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HOUSE BILL NO. 2788

Offered January 17, 2003

A *BILL to amend and reenact §§ 46.2-100, 46.2-616, 46.2-619, 46.2-623, 46.2-629, 46.2-637, 46.2-638, 46.2-915.1, 46.2-1051, 46.2-1993, 46.2-1993.6, 46.2-1993.25, 46.2-1993.35, 46.2-1993.39, 46.2-1993.55, 46.2-1993.64, 58.1-3503, 58.1-3504, and 58.1-3523 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 6 of Title 46.2 an article numbered 2.1, consisting of sections numbered 46.2-644.1, 46.2-644.2 and 46.2-644.3, and by adding sections numbered 46.2-679.1 and 46.2-679.2, relating to titling of all-terrain vehicles and off-road motorcycles; operation of all-terrain vehicles and off-road motorcycles by certain children; motorcycle dealers; general classification of tangible personal property; classification of household goods and personal property for taxation; and definitions of terms applicable to the Personal Property Tax Relief Act of 1998.*

Patrons—May and Hargrove; Senator: Hanger

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-100, 46.2-616, 46.2-619, 46.2-623, 46.2-629, 46.2-637, 46.2-638, 46.2-915.1, 46.2-1051, 46.2-1993, 46.2-1993.6, 46.2-1993.25, 46.2-1993.35, 46.2-1993.39, 46.2-1993.55, 46.2-1993.64, 58.1-3503, 58.1-3504, and 58.1-3523 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 6 of Title 46.2 an article numbered 2.1, consisting of sections numbered 46.2-644.1, 46.2-644.2 and 46.2-644.3, and by adding sections numbered 46.2-679.1 and 46.2-679.2 as follows:

§ 46.2-100. Definitions.

The following words and phrases when used in this title shall, for the purpose of this title, have the meanings respectively ascribed to them in this section except in those instances where the context clearly indicates a different meaning:

"All-terrain vehicle" means a 3-wheeled or 4-wheeled motor vehicle powered by a gasoline or diesel engine and generally characterized by large, low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering, that is intended for off-road use by an individual rider on various types of unpaved terrain. The term does not include 4-wheeled vehicles that have low centers of gravity and are typically used in racing and on relatively level surfaces, commonly known as "go-carts," nor does the term include any "farm utility vehicle" as defined in this section. Except as otherwise provided in this chapter, for the purposes of this chapter, all-terrain vehicles shall be deemed to be motorcycles.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than twenty-five years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Automobile or watercraft transporters" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles or watercraft on their power unit, designed and used exclusively for the transportation of motor vehicles or watercraft.

"Bicycle" means a device propelled solely by human power, having pedals, two or more wheels, and a seat height of more than twenty-five inches from the ground when adjusted to its maximum height. For purposes of Chapter 8 (§ 46.2-800 et seq.) of this title, a bicycle shall be a vehicle while operated on the highway.

"Business district" means the territory contiguous to a highway where seventy-five percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

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HB2788

59 "Crosswalk" means that part of a roadway at an intersection included within the connections of the
60 lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the
61 absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an
62 intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the
63 surface.

64 "Decal" means a device to be attached to a license plate that validates the license plate for a
65 predetermined registration period.

66 "Department" means the Department of Motor Vehicles of the Commonwealth.

67 "Disabled parking license plate" means a license plate that displays the international symbol of access
68 in the same size as the numbers and letters on the plate and in a color that contrasts with the
69 background.

70 "Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand;
71 (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Veterans Administration.
72 A veteran shall be considered blind if he has a permanent impairment of both eyes to the following
73 extent: (i) central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central
74 visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted
75 to such an extent that the widest diameter of visual field subtends an angular distance no greater than
76 twenty degrees in the better eye.

77 "Driver's license" means any license, including a commercial driver's license as defined in the
78 Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), issued under the laws of the
79 Commonwealth authorizing the operation of a motor vehicle.

80 "Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device
81 that is designed to transport only one person and powered by an electric propulsion system that limits
82 the device's maximum speed to fifteen miles per hour or less. For purposes of Chapter 8 of this title, an
83 electric personal assistive mobility device shall be a vehicle when operated on a highway.

84 "Electric power-assisted bicycle" means a bicycle equipped with an electric motor that reduces the
85 pedal effort required of the rider, but does not eliminate the rider's need to pedal. For the purposes of
86 Chapter 8 of this title, an electric power-assisted bicycle shall be a vehicle when operated on a highway.

87 "Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of
88 which will tend to conceal the identity of a vehicle.

89 "Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural
90 implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery
91 and implements including self-propelled mowers designed and used for mowing lawns.

92 *"Farm utility vehicle" means a vehicle that is designed for off-road use and is used as a farm,*
93 *agricultural, or horticultural service vehicle, generally having a gasoline or diesel engine, 4 or more*
94 *wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed.*
95 *"Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, riding*
96 *lawn mowers, or all-terrain vehicles.*

97 "Federal safety requirements" means applicable provisions of the National Traffic and Motor Vehicle
98 Safety Act of 1966 as amended (15 U.S.C. § 1381 et seq.) and all administrative regulations and policies
99 adopted pursuant thereto.

100 "Financial responsibility" means the ability to respond in damages for liability thereafter incurred
101 arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided
102 for in § 46.2-472.

103 "Foreign market vehicle" means any motor vehicle originally manufactured outside the United States,
104 which was not manufactured in accordance with the National Traffic and Motor Vehicle Safety Act as
105 amended (15 U.S.C. § 1381 et seq.) and the policies and regulations adopted pursuant to that Act, and
106 for which a Virginia title or registration is sought.

107 "Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the
108 Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer
109 and that has not been registered in the Commonwealth.

110 "Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their
111 equipment on a golf course.

112 "Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load
113 thereon.

114 "Highway" means the entire width between the boundary lines of every way or place open to the use
115 of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys,
116 and, for law-enforcement purposes, the entire width between the boundary lines of all private roads or
117 private streets that have been specifically designated "highways" by an ordinance adopted by the
118 governing body of the county, city, or town in which such private roads or streets are located.

