

2007 SESSION

LEGISLATION NOT PREPARED BY DLS
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SENATE BILL NO. 1379

Offered January 17, 2007

A BILL to amend and reenact §§ 58.1-603, 58.1-604, 58.1-604.1, and 58.1-614 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 33.1-23.1:01 and by adding in Article 15 of Chapter 1 of Title 33.1 sections numbered 33.1-223.2:16 and 33.1-223.2:17, relating to the Transportation Future Fund, imposition and collection of tolls for use of certain highways; sales and use tax increase; disposition of revenues.

Patron—Potts

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-603, 58.1-604, 58.1-604.1, and 58.1-614 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 33.1-23.1:01 and by adding in Article 15 of Chapter 1 of Title 33.1 sections numbered 33.1-223.2:16 and 33.1-223.2:17 as follows:

§ 33.1-23.1:01. Transportation Future Fund created.

There is hereby established the Transportation Future Fund (the Fund). The Fund shall consist of (i) the net revenues derived from the imposition and collection of tolls pursuant to § 33.1-223.2:16, the proceeds derived from the additional sales tax imposed by the 2007 Session of the General Assembly, the proceeds derived from the additional use tax imposed by the 2007 Session of the General Assembly, and proceeds accruing to the Commonwealth as the result of additional toll facilities established through private investment pursuant to § 33.1-223.2:17.

The Commonwealth Transportation Board shall make allocations from the Fund to support the following projects on whatever basis of priority the Board may, in its discretion, determine:

1. Design and construction of the Third Crossing of Hampton Roads;
2. Construction of the Southeastern Parkway and improvements to U. S. Route 460 and Interstate Route 64 in Hampton Roads;
3. Expansion of Metrorail service to Tyson's Corner;
4. Completion of environmental impact studies associated with the Eastern and Western Bypasses in the Virginia suburbs of Washington, D.C.;
5. Completion of location studies and reservation of rights-of-way in connection with a Potomac River bridge between the American Legion Bridge (Interstate Route 495) and the U.S. Route 15 bridge;
6. Establishment of high-occupancy toll lanes on Interstate Routes 95, 395, and 495 in the Virginia suburbs of Washington, D.C., in the Fredericksburg-Washington corridor;
7. Expansion of Interstate Route 66 both within and outside the Capital Beltway; and
8. Completion of environmental impact studies associated with improvements to rail service, additional truck lanes, and improvements to choke points and dangerous locations in the Interstate Route 81 corridor.

§ 33.1-223.2:16. Imposition and collection of tolls for use of certain interstate highway components; disposition of net proceeds.

The Commonwealth Transportation Board shall impose and collect a toll for the use of major components of the interstate highway system in Virginia. The Board, in its own discretion, shall determine which highways shall be subject to the tolls, the amount of such tolls, and methods of payment, and may vary such tolls by class of vehicle, time of day and day of the week, and from facility to facility. After deducting necessary and actual costs of collection, the net proceeds derived from such tolls shall be deposited into the Transportation Future Fund established pursuant to § 33.1-23.1:01.

§ 33.1-223.2:17. Department to establish sales teams to attract certain private investment; disposition of net revenues to the Commonwealth.

The Virginia Department of Transportation shall establish sales teams for the purpose of attracting private investment in additional highway toll facilities. All net proceeds derived by the Commonwealth from such investments shall be deposited in the Transportation Future Fund established pursuant to § 33.1-23.1:01.

§ 58.1-603. Imposition of sales tax.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this

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59 Commonwealth any item or article of tangible personal property as defined in this chapter, or who
60 leases or rents such property within this Commonwealth, in the amount of three and one-half percent
61 through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004, *and five*
62 *percent beginning on and after July 1, 2007:*

63 1. Of the gross sales price of each item or article of tangible personal property when sold at retail or
64 distributed in this Commonwealth.

65 2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the
66 lease or rental of such property is an established business, or part of an established business, or the
67 same is incidental or germane to such business.

68 3. Of the cost price of each item or article of tangible personal property stored in this
69 Commonwealth for use or consumption in this Commonwealth.

70 4. Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations
71 furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

72 5. Of the gross sales of any services which are expressly stated as taxable within this chapter.

