

**DEPARTMENT OF TAXATION
2005 Fiscal Impact Statement**

1. Patron Robert D. Orrock, Sr.

2. Bill Number HB 2827

3. Committee Senate Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. Title Retail Sales and Use Tax: Sale or Lease of
Storage Units

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. Summary/Purpose:

This bill would prohibit the Department of Taxation from taking affirmative action to collect any retail sales and use tax from the sale, lease or use prior to February 1, 2005 of i) any truck trailer whether or not subject to the Motor Vehicle Sales and Use Tax Act, ii) any cargo container designed to be affixed to such truck trailer, or iii) any on-site storage container that is similar to the cargo container designed to be affixed to such truck trailer, but not necessarily designed to be affixed to the truck trailer

The effective date of this bill is not specified.

6. Fiscal Impact Estimates are: Unknown. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill would have an unknown impact on state and local revenue. It is unknown how many businesses or persons in the business of selling, leasing or renting storage units may not be in compliance with the statutes or regulations. This bill prohibits the Department from proactively enforcing compliance with Virginia sales and use tax laws as they relate to selling, leasing or renting storage units.

If this bill is enacted, the Department would incur no administrative costs.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Taxation of storage containers

Generally, the 5% Virginia retail sales and use tax is applicable to the leasing of tangible personal property and the sale or lease of a storage container, device or structure would be subject to the retail sales and use tax. A licensable motor vehicle or trailer is subject to the motor vehicle sales and use tax when licensed for use on Virginia highways. Sales subject to the motor vehicle sales and use tax are taxed at 3% and leases are taxed at 4%. If such motor vehicle is not licensed for use on Virginia highways, the 5% retail sales and use tax is generally applicable.

In 1997, legislation was passed by the Virginia General Assembly to exempt from the motor vehicle sales and use tax (both from the 3% tax on sales and the 4% tax on leases), motor vehicles that have a gross vehicle rating or gross combination weight rating of 26,001 pounds or more. The Department of Taxation has determined that vehicles exempt from the motor vehicle sales and use tax under this provision of the law would likewise be exempt from the 5% retail sales and use tax.

This proposal

This bill would prohibit the Department of Taxation from taking affirmative action to collect any retail sales and use tax from the sale, lease or use prior to February 1, 2005 of:

- 1) any truck trailer subject to the motor vehicle sales and use tax or qualifies as exempt under *Virginia Code* § 58.1-2403,
- 2) any cargo container designed to be affixed to such truck trailer, or
- 3) any on-site storage container that is similar to the cargo container designed to be affixed to such truck trailer, but not necessarily designed to be affixed to the truck trailer

This prohibition would affect any action to collect taxes due prior to February 1, 2005, but would not change the taxability of such storage containers. Those storage containers designed to be affixed to a truck trailer that do not qualify as a motor vehicle subject to the Motor Vehicle Sales and Use Tax or to the exemption in *Virginia Code* § 58.1-2403 or any similar on-site storage container remains subject to the retail sales and use tax.

cc : Secretary of Finance

Date: 2/8/2005 WBS
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