

088197204

## SENATE BILL NO. 176

Offered January 9, 2008

Prefiled January 7, 2008

A *BILL to amend and reenact §§ 46.2-1167.1, 58.1-605, 58.1-606, 58.1-625.1, 58.1-802.1, 58.1-1724.3, and 58.1-2402.1 of the Code of Virginia, relating to changes in the taxes and fees for imposition by the Hampton Roads Transportation Authority.*

Patron—Blevins (By Request)

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-1167.1, 58.1-605, 58.1-606, 58.1-625.1, 58.1-802.1, 58.1-1724.3, and 58.1-2402.1 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-1167.1. Additional fee permitted in certain counties and cities.

In addition to all other charges and fees permitted by law, the Hampton Roads Transportation Authority and the Northern Virginia Transportation Authority are authorized to charge an additional fee at the time of inspection in the amount of \$5 *in the case of the Hampton Roads Transportation Authority* and \$10 *in the case of the Northern Virginia Transportation Authority* for all vehicles for which an amount is permitted to be charged for inspection pursuant to § 46.2-1167 in the area embraced by the respective Authority and which shall be transmitted to the respective Authority.

§ 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

INTRODUCED

SB176

59 described in this subsection due to the misallocation of funds by the dealer shall be made within three  
60 years of the date of the payment error.

61 G. Such payments to counties are subject to the qualification that in any county wherein is situated  
62 any incorporated town constituting a special school district and operated as a separate school district  
63 under a town school board of three members appointed by the town council, the county treasurer shall  
64 pay into the town treasury for general governmental purposes the proper proportionate amount received  
65 by him in the ratio that the school age population of such town bears to the school age population of  
66 the entire county. If the school age population of any town constituting a separate school district is  
67 increased by the annexation of territory since the last preceding school age population census, such  
68 increase shall, for the purposes of this section, be added to the school age population of such town as  
69 shown by the last such census and a proper reduction made in the school age population of the county  
70 or counties from which the annexed territory was acquired.

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

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

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

97 K. 1. Notwithstanding the other provisions of this chapter, the ~~Hampton Roads Transportation~~  
98 ~~Authority and the Northern Virginia Transportation Authority~~ may impose a retail sales tax at the rate of  
99 5% on (i) charges for separately stated labor or services in the repair of motor vehicles and (ii) charges  
100 for the repair of a motor vehicle in cases in which the true object of the repair is a service provided  
101 within a city or county embraced by the ~~respective~~ Authority.

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

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

111 § 58.1-606. To what extent and under what conditions cities and counties may levy local use tax;  
112 collection thereof by Commonwealth and return of revenues to the cities and counties.

113 A. The council of any city and the governing body of any county which has levied or may hereafter  
114 levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one  
115 percent to provide revenue for the general fund of such city or county. Such tax shall be added to the  
116 rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this chapter,  
117 and all amendments thereof, and the rules and regulations published with respect thereto, except that no  
118 discount under § 58.1-622 shall be allowed on a local use tax.

119 B. The council of any city and the governing body of any county desiring to impose a local use tax  
120 under this section may do so in the manner following:

1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by the council or governing body by the adoption of a resolution by a majority of all the members thereof, by a recorded ye and nay vote, stating its purpose and referring to this section, and providing that the local use tax shall become effective on the first day of a month at least 60 days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption. The resolution authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision of law, including any charter provision.

2. If the city or county has not imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by ordinance together with the local sales tax in the manner set out in subsections B and C of § 58.1-605.

C. Any local use 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 use tax.

D. The local use tax authorized by this section shall not apply to transactions to which the sales tax applies, the situs of which for state and local sales tax purposes is 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. However, the local use tax authorized by this section shall apply to tangible personal property purchased without this Commonwealth for use or consumption within the city or county imposing the local use tax, or stored within the city or county for use or consumption, where the property would have been subject to the sales tax if it had been purchased within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal property where the place of business of the lessor is without this Commonwealth and such leases or rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state use tax applies.

E. Out-of-state dealers who hold certificates of registration to collect the use tax from their customers for remittance to this Commonwealth shall, to the extent reasonably practicable, in filing their monthly use tax returns with the Tax Commissioner, break down their shipments into this Commonwealth by cities and counties so as to show the city or county of destination. If, however, the out-of-state dealer is unable accurately to assign any shipment to a particular city or county, the local use tax on the tangible personal property involved shall be remitted to the Commonwealth by such dealer without attempting to assign the shipment to any city or county.

F. Local use tax revenue shall be distributed among the cities and counties for which it is collected, respectively, as shown by the records of the Department, and the procedure shall be the same as that prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue that is not accurately assignable to a particular city or county shall be distributed monthly by the appropriate state authorities among the cities and counties in this Commonwealth imposing the local use tax upon the basis of taxable retail sales in the respective cities and counties in which the local sales and use tax was in effect in the taxable month involved, as shown by the records of the Department, and computed with respect to taxable retail sales as reflected by the amounts of the local sales tax revenue distributed among such cities and counties, respectively, in the month of distribution. Notwithstanding any other provision of this section, the Tax Commissioner shall develop a uniform method to distribute local use tax. Any significant changes to the method of local use tax distribution shall be phased in over a five-year period. Distribution information shall be shared with the affected localities prior to implementation of the changes.

G. All local use tax revenue shall be used, applied or disbursed by the cities and counties as provided in § 58.1-605 with respect to local sales tax revenue.

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

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

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

§ 58.1-625.1. Certain dealers required to separately state labor or service charges in the repair of

182 motor vehicles.

