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HOUSE BILL NO. 892

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 58.1-1735 and 58.1-1738 of the Code of Virginia, relating to peer-to-peer vehicle sharing platforms; taxation.

Patrons—Sickles and Austin

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-1735 and 58.1-1738 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-1735. Definitions.

As used in this article, unless the context requires a different meaning:

"Daily rental vehicle" means a motor vehicle, ~~except a motorcycle or a manufactured home as defined in § 46.2-100~~, used for rental as defined in this section and for the transportation of persons or property, whether on its own structure or by drawing another vehicle or vehicles, ~~except a (i) motorcycle or a manufactured home as defined in § 46.2-100 or (ii) peer-to-peer shared vehicle.~~

"Gross proceeds" means the charges made or voluntary contributions received for the rental of a motor vehicle where the rental or lease agreement is for a period of less than 12 months. The term "gross proceeds" shall not include:

1. Cash discounts allowed and actually taken on a rental contract;
2. Finance charges, carrying charges, service charges, or interest from credit given on a rental contract;
3. Charges for motor fuels;
4. Charges for optional accidental death insurance;
5. Taxes or fees levied or imposed pursuant to Chapter 24 (§ 58.1-2400 et seq.);
6. Any violations, citations, or fines and related penalties and fees;
7. Delivery charges, pickup charges, recovery charges, or drop charges;
8. Pass-through charges;
9. Transportation charges;
10. Third-party service charges; or
11. Refueling surcharges.

"Mobile office" means an industrialized building unit not subject to 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" means every vehicle, except for a mobile office as herein defined, that is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle, including manufactured homes as 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 the Commonwealth but not required to be licensed by the Commonwealth.

"Peer-to-peer shared vehicle" means a motor vehicle that (i) has been made available for rental by its owner through a peer-to-peer sharing platform and (ii) is either insured under a personal policy of motor vehicle liability insurance or registered as an uninsured motor vehicle as provided in § 46.2-706.

"Peer-to-peer vehicle sharing platform" means any online-enabled application, software, website, or system offered or utilized for the primary purpose of renting peer-to-peer shared vehicles and the provision of services incidental to the rental of such vehicles.

"Rental" means the transfer of the possession or use of a motor vehicle, whether or not the motor vehicle is required to be licensed by the Commonwealth, by a person for a consideration, without the transfer of the ownership of such motor vehicle, for a period of less than 12 months. Any fee arrangement between the holder of a permit issued by the Department of Motor Vehicles for taxicab services and the driver or drivers of such taxicabs shall not be deemed a rental under this section. Any fee arrangement between a licensed driver training school and a student in that school, whereby the student may use a vehicle owned or leased by the school to perform a road skills test administered by

59 the Department of Motor Vehicles, shall not be deemed a rental under this section.

60 "Rental in the Commonwealth" means any rental where a person received delivery of a motor vehicle
61 within the Commonwealth. The term "Commonwealth" shall include all land or interest in land within
62 the Commonwealth owned by or conveyed to the United States of America.

63 "Rentor" means a person engaged in the rental of motor vehicles for consideration as defined in this
64 section. *"Rentor" includes a person providing a peer-to-peer vehicle sharing platform but does not*
65 *include the owner of a peer-to-peer shared vehicle rented by a peer-to-peer vehicle sharing platform.*

66 **§ 58.1-1738. Administration of the tax.**

67 The tax on the rental of a motor vehicle shall be paid by the person renting such motor vehicle,
68 collected by the rentor of such motor vehicle, and remitted to the Tax Commissioner on or before the
69 twentieth day of the month following the month in which the gross proceeds from such rental were due.

70 All of the responsibilities imposed on dealers, *including the definitions of who is considered a dealer in*
71 *the Commonwealth*, in Chapter 6 (§ 58.1-600 et seq.) shall apply to rentors for purposes of this article,

72 except the provision in subsection A of § 58.1-615 requiring a sales or use tax return to be filed when
73 the dealer is not liable to remit to the Tax Commissioner any tax for the period covered by the return.

74 The tax on rental transactions in the Commonwealth shall apply regardless of the state for which a
75 certificate of title is required.

76 The provisions of Chapter 6 (§ 58.1-600 et seq.) shall apply to this article, mutatis mutandis, except
77 as herein provided.