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HOUSE BILL NO. 2233

Offered January 14, 2009

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A BILL to amend and reenact §§ 46.2-216.1, 46.2-706.1, and 58.1-2261 of the Code of Virginia, and to repeal § 46.2-216.2 of the Code of Virginia, relating to electronic filings with the Department of Motor Vehicles.

Patron—Marsden

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-216.1, 46.2-706.1, and 58.1-2261 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-216.1. Electronic filings or submissions to Department; provision of electronic documents by Department.

A. Whenever this title or Title 58.1 provides that a written certificate or other document is to be filed with applications, certificates, fees, letters of credit, notices, penalties, records, reports, surety bonds, tariffs, taxes, time schedules, or any other documents or payments be filed or submitted to the Department in written form or otherwise, the Commissioner may establish procedures for and accept in lieu of such paper document a filing made by electronic means, after providing 12-months' written notification to impacted applicants, licensees, or any other person or entity, require that all or certain applicants, licensees, or any other person or entity engaged in business with the Department, make such filings or submissions electronically in a format prescribed by the Commissioner. Any such requirement shall not apply to an individual application for a driver's license, commercial driver's license, special identification card, or the titling or registration of 12 or fewer vehicles during a period of one year. Such filing by electronic means shall be accepted only if the content of the filing satisfies all of the requirements of the statute which provides for the written document and the Commissioner has made a written, affirmative finding that the lack of a paper document will not compromise or reduce the effectiveness of the record-keeping system established by the statute. The Commissioner shall develop a method to ensure that the electronic filing is received and stored accurately and that it is readily available to satisfy the requirements of the statutes which call for a written document. Notwithstanding the provisions of this section, the Commissioner may accept, in lieu of paper documents, a filing or submission made by electronic means for any document not required to be filed or submitted electronically pursuant to the provisions of this title or Title 58.1.

B. Whenever this title or Title 58.1 provides that a written certificate or other document is to be delivered to an owner, registrant, licensee, lien holder, or any other person or entity by the Department or the Commissioner, the Commissioner may provide the written certificate or other document by electronic means. The electronic document may consist of all of the information included in the paper certificate or document or it may be an abstract or listing of the information held in electronic form by the Department. Whenever a certificate or other document is provided by electronic means, the Department will not be required to produce a written certificate or document until requested to do so by the owner, registrant, licensee, lien holder, or other party.

§ 46.2-706.1. Insurance and surety companies to furnish certain insurance information.

Any liability insurance information relating to individually identified vehicles or persons, received from such companies under this section, shall be considered privileged information and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

Such information shall be used in conjunction with information supplied under § 46.2-706 to verify insurance for motor vehicles certified by their owners to be insured.

Insurance companies licensed to do business in Virginia shall provide to the Department monthly electronic updates of insured information and vehicle descriptions required by the Commissioner when they (i) cancel liability insurance for vehicles registered in Virginia, (ii) add liability insurance for vehicles registered in Virginia, or (iii) provide liability insurance for vehicles registered in Virginia newly satisfying financial responsibility requirements. Insurance companies having less than 1,000 policies may report the information manually or electronically.

§ 58.1-2261. Refund procedure; investigations.

A. Any person entitled to a refund pursuant to § 58.1-2259 shall file with the Commissioner an application in writing on a form prepared and furnished by the Commissioner, duly signed by the applicant, and accompanied by a paid ticket or invoice from the seller showing such purchase. Such

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HB2233

59 application shall contain the information and certifications required by the Commissioner. The applicant
60 shall set forth the basis for the claimed refund, the total amount of such fuel purchased and used by
61 such applicant, and how such fuel was used. *The applicant shall retain the paid ticket, invoice, or other*
62 *document from the seller documenting the purchase of the fuel on which a refund is claimed for a*
63 *period of time to be determined by the Commissioner.* The Commissioner, upon the presentation of such
64 application and paid ticket, invoice or other document, shall refund to the claimant the proper amount of
65 the tax paid as provided in this chapter, subject to the provisions of subsection D. A ticket issued to the
66 holder of a credit card as evidence of the delivery to such holder of tax-paid fuel shall, for the purpose
67 of this section, be a paid ticket or invoice. Tickets or invoices marked "duplicate" shall not be
68 acceptable.

69 B. The application for a refund shall be filed within one year from the date of the sale as shown on
70 the paid ticket or invoice. ~~However, an application for a refund pursuant to subdivision A 5 of~~
71 ~~§ 58.1-2259 shall be filed within three years of the date such fuel is transported outside the~~
72 ~~Commonwealth.~~ For those that pay the motor fuels tax in accordance with § 58.1-2200, if the refund
73 amount certified by the Commissioner is different from the amount requested by the applicant, the
74 Commissioner shall provide an explanation to the applicant of why the refund amount differs from the
75 amount requested.

76 C. In the event an assessment is rendered for failure to report and pay the tax imposed as provided
77 in § 58.1-2217 or § 58.1-2249 and such fuel is subject to refund under the provisions of § 58.1-2259, the
78 application for a refund shall be filed with the Commissioner by the person entitled to such refund
79 within one year from the date such assessment is paid and shall be accompanied by invoices covering
80 the sale of the fuel and billing of tax to such person.

81 D. The Department may make any investigation it considers necessary before refunding the fuels tax
82 to a person, and may investigate a refund after the refund has been issued and within the time frame for
83 adjusting tax under this chapter. *As a part of such investigation, the Department may require that the*
84 *person provide the paid ticket, invoice, or other document from the seller documenting the purchase of*
85 *the fuel on which a refund is claimed. Failure to provide a ticket, invoice, or other document evidencing*
86 *the purchase of such fuel on which a refund is requested or was previously granted will result in the*
87 *denial or reversal of that refund.*

88 E. In accordance with § 58.1-609.1, any person who is refunded tax pursuant to § 58.1-2259 shall be
89 subject to the taxes imposed by Chapter 6 (§ 58.1-600 et seq.) of this title, unless such transaction is
90 specifically exempted pursuant to § 58.1-609.1.

91 **2. That prior to providing 12-months' written notice to impacted applicants, licensees, or any other**
92 **person or entity regarding electronic filing of applications, certificates, fees, letters of credit,**
93 **notices, penalties, records, reports, surety bonds, tariffs, taxes, time schedules, or any other**
94 **documents or payments to be filed or submitted to the Department, the Commissioner shall**
95 **publish notice soliciting written comment from applicants, licensees, or any other impacted person**
96 **or entity regarding the use of the authority granted to the Commissioner pursuant to § 46.2-216.1**
97 **of the Code of Virginia.**

98 **3. That § 46.2-216.2 of the Code of Virginia is repealed.**