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HOUSE BILL NO. 437**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on General Laws
on January 30, 2020)

(Patron Prior to Substitute—Delegate Carroll Foy)

A BILL to amend and reenact § 2.2-1124 of the Code of Virginia, relating to Department of General Services; disposition of surplus materials; permit sale to active military-owned and military spouse-owned businesses.

Be it enacted by the General Assembly of Virginia:**1. That § 2.2-1124 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-1124. Disposition of surplus materials.**

A. For purposes of this section, "surplus materials" means personal property, including materials, supplies, equipment, and recyclable items, but does not include property as defined in § 2.2-1147 that is determined to be surplus. "Surplus materials" does not include finished products that a state hospital or training center operated by the Department of Behavioral Health and Developmental Services sells for the benefit of individuals receiving services in the state hospital or training center, provided that (i) most of the supplies, equipment, or products have been donated to the state hospital or training center; (ii) the individuals in the state hospital or training center have substantially altered the supplies, equipment, or products in the course of occupational or other therapy; and (iii) the substantial alterations have resulted in a finished product.

B. The Department shall establish procedures for the disposition of surplus materials from departments, divisions, institutions, and agencies of the Commonwealth. Such procedures shall:

1. Permit surplus materials to be transferred between or sold to departments, divisions, institutions, or agencies of the Commonwealth;

2. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge;

3. Permit public sales or auctions, including online public auctions;

4. Permit surplus motor vehicles to be sold prior to public sale or auction to local social service departments for the purpose of resale at cost to TANF recipients;

5. Permit surplus materials to be sold to Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as children's homes;

6. Permit donations to political subdivisions of the Commonwealth under the circumstances specified in this section;

7. Permit other methods of disposal when (a) the cost of the sale will exceed the potential revenue to be derived therefrom or (b) the surplus material is not suitable for sale;

8. Permit any animal especially trained for police work to be sold at a price of \$1 to the handler who last was in control of the animal. The agency or institution may allow the immediate survivor of any full-time sworn law-enforcement officer who (i) is killed in the line of duty or (ii) dies in service and has at least 10 years of service to purchase the service animal at a price of \$1. Any such sale shall not be deemed a violation of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.);

9. Permit the transfer of surplus clothing to an appropriate department, division, institution, or agency of the Commonwealth for distribution to needy individuals by and through local social services boards;

10. Encourage the recycling of paper products, beverage containers, electronics, and used motor oil;

11. Require the proceeds from any sale or recycling of surplus materials be promptly deposited into the state treasury in accordance with § 2.2-1802 and report the deposit to the State Comptroller;

12. Permit donations of surplus computers and related equipment to public schools in the Commonwealth and Virginia charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and providing services to persons with disabilities, at-risk youths, or low-income families. For the purposes of this subdivision, "at-risk youths" means school-age children approved eligible to receive free or reduced price meals in the federally funded lunch program;

13. Permit surplus materials to be transferred or sold, prior to public sale or auction, to public television stations located in the state and other nonprofit organizations approved for the distribution of federal surplus materials;

14. Permit a public institution of higher education to dispose of its surplus materials at the location where the surplus materials are held and to retain any proceeds from such disposal, provided that the

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60 institution meets the conditions prescribed in subsection A of § 23.1-1002 and § 23.1-1019 (regardless of
61 whether or not the institution has been granted any authority under Article 4 (§ 23.1-1004 et seq.) of
62 Chapter 10 of Title 23.1);

63 15. Permit surplus materials from (i) the Department of Defense Excess Property Program or (ii)
64 other surplus property programs administered by the Commonwealth to be transferred or sold to Virginia
65 charitable corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and
66 operating as an educational institution devoted to emergency management training, preparedness, and
67 response;

68 16. Require, to the extent practicable, the recycling and disposal of computers and other information
69 technology assets. Additionally, for computers or information technology assets that may contain
70 confidential state data or personal identifying information of citizens of the Commonwealth, the
71 Department shall ensure all policies for the transfer or other disposition of computers or information
72 technology assets are consistent with data and information security policies developed by the Virginia
73 Information Technologies Agency; and

74 17. Permit surplus materials to be sold, prior to public sale or auction, to (i) service disabled
75 veteran-owned businesses ~~and~~, (ii) veterans service organizations, (iii) *active military-owned businesses*,
76 *and* (iv) *military spouse-owned businesses*.

77 For purposes of this subdivision:

78 *"Active military" means military service members who perform full-time duty in the Armed Forces of*
79 *the United States, or a reserve component thereof, including the National Guard.*

80 *"Military spouse" means a person whose spouse is an active military, naval, or air service member*
81 *or veteran as those terms are defined in § 2.2-2000.1.*

82 *"Military spouse-owned business" means a business concern that is at least 51 percent owned by one*
83 *or more military spouses or, in the case of a corporation, partnership, or limited liability company or*
84 *other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or*
85 *limited liability company or other entity is owned by one or more individuals who are military spouses*
86 *and both the management and daily business operations are controlled by one or more individuals who*
87 *are military spouses.*

88 "Service disabled veteran" means the same as that term is defined in § 2.2-2000.1.

89 "Service disabled veteran-owned business" means the same as that term is defined in § 2.2-2000.1.

90 "Veterans service organization" means an association or other entity organized for the benefit of
91 veterans that has been recognized by the U.S. Department of Veterans Affairs or chartered by Congress.

92 C. The Department shall dispose of surplus materials pursuant to the procedures established in
93 subsection B or permit any department, division, institution, or agency of the Commonwealth to dispose
94 of its surplus materials consistent with the procedures so established. No surplus materials shall be
95 disposed of without prior consent of the head of the department, division, institution, or agency of the
96 Commonwealth in possession of such surplus materials or the Governor.

97 D. Departments, divisions, institutions, or agencies of the Commonwealth or the Governor may
98 donate surplus materials only under the following circumstances:

99 1. Emergencies declared in accordance with § 44-146.18:2 or 44-146.28;

100 2. As set forth in the budget bill as defined by § 2.2-1509, provided that (a) the budget bill contains
101 a description of the surplus materials, the method by which the surplus materials shall be distributed,
102 and the anticipated recipients, and (b) such information shall be provided by the Department to the
103 Department of Planning and Budget in sufficient time for inclusion in the budget bill;

104 3. When the market value of the surplus materials, which shall be donated for a public purpose, is
105 less than \$500; however, the total market value of all surplus materials so donated by any department,
106 division, institution, or agency shall not exceed 25 percent of the revenue generated by such
107 department's, division's, institution's, or agency's sale of surplus materials in the fiscal year, except these
108 limits shall not apply in the case of surplus computer equipment and related items donated to Virginia
109 public schools; or

110 4. During a local emergency, upon written request of the head of a local government or a political
111 subdivision in the Commonwealth to the head of a department, division, institution, or agency.

112 E. On or before October 1 of each year, the Department shall prepare, and file with the Secretary of
113 the Commonwealth, a plan that describes the expected disposition of surplus materials in the upcoming
114 fiscal year pursuant to subdivision B 6.

115 F. The Department may make available to any local public body of the Commonwealth the services
116 or facilities authorized by this section; however, the furnishing of any such services shall not limit or
117 impair any services normally rendered any department, division, institution, or agency of the
118 Commonwealth. All public bodies shall be authorized to use the services of the Department's Surplus
119 Property Program under the guidelines established pursuant to this section and the surplus property
120 policies and procedures of the Department. Proceeds from the sale of the surplus property shall be
121 returned to the local body minus a service fee. The service fee charged by the Department shall be

122 consistent with the fee charged by the Department to state public bodies.