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SENATE BILL NO. 249

Offered January 10, 2018

Prefiled January 5, 2018

A BILL to amend and reenact §§ 58.1-602, as it is currently effective and as it may become effective, 58.1-2401, 58.1-2402, as it is currently effective and as it may become effective, 58.1-2403, and 58.1-2425, as it is currently effective and as it may become effective, of the Code of Virginia, relating to taxation of all-terrain vehicles, mopeds, and off-road motorcycles.

Patron—Dance

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-602, as it is currently effective and as it may become effective, 58.1-2401, 58.1-2402, as it is currently effective and as it may become effective, 58.1-2403, and 58.1-2425, as it is currently effective and as it may become effective, of the Code of Virginia are amended and reenacted as follows:

§ 58.1-602. (Contingent expiration date) Definitions.

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined herein shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program which is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person who has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges, service charges, or interest from credit extended on the lease or rental of tangible personal property under conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the lease or rental price.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

INTRODUCED

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59 "In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth
60 of Virginia and includes all territory within these limits owned by or ceded to the United States of
61 America.

62 "Integrated process," when used in relation to semiconductor manufacturing, means a process that
63 begins with the research or development of semiconductor products, equipment, or processes, includes
64 the handling and storage of raw materials at a plant site, and continues to the point that the product is
65 packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing,
66 any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be
67 deemed used as part of the integrated process if its use contributes, before, during, or after production,
68 to higher product quality, production yields, or process efficiencies. Except as otherwise provided by
69 law, such term shall not mean general maintenance or administration.

70 "Internet" means collectively, the myriad of computer and telecommunications facilities, which
71 comprise the interconnected world-wide network of computer networks.

72 "Internet service" means a service that enables users to access proprietary and other content,
73 information electronic mail, and the Internet as part of a package of services sold to end-user
74 subscribers.

75 "Lease or rental" means the leasing or renting of tangible personal property and the possession or use
76 thereof by the lessee or renter for a consideration, without transfer of the title to such property.

77 "Manufacturing, processing, refining, or conversion" includes the production line of the plant starting
78 with the handling and storage of raw materials at the plant site and continuing through the last step of
79 production where the product is finished or completed for sale and conveyed to a warehouse at the
80 production site, and also includes equipment and supplies used for production line testing and quality
81 control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and
82 magazine printing when such activities are performed by the publisher of any newspaper or magazine
83 for sale daily or regularly at average intervals not exceeding three months.

84 The determination whether any manufacturing, mining, processing, refining or conversion activity is
85 industrial in nature shall be made without regard to plant size, existence or size of finished product
86 inventory, degree of mechanization, amount of capital investment, number of employees or other factors
87 relating principally to the size of the business. Further, "industrial in nature" shall include, but not be
88 limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the
89 Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

90 "Modular building" means, but shall not be limited to, single and multifamily houses, apartment
91 units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are
92 intended to become real property, primarily constructed at a location other than the permanent site, built
93 to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the
94 Virginia Department of Housing and Community Development, and shipped with most permanent
95 components in place to the site of final assembly. For purposes of this chapter, a modular building shall
96 not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and
97 certified under the provisions of the National Manufactured Housing Construction and Safety Standards
98 Act of 1974 (42 U.S.C. § 5401 et seq.).

99 "Modular building manufacturer" means a person or corporation who owns or operates a
100 manufacturing facility and is engaged in the fabrication, construction and assembling of building
101 supplies and materials into modular buildings, as defined in this section, at a location other than at the
102 site where the modular building will be assembled on the permanent foundation and may or may not be
103 engaged in the process of affixing the modules to the foundation at the permanent site.

104 "Modular building retailer" means any person who purchases or acquires a modular building from a
105 modular building manufacturer, or from another person, for subsequent sale to a customer residing
106 within or outside of the Commonwealth, with or without installation of the modular building to the
107 foundation at the permanent site.

108 "Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of
109 the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all
110 applicable motor vehicle sales and use taxes have been paid. ~~"Motor vehicle" does not include any
111 all-terrain vehicle, moped, or off-road motorcycle all as defined in § 46.2-100. The taxes under this
112 chapter or pursuant to the authority granted under this chapter shall apply to such all-terrain vehicles,
113 mopeds, and off-road motorcycles.~~

114 "Occasional sale" means a sale of tangible personal property not held or used by a seller in the
115 course of an activity for which he is required to hold a certificate of registration, including the sale or
116 exchange of all or substantially all the assets of any business and the reorganization or liquidation of
117 any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in
118 number, scope and character to constitute an activity requiring the holding of a certificate of registration.

119 "Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for
120 purposes of this chapter only, shall also include Internet service regardless of whether the provider of

121 such service is also a telephone common carrier.

