

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 58.1-602, as it is currently effective and as it may become effective,*
3 *58.1-2401, 58.1-2402, as it is currently effective and as it may become effective, 58.1-2403, and*
4 *58.1-2425, as it is currently effective and as it may become effective, of the Code of Virginia,*
5 *relating to taxation of all-terrain vehicles, mopeds, and off-road motorcycles.*

6 [S 249]
7 Approved

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

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

13 **§ 58.1-602. (Contingent expiration date) Definitions.**

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

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

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

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

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

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

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

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

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

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

55 "In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth
56 of Virginia and includes all territory within these limits owned by or ceded to the United States of

57 America.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

178 "Sales price" means the total amount for which tangible personal property or services are sold,

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

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

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

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

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

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

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

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

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

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

235 **§ 58.1-602. (Contingent effective date) Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

419 "Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii)
 420 the related accessories, components, pedestals, bases, or foundations used in connection with the
 421 operation of the equipment, without regard to the proximity to the equipment, the method of attachment,
 422 or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other

423 property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or
424 maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control
425 testing of product, materials, equipment, or processes; or the measurement of equipment performance or
426 production parameters regardless of where or when the quality control, testing, or measuring activity
427 takes place, how the activity affects the operation of equipment, or whether the equipment and supplies
428 come into contact with the product.

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

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

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

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

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

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

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

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

461 **§ 58.1-2401. Definitions.**

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

463 "Commissioner" shall mean the Commissioner of the Department of Motor Vehicles of the
464 Commonwealth.

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

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

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

480 "Sale" shall mean any transfer of ownership or possession, by exchange or barter, conditional or
481 otherwise, in any manner or by any means whatsoever, of a motor vehicle. The term shall also include a
482 transaction whereby possession is transferred but title is retained by the seller as security. The term shall
483 not include a transfer of ownership or possession made to secure payment of an obligation, nor shall it

484 include a refund for, or replacement of, a motor vehicle of equivalent or lesser value pursuant to the
 485 Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.). Where the replacement motor
 486 vehicle is of greater value than the motor vehicle replaced, only the difference in value shall constitute a
 487 sale.

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

496 **§ 58.1-2402. (Contingent expiration date) Levy.**

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

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

503 1. Three percent through midnight on June 30, 2013, four percent (~~4.0%~~) beginning July 1, 2013,
 504 through midnight on June 30, 2014, ~~four and five-hundredths of a 4.05 percent (4.05%)~~ beginning July
 505 1, 2014, through midnight on June 30, 2015, ~~four and one tenth of a 4.1 percent (4.1%)~~ beginning July
 506 1, 2015, through midnight on June 30, 2016, and ~~four and fifteen-hundredths (4.15%)~~ of a 4.15 percent
 507 beginning on and after July 1, 2016, of the sale price of each motor vehicle sold in Virginia. If such
 508 motor vehicle is a manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale
 509 price of each such manufactured home sold in the Commonwealth; if such vehicle is a mobile office as
 510 defined in § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the
 511 Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of
 512 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile
 513 office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not
 514 designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero
 515 percent of the sale price of each such vehicle sold in the Commonwealth; *and if such vehicle is an*
 516 *all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, sold by a*
 517 *Virginia dealer, or sold by anyone other than a Virginia dealer and then used or stored for use in the*
 518 *Commonwealth, (a) in a county or city located in a planning district described in § 58.1-603.1, the tax*
 519 *shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those*
 520 *set forth in clause (a), the tax shall be 5.3 percent of the sales price of each such vehicle.*

521 2. Three percent through midnight on June 30, 2013, four percent (~~4.0%~~) beginning July 1, 2013,
 522 through midnight on June 30, 2014, ~~four and five-hundredths of a 4.05 percent (4.05%)~~ beginning July
 523 1, 2014, through midnight on June 30, 2015, ~~four and one tenth of a 4.1 percent (4.1%)~~ beginning July
 524 1, 2015, through midnight on June 30, 2016, and ~~four and fifteen-hundredths (4.15%)~~ of a 4.15 percent
 525 beginning on and after July 1, 2016, of the sale price of each motor vehicle, not sold in Virginia but
 526 used or stored for use in the Commonwealth; or three percent of the sale price of each manufactured
 527 home as defined in § 36-85.3, or two percent of the sale price of each mobile office as defined in
 528 § 58.1-2401, not sold in Virginia but used or stored for use in this Commonwealth. If such vehicle has a
 529 gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more and is neither
 530 (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in § 58.1-2401, (iii) a
 531 trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to carry property, nor
 532 (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale price of each such
 533 vehicle not sold in the Commonwealth but used or stored for use in the Commonwealth. *If such vehicle*
 534 *is an all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, not*
 535 *sold in the Commonwealth but used or stored for use in the Commonwealth (a) in a county or city*
 536 *located in a planning district described in § 58.1-603.1, the tax shall be six percent of the sales price of*
 537 *each such vehicle or (b) in any county or city other than those set forth in clause (a), the tax shall be*
 538 *5.3 percent of the sales price of each such vehicle.* When any motor vehicle or manufactured home not
 539 sold in the Commonwealth is first used or stored for use in Virginia six months or more after its
 540 acquisition, the tax shall be based on its current market value.