183 Any dealer or other person required to collect any tax imposed under this chapter, or pursuant to any  
184 authority granted under this chapter, who is located in any county or city embraced by the Northern  
185 Virginia Transportation Authority established under § 15.2-4830 ~~or the Hampton Roads Transportation~~  
186 ~~Authority established under § 33.1-391.7~~, shall separately state on any bill, invoice, ticket, or other  
187 billing statement the amount charged by such dealer or person for labor or services performed in the  
188 repair of motor vehicles. This section shall apply only in the counties or cities embraced by the  
189 Northern Virginia Transportation Authority if the Authority is imposing the taxes authorized pursuant to  
190 subsection K of § 58.1-605 and subsection H of § 58.1-606; ~~or in the counties or cities embraced by the~~  
191 ~~Hampton Roads Transportation Authority if the Authority is imposing the taxes authorized pursuant to~~  
192 ~~subsection K of § 58.1-605 and subsection H of § 58.1-606.~~

193 § 58.1-802.1. Regional congestion relief fee.

194 In addition to any other tax imposed under the provisions of this chapter, the Hampton Roads  
195 Transportation Authority established pursuant to § 33.1-391.7 and the Northern Virginia Transportation  
196 Authority established pursuant to § 15.2-4830 may impose a fee, delineated as the "Regional congestion  
197 relief fee," on each deed, instrument, or writing by which lands, tenements, or other realty located in  
198 any county or city embraced by the respective Authority is sold and is granted, assigned, transferred, or  
199 otherwise conveyed to or vested in the purchaser or any other person, by such purchaser's direction. The  
200 rate of the fee, when the consideration or value of the interest, whichever is greater, equals or exceeds  
201 \$100, shall be \$0.40 for each \$100 or fraction thereof *in the case of the Northern Virginia*  
202 *Transportation Authority and \$0.20 for each \$100 or fraction thereof in the case of the Hampton Roads*  
203 *Transportation Authority, and in both cases* exclusive of the value of any lien or encumbrance  
204 remaining thereon at the time of the sale, whether such lien is assumed or the realty is sold subject to  
205 such lien or encumbrance.

206 The fee imposed by this section shall be paid by the grantor, or any person who signs on behalf of  
207 the grantor, of any deed, instrument, or writing subject to the fee imposed by this section.

208 Fees imposed by this section shall be collected pursuant to subsection B of § 58.1-802. However, the  
209 compensation allowed to the clerk of the court under such subsection shall not be applicable with regard  
210 to the fee collected under this section. The clerk shall return all fees collected pursuant to the authority  
211 granted under this section to the Hampton Roads Transportation Authority or the Northern Virginia  
212 Transportation Authority, as appropriate, as soon as practicable.

213 § 58.1-1724.3. Sales tax on fuel in certain localities.

214 A. In addition to all other taxes, fees, and other charges imposed on fuels subject to tax under  
215 Chapter 22 (§ 58.1-2200 et seq.) of this title, the Hampton Roads Transportation Authority may impose  
216 a sales tax of ~~2%~~ 5% of the retail price of such fuels sold at retail within any county or city embraced  
217 by the Authority. The Commissioner shall transfer the revenues collected to the Hampton Roads  
218 Transportation Authority established under § 33.1-391.7. As used in this section "sold at retail" means a  
219 sale to a consumer or to any person for any purpose other than resale.

220 B. The tax imposed under this section shall be subject to the provisions of the Virginia Retail Sales  
221 and Use Tax Act (§ 58.1-600 et seq.), except that the exemption provided for motor vehicle fuels under  
222 § 58.1-609.1, and the bracket system provided in such act, shall not be applicable.

223 § 58.1-2402.1. Local rental car transportation fee.

224 A. In addition to all other taxes, fees, and other charges imposed under law, the Hampton Roads  
225 Transportation Authority established pursuant to § 33.1-391.7 and the Northern Virginia Transportation  
226 Authority established pursuant to § 15.2-4830, may impose a fee ~~of 2% of~~ *based on* the gross proceeds  
227 on the daily rental of a vehicle in any county or city embraced by the respective Authority wherein the  
228 daily rental of the vehicle occurs, regardless of whether such vehicle is required to be licensed in the  
229 Commonwealth. *The Northern Virginia Transportation Authority may impose the fee at the rate of 2%*  
230 *of the gross proceeds on the daily rental of the vehicle and the Hampton Roads Transportation*  
231 *Authority may impose the fee at the rate of 5% of the gross proceeds on the daily rental of the vehicle.*  
232 The fee shall not be levied upon a rental to a person for re-rental as an established business or part of  
233 an established business or incidental or germane to such business.

234 B. After subtraction of the direct costs of administration by the Department, the Commissioner shall  
235 transfer the revenues collected pursuant to this section to the Hampton Roads Transportation Authority  
236 and the Northern Virginia Transportation Authority, as appropriate.

237 C. Any and all fees imposed pursuant to this section shall be collected by the Department of Motor  
238 Vehicles. The Commissioner shall maintain records of the fee imposed and collected by locality.

239 D. The fee imposed pursuant to the authority granted under this section shall be implemented,  
240 enforced, and collected in the same manner that rental taxes under this chapter are implemented,  
241 enforced, and collected.

242 **2. That the Hampton Roads Transportation Authority established under § 33.1-391.7 of the Code**  
243 **of Virginia may impose any fee, tax, or other charge authorized under law for imposition or**

244 assessment by the Authority without the taking of any further vote of any county or city embraced  
245 by the Authority.

**INTRODUCED**

SB176