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HOUSE BILL NO. 1019

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 58.1-2401 and 58.1-2405 of the Code of Virginia, relating to motor vehicle sales and use tax; definition of sale price; trade-in vehicles.

Patron—Adams, L.R.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-2401 and 58.1-2405 of the Code of Virginia are amended and reenacted as follows:
 § 58.1-2401. Definitions.

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

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

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

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

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

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

"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, *except as otherwise provided*, 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. *Notwithstanding any provision to the contrary, the sale price for a new motor vehicle shall be reduced by the amount of any allowance given by the seller for a used motor vehicle taken in trade as a full or partial payment for the purchased motor vehicle.*

§ 58.1-2405. Basis of tax.

A. In the case of the sale or use of a motor vehicle upon which the pricing information is required by federal law to be posted, the Commissioner may collect the tax upon the basis of the total sale price shown on such document; however, if the Commissioner is satisfied that the purchaser has paid less than such price, by such evidence as the Commissioner may require, he may assess and collect the tax upon the basis of the sale price so found by him. ~~In no case shall the case of the sale or use of a new motor vehicle, and no other case,~~ such lesser price *shall* include credits for trade-in or any other transaction of such nature.

B. In the case of the sale or use of a motor vehicle which is not a new motor vehicle, the

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59 Commissioner may employ such publications, sources of information, and other data as are customarily
60 employed in ascertaining the maximum sale price of such used motor vehicles but in no case shall any
61 credit be allowed for trade-in, prior rental or any other transaction of like nature.

62 C. In the case of the sale or use of a motor vehicle, which is not a new motor vehicle, between
63 individuals who are not required to be licensed as dealers or salespersons under the provisions of
64 § 46.2-1508, the Commissioner may collect the tax upon the basis of the total sale price as established
65 by such evidence as the Commissioner may require; provided that if such motor vehicle is no more than
66 five years old and is listed in a recognized pricing guide, the total sale price shall not be less than the
67 value listed in such pricing guide for such vehicle, less an allowance of \$1,500, unless the purchaser
68 shall execute an affidavit under penalty of perjury stating a lesser total sale price and declaring such sale
69 or use to be a bona fide transaction for full value. In using a recognized pricing guide, the
70 Commissioner shall use the trade-in value specified in such guide, with no additions for optional
71 equipment or subtractions for mileage, so long as uniformly applied for all types of motor vehicles. In
72 no case shall any credit be allowed for trade-in, prior rental, or any other transaction of like nature.