122 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation,
123 joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver,
124 auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body
125 politic or political subdivision, whether public or private, or quasi-public, and the plural of such term
126 shall mean the same as the singular.

127 "Prewritten program" means a computer program that is prepared, held or existing for general or
128 repeated sale or lease, including a computer program developed for in-house use and subsequently sold
129 or leased to unrelated third parties.

130 "Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of
131 every kind and description, and all other equipment determined by the Tax Commissioner to constitute
132 railroad rolling stock.

133 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in
134 the form of tangible personal property or services taxable under this chapter, and shall include any such
135 transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale
136 must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale
137 for resale which is not in strict compliance with such regulations shall be personally liable for payment
138 of the tax.

139 The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or
140 charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90
141 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any
142 other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for
143 a consideration; (ii) sales of tangible personal property to persons for resale when because of the
144 operation of the business, or its very nature, or the lack of a place of business in which to display a
145 certificate of registration, or the lack of a place of business in which to keep records, or the lack of
146 adequate records, or because such persons are minors or transients, or because such persons are engaged
147 in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will
148 lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge
149 made for automotive refinish repair materials that are permanently applied to or affixed to a motor
150 vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or
151 purchase by a provider of satellite television programming to the customer of such programming.
152 Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the
153 customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized
154 to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by
155 this chapter on the cost price of such tangible personal property to such persons and may refuse to issue
156 certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also shall
157 specifically include the separately stated charge made for supplies used during automotive repairs
158 whether or not there is transfer of title or possession of the supplies and whether or not the supplies are
159 attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the
160 customer of such repair services shall be deemed a sale for resale.

161 The term "transient" shall not include a purchaser of camping memberships, time-shares,
162 condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in,
163 real estate, however created or sold and whether registered with the Commonwealth or not. Further, a
164 purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a
165 specific real estate project on an ongoing basis throughout its term shall not be deemed a transient;
166 provided, however, that the term or time period involved is for seven years or more.

167 The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal
168 property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i)
169 at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the
170 transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the
171 purchaser manufactures goods.

172 "Retailer" means every person engaged in the business of making sales at retail, or for distribution,
173 use, consumption, or storage to be used or consumed in the Commonwealth.

174 "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional
175 or otherwise, in any manner or by any means whatsoever, of tangible personal property and any
176 rendition of a taxable service for a consideration, and includes the fabrication of tangible personal
177 property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and
178 the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on
179 the premises of the person furnishing, preparing, or serving such tangible personal property. A
180 transaction whereby the possession of property is transferred but the seller retains title as security for the
181 payment of the price shall be deemed a sale.

182 "Sales price" means the total amount for which tangible personal property or services are sold,
183 including any services that are a part of the sale, valued in money, whether paid in money or otherwise,
184 and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer,
185 without any deduction therefrom on account of the cost of the property sold, the cost of materials used,
186 labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any
187 cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from
188 credit extended on sales of tangible personal property under conditional sale contracts or other
189 conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local
190 property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity
191 added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory
192 gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such
193 mandatory gratuity or service charge does not exceed 20% of the price of the meal. Where used articles
194 are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used
195 articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the
196 new or used articles and the credit for the used articles.

197 "Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring,
198 lighting, equipment, and all other property used to reduce contamination or to control airflow,
199 temperature, humidity, vibration, or other environmental conditions required for the integrated process of
200 semiconductor manufacturing.

201 "Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii)
202 the related accessories, components, pedestals, bases, or foundations used in connection with the
203 operation of the equipment, without regard to the proximity to the equipment, the method of attachment,
204 or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other
205 property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or
206 maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control
207 testing of product, materials, equipment, or processes; or the measurement of equipment performance or
208 production parameters regardless of where or when the quality control, testing, or measuring activity
209 takes place, how the activity affects the operation of equipment, or whether the equipment and supplies
210 come into contact with the product.

211 "Storage" means any keeping or retention of tangible personal property for use, consumption or
212 distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of
213 business.

214 "Tangible personal property" means personal property which may be seen, weighed, measured, felt,
215 or touched, or is in any other manner perceptible to the senses. The term "tangible personal property"
216 shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible
217 personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt
218 from all other state and local utility taxes, and (ii) manufactured signs.

219 "Use" means the exercise of any right or power over tangible personal property incident to the
220 ownership thereof, except that it does not include the sale at retail of that property in the regular course
221 of business. The term does not include the exercise of any right or power, including use, distribution, or
222 storage, over any tangible personal property sold to a nonresident donor for delivery outside of the
223 Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the
224 Commonwealth via mail or telephone. The term does not include any sale determined to be a gift
225 transaction, subject to tax under § 58.1-604.6.