119 "Intersection" means (i) the area embraced within the prolongation or connection of the lateral
120 curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one

another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, this term shall also include city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753 and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than twenty miles per hour but not greater than twenty-five miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Moped" means a conveyance that is either (i) a bicycle-like device with pedals and a helper motor that is rated at no more than two brake horsepower and that produces speeds up to a maximum of thirty miles per hour or (ii) a motorcycle with an engine displacement of 50 cubic centimeters or less and a maximum speed of less than thirty miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.) of this title, a moped shall be a vehicle while operated on a highway.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than ten persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. For the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any vehicle included within the term "farm tractor" or "moped" as defined in this section.

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding sixty days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.) of this title; (iii) a person, other than a nonresident student as defined in this section, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any

182 motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or
183 receives compensation for the service, directly or indirectly; but these terms do not mean a "truck
184 lessor" as defined in this section and do not include persons or businesses that receive compensation for
185 delivering a product that they themselves sell or produce, where a separate charge is made for delivery
186 of the product or the cost of delivery is included in the sale price of the product, but where the person
187 or business does not derive all or a substantial portion of its income from the transportation of persons
188 or property except as part of a sales transaction.

189 "Operator" or "driver" means every person who either (i) drives or is in actual physical control of a
190 motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a
191 motor vehicle.

192 "Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of
193 an agreement for its conditional sale or lease with the right of purchase on performance of the
194 conditions stated in the agreement and with an immediate right of possession vested in the conditional
195 vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or
196 lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent
197 paid by the lessee includes charges for services of any nature or when the lease does not provide that
198 title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner
199 of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to
200 vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the
201 owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of
202 private carriers.

203 "Passenger car" means every motor vehicle other than a motorcycle designed and used primarily for
204 the transportation of no more than ten persons including the driver.

205 "Payment device" means any credit card as defined in 15 U.S.C. § 1602(k) or any "accepted card or
206 other means of access" set forth in 15 U.S.C. § 1693a(1). For the purposes of this title, this definition
207 shall also include a card that enables a person to pay for transactions through the use of value stored on
208 the card itself.

209 "Pickup or panel truck" means every motor vehicle designed for the transportation of property and
210 having a registered gross weight of 7,500 pounds or less.

211 "Private road or driveway" means every way in private ownership and used for vehicular travel by
212 the owner and those having express or implied permission from the owner, but not by other persons.

213 "Reconstructed vehicle" means every vehicle of a type required to be registered under this title
214 materially altered from its original construction by the removal, addition, or substitution of new or used
215 essential parts.

216 "Residence district" means the territory contiguous to a highway, not comprising a business district,
217 where seventy-five percent or more of the property abutting such highway, on either side of the
218 highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling
219 purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes.

220 "Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or
221 restoration except through reapplication after the expiration of the period of revocation.

222 "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular
223 travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical
224 barrier or barriers or an unpaved area.

225 "Safety zone" means the area officially set apart within a roadway for the exclusive use of
226 pedestrians and that is protected or is so marked or indicated by plainly visible signs.

227 "School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial
228 bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private
229 or parochial schools, or used for the transportation of the mentally or physically handicapped to and
230 from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a
231 specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A
232 yellow school bus may have a white roof provided such vehicle is painted in accordance with
233 regulations promulgated by the Department of Education.

234 "Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a
235 motor vehicle that some part of its own weight and that of its own load rests on or is carried by another
236 vehicle.

237 "Shoulder" means that part of a highway between the portion regularly travelled by vehicular traffic
238 and the lateral curbline or ditch.

239 "Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or
240 runners, and supported in whole or in part by one or more skis, belts, or cleats.

241 "Specially constructed vehicle" means any vehicle that was not originally constructed under a
242 distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a
243 reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.) of this title, bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. The term includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

§ 46.2-616. Acquiring vehicle from vendor who does not have certificate of title.

Except as otherwise provided in this title, no person shall purchase, trade, exchange, or barter for a motor vehicle, trailer, or semitrailer in the Commonwealth, knowing or having reason to believe that its seller has not secured a certificate of title, or knowing or having reason to believe that its seller does not legally have in his possession a certificate of title to the vehicle issued to its owner. *Except as otherwise provided in this title, for the purposes of this article, all-terrain vehicles and off-road motorcycles shall be deemed to be motor vehicles.*

§ 46.2-619. New indicia of title; procedure as to leased vehicles.

When the Department receives a certificate of title properly assigned and acknowledged, accompanied by an application for registration, it shall register the motor vehicle, trailer, or semitrailer described in the application and shall issue to the person entitled to it by reason of the transfer a new registration card, license plate, or plates and certificate of title in the manner and form and for the fees provided in this chapter for original registration. For leased vehicles, such application shall include, when available, the name and address of the lessee and the name of the locality in which the leased vehicle will be principally garaged or parked. The Department shall also make this information available to the commissioner of the revenue or other assessing officer of the locality in which the leased vehicle is to be principally garaged or parked. *Nothing in this section shall require the registration of all-terrain vehicles or off-road motorcycles titled pursuant to this article.*

§ 46.2-623. Statements in application.

A. Every application for a certificate of title shall contain (i) a statement of the applicant's title and

305 of all liens or encumbrances on the vehicle and the names and addresses of all persons having any
306 interest in the vehicle and the nature of every interest in the vehicle; (ii) the Social Security number, if
307 any, of the owner and, if the application is in the name of an employer for a business vehicle, the
308 employer's identification number assigned by the United States Internal Revenue Service; and (iii) a
309 brief description of the vehicle to be *titled or* registered, including the name of the maker, the vehicle
310 identification or serial number and, when *titling or* registering a new vehicle, the date of sale by the
311 manufacturer or dealer to the person first operating the vehicle.

