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SENATE BILL NO. 1273

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance
on February 21, 2005)

(Patron Prior to Substitute—Senator Rerras)

A BILL to amend and reenact §§ 58.1-3503 and 58.1-3506 of the Code of Virginia, relating to personal property tax; classification of commercial boats.

Be it enacted by the General Assembly of Virginia:**1. That §§ 58.1-3503 and 58.1-3506 of the Code of Virginia are amended and reenacted as follows:**

§ 58.1-3503. General classification of tangible personal property.

A. Tangible personal property is classified for valuation purposes according to the following separate categories which are not to be considered separate classes for rate purposes:

1. Farm animals, except as exempted under § 58.1-3505.

2. Farm machinery, except as exempted under § 58.1-3505.

3. Automobiles, except those described in subdivisions 7, 8 and 9 of this subsection and in subdivision A 8 of § 58.1-3504, which shall be valued by means of a recognized pricing guide or if the model and year of the individual automobile are not listed in the recognized pricing guide, the individual vehicle may be valued on the basis of percentage or percentages of original cost. In using a recognized pricing guide, the commissioner shall use either of the following two methods. The commissioner may use all applicable adjustments in such guide to determine the value of each individual automobile, or alternatively, if the commissioner does not utilize all applicable adjustments in valuing each automobile, he shall use the base value specified in such guide which may be either average retail, wholesale, or loan value, so long as uniformly applied within classifications of property. If the model and year of the individual automobile are not listed in the recognized pricing guide, the taxpayer may present to the commissioner proof of the original cost, and the basis of the tax for purposes of the motor vehicle sales and use tax as described in § 58.1-2405 shall constitute proof of original cost. If such percentage or percentages of original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the commissioner may select another method which establishes fair market value.

4. Trucks of less than two tons, which may be valued by means of a recognized pricing guide or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage or percentages of original cost.

5. Trucks and other vehicles, as defined in § 46.2-100, except those described in subdivisions 4, and 6 through 10 of this subsection, which shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage or percentages of original cost.

6. Manufactured homes, as defined in § 36-85.3, which may be valued on the basis of square footage of living space.

7. Antique motor vehicles, as defined in § 46.2-100, which may be used for general transportation purposes as provided in subsection C of § 46.2-730.

8. Taxicabs.

9. Motor vehicles with specially designed equipment for use by the handicapped, which shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.

10. Motorcycles, campers and other recreational vehicles, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

11. Boats weighing under five tons, *not primarily used in a commercial fishing business and operated by a commercial fisherman as defined in subsection D of § 28.2-241*, and boat trailers, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

12. Boats or watercraft weighing five tons or more, *not primarily used in a commercial fishing business and operated by a commercial fisherman as defined in subsection D of § 28.2-241*, which shall be valued by means of a percentage or percentages of original cost.

13. Aircraft, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

14. Household goods and personal effects, except as exempted under § 58.1-3504.

15. Tangible personal property used in a research and development business, which shall be valued by means of a percentage or percentages of original cost.

16. Programmable computer equipment and peripherals used in business which shall be valued by means of a percentage or percentages of original cost to the taxpayer, or by such other method as may reasonably be expected to determine the actual fair market value.

60 17. *Boats or watercraft primarily used in a commercial fishing business and operated by a*
61 *commercial fisherman as defined in subsection D of § 28.2-241, which shall be valued by means of a*
62 *percentage or percentages of original cost.*

63 18. All tangible personal property employed in a trade or business other than that described in
64 subdivisions 1 through 17 of this subsection, which shall be valued by means of a percentage or
65 percentages of original cost.

66 19. All other tangible personal property.

67 B. Methods of valuing property may differ among the separate categories, so long as each method
68 used is uniform within each category, is consistent with requirements of this section and may reasonably
69 be expected to determine actual fair market value as determined by the commissioner of revenue or
70 other assessing official; however, assessment ratios shall only be used with the concurrence of the local
71 governing body. A commissioner of revenue shall upon request take into account the condition of the
72 property. The term "condition of the property" includes, but is not limited to, technological obsolescence
73 of property where technological obsolescence is an appropriate factor for valuing such property. The
74 commissioner of revenue shall make available to taxpayers on request a reasonable description of his
75 valuation methods. Such commissioner, or other assessing officer, or his authorized agent, when using a
76 recognized pricing guide as provided for in this section, may automatically extend the assessment if the
77 pricing information is stored in a computer.

78 § 58.1-3506. Other classifications of tangible personal property for taxation.

79 A. The items of property set forth below are each declared to be a separate class of property and
80 shall constitute a classification for local taxation separate from other classifications of tangible personal
81 property provided in this chapter:

82 1. Boats or watercraft weighing five tons or more *not primarily used in a commercial fishing*
83 *business and operated by a commercial fisherman as defined in subsection D of § 28.2-241;*

84 2. Aircraft having a maximum passenger seating capacity of no more than 50 which are owned and
85 operated by scheduled air carriers operating under certificates of public convenience and necessity issued
86 by the State Corporation Commission or the Civil Aeronautics Board;

87 3. All other aircraft not included in subdivision A 2 and flight simulators;

88 4. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation
89 purposes as provided in subsection C of § 46.2-730;

90 5. Tangible personal property used in a research and development business;

91 6. Heavy construction machinery, including but not limited to land movers, bulldozers, front-end
92 loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity
93 equipment and ditch and other types of diggers;

94 7. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy
95 source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any
96 other alternative energy source for use in manufacturing and any cogeneration equipment purchased to
97 achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment
98 shall include, without limitation, such equipment purchased by firms engaged in the business of
99 generating electricity or steam, or both;

100 8. Vehicles without motive power, used or designed to be used as manufactured homes as defined in
101 § 36-85.3;