226 "Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein
227 defined.

228 "Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to
229 those activities which are an integral part of the production of a product, including all steps of an
230 integrated manufacturing or mining process, but not including ancillary activities such as general
231 maintenance or administration. When used in relation to mining, it shall refer to the activities specified
232 above, and in addition, any reclamation activity of the land previously mined by the mining company
233 required by state or federal law.

234 "Video programmer" means a person or entity that provides video programming to end-user
235 subscribers.

236 "Video programming" means video and/or information programming provided by or generally
237 considered comparable to programming provided by a cable operator including, but not limited to,
238 Internet service.

239 **§ 58.1-602. (Contingent effective date) Definitions.**

240 A. As used in this chapter, unless the context clearly shows otherwise:

241 "Advertising" means the planning, creating, or placing of advertising in newspapers, magazines,
242 billboards, broadcasting and other media, including, without limitation, the providing of concept, writing,
243 graphic design, mechanical art, photography and production supervision. Any person providing

244 advertising as defined herein shall be deemed to be the user or consumer of all tangible personal
245 property purchased for use in such advertising.

246 "Amplification, transmission and distribution equipment" means, but is not limited to, production,
247 distribution, and other equipment used to provide Internet-access services, such as computer and
248 communications equipment and software used for storing, processing and retrieving end-user subscribers'
249 requests.

250 "Business" includes any activity engaged in by any person, or caused to be engaged in by him, with
251 the object of gain, benefit or advantage, either directly or indirectly.

252 "Cost price" means the actual cost of an item or article of tangible personal property computed in the
253 same manner as the sales price as defined in this section without any deductions therefrom on account
254 of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

255 "Custom program" means a computer program which is specifically designed and developed only for
256 one customer. The combining of two or more prewritten programs does not constitute a custom
257 computer program. A prewritten program that is modified to any degree remains a prewritten program
258 and does not become custom.

259 "Distribution" means the transfer or delivery of tangible personal property for use, consumption, or
260 storage by the distributee, and the use, consumption, or storage of tangible personal property by a
261 person who has processed, manufactured, refined, or converted such property, but does not include the
262 transfer or delivery of tangible personal property for resale or any use, consumption, or storage
263 otherwise exempt under this chapter.

264 "Gross proceeds" means the charges made or voluntary contributions received for the lease or rental
265 of tangible personal property or for furnishing services, computed with the same deductions, where
266 applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use,
267 but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying
268 charges, service charges, or interest from credit extended on the lease or rental of tangible personal
269 property under conditional lease or rental contracts or other conditional contracts providing for the
270 deferred payments of the lease or rental price.

271 "Gross sales" means the sum total of all retail sales of tangible personal property or services as
272 defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not
273 include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the
274 Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the
275 article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city
276 under § 58.1-605 or 58.1-606.

277 "Import" and "imported" are words applicable to tangible personal property imported into the
278 Commonwealth from other states as well as from foreign countries, and "export" and "exported" are
279 words applicable to tangible personal property exported from the Commonwealth to other states as well
280 as to foreign countries.

281 "In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth
282 of Virginia and includes all territory within these limits owned by or ceded to the United States of
283 America.

284 "Integrated process," when used in relation to semiconductor manufacturing, means a process that
285 begins with the research or development of semiconductor products, equipment, or processes, includes
286 the handling and storage of raw materials at a plant site, and continues to the point that the product is
287 packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing,
288 any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be
289 deemed used as part of the integrated process if its use contributes, before, during, or after production,
290 to higher product quality, production yields, or process efficiencies. Except as otherwise provided by
291 law, such term shall not mean general maintenance or administration.

292 "Internet" means collectively, the myriad of computer and telecommunications facilities, which
293 comprise the interconnected world-wide network of computer networks.

294 "Internet service" means a service that enables users to access proprietary and other content,
295 information electronic mail, and the Internet as part of a package of services sold to end-user
296 subscribers.

297 "Lease or rental" means the leasing or renting of tangible personal property and the possession or use
298 thereof by the lessee or renter for a consideration, without transfer of the title to such property.

299 "Manufacturing, processing, refining, or conversion" includes the production line of the plant starting
300 with the handling and storage of raw materials at the plant site and continuing through the last step of
301 production where the product is finished or completed for sale and conveyed to a warehouse at the
302 production site, and also includes equipment and supplies used for production line testing and quality
303 control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and
304 magazine printing when such activities are performed by the publisher of any newspaper or magazine

305 for sale daily or regularly at average intervals not exceeding three months.