312 B. Not later than July 15, 1998, the lessor of a qualifying vehicle, as defined in § 58.1-3523, shall
313 send a report to the Department for each such qualifying vehicle it was leasing as of July 1, 1998, and
314 has leased between January 1, 1998, and June 30, 1998, containing (i) the name and address of the
315 lessee as it appears in the lease contract; (ii) the social security number of the lessee; and (iii) the
316 registration number of the vehicle as described under Article 1 (§ 46.2-600 et seq.) of Chapter 6 of Title
317 46.2.

318 C. Beginning with August 1998, such lessor shall send a monthly report to the Department, by the
319 fifteenth day of the month or such later day as may be prescribed in the guidelines promulgated under
320 § 58.1-3532, listing any changes, additions or deletions to the information provided under subsection B
321 as of the last day of the preceding month.

322 D. The application shall contain such additional information as may be required by the Department.

323 § 46.2-629. Odometer reading to be reported on certificate of title, application, or power of attorney;
324 exceptions.

325 A. Every owner or transferor of any motor vehicle, including a dealer, shall, at the time of transfer
326 of ownership of any motor vehicle by him, record on the certificate of title, if one is currently issued on
327 the vehicle in the Commonwealth, and on any application for certificate of title the reading on the
328 odometer or similar device plus any known additional distance traveled not shown by the odometer or
329 similar device of the motor vehicle at the time of transfer. If, however, a transferor gives his power of
330 attorney to a dealer or other person for the purpose of assigning the transferor's interest in a motor
331 vehicle, the transferor shall conspicuously record on the power of attorney the reading on the odometer
332 or similar device at the time of the assignment.

333 B. The Department shall not issue to any transferee any new certificate of title to a motor vehicle
334 unless subsection A of this section has been complied with.

335 C. It shall be unlawful for any person knowingly to record an incorrect odometer or similar device
336 reading plus any known additional distance not shown by the odometer or similar device on any
337 certificate of title or application for a title, or on any power of attorney as described in subsection A of
338 this section.

339 D. Violation of this section shall constitute a Class 1 misdemeanor.

340 E. The provisions of subsections A and B of this section shall not apply to transfers under
341 § 46.2-633.

342 F. *This section shall not apply to transfers or applications for certificates of title of all-terrain*
343 *vehicles or off-road motorcycles as defined in § 46.2-100.*

344 § 46.2-637. Security interests subsequently created.

345 Security interests, other than those in inventory held for sale, in motor vehicles, trailers, or
346 semitrailers created by the voluntary act of the owner after the original issue of a certificate of title to
347 the owner must be shown on the certificate of title. In such cases, the owner shall file an application
348 with the Department on a form furnished for that purpose, setting forth the security interests and
349 whatever additional information the Department may deem necessary. If satisfied that it is proper for the
350 security interest to be recorded, when the certificate of title covering the motor vehicle, trailer, or
351 semitrailer, is surrendered, the Department shall issue a new certificate of title, showing security interests
352 in the order of their priority according to the date of the filing of the application. For the purpose of
353 recording a subsequent security interest, the Commissioner may require any secured party to deliver to
354 him the certificate of title. The new certificate shall be sent or delivered to the secured party from whom
355 the prior certificate was obtained. Notwithstanding any other provision of law, a security interest in a
356 motor vehicle, trailer, or semitrailer ~~which~~ *that* is inventory held for sale shall be perfected only as
357 provided in §§ ~~8.9A-401 through 8.9A-527~~ *8.9A-301 through 8.9A-527*.

358 § 46.2-638. Certificate as notice of security interest.

359 A certificate of title, when issued by the Department showing a security interest, shall be adequate
360 notice to the Commonwealth, creditors, and purchasers that a security interest in the motor vehicle exists
361 and the recording or filing of such creation or reservation of a security interest in the county or city
362 wherein the purchaser or debtor resides or elsewhere is not necessary and shall not be required. Motor
363 vehicles, trailers or semitrailers, other than those which are inventory held for sale, registered or for
364 which a certificate of title shall have been issued under this title shall not be subjected to, but shall be
365 exempt from the provisions of §§ ~~8.9A-401 through 8.9A-527~~ *8.9A-301 through 8.9A-527* and § 55-96
366 whether or not inventory held for sale shall be exempt from the provisions of § 55-152, nor shall

recording or filing of such security interest, except a security interest in inventory held for sale in any other place for any other purpose, be required or have any effect.

ARTICLE 2.1.

All-Terrain Vehicle and Off-road Motorcycle Certificates of Title.

§ 46.2-644.1. Titling of all-terrain vehicles and off-road motorcycles.

A. Every owner, except a dealer licensed under § 46.2-1993.6, of any all-terrain vehicle or off-road motorcycle powered by a gasoline or diesel engine displacing more than 50 cubic centimeters and purchased as new on or after July 1, 2003, shall apply to the Department for a certificate of title in the name of the owner before the all-terrain vehicle or off-road motorcycle is operated anywhere in the Commonwealth.

B. Any owner of an all-terrain vehicle or off-road motorcycle not required to be titled under this section and not titled elsewhere, may apply to the Department for a certificate of title. The Department shall issue the certificate upon reasonable evidence of ownership, such as a bill of sale or other document satisfactory to the Department.

C. On and after January 1, 2006, in order to purchase or otherwise acquire an all-terrain vehicle or off-road motorcycle, any purchaser or transferee other than a licensed dealer shall obtain a certificate of title for it in his name.

D. Except as otherwise provided in this title, all-terrain vehicles and off-road motorcycles shall comply with the titling requirements of motor vehicles pursuant to Article 2 (§ 46.2-616 et seq.) of this chapter.

§ 46.2-644.2. Department's records; fees; exemption.

The Department shall maintain a record of any certificate of title it issued under this article. Fees to be paid to the Department for issuance of such certificates of title shall be the same as those imposed for the titling of motor vehicles pursuant to § 46.2-627.

Any all-terrain vehicle or off-road motorcycle purchased and used by a nonprofit volunteer rescue squad shall be exempt from fees imposed under this section.

