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SENATE BILL NO. 1053

Offered January 20, 1997

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

Patron—Reynolds

Referred to the 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~~ *means* the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Daily rental passenger car" ~~shall mean~~ *means* a motor vehicle, except a motorcycle, used for rental as defined in this section and for the transportation of persons and having a gross vehicle weight of 9,000 pounds or less.

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

"Gross proceeds" ~~shall mean~~ *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 twelve months.

"Mobile office" ~~shall mean~~ *means* 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~~ *means* 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 mobile 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 mobile homes, used in this Commonwealth but not required to be licensed by the Commonwealth.

"Rental" ~~shall mean~~ *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 twelve months. Any fee arrangement between the holder of a permit issued by the State Corporation Commission for taxicab services and the driver or drivers of such taxicabs shall not be deemed a rental under this section.

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

"Rentor" ~~shall mean~~ *means* a person engaged in the rental of motor vehicles for consideration as defined in this section.

"Sale" ~~shall mean~~ *means* 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~~ *means* the total price paid for a motor vehicle and all attachments thereon and accessories thereto, as determined by the Commissioner, *less the lesser of (i) the amount of any allowance given by the seller for a motor vehicle taken in trade as a partial payment for the purchased motor vehicle or (ii) the wholesale value for the motor vehicle taken in trade as specified in a recognized pricing guide, and exclusive of any federal manufacturers' excise tax, without any allowance or deduction for trade-ins or unpaid liens or encumbrances.* However, "sale price" shall not include the

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60 cost of controls, lifts, automatic transmission, power steering, power brakes or any other equipment
61 installed in or added to a motor vehicle which is required by law or regulation as a condition for
62 operation of a motor vehicle by a handicapped person.

63 § 58.1-2405. Basis of tax.

64 In the case of the sale or use of a motor vehicle upon which the pricing information is required by
65 federal law to be posted, the Commissioner may collect the tax upon the basis of the total sale price
66 shown on such document, *less the lesser of (i) the amount of any allowance given by the seller for a*
67 *motor vehicle taken in trade as a partial payment for the purchased motor vehicle or (ii) the wholesale*
68 *value for the motor vehicle taken in trade as specified in a recognized pricing guide*; however, if the
69 Commissioner is satisfied that the purchaser has paid less than such price, by such evidence as the
70 Commissioner may require, he may assess and collect the tax upon the basis of the sale price so found
71 by him, *less the lesser of (i) the amount of any allowance given by the seller for a motor vehicle taken*
72 *in trade as a partial payment for the purchased motor vehicle or (ii) the wholesale value for the motor*
73 *vehicle taken in trade as specified in a recognized pricing guide.* ~~In no case shall such lesser price~~
74 ~~include credits for trade-in or any other transaction of such nature.~~ In the case of the sale or use of a
75 motor vehicle which is not a new motor vehicle, the Commissioner may employ such publications,
76 sources of information, and other data as are customarily employed in ascertaining the maximum sale
77 price of such used motor vehicles but in no case shall any credit be allowed for ~~trade-in~~, prior rental or
78 any other transaction of like nature.