306 The determination whether any manufacturing, mining, processing, refining or conversion activity is
307 industrial in nature shall be made without regard to plant size, existence or size of finished product
308 inventory, degree of mechanization, amount of capital investment, number of employees or other factors
309 relating principally to the size of the business. Further, "industrial in nature" shall include, but not be
310 limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the
311 Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

312 "Modular building" means, but shall not be limited to, single and multifamily houses, apartment
313 units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are
314 intended to become real property, primarily constructed at a location other than the permanent site, built
315 to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the
316 Virginia Department of Housing and Community Development, and shipped with most permanent
317 components in place to the site of final assembly. For purposes of this chapter, a modular building shall
318 not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and
319 certified under the provisions of the National Manufactured Housing Construction and Safety Standards
320 Act of 1974 (42 U.S.C. § 5401 et seq.).

321 "Modular building manufacturer" means a person or corporation who owns or operates a
322 manufacturing facility and is engaged in the fabrication, construction and assembling of building
323 supplies and materials into modular buildings, as defined in this section, at a location other than at the
324 site where the modular building will be assembled on the permanent foundation and may or may not be
325 engaged in the process of affixing the modules to the foundation at the permanent site.

326 "Modular building retailer" means any person who purchases or acquires a modular building from a
327 modular building manufacturer, or from another person, for subsequent sale to a customer residing
328 within or outside of the Commonwealth, with or without installation of the modular building to the
329 foundation at the permanent site.

330 "Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of
331 the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all
332 applicable motor vehicle sales and use taxes have been paid. ~~"Motor vehicle" does not include any
333 all-terrain vehicle, moped, or off-road motoreycle all as defined in § 46.2-100. The taxes under this
334 chapter or pursuant to the authority granted under this chapter shall apply to such all-terrain vehicles,
335 mopeds, and off-road motoreycles.~~

336 "Occasional sale" means a sale of tangible personal property not held or used by a seller in the
337 course of an activity for which he is required to hold a certificate of registration, including the sale or
338 exchange of all or substantially all the assets of any business and the reorganization or liquidation of
339 any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in
340 number, scope and character to constitute an activity requiring the holding of a certificate of registration.

341 "Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for
342 purposes of this chapter only, shall also include Internet service regardless of whether the provider of
343 such service is also a telephone common carrier.

344 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation,
345 joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver,
346 auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body
347 politic or political subdivision, whether public or private, or quasi-public, and the plural of such term
348 shall mean the same as the singular.

349 "Prewritten program" means a computer program that is prepared, held or existing for general or
350 repeated sale or lease, including a computer program developed for in-house use and subsequently sold
351 or leased to unrelated third parties.

352 "Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of
353 every kind and description, and all other equipment determined by the Tax Commissioner to constitute
354 railroad rolling stock.

355 "Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in
356 the form of tangible personal property or services taxable under this chapter, and shall include any such
357 transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale
358 must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale
359 for resale which is not in strict compliance with such regulations shall be personally liable for payment
360 of the tax.

361 The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or
362 charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90
363 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any
364 other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for
365 a consideration; (ii) sales of tangible personal property to persons for resale when because of the
366 operation of the business, or its very nature, or the lack of a place of business in which to display a

367 certificate of registration, or the lack of a place of business in which to keep records, or the lack of
 368 adequate records, or because such persons are minors or transients, or because such persons are engaged
 369 in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will
 370 lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge
 371 made for automotive refinish repair materials that are permanently applied to or affixed to a motor
 372 vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or
 373 purchase by a provider of satellite television programming to the customer of such programming.
 374 Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the
 375 customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized
 376 to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by
 377 this chapter on the cost price of such tangible personal property to such persons and may refuse to issue
 378 certificates of registration to such persons. The terms "retail sale" and a "sale at retail" also shall
 379 specifically include the separately stated charge made for supplies used during automotive repairs
 380 whether or not there is transfer of title or possession of the supplies and whether or not the supplies are
 381 attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the
 382 customer of such repair services shall be deemed a sale for resale.

383 The term "transient" shall not include a purchaser of camping memberships, time-shares,
 384 condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in,
 385 real estate, however created or sold and whether registered with the Commonwealth or not. Further, a
 386 purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a
 387 specific real estate project on an ongoing basis throughout its term shall not be deemed a transient;
 388 provided, however, that the term or time period involved is for seven years or more.

389 The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal
 390 property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i)
 391 at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the
 392 transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the
 393 purchaser manufactures goods.

394 "Retailer" means every person engaged in the business of making sales at retail, or for distribution,
 395 use, consumption, or storage to be used or consumed in the Commonwealth.

396 "Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional
 397 or otherwise, in any manner or by any means whatsoever, of tangible personal property and any
 398 rendition of a taxable service for a consideration, and includes the fabrication of tangible personal
 399 property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and
 400 the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on
 401 the premises of the person furnishing, preparing, or serving such tangible personal property. A
 402 transaction whereby the possession of property is transferred but the seller retains title as security for the
 403 payment of the price shall be deemed a sale.