§ 46.2-644.3. Acquisition of all-terrain vehicle or off-road motorcycle by dealer.

Any dealer licensed under § 46.2-1993.6 who acquires an all-terrain vehicle or off-road motorcycle for resale shall be exempt from the titling requirements of this title.

Any dealer transferring an all-terrain vehicle or off-road motorcycle titled under this title shall assign the title to the new owner or, in the case of a new all-terrain vehicle or off-road motorcycle, assign the certificate of origin.

§ 46.2-679.1. All-terrain vehicles.

No person shall be required to obtain the registration certificate, license plate and decals, or pay a registration fee for any all-terrain vehicle.

§ 46.2-679.2. Off-road motorcycles.

No person shall be required to obtain the registration certificate, license plate and decals, or pay a registration fee for any off-road motorcycle.

§ 46.2-915.1. All-terrain vehicles and off-road motorcycles; penalty.

A. No all-terrain vehicle or off-road motorcycle shall be operated:

1. On any public highway, or other public property, except (i) as authorized by proper authorities (ii) to the extent necessary to cross a public highway by the most direct route, or (iii) by law-enforcement officers, firefighters, or rescue squad personnel responding to emergencies;

2. By any person under the age of sixteen, except that (i) children between the ages of ~~twelve~~ 12 and ~~sixteen~~ 16 may operate all-terrain vehicles and off-road motorcycles powered by engines of no less than ~~seventy~~ ~~not~~ more than ~~ninety~~ 90 cubic centimeters displacement and (ii) children under 12 years of age may operate all-terrain vehicles and off-road motorcycles powered by engines of no more than 50 cubic centimeters displacement;

3. By any person unless he is wearing a protective helmet of a type approved by the Superintendent of State Police for use by motorcycle operators;

4. On another person's property without the written consent of the owner of the property or as explicitly authorized by law; or

5. With a passenger at any time.

B. Any retailer selling any all-terrain vehicle or off-road motorcycle shall affix thereto, or verify that there is affixed thereto, a decal or sticker, approved by the Superintendent of State Police, which clearly and completely states the prohibition contained in subsection A of this section.

C. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of an all-terrain vehicle or off-road motorcycle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action, nor shall this section bar any claim which otherwise exists.

428 D. Violation of any provision of this section shall be punishable by a civil penalty of not more than
429 \$500.

430 E. The provisions of this section shall not apply:

431 1. To any all-terrain vehicle *or off-road motorcycle* being used in conjunction with farming activities;
432 or

433 2. To members of the household or employees of the owner or lessee of private property on which
434 the all-terrain vehicle *or off-road motorcycle* is operated.

435 F. For the purposes of this section, *"all-terrain vehicle"* shall mean a ~~three-wheeled or four-wheeled~~
436 ~~motor vehicle, generally characterized by large, low-pressure tires, a seat designed to be straddled by the~~
437 ~~operator, and handlebars for steering, which is intended for off-road use by an individual rider on~~
438 ~~various types of nonpaved terrain. The term does not include four-wheeled vehicles which have low~~
439 ~~centers of gravity and are typically used in racing and on relatively level surfaces, commonly known as~~
440 ~~"go-carts."~~

441 § 46.2-1051. Certain local governments may impose restrictions on operations of certain mopeds,
442 mini-bikes, trail-bikes, all-terrain vehicles, off-road motorcycles, and go-carts.

443 The governing body of any county, city, or town which is located within the Northern Virginia
444 Planning District may provide by ordinance that no person shall operate and no owner shall permit the
445 operation of, either on a highway or on public or private property within 500 feet of any residential
446 district, any motorcycle, moped, motorized bicycle, motorcycle-like device commonly known as a
447 trail-bike or mini-bike, *all-terrain vehicle*, *off-road motorcycle*, or motorized cart commonly known as a
448 go-cart unless it is equipped with an exhaust system of a type installed as standard equipment, or
449 comparable to that designed for use on that particular vehicle or device as standard factory equipment,
450 in good working order and in constant operation to prevent excessive noise.

451 § 46.2-1993. Definitions.

452 Unless the context otherwise requires, the following words and terms for the purpose of this chapter
453 shall have the following meanings:

454 *"All-terrain vehicle"* means a 3-wheeled or 4-wheeled motor vehicle powered by a gasoline or diesel
455 engine and generally characterized by large, low-pressure tires, a seat designed to be straddled by the
456 operator, and handlebars for steering, that is intended for off-road use by an individual rider on various
457 types of unpaved terrain. The term does not include 4-wheeled vehicles that have low centers of gravity
458 and are typically used in racing and on relatively level surfaces, commonly known as *"go-carts,"* nor
459 does the term include any *"farm utility vehicle"* as defined in this section. Except as otherwise provided
460 in this chapter, for the purposes of this chapter, all-terrain vehicles shall be deemed to be motorcycles.

461 *"Certificate of origin"* means the document provided by the manufacturer of a new motorcycle, or its
462 distributor, which is the only valid indication of ownership between the manufacturer, its distributor, its
463 franchised motorcycle dealers, and the original purchaser not for resale.

464 *"Dealer-operator"* means the individual who works at the established place of business of a dealer
465 and who is responsible for and in charge of day-to-day operations of that place of business.

466 *"Distributor"* means a person who sells or distributes new motorcycles pursuant to a written
467 agreement with the manufacturer, to franchised motorcycle dealers in the Commonwealth.

468 *"Distributor branch"* means a branch office maintained by a distributor for the sale of motorcycles to
469 motorcycle dealers or for directing or supervising, in whole or in part, its representatives in the
470 Commonwealth.

471 *"Distributor representative"* means a person employed by a distributor or by a distributor branch, for
472 the purpose of making or promoting the sale of motorcycles or for supervising or contacting its dealers,
473 prospective dealers, or representatives in the Commonwealth.

474 *"Factory branch"* means a branch office maintained by a person for the sale of motorcycles to
475 distributors or for the sale of motorcycles to motorcycle dealers, or for directing or supervising, in whole
476 or in part, its representatives in the Commonwealth.