541 3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to
 542 taxation at a rate exceeding zero percent shall be \$75, except as provided by those exemptions defined
 543 in § 58.1-2403. *This subdivision shall not apply to any all-terrain vehicle, moped, or off-road motorcycle*
 544 *subject to taxation under this chapter.*

545 4 through 7. ~~[Repealed.]~~

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

548 C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of
549 § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no
550 longer owned or used by the United States government or any governmental agency, or the
551 Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in
552 which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in
553 § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this
554 chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax,
555 based on the current market value, when such vehicle is subsequently licensed to operate on the
556 highways of the Commonwealth.

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

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

564 **§ 58.1-2402. (Contingent effective date) Levy.**

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

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

571 1. Three percent of the sale price of each motor vehicle sold in Virginia. If such motor vehicle is a
572 manufactured home as defined in § 36-85.3, the tax shall be three percent of the sale price of each such
573 manufactured home sold in the Commonwealth; if such vehicle is a mobile office as defined in
574 § 58.1-2401, the tax shall be two percent of the sale price of each mobile office sold in the
575 Commonwealth; if such vehicle has a gross vehicle weight rating or gross combination weight rating of
576 26,001 pounds or more and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile
577 office as defined in § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not
578 designed or used to carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero
579 percent of the sale price of each such vehicle sold in the Commonwealth; *and if such vehicle is an*
580 *all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, sold by a*
581 *Virginia dealer, or sold by anyone other than a Virginia dealer and then used or stored for use in the*
582 *Commonwealth, (a) in a county or city located in a planning district described in § 58.1-603.1, the tax*
583 *shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those*
584 *set forth in clause (a), the tax shall be 5.3 percent of the sales price of each such vehicle.*

585 2. Three percent of the sale price of each motor vehicle, or three percent of the sale price of each
586 manufactured home as defined in § 36-85.3, or two percent of the sale price of each mobile office as
587 defined in § 58.1-2401, not sold in Virginia but used or stored for use in the Commonwealth. If such
588 vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more
589 and is neither (i) a manufactured home as defined in § 36-85.3, (ii) a mobile office as defined in
590 § 58.1-2401, (iii) a trailer or semitrailer as severally defined in § 46.2-100 that is not designed or used to
591 carry property, nor (iv) a vehicle registered under § 46.2-700, the tax shall be zero percent of the sale
592 price of each such vehicle not sold in the Commonwealth but used or stored for use in the
593 Commonwealth. *If such vehicle is an all-terrain vehicle, moped, or off-road motorcycle, as those terms*
594 *are defined in § 46.2-100, not sold in the Commonwealth but used or stored for use in the*
595 *Commonwealth (a) in a county or city located in a planning district described in § 58.1-603.1, the tax*
596 *shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those*
597 *set forth in clause (a), the tax shall be 5.3 percent of the sales price of each such vehicle. When any*
598 *motor vehicle or manufactured home not sold in the Commonwealth is first used or stored for use in*
599 *Virginia six months or more after its acquisition, the tax shall be based on its current market value.*

600 3. The minimum tax levied on the sale of any motor vehicle in the Commonwealth that is subject to
601 taxation at a rate exceeding zero percent shall be \$35, except as provided by those exemptions defined
602 in § 58.1-2403. *This subdivision shall not apply to any all-terrain vehicle, moped, or off-road motorcycle*
603 *subject to taxation under this chapter.*

604 4 through 7. ~~[Repealed.]~~

605 B. A transaction taxed under subdivision A 1 shall not also be taxed under subdivision A 2, nor shall

606 the same transaction be taxed more than once under either subdivision.

607 C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of
 608 § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is no
 609 longer owned or used by the United States government or any governmental agency, or the
 610 Commonwealth of Virginia or any political subdivision thereof, unless such vehicle is then rented, in
 611 which case the tax imposed by § 58.1-1736 shall apply, subject to the exemptions provided in
 612 § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this
 613 chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax,
 614 based on the current market value, when such vehicle is subsequently licensed to operate on the
 615 highways of the Commonwealth.

