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HOUSE BILL NO. 997

Offered January 24, 2000

A BILL to amend and reenact §§ 58.1-603, 58.1-604, 58.1-628, and 58.1-638 of the Code of Virginia, relating to sales and use tax.

Patron—Robinson

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-603, 58.1-604, 58.1-628, and 58.1-638 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-603. Imposition of sales tax.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of ~~three~~ five and one-half percent:

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

4. Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

5. Of the gross sales of any services which are expressly stated as taxable within this chapter.

§ 58.1-604. Imposition of use tax.

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of ~~three~~ five and one-half percent:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.

§ 58.1-628. Bracket system for combined state and local tax.

A. The following brackets of prices shall be used for the collection of the combined state and local tax:

\$0.00 to \$0.11 no tax

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60	.12	to	.33	1¢	tax
61	.34	to	.55	2¢	tax
62	.56	to	.77	3¢	tax
63	.78	to	.99	4¢	tax
64	1.00	to	1.22	5¢	tax
65	1.23	to	1.44	6¢	tax
66	1.45	to	1.66	7¢	tax
67	1.67	to	1.88	8¢	tax
68	1.89	to	2.11	9¢	tax
69	2.12	to	2.33	10¢	tax
70	2.34	to	2.55	11¢	tax
71	2.56	to	2.77	12¢	tax
72	2.78	to	2.99	13¢	tax
73	3.00	to	3.22	14¢	tax
74	3.23	to	3.44	15¢	tax
75	3.45	to	3.66	16¢	tax
76	3.67	to	3.88	17¢	tax
77	3.89	to	4.11	18¢	tax
78	4.12	to	4.33	19¢	tax
79	4.34	to	4.55	20¢	tax
80	4.56	to	4.77	21¢	tax
81	4.78	to	5.00	22¢	tax

82
83 On transactions over five dollars, the tax shall be computed at four and one-half percent, one half
84 cent or more being treated as one cent. The foregoing bracket system shall not relieve the dealer from
85 the duty and liability to remit an amount equal to four and one-half percent of his gross taxable sales as
86 provided in this chapter. If the dealer, however, can show to the satisfaction of the Tax Commissioner
87 that more than eighty-five percent of the total dollar volume of his gross taxable sales during the taxable
88 month was from individual sales at prices of ten cents or less each and that he was unable to adjust his
89 prices in such manner as to prevent the economic incidence of the sales tax from falling on him, the
90 Tax Commissioner shall determine the proper tax liability of the dealer based on that portion of the
91 dealer's gross taxable sales which was from sales at prices of eleven cents or more.

92 *B. The Tax Commissioner shall provide through regulations the bracket system for the combined*
93 *state and local tax rate of six and one-half percent no later than April 1, 2001.*

94 § 58.1-638. Disposition of state sales and use tax revenue; Transportation Trust Fund; localities'
95 share; Game Protection Fund.

96 A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax
97 revenue collected under the preceding sections of this chapter.

98 1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted
99 by the 1986 Special Session of the General Assembly *and the two percent sales and use tax increase*
100 *enacted by the 2000 Session of the General Assembly* shall be paid, in the manner hereinafter provided
101 in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the
102 Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port
103 Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth
104 Airport Fund as provided in this section; and an aggregate of 14.5 percent in fiscal year 1998-1999 and
105 14.7 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass
106 Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an
107 estimate of the net revenue to be received into the state treasury each month, and such estimated
108 payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall
109 be made to the Fund on the last day of each month.

110 2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall
111 be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

112 a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds
113 remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in
114 the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be
115 paid to any authority, locality or commission for the purposes hereinafter specified.

116 b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth
117 Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to
118 support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary
119 ports within the Commonwealth.

c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund. The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington Airports Authority (MWAA), as follows:

From July 1, 1995, through June 30, 2000, any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation Board from the Commonwealth Transportation Fund, shall be allocated as follows: sixty percent to MWAA, up to a maximum annual amount of two million dollars, and forty percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

Of the remaining amount:

a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however, shall receive less than \$50,000 nor more than \$2 million per year from this provision.

b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever airports on a discretionary basis, except airports owned or leased by MWAA.

c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports on a discretionary basis.

4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass Transit Fund.

a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section may be used to support a maximum of fifty percent of the public transportation administrative costs and up to eighty percent of the costs of ridesharing programs borne by the locality. These amounts may be used to support up to ninety-five percent of the local or nonfederal share of capital project costs for public transportation and ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments on local or agency transit bonds. Further, these amounts may be used to support a maximum of ninety-five percent of the costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies for public transportation. The term "borne by the locality" means the local share eligible for state assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance received by the locality.

c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth Transportation Board as follows:

(1) Funds for special programs, which shall include ridesharing, experimental transit, and technical assistance, shall not exceed 1.5 percent of the Fund.

