

# 2003 SESSION

INTRODUCED

032407996

## HOUSE BILL NO. 2047

Offered January 8, 2003

Prefiled January 7, 2003

A *BILL to amend and reenact §§ 4.1-236, 58.1-622, 58.1-1001, 58.1-2217, 58.1-3524, 58.1-3526, 58.1-3528, 58.1-3531, and 58.1-3536, relating to taxation; the Omnibus Fiscal Emergency Recovery Act of 2003.*

Patron—Woodrum

Referred to Committee on Finance

Whereas, a recession began in Virginia late in 2001 resulting in the collection of fewer revenues than originally anticipated by the 2001 General Assembly; and

Whereas, in order to deal with the revenue shortfall the 2002 General Assembly adjusted the 2003-2004 budget; and

Whereas, such revenue shortfall continued to grow in 2002 requiring further budget adjustments by the Governor in October 2002, in the area of spending; and

Whereas, further revenue and spending adjustments will be necessary during the 2003 General Assembly Session; now, therefore

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-236, 58.1-622, 58.1-1001, 58.1-2217, 58.1-3524, 58.1-3526, 58.1-3528, 58.1-3531, and 58.1-3536 of the Code of Virginia are amended and reenacted as follows:

§ 4.1-236. Excise tax on beer and wine coolers; payment of tax; exceptions.

A. There is levied on all beer and wine coolers sold in the Commonwealth an excise tax at the rate of:

1. ~~Twenty-five and sixty-five hundredths~~ *Thirty-five and one-third* cents per gallon per barrel;

2. ~~Two~~ 2.75 cents per bottle on bottles of not more than ~~seven~~ 7 ounces each;

3. ~~Two and sixty-five hundredths~~ 3.65 cents per bottle on bottles of more than ~~seven~~ 7 ounces each but not more than ~~twelve~~ 12 ounces each; and

4. ~~Two and twenty-two one hundredths~~ *mills* 0.3 cent per ounce per bottle on bottles of more than ~~twelve~~ 12 ounces each.

B. The tax herein levied shall be paid by the manufacturer, bottler or wholesaler selling beer or wine coolers to licensed retailers.

C. Any person selling or offering for sale in the Commonwealth any beer or wine coolers purchased or obtained from any person not licensed either as a manufacturer, bottler or wholesaler under this chapter, and on which the excise tax levied has not been paid, shall pay the tax.

D. This section shall not apply to any manufacturer, bottler or wholesaler of any beer or wine coolers, which are:

1. Shipped out of the Commonwealth by such manufacturer, bottler or wholesaler for resale outside of the Commonwealth;

2. Sold to the United States or to any instrumentality thereof for resale to or for the use or consumption by members of the armed forces of the United States;

3. Sold to the Veterans Administration for resale to veterans of the armed services of the United States who are hospitalized or domiciled in hospitals and homes of the Veterans Administration within the geographical confines of the Commonwealth;

4. Shipped to a post exchange of the armed forces of the United States for resale by such post exchange, whether such post exchange is located on a United States military reservation or not;

5. Shipped to any instrumentality of the United States which is exempt on constitutional grounds from the excise tax levied by this section; or

6. Sold and delivered to foreign boats or aircraft actually engaged in foreign commerce or commerce between any ports of the United States or commerce between the United States and any of its possessions outside of the several states and the District of Columbia.

The exceptions allowed in subdivisions 1, 4, and 5 of this subsection shall be applicable only if, in each case, evidence satisfactory to the Board is submitted in writing that such beer or wine coolers were so shipped.

§ 58.1-622. Discount.

For the purpose of compensating a dealer holding a certificate of registration under § 58.1-613 for accounting for and remitting the tax levied by this chapter, such dealer shall be allowed the following percentages of the first ~~three~~ 3 percent of the tax levied by §§ 58.1-603 and 58.1-604 and accounted for

INTRODUCED

HB2047

3/25/10 22:25

59 in the form of a deduction in submitting his return and paying the amount due by him if the amount  
60 due was not delinquent at the time of payment.

| 61 | Monthly Taxable Sales  | Percentage |
|----|------------------------|------------|
| 62 | \$ 0 to \$62,500       | 4%         |
| 63 | \$ 62,501 to \$208,000 | 3%         |
| 64 | \$ 208,001 and above   | 2%         |

65  
66 The discount allowed by this section shall be computed according to the schedule provided,  
67 regardless of the number of certificates of registration held by a dealer. *However, no dealer shall deduct*  
68 *more than \$400 a month for each certificate of registration.*

69 § 58.1-1001. Tax levied; rate.

