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## HOUSE BILL NO. 1021

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance  
on January 29, 2020)

(Patron Prior to Substitute—Delegate Adams, L.R.)

*A BILL to amend and reenact §§ 58.1-3505 and 58.1-3506 of the Code of Virginia, relating to personal property tax; forest harvesting machinery and equipment.*

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

**1. That §§ 58.1-3505 and 58.1-3506 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-3505. Classification of farm animals, certain grains, agricultural products, farm machinery, farm implements and equipment; governing body may exempt.**

A. Farm animals, grains and other feeds used for the nurture of farm animals, agricultural products as defined in § 3.2-6400, farm machinery and farm implements are hereby defined as separate items of taxation and classified as follows:

1. Horses, mules and other kindred animals.

2. Cattle.

3. Sheep and goats.

4. Hogs.

5. Poultry.

6. Grains and other feeds used for the nurture of farm animals.

7. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100 and other agricultural products in the hands of a producer.

8. Farm machinery other than the farm machinery described in subdivision 10, and farm implements, which shall include (i) equipment and machinery used by farm wineries as defined in § 4.1-100 in the production of wine; (ii) equipment and machinery used by a nursery as defined in § 3.2-3800 for the production of horticultural products; and (iii) any farm tractor as defined in § 46.2-100, regardless of whether such farm tractor is used exclusively for agricultural purposes.

9. Equipment used by farmers or farm cooperatives qualifying under § 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.

10. Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.

11. Privately owned trailers as defined in § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions A 1 through A 7 of this section.

12. Motor vehicles that are used primarily for agricultural purposes, for which the owner is not required to obtain a registration certificate, license plate, and decal or pay a registration fee pursuant to § 46.2-665, 46.2-666, or 46.2-670.

13. Trucks or tractor trucks as defined in § 46.2-100, that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7 or for the transport of farm-related machinery.

*14. Farm machinery and farm implements, other than the farm machinery and farm implements described in subdivisions 8 and 10, which shall include equipment and machinery used for forest harvesting and silvicultural activities.*

B. The governing body of any county, city or town may, by ordinance duly adopted, exempt in whole or in part from taxation, or provide a different rate of tax upon, all or any of the above classes of farm animals, grains and feeds used for the nurture of farm animals, farm vehicles, and farm machinery, implements or equipment set forth in subsection A.

C. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100; and other agricultural products, as defined in § 3.2-6400, shall be exempt from taxation under this chapter while in the hands of a producer.

**§ 58.1-3506. Other classifications of tangible personal property for taxation.**

A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;

b. Boats or watercraft weighing less than five tons, not used solely for business purposes;

2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and operated by scheduled air carriers operating under certificates of public convenience and necessity issued

60 by the State Corporation Commission or the Civil Aeronautics Board;

61 3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are  
62 not owned or operated by scheduled air carriers recognized under federal law, but not including any  
63 aircraft described in subdivision 4;

64 4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding  
65 those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and  
66 otherwise used for educational purposes (including such flights as are necessary for testing, maintaining,  
67 or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such  
68 flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a  
69 new class of property. Such class of property shall not include any aircraft used for commercial  
70 purposes, including transportation and other services for a fee;

71 5. All other aircraft not included in ~~subdivisions A~~ *subdivision 2, A 3, or A 4* and flight simulators;

72 6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation  
73 purposes as provided in subsection C of § 46.2-730;

74 7. Tangible personal property used in a research and development business;

75 8. Heavy construction machinery not used for business purposes, including land movers, bulldozers,  
76 front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural  
77 activity equipment *except as exempted under § 58.1-3505*, and ditch and other types of diggers;

78 9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy  
79 source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any  
80 other alternative energy source for use in manufacturing and any cogeneration equipment purchased to  
81 achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment  
82 shall include, without limitation, such equipment purchased by firms engaged in the business of  
83 generating electricity or steam, or both;

84 10. Vehicles without motive power, used or designed to be used as manufactured homes as defined  
85 in § 36-85.3;

86 11. Computer hardware used by businesses primarily engaged in providing data processing services  
87 to other nonrelated or nonaffiliated businesses;

88 12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes  
89 only;

90 13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons,  
91 including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;

92 14. Motor vehicles specially equipped to provide transportation for physically handicapped  
93 individuals;

94 15. Motor vehicles (i) owned by members of a volunteer emergency medical services agency or a  
95 member of a volunteer fire department or (ii) leased by volunteer emergency medical services personnel  
96 or a member of a volunteer fire department if the volunteer is obligated by the terms of the lease to pay  
97 tangible personal property tax on the motor vehicle. One motor vehicle that is owned by each volunteer  
98 member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or  
99 volunteer fire department member, or leased by each volunteer member who meets the definition of  
100 "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member if the  
101 volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor  
102 vehicle, may be specially classified under this section, provided the volunteer regularly responds to  
103 emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer,  
104 with a certification by the chief of the volunteer emergency medical services agency or volunteer fire  
105 department, that the volunteer is an individual who meets the definition of "emergency medical services  
106 personnel" in § 32.1-111.1 or a member of the volunteer fire department who regularly responds to calls  
107 or regularly performs other duties for the emergency medical services agency or fire department, and the  
108 motor vehicle owned or leased by the volunteer is identified. The certification shall be submitted by  
109 January 31 of each year to the commissioner of revenue or other assessing officer; however, the  
110 commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good  
111 cause shown and without fault on the part of the volunteer, to accept a certification after the January 31  
112 deadline. In any county that prorates the assessment of tangible personal property pursuant to  
113 § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the  
114 vehicle certified as of the immediately prior January date is transferred during the tax year;