477 *"Factory representative"* means a person employed by a person who manufactures or assembles
478 motorcycles, or by a factory branch for the purpose of making or promoting the sale of its motorcycles,
479 or for supervising or contacting its dealers, prospective dealers, or representatives in the Commonwealth.

480 *"Factory repurchase motorcycle"* means a motorcycle sold, leased, rented, consigned, or otherwise
481 transferred to a person under an agreement that the motorcycle will be resold or otherwise retransferred
482 only to the manufacturer or distributor of the motorcycle, and which is reacquired by the manufacturer
483 or distributor, or its agents.

484 *"Family member"* means a person who either (i) is the spouse, child, grandchild, spouse of a child,
485 spouse of a grandchild, brother, sister, or parent of the dealer or owner, or (ii) has been employed
486 continuously by the dealer for at least ~~five~~ 5 years.

487 *"Farm utility vehicle"* means a vehicle that is designed for off-road use and is used as a farm,
488 agricultural, or horticultural service vehicle, generally having a gasoline or diesel engine, 4 or more
489 wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed.

"Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, riding lawn mowers, or all-terrain vehicles.

"Franchise" means a written contract or agreement between two or more persons whereby one person, the franchisee, is granted the right to engage in the business of offering and selling, servicing, or offering, selling, and servicing new motorcycles of a particular line-make or late model or factory repurchase motorcycles of a particular line-make manufactured or distributed by the grantor of the right, the franchisor, and where the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, the motorcycle or its manufacturer or distributor. The term shall include any severable part or parts of a franchise agreement which separately provides for selling and servicing different line-makes of the franchisor.

"Franchised late model or factory repurchase motorcycle dealer" means a dealer in late model or factory repurchase motorcycles, including a franchised new motorcycle dealer, that has a franchise agreement with a manufacturer or distributor of the line-make of the late model or factory repurchase motorcycles.

"Franchised motorcycle dealer" or "franchised dealer" means a dealer in new motorcycles that has a franchise agreement with a manufacturer or distributor of new motorcycles.

"Independent motorcycle dealer" means a dealer in used motorcycles.

"Late model motorcycle" means a motorcycle of the current model year and the immediately preceding model year.

"Line-make" means the name of the motorcycle manufacturer or distributor and a brand or name plate marketed by the manufacturer or distributor. For the purposes of this chapter, the "line-make" of a motorcycle manufacturer, factory branch, distributor, or distributor branch shall include every brand of all-terrain vehicle and off-road motorcycle manufactured or distributed bearing the name of the motorcycle manufacturer or distributor.

"Manufacturer" means a person engaged in the business of constructing or assembling new motorcycles.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground, except any vehicle included within the term "farm vehicle" or "moped" as defined in § 46.2-100. *Except as otherwise provided in this chapter, for the purposes of this chapter "all-terrain vehicles" and "off-road motorcycles" shall be deemed to be "motorcycles."*

"Motorcycle dealer" or "dealer" means any person who:

1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise or arranges or offers or attempts to solicit or negotiate on behalf of others a sale, purchase, or exchange of an interest in new motorcycles, new and used motorcycles, or used motorcycles alone, whether or not the motorcycles are owned by him;

2. Is wholly or partly engaged in the business of selling new motorcycles, new and used motorcycles, or used motorcycles only, whether or not the motorcycles are owned by him; or

3. Offers to sell, sells, displays, or permits the display for sale, of five or more motorcycles within any twelve consecutive months.

The term "motorcycle dealer" does not include:

1. Receivers, trustees, administrators, executors, guardians, conservators or other persons appointed by or acting under judgment or order of any court or their employees when engaged in the specific performance of their duties as employees.

2. Public officers, their deputies, assistants, or employees, while performing their official duties.

3. Persons other than business entities primarily engaged in the leasing or renting of motorcycles to others when selling or offering such motorcycles for sale at retail, disposing of motorcycles acquired for their own use and actually so used, when the motorcycles have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter.

4. Any financial institution chartered or authorized to do business under the laws of the Commonwealth or the United States which may have received title to a motorcycle in the normal course of its business by reason of a foreclosure, other taking, repossession, or voluntary reconveyance to that institution occurring as a result of any loan secured by a lien on the motorcycle.

5. An employee of an organization arranging for the purchase or lease by the organization of motorcycles for use in the organization's business.

6. Any person who permits the operation of a motorcycle show or permits the display of motorcycles for sale by any motorcycle dealer licensed under this chapter.

7. An insurance company authorized to do business in the Commonwealth that sells or disposes of motorcycles under a contract with its insured in the regular course of business.

8. Any publication, broadcast, or other communications media when engaged in the business of

551 advertising, but not otherwise arranging for the sale of motorcycles owned by others.

552 9. ~~Any person dealing solely in the sale or lease of motorcycles designed exclusively for off-road~~
553 ~~use.~~

554 ~~10.~~ Any credit union authorized to do business in Virginia, provided the credit union does not
555 receive a commission, money, or other thing of value directly from a motorcycle dealer.

556 "Motorcycle salesperson" or "salesperson" means any person who is licensed as and employed as a
557 salesperson by a motorcycle dealer to sell or exchange motorcycles.

558 "Motorcycle show" means a display of motorcycles to the general public at a location other than a
559 dealer's location licensed under this chapter where the motorcycles are not being offered for sale or
560 exchange during or as part of the display.

561 "New motorcycle" means any motorcycle which (i) has not been previously sold except in good faith
562 for the purpose of resale, (ii) has not been used as a rental, driver education, or demonstration
563 motorcycle, or for the personal and business transportation of the manufacturer, distributor, dealer, or
564 any of his employees, (iii) has not been used except for limited use necessary in moving or road testing
565 the motorcycle prior to delivery to a customer, (iv) is transferred by a certificate of origin, and (v) has
566 the manufacturer's certification that it conforms to all applicable federal motorcycle safety and emission
567 standards. Notwithstanding provisions (i) and (iii), a motorcycle that has been previously sold but not
568 titled shall be deemed a new motorcycle if it meets the requirements of provisions (ii), (iv), and (v).

