

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 490

An Act to amend and reenact §§ 2.2-614.5, 56-1.2, 56-1.2:1, and 56-232.2:1 of the Code of Virginia and to repeal §§ 10.1-104.01, 23.1-1301.1, and 23.1-2908.1 of the Code of Virginia, relating to electric vehicle charging stations; operation by state agencies.

[H 511]

Approved March 27, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-614.5, 56-1.2, 56-1.2:1, and 56-232.2:1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-614.5. Electric vehicle charging stations.

~~The Department of General Services, Department of Motor Vehicles, and Department of Transportation~~ *Each agency, as defined in § 2.2-128,* may locate and operate a retail fee-based electric vehicle charging station on any property or facility that such agency controls if the electric vehicle charging services are offered at prevailing market rates. For the purposes of this section, "prevailing market rates" means rates that include applicable taxes and are similar to those generally available to consumers in competitive areas for the same services.

§ 56-1.2. Persons, localities, and school boards not designated as public utility, public service corporation, etc.

The terms public utility, public service corporation, or public service company, as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) of this title, shall not refer to:

1. Any person who owns or operates property and provides electricity, natural gas, water, or sewer service to residents or tenants on the property, provided that (i) the electricity, natural gas, water, or sewer service provided to the residents or tenants is purchased by the person from a public utility, public service corporation, public service company, or person licensed by the Commission as a competitive provider of energy services, or a county, city or town, or other publicly regulated political subdivision or public body, (ii) the person or his agent charges to the resident or tenant on the property only that portion of the person's utility charges for the electricity, natural gas, water, or sewer service which is attributable to usage by the resident or tenant on the property, and additional service charges permitted by § 55.1-1212 or 55.1-1404, as applicable, and (iii) the person maintains three years' billing records for such charges.

2. Any (i) person who is not a public service corporation and who provides electric vehicle charging service at retail, (ii) school board that operates retail fee-based electric vehicle charging stations on school property pursuant to § 22.1-131, *or* (iii) locality that operates a retail fee-based electric vehicle charging station on property owned or leased by the locality pursuant to § 15.2-967.2; ~~or (iv) board of visitors of any baccalaureate public institution of higher education that operates a retail fee-based electric vehicle charging station on the grounds of such institution pursuant to § 23.1-1301.1.~~ The ownership or operation of a facility at which electric vehicle charging service is sold, and the selling of electric vehicle charging service from that facility, does not render such person, school board, locality, or board of visitors a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.

3. ~~The Department of Conservation and Recreation~~ *Any agency, as defined in § 2.2-128,* when operating a retail fee-based electric vehicle charging station *pursuant to § 2.2-614.5* on *any* property ~~of any existing state park or similar recreational facility the Department agency controls pursuant to § 10.1-104.01.~~ The ownership or operation of a facility at which electric vehicle charging service is sold, or the selling of electric vehicle charging service from that facility, does not render the ~~Department of Conservation and Recreation~~ *agency* a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.

4. ~~The Chancellor of the Virginia Community College System~~ when operating a retail fee-based electric vehicle charging station on the grounds of any comprehensive community college pursuant to § 23.1-2908.1. The ownership or operation of a facility at which electric vehicle charging service is sold, ~~or the selling of electric vehicle charging service from that facility,~~ does not render the Chancellor of the Virginia Community College System a public utility, public service corporation, or public service company as used in Chapters 1 (~~§ 56-1 et seq.~~), 10 (~~§ 56-232 et seq.~~), 10.1 (~~§ 56-265.1 et seq.~~), and 10.2:1 (~~§ 56-265.13:1 et seq.~~) solely because of that sale, ownership, or operation.

5. The Department of General Services, ~~Department of Motor Vehicles,~~ or Department of

Transportation when operating a retail fee-based electric vehicle charging station on any property or facility that such agency controls. The ownership or operation of a facility at which electric vehicle charging service is sold, or the selling of electric vehicle charging service from that facility, does not render the agency a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.

§ 56-1.2:1. Retail sale of electricity in connection with the provision of electric vehicle charging service.

A. The provision of electric vehicle charging service by a person, locality, ~~public institution of higher education, or a school board, or any agency as defined in § 2.2-128~~ that is not a public utility, public service corporation, or public service company, ~~or by the Department of Conservation and Recreation, Department of General Services, Department of Motor Vehicles, or Department of Transportation,~~ shall not constitute the retail sale of electricity if:

1. The electricity furnished in connection with the provision of electric vehicle charging service is used solely for transportation purposes; and

2. The person, locality, ~~public institution of higher education, or school board, or agency as defined in § 2.2-128~~ providing the electric vehicle charging service, ~~or the Department of Conservation and Recreation, Department of General Services, Department of Motor Vehicles, or Department of Transportation,~~ has procured the furnished electricity from the public utility that is authorized by the Commission to engage in the retail sale of electricity within the exclusive service territory in which the electric vehicle charging service is provided.

B. The provision of electric vehicle charging service shall:

1. Be a permitted electric utility activity of a certificated electric utility; and

2. Not affect the status as a public utility of a certificated public utility that provides such service.

§ 56-232.2:1. Regulation of electric vehicle charging service.

The Commission shall not regulate or prescribe the rates, charges, and fees for the provision of retail electric vehicle charging service provided by *any agency as defined in § 2.2-128*, persons, localities, public institutions of higher education, ~~the Department of Conservation and Recreation, the Department of General Services, the Department of Motor Vehicles, the Department of Transportation,~~ or school boards other than public service corporations. Sales of electricity by public utilities to *an agency as defined in § 2.2-128*, a person, a locality, a ~~public institution of higher education, the Department of Conservation and Recreation, the Department of General Services, the Department of Motor Vehicles, the Department of Transportation,~~ or a school board that (i) is not a public service corporation and (ii) provides electric vehicle charging service shall continue to be regulated by the Commission to the same extent as are other services provided by public utilities. The Commission may adopt regulations implementing this section.

2. That §§ 10.1-104.01, 23.1-1301.1, and 23.1-2908.1 of the Code of Virginia are repealed.