collection of such tax (i) determines that collection would be jeopardized by delay as defined in this section; (ii) is advised by the commissioner of the revenue or other assessing official, or the Tax Commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) is advised by the commissioner of the revenue or other assessing official that the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of subdivision 2 e of this subsection, but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to subdivision 6 a of this subsection is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

c. Implementation of determination of Tax Commissioner. Promptly upon receipt of the final determination of the Tax Commissioner with respect to an appeal pursuant to subdivision 6 a of this subsection, the commissioner of the revenue or other assessing official shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the Tax Commissioner's determination and shall provide that information to the taxpayer and to the treasurer or other official responsible for collection in accordance with the provisions of this subdivision.

(1) If the determination of the Tax Commissioner sets forth a specific amount of tax due, the commissioner of the revenue or other assessing official shall certify the amount to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the determination of the Tax Commissioner.

(2) If the determination of the Tax Commissioner sets forth a specific amount of refund due, the commissioner of the revenue or other assessing official shall certify the amount to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within 30 days of the date of the determination of the Tax Commissioner.

(3) If the determination of the Tax Commissioner does not set forth a specific amount of tax due, or otherwise requires the commissioner of the revenue or other assessing official to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the commissioner of the revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The commissioner of the revenue or other assessing official shall certify the new assessment to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the new assessment.

(4) If the determination of the Tax Commissioner does not set forth a specific amount of refund due, or otherwise requires the commissioner of the revenue or other assessing official to undertake a new or revised assessment that will result in an obligation on the part of the locality to make a refund of taxes previously paid, the commissioner of the revenue or other assessing official shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The commissioner of the revenue or other assessing official shall certify the new assessment to the treasurer or other official responsible for collection, and the treasurer or other official responsible for collection shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment.

7. Judicial review of determination of Tax Commissioner.

a. Judicial review. Following the issuance of a final determination of the Tax Commissioner pursuant to subdivision 6 a of this subsection, the taxpayer or commissioner of the revenue or other assessing official may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to § 58.1-3984. In any such proceeding for judicial review of a determination of the Tax Commissioner, the burden shall be on the party challenging the determination of the Tax Commissioner, or any part thereof, to show that the ruling of the Tax Commissioner is erroneous with respect to the part challenged. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

b. Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.

(1) On receipt of a notice of intent to file an application for judicial review, pursuant to § 58.1-3984, of a determination of the Tax Commissioner pursuant to subdivision 6 a of this subsection, and upon payment of the amount of the tax that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the treasurer or other collection official shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that (i) the taxpayer's application for judicial review is frivolous, as defined in this section; (ii) collection would be jeopardized by delay, as defined in this section; or (iii) suspension of collection would cause substantial economic hardship to the locality. For purposes of determining whether substantial economic hardship to the locality would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the locality by different taxpayers that allege common claims or theories of relief.

(2) Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the locality, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.

(3) No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute.

(4) The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(5) The suspension of collection activity authorized by this subdivision shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action pursuant to § 58.1-3984 without prior exhaustion of the appeals provided by subdivisions 5 and 6 of this subsection.

c. Suspension of payment of disputed amount of refund due upon locality's notice of intent to initiate judicial review.

(1) Payment of any refund determined to be due pursuant to the determination of the Tax Commissioner of an appeal pursuant to subdivision 6 a of this subsection shall be suspended if the locality assessing the tax serves upon the taxpayer, within 60 days of the date of the determination of the Tax Commissioner, a notice of intent to file an application for judicial review of the Tax Commissioner's determination pursuant to § 58.1-3984 and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the locality's application for judicial review is frivolous, as defined in this section.

(2) No suspension of refund activity shall be permitted if the locality's application for judicial review fails to identify with particularity the amount in dispute.

(3) The suspension of the obligation to make a refund shall cease unless an application for judicial review pursuant to § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

d. Accrual of interest on unpaid amount of tax. Interest shall accrue in accordance with the provisions of subdivision 2 e of this subsection, but no further penalty shall be imposed while collection action is suspended.

8. Rulings.

Any taxpayer or authorized representative of a taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the commissioner of the revenue or other assessing official. Any person requesting such a ruling must provide all facts relevant to the situation placed at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based or (ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

9. Record-keeping and audits. Every person who is assessable with a local license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

B. Transitional provisions.

1. A locality which changes its license year from a fiscal year to a calendar year and adopts a due date for license applications between March 1 and May 1, inclusive, shall not be required to prorate any license tax to reflect a license year of less than 12 months, whether the tax is a flat amount or measured by gross receipts, provided that no change is made in the taxable year for measuring gross receipts.

2. The provisions of this section relating to penalties, interest, and administrative and judicial review of an assessment shall be applicable to assessments made on and after January 1, 1997, even if for an earlier

license year. The provisions relating to agreements extending the period for assessing tax shall be effective for agreements entered into on and after July 1, 1996. The provisions permitting an assessment of a license tax for up to six preceding years in certain circumstances shall not be construed to permit the assessment of tax for a license year beginning before January 1, 1997.

3. Every locality shall adopt a fixed due date for license applications between March 1 and May 1, inclusive, no later than the 2007 license year.

(1996, cc. 715, 720; 1997, c. 732; 2002, c. 364; 2005, c. 927; 2006, cc. 119, 181, 611.)

§ 58.1-3704. License tax on merchants in lieu of merchants' capital tax.

Whenever any county, city or town imposes a license tax on merchants, the same shall be in lieu of a tax on the capital of merchants, as defined by § 58.1-3509; however, no county, city or town shall be required to impose either a license tax on merchants or a tax on the capital of merchants. The prohibition under this section shall not extend to short-term rental property as defined under § 58.1-3510.4.

(Code 1950, § 58-266.1; 1950, p. 155; 1956, c. 242; 1964, c. 424; 1968, c. 619; 1970, cc. 231, 547; 1974, cc. 196, 438; 1975, cc. 23, 621; 1976, cc. 521, 719; 1977, c. 320; 1978, cc. 772, 799, 817; 1979, cc. 565, 568, 570; 1980, cc. 318, 736; 1981, cc. 419, 636; 1982, cc. 348, 548, 552, 554, 558, 633; 1983, c. 554; 1984, cc. 247, 675, 695; 1999, c. 200; 2010, cc. 255, 295.)

§ 58.1-3705. License tax shall be uniform.

Whenever any county, city or town levies a license tax, the basis for such tax, whether it be gross receipts or otherwise, shall be the same for all persons engaged in the same business, trade, occupation or calling.

(Code 1950, § 58-266.5; 1956, c. 449; 1962, c. 278; 1972, c. 601; 1974, c. 386; 1984, c. 675.)

§ 58.1-3706. Limitation on rate of license taxes.

A. Except as specifically provided in this section and except for the fee authorized in § 58.1-3703, no local license tax imposed pursuant to the provisions of this chapter, except §§ 58.1-3712, 58.1-3712.1 and 58.1-3713, or any other provision of this title or any charter, shall be imposed on any person whose gross receipts from a business, profession or occupation subject to licensure are less than: (i) $100,000 in any locality with a population greater than 50,000; or (ii) $50,000 in any locality with a population of 25,000 but no more than 50,000. Any business with gross receipts of more than $100,000, or $50,000, as applicable, may be subject to the tax at a rate not to exceed the rate set forth below for the class of enterprise listed:

1. For contracting, and persons constructing for their own account for sale, sixteen cents per $100 of gross receipts;

2. For retail sales, twenty cents per $100 of gross receipts;

3. For financial, real estate and professional services, fifty-eight cents per $100 of gross receipts; and

4. For repair, personal and business services, and all other businesses and occupations not specifically listed or excepted in this section, thirty-six cents per $100 of gross receipts.