404 "Sales price" means the total amount for which tangible personal property or services are sold,
 405 including any services that are a part of the sale, valued in money, whether paid in money or otherwise,
 406 and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer,
 407 without any deduction therefrom on account of the cost of the property sold, the cost of materials used,
 408 labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any
 409 cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from
 410 credit extended on sales of tangible personal property under conditional sale contracts or other
 411 conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local
 412 property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity
 413 added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory
 414 gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such
 415 mandatory gratuity or service charge does not exceed 20 percent of the price of the meal. Where used
 416 articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used
 417 articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the
 418 new or used articles and the credit for the used articles.

419 "Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring,
 420 lighting, equipment, and all other property used to reduce contamination or to control airflow,
 421 temperature, humidity, vibration, or other environmental conditions required for the integrated process of
 422 semiconductor manufacturing.

423 "Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii)
 424 the related accessories, components, pedestals, bases, or foundations used in connection with the
 425 operation of the equipment, without regard to the proximity to the equipment, the method of attachment,
 426 or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other
 427 property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or

428 maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control
429 testing of product, materials, equipment, or processes; or the measurement of equipment performance or
430 production parameters regardless of where or when the quality control, testing, or measuring activity
431 takes place, how the activity affects the operation of equipment, or whether the equipment and supplies
432 come into contact with the product.

433 "Storage" means any keeping or retention of tangible personal property for use, consumption or
434 distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of
435 business.

436 "Tangible personal property" means personal property which may be seen, weighed, measured, felt,
437 or touched, or is in any other manner perceptible to the senses. The term "tangible personal property"
438 shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible
439 personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt
440 from all other state and local utility taxes, and (ii) manufactured signs.

441 "Use" means the exercise of any right or power over tangible personal property incident to the
442 ownership thereof, except that it does not include the sale at retail of that property in the regular course
443 of business. The term does not include the exercise of any right or power, including use, distribution, or
444 storage, over any tangible personal property sold to a nonresident donor for delivery outside of the
445 Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the
446 Commonwealth via mail or telephone. The term does not include any sale determined to be a gift
447 transaction, subject to tax under § 58.1-604.6.

448 "Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein
449 defined.

450 "Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to
451 those activities which are an integral part of the production of a product, including all steps of an
452 integrated manufacturing or mining process, but not including ancillary activities such as general
453 maintenance or administration. When used in relation to mining, it shall refer to the activities specified
454 above, and in addition, any reclamation activity of the land previously mined by the mining company
455 required by state or federal law.

456 "Video programmer" means a person or entity that provides video programming to end-user
457 subscribers.

458 "Video programming" means video and/or information programming provided by or generally
459 considered comparable to programming provided by a cable operator including, but not limited to,
460 Internet service.

461 B. Notwithstanding the definitions in subsection A, to the extent that conformity to any remote
462 collection authority legislation enacted by the Congress of the United States shall so require, the words
463 and terms used in this chapter related to the minimum simplification requirements shall have the same
464 meaning as provided in such federal legislation.

465 **§ 58.1-2401. Definitions.**

466 As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

467 "Commissioner" shall mean the Commissioner of the Department of Motor Vehicles of the
468 Commonwealth.

469 "Department" shall mean the Department of Motor Vehicles of this Commonwealth, acting through
470 its duly authorized officers and agents.

471 "Mobile office" shall mean an industrialized building unit not subject to the federal regulation, which
472 may be constructed on a chassis for the purpose of towing to the point of use and designed to be used
473 with or without a permanent foundation, for commercial use and not for residential use; or two or more
474 such units separately towable, but designed to be joined together at the point of use to form a single
475 commercial structure, and which may be designed for removal to, and installation or erection on other
476 sites.

477 "Motor vehicle" shall mean every vehicle, except for mobile office as herein defined, which is
478 self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a
479 motor vehicle, including *all-terrain vehicles*, manufactured homes, *mopeds*, and *off-road motorcycles* as
480 *those terms* are defined in § 46.2-100 and every device in, upon and by which any person or property
481 is, or can be, transported or drawn upon a highway, but excepting devices moved by human or animal
482 power, devices used exclusively upon stationary rails or tracks and vehicles, other than manufactured
483 homes, used in this Commonwealth but not required to be licensed by the Commonwealth.