73 § 58.1-604. Imposition of use tax.

74 There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a
75 tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of
76 such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount
77 of three and one-half percent through midnight on July 31, 2004, and four percent beginning on and
78 after August 1, 2004, *and five percent beginning on and after July 1, 2007:*

79 1. Of the cost price of each item or article of tangible personal property used or consumed in this
80 Commonwealth. Tangible personal property which has been acquired for use outside this Commonwealth
81 and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost
82 price if such property is brought within this Commonwealth for use within six months of its acquisition;
83 but if so brought within this Commonwealth six months or more after its acquisition, such property shall
84 be taxed on the basis of the current market value (but not in excess of its cost price) of such property at
85 the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the
86 cost price or current market value as the duration of time of use within this Commonwealth bears to the
87 total useful life of such property (but it shall be presumed in all cases that such property will remain
88 within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to
89 the contrary).

90 2. Of the cost price of each item or article of tangible personal property stored outside this
91 Commonwealth for use or consumption in this Commonwealth.

92 3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same
93 transaction be taxed more than once under either section.

94 4. The use tax shall not apply with respect to the use of any article of tangible personal property
95 brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use,
96 while within this Commonwealth.

97 5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less
98 during any calendar year.

99 § 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for
100 use in performing contracts.

101 In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of
102 § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools
103 or other equipment brought, imported or caused to be brought into this Commonwealth for use in
104 constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or
105 water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant,
106 transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any
107 part thereof. The rate of tax is three and one-half percent through midnight on July 31, 2004, and four
108 percent beginning on and after August 1, 2004, *through midnight on June 30, 2007, and five percent*
109 *beginning on and after July 1, 2007*, on all tangible personal property except motor vehicles, which
110 shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and
111 watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.

112 For purposes of this section the words "motor vehicle" means any vehicle which is self-propelled and
113 designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained
114 from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways
115 which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry, farm
116 tractor, road construction or maintenance machinery or equipment, special mobile equipment or any
117 vehicle designed primarily for use in work off the highway.

118 The tax shall be computed on the basis of such proportion of the original purchase price of such
119 property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For
120 purposes of this section, the word "use" means use, storage, consumption and "stand-by" time

occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the basis of the relative time each item of equipment is in this Commonwealth rather than upon the basis of actual use. In the absence of satisfactory evidence as to the period of use intended in this Commonwealth, it will be presumed that such property will remain in this Commonwealth for the remainder of its useful life, which shall be determined in accordance with the experiences and practices of the building and construction trades.

A transaction taxed under §§ 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, or § 58.1-2402 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under any section.

§ 58.1-614. Vending machine sales.

A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of tangible personal property through vending machines, or in any other manner making collection of the tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his wholesale purchases for sale at retail from vending machines and shall be required to remit an amount based on four and one-half percent through midnight on July 31, 2004, and five percent beginning on and after August 1, 2004, *through midnight on June 30, 2007, and six percent beginning on and after July 1, 2007*, of such wholesale purchases.

B. Notwithstanding the provisions of §§ 58.1-605 and 58.1-606, dealers making sales of tangible personal property through vending machines shall report and remit the one percent local sales and use tax computed as provided in subsection A of this section.

C. The provisions of subsections A and B of this section shall not be applicable to vending machine operators all of whose machines are under contract to nonprofit organizations. Such operators shall report only the gross receipts from machines selling items for more than 10 cents and shall be required to remit an amount based on a percentage of their remaining gross sales established by the Tax Commissioner to take into account the inclusion of sales tax.

D. Notwithstanding any other provisions in this section, when the Tax Commissioner determines that it is impractical to collect the tax in the manner provided by those sections, such dealer shall be required to remit an amount based on a percentage of gross receipts which takes into account the inclusion of the sales tax.

E. The provisions of this section shall not be applicable to any dealer who fails to maintain records satisfactory to the Tax Commissioner. A dealer making sales of tangible personal property through vending machines shall obtain a certificate of registration under § 58.1-613 in relevant form for each county or city in which he has machines.

2. That the net additional revenue generated by the provision of this act shall be deposited into the Transportation Future Fund.