The rate limitations prescribed in this section shall not be applicable to license taxes on (i) wholesalers, which shall be governed by § 58.1-3716; (ii) public service companies, which shall be governed by § 58.1-3731; (iii) carnivals, circuses and speedways, which shall be governed by § 58.1-3728; (iv) fortune-tellers, which shall be governed by § 58.1-3726; (v) massage parlors; (vi) itinerant merchants or peddlers, which shall be governed by § 58.1-3717; (vii) permanent coliseums, arenas, or auditoriums having a maximum capacity in excess of 10,000 persons and open to the public, which shall be governed by § 58.1-3729; (viii) savings institutions and credit unions, which shall be governed by § 58.1-3730; (ix) photographers, which shall be governed by § 58.1-3727; and (x) direct sellers, which shall be governed by § 58.1-3719.1.

B. Any county, city or town which had, on January 1, 1978, a license tax rate, for any of the categories listed in subsection A, higher than the maximum prescribed in subsection A may maintain a higher rate in such category, but no higher than the rate applicable on January 1, 1978, subject to the following conditions:

1. A locality may not increase a rate on any category which is at or above the maximum prescribed for such category in subsection A.

2. If a locality increases the rate on a category which is below the maximum, it shall apply all revenue generated by such increase to reduce the rate on a category or categories which are above such maximum.

3. A locality shall lower rates on categories which are above the maximums prescribed in subsection A for any tax year after 1982 if it receives more revenue in tax year 1981, or any tax year thereafter, than the revenue base for such year. The revenue base for tax year 1981 shall be the amount of revenue received from all categories in tax year 1980, plus one-third of the amount, if any, by which such revenue received in tax year 1981 exceeds the revenue received for tax year 1980. The revenue base for each tax year after 1981 shall be the revenue base of the preceding tax year plus one-third of the increase in the revenues of the subsequent tax year over the revenue base of the preceding tax year. If in any tax year the amount of revenues received from all categories exceeds the revenue base for such year, the rates shall be adjusted as follows: The revenues of those categories with rates at or below the maximum shall be subtracted from the revenue base for such year. The resulting amount shall be allocated to the category or categories with rates above the maximum in a manner determined by the locality, and divided by the gross receipts of such category for the tax year. The resulting rate or rates shall be applicable to such category or categories for the second tax year following the year whose revenue was used to make the calculation.

C. Any person engaged in the short-term rental business as defined in § 58.1-3510.4 shall be classified in the category of retail sales for license tax rate purposes.

D. 1. Any person, firm, or corporation designated as the principal or prime contractor receiving identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical sciences shall be subject to a license tax rate not to exceed three cents per $100 of such federal funds received in payment of such contracts upon documentation provided by such person, firm or corporation to the local commissioner of revenue or finance officer confirming the applicability of this subsection.

2. Any gross receipts properly reported to a Virginia locality, classified for license tax purposes by that locality in accordance with subdivision 1 of this subsection, and on which a license tax is due and paid, or which gross receipts defined by subdivision 1 of this subsection are properly reported to but exempted by a Virginia locality from taxation, shall not be subject to local license taxation by any other locality in the Commonwealth.

3. Notwithstanding the provisions of subdivision D 1, in any county operating under the county manager plan of government, the following shall govern the taxation of the licensees described in subdivision D 1. Persons, firms, or corporations designated as the principal or prime contractors receiving identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical sciences may be separately classified by any such county and subject to tax at a license tax rate not to exceed the limits set forth in subsections A through C above as to such federal funds received in payment of such contracts upon documentation provided by such persons, firms, or corporations to the local commissioner of revenue or finance officer confirming the applicability of this subsection.

E. In any case in which the Department of Mines, Minerals and Energy determines that the weekly U.S. Retail Gasoline price (regular grade) for PADD 1C (Petroleum Administration for Defense District - Lower Atlantic Region) has increased by 20% or greater in any one-week period over the immediately preceding one-week period and does not fall below the increased rate for at least 28 consecutive days immediately following the week of such increase, then, notwithstanding any tax rate on retailers imposed by the local ordinance, the gross receipts taxes on fuel sales of a gas retailer made in the following license year shall not exceed 110% of the gross receipts taxes on fuel sales made by such retailer in the license year of such increase. For license years beginning on or after January 1, 2006, every gas retailer shall maintain separate records for fuel sales and nonfuel sales and shall make such records available upon request by the local tax official.

The provisions of this subsection shall not apply to any person or entity (i) not conducting business as a gas retailer in the county, city, or town for the entire license year immediately preceding the license year of such increase or (ii) that was subject to a license fee in the county, city, or town pursuant to § 58.1-3703 for the license year immediately preceding the license year of such increase.

The Department of Mines, Minerals and Energy shall determine annually if such increase has occurred and remained in effect for such 28-day period.

(Code 1950, § 58-266.1; 1950, p. 155; 1956, c. 242; 1964, c. 424; 1968, c. 619; 1970, cc. 231, 547; 1974, cc. 196, 438; 1975, cc. 23, 621; 1976, cc. 521, 719; 1977, c. 320; 1978, cc. 772, 799, 817; 1979, cc. 565, 568, 570; 1980, cc. 318, 736; 1981, cc. 419, 636; 1982, cc. 348, 548, 552, 554, 558, 633; 1983, c. 554; 1984, cc. 247, 675, 695; 1985, c. 120; 1989, c. 589; 1992, c. 632; 1993, c. 918; 1996, cc. 77, 715, 720; 2006, c. 763; 2010, cc. 255, 295.)

§ 58.1-3707.

Repealed by Acts 1996, cc. 715 and 720, effective January 1, 1997.

§ 58.1-3708. Situs for local license taxation of businesses, professions, occupations, etc.

A. Except as otherwise provided by law and except as to public service corporations, the situs for the local license taxation for any business, profession, trade, occupation or calling subject to licensure, shall be the county, city or town (hereinafter called "locality") in which the person so engaged has a definite place of business. If any such person has a definite place of business in any other locality, then such other locality may impose a license tax on him, provided such other locality is otherwise authorized to impose a local license tax with respect thereto.

B. Where a local license tax imposed by any locality is measured by volume, the volume on which the tax may be computed shall be the volume attributable to all definite places of business of the business, profession, trade, occupation or calling in such locality. All volume attributable to any definite places of business of the business, profession, trade, occupation or calling in any other locality shall be deductible from the base in computing any local license tax measured by volume imposed on him by the locality in which the first-mentioned definite place is located.

C. The word "volume," as used in this section, means gross receipts, sales, purchases, or other base for measuring a license tax which is related to the amount of business done.

D. This section shall not be construed as prohibiting any locality from requiring a separate license for each definite place of business located in such locality.

(Code 1950, § 58-266.5; 1956, c. 449; 1962, c. 278; 1972, c. 601; 1974, c. 386; 1984, c. 675; 1996, cc. 715, 720.)

§ 58.1-3709. Business located in more than one jurisdiction.

