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SENATE BILL NO. 249

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance
on February 19, 2018)

(Patron Prior to Substitute—Senator Dance)

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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

120 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation,
121 joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver,

122 auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body
 123 politic or political subdivision, whether public or private, or quasi-public, and the plural of such term
 124 shall mean the same as the singular.

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

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

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

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

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

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

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

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

180 "Sales price" means the total amount for which tangible personal property or services are sold,
 181 including any services that are a part of the sale, valued in money, whether paid in money or otherwise,
 182 and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer,

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

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

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

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

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

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

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

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

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

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

237 **§ 58.1-602. (Contingent effective date) Definitions.**

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

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

244 "Amplification, transmission and distribution equipment" means, but is not limited to, production,

245 distribution, and other equipment used to provide Internet-access services, such as computer and
 246 communications equipment and software used for storing, processing and retrieving end-user subscribers'
 247 requests.

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

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

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

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

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

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

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

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

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

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

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

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

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

304 The determination whether any manufacturing, mining, processing, refining or conversion activity is
 305 industrial in nature shall be made without regard to plant size, existence or size of finished product

306 inventory, degree of mechanization, amount of capital investment, number of employees or other factors
307 relating principally to the size of the business. Further, "industrial in nature" shall include, but not be
308 limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the
309 Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

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

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

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

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

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

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

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

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

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

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

359 The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or
360 charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90
361 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any
362 other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for
363 a consideration; (ii) sales of tangible personal property to persons for resale when because of the
364 operation of the business, or its very nature, or the lack of a place of business in which to display a
365 certificate of registration, or the lack of a place of business in which to keep records, or the lack of
366 adequate records, or because such persons are minors or transients, or because such persons are engaged
367 in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will

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

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

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

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

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

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

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

421 "Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii)
 422 the related accessories, components, pedestals, bases, or foundations used in connection with the
 423 operation of the equipment, without regard to the proximity to the equipment, the method of attachment,
 424 or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other
 425 property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or
 426 maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control
 427 testing of product, materials, equipment, or processes; or the measurement of equipment performance or
 428 production parameters regardless of where or when the quality control, testing, or measuring activity

429 takes place, how the activity affects the operation of equipment, or whether the equipment and supplies
430 come into contact with the product.

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

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

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

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

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

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

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

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

463 **§ 58.1-2401. Definitions.**

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

465 "Commissioner" shall mean the Commissioner of the Department of Motor Vehicles of the
466 Commonwealth.

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

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

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

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

490 "Sale price" shall mean the total price paid for a motor vehicle and all attachments thereon and

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

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

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

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

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

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

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

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

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

C. Any motor vehicle, trailer or semitrailer exempt from this tax under subdivision 1 or 2 of § 58.1-2403 shall be subject to the tax, based on the current market value when such vehicle is not

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; *and if such vehicle is an*
582 *all-terrain vehicle, moped, or off-road motorcycle, as those terms are defined in § 46.2-100, sold by a*
583 *Virginia dealer, or sold by anyone other than a Virginia dealer and then used or stored for use in the*
584 *Commonwealth, (a) in a county or city located in a planning district described in § 58.1-603.1, the tax*
585 *shall be six percent of the sales price of each such vehicle or (b) in any county or city other than those*
586 *set forth in clause (a), the tax shall be 5.3 percent of the sales price of each such vehicle.*

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

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

606 4 through 7. ~~[Repealed.]~~

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

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

614 § 58.1-1737. Further, any motor vehicle, trailer or semitrailer exempt from the tax imposed by this
615 chapter under subdivision 11 of § 58.1-2403 or §§ 46.2-663 through 46.2-674 shall be subject to the tax,
616 based on the current market value, when such vehicle is subsequently licensed to operate on the
617 highways of the Commonwealth.

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

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

625 **§ 58.1-2403. Exemptions.**

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

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

675 nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United
676 States Internal Revenue Code;

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

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

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

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

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

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

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

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

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

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

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

723 **§ 58.1-2425. (Contingent expiration date) Disposition of revenues.**

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

737 Commonwealth Transportation Fund, and are hereby appropriated to the Commonwealth Transportation
 738 Board for transportation needs; ~~and~~ (iii) the net additional revenues generated by increases in the rates
 739 of taxes under subdivisions A 1 and A 2 of § 58.1-2402 and generated by the increase in the minimum
 740 tax under subdivision A 3 of § 58.1-2402 pursuant to enactments of a Session of the General Assembly
 741 held in 2013 shall be deposited by the Comptroller into the Highway Maintenance and Operating Fund
 742 established pursuant to § 33.2-1530; *and (iv) all funds collected pursuant to the provisions of this*
 743 *chapter from all-terrain vehicles, mopeds, and off-road motorcycles, as those terms are defined in*
 744 *§ 46.2-100, shall be distributed as follows: (a) an amount equal to a one percent tax shall be distributed*
 745 *in the same manner as the one percent local sales tax pursuant to § 58.1-605, except that this amount*
 746 *collected on sales by anyone other than a Virginia dealer or on sales outside of Virginia shall be*
 747 *distributed to the county or city in which the vehicle is used or stored for use; (b) an amount equal to a*
 748 *4.3 percent tax shall be distributed in the same manner as the state sales and use tax pursuant to*
 749 *§ 58.1-638, except that this amount collected on sales by anyone other than a Virginia dealer or on*
 750 *sales outside of Virginia shall be distributed to the county or city in which the vehicle is used or stored*
 751 *for use; and (c) if the all-terrain vehicle, moped, or off-road motorcycle was purchased from a Virginia*
 752 *dealer, or purchased from anyone other than a Virginia dealer or outside of Virginia and then used or*
 753 *stored for use in a county or city in a planning district described in § 58.1-603.1, an amount equal to a*
 754 *0.7 percent tax shall be distributed pursuant to § 58.1-603.1, except that this amount collected on sales*
 755 *by anyone other than a Virginia dealer or on sales outside of Virginia shall be distributed to the county*
 756 *or city in which the vehicle is used or stored for use.*

757 B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation
 758 Trust Fund pursuant to clause (ii) of subsection A, an aggregate of 4.2 percent shall be set aside as the
 759 Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport
 760 Fund; and an aggregate of 14.5 percent in fiscal year 1998-1999 and 14.7 percent in fiscal year
 761 1999-2000 and thereafter shall be set aside as the Commonwealth Mass Transit Fund.

762 **§ 58.1-2425. (Contingent effective date) Disposition of revenues.**

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

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

793 **2. That the provisions of this act shall become effective October 1, 2018.**