484 "Sale" shall mean any transfer of ownership or possession, by exchange or barter, conditional or
485 otherwise, in any manner or by any means whatsoever, of a motor vehicle. The term shall also include a
486 transaction whereby possession is transferred but title is retained by the seller as security. The term shall
487 not include a transfer of ownership or possession made to secure payment of an obligation, nor shall it
488 include a refund for, or replacement of, a motor vehicle of equivalent or lesser value pursuant to the
489 Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.). Where the replacement motor

490 vehicle is of greater value than the motor vehicle replaced, only the difference in value shall constitute a
491 sale.

492 "Sale price" shall mean the total price paid for a motor vehicle and all attachments thereon and
493 accessories thereto, as determined by the Commissioner, exclusive of any federal manufacturers' excise
494 tax, without any allowance or deduction for trade-ins or unpaid liens or encumbrances. However, "sale
495 price" shall not include (i) any manufacturer rebate or manufacturer incentive payment applied to the
496 transaction by the customer or dealer whether as a reduction in the sales price or as payment for the
497 vehicle and (ii) the cost of controls, lifts, automatic transmission, power steering, power brakes or any
498 other equipment installed in or added to a motor vehicle which is required by law or regulation as a
499 condition for operation of a motor vehicle by a handicapped person.

500 **§ 58.1-2402. (Contingent expiration date) Levy.**

501 A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law,
502 a tax upon the sale or use of motor vehicles in Virginia, other than a sale to or use by a person for
503 rental as an established business or part of an established business or incidental or germane to such
504 business.

505 The amount of the tax to be collected shall be determined by the Commissioner by the application of
506 the following rates against the gross sales price:

507 1. Three percent through midnight on June 30, 2013, four percent (4.0%) beginning July 1, 2013,
508 through midnight on June 30, 2014, four and five-hundredths of a percent (4.05%) beginning July 1,
509 2014, through midnight on June 30, 2015, four and one tenth of a percent (4.1%) beginning July 1,
510 2015, through midnight on June 30, 2016, and four and fifteen-hundredths (4.15%) of a percent
511 beginning on and after July 1, 2016, of the sale price of each motor vehicle sold in Virginia. If such
512 motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale
513 price of each such manufactured home sold in the Commonwealth; if such vehicle is a mobile office as
514 defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the
515 Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of
516 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile
517 office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not
518 designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero
519 percent of the sale price of each such vehicle sold in the Commonwealth; *if such vehicle is an*
520 *all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, sold (a) in*
521 *a county or city located in a planning district described in § 58.1-603.1, the tax shall be six percent of*
522 *the sales price of each such vehicle or (b) in any county or city other than those set forth in clause (a),*
523 *the tax shall be 5.3 percent of the sales price of each such vehicle.*

524 2. Three percent through midnight on June 30, 2013, four percent (4.0%) beginning July 1, 2013,
525 through midnight on June 30, 2014, four and five-hundredths of a percent (4.05%) beginning July 1,
526 2014, through midnight on June 30, 2015, four and one tenth of a percent (4.1%) beginning July 1,
527 2015, through midnight on June 30, 2016, and four and fifteen-hundredths (4.15%) of a percent
528 beginning on and after July 1, 2016, of the sale price of each motor vehicle, not sold in Virginia but
529 used or stored for use in the Commonwealth; or three percent of the sale price of each manufactured
530 home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in
531 § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth. If such vehicle has a
532 gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither
533 (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a
534 trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor
535 (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such
536 vehicle not sold in the Commonwealth but used or stored for use in the Commonwealth. *If such vehicle*
537 *is an all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, not*
538 *sold in the Commonwealth but used or stored for use (a) in a county or city located in a planning*
539 *district described in § 58.1-603.1, the tax shall be six percent of the sales price of each such vehicle or*
540 *(b) in any county or city other than those set forth in clause (a), the tax shall be 5.3 percent of the*
541 *sales price of each such vehicle.* When any motor vehicle or manufactured home not sold in the
542 Commonwealth is first used or stored for use in Virginia six months or more after its acquisition, the
543 tax shall be based on its current market value.

544 3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to
545 taxation at a rate exceeding zero percent shall be \$75, except as provided by those exemptions defined
546 in § 58.1-2403.

547 4 through 7. [Repealed.]

548 B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall
549 the same transaction be taxed more than once under either subdivision.

550 C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of

551 § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no
552 longer owned or used by the United States government or any governmental agency, or the
553 Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in
554 which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in
555 § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this
556 chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax,
557 based on the current market value, when such vehicle is subsequently licensed to operate on the
558 highways of the Commonwealth.

559 D. Any person who with intent to evade or to aid another person to evade the tax provided for
560 herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for
561 title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this
562 title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

563 E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged
564 by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to
565 subdivision A 10 of § 46.2-1530, shall be subject to the tax.