A. In any case where a business subject to a local license tax is located partially within a county, city or town and partially within another county, city or town by reason of the boundary line between such political subdivisions passing through such place of business, the situs for the local license of such business shall be each county, city or town in which any part of such place of business is located. If a local license tax is measured by the volume of business done, the volume allocable to each political subdivision for measuring the local license tax levied by it shall be such proportion of the total volume of business done at such place of business as the area within that political subdivision, which such place of business actually occupies and actively uses in connection with such business, bears to the total area which such place of business actually occupies and actively uses in connection with such business. And in every such case, if a local license tax is a flat tax, the amount thereof shall be adjusted so as to constitute such proportion of the entire flat license tax levied by the political subdivision as the area within that political subdivision, which such place of business actually occupies and actively uses in connection with such business, bears to the total area which such place of business actually occupies and actively uses in connection with such business. The word "area," as used in this section, means the area of the land actually occupied by the building or structure constituting the place of business; but if such place of business actually occupies and actively uses only a part of such building or structure, the land area below such part shall be the land area which shall be used in making the apportionment, whether or not such building or structure contains one story or floor or more than one story or floor. If the place of business is of such nature that inventories are kept or stored outside of a building or structure, then the land area used in keeping or storing such inventories, together with the land area actually occupied by any building or structure, or part thereof, which is actually occupied and actively used in connection with such business shall constitute the land area for making the apportionment. If the place of business has a parking area contiguous thereto for the use of its vehicles or those of its customers to the exclusion of any other business, such area shall be included in the word "area" as used in this section. If the place of business

has a contiguous parking area used in common with other places of business, such parking area shall be apportioned for the purpose of this section among such places of business in the ratio of their total areas to the whole parking area, and the area so apportioned shall be included within the word "area" as used in this section.

B. Any person whose place of business comes within the provisions of subsection A of this section and who considers himself aggrieved by the imposition upon him of a local license tax, may, at any time during the license year, apply for relief to any court of record having jurisdiction in any county or city involved, and the court shall issue against each such county or city a rule to show cause why relief should not be granted. The rule shall be served on the attorney for the Commonwealth for the county or on the city attorney for the city, as the case may be. The court shall hear the case without a jury and shall render judgment declaring the proper tax to be paid, and granting such relief as may be proper. In any case where the court finds that the tax imposed was excessive, no costs shall be awarded against the taxpayer, nor shall he be liable for penalty or interest on such tax if he pays the tax before the expiration of fifteen days after final judgment.

(Code 1950, § 58-266.4; 1954, c. 517; 1978, c. 433; 1984, c. 675.)

§ 58.1-3710. Proration of license taxes.

Notwithstanding any other provision of law, general or special, and regardless of the basis or method of measurement or computation, no county, city or town shall impose a license tax based on gross receipts on a business, trade, profession, occupation or calling, or upon a person, firm or corporation for any fraction of a year during which such person, firm or corporation has permanently ceased to engage in such business, trade, profession, occupation or calling within the county, city or town. In the event a person, firm or corporation ceases to engage in a business, trade, profession or calling within a county, city or town during a year for which a license tax based on gross receipts has already been paid, the taxpayer shall be entitled upon application to a refund for that portion of the license tax already paid, prorated on a monthly basis so as to ensure that the licensed privilege is taxed only for that fraction of the year during which it is exercised within the county, city or town. The county, city or town may elect to remit any refunds in the ensuing fiscal year, and may offset against such refund any amount of past-due taxes owed by the same taxpayer. In no event shall a county, city or town be required to refund any part of a flat fee or minimum flat tax.

(Code 1950, § 58-266.5:1; 1983, c. 252; 1984, cc. 327, 675.)

§ 58.1-3711. Limitation on county license tax within boundary of a town.

A. Any county license tax imposed pursuant to this chapter shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege. If the governing body of any town within a county, however, provides that a county license tax shall apply within the limits of such town, then such license tax may be imposed within such towns.

B. Notwithstanding the provisions of subsection A of this section, in a consolidated county wherein a tier-city exists, any county license tax imposed hereunder shall apply within the limits of any tier-city located in such county, as may be provided in the agreement or plan of consolidation, and such tier-city may also impose a tier-city license tax on the same privilege, provided that the combined county and tier-city rates do not exceed the maximum permitted by state law.

(Code 1950, § 58-266.1; 1950, p. 155; 1956, c. 242; 1964, c. 424; 1968, c. 619; 1970, cc. 231, 547; 1974, cc. 196, 438; 1975, cc. 23, 621; 1976, cc. 521, 719; 1977, c. 320; 1978, cc. 772, 799, 817; 1979, cc. 565, 568, 570; 1980, cc. 318, 736; 1981, cc. 419, 636; 1982, cc. 348, 548, 552, 554, 558, 633; 1983, c. 554; 1984, cc. 247, 675, 695.)

§ 58.1-3712. Counties and cities authorized to levy severance tax on coal and gases.

A. The governing body of any county or city may levy a license tax on every person engaging in the business of severing coal or gases from the earth. Such tax shall be at a rate not to exceed one percent of the gross receipts from the sale of coal or gases severed within such county. Such gross receipts shall be the fair market value measured at the time such coal or gases are utilized or sold for utilization in such county or city or at the time they are placed in transit for shipment therefrom, provided that if the tax provided herein is levied, such county or city cannot enact the provisions of § 58.1-3286 relating to a tax on gross receipts. In calculating the fair market value, no person engaging in the production and operation of severing gases from the earth in connection with coal mining shall be allowed to take deductions,

including but not limited to, depreciation, compression, marketing fees, overhead, maintenance, transportation fees, and personal property taxes.

B. Notwithstanding any other provision of this section or law, for purposes of calculating the fair market value of gases severed in Buchanan County, except as otherwise provided in a settlement agreement regarding the calculation of fair market value, including deductions for transportation and compression costs, between the County and the taxpayer, no person engaging in the production and operation of severing gases from the earth in connection with coal mining shall be allowed to take deductions, including but not limited to, depreciation, compression, marketing fees, overhead, maintenance, transportation fees, and personal property taxes.

C. Any county or city enacting a license tax under this section may require producers of coal or gas and common carriers to maintain records and file reports showing the quantities of and receipts from coal or gases which they have produced or transported.

(Code 1950, § 58-266.1:1; 1973, c. 522; 1976, c. 53; 1984, c. 675; 2002, c. 433; 2009, c. 770.)

§ 58.1-3712.1. Counties and cities authorized to levy severance tax on oil.

The governing body of any county or city may levy a license tax on every person engaging in the business of severing oil from the earth. Such tax shall be at a rate equal to one-half of one percent of the gross receipts from the sale of oil severed in such county or city. Such gross receipts shall be the fair market value measured at the time such oil is utilized or sold for utilization in such county or city or at the time such oil is placed in transit for shipment therefrom.

Any county or city enacting a license tax pursuant to this section may require producers of oil and common carriers to maintain records and file reports showing the quantities of and receipts from oil which they have produced or transported.

(1985, c. 120.)

§ 58.1-3713. (Expires December 31, 2014) Local coal and gas road improvement and Virginia Coalfield Economic Development Authority tax.

A. In addition to the taxes authorized under § 58.1-3712, any county or city may adopt a license tax on every person engaging in the business of severing coal or gases from the earth. The rate of such tax shall not exceed one percent. The provisions of § 58.1-3712 as they relate to measurement of gross receipts, filing of reports and record keeping shall be applicable to the tax imposed under this section.

The moneys collected for each county or city from the tax imposed under authority of this section shall be paid into a special fund of such county or city to be called the Coal and Gas Road Improvement Fund of such county or city, and shall be spent for such improvements to public roads as the coal and gas road improvement advisory committee and the governing body of such county or city may determine as provided in subsection B of this section. The county may also, in its discretion, elect to improve city or town roads with its funds if consent of the city or town council is obtained. Such funds shall be in addition to those allocated to such counties from state highway funds which allocations shall not be reduced as a result of any revenues received from the tax imposed hereunder. In those localities which comprise the Virginia Coalfield Economic Development Authority, the tax imposed under this section shall be paid as follows: (i) three-fourths of the revenue shall be paid to the Coal and Gas Road Improvement Fund and used for the purposes set forth herein; however, one-fourth of such revenue may be used to fund the construction of new water and/or sewer systems and lines in areas with natural water supplies which are insufficient from the standpoint of quality or quantity, and (ii) one-fourth of the revenue shall be paid to the Virginia Coalfield Economic Development Fund. Furthermore, with regard to the portion paid to the Coal and Gas Road Improvement Fund, a county or city may provide for an additional one-fourth allocation for the construction of new water or sewer systems or lines or the repair or enhancement of existing water or sewer systems or lines in areas with natural water supplies which are insufficient from the standpoint of quality or quantity; however, if this option is initiated by a county or city, it must satisfy the requirements set forth in § 58.1-3713.01. Notwithstanding the foregoing limitations regarding revenues used for water systems and/or sewer systems, such revenues designated for water and water systems and/or sewer systems shall be distributed directly to the local public service authority for such purposes instead of the local governing body.

