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SENATE BILL NO. 291

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 6, 2008)

(Patron Prior to Substitute—Senator Herring)

A BILL to amend and reenact §§ 46.2-1548, 46.2-1549, 46.2-1550, and 58.1-2403 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-602.2, relating to titling and registration of company vehicles of automotive manufacturers; exemption of such vehicles from the motor vehicle sales and use tax.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1548, 46.2-1549, 46.2-1550, and 58.1-2403 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-602.2 as follows:

§ 46.2-602.2. Titling and registration of company vehicles of automotive manufacturers.

For the purpose of this section:

"Automotive manufacturer" includes the entire worldwide affiliated group as defined in § 58.1-3700.1, as of July 31, 2007, if at least one member of the worldwide affiliated group is an automotive manufacturer, as classified under the 2007 North American Industry Classification System Codes 3361, 3362, and 3363 in effect as of December 31, 2007;

"Company vehicles" means the following vehicles owned or operated by an automotive manufacturer having its headquarters in Virginia:

1. Vehicles used for sales or service training, advertising, public relations, quality control, and emissions or other testing and/or evaluation purposes;

2. Vehicles used for headquarters-related purposes, including but not necessarily limited to use by visiting executives or employees;

3. Vehicles provided for use by eligible headquarters employees and their eligible family members in compliance with established corporate policies as may from time to time be in effect, but not more than four vehicles may be leased for benefit of any eligible headquarters employee at any one time; and

4. All other vehicles deemed by the automotive manufacturer to serve a headquarters function;

"Headquarters" includes a facility where company employees are physically employed and where the majority of the company's financial, personnel, legal, or planning functions are handled either on a regional or national basis.

Each automotive manufacturer having its headquarters in the Commonwealth shall be issued a motor vehicle dealer license or equivalent permit by the Commissioner. Such license or permit shall authorize the automotive manufacturer to dispose of company vehicles using a manufacturer's certificate of origin, but if disposed of within the Commonwealth of Virginia, such vehicles may only be transferred to a new motor vehicle dealer holding a franchise for the automotive manufacturer's line-make, provided each vehicle is transferred with a designation indicating that it is not a new motor vehicle as defined in § 46.2-1500. The automotive manufacturer and its affiliates may sell used motor vehicles directly to its lessees.

The automotive manufacturer may obtain a title for any company vehicle, but issuance of any such title shall be exempt from all fees except for the fee for issuance of a certificate of title as provided in § 46.2-627.

All company vehicles used as provided in this section may be driven using license plates issued and affixed as provided in Article 5 (§ 46.2-1546 et seq.) of Chapter 15. All such vehicles shall be classified as merchants' capital and subject to merchants' capital tax pursuant to Article 3 (§ 58.1-3509 et seq.) of Chapter 35 of Title 58.1.

§ 46.2-1548. Transferable license plates.

In lieu of registering each vehicle of a type described in this section, a manufacturer, distributor, or dealer owning and operating any motor vehicle on any highway may obtain a dealer's license plate bearing the legend provided in § 46.2-1549 from the Department, on application therefor on the prescribed form and on payment of the fees required by law. These license plates shall be attached to each vehicle as required by subsection A of § 46.2-711. Each plate shall bear a distinctive number, and the name of the Commonwealth, which may be abbreviated, together with the word "dealer" or a distinguishing symbol indicating that the plate is issued to a manufacturer, distributor, or dealer. Month and year decals indicating the date of expiration shall be affixed to each license plate. Any license plates so issued may, during the calendar year or years for which they have been issued, be transferred from one motor vehicle to another, used or operated by the manufacturer, distributor, or dealer, who shall keep a written record of the motor vehicle on which the dealer's license plates are used. This record

60 shall be in a format approved by the Commissioner and shall be open to inspection by any
61 law-enforcement officer or any officer or employee of the Department.

62 Display of a transferable manufacturer's, distributor's, or dealer's license plate or plates on a motor
63 vehicle shall subject the vehicle to the requirements of §§ 46.2-1038 and 46.2-1056.

64 All manufacturer's, distributor's, and dealer's license plates shall be issued for a period of twelve
65 consecutive months except, at the discretion of the Commissioner, the periods may be adjusted as may
66 be necessary to distribute the registrations as equally as practicable on a monthly basis. The expiration
67 date shall be the last day of the twelfth month of validity or the last day of the designated month. Every
68 license plate shall be renewed annually on application by the owner and by payment of fees required by
69 law, such renewal to take effect on the first day of the succeeding month.

70 The Commissioner may offer an optional multi-year license plate registration to manufacturers,
71 distributors, and dealers licensed pursuant to this chapter provided that he has chosen to offer optional
72 multi-year licensing to such persons pursuant to § 46.2-1521. When such option is offered and chosen
73 by the licensee, all annual and twelve-month fees due at the time of registration shall be multiplied by
74 the number of years or fraction thereof the licensee will be licensed pursuant to § 46.2-1521.

75 § 46.2-1549. Dealer's, manufacturer's, and distributor's license plates to distinguish between various
76 types of dealers.

77 The Commissioner shall provide for the issuance of appropriate franchised or independent dealer's
78 license plates. *License plates for manufacturers shall bear the appropriate legend.*

79 § 46.2-1550. Use of dealer's and manufacturer's license plates, generally.