(2) The Board may allocate these funds to any locality or planning district commission to finance up to eighty percent of the local share of all costs associated with the development, implementation, and continuation of ridesharing programs.

(3) Funds allocated for experimental transit projects may be paid to any local governing body, transportation district commission, or public corporation or may be used directly by the Department of Rail and Public Transportation for the following purposes:

(a) To finance up to ninety-five percent of the capital costs related to the development, implementation and promotion of experimental public transportation and ridesharing projects approved by the Board.

(b) To finance up to ninety-five percent of the operating costs of experimental mass transportation and ridesharing projects approved by the Board for a period of time not to exceed twelve months.

181 (c) To finance up to ninety-five percent of the cost of the development and implementation of any
182 other project designated by the Board where the purpose of such project is to enhance the provision and
183 use of public transportation services.

184 d. Funds allocated for public transportation promotion and operation studies may be paid to any local
185 governing body, planning district commission, transportation district commission, or public transit
186 corporation, or may be used directly by the Department of Rail and Public Transportation for the
187 following purposes and aid of public transportation services:

188 (1) At the approval of the Board to finance a program administered by the Department of Rail and
189 Public Transportation designed to promote the use of public transportation and ridesharing throughout
190 Virginia.

191 (2) To finance up to fifty percent of the local share of public transportation operations planning and
192 technical study projects approved by the Board.

193 e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same
194 proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for
195 the purposes specified in subdivision 4 b.

196 f. The remaining twenty-five percent shall be distributed for capital purposes on the basis of
197 ninety-five percent of the nonfederal share for federal projects and ninety-five percent of the total costs
198 for nonfederal projects. In the event that total capital funds available under this subdivision are
199 insufficient to fund the complete list of eligible projects, the funds shall be distributed to each transit
200 property in the same proportion that such capital expenditure bears to the statewide total of capital
201 projects.

202 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as
203 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the
204 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be
205 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the
206 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,
207 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds
208 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the
209 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds
210 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth
211 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political
212 subdivision, another public entity created by an act of the General Assembly, or a private entity as
213 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the
214 Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of
215 the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the
216 establishment, improvement, or expansion of public transportation services through specific projects
217 approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit
218 Capital Fund shall receive local, regional or private funding for at least twenty percent of the nonfederal
219 share of the total project cost.

220 5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the
221 Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of
222 Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

223 a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality
224 using WMATA's capital formula shall be paid first by NVTC. NVTC shall use ninety-five percent state
225 aid for these payments.

226 b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the
227 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall
228 include twenty percent of annual local bus capital expenses. Hold harmless protections and obligations
229 for NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

230 Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and
231 reliable source of revenue as defined by Public Law 96-184.

232 B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed
233 among the counties and cities of this Commonwealth in the manner provided in subsections C and D.

234 C. The localities' share of the net revenue distributable under this section among the counties and
235 cities shall be apportioned by the Comptroller and distributed among them by warrants of the
236 Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month
237 during which the net revenue was received into the state treasury. The distribution of the localities' share
238 of such net revenue shall be computed with respect to the net revenue received into the state treasury
239 during each month, and such distribution shall be made as soon as practicable after the close of each
240 such month.

241 D. The net revenue so distributable among the counties and cities shall be apportioned and
242 distributed upon the basis as certified to the Comptroller by the Department of Education, of the number

of children in each county and city according to the most recent statewide census of school population taken by the Department of Education pursuant to § 22.1-284, as adjusted in the manner hereinafter provided. No special school population census, other than a statewide census, shall be used as the basis of apportionment and distribution except that in any calendar year in which a statewide census is not reported, the Department of Education shall adjust such school population figures by the same percent of annual change in total population estimated for each locality by The Center for Public Service. The revenue so apportionable and distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, which shall be considered as funds raised from local resources. In any county, however, wherein is situated any incorporated town constituting a school division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, the proper proportionate amount received by him in the ratio that the school population of such town bears to the school population of the entire county. If the school population of any city or of any town constituting a school division is increased by the annexation of territory since the last preceding school population census, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such census and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law enforcement. Not later than thirty days after the close of each quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established under § 29.1-101.1, is equal to or in excess of \$35 million, any portion of sales and use tax revenues that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the balance in the Capital Improvement Fund is less than \$35 million.

F. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

G. The term "net revenue," as used in this section, means the gross revenue received into the general fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter, less refunds to taxpayers.

2. That the provisions of this act regarding § 58.1-628 shall become effective on January 1, 2001.
All other provisions of this act shall become effective July 1, 2001.