B. Any county or city imposing the tax authorized in this section shall establish a Coal and Gas Road Improvement Advisory Committee, to be composed of four members: (i) a member of the governing body

of such county or city, appointed by the governing body, (ii) a representative of the Department of Transportation, and (iii) two citizens of such county or city connected with the coal and gas industry, appointed for a term of four years, initially commencing July 1, 1989, by the chief judge of the circuit court.

Such committee shall develop on or before July 1 of each year a plan for improvement of roads during the following fiscal year. Such plan shall have the approval of three members of the committee and shall be submitted to the governing body of the county or city for approval. The governing body may approve or disapprove such plan, but may make no changes without the approval of three members of the committee.

C. The provisions of this section shall expire on December 31, 2014.

(Code 1950, § 58-266.1:2; 1978, c. 646; 1984, c. 675; 1986, c. 58; 1988, c. 784; 1989, cc. 265, 380; 1991, c. 164; 1993, c. 163; 1996, c. 706; 2004, cc. 871, 893; 2005, c. 645; 2006, cc. 78, 497; 2007, cc. 57, 586; 2009, c. 367.)

§ 58.1-3713.01. Distribution of local coal and gas road improvement tax for water and sewer projects applicable to the additional one-fourth allocation.

The governing body of any county or city imposing a local coal and gas road improvement tax which is authorized by subsection A of § 58.1-3713 to use an additional one-fourth of the revenue from such tax to fund the construction of new water or sewer systems or lines or the repair or enhancement of existing water systems or lines shall develop and adopt by resolution an annual plan for such water and/or sewer projects and an annual plan for the funding of such water and/or sewer projects in areas in its county or city where natural water supplies are insufficient from the standpoint of quality or quantity. Plans shall establish a priority for funding water and/or sewer projects in such city or county. Consideration for funding shall be given to (i) replacing water supplies lost due to mining activities and providing emergency water services to areas that have lost water due to mining activities; (ii) preserving water supplies that are jeopardized due to permitted mining which is occurring or is near commencement; (iii) facilitating development of water and/or sewer projects which will promote diversified industrial development; and (iv) increasing the capacity of publicly owned water and/or sewer treatment or supply facilities.

Plans shall encourage the development of regional water and/or sewer projects. "Regional water and/or sewer project" means a project involving two or more public water and/or sewer service providers located in the same or neighboring political subdivisions. In order to promote cost savings and economic development, funding may be provided for regional water and/or sewer projects as provided in this section. If a regional water and/or sewer project encompasses an area for which plans are developed by two or more local governing bodies, the project shall not be funded unless it is agreed to by all of the affected local governing bodies.

A county or city shall not expend local coal and gas road improvement tax revenue for water and/or sewer projects in a manner that is inconsistent with the priority for funding set forth in an approved plan.

(1996, c. 706; 1998, c. 694; 2004, c. 893; 2006, cc. 78, 497.)

§ 58.1-3713.1. Distribution of local coal road improvement tax.

Notwithstanding any other provision of law, the incorporated towns and city situated within the bounds of Wise County shall receive from the county twenty percent of all revenues collected under the local coal road improvement tax. The shares of such twenty percent shall be computed as follows: twenty-five percent shall be divided among the incorporated towns and the city based on the number of registered motor vehicles in each town and the city, and seventy-five percent shall be divided equally among the incorporated towns and city. Such funds shall be distributed to the treasurer of such towns and city on a quarterly basis as received by the county.

(Code 1950, § 58-266.1:3; 1982, c. 426; 1984, c. 675.)

§ 58.1-3713.2. Verification of local severance tax payment; local ordinances.

A. All local coal severance taxes levied pursuant to §§ 58.1-3703, 58.1-3712 or § 58.1-3713 are to be paid to the locality in which the coal is first placed in transit for shipment outside of the jurisdiction imposing the tax, unless it is certified by affidavit to the commissioner of the revenue of that locality that the coal severance tax has been paid pursuant to those laws or paid to any other state or locality in which the coal was mined pursuant to that state's coal severance tax, gross receipts tax, business license tax or

other comparable tax.

B. Any county or city enacting a tax pursuant to §§ 58.1-3703, 58.1-3712 or § 58.1-3713 may require enforcement of subsection A by local ordinance.

(1987, c. 711.)

§ 58.1-3713.3. Validation of local coal and gas severance tax ordinances and local coal and gas road improvement tax ordinances.

A. All ordinances adopted pursuant to §§ 58.1-3712 and 58.1-3713 prior to October 1, 1989, shall be valid as if they had been enacted as of January 1, 1985, as long as similar ordinances had been validly enacted under the predecessor provisions to §§ 58.1-3712 and 58.1-3713 and in substantial compliance therewith. Any such local tax ordinances are declared to be validly adopted and enacted as of January 1, 1985, notwithstanding the failure of the locality to change the reference in the local tax ordinance after the enactment of this title, effective January 1, 1985.

B. All ordinances adopted pursuant to §§ 58.1-3712, 58.1-3713 and 58.1-3713.4 prior to January 1, 2001, shall be valid and presumed to include all the provisions of §§ 58.1-3712, 58.1-3713 and 58.1-3713.4 as long as such ordinances were in substantial compliance therewith at the time of their adoption.

(1989, c. 380; 2001, cc. 294, 303.)

§ 58.1-3713.4. Additional one percent tax on gas.

Notwithstanding the rate limitations established in §§ 58.1-3712 and 58.1-3713, a county or city may levy an additional license tax on every person engaging in the business of severing gases from the earth. The license tax shall be at a rate not to exceed one percent of the gross receipts from the sale of gases severed within the county or city. The provisions of § 58.1-3712 as they relate to measurement of gross receipts shall be applicable to this section. The revenue received from such additional tax shall be paid into the general fund of the county or city from where the gases are severed. However, in the Counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, and Wise and the City of Norton one-half of the revenues derived from such tax shall be paid to the Virginia Coalfield Economic Development Fund.

(1990, cc. 165, 853; 2002, c. 433.)

§ 58.1-3713.5. Lien on real estate and personal property of businesses severing coal.

There shall be a priority lien upon a debtor's estate for all taxes due and owing under §§ 58.1-3712 and 58.1-3713, by persons engaged in the business of severing coal from the earth. Such lien shall be inferior only to real estate and personal property taxes, levies, and penalties; any obligation, bond or instrument used in lieu of a bond to the Department of Mines, Minerals, and Energy under Title 45.1; and liens benefiting the Commonwealth of Virginia. This lien shall not require a distraint action prior to enforcement.

The purchaser at a sale of real estate to which the lien under this section applies shall cause the proceeds of such sale to be applied to the payment of all taxes and levies assessed and due pursuant to §§ 58.1-3712 and 58.1-3713, the provisions of § 55-59.4 notwithstanding. The words "taxes" and "levies" as used in this section include the penalties and interest accruing on such taxes and levies in pursuance of law. In addition to existing remedies for the collection of taxes and levies, the lien imposed hereby shall be enforceable in the same manner as provided in Article 4 (§ 58.1-3965 et seq.) of Chapter 39 of this title. There shall be a further lien upon the rents of such real estate, whether the same be in money or in kind, for taxes and levies of the current year.