70 In addition to all other taxes now imposed by law, every person within this Commonwealth who  
71 sells, stores or receives cigarettes made of tobacco or any substitute thereof, for the purpose of  
72 distribution to any person within this Commonwealth, shall pay to this Commonwealth an excise tax of  
73 ~~one and one-quarter mills~~ 7.5 cents on each such cigarette pack of cigarettes.

74 § 58.1-2217. Taxes levied; rate.

75 A. There is hereby levied a tax at the rate of ~~seventeen and one-half~~ 19.5 cents per gallon on  
76 gasoline and gasohol.

77 B. There is hereby levied a tax at the rate of ~~sixteen~~ 18 cents per gallon on diesel fuel.

78 C. Blended fuel that contains gasoline shall be taxed at the rate levied on gasoline. Blended fuel that  
79 contains diesel fuel shall be taxed at the rate levied on diesel fuel.

80 D. There is hereby levied a tax at the rate of ~~five~~ 7 cents per gallon on aviation gasoline. Any  
81 person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use  
82 in highway vehicles any aviation gasoline shall be liable for the tax at the rate of ~~seventeen and one-half~~  
83 ~~cents~~ 19.5 per gallon, along with any penalties and interest that may accrue.

84 E. There is hereby levied a tax at the rate of ~~five~~ 7 cents per gallon on aviation jet fuel purchased or  
85 acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax  
86 at the rate of ~~five~~ 7 cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded  
87 aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is  
88 hereby levied a tax at the rate of ~~one-half cent~~ 2.5 cents per gallon on all aviation jet fuel, excluding  
89 bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000  
90 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires  
91 for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall  
92 be liable for the tax imposed at the rate of ~~sixteen~~ 18 cents per gallon, along with any penalties and  
93 interest that may accrue.

94 F. In accordance with § 62.1-44.34:13, a storage tank fee is imposed on each gallon of gasoline,  
95 aviation gasoline, diesel fuel (including dyed diesel fuel), blended fuel, and heating oil sold and  
96 delivered or used in the Commonwealth.

97 § 58.1-3524. Reimbursement of tangible personal property taxes; deduction on tangible personal  
98 property tax bills.

99 A. For tax year 1998, the Commonwealth shall directly reimburse taxpayers, for tangible personal  
100 property tax levies paid on any qualifying vehicle, a percentage of the reimbursable amount determined  
101 pursuant to subdivision B 1, as provided in § 58.1-3525. For tax year 1999 and tax years thereafter, the  
102 Commonwealth shall pay to treasurers a percentage of the reimbursable amount determined pursuant to  
103 subdivisions B 2 through B 5 on any qualifying vehicle, as provided in § 58.1-3526.

104 B. Subject to the conditions of subsections C and D, the amount of the reimbursement to taxpayers  
105 for tax year 1998 and the amount of the payments to treasurers for tax years after 1998 shall be 100  
106 percent for qualifying vehicles with a value of one thousand dollars or less and for each qualifying  
107 vehicle with a value of more than one thousand dollars shall be as follows:

| 108 | Percentage Level   |
|-----|--|
| 109 |  |
| 110 | 1. For any tax year beginning in 12.5 percent of the reimbursable cal- |
| 111 | endar year 1998 amount for each qualifying vehicle 2. -                |
| 112 | For any tax year beginning in 27.5 percent of the reimbursable         |
| 113 | calendar year 1999 amount for each qualifying vehicle 3-               |
| 114 | . For any tax year beginning in 47.5 percent of the reimbursable cale- |
| 115 | ndar year 2000 amount for each qualifying vehicle                      |
| 116 | 4. For any tax year beginning in 70 percent of the reimbursable calen- |
| 117 | dar year 2001 amount for each qualifying vehicle 5. Fo-                |
| 118 | r any tax year beginning in 100 percent of the reimbursable            |

calendar year 2002 and tax  
years thereafter

amount for each qualifying vehicle y-

C. Notwithstanding the schedule set forth in subsection B, the percentage level for each qualifying vehicle to be paid by the Commonwealth for a tax year shall not be increased at the beginning of any calendar year above the percentage level paid by the Commonwealth in the preceding tax year if:

1. Actual general fund revenues for a fiscal year, including transfers, are less than the projected general fund revenues, as reported in the general appropriation act in effect at that time, by one-half of one percent or more of the amount of actual general fund revenues for such fiscal year;

2. The general fund revenue forecast provided by the Governor in December pursuant to § 2.2-1503 indicates that general fund revenues, excluding transfers, for any fiscal year will be less than five percent greater than general fund revenues for the immediately preceding fiscal year; or

3. The general fund revenue forecast provided by the Governor in December pursuant to § 2.2-1503 indicates that total general fund revenues available for appropriation, including transfers, for either of the fiscal years covered by the general appropriation act in effect at that time will be less than the general fund appropriations for such fiscal year or years.

D. If the percentage level remains the same for consecutive tax years, the percentage level to be used in the following tax year shall remain the same unless none of the conditions described in subsection C have occurred, in which event the amount to be paid by the Commonwealth for the immediately following tax year shall be equal to the next highest percentage amount listed in subsection B.

*E. Notwithstanding the provisions of subsections B, C, and D, the amount of the reimbursement for tax year 2003 shall be 59.5 percent for qualifying vehicles. The reimbursement amount shall remain at 59.5 percent until such time as the general fund revenues, including transfers, for the most recently ended fiscal year after 2004 equal or exceed the amount of such revenues collected in tax year 2000 and adjusted for inflation. The percentage level to be used in the following tax year shall be equal to the next highest percentage amount greater than 59.5 percent listed in subsection B.*

~~E~~F. An amount equal to the percentage of the reimbursable amount as determined under subdivisions B 2 through B 5 *or subsection E, whichever is applicable*, shall appear as a deduction on the tangible personal property tax bill for qualifying vehicles, as provided by subsection E of § 58.1-3912.

1. In the event the General Assembly changes the percentage of the reimbursable amount as described under subsection B *or E, whichever is applicable*, for the current tax year and a locality has already printed its tangible personal property tax bills for qualifying vehicles for the year that the percentage is changed, the following procedures shall apply:

a. If the percentage of the reimbursable amount is decreased for the current tax year and the taxpayer has paid the assessment, the locality may (i) levy an additional amount for the amount of the difference between the percentage of the reimbursable amount for the tax year reflected on the original assessment and the percentage of the reimbursable amount for the tax year as modified by the General Assembly in the current year or (ii) carry forward the additional levy and include it on the subsequent tax bill, provided such levy is not subject to penalty and interest.

b. If the percentage of the reimbursable amount is increased for the current tax year and the taxpayer has paid the assessment, the locality shall issue a refund to the taxpayer for the amount of the difference between the percentage of the reimbursable amount for the tax year reflected on the original assessment and the percentage of the reimbursable amount for the tax year as modified by the General Assembly in the current tax year. Such refunds shall be issued by the treasurer no later than thirty days after receipt of the payment from the Commonwealth pursuant to § 58.1-3526.

2. In the event the General Assembly changes the percentage of the reimbursable amount as described under subsection B *or E, whichever is applicable*, before a locality has printed its tangible personal property tax bills for qualifying vehicles, the following procedures shall apply:

a. If the percentage of the reimbursable amount is decreased for the current tax year, the locality may adjust each taxpayer's tangible personal property tax bill to reflect the changes made by the General Assembly to the percentage of the reimbursable amount.

b. If the percentage of the reimbursable amount is increased for the current tax year, the locality shall adjust each taxpayer's tangible personal property tax bill to reflect the changes made by the General Assembly to the percentage of the reimbursable amount.

§ 58.1-3526. Payment to treasurers for tax year 1999 and thereafter.

A. For tax year 1999 and tax years thereafter, the Commonwealth shall pay to treasurers the amount specified in subdivisions B 2 through B 5 *or subsection E, whichever is applicable*, of § 58.1-3524 for each qualifying vehicle, if the conditions of this section are satisfied.

