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SENATE BILL NO. 1171

Senate Amendments in [] — February 2, 2007

A BILL to amend and reenact §§ 58.1-3506 and 58.1-3916 of the Code of Virginia, relating to personal property tax; classification of aircraft.

Patron Prior to Engrossment—Senator Stolle

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That §§ 58.1-3506 and 58.1-3916 of the Code of Virginia are amended and reenacted 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. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;

b. Boats or watercraft weighing less than five tons, not used solely for business purposes;

2. Aircraft having a maximum passenger seating capacity of no more than 50 that 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. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law, *but not including any aircraft described in subdivision 4;*

4. *[Aircraft that are (i) at least 50 years old and (ii) used only for (a) exhibit or display to the general public (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation) or (b) air show and flight demonstrations (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation).— This class of property shall not include any aircraft used for commercial or private general transportation; Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and otherwise used for educational purposes (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a new class of property. Such class of property shall not include any aircraft used for commercial purposes, including transportation and other services for a fee;]*

45. All other aircraft not included in subdivisions A 2 ~~or~~, A 3, or A 4 and flight simulators;

56. 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;

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

78. 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;

89. 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;

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

~~1011.~~ Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;

~~1112.~~ Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes only;

~~1213.~~ 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;

~~1314.~~ Motor vehicles specially equipped to provide transportation for physically handicapped individuals;

~~1415.~~ Motor vehicles (i) owned by members of a volunteer rescue squad or volunteer fire department

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59 or (ii) leased by members of a volunteer rescue squad or volunteer fire department if the member is
60 obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One
61 motor vehicle that is owned by each volunteer rescue squad member or volunteer fire department
62 member, or leased by each volunteer rescue squad member or volunteer fire department member if the
63 member is obligated by the terms of the lease to pay tangible personal property tax on the motor
64 vehicle, may be specially classified under this section, provided the volunteer rescue squad member or
65 volunteer fire department member regularly responds to emergency calls. The volunteer shall furnish the
66 commissioner of revenue, or other assessing officer, with a certification by the chief or head of the
67 volunteer organization, that the volunteer is a member of the volunteer rescue squad or fire department
68 who regularly responds to calls or regularly performs other duties for the rescue squad or fire
69 department, and the motor vehicle owned or leased by the volunteer rescue squad member or volunteer
70 fire department member is identified. The certification shall be submitted by January 31 of each year to
71 the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other
72 assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on
73 the part of the member, to accept a certification after the January 31 deadline. In any county that
74 prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may
75 be certified and classified pursuant to this subsection when the vehicle certified as of the immediately
76 prior January date is transferred during the tax year;

77 ~~4516.~~ Motor vehicles (i) owned by auxiliary members of a volunteer rescue squad or volunteer fire
78 department or (ii) leased by auxiliary members of a volunteer rescue squad or volunteer fire department
79 if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor
80 vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or rescue
81 squad member may be specially classified under this section. The auxiliary member shall furnish the
82 commissioner of revenue, or other assessing officer, with a certification by the chief or head of the
83 volunteer organization, that the volunteer is an auxiliary member of the volunteer rescue squad or fire
84 department who regularly performs duties for the rescue squad or fire department, and the motor vehicle
85 is identified as regularly used for such purpose; however, if a volunteer rescue squad or fire department
86 member and an auxiliary member are members of the same household, that household shall be allowed
87 no more than two special classifications under this subdivision or subdivision ~~4475~~ of this section. The
88 certification shall be submitted by January 31 of each year to the commissioner of revenue or other
89 assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in
90 his discretion, and for good cause shown and without fault on the part of the member, to accept a
91 certification after the January 31 deadline;

92 ~~4617.~~ Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound
93 persons or provide transportation to senior or handicapped citizens in the community to carry out the
94 purposes of the nonprofit organization;

95 ~~4718.~~ Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers
96 as defined in § 46.2-1900, which are used for recreational purposes only, and privately owned trailers as
97 defined in § 46.2-100 which are designed and used for the transportation of horses except those trailers
98 described in subdivision A 11 of § 58.1-3505;

99 ~~4819.~~ One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use
100 of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as
101 certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written
102 statement to the commissioner of revenue or other assessing officer from the Department of Veterans
103 Services that the veteran has been so designated or classified by the Department of Veterans Services as
104 to meet the requirements of this section, and that his disability is service-connected. For purposes of this
105 section, a person is blind if he meets the provisions of § 46.2-739;

