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HOUSE BILL NO. 2071

Offered January 10, 2007

Prefiled January 8, 2007

A BILL to amend and reenact §§ 58.1-2402 and 58.1-2425 of the Code of Virginia, relating to increasing the motor vehicle sales and use tax for transportation purposes.

 Patron—Brink

 Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-2402 and 58.1-2425 of the Code of Virginia are amended and reenacted as follows:
 § 58.1-2402. Levy.

A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law, a tax upon the sale or use of motor vehicles in Virginia, other than (i) vehicles with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more, or (ii) a sale to or use by a person for rental as an established business or part of an established business or incidental or germane to such business.

There shall also be levied a tax upon the rental of a motor vehicle in Virginia, without regard to whether such vehicle is required to be licensed by the Commonwealth. However, such tax shall not be levied upon a rental to a person for re-rental as an established business or part of an established business, or incidental or germane to such business.

The amount of the tax to be collected shall be determined by the Commissioner by the application of the following rates against the gross sales price or gross proceeds:

1. ~~Three~~ Five percent of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such manufactured home sold in this Commonwealth; if such vehicle is a mobile office as defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in this Commonwealth.

2. ~~Three~~ Five percent of the sale price of each motor vehicle, or three percent of the sale price of each manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth. When any such motor vehicle or manufactured home is first used or stored for use in Virginia six months or more after its acquisition, the tax shall be based on its current market value.

3. Four percent of the gross proceeds from the rental in Virginia of any motor vehicle, except those with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more.

4. In addition to the tax levied pursuant to subdivision A 3, a tax of four percent of the gross proceeds shall be levied on the rental in Virginia of any daily rental vehicle, whether or not such vehicle is required to be licensed in the Commonwealth.

5. In addition to all other applicable taxes and fees, a fee of two percent of the gross proceeds shall be imposed on the rental in Virginia of any daily rental vehicle, whether or not such vehicle is required to be licensed in the Commonwealth. For purposes of this chapter, the rental fee shall be implemented, enforced, and collected in the same manner that rental taxes are implemented, enforced, and collected.

6. The minimum tax levied on the sale of any motor vehicle in the Commonwealth shall be ~~\$35~~ \$55, except as provided by those exemptions defined in § 58.1-2403.

B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall the same transaction be taxed more than once under either subdivision. A motor vehicle subject to the tax imposed under subdivision A 3 shall be subject to the tax under either subdivision A 1 or A 2 when it ceases to be used for rental as an established business or part of an established business, or incidental or germane to such business.

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no longer owned, rented or used by the United States government or any governmental agency, or the Commonwealth of Virginia or any political subdivision thereof. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax, based on the current market value, when such vehicle is subsequently licensed to operate on the highways of this Commonwealth.

D. Any person who with intent to evade or to aid another person to evade the tax provided for herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for

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59 title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this
60 title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

61 E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged
62 by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to
63 subdivision 10 of § 46.2-1530, shall be subject to the tax.

64 § 58.1-2425. Disposition of revenues.

65 A. All funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.
66 Except as otherwise provided in this section, these funds shall constitute special funds within the
67 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall
68 be available for use in subsequent years for the purposes set forth in this chapter, and any interest
69 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been
70 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the
71 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the
72 provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the
73 city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) all funds
74 collected from the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental
75 vehicles shall be distributed quarterly to the city, town, or county wherein such vehicle was delivered to
76 the rentee; (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated
77 by enactments of the 1986 Special Session of the Virginia General Assembly which amended
78 §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the
79 Transportation Trust Fund, a special fund within the Commonwealth Transportation Fund, and are
80 hereby appropriated to the Commonwealth Transportation Board for transportation needs; (iv) *an amount*
81 *equivalent to one-half of the net additional revenues generated by the enactments of the 2007 Session of*
82 *the General Assembly which amended § 58.1-2402 and this section shall be deposited into the Highway*
83 *Maintenance and Operating Fund with the remaining one-half deposited as set forth in subsection C;* (~~iv~~
84 v) except as otherwise provided in clause (iii) of this sentence, all moneys collected from the tax on the
85 gross proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of
86 § 58.1-2402 at the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the
87 state treasury and shall be paid into the Rail Enhancement Fund established by § 33.1-221.1:1.1; and (~~v~~
88 vi) all additional revenues resulting from the fee imposed under subdivision A 5 of § 58.1-2402 as
89 enacted by the 2004 Session of the General Assembly shall be used to pay the debt service on the bonds
90 issued by the Virginia Public Building Authority for the Statewide Agencies Radio System (STARS) for
91 the Department of State Police pursuant to the authority granted by the 2004 Session of the General
92 Assembly.

93 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation
94 Trust Fund pursuant to clause (iii) of subsection A of this section, an aggregate of 4.2 percent shall be
95 set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the
96 Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7
97 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit
98 Fund.

99 C. *An amount equivalent to one-half of the net additional revenues generated by the enactments of*
100 *the 2007 Session of the General Assembly which amended § 58.1-2402 and this section shall be*
101 *distributed and deposited as follows: first, in accordance with subsection A4b of § 58.1-638 to support*
102 *95 percent of the local or non-federal share of capital project costs to the Commonwealth Mass Transit*
103 *Fund; second, in accordance with subsection E of § 33.1-23.05 for revenue-sharing funds; third, to the*
104 *Rail Enhancement Fund an amount equal to the revenues deposited to the Rail Enhancement Fund*
105 *pursuant to subsection A; and fourth, to the Transportation Partnership Opportunity Fund to be used in*
106 *accordance with § 33.1-221.1:8.*

107 2. That by September 15 of each odd year, the Department of Transportation shall submit to the
108 Governor, the Joint Legislative Audit and Review Commission, and the Commonwealth
109 Transportation Board a report on the condition and needs for maintaining and operating the
110 existing transportation infrastructure for all asset management and maintenance based on an asset
111 management methodology. The methodology shall, in accordance with generally accepted
112 engineering principles and business practices, identify and prioritize maintenance and operations
113 needs, including those for pavement, technology, structures and bridges, pipes and drainage, and
114 congestion management and reduction. Such report shall include the performance standards used
115 to determine such needs and the budget estimate for the upcoming two fiscal years to meet those
116 needs.

117 3. That the revenue generated by this act shall be used solely for transportation purposes.

118 4. That the provisions of this act shall expire on December 31 of any year in which the General
119 Assembly appropriates any of the revenue generated under this act for any purpose other than
120 transportation.