569 "Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual
570 rider with not more than 2 wheels in contact with the ground. Except as otherwise provided in this
571 chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

572 "Original license" means a motorcycle dealer license issued to an applicant who has never been
573 licensed as a motorcycle dealer in Virginia or whose Virginia motorcycle dealer license has been expired
574 for more than thirty days.

575 "Relevant market area" means as follows:

576 1. In metropolitan localities with a population of 250,000 or more, the relevant market area shall be
577 a circular area around an existing franchised dealer not to exceed a radius of ten miles; ~~but in no case~~
578 ~~less than seven miles.~~

579 2. If the population in an area within a radius of ten miles around an existing franchised dealer is
580 less than 250,000, but the population in an area within a radius of fifteen miles around an existing
581 franchised dealer is 150,000 or more, the relevant market area shall be that area within the
582 ~~fifteen~~ 15-mile radius.

583 3. In all other cases the relevant market area shall be an area within a radius of ~~twenty~~ 20 miles
584 around an existing franchised dealer or the area of responsibility defined in the franchise, whichever is
585 greater. In any case where the franchise agreement is silent as to area responsibility, the relevant market
586 area shall be the greater of an area within a radius of ~~twenty~~ 20 miles around an existing franchised
587 dealer or that area in which the franchisor otherwise requires the franchisee to make significant retail
588 sales or sales efforts.

589 In determining population for this definition, the most recent census by the U.S. Bureau of the
590 Census or the most recent population update, either from the National Planning Data Corporation or
591 other similar recognized source, shall be accumulated for all census tracts either wholly or partially
592 within the relevant market area.

593 "Retail installment sale" means every sale of one or more motorcycles to a buyer for his use and not
594 for resale, in which the price of the motorcycle is payable in one or more installments and in which the
595 seller has either retained title to the goods or has taken or retained a security interest in the goods under
596 form of contract designated either as a security agreement, conditional sale, bailment lease, chattel
597 mortgage, or otherwise.

598 "Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or
599 otherwise disposing of a motorcycle to a buyer for his personal use and not for resale.

600 "Sale at wholesale" or "wholesale" means a sale to motorcycle dealers or wholesalers other than to
601 consumers, or a sale to one who intends to resell.

602 "Used motorcycle" means any motorcycle other than a new motorcycle as defined in this section.

603 "Wholesale auction" means an auction of motorcycles restricted to sales at wholesale.

604 § 46.2-1993.6. Licenses required.

605 ~~It~~ Except as otherwise provided in this section, it shall be unlawful for any person to engage in
606 business in the Commonwealth as a motorcycle dealer, salesperson, manufacturer, factory branch,
607 distributor, distributor branch, or factory or distributor representative, without first obtaining a license as
608 provided in this chapter. Any person licensed in another state as a motorcycle dealer may sell
609 motorcycles at wholesale auctions in the Commonwealth after having obtained a certificate of dealer
610 registration as provided in Chapter 19 (§ 46.2-1900 et seq.) of this title. Any nonprofit organization
611 exempt from taxation under § 501 (c) (3) of the Internal Revenue Code, after having obtained a
612 nonprofit organization certificate as provided in this chapter, may consign donated motorcycles to

licensed Virginia motorcycle dealers. The offering or granting of a motorcycle dealer franchise in the Commonwealth shall constitute engaging in business in the Commonwealth for purposes of this section, and no new motorcycle may be sold or offered for sale in the Commonwealth unless the franchisor of motorcycle dealer franchises for that line-make in the Commonwealth, whether such franchisor is a manufacturer, factory branch, distributor, distributor branch, or otherwise, is licensed under this chapter. In the event a license issued under this chapter to a franchisor of motorcycle dealer franchises is suspended, revoked, or not renewed, nothing in this section shall prevent the sale of any new motorcycle of such franchisor's line-make manufactured in or brought into the Commonwealth for sale prior to the suspension, revocation or expiration of the license.

Notwithstanding the foregoing provisions of this section, a manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative engaged in the manufacture or distribution of all-terrain vehicles or off-road motorcycles that does not also manufacture or does not also distribute in Virginia any motorcycle designed for lawful use on the public highways shall not be required to obtain a license from the Department as provided in this chapter.

Violation of any provision of this section shall constitute a Class 1 misdemeanor.

§ 46.2-1993.25. Odometer disclosure; exemptions.

Every motorcycle dealer shall comply with all requirements of the Federal Odometer Act and § 46.2-629 by completing the appropriate odometer mileage statement form for each vehicle purchased, sold or transferred, or in any other way acquired or disposed of. Odometer disclosure statements shall be maintained by the dealer in a manner that permits systematic retrieval. Any person found violating any of the provisions of this section shall be guilty of a Class 1 misdemeanor.

The provisions of this section shall not apply to all-terrain vehicles or off-road motorcycles.

§ 46.2-1993.35. Temporary certificates of ownership.

A. Notwithstanding §§ 46.2-617 and 46.2-628, whenever a dealer licensed by the Department sells and delivers to a purchaser a vehicle and is unable at the time of the sale to deliver to the purchaser the certificate of title or certificate of origin for the vehicle because the certificate of title or certificate of origin is lost or is being detained by another in possession or for any other reason beyond the dealer's control, the dealer shall execute, on forms provided by the Commissioner, a temporary certificate of ownership. The certificate shall bear its date of issuance, the name and address of the purchaser, the identification number of the vehicle, the registration number to be used temporarily on the vehicle, the name of the state in which the vehicle is to be registered, the name and address of the person from whom the dealer acquired the vehicle, and whatever other information may be required by the Commissioner. A copy of the temporary certificate and a bona fide bill of sale shall be delivered to the purchaser and shall be in the possession of the purchaser at all times when operating the vehicle. One copy of the certificate shall be retained by the dealer and shall be subject to inspection at any time by the Department's agents. The original of the certificate shall be forwarded by the dealer to the Department directly on issuance to the purchaser if the vehicle is to be titled outside the Commonwealth, along with application for title. The issuance of a temporary certificate of ownership to a purchaser pursuant to this section shall have the effect of vesting ownership of the motorcycle in the purchaser for the period that the certificate remains effective.

