

077424840

SENATE BILL NO. 867

Senate Amendments in [] — February 6, 2007

A BILL to amend and reenact §§ 58.1-609.1, 58.1-625, and 58.1-626 of the Code of Virginia, relating to a limited sales and use tax exemption for certain energy-efficient products.

Patrons Prior to Engrossment—Senators Watkins, Bell, Cuccinelli, Devoites Davis, Howell, Lambert, Locke, Lucas, Newman, O'Brien, Obenshain, Puckett, Reynolds, Ticer, Wagner and Whipple

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-609.1, 58.1-625, and 58.1-626 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-609.1. Governmental and commodities exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.) of this title. Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

4. Tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States. Further, this exemption shall not apply to tangible personal property which is acquired by the Commonwealth or any of its political subdivisions and then transferred to private businesses for their use in a facility or real property improvement to be used by a private entity or for nongovernmental purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.) of this title.

6. Motor fuels and alternative fuels for use in a commercial watercraft upon which a fuel tax is refunded pursuant to § 58.1-2259.

7. Sales by a government agency of the official flags of the United States, the Commonwealth of Virginia, or of any county, city or town.

8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

9. Watercraft as defined in § 58.1-1401.

10. Tangible personal property used in and about a marine terminal under the supervision of the Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit corporation that operates a marine terminal or terminals on behalf of the Authority.

11. Sales by prisoners confined in state correctional facilities of artistic products personally made by the prisoners as authorized by § 53.1-46.

12. Tangible personal property for use or consumption by the Virginia Department for the Blind and Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

13. [Expired.]

14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at a canteen operated by the Department of Veterans Services.

15. Tangible personal property for use or consumption by any nonprofit organization whose members include the Commonwealth and other states and which is organized for the purpose of fostering interstate cooperation and excellence in government.

16. Tangible personal property purchased for use or consumption by any soil and conservation district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

17. Beginning September 1, 2004, (i) tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg Transit Company, GRTC Transit System, or Greater Roanoke Transit Company that is owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services, and/or (ii) tangible personal property sold or leased

ENGROSSED

SB867E

58 to any county, city, or town, or any combination thereof, that is transferred to any of the companies set
59 forth in clause (i) owned, operated, or controlled by any county, city, or town, or any combination
60 thereof, that provides public transportation services.

61 18. [~~Energy-efficient~~ Energy Star qualified] products with a sales price of \$2,500 or less per
62 product purchased for noncommercial home or personal use. The exemption provided by this subdivision
63 shall apply, beginning in 2007, only to sales occurring during the four-day period that begins each year
64 on the Friday before the second Monday in October and ends at midnight on the second Monday in
65 October.

66 For the purposes of this exemption, an [~~energy-efficient~~ Energy Star qualified] product is any
67 dishwasher, clothes washer, air conditioner, ceiling fan, [compact] fluorescent light bulb, dehumidifier,
68 programmable thermostat, or refrigerator, the energy efficiency of which has been designated by the
69 United States Environmental Protection Agency and the United States Department of Energy as meeting
70 or exceeding each such agency's [~~energy-saving efficiency~~] requirements [~~or that has been designated~~
71 ~~as meeting or exceeding~~] such requirements under [~~each such agency's the~~] Energy Star program.

72 § 58.1-625. Collection of tax.

73 The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the
74 amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt
75 from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the
76 same manner as other debts. No action at law or suit in equity under this chapter may be maintained in
77 this Commonwealth by any dealer who is not registered under § 58.1-613 or is delinquent in the
78 payment of the taxes imposed under this chapter.

79 Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under the
80 Constitution or laws of this or any other state, or of the United States, such dealer shall collect such tax
81 from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as herein
82 provided.

83 Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter
84 shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until he can
85 affirmatively show that the tax has since been refunded to the purchaser or credited to his account.

86 Any dealer who neglects, fails, or refuses to collect such tax upon every taxable sale, distribution,
87 lease, or storage of tangible personal property made by him, his agents, or employees shall be liable for
88 and pay the tax himself, and such dealer shall not thereafter be entitled to sue for or recover in this
89 Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid.
90 Moreover, any dealer who neglects, fails, or refuses to pay or collect the tax herein provided, either by
91 himself or through his agents or employees, shall be guilty of a Class 1 misdemeanor.

92 All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the
93 Commonwealth.

94 Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period
95 of time set forth in § 58.1-611.2 or subdivision 18 of § 58.1-609.1 not to collect the tax levied by this
96 chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to
97 absorb such tax himself. A dealer electing to absorb such taxes shall be liable for payment of such taxes
98 to the Tax Commissioner in the same manner as he is for tax collected from a purchaser pursuant to this
99 section.

100 § 58.1-626. Absorption of tax prohibited.

101 No person shall advertise or hold out to the public, directly or indirectly, that he will absorb all or
102 any part of the sales or use tax, or that he will relieve the purchaser, consumer, or lessee of the payment
103 of all or any part of such tax. Any person who violates this section shall be guilty of a Class 2
104 misdemeanor. The prohibitions contained in this section shall not apply during the time period set out in
105 § 58.1-611.2 or subdivision 18 of § 58.1-609.1 or during the 14 days immediately preceding such time
106 period period for advertisements relating to sales to be made during the time period set out in
107 § 58.1-611.2 or subdivision 18 of § 58.1-609.1.

108 [2. That the provisions of this act shall expire on July 1, 2012.]