(2001, c. 462.)

§ 58.1-3714. Contractors; credits against tax; effect upon authority of towns; workers' compensation requirements; penalty.

A. Whenever a license tax is levied on contractors by any county, city or town, the governing body of such county, city or town may, in its discretion, require a bond from the person licensed, with such surety, penalty and conditions as it may deem proper.

B. 1. The governing body of any county, city or town shall not issue or reissue a business license under this chapter to any contractor who (i) has not obtained or is not maintaining workers' compensation

coverage for his employees and (ii) at the time of application for such issuance or reissuance, is required to obtain or maintain such coverage pursuant to Chapter 8 (§ 65.2-800 et seq.) of Title 65.2.

2. Each such governing body shall require every contractor to provide written certification at the time of any application for issuance or reissuance of a business license that such contractor is in compliance with the provisions of Chapter 8 of Title 65.2 and will remain in compliance with such provisions at all times during the effective period of any such business license.

3. The governing body of any county, city or town shall forward such signed certification to the Virginia Workers' Compensation Commission, who shall conduct periodic audits of selected contractors to whom such body has issued business licenses to ensure the compliance of such contractors with the requirements of this subsection and the provisions of Chapter 8 of Title 65.2.

4. Any person who knowingly presents or causes to be presented to the governing body a false certificate shall be guilty of a Class 3 misdemeanor.

C. If, within any county imposing a license tax on contractors, there is situated a town which imposes a similar tax upon contractors, the business, firm, corporation or individual subject to such town license tax shall be entitled, upon displaying evidence that such town license taxes have been paid, to receive a credit on the license taxes imposed by the county to the extent of the license taxes paid to such town.

D. For the purpose of license taxation pursuant to § 58.1-3703, the term "contractor" means any person, firm or corporation:

1. Accepting or offering to accept orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal or any other building material;

2. Accepting or offering to accept contracts to do any paving, curbing or other work on sidewalks, streets, alleys, or highways, or public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition;

3. Accepting or offering to accept an order for or contract to excavate earth, rock, or other material for foundation or any other purpose or for cutting, trimming or maintaining rights-of-way;

4. Accepting or offering to accept an order or contract to construct any sewer of stone, brick, terra cotta or other material;

5. Accepting or offering to accept orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices or appliances permanently connected to such wiring, or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power; or

6. Engaging in the business of plumbing and steam fitting.

(Code 1950, § 58-302.1; 1962, c. 553; 1984, c. 675; 1998, c. 503.)

§ 58.1-3715. License requirements for contractors.

A. When a contractor has paid any local license tax required by the county, city or town in which his principal office and any branch office or offices may be located, no further license or license tax shall be required by any other county, city or town for conducting any such business within the confines of this Commonwealth. However, when the amount of business done by any such contractor in any other county, city or town exceeds the sum of $25,000 in any year, such other county, city or town may require of such contractor a local license, and the amount of business done in such other county, city or town in which a license tax is paid may be deducted by the contractor from the gross revenue reported to the county, city or town in which the principal office or any branch office of the contractor is located.

B. Any contractor, as defined in § 58.1-3714 D, conducting business in a county, city or town for less than thirty days without a definite place of business in any county, city or town of the Commonwealth shall be subject to the license fee or license tax imposed on contractors by any county, city or town, where the amount of business done by the contractor in such county, city or town exceeds or will exceed the sum of $25,000 for the license year.

That portion of the gross receipts of a contractor subject to the license tax pursuant to this subsection shall not be subject to such tax in any other county, city or town.

(Code 1950, § 58-299; 1952, c. 528; 1982, c. 633; 1984, c. 675; 1999, c. 203.)

§ 58.1-3716. Wholesale merchants.

No county, city or town shall impose a license tax on wholesale merchants at an aggregate rate in excess of 5 cents per $100 of purchases except in those counties, cities or towns where the local rate in effect on January 1, 1964 was in excess of such rate, in which case such localities are hereby prohibited from increasing such rate as in effect on January 1, 1964.

(Code 1950, § 58-441.49; 1966, c. 151; 1982, c. 555; 1984, cc. 675, 695.)

§ 58.1-3717. Peddlers; itinerant merchants.

A. For the purpose of license taxation pursuant to § 58.1-3703, any person who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same, or actually sell or barter the same, shall be deemed to be a peddler.

B. For the purpose of license taxation pursuant to § 58.1-3703, the term "itinerant merchant" means any person who engages in, does, or transacts any temporary or transient business in any county, city or town and who, for the purpose of carrying on such business, occupies any location for a period of less than one year.

C. Any tax imposed pursuant to § 58.1-3703 on peddlers and itinerant merchants shall not exceed $500 per year. Dealers in precious metals shall be taxed at rates provided in § 58.1-3706.

D. This section shall not apply to a peddler at wholesale or to those who sell or offer for sale in person or by their employees ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale. A dairyman who uses upon the streets of any city one or more vehicles may sell and deliver from his vehicles, milk, butter, cream and eggs in such city without procuring a peddler's license.

E. The local governing body imposing such tax may by ordinance designate the streets or other public places on or in which all licensed peddlers or itinerant merchants may sell or offer for sale their goods, wares or merchandise.

(Code 1950, §§ 58-266.8, 58-340; 1982, c. 633; 1983, c. 550; 1984, c. 675.)

§ 58.1-3718. Counties, cities and towns authorized to levy a license tax on peddlers at wholesale.

A. For purposes of the license tax authorized in § 58.1-3703, any person, firm or corporation, who or which sells or offers to sell goods, wares or merchandise to licensed dealers, other than at a definite place of business operated by the seller, and at the time of such sale or exposure for sale delivers, or offers to deliver, the goods, wares or merchandise to the buyer shall be deemed a peddler at wholesale. For purposes of this section any delivery made on the day of sale shall be construed as a delivery at the time of sale.

B. The license tax imposed by any locality on a peddler at wholesale shall not be at a rate greater than the rate imposed by such locality on a wholesale merchant selling similar goods, wares or merchandise in such locality at one definite place of business.

(Code 1950, § 58-354; 1950, p. 894; 1984, c. 675.)

§ 58.1-3719. Limitations on license taxes imposed on peddlers, itinerant merchants and peddlers at wholesale.

A. Any license tax imposed on peddlers or itinerant merchants or on peddlers at wholesale shall not apply to:

1. A licensed wholesale dealer who sells and, at the time of such sale, delivers merchandise to retail merchants;

2. A distributor or vendor of motor fuels and petroleum products;

3. A distributor or vendor of seafood who catches seafood and sells only the seafood caught by him;

4. A farmer or producer of agricultural products who sells only the farm or agricultural products produced or grown by him;

5. A farmers' cooperative association;

6. A manufacturer who is subject to Virginia tax on intangible personal property who peddles at wholesale, only the goods, wares or merchandise manufactured by him at a plant, whose intangible personal property is taxed by this Commonwealth.

(Code 1950, §§ 58-266.8, 58-354; 1950, p. 894; 1982, c. 633; 1983, c. 550; 1984, c. 675.)

§ 58.1-3719.1. Direct sellers; rate limitation.

A. Notwithstanding any other provision of this chapter, no county, city or town shall levy any license tax on a direct seller, as defined herein, unless the total sales of such seller exceed $4,000 per year. The rate of tax levied on a direct seller whose total sales exceed $4,000 per year shall not be greater than 20 cents per $100 of retail sales or 5 cents per $100 of wholesale sales, whichever is applicable. The situs for the local license taxation of such direct seller shall be the county, city or town in which such person maintains his place of abode.