B. A temporary certificate of ownership issued by a dealer to a purchaser pursuant to this section shall expire on receipt by the purchaser of a certificate of title to the vehicle issued by the Department in the name of the purchaser, but in no event shall any temporary certificate of ownership issued under this section be effective for more than thirty days from the date of its issuance. In the event that the dealer fails to produce the old certificate of title or certificate of origin to the vehicle or fails to apply for a replacement certificate of title pursuant to § 46.2-632, thereby preventing delivery to the Department or purchaser before the expiration of the temporary certificate of ownership, the purchaser's ownership of the vehicle may terminate and the purchaser shall have the right to return the vehicle to the dealer and obtain a full refund of all payments made toward the purchase of the vehicle, less any damage to the vehicle incurred while ownership was vested in the purchaser, and less a reasonable amount for use not to exceed one-half the amount allowed per mile by the Internal Revenue Service, as provided by regulation, revenue procedure, or revenue ruling promulgated pursuant to § 162 of the Internal Revenue Code, for use of a personal vehicle for business purposes.

C. Notwithstanding subsection B of this section, if the dealer fails to deliver the certificate of title or certificate of origin to the purchaser within thirty days, a second temporary certificate of ownership may be issued. However, the dealer shall, not later than the expiration of the first temporary certificate, deliver to the Department an application for title, copy of the bill of sale, all required fees and a written statement of facts describing the dealer's efforts to secure the certificate of title or certificate of origin to the vehicle. On receipt of the title application with attachments as described herein, the Department shall record the purchaser's ownership of the vehicle and may authorize the dealer to issue a second thirty-day temporary certificate of ownership. If the dealer does not produce the certificate of title or certificate of

674 origin to the vehicle before the expiration of the second temporary certificate, the purchaser's ownership
675 of the vehicle may terminate and he shall have the right to return the vehicle as provided in subsection
676 B of this section.

677 D. If the dealer is unable to produce the certificate of title or certificate of origin to the vehicle
678 within the sixty-day period from the date of issuance of the first temporary certificate, the Department
679 may extend temporary ownership for an additional period of up to ninety days, provided the dealer
680 makes application in the format required by the Department. If the dealer does not produce the
681 certificate of title or certificate of origin to the vehicle before the expiration of the additional ninety-day
682 period, the purchaser's ownership of the vehicle may terminate and he shall have the right to return the
683 motorcycle as provided in subsection B of this section.

684 E. The Commissioner, on determining that the provisions of this section or the directions of the
685 Department are not being complied with by a dealer, may, after a hearing, suspend the right of the
686 dealer to issue temporary certificates of ownership.

687 *F. The provisions of this section shall not apply to all-terrain vehicles and off-road motorcycles.*

688 § 46.2-1993.39. Registration of dealers; fees; exemptions.

689 Every manufacturer, distributor, or dealer, before he commences to operate motorcycles in his
690 inventory for sale or resale, shall apply to the Commissioner for a dealer's certificate of vehicle
691 registration and license plates. For the purposes of this article, a motorcycle is in inventory when it is
692 owned by, or assigned to, a dealer and is offered and available for sale or resale. All dealer's certificates
693 of vehicle registration and license plates issued under this section may, at the discretion of the
694 Commissioner, be placed in a system of staggered issue to distribute the work of issuing vehicle
695 registration certificates and license plates as uniformly as practicable throughout the year. Dealerships
696 which sold fewer than twenty-five motorcycles during the last twelve months of the preceding license
697 year shall be eligible to receive no more than two dealer's license plates; dealerships which sold at least
698 twenty-five but fewer than fifty motorcycles during the last twelve months of the preceding license year
699 shall be eligible to receive no more than four dealer's license plates. However, dealerships which sold
700 fifty or more motorcycles during their current license year may apply for additional license plates not to
701 exceed four times the number of licensed salespersons employed by that dealership. Dealerships which
702 sold fifty or more motorcycles during the last twelve months of the preceding license year shall be
703 eligible to receive a number of dealer's license plates not to exceed four times the number of licensed
704 salespersons employed by that dealership. A new applicant for a dealership shall be eligible to receive a
705 number of dealer's license plates not to exceed four times the number of licensed salespersons employed
706 by that dealership. For the purposes of this article, a salesperson or employee shall be considered to be
707 employed only if he (i) works for the dealership at least twenty-five hours each week on a regular basis
708 and (ii) is compensated for this work. All salespersons' or employees' employment records shall be
709 retained in accordance with the provisions of § 46.2-1993.22. A salesperson shall not be considered
710 employed, within the meaning of this section, if he is an independent contractor as defined by the
711 United States Internal Revenue Code. The fee for the issuance of motorcycle dealer's license plates shall
712 be nine dollars per year for each dealer's license plate.

713 *Nothing in the article shall apply to all-terrain vehicles or off-road motorcycles.*

714 § 46.2-1993.55. Issuance of temporary license plates to dealers and vehicle owners.

715 The Department may, subject to the limitations and conditions set forth in this article, deliver
716 temporary license plates designed by the Department to any dealer licensed under this chapter who
717 applies for at least ten sets of plates and who encloses with his application a fee of two dollars for each
718 set applied for. The application shall be made on a form prescribed and furnished by the Department.
719 Dealers, subject to the limitations and conditions set forth in this article, may issue temporary license
720 plates to owners of vehicles. The owners shall comply with the provisions of this article and
721 §§ 46.2-705, 46.2-706 and 46.2-707. Dealers issuing temporary license plates may do so free of charge,
722 but if they charge a fee for issuing temporary plates, the fee shall be no more than the fee charged the
723 dealer by the Department under this section.