102 9. Computer hardware used by businesses primarily engaged in providing data processing services to
103 other nonrelated or nonaffiliated businesses;

104 10. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes
105 only;

106 11. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons,
107 including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;

108 12. Motor vehicles specially equipped to provide transportation for physically handicapped
109 individuals;

110 13. Motor vehicles (i) owned by members of a volunteer rescue squad or volunteer fire department
111 or (ii) leased by members of a volunteer rescue squad or volunteer fire department if the member is
112 obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One
113 motor vehicle which is owned by each volunteer rescue squad member or volunteer fire department
114 member, or leased by each volunteer rescue squad member or volunteer fire department member if the
115 member is obligated by the terms of the lease to pay tangible personal property tax on the motor
116 vehicle, may be specially classified under this section, provided the volunteer rescue squad member or
117 volunteer fire department member regularly responds to emergency calls. The volunteer shall furnish the
118 commissioner of revenue, or other assessing officer, with a certification by the chief or head of the
119 volunteer organization, that the volunteer is a member of the volunteer rescue squad or fire department
120 who regularly responds to calls or regularly performs other duties for the rescue squad or fire
121 department, and the motor vehicle owned or leased by the volunteer rescue squad member or volunteer

fire department member is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline. In any county which prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;

14. Motor vehicles (i) owned by auxiliary members of a volunteer rescue squad or volunteer fire department or (ii) leased by auxiliary members of a volunteer rescue squad or volunteer fire department if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle which is regularly used by each auxiliary volunteer fire department or rescue squad member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief or head of the volunteer organization, that the volunteer is an auxiliary member of the volunteer rescue squad or fire department who regularly performs duties for the rescue squad or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer rescue squad or fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 13 of this section. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

15. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior or handicapped citizens in the community to carry out the purposes of the nonprofit organization;

16. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1900, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100 that are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

17. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-739;

18. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle which is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body which has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle which is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

19. Until the first to occur of June 30, 2009, or the date that a special improvements tax is no longer levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District, provided that such business personal property is put into service within the District on or after July 1, 1999;

20. Motor vehicles which use clean special fuels as defined in § 46.2-749.3;

21. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility which is properly licensed by the federal government, the Commonwealth, or both, and which is properly zoned

183 for such use. "Wild animals" means any animals which are found in the wild, or in a wild state, within
184 the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals
185 which are found in the wild, or in a wild state, and are native to a foreign country;

186 22. Furniture, office, and maintenance equipment, exclusive of motor vehicles, which are owned and
187 used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and which is
188 used by that organization for the purpose of maintaining or using the open or common space within a
189 residential development;

190 23. Motor vehicles, trailers and semitrailers with a gross vehicle weight of 10,000 pounds or more
191 used to transport property for hire by a motor carrier engaged in interstate commerce;

192 24. All tangible personal property employed in a trade or business other than that described in
193 subdivisions A 1 through A 48 19, except for subdivision A 47 18, of § 58.1-3503;

194 25. Programmable computer equipment and peripherals employed in a trade or business;

195 26. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational
196 purposes only;

197 27. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for
198 recreational purposes only;

199 28. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes
200 only;

201 29. Tangible personal property used in the provision of Internet services. For purposes of this
202 subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables
203 users to access content, information, electronic mail, and the Internet as part of a package of services
204 sold to customers;

205 30. Motor vehicles (i) owned by persons who serve as auxiliary, reserve or special deputy sheriffs or
206 (ii) leased by persons who serve as auxiliary, reserve or special deputy sheriffs if the person is obligated
207 by the terms of the lease to pay tangible personal property tax on the motor vehicle. For purposes of
208 this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve or special deputy sheriff.
209 One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to auxiliary deputy
210 sheriff duties may be specially classified under this section. In order to qualify for such classification,
211 any auxiliary deputy sheriff who applies for such classification shall identify the vehicle for which this
212 classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a
213 certification from the governing body that has appointed such auxiliary deputy sheriff or from the
214 official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant
215 is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary duties, and
216 it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used
217 for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of
218 revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall
219 be authorized, in his discretion, and for good cause shown and without fault on the part of the member,
220 to accept a certification after the January 31 deadline;

221 31. Forest harvesting and silvicultural activity equipment; and

222 32. Equipment used primarily for research, development, production, or provision of biotechnology
223 for the purpose of developing or providing products or processes for specific commercial or public
224 purposes, including, but not limited to, medical, pharmaceutical, nutritional, and other health-related
225 purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as
226 defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes
227 of this section, biotechnology equipment means equipment directly used in activities associated with the
228 science of living things; and

229 33. *Boats or watercraft primarily used in a commercial fishing business and operated by a*
230 *commercial fisherman as defined in subsection D of § 28.2-241.*

231 B. The governing body of any county, city or town may levy a tax on the property enumerated in
232 subsection A at different rates from the tax levied on other tangible personal property. The rates of tax
233 and the rates of assessment shall (i) for purposes of subdivisions 1, 2, 3, 4, 6, 9 through 18, 20 through
234 22, and 24 through 32 33 of subsection A, not exceed that applicable to the general class of tangible
235 personal property, (ii) for purposes of subdivisions A 5, A 7, A 19, and A 23, not exceed that applicable
236 to machinery and tools, and (iii) for purposes of subdivision A 8, equal that applicable to real property.

237 C. (Effective January 1, 2006) Notwithstanding any other provision of this section, for any qualifying
238 vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in
239 subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a
240 payment from the Commonwealth under Chapter 35.1 of this title for providing tangible personal
241 property tax relief, the county, city, or town may levy the tangible personal property tax on such
242 qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such
243 chapter.

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