B. As used in this section the term "direct seller" means any person who:

1. Engages in the trade or business of selling or soliciting the sale of consumer products primarily in private residences and maintains no public location for the conduct of such business; and

2. Receives remuneration for such activities, with substantially all of such remuneration being directly related to sales or other sales-oriented services, rather than to the number of hours worked; and

3. Performs such activities pursuant to a written contract between such person and the person for whom the activities are performed and such contract provides that such person will not be treated as an employee with respect to such activities for federal tax purposes.

(Code 1950, § 58-266.11; 1984, c. 247.)

§ 58.1-3720. Amusement machines; gross receipts tax on amusement operators.

A. Any license tax imposed on amusement machines by any county, city or town shall be imposed in any amount not exceeding the sum of $200 for the operation of ten or more coin-operated amusement machines. For the operation of less than ten coin-operated amusement machines, any county, city or town shall have discretionary authority to impose on the operator such license tax less than $200 as is deemed appropriate. The term "amusement operator" means any person leasing, renting or otherwise furnishing or providing a coin-operated amusement machine in the county, city or town; however, the term "amusement operator" shall not include a person owning less than three such machines and operating such machines on property owned or leased by such person. Notwithstanding the situs requirements of § 58.1-3707, any county, city, or town may impose the license tax on the amusement operator when his coin-operated machines are located therein.

B. In addition, any county, city or town may levy and provide for the assessment and collection of a gross receipts tax on any amusement operator, as defined herein, only on the share of the receipts actually received by such operator from coin machines operated within that city, county or town. Any ordinance imposing such tax shall be subject to the limitations in § 58.1-3706 of this chapter.

(Code 1950, § 58-266.1; 1950, p. 155; 1956, c. 242; 1964, c. 424; 1968, c. 619; 1970, cc. 231, 547; 1974, cc. 196, 438; 1975, cc. 23, 621; 1976, cc. 521, 719; 1977, c. 320; 1978, cc. 772, 799, 817; 1979, cc. 565, 568, 570; 1980, cc. 318, 736; 1981, cc. 419, 636; 1982, cc. 348, 548, 552, 554, 558, 633; 1983, c. 554; 1984, cc. 247, 675, 695.)

§ 58.1-3721. License exemptions for coin machine operators.

The coin machine operator's license tax authorized by § 58.1-3720 shall not be applicable to operators of

weighing machines, automatic baggage or parcel checking machines or receptacles, nor to operators of vending machines which are so constructed as to do nothing but vend goods, wares and merchandise or postage stamps or provide service only, nor to operators of viewing machines or photomat machines, nor operators of devices or machines affording rides to children or for the delivery of newspapers.

(Code 1950, § 58-359; 1954, c. 522; 1958, c. 510; 1966, c. 562; 1968, c. 610; 1976, c. 719; 1984, c. 675.)

§ 58.1-3722. Stickers to evidence payment of tax.

The commissioner of the revenue of any county, city or town imposing a tax on operators of coin machines or devices as provided in § 58.1-3720 shall prepare and issue a license which, when signed by the commissioner of the revenue issuing such license, shall evidence the payment of the license tax.

Every operator shall furnish to the commissioner of the revenue of any county, city or town imposing a license tax on the operation of such machines pursuant to § 58.1-3720, a complete list of all machines on location and the address of each location on or before January 31 of each year.

Each machine shall have conspicuously located thereon a decal, sticker or other adhesive label, no less than 1 x 2 inches in size, clearly denoting the operator's name and address.

(Code 1950, § 58-357; 1976, c. 719; 1984, c. 675.)

§ 58.1-3723. Penalty.

Any person, firm or corporation providing any such coin machines or other devices and failing to procure a county, city or town license, if levied and assessed as provided by § 58.1-3720 shall be subject to a fine as established by ordinance pursuant to § 15.2-1429 for each offense and the machine or other device shall become forfeited to the county, city or town imposing such license tax.

(Code 1950, § 58-360; 1976, c. 719; 1984, c. 675.)

§ 58.1-3724. Bondsmen.

A. As used in this section, "professional bondsman" means a person who is a property bail bondsman, as such term is defined in § 9.1-185.

B. The governing body of any county or city may by ordinance require that every person who shall, for compensation, enter into any bond or bonds for others, whether as a principal or surety, shall obtain a revenue license, the amount of which shall be prescribed in such ordinance. No professional bondsman or his agent shall enter into any such bond or bonds in any such county or city until he shall have obtained such license, unless he has obtained such required license in another city or county, in which he engages in the business of bail bonding.

C. With the exception of any bondsman or his agent who has heretofore obtained a certificate and license under this section and whose certificate, license and right to act as a bondsman continues to remain in full force and effect, no such license shall be issued by the authorities of any such county or city unless and until the applicant shall have first obtained a bail bondsman license from the Department of Criminal Justice Services.

D. Any ordinance enacted pursuant to the provisions of this section may provide for revocation of licenses for failure to comply with the terms of such ordinance and may in addition prescribe penalties for violations thereof.

(Code 1950, § 58-371.2; 1950, p. 83; 1952, c. 441; 1956, c. 26; 1958, c. 531; 1960, c. 523; 1964, c. 576; 1966, c. 321; 1970, c. 509; 1972, c. 769; 1975, c. 285; 1976, c. 199; 1980, c. 716; 1981, c. 543; 1984, c. 675; 2003, c. 979; 2004, c. 460.)

§ 58.1-3725.

Repealed by Acts 1996, cc. 715 and 720, effective January 1, 1997.

§ 58.1-3726. Fortune-tellers, clairvoyants and practitioners of palmistry.

For the purpose of license taxation pursuant to § 58.1-3703, any person who, for compensation, shall

pretend to tell fortunes, assume to act as a clairvoyant, or to practice palmistry or phrenology shall be deemed a fortune-teller. No license tax on fortune-tellers imposed pursuant to this chapter shall exceed $1,000 per year. The governing body of any county, city or town may provide that any person who engages in business as a fortune-teller without the license required shall be guilty of a Class 3 misdemeanor.

(Code 1950, § 58-377.1; 1982, c. 633; 1984, c. 675.)

§ 58.1-3727. Photographers with no regularly established place of business in the Commonwealth; rate limitations.

For the purpose of license taxation pursuant to § 58.1-3703, the term "photographer" shall mean any person, partnership or corporation having no regularly established place of business in the Commonwealth who provides services consisting of the taking of pictures or the making of pictorial reproductions in the Commonwealth. The term shall also include every employee, agent or canvasser for such photographer. Nothing in this section shall apply to (i) amateur photographers who expose, develop and finish their own work and who do not receive compensation for such work or receive compensation for performing any of the processes of photography; (ii) coin-operated photography machines; or (iii) photographers providing service in the course of their employment by newspapers, magazines or television stations.

The license tax levied on photographers by a county, city or town with a population of 2,000 or less shall not exceed ten dollars per year. In a county, city or town with a population greater than 2,000 the tax shall not exceed thirty dollars per year.

(Code 1950, § 58-393.1; 1958, c. 527; 1972, c. 345; 1982, c. 633; 1984, c. 675.)

§ 58.1-3728. Carnivals, circuses, speedways; penalties; certain restrictions.

A. Pursuant to the authority granted in § 58.1-3703, the governing body of any county, city or town may levy and collect a license tax, the amount to be fixed by the governing body of such county, city or town, for each performance held in such county, city or town given by or upon carnivals, circuses or speedways which are operating within the limits of such county, city or town. Until such tax has been paid, the county, city or town shall have a lien upon the property of such carnival, circus or speedway to the extent of the unpaid tax.

Every person, firm, company or corporation which exhibits or gives a performance or exhibition of any of the shows, carnivals, or circuses, above described in this section, without the license required shall be fined not less than $50 nor more than $500 for each offense.