566 **§ 58.1-2402. (Contingent effective date) Levy.**

567 A. There is hereby levied, in addition to all other taxes and fees of every kind now imposed by law,
568 a tax upon the sale or use of motor vehicles in Virginia, other than a sale to or use by a person for
569 rental as an established business or part of an established business or incidental or germane to such
570 business.

571 The amount of the tax to be collected shall be determined by the Commissioner by the application of
572 the following rates against the gross sales price:

573 1. Three percent of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a
574 manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such
575 manufactured home sold in the Commonwealth; if such vehicle is a mobile office as defined in
576 § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the
577 Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of
578 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile
579 office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not
580 designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero
581 percent of the sale price of each such vehicle sold in the Commonwealth; *if such vehicle is an*
582 *all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, the tax*
583 *shall be five percent of the sales price of each such vehicle sold in the Commonwealth.*

584 2. Three percent of the sale price of each motor vehicle, or three percent of the sale price of each
585 manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as
586 defined in § 58.1-2401, not sold in Virginia but used or stored for use in the Commonwealth. If such
587 vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more
588 and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in
589 § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to
590 carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale
591 price of each such vehicle not sold in the Commonwealth but used or stored for use in the
592 Commonwealth. *If such vehicle is an all-terrain vehicle, moped, or off-road motorcycle, as those terms*
593 *are defined in § 46.2-100, the tax shall be five percent of the sales price of each such vehicle used or*
594 *stored for use in the Commonwealth.* When any motor vehicle or manufactured home not sold in the
595 Commonwealth is first used or stored for use in Virginia six months or more after its acquisition, the
596 tax shall be based on its current market value.

597 3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to
598 taxation at a rate exceeding zero percent shall be \$35, except as provided by those exemptions defined
599 in § 58.1-2403.

600 4 through 7. [Repealed.]

601 B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall
602 the same transaction be taxed more than once under either subdivision.

603 C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of
604 § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no
605 longer owned or used by the United States government or any governmental agency, or the
606 Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in
607 which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in
608 § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this
609 chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax,
610 based on the current market value, when such vehicle is subsequently licensed to operate on the
611 highways of the Commonwealth.

612 D. Any person who with intent to evade or to aid another person to evade the tax provided for

613 herein, falsely states the selling price of a vehicle on a bill of sale, assignment of title, application for
614 title, or any other document or paper submitted to the Commissioner pursuant to any provisions of this
615 title or Title 46.2, shall be guilty of a Class 3 misdemeanor.

616 E. Effective January 1, 1997, any amount designated as a "processing fee" and any amount charged
617 by a dealer for processing a transaction, which is required to be included on a buyer's order pursuant to
618 subdivision A 10 of § 46.2-1530, shall be subject to the tax.

619 **§ 58.1-2403. Exemptions.**

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

- 621 1. Sold to or used by the United States government or any governmental agency thereof;
- 622 2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;
- 623 3. Registered in the name of a volunteer fire department or volunteer emergency medical services
624 agency not operated for profit;
- 625 4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any
626 other recognized Indian tribe of the Commonwealth living on the tribal reservation;
- 627 5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the
628 lienholder;
- 629 6. A manufactured home permanently attached to real estate and included in the sale of real estate;
- 630 7. A gift to the spouse, son, daughter, or parent of the transferor. With the exception of a gift to a
631 spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to
632 the transfer;
- 633 8. Transferred from an individual or partnership to a corporation or limited liability company or from
634 a corporation or limited liability company to an individual or partnership if the transfer is incidental to
635 the formation, organization or dissolution of a corporation or limited liability company in which the
636 individual or partnership holds the majority interest;
- 637 9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent
638 corporation to a wholly owned subsidiary;
- 639 10. Being registered for the first time in the Commonwealth and the applicant holds a valid,
640 assignable title or registration issued to him by another state or a branch of the United States Armed
641 Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less
642 than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has
643 been purchased by the applicant within the last 12 months and the applicant is unable to provide
644 evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the
645 fair market value of the vehicle at the time of registration in Virginia;
- 646 11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or
647 b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for
648 any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes
649 of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are
650 defined in § 46.2-602.2;
- 651 12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban
652 bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles,
653 one way, on the same day;
- 654 13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole
655 purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than
656 Virginia;
- 657 14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for
658 the use of a church conducted not for profit;
- 659 15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the
660 instruction of driver's education when such education is a part of such school's curriculum for full-time
661 students;
- 662 16. Sold to an insurance company or local government group self-insurance pool, created pursuant to
663 § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered
664 owner of such vehicle a total loss claim;
- 665 17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of
666 foreign governments, their employees or agents, and members of their families, if such persons are
667 nationals of the state by which they are appointed and are not citizens of the United States;
- 668 18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a
669 nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United
670 States Internal Revenue Code;
- 671 19. A motor vehicle having seats for more than seven passengers and sold to a restricted common
672 carrier or common carrier of passengers;
- 673 20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic

674 or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital
 675 service organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit
 676 corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis
 677 of, or therapy for human ailments;

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

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

685 23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a
 686 Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of
 687 whether other beneficiaries of the trust may also be named in the trust instrument, when no
 688 consideration has passed between the titleholder and the beneficiaries; and transferred to the original
 689 titleholder from the trustees holding title to the motor vehicle;

690 24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the
 691 beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be
 692 named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust
 693 following the death of the grantor, when no consideration has passed between the grantor and the
 694 beneficiaries in either case;

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

700 26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will,
 701 of such deceased person;

702 27. An all-terrain vehicle, moped, or off-road motorcycle ~~all~~, as *those terms are* defined in §
 703 46.2-100: ~~Such all-terrain vehicles, mopeds, or off-road motorcycles shall not be deemed a motor vehicle~~
 704 ~~or other vehicle subject to the tax imposed under this chapter, that is being titled for the first time in the~~
 705 ~~Commonwealth and that the applicant (i) has owned for more than 12 months or (ii) has owned for less~~
 706 ~~than 12 months and provides evidence of tax paid pursuant to Chapter 6 (§ 58.1-600 et seq.);~~

707 28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3) of
 708 the Internal Revenue Code and that is primarily used by the organization to transport to markets for sale
 709 produce that is (i) produced by local farmers and (ii) sold by such farmers to the organization; or

710 29. Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted
 711 the vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or
 712 (ii) otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and
 713 refunded to the purchaser the purchase price of the vehicle. Except when the return of the vehicle is
 714 pursuant to the Virginia Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45
 715 days of the date of purchase.

716 **§ 58.1-2425. (Contingent expiration date) Disposition of revenues.**

717 A. Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.
 718 Except as otherwise provided in this section, these funds shall constitute special funds within the
 719 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall
 720 be available for use in subsequent years for the purposes set forth in this chapter, and any interest
 721 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been
 722 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the
 723 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the
 724 provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the
 725 city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) effective
 726 January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on
 727 motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly
 728 which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402, and this section shall be distributed to
 729 and paid into the Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within
 730 the Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth
 731 Transportation Board for transportation needs; ~~and~~ (iii) the net additional revenues generated by
 732 increases in the rates of taxes under subdivisions A 1 and A 2 of § 58.1-2402 and generated by the
 733 increase in the minimum tax under subdivision A 3 of § 58.1-2402 pursuant to enactments of a Session
 734 of the General Assembly held in 2013 shall be deposited by the Comptroller into the Highway
 735 Maintenance and Operating Fund established pursuant to § 33.2-1530; *and (iv) all funds collected*

736 pursuant to the provisions of this chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as
 737 those terms are defined in § 46.2-100, shall be distributed as follows: (a) an amount equal to a one
 738 percent tax shall be distributed in the same manner as the one percent local sales tax pursuant to §
 739 58.1-605; (b) an amount equal to a 4.3 percent tax shall be distributed in the same manner as the state
 740 sales and use tax pursuant to § 58.1-638; and (c) if the all-terrain vehicle, moped, or off-road
 741 motorcycle was purchased, used, or stored for use in a county or city in a planning district described in
 742 § 58.1-603.1, an amount equal to a 0.7 percent tax shall be distributed pursuant to § 58.1-603.1.

743 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation
 744 Trust Fund pursuant to clause (ii) of subsection A, an aggregate of 4.2 percent shall be set aside as the
 745 Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport
 746 Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year
 747 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.

748 **§ 58.1-2425. (Contingent effective date) Disposition of revenues.**

749 A. Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.
 750 Except as otherwise provided in this section, these funds shall constitute special funds within the
 751 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall
 752 be available for use in subsequent years for the purposes set forth in this chapter, and any interest
 753 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been
 754 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the
 755 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the
 756 provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the
 757 city, town, or county wherein such manufactured home is to be situated as a dwelling; and (ii) effective
 758 January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on
 759 motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly
 760 which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and
 761 paid into the Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within the
 762 Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation
 763 Board for transportation needs; and (iii) all funds collected pursuant to the provisions of this chapter
 764 from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100,
 765 shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the
 766 same manner as the one percent local sales tax pursuant to § 58.1-605 and (b) an amount equal to a
 767 four percent tax shall be distributed in the same manner as the state sales and use tax pursuant to §
 768 58.1-638.

769 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation
 770 Trust Fund pursuant to clause (ii) of subsection A of this section, an aggregate of 4.2 percent shall be
 771 set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the
 772 Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7
 773 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit
 774 Fund.