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## SENATE BILL NO. 1279

Offered January 19, 2005

A BILL to amend and reenact § 58.1-3506 of the Code of Virginia and to amend the Code of Virginia by adding in Article 2 of Chapter 35 of Title 58.1 a section numbered 58.1-3508.2, relating to local taxation of certain machinery and tools.

Patron—Reynolds (By Request)

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3506 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Article 2 of Chapter 35 of Title 58.1 a section numbered 58.1-3508.2 as follows:**

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

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

1. Boats or watercraft weighing five tons or more;

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

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

4. 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;

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

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

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

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

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

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

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

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

13. Motor vehicles (i) owned by members of a volunteer rescue squad or volunteer fire department or (ii) leased by 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 owned by each volunteer rescue squad member or volunteer fire department member, or leased by each volunteer rescue squad member or volunteer fire department member if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer rescue squad member or volunteer fire department member regularly responds to emergency calls. The volunteer 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 a member of the volunteer rescue squad or fire department who regularly responds to calls or regularly performs other duties for the rescue squad or fire 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

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59 assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on  
60 the part of the member, to accept a certification after the January 31 deadline. In any county which  
61 prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may  
62 be certified and classified pursuant to this subsection when the vehicle certified as of the immediately  
63 prior January date is transferred during the tax year;

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

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

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

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

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

109 19. Until the first to occur of June 30, 2009, or the date that a special improvements tax is no longer  
110 levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created  
111 pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in  
112 manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District,  
113 provided that such business personal property is put into service within the District on or after July 1,  
114 1999;

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

116 21. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility which is  
117 properly licensed by the federal government, the Commonwealth, or both, and which is properly zoned  
118 for such use. "Wild animals" means any animals which are found in the wild, or in a wild state, within  
119 the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals  
120 which are found in the wild, or in a wild state, and are native to a foreign country;

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

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

24. All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 18, except for subdivision A 17, of § 58.1-3503;

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

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

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

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

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

30. Motor vehicles (i) owned by persons who serve as auxiliary, reserve or special deputy sheriffs or (ii) leased by persons who serve as auxiliary, reserve or special deputy sheriffs if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In order to qualify for such classification, any auxiliary deputy sheriff 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 that has appointed such auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification is sought is the vehicle that 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;

31. Forest harvesting and silvicultural activity equipment; and

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

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

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

§ 58.1-3508.2. *Separate classification of machinery and tools used in other businesses.*

Heavy construction machinery, including but not limited to land movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity equipment and ditch and other types of diggers owned by businesses other than those set forth in §§ 58.1-3507, 58.1-3508, and 58.1-3508.1 shall constitute a classification for local taxation separate

**182** *from other classifications of tangible property. The rate of tax imposed by a county, city, or town on*  
**183** *such machinery and tools shall not exceed the rate imposed upon the general class of tangible personal*  
**184** *property.*