80 A. Dealer's license plates may be used on vehicles in the inventory of licensed motor vehicle
81 manufacturers, distributors, and dealers in the Commonwealth when operated on the highways of
82 Virginia by dealers or dealer-operators, their spouses, or employees of manufacturers, distributors, and
83 dealers as permitted in this article, *which shall include business, personal, and family purposes*. Except
84 as otherwise explicitly permitted in this article, it shall be unlawful for any dealer to cause or permit: (i)
85 use of dealer's license plates on vehicles other than those held in inventory for sale or resale; (ii) dealer's
86 license plates to be lent, leased, rented, or placed at the disposal of any persons other than those
87 permitted by this article to use dealer's license plates; and (iii) use of dealer's license plates on any
88 vehicle of a type for which their use is not authorized by this article. *Manufacturer's license plates may*
89 *be used on company vehicles as defined in § 46.2-602.2 operated on the highways of Virginia as*
90 *provided in § 46.2-602.2 and as permitted by this article*. It shall be unlawful for any dealer to cause or
91 permit dealer's license plates to be used on:

- 92 1. Motor vehicles such as tow trucks, wrecking cranes, or other service motor vehicles;
- 93 2. Vehicles used to deliver or transport (i) other vehicles; (ii) portions of vehicles; (iii) vehicle
94 components, parts, or accessories; or (iv) fuel;
- 95 3. Courtesy vehicles; or
- 96 4. Vehicles used in conjunction with any other business.

97 B. A dealer may permit his license plates to be used in the operation of a motor vehicle:

- 98 1. By any person whom the dealer reasonably believes to be a bona fide prospective purchaser who
99 is either accompanied by a licensed salesperson or has the written permission of the dealer;
- 100 2. When the plates are being used by a customer on a vehicle owned by the dealer in whose repair
101 shop the customer's vehicle is being repaired; or
- 102 3. By a person authorized by the dealer on a vehicle that is being driven to or from (i) a point of
103 sale, (ii) an auction, (iii) a repair facility for the purpose of mechanical repairs, painting, or installation
104 of parts or accessories, or (iv) a dealer exchange.

105 The dealer shall issue to the prospective purchaser, customer whose vehicle is being repaired, or
106 other person authorized under subdivision 3 of this subsection, a certificate on forms provided by the
107 Department, a copy of which shall be retained by the dealer and open at all times to the inspection of
108 the Commissioner or any of the officers or agents of the Department. The certificate shall be in the
109 immediate possession of the person operating or authorized to operate the vehicle. The certificate shall
110 entitle a person to operate with dealer's license plates under (i) subdivision 1 or 2 of this subsection for
111 a specific period of no more than five days or (ii) subdivision 3 of this subsection for no more than
112 twenty-four hours. No more than two certificates may be issued by a dealer to the same person under
113 subdivision 1 or 2 of this subsection for successive periods.

114 § 58.1-2403. Exemptions.

115 No tax shall be imposed as provided in § 58.1-2402 or 58.1-2402.1 if the vehicle is:

- 116 1. Sold to, rented or used by the United States government or any governmental agency thereof;
- 117 2. Sold to, rented or used by the Commonwealth of Virginia or any political subdivision thereof;
- 118 3. Registered in the name of a volunteer fire department or rescue squad not operated for profit;
- 119 4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any
120 other recognized Indian tribe of the Commonwealth living on the tribal reservation;
- 121 5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the

lienholder;

6. A manufactured home permanently attached to real estate and included in the sale of real estate;

7. A gift to the spouse, son, or daughter of the transferor. With the exception of a gift to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;

8. Transferred from an individual or partnership to a corporation or limited liability company or from a corporation or limited liability company to an individual or partnership if the transfer is incidental to the formation, organization or dissolution of a corporation or limited liability company in which the individual or partnership holds the majority interest;

9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;

10. Being registered for the first time in this Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;

11. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale *or titled in the name of an automotive manufacturer*;

12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on the same day;

13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;

14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the use of a church conducted not for profit;

15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;

16. Sold to an insurance company or local government group self-insurance pool, created pursuant to § 15.2-2703, for the sole purpose of disposition when such company has paid the registered owner of such vehicle a total loss claim;

17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;

18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit hospital or a cooperative hospital service organization as described in § 501 (e) of the United States Internal Revenue Code;

19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier or common carrier of passengers;

20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service organization as described in § 501 (e) of the United States Internal Revenue Code, or a nonprofit corporation as defined in § 501 (c) (3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy for human ailments;

21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;

22. A motor vehicle sold to an organization which is exempt from taxation under § 501 (c) (3) of the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing, medicines and other necessities of life to, and providing shelter for, needy persons in the United States and throughout the world;

23. A truck, tractor truck, trailer, or semitrailer, as severally defined in § 46.2-100, except trailers and semitrailers not designed or used to carry property and vehicles registered under § 46.2-700, with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more, in which case no tax shall be imposed pursuant to subdivisions 1 and 3 of subsection A of § 58.1-2402;

24. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries of the trust may also be named in the trust instrument, when no

183 consideration has passed between the titleholder and the beneficiaries; and transferred to the original
184 titleholder from the trustees holding title to the motor vehicle;

185 25. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the
186 beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be
187 named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust
188 following the death of the grantor, when no consideration has passed between the grantor and the
189 beneficiaries in either case;

190 26. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if
191 the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with
192 respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of
193 the lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has
194 been paid to the Commonwealth by the lessee purchasing the vehicle; or

195 27. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will,
196 of such deceased person.