The governing body of any county, city or town may also levy and collect, in addition to any other license tax imposed by this section, a license tax not to exceed $1,000 for each performance of a traveling circus, carnival or show giving performances in this Commonwealth in the open air or in a tent or tents, within fifteen days previous to, or during the week of, or within one week after the time of holding any agricultural fair in any such county, city or town in this Commonwealth. The license taxes provided for in this section shall be assessed and paid before any performance is permitted to be held.

It shall be unlawful for any circus, carnival or show to publish or post in any way, in any county, city or town, at any time within fifteen days prior to the holding of such fair, in such county, city or town, advertising of the exhibition of any such circus, carnival or show.

The governing body of any county, city or town is hereby authorized to levy and collect a fine not to exceed $2,000 for each offense of any person, firm, company or corporation violating any provision of this section. The provisions of this section shall not apply to circuses, carnivals or shows inside the grounds of any agricultural fair held in any county, city or town.

For the purpose of this section a "carnival" shall mean an aggregation of shows, amusements, concessions, eating places and riding devices or any of them, operated together on one lot or street or on contiguous lots or streets, moving from place to place, whether or not the same are owned and actually operated by separate persons, firms or corporations.

B. A resident mechanic or artist may exhibit any production of his own art or invention without compensation and no registration, bond or license may be required of any industrial arts exhibit or of any agricultural fair or the shows exhibited within the grounds of such fair or fairs, during the period of such

fair, whether an admission is charged or not. In addition, no registration, bond or license may be required of resident persons performing in a show or exhibition for charity or other benevolent purposes, or of exhibitions of volunteer fire companies, whether an admission is charged or not. Whenever such show, exhibition or performance is given, whether licensed or exempted by the terms of this subsection, those persons performing or acting in a show, exhibition or performance and operating under either license or exemption, shall be exempt from such tax.

The provisions of the preceding paragraph shall not be construed to allow, without payment of the tax imposed by this section, a performance for charitable or benevolent purposes by a company, association or persons, or a corporation, in the business of giving such exhibitions, no matter what terms of contract may be entered into or under what auspices such exhibition is given by such company, association or persons, or corporation. It is the intent and meaning of this section that every company, association, person, or corporation in the business of giving exhibitions for compensation, whether a part of the proceeds are for charitable or benevolent purposes or not, shall pay the tax imposed by the authority of this section. Such tax shall not be imposed on a bona fide local association or corporation organized for the principal purpose of holding legitimate agricultural exhibitions or industrial arts exhibits when they rent or lease fair or exhibition grounds or buildings for the purpose of giving such exhibitions or performances and exhibit therein agricultural or industrial arts products as a part of such exhibition.

(Code 1950, § 58-266.7; 1982, c. 633; 1984, c. 675.)

§ 58.1-3729. Permanent coliseums, arenas or auditoriums; limitations.

Pursuant to the authority granted in § 58.1-3703, the governing body of any county, city or town may levy and collect a license tax on any permanent coliseum, arena or auditorium having a maximum seating capacity in excess of 10,000 persons and open to the general public.

Any person may present, conduct, operate or provide amusements, exhibitions, sporting events, theatrical performances or any other lawful performances, exhibitions or entertainment under a single license authorized by this section. Notwithstanding any other provision of this chapter, any license imposed by this section shall be in lieu of any or all licenses required for exhibitions, performances or events occurring within such coliseum, arena or auditorium.

The license tax on the operation of any such permanent coliseum, arena or auditorium shall be no greater than $1,000 per year. If such coliseum, arena or auditorium are owned and operated by a political subdivision of the Commonwealth of Virginia, there shall be no tax.

(Code 1950, § 58-266.9; 1982, c. 633; 1984, c. 675.)

§ 58.1-3730. Savings institutions and credit unions; limitations.

Any license tax levied by a county, city or town on savings institutions or on state-chartered credit unions shall be no greater than fifty dollars and shall be levied only where the main office of such savings institution or credit union is located.

(Code 1950, § 58-266.10; 1982, c. 633; 1984, c. 675; 1991, c. 430; 1996, c. 77.)

§ 58.1-3730.1. Industrial loan associations and agricultural credit associations; limitations.

Any license tax levied by a county, city, or town on industrial loan associations or any agricultural credit association created pursuant to the Agricultural Credit Act of 1987 shall not exceed $500.

(1988, c. 419; 1990, c. 278.)

§ 58.1-3731. Certain public service corporations; rate limitation.

Every county, city or town is hereby authorized to impose a license tax, in addition to any tax levied under Chapter 26 (§ 58.1-2600 et seq.) of this title, on (i) telephone and telegraph companies; (ii) water companies; and (iii) heat, light and power companies (except electric suppliers, gas utilities and gas suppliers as defined in § 58.1-400.2 and pipeline distribution companies as defined in § 58.1-2600) at a rate not to exceed one-half of one percent of the gross receipts of such company accruing from sales to the ultimate consumer in such county, city or town. However, in the case of telephone companies, charges for long distance telephone calls shall not be included in gross receipts for purposes of license taxation. After December 31, 2000, the license tax authorized by this section shall not be imposed on

pipeline distribution companies as defined in § 58.1-2600 or on gas suppliers, gas utilities or electric suppliers as defined in § 58.1-400.2, except upon gross receipts for calendar year 2000 as provided in §§ 58.1-2901 D and 58.1-2905 D.

(Code 1950, §§ 58-578, 58-603; 1968, c. 637; 1971, Ex. Sess., c. 41; 1972, cc. 813, 858; 1976, c. 778; 1978, c. 786; 1980, c. 668; 1982, c. 633; 1984, c. 675; 1987, c. 244; 1999, c. 971; 2000, cc. 691, 706; 2001, cc. 829, 861.)

§ 58.1-3732. Exclusions and deductions from "gross receipts.".

A. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business.

The following items are excluded:

1. Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, for any local sales tax or any local excise tax on cigarettes, or amounts received for any federal or state excise taxes on motor fuels.

2. Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

3. Any amount representing returns and allowances granted by the business to its customers.

4. Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

5. Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

6. Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

7. Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory whether or not a gain or loss is recognized for federal income tax purposes.

8. Investment income not directly related to the privilege exercised by a business subject to licensure not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

B. The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

1. Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

2. Any receipts attributable to business conducted in another state or foreign country in which the taxpayer (or its shareholders, partners or members in lieu of the taxpayer) is liable for an income or other tax based upon income.

(Code 1950, § 58-266.1; 1950, p. 155; 1956, c. 242; 1964, c. 424; 1968, c. 619; 1970, cc. 231, 547; 1974, cc. 196, 438; 1975, cc. 23, 621; 1976, cc. 521, 719; 1977, c. 320; 1978, cc. 772, 799, 817; 1979, cc. 565, 568, 570; 1980, cc. 318, 736; 1981, cc. 419, 636; 1982, cc. 348, 548, 552, 554, 558, 633; 1983, c. 554; 1984, cc. 247, 675, 695; 1992, c. 632; 1996, cc. 715, 720; 2002, c. 346; 2007, cc. 85, 834.)

§ 58.1-3732.1. Limitation on gross receipts; pari-mutuel wagering.

Gross receipts for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of this title shall not include the license and admission taxes established under §§ 59.1-392 and 59.1-393, respectively, nor shall it include pari-mutuel wagering pools as established under § 59.1-392.

(1992, c. 820.)

§ 58.1-3732.2. Limitation on gross receipts.

Gross receipts of real estate brokers for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of this title shall not include amounts received by any broker that arise from real estate sales transactions to the extent that such amounts are paid to a real estate agent as a commission on any real estate sales transaction and the agent is subject to the business license tax on such receipts. The broker claiming the exclusion shall identify on its license application each agent to whom the excluded receipts have been paid, and the jurisdiction in the Commonwealth of Virginia to which the agent is subject to business license taxes.

