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**HOUSE BILL NO. 450**

Offered January 9, 2008

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*A BILL to amend and reenact § 58.1-605 of the Code of Virginia, relating to vehicle repair services in the localities embraced by the Northern Virginia Transportation Authority and the Hampton Roads Transportation Authority.*

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Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-605 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-605. To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto.

A. No county, city or town shall impose any local general sales or use tax or any local general retail sales or use tax except as authorized by this section.

B. The council of any city and the governing body of any county may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to all the provisions of this chapter and the rules and regulations published with respect thereto. No discount under § 58.1-622 shall be allowed on a local sales tax.

C. The council of any city and the governing body of any county desiring to impose a local sales tax under this section may do so by the adoption of an ordinance stating its purpose and referring to this section, and providing that such ordinance shall be effective on the first day of a month at least 60 days after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption.

D. Any local sales tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

E. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the account of each particular city or county levying a local sales tax under this section. The basis of such credit shall be the city or county in which the sales were made as shown by the records of the Department and certified by it monthly to the Comptroller, namely, the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. If a dealer has any place of business located in more than one political subdivision by reason of the boundary line or lines passing through such place of business, the amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the purposes of this section as follows: one-half shall be assignable to each political subdivision where two are involved, one-third where three are involved, and one-fourth where four are involved.

F. As soon as practicable after the local sales tax moneys have been paid into the state treasury in any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax moneys, and such payments shall be charged to the account of each such city or county under the special fund created by this section. If errors are made in any such payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall be corrected and adjustments made in the payments for the next six months as follows: one-sixth of the total adjustment shall be included in the payments for the next six months. In addition, the payment shall include a refund of amounts erroneously not paid to the city or county and not previously refunded during the three years preceding the discovery of the error. A correction and adjustment in payments described in this subsection due to the misallocation of funds by the dealer shall be made within three years of the date of the payment error.

G. Such payments to counties are subject to the qualification that in any county wherein is situated any incorporated town constituting a special school district and operated as a separate school district under a town school board of three members appointed by the town council, the county treasurer shall pay into the town treasury for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of such town bears to the school age population of the entire county. If the school age population of any town constituting a separate school district is

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59 increased by the annexation of territory since the last preceding school age population census, such  
60 increase shall, for the purposes of this section, be added to the school age population of such town as  
61 shown by the last such census and a proper reduction made in the school age population of the county  
62 or counties from which the annexed territory was acquired.

63 H. One-half of such payments to counties are subject to the further qualification, other than as set  
64 out in subsection G above, that in any county wherein is situated any incorporated town not constituting  
65 a separate special school district which has complied with its charter provisions providing for the  
66 election of its council and mayor for a period of at least four years immediately prior to the adoption of  
67 the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for  
68 general governmental purposes the proper proportionate amount received by him in the ratio that the  
69 school age population of each such town bears to the school age population of the entire county, based  
70 on the latest statewide school census. The preceding requirement pertaining to the time interval between  
71 compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city.  
72 If the school age population of any such town not constituting a separate special school district is  
73 increased by the annexation of territory or otherwise since the last preceding school age population  
74 census, such increase shall, for the purposes of this section, be added to the school age population of  
75 such town as shown by the last such census and a proper reduction made in the school age population  
76 of the county or counties from which the annexed territory was acquired.

77 I. Notwithstanding the provisions of subsection H, the board of supervisors of a county may, in its  
78 discretion, appropriate funds to any incorporated town not constituting a separate school district within  
79 such county which has not complied with the provisions of its charter relating to the elections of its  
80 council and mayor, an amount not to exceed the amount it would have received from the tax imposed  
81 by this chapter if such election had been held.

82 J. It is further provided that if any incorporated town which would otherwise be eligible to receive  
83 funds from the county treasurer under subsection G or H of this section be located in a county which  
84 does not levy a general retail sales tax under the provisions of this law, such town may levy a general  
85 retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to  
86 all the provisions of this section generally applicable to cities and counties. Any tax levied under the  
87 authority of this subsection shall in no case continue to be levied on or after the effective date of a  
88 county ordinance imposing a general retail sales tax in the county within which such town is located.

89 K. 1. Notwithstanding the other provisions of this chapter, the Hampton Roads Transportation  
90 Authority and the Northern Virginia Transportation Authority may impose a retail sales tax at the rate of  
91 5% on (i) charges for separately stated labor or services in the repair of motor vehicles and (ii) charges  
92 for the repair of a motor vehicle in cases in which the true object of the repair is a service provided  
93 within a city or county embraced by the respective Authority.

94 2. The revenue generated and collected pursuant to the tax authorized under this subsection, less the  
95 applicable portion of any refunds to taxpayers and after subtraction of the direct costs of administration  
96 by the Department, shall be deposited and held in a special trust fund under the control of the State  
97 Treasurer entitled "Special Sales and Use Tax Motor Vehicle Repair Fund." The State Treasurer on a  
98 monthly basis shall distribute the amounts deposited in the special trust fund to the Hampton Roads  
99 Transportation Authority or the Northern Virginia Transportation Authority as appropriate.

100 3. No discount under § 58.1-622 shall be allowed for the tax described under this subsection. Except  
101 as otherwise provided herein, the tax under this subsection shall be administered and collected in the  
102 same manner and subject to the same penalties as provided for the local retail sales tax.

103 4. *It shall be unlawful for any person, corporation, partnership, or limited liability company that is a*  
104 *party to an insurance policy or agreement, an extended service agreement, a vehicle maintenance*  
105 *agreement, or other written indemnification agreement under which it has agreed or agrees to pay for*  
106 *vehicle repair services, wholly or in part, for a vehicle that is registered in a county or city embraced*  
107 *by the Hampton Roads Transportation Authority or the Northern Virginia Transportation Authority,*  
108 *either by direct payment to the service provider or by advance or reimbursement to the vehicle owner,*  
109 *to require or recommend that the vehicle owner utilize a repair facility in a city or county that is not*  
110 *embraced by the Hampton Roads Transportation Authority or the Northern Virginia Transportation*  
111 *Authority, unless it provides the vehicle owner the option of utilizing a repair facility in a city or county*  
112 *that is embraced within the area of the Hampton Roads Transportation Authority or the Northern*  
113 *Virginia Transportation Authority.*