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

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

623 **§ 58.1-2403. Exemptions.**

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

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

667 § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered
668 owner of such vehicle a total loss claim;

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

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

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

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

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

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

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

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

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

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

706 27. An all-terrain vehicle, moped, or off-road motorcycle ~~all~~, as *those terms are* defined in
707 § 46.2-100. ~~Such all-terrain vehicles, mopeds, or off-road motorcycles shall not be deemed a motor~~
708 ~~vehicle or other vehicle subject to the tax imposed under this chapter, that is being titled for the first~~
709 ~~time in the Commonwealth and that the applicant (i) has owned for more than 12 months or (ii) has~~
710 ~~owned for less than 12 months and provides evidence of tax paid pursuant to Chapter 6 (§ 58.1-600 et~~
711 ~~seq.);~~

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

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

721 **§ 58.1-2425. (Contingent expiration date) Disposition of revenues.**

722 A. Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.
723 Except as otherwise provided in this section, these funds shall constitute special funds within the
724 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall
725 be available for use in subsequent years for the purposes set forth in this chapter, and any interest
726 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been
727 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the

728 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the
 729 provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the
 730 city, town, or county wherein such manufactured home is to be situated as a dwelling; (ii) effective
 731 January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on
 732 motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly
 733 which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402, and this section shall be distributed to and
 734 paid into the Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within the
 735 Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation
 736 Board for transportation needs; ~~and~~ (iii) the net additional revenues generated by increases in the rates
 737 of taxes under subdivisions A 1 and A 2 of § 58.1-2402 and generated by the increase in the minimum
 738 tax under subdivision A 3 of § 58.1-2402 pursuant to enactments of a Session of the General Assembly
 739 held in 2013 shall be deposited by the Comptroller into the Highway Maintenance and Operating Fund
 740 established pursuant to § 33.2-1530; *and (iv) all funds collected pursuant to the provisions of this*
 741 *chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in*
 742 *§ 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed*
 743 *in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount*
 744 *collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be*
 745 *distributed to the county or city in which the vehicle is used or stored for use; (b) an amount equal to a*
 746 *4.3 percent tax shall be distributed in the same manner as the state sales and use tax pursuant to*
 747 *§§ 58.1-638 and 58.1-638.3, except that this amount collected on sales by anyone other than a Virginia*
 748 *dealer or on sales outside of Virginia shall be distributed to the county or city in which the vehicle is*
 749 *used or stored for use; and (c) if the all-terrain vehicle, moped, or off-road motorcycle was purchased*
 750 *from a Virginia dealer, or purchased from anyone other than a Virginia dealer or outside of Virginia*
 751 *and then used or stored for use in a county or city in a planning district described in § 58.1-603.1, an*
 752 *amount equal to a 0.7 percent tax shall be distributed pursuant to § 58.1-603.1, except that this amount*
 753 *collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be*
 754 *distributed to the county or city in which the vehicle is used or stored for use.*

755 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation
 756 Trust Fund pursuant to clause (ii) of subsection A, an aggregate of 4.2 percent shall be set aside as the
 757 Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport
 758 Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year
 759 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.

760 **§ 58.1-2425. (Contingent effective date) Disposition of revenues.**

761 A. Funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury.
 762 Except as otherwise provided in this section, these funds shall constitute special funds within the
 763 Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall
 764 be available for use in subsequent years for the purposes set forth in this chapter, and any interest
 765 income on such funds shall accrue to these funds. The revenue so derived, after refunds have been
 766 deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the
 767 regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the
 768 provisions of this chapter from manufactured homes, as defined in § 46.2-100, shall be distributed to the
 769 city, town, or county wherein such manufactured home is to be situated as a dwelling; ~~and~~ (ii) effective
 770 January 1, 1987, an amount equivalent to the net additional revenues from the sales and use tax on
 771 motor vehicles generated by enactments of the 1986 Special Session of the Virginia General Assembly
 772 which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and
 773 paid into the Transportation Trust Fund established pursuant to § 33.2-1524, a special fund within the
 774 Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation
 775 Board for transportation needs; *and (iii) all funds collected pursuant to the provisions of this chapter*
 776 *from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in § 46.2-100,*
 777 *shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed in the*
 778 *same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount*
 779 *collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be*
 780 *distributed to the county or city in which the vehicle is used or stored for use and (b) an amount equal*
 781 *to a four percent tax shall be distributed in the same manner as the state sales and use tax pursuant to*
 782 *§ 58.1-638, except that this amount collected on sales by anyone other than a Virginia dealer or on*
 783 *sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored*
 784 *for use.*

785 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation
 786 Trust Fund pursuant to clause (ii) of subsection A of this section, an aggregate of 4.2 percent shall be
 787 set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the
 788 Commonwealth Airport Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7

789 percent in fiscal year 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit
790 Fund.
791 **2. That the provisions of this act shall become effective October 1, 2018.**