106 ~~4920.~~ Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police
107 officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons
108 who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms
109 of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is
110 regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially
111 classified under this section. In order to qualify for such classification, any auxiliary police officer who
112 applies for such classification shall identify the vehicle for which this classification is sought, and shall
113 furnish the commissioner of revenue or other assessing officer with a certification from the governing
114 body that has appointed such auxiliary police officer or from the official who has appointed such
115 auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who
116 regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for
117 which the classification is sought is the vehicle that is regularly used for that purpose. The certification
118 shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer;
119 however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion,
120 and for good cause shown and without fault on the part of the member, to accept a certification after the

January 31 deadline;

2021. 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;

2122. Motor vehicles which use clean special fuels as defined in § 46.2-749.3;

2223. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that are found in the wild, or in a wild state, and are native to a foreign country;

2324. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is used by that organization for the purpose of maintaining or using the open or common space within a residential development;

2425. 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;

2526. 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;

2627. Programmable computer equipment and peripherals employed in a trade or business;

2728. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational purposes only;

2829. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for recreational purposes only;

2930. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes only;

3031. 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;

3132. 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;

3233. Forest harvesting and silvicultural activity equipment;

3334. 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;

3435. Boats or watercraft weighing less than five tons, used for business purposes only; and

3536. Boats or watercraft weighing five tons or more, used for business purposes only.

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, 5, 76, 8, 10 through 1911

182 ~~through 20, 21 through 23~~22 through 24, and 25 through 3526 through 36 of subsection A, not exceed
183 that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 6, A
184 8, A 20, and A 24A 7, A 9, A 21, and A 25, not exceed that applicable to machinery and tools, and (iii)
185 for purposes of subdivision A 9A 10, equal that applicable to real property.

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

192 § 58.1-3916. Counties, cities and towns may provide dates for filing returns, set penalties, interest,
193 etc.

194 Notwithstanding provisions contained in §§ 58.1-3518, 58.1-3900, 58.1-3913, 58.1-3915 and
195 58.1-3918, the governing body of any county, city, or town may provide by ordinance the time for filing
196 local license applications and annual returns of taxable tangible personal property, machinery and tools,
197 and merchants' capital. The governing body may also by ordinance establish due dates for the payment
198 of local taxes; may provide that payment be made in a single installment or in two equal installments;
199 may offer options, which may include coupon books and payroll deductions, which allow the taxpayer
200 to determine whether to pay the tangible personal property tax through monthly, bimonthly, quarterly, or
201 semiannual installments or in a lump sum, provided such taxes are paid in full by the final due date;
202 may provide by ordinance penalties for failure to file such applications and returns and for nonpayment
203 in time; may provide for payment of interest on delinquent taxes; and may provide for the recovery of
204 reasonable attorney's or collection agency's fees actually contracted for, not to exceed 20 percent of the
205 delinquent taxes and other charges so collected. A locality that provides for payment of interest on
206 delinquent taxes shall provide for interest at the same rate on overpayments due to erroneously assessed
207 taxes to be paid to the taxpayer, provided that no interest shall be required to be paid on such refund if
208 (i) the amount of the refund is \$10 or less or (ii) the refund is the result of proration pursuant to
209 § 58.1-3516. A court that finds that an overpayment of local taxes has been made in an action brought
210 pursuant to § 58.1-3984 shall award interest at the appropriate rate, notwithstanding the failure of the
211 locality to conform its ordinance to the requirements of this section.

212 No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures
213 prescribed herein during the pendency of any administrative appeal under § 58.1-3980, so long as the
214 appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final
215 determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the
216 assessment or refund, following the final determination of such appeal, of such interest as otherwise may
217 be provided by general law as to that portion of a tax bill that has remained unpaid or was overpaid
218 during the pendency of such appeal and is determined in such appeal to be properly due and owing.

