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SENATE BILL NO. 1226

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Petersen
on February 3, 2011)

(Patron Prior to Substitute—Senator Petersen)

A BILL to amend and reenact §§ 58.1-604.2, 58.1-613, 58.1-634, and 58.1-3700 of the Code of Virginia, relating to select offices of the Department of Motor Vehicles; commissioners of the revenue; powers and duties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-604.2, 58.1-613, 58.1-634, and 58.1-3700 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-604.2. Filing return; payment of tax.

Before any property subject to the use tax is brought into this Commonwealth for use as provided in § 58.1-604.1, the owner, or, if the property is leased, the lessee shall register with the Tax Commissioner or the local commissioner of the revenue. The local commissioner of the revenue shall as soon as practicable provide the Tax Commissioner with a copy of each certificate of registration he has issued and the related application for the same.

After registration, the taxpayer shall file quarterly reports on forms furnished by the Tax Commissioner reporting such property brought, imported or caused to be brought into this Commonwealth during the preceding quarter together with remittance of the amount of tax due. Such reports are to be filed on or before the fifteenth of the month following the quarter in which such property was brought into this Commonwealth.

§ 58.1-613. Dealers' certificates of registration.

A. Every person desiring to engage in or conduct business as a dealer in this Commonwealth shall file with the Tax Commissioner or the local commissioner of the revenue an application for a certificate of registration for each place of business in this Commonwealth.

B. Every application for a certificate of registration shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as the Tax Commissioner or the local commissioner of the revenue may require, provided that the local commissioner of the revenue shall implement procedures to ensure that any such application he receives contains substantially the same information as, and is substantially similar to, applications required by the Tax Commissioner for the issuance of a certificate of registration.

C. When the required application has been made, the Tax Commissioner or the local commissioner of the revenue, as applicable, shall issue to each applicant a separate certificate of registration for each place of business within this Commonwealth. A certificate of registration is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall be at all times conspicuously displayed at the place for which issued.

D. Whenever any person fails to comply with any provision of this chapter or any rule or regulation relating thereto, the Tax Commissioner, upon hearing after giving such person ten 10 days' notice in writing, specifying the time and place of hearing and requiring him to show cause why his certificate of registration should not be revoked or suspended, may revoke or suspend any one or more of the certificates of registration held by such person. The notice may be personally served or served by registered mail directed to the last known address of such person. The Tax Commissioner's powers of revocation and suspension shall extend to certificates of registration issued by the local commissioner of the revenue, and the local commissioner of the revenue shall comply accordingly with such action taken by the Tax Commissioner.

E. Any person who engages in business as a dealer in this Commonwealth without obtaining a certificate of registration, or after a certificate of registration has been suspended or revoked, and each officer of any corporation which so engages in business shall be guilty of a Class 2 misdemeanor. Each day's continuance in business in violation of this section shall constitute a separate offense.

F. If the holder of a certificate of registration ceases to conduct his business at the place specified in his certificate, the certificate shall thereupon expire, and such holder shall inform the Tax Commissioner in writing within thirty 30 days after he has ceased to conduct such business at such place that he has so ceased. If the holder of a certificate of registration desires to change his place of business to another place in this Commonwealth, he shall so inform the Tax Commissioner in writing and his certificate shall be revised accordingly.

The holder of a certificate of registration alternatively may complete the transactions described in this subsection with the local commissioner of the revenue, who shall as soon as practicable provide to the Tax Commissioner a copy of any revised certificate of registration or any writing by a holder of a

60 *certificate of registration giving notice of the cessation of business.*

61 G. This section shall also apply to any person who engages in the business of furnishing any of the
62 things or services taxable under this chapter. Moreover, it shall apply to any person who is liable only
63 for the collection of the use tax.

64 H. At the request of a local commissioner of revenue, the Tax Commissioner shall provide, on a
65 quarterly basis, a listing of new businesses in the locality which obtained a certificate of registration.

66 I. *Notwithstanding any other provision of this section, the local commissioner of the revenue of a*
67 *county, city, or town shall not issue a certificate of registration unless the applicant is applying to*
68 *engage in or conduct business as a dealer in the county, city, or town. In addition, the local*
69 *commissioner of the revenue shall revise only those certificates of registration his office has issued.*

70 J. *The local commissioner of the revenue shall as soon as practicable provide the Tax Commissioner*
71 *with a copy of each certificate of registration he has issued or revised and the related application and*
72 *materials for the same.*

73 § 58.1-634. Period of limitations.

74 The taxes imposed by this chapter shall be assessed within three years from the date on which such
75 taxes became due and payable. In the case of a false or fraudulent return with intent to evade payment
76 of the taxes imposed by this chapter, or a failure to file a return, the taxes may be assessed, or a
77 proceeding in court for the collection of such taxes may be begun without assessment, at any time
78 within six years from such date. The Tax Commissioner *or local commissioner of the revenue* shall not
79 examine any person's records beyond the three-year period of limitations unless he has reasonable
80 evidence of fraud, or reasonable cause to believe that such person was required by law to file a return
81 and failed to do so.

82 *The local commissioner of the revenue shall as soon as practicable report in detail on the results of*
83 *any such examination to the Tax Commissioner, including but not limited to any local use tax or portion*
84 *thereof that has been incorrectly distributed pursuant to subsection F of § 58.1-606.*

85 § 58.1-3700. License requirement; requiring evidence of payment of business license, business
86 personal property, meals and admissions taxes.

87 A. Whenever a license is required by ordinance adopted pursuant to this chapter and whenever the
88 local governing body shall impose a license fee or levy a license tax on any business, employment or
89 profession, it shall be unlawful to engage in such business, employment or profession without first
90 obtaining the required license. The governing body of any county, city or town may require that no
91 business license under this chapter shall be issued until the applicant has produced satisfactory evidence
92 that all delinquent business license, personal property, meals, transient occupancy, severance and
93 admissions taxes owed by the business to the county, city or town have been paid which have been
94 properly assessed against the applicant by the county, city or town.

95 Any person who engages in a business without obtaining a required local license, or after being
96 refused a license, shall not be relieved of the tax imposed by the ordinance.

97 B. *In addition to the provisions of subsection A, the commissioner of the revenue for each locality*
98 *that imposes the local license fee or tax in accordance with the provisions of this chapter shall verify*
99 *that every taxpayer seeking a local business license who is subject to the state licensing requirements of*
100 *the Department of Professional and Occupational Regulation has satisfied such requirements and*
101 *obtained a state license. No local business license shall be issued until the commissioner of the revenue*
102 *has such verification. If the commissioner of the revenue determines that a taxpayer is attempting to*
103 *operate a business without the appropriate state license from the Department of Professional and*
104 *Occupational Regulation, the commissioner shall report such taxpayer to the Department of Professional*
105 *and Occupational Regulation.*