115 16. Motor vehicles (i) owned by auxiliary members of a volunteer emergency medical services  
116 agency or volunteer fire department or (ii) leased by auxiliary members of a volunteer emergency  
117 medical services agency or volunteer fire department if the auxiliary member is obligated by the terms  
118 of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is  
119 regularly used by each auxiliary volunteer fire department or emergency medical services agency  
120 member may be specially classified under this section. The auxiliary member shall furnish the  
121 commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer

emergency medical services agency or volunteer fire department, that the volunteer is an auxiliary member of the volunteer emergency medical services agency or fire department who regularly performs duties for the emergency medical services agency or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior or handicapped citizens in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1500, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100, which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

21. Until the first to occur of June 30, 2019, or the date that a special improvements tax is no longer levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District, provided that such business personal property is put into service within the District on or after July 1, 1999;

22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include any vehicle described in subdivision 38 or 40;

23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that are found in the wild, or in a wild state, and are native to a foreign country;

24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is used by that organization for the purpose of maintaining or using the open or common space within a residential development;

25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more used to transport property for hire by a motor carrier engaged in interstate commerce;

26. All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 20, except for subdivision A 18, of § 58.1-3503;

- 183 27. Programmable computer equipment and peripherals employed in a trade or business;  
184 28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational  
185 purposes only;  
186 29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for  
187 recreational purposes only;  
188 30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes  
189 only;  
190 31. Tangible personal property used in the provision of Internet services. For purposes of this  
191 subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables  
192 users to access content, information, electronic mail, and the Internet as part of a package of services  
193 sold to customers;  
194 32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy  
195 sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if  
196 the person is obligated by the terms of the lease to pay tangible personal property tax on the motor  
197 vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve,  
198 volunteer, or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy  
199 sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In  
200 order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification  
201 shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of  
202 revenue or other assessing officer with a certification from the governing body that has appointed such  
203 auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That  
204 certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor  
205 vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification  
206 is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by  
207 January 31 of each year to the commissioner of revenue or other assessing officer; however, the  
208 commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good  
209 cause shown and without fault on the part of the member, to accept a certification after the January 31  
210 deadline;  
211 33. Forest harvesting and silvicultural activity equipment, *except as exempted under § 58.1-3505*;  
212 34. Equipment used primarily for research, development, production, or provision of biotechnology  
213 for the purpose of developing or providing products or processes for specific commercial or public  
214 purposes, including medical, pharmaceutical, nutritional, and other health-related purposes; agricultural  
215 purposes; or environmental purposes but not for human cloning purposes as defined in § 32.1-162.21 or  
216 for products or purposes related to human embryo stem cells. For purposes of this section,  
217 biotechnology equipment means equipment directly used in activities associated with the science of  
218 living things;  
219 35. Boats or watercraft weighing less than five tons, used for business purposes only;  
220 36. Boats or watercraft weighing five tons or more, used for business purposes only;  
221 37. Tangible personal property which is owned and operated by a service provider who is not a  
222 CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet  
223 service. For purposes of this subdivision, "wireless broadband Internet service" means a service that  
224 enables customers to access, through a wireless connection at an upload or download bit rate of more  
225 than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of  
226 services sold to customers;  
227 38. Low-speed vehicles as defined in § 46.2-100;  
228 39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;  
229 40. Motor vehicles powered solely by electricity;  
230 41. Tangible personal property designed and used primarily for the purpose of manufacturing a  
231 product from renewable energy as defined in § 56-576;  
232 42. Motor vehicles leased by a county, city, town, or constitutional officer if the locality or  
233 constitutional officer is obligated by the terms of the lease to pay tangible personal property tax on the  
234 motor vehicle;  
235 43. Computer equipment and peripherals used in a data center. For purposes of this subdivision,  
236 "data center" means a facility whose primary services are the storage, management, and processing of  
237 digital data and is used to house (i) computer and network systems, including associated components  
238 such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii)  
239 systems for monitoring and managing infrastructure performance; (iii) equipment used for the  
240 transformation, transmission, distribution, or management of at least one megawatt of capacity of  
241 electrical power and cooling, including substations, uninterruptible power supply systems, all electrical  
242 plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data  
243 communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security  
244 systems and services;

44. Motor vehicles (i) owned by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 or (ii) leased by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by a uniformed member of the Virginia Defense Force to respond to his official duties may be specially classified under this section. In order to qualify for such classification, any person who applies for such classification shall identify the vehicle for which the classification is sought and shall furnish to the commissioner of the revenue or other assessing officer a certification from the Adjutant General of the Department of Military Affairs under § 44-11. That certification shall state that (a) the applicant is a uniformed member of the Virginia Defense Force who regularly uses a motor vehicle to respond to his official duties, and (b) the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of the revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703;

46. Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to Article 2 (§ 58.1-3507 et seq.), merchants' capital pursuant to Article 3 (§ 58.1-3509 et seq.), or short-term rental property pursuant to Article 3.1 (§ 58.1-3510.4 et seq.), and has an original cost of less than \$500. A county, city, or town shall allow a taxpayer to provide an aggregate estimate of the total cost of all such property owned by the taxpayer that qualifies under this subdivision, in lieu of a specific, itemized list; and

47. Commercial fishing vessels and property permanently attached to such vessels.

B. The governing body of any county, city or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions A 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 47, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, 9, 21, and 25, not exceed that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property. If an item of personal property is included in multiple classifications under subsection A, then the rate of tax shall be the lowest rate assigned to such classifications.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.