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HOUSE BILL NO. 2726**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Finance
on February 11, 2003)

(Patron Prior to Substitute—Delegate Ware)

*A BILL to amend and reenact §§ 58.1-609.3 and 58.1-3660 of the Code of Virginia, relating to certified pollution control equipment and facilities classification.***Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-609.3 and 58.1-3660 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-609.3. Commercial and industrial exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in processing, manufacturing, refining, mining or converting products for sale or resale. The provisions of this subsection do not apply to the drilling, extraction, refining, or processing of oil, gas, natural gas and coalbed methane gas.

3. Tangible personal property sold or leased to (i) a public service corporation subject to a state franchise or license tax upon gross receipts, (ii) a telecommunications company as defined in § 58.1-400.1 or (iii) a telephone company chartered in the Commonwealth which is exclusively a local mutual association and is not designated to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof, for use or consumption by such corporation, company, person or mutual association directly in the rendition of its public service; and tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by motor vehicle or railway, for use or consumption by such common carrier directly in the rendition of its public service.

4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant vessels, and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used exclusively or principally in interstate or foreign commerce.

5. Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

6. Tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports at least one day per week, for use or consumption by such airline directly in the rendition of its common carrier service.

7. Meals furnished by restaurants or food service operators to employees as a part of wages.

8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

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60 9. (i) Certified pollution control equipment and facilities as defined in § 58.1-3660, *except for any*
61 *equipment that has not been certified to the Department of Taxation by a state certifying authority*
62 *pursuant to such section* and (ii) effective retroactive to July 1, 1994, and ending July 1, 2006, certified
63 pollution control equipment and facilities as defined in § 58.1-3660 and which, in accordance with such
64 section, have been certified by the Department of Mines, Minerals and Energy for coal, oil and gas
65 production, including gas, natural gas, and coalbed methane gas.

66 10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption
67 directly in the rendition of their services.

68 11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of
69 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or
70 photocopying of products for sale or resale.

71 12. From July 1, 1994, and ending July 1, 2006, raw materials, fuel, power, energy, supplies,
72 machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling,
73 extraction, refining, or processing of natural gas or oil and the reclamation of the well area. For the
74 purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane
75 gas" as defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," "refining," and
76 "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw
77 natural gas into a usable condition consistent with commercial practices, and the gathering and
78 transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition.
79 Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the
80 preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or
81 oil for sale or resale, or in well area reclamation activities required by state or federal law.

82 13. Beginning July 1, 1997, and ending July 1, 2011, (i) the sale, lease, use, storage, consumption, or
83 distribution of an orbital or suborbital space facility, space propulsion system, space vehicle, satellite, or
84 space station of any kind possessing space flight capability, including the components thereof,
85 irrespective of whether such facility, system, vehicle, satellite, or station is returned to this
86 Commonwealth for subsequent use, storage or consumption in any manner when used to conduct
87 spaceport activities; (ii) the sale, lease, use, storage, consumption or distribution of tangible personal
88 property placed on or used aboard any orbital or suborbital space facility, space propulsion system,
89 space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal
90 property is returned to this Commonwealth for subsequent use, storage or consumption in any manner
91 when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary
92 vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport
93 activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment
94 purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and
95 services provided to operate and maintain launch facilities, launch equipment, payload processing
96 facilities and payload processing equipment used to conduct spaceport activities.

97 For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a
98 facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

99 The exemptions provided by this subdivision shall not be denied by reason of a failure,
100 postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion
101 system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or
102 any components thereof.

103 § 58.1-3660. Certified pollution control equipment and facilities.

104 A. Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a
105 separate class of property and shall constitute a classification for local taxation separate from other such
106 classification of real or personal property and such property. The governing body of any county, city or
107 town may, by ordinance, exempt or partially exempt such property from local taxation.

108 B. As used in this section:

109 "Certified pollution control equipment and facilities" shall mean any property, including real or
110 personal property, equipment, facilities, or devices, used primarily for the purpose of abating or
111 preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying
112 authority having jurisdiction with respect to such property has certified to the Department of Taxation as
113 having been constructed, reconstructed, erected, or acquired in conformity with the state program or
114 requirements for abatement or control of water or atmospheric pollution or contamination. *Such property*
115 *shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps,*
116 *underbrush, and other vegetative cover for reuse as mulch, compost, or fuel, whether or not such*
117 *property has been certified to the Department of Taxation by a state certifying authority.*

118 "State certifying authority" shall mean the State Water Control Board, for water pollution; the State
119 Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for coal,
120 oil, and gas production, including gas, natural gas, and coalbed methane gas; and the Virginia Waste
121 Management Board, for waste disposal facilities, and shall include any interstate agency authorized to

122 act in place of a certifying authority of the Commonwealth.