B. As provided by subsection E of § 58.1-3912, the treasurer shall include such amount as a deduction on the face of tangible personal property tax bills for qualifying vehicles and shall clearly designate such deduction as an amount to be paid by the Commonwealth. In addition to tangible

180 personal property taxes levied on property other than qualifying vehicles, the taxpayer shall pay to the  
181 treasurer any payment due for the difference between tangible personal property taxes levied on a  
182 qualifying vehicle and such deduction. On or before the date the certified personal property tax book is  
183 required by § 58.1-3118 to be provided to the treasurer, the commissioner of the revenue shall identify  
184 each qualifying vehicle and its value to the treasurer of the locality.

185 C. Except as provided by subsection B of § 58.1-3528, upon full payment of the tangible personal  
186 property tax levied on a qualifying vehicle, less the amount of the deduction, as described in subsection  
187 B of this section, the treasurer shall make a request to the Commonwealth for payment of the amount  
188 equal to the amount specified in subdivisions B 2 through B 5 *or subsection E, whichever is applicable*,  
189 of § 58.1-3524 for the qualifying vehicle. Such request shall include a summary of the information  
190 appearing on the related tangible personal property tax bill. The summary information to be included in  
191 the request and the form of such request shall be prescribed by the Comptroller. Upon receipt of such  
192 information, the Comptroller shall issue the proper warrant for payment by the State Treasurer. If the  
193 Comptroller determines that a treasurer is unable to provide the summary information, he shall issue a  
194 warrant for payment to such treasurer in an amount equal to the estimate made by the Department under  
195 § 58.1-3529. Provided that the request for payment is received by the deadlines established and in the  
196 format prescribed by the Comptroller, he shall issue the warrant for payment no later than two business  
197 days after the receipt of the request from the treasurer.

198 D. 1. If a taxpayer is required to make a payment for the difference between the tangible personal  
199 property tax levied on a qualifying vehicle and the deduction as described in subsection B, the amount  
200 as determined under subdivisions B 2 through B 5 *or subsection E, whichever is applicable*, of  
201 § 58.1-3524 for such qualifying vehicle shall be paid by the Commonwealth to the treasurer at such  
202 times as are consistent with the treasurer's receipt of tangible personal property tax payments on  
203 qualifying vehicles as of January 1, 1998.

204 2. Except as provided in subdivision D 3, if a taxpayer is not required to return to the treasurer any  
205 payment of tangible personal property tax for a qualifying vehicle, the amount as determined under  
206 subdivisions B 2 through B 5 *or subsection E, whichever is applicable*, of § 58.1-3524 for such  
207 qualifying vehicle shall be paid by the Commonwealth to the treasurer over a four-week period. There  
208 shall be one equal payment in each week. The first payment shall be made four weeks prior to the  
209 county, city, or town's due date for tangible personal property taxes on qualifying vehicles as of January  
210 1, 1998. However, the Comptroller shall not issue a warrant for payment unless he has received the  
211 certification described in § 58.1-3916.01.

212 3. If (i) a taxpayer is not required to return to the treasurer any payment of tangible personal  
213 property tax for a qualifying vehicle and (ii) the tangible personal property tax levy on such vehicle has  
214 been made as authorized under § 58.1-3516, the amount as determined under subdivisions B 2 through B  
215 5 *or subsection E, whichever is applicable*, of § 58.1-3524 for such qualifying vehicle shall be paid by  
216 the Commonwealth to the treasurer at such times as are consistent with the treasurer's receipt of tangible  
217 personal property tax payments on qualifying vehicles as of January 1, 1998.

218 E. In addition to the summary information described in subsection C, the treasurer shall provide any  
219 additional information related to qualifying vehicles to the Department. Such additional information shall  
220 be prescribed in the guidelines promulgated under § 58.1-3532.

221 § 58.1-3528. Interest; Commonwealth to make payments when taxes paid in full.

222 A. Payments to taxpayers and treasurers under this chapter shall not include interest.

223 B. The Commonwealth shall not make the reimbursement to a taxpayer, as provided under  
224 § 58.1-3525, unless the tangible personal property taxes for the related qualifying vehicle have been paid  
225 in full.

226 C. The Commonwealth shall not make the reimbursement to a treasurer, as provided under  
227 subsection C of § 58.1-3526, unless the tangible personal property taxes for the related qualifying  
228 vehicle, if in excess of five dollars, have been paid in full.