219 Interest may commence not earlier than the first day following the day such taxes are due by
220 ordinance to be filed, at a rate not to exceed 10 percent per year. The governing body may impose
221 interest at a rate not to exceed the rate of interest established pursuant to § 6621 of the Internal Revenue
222 Code of 1954, as amended, or 10 percent annually, whichever is greater, for the second and subsequent
223 years of delinquency. No penalty for failure to pay a tax or installment shall exceed (i) 10 percent of the
224 tax past due on such property; (ii) in the case of delinquent tangible personal property tax more than 30
225 days past due on property classified pursuant to subdivision A 14, A 15 or A 19A 15, A 16, or A 20 of
226 § 58.1-3506, which remains unpaid after 10 days' written notice sent by United States mail to the
227 taxpayer of the intention to impose a penalty pursuant hereto, the penalty shall not exceed an amount
228 equal to the difference between the tax due and owing with respect to such property and the tax that
229 would have been due and owing if the property in question had been classified as general tangible
230 personal property pursuant to § 58.1-3503; (iii) in the case of delinquent tangible personal property tax
231 more than 30 days past due, 25 percent of the tax past due on such tangible personal property; (iv) in
232 the case of delinquent remittance of excise taxes on meals, lodging, or admissions collected from
233 consumers, 10 percent for the first month the taxes are past due, and five percent for each month
234 thereafter, up to a maximum of 25 percent of the taxes collected but not remitted; or (v) \$10, whichever
235 is greater, provided, however, that the penalty shall in no case exceed the amount of the tax assessable.
236 No penalty for failure to file a return shall be greater than 10 percent of the tax assessable on such
237 return or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the
238 amount of the tax assessable. The assessment of such penalty shall not be deemed a defense to any
239 criminal prosecution for failing to make return of taxable property as may be required by law or
240 ordinance. Penalty for failure to file an application or return may be assessed on the day after such
241 return or application is due; penalty for failure to pay any tax may be assessed on the day after the first
242 installment is due. Any such penalty when so assessed shall become a part of the tax.

243 No penalty for failure to pay any tax shall be imposed for any assessment made later than two weeks

prior to the day on which the taxes are due, if such assessment is made thereafter through the fault of a local official, and if such assessment is paid within two weeks after the notice thereof is mailed.

In the event a transfer of real property ownership occurs after January 1 of a tax year and a real estate tax bill has been mailed pursuant to §§ 58.1-3281 and 58.1-3912, the treasurer or other appropriate local official designated by ordinance of the local governing body in jurisdictions not having a treasurer, upon ascertaining that a property transfer has occurred, may invalidate a bill sent to the prior owner and reissue the bill to the new owner as permitted by § 58.1-3912, and no penalty for failure to pay any tax for any such assessment shall be imposed if the tax is paid within two weeks after the notice thereof is mailed.

Penalty and interest for failure to file a return or to pay a tax shall not be imposed if such failure was not the fault of the taxpayer, or was the fault of the commissioner of revenue or the treasurer, as the case may be. The failure to file a return or to pay a tax due to the death of the taxpayer or a medically determinable physical or mental impairment on the date the return or tax is due shall be presumptive proof of lack of fault on the taxpayer's part, provided the return is filed or the taxes are paid within 30 days of the due date; however, if there is a committee, legal guardian, conservator or other fiduciary handling the individual's affairs, such return shall be filed or such taxes paid within 120 days after the fiduciary qualifies or begins to act on behalf of the taxpayer. Interest on such taxes shall accrue until paid in full. Any such fiduciary shall, on behalf of the taxpayer, by the due date, file any required returns and pay any taxes that come due after the 120-day period. The treasurer shall make determinations of fault relating exclusively to failure to pay a tax, and the commissioner of the revenue shall make determinations of fault relating exclusively to failure to file a return. In jurisdictions not having a treasurer or commissioner of the revenue, the governing body may delegate to the appropriate local tax officials the responsibility to make the determination of fault.

The governing body may further provide by resolution for reasonable extensions of time, not to exceed 90 days, for the payment of real estate and personal property taxes and for filing returns on tangible personal property, machinery and tools, and merchants' capital, and the business, professional, and occupational license tax, whenever good cause exists. The official granting such extension shall keep a record of every such extension. If any taxpayer who has been granted an extension of time for filing his return fails to file his return within the extended time, his case shall be treated the same as if no extension had been granted.

This section shall be the sole authority for local ordinances setting due dates of local taxes and penalty and interest thereon, and shall supersede the provisions of any charter or special act.

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