In the event that a real estate agent receives the full commission from the broker less an adjustment for the business license tax paid by the broker on such commissions and the agent pays a desk fee to the broker, the desk fee and other overhead costs paid by the agent to a broker shall not be included in the broker's gross receipts. If the agent files separately, the agent must identify on its license application the broker to whom such excluded receipts have been paid, and the amount of such receipts that were included in the broker's license application.

(1994, c. 397; 2002, c. 532.)

§ 58.1-3732.3. Limitation on gross receipts of providers of funeral services.

Gross receipts of providers of funeral services for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of this title shall not include amounts collected by any provider of funeral services on behalf of, and paid to, another person providing goods or services in connection with a funeral. The exclusion provided by this section shall apply if the goods or services were contracted for by the provider of funeral services or his customer. A provider of funeral services claiming the exclusion shall identify on its license application each person to whom the excluded receipts have been paid and the amount of the excluded receipts paid by the provider of funeral services to such person. As used in this section, "provider of funeral services" means any person engaged in the funeral service profession, operating a funeral service establishment, or acting as a funeral director or embalmer.

(1998, c. 220.)

§ 58.1-3732.4. Limitation on gross receipts; staffing firms.

A. Gross receipts for license tax purposes under this chapter shall not include employee benefits paid by a staffing firm to, or for the benefit of, any contract employee for the period of time that the contract employee is actually employed for the use of the client company pursuant to the terms of a PEO services contract or temporary help services contract. The taxable gross receipts of a staffing firm shall include any administrative fees received by such firm from a client company, whether on a fee-for-service basis or as a percentage of total receipts from the client company.

B. For the purpose of this section:

"Client company" means a person that enters into a contract with a staffing firm by which the staffing firm, for a fee, provides PEO services or temporary help services.

"Contract employee" means an employee performing services under a PEO services contract or temporary help services contract.

"Employee benefits" means wages, salaries, payroll taxes, payroll deductions, workers' compensation

costs, benefits, and similar expenses.

"PEO services" or "professional employer organization services" means an arrangement whereby a staffing firm assumes employer responsibility for payroll, benefits, and other human resources functions with respect to employees of a client company with no restrictions or limitations on the duration of employment.

"PEO services contract" means a contract pursuant to which a staffing firm provides PEO services for a client company.

"Staffing firm" means a person that provides PEO services or temporary help services.

"Temporary help services" means an arrangement whereby a staffing firm temporarily assigns employees to support or supplement a client company's workforce.

"Temporary help services contract" means a contract pursuant to which a staffing firm provides temporary help services for a client company.

(1998, c. 347; 2005, c. 839.)

§ 58.1-3732.5. Limitation on gross receipts of security brokers and dealers.

Gross receipts of a security broker or security dealer for license tax purposes under this chapter shall not include amounts received by the broker or dealer that arise from the sale or purchase of a security to the extent that such amounts are paid to an independent registered representative as a commission on any sale or purchase of a security. The broker or dealer claiming the exclusion shall identify on the person's license application each independent registered representative to whom the excluded receipts have been paid and, if applicable, the jurisdictions in the Commonwealth of Virginia to which the independent registered representative is subject to business license taxes.

(2010, cc. 195, 283.)

§ 58.1-3733. License tax on commission merchants.

Any person engaged in the business of selling merchandise on commission by sample, circular, or catalogue for a regularly established retailer, who has no stock or inventory under his control other than floor samples held for demonstration or sale and owned by the principal retailer, shall be classified as a commission merchant and taxed only on commission income as provided for in category A 4 of § 58.1-3706. Such person engaged in such business shall not be subject to tax on total gross receipts from such sales.

(Code 1950, § 58-266.1; 1950, p. 155; 1956, c. 242; 1964, c. 424; 1968, c. 619; 1970, cc. 231, 547; 1974, cc. 196, 438; 1975, cc. 23, 621; 1976, cc. 521, 719; 1977, c. 320; 1978, cc. 772, 799, 817; 1979, c. 565, 568, 570; 1980, cc. 318, 736; 1981, cc. 419, 636; 1982, cc. 348, 548, 552, 554, 558, 633; 1983, c. 554; 1984, cc. 247, 675, 695.)

§ 58.1-3734. License tax on motor vehicle dealers.

A. Notwithstanding the provisions of § 58.1-605, whenever any locality imposes a license tax applicable to motor vehicle dealers measured by the gross receipts of such dealer, the dealer may separately state the amount of tax applicable to each sale of a motor vehicle and add such tax to the sales price of the motor vehicle. It shall be unlawful for a motor vehicle dealer to collect an amount stated separately as such if such dealer knows the amount to be greater than the tax applicable to such sale. The failure of such merchant to recover the tax from the purchaser shall not relieve such merchant from the obligation to pay the tax to the locality. Any locality may provide by ordinance for the quarterly collection of the gross receipt taxes on such dealers who separately state during the year such receipts are earned.

B. A motor vehicle dealer who collects excess business license tax shall exercise due diligence to refund such tax, in excess of one dollar, to the purchaser within 120 days of discovering such overpayment, and such dealer shall produce evidence of such refund to the commissioner of the revenue or other local assessing officer upon the request of either. Any amounts that are not refunded to purchasers shall be remitted to the commissioner of the revenue or other local assessing officer. During a three-year period after receipt of such amounts, the commissioner of the revenue or other local assessing officer and the treasurer, as that term is defined in § 58.1-3123, shall refund such amounts as appropriate to purchasers

who produce documentation verifying such overpayment. At the expiration of this period, the commissioner of the revenue or other local assessing officer shall consider these funds as additional business license tax. The locality may recover from the motor vehicle dealer its costs of mailing, printing, and other reasonably necessary administrative costs related to refunding such amounts to purchasers.

(Code 1950, § 58-266.1; 1950, p. 155; 1956, c. 242; 1964, c. 424; 1968, c. 619; 1970, cc. 231, 547; 1974, cc. 196, 438; 1975, cc. 23, 621; 1976, cc. 521, 719; 1977, c. 320; 1978, cc. 772, 799, 817; 1979, cc. 565, 568, 570; 1980, cc. 318, 736; 1981, cc. 419, 636; 1982, cc. 348, 548, 552, 554, 558, 633; 1983, c. 554; 1984, cc. 247, 675, 695; 1999, cc. 862, 957.)

§ 58.1-3734.1. Sales involving trade-ins.

A. No locality shall assess omitted taxes against any motor vehicle dealer which calculated its gross receipts for license tax purposes by excluding the value of any vehicle accepted as a trade-in for periods of time prior to January 1, 1991, unless such locality enforced the requirement that motor vehicle dealers include the amount of a trade-in vehicle in gross receipts for periods prior to January 1, 1990.

B. Whenever a motor vehicle dealer accepts a trade-in as part of a sale of a motor vehicle, the dealer's gross receipts for license tax purposes shall not include the amount of the trade-in.

(1990, c. 670.)

§ 58.1-3735. Departments of license inspection in certain counties.

The governing body of any county having a population of less than 41,000 and adjoining a city of more than 230,000 population and of any county having a population of more than 70,000, and adjoining 4 cities in this Commonwealth may by resolution provide for the creation of a department of license inspection with a license inspector in charge of such department. The license inspector shall be appointed by the governing body of the county. The license inspector shall enforce the ordinance of the county with regard to licenses and license taxes, review any and all records of the commissioner of revenue, other than income tax returns, and examine and audit the books of all persons, firms and corporations whom he has reasonable cause to believe are liable for payment of any license levied by the county. The license inspector shall be paid a salary for his services to be fixed by the governing body. The governing body of the county may employ any such person as it deems necessary for the operation of such department and may make such rules and regulations as it deems expedient for the operation of such department.

(Code 1950, § 58-266.6; 1956, c. 57; 1962, c. 490; 1984, c. 675.)