229 D. Notwithstanding the provisions of subsections B and C of this section, if a county, city, or town  
230 has entered into an agreement with a taxpayer under which such taxpayer is allowed to satisfy the  
231 tangible personal property tax liability on a qualifying vehicle in installment payments, due to financial  
232 hardship, the Commonwealth shall pay the respective amount specified in subdivisions B 2 through B 5  
233 *or subsection E, whichever is applicable*, of § 58.1-3524 for such vehicle to the treasurer if the taxpayer  
234 has paid at least fifty percent of such tangible personal property tax liability.

235 § 58.1-3531. Full payment of tangible personal property tax on qualifying vehicles not made.

236 Beginning in tax year 1999, notwithstanding any other provision of law, general and special,  
237 including the provisions of the charter of any county, city, or town:

238 1. If a taxpayer fails to make the payment described in subsection B of § 58.1-3526 by its due date  
239 or fails to comply with the filing requirements for qualifying vehicles under §§ 58.1-3518 and  
240 58.1-3518.1, no interest may be imposed on any amount to be paid by the Commonwealth as  
241 determined under subdivisions B 2 through B 5 of § 58.1-3524. In calculating penalties to be imposed

on the taxpayer for failure to make the payment described in subsection B of § 58.1-3526 by its due date or for failure of the taxpayer to comply with the filing requirements for qualifying vehicles under §§ 58.1-3518 and 58.1-3518.1, the treasurer may take into consideration the full amount of the tangible personal property tax levied including any amount to be paid by the Commonwealth as determined under subdivisions B 2 through B 5 *or subsection E, whichever is applicable*, of § 58.1-3524 and any other relevant information.

2. If a taxpayer (i) fails to comply with the filing requirements for a qualifying vehicle under §§ 58.1-3518 and 58.1-3518.1 and (ii) is not required to return to the treasurer any payment of tangible personal property tax for such vehicle, no new or replacement local motor vehicle license for such vehicle, as described in Article 11 (§ 46.2-750 et seq.) of Chapter 6 of Title 46.2 shall be issued until the taxpayer complies with such filing requirements.

§ 58.1-3536. Limitation on payments to treasurers.

A. The Governor shall not submit any budget bill pursuant to subsection A of § 2.2-1509 or any amendments to a general appropriation act pursuant to subsection B of § 2.2-1509 for fiscal year 2000-2001 or any fiscal year thereafter that propose the appropriation of an amount that exceeds a total of eight and one-half percent of the amount of total general fund revenues available for appropriation for payments in any fiscal year to treasurers pursuant to § 58.1-3526.

B. If a general fund revenue forecast provided by the Governor in December of any year pursuant to § 2.2-1503 indicates that the appropriation of funds for payments to treasurers at the level stated in the Commissioner's certificate made pursuant to subsection B of § 58.1-3533 would exceed such eight and one-half percent limitation, then the percentage amount determined under subsection B *or E* of § 58.1-3524 shall be reduced to a percentage of the reimbursable amount of each qualifying vehicle, to be determined by the Department, that would require the amount to be paid by the Commonwealth to treasurers for payments to treasurers to not exceed such eight and one-half percent limitation. Upon determining such reduced percentage, the Department shall notify treasurers of the reduced percentage.

C. For any tax year corresponding to the fiscal year for which the percentage of payment is reduced as provided in subsection B, the Commonwealth shall pay to treasurers the reduced percentage of the reimbursable amount of each qualifying vehicle, if the conditions of subsections B through E of § 58.1-3526 are satisfied.

D. Treasurers shall include the product obtained by multiplying the reduced percentage by the reimbursable amount for the qualifying vehicle as a deduction on tangible personal property tax bills for such tax year. However, if the percentage for the current tax year is reduced after a locality has mailed its tangible personal property tax bills for qualifying vehicles for such tax year, the locality may issue an additional assessment for the amount of the difference between the percentage amount for the tax year reflected on the original assessment and the reduced amount of the deduction. If the percentage for the current tax year is reduced before a locality has mailed its tangible personal property tax bills for qualifying vehicles for such tax year, the locality may adjust each taxpayer's tangible personal property tax bill to reflect the reduced amount of the deduction.

**2. That the provisions of this act shall be effective beginning on July 1, 2003, and ending July 1, 2005.**