724 Display of a temporary license plate or plates on a vehicle shall subject the vehicle to the
725 requirements of §§ 46.2-1038 and 46.2-1056.

726 *Nothing in the article shall apply to all-terrain vehicles or off-road motorcycles.*

727 § 46.2-1993.64. Filing of franchises.

728 ~~Each~~ *Except as otherwise provided in this section*, motorcycle manufacturer, factory branch,
729 distributor, distributor branch, or subsidiary thereof shall file with the Commissioner a true copy of each
730 new, amended, modified, or different form or addendum offered to more than one dealer which affects
731 the rights, responsibilities, or obligations of the parties of a franchise or sales, service, or sales and
732 service agreement to be offered to a motorcycle dealer or prospective motorcycle dealer in the
733 Commonwealth no later than sixty days prior to the date the franchise or sales agreement is offered. In
734 no event shall a new, amended, modified, or different form of franchise or sales, service, or sales and
735 service agreement be offered a motorcycle dealer in the Commonwealth until the form has been

determined by the Commissioner as not containing terms inconsistent with the provisions of this chapter. At the time a filing is made with the Commissioner pursuant to this section, the manufacturer, factory branch, distributor, distributor branch, or subsidiary shall also give written notice together with a copy of the papers so filed to the affected dealer or dealers.

The provisions of this article shall not apply to a manufacturer, factory branch, distributor, distributor branch, or factory or distributor representative engaged in the manufacture or distribution of all-terrain vehicles or off-road motorcycles that does not also manufacture or does not also distribute in Virginia any motorcycle designed for lawful use on the public highways.

§ 58.1-3503. General classification of tangible personal property.

A. Tangible personal property is classified for valuation purposes according to the following separate categories which are not to be considered separate classes for rate purposes:

1. Farm animals, except as exempted under § 58.1-3505.

2. Farm machinery, except as exempted under § 58.1-3505.

3. Automobiles, except those described in subdivisions 7, 8 and 9 of this subsection and in subdivision A 8 of § 58.1-3504, which shall be valued by means of a recognized pricing guide or if the model and year of the individual automobile are not listed in the recognized pricing guide, the individual vehicle may be valued on the basis of percentage or percentages of original cost. In using a recognized pricing guide, the commissioner shall use either of the following two methods. The commissioner may use all applicable adjustments in such guide to determine the value of each individual automobile, or alternatively, if the commissioner does not utilize all applicable adjustments in valuing each automobile, he shall use the base value specified in such guide which may be either average retail, wholesale, or loan value, so long as uniformly applied within classifications of property. If the model and year of the individual automobile are not listed in the recognized pricing guide, the taxpayer may present to the commissioner proof of the original cost, and the basis of the tax for purposes of the motor vehicle sales and use tax as described in § 58.1-2405 shall constitute proof of original cost. If such percentage or percentages of original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the commissioner may select another method which establishes fair market value.

4. Trucks of less than two tons, which may be valued by means of a recognized pricing guide or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage or percentages of original cost.

5. Trucks and other vehicles, as defined in § 46.2-100, except those described in subdivisions 4, and 6 through 10 of this subsection, which shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage or percentages of original cost.

6. Manufactured homes, as defined in § 36-85.3, which may be valued on the basis of square footage of living space.

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

8. Taxicabs.

9. Motor vehicles with specially designed equipment for use by the handicapped, which shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.

10. Motorcycles, *all-terrain vehicles and off-road motorcycles as defined in § 46.2-100*, campers and other recreational vehicles, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

11. Boats weighing under five tons and boat trailers, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

12. Boats or watercraft weighing five tons or more, which shall be valued by means of a percentage or percentages of original cost.

13. Aircraft, which shall be valued by means of a recognized pricing guide or a percentage or percentages of original cost.

14. Household goods and personal effects, except as exempted under § 58.1-3504.

15. Tangible personal property used in a research and development business, which shall be valued by means of a percentage or percentages of original cost.

16. Programmable computer equipment and peripherals used in business which shall be valued by means of a percentage or percentages of original cost to the taxpayer, or by such other method as may reasonably be expected to determine the actual fair market value.

17. All tangible personal property employed in a trade or business other than that described in subdivisions 1 through 16 of this subsection, which shall be valued by means of a percentage or percentages of original cost.

18. All other tangible personal property.

797 B. Methods of valuing property may differ among the separate categories, so long as each method
798 used is uniform within each category, is consistent with requirements of this section and may reasonably
799 be expected to determine actual fair market value as determined by the commissioner of revenue or
800 other assessing official; however, assessment ratios shall only be used with the concurrence of the local
801 governing body. A commissioner of revenue shall upon request take into account the condition of the
802 property. The term "condition of the property" includes, but is not limited to, technological obsolescence
803 of property where technological obsolescence is an appropriate factor for valuing such property. The
804 commissioner of revenue shall make available to taxpayers on request a reasonable description of his
805 valuation methods. Such commissioner, or other assessing officer, or his authorized agent, when using a
806 recognized pricing guide as provided for in this section, may automatically extend the assessment if the
807 pricing information is stored in a computer.

808 § 58.1-3504. Classification of certain household goods and personal effects for taxation; governing
809 body may exempt.

810 A. Notwithstanding any provision of § 58.1-3503, household goods and personal effects are hereby
811 defined as separate items of taxation and classified as follows:

812 1. Bicycles.

813 2. Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks,
814 sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all
815 other household machinery, books, firearms and weapons of all kinds.

816 3. Pianos, organs, and all other musical instruments; phonographs, record players, and records to be
817 used therewith; and radio and television instruments and equipment.

818 4. Oil paintings, pictures, statuary, curios, articles of virtu and works of art.

819 5. Diamonds, cameos or other precious stones and all precious metals used as ornaments or jewelry.

820 6. Sporting and photographic equipment.

821 7. Clothing and objects of apparel.

822 8. Antique motor vehicles as defined in § 46.2-100 which may not be used for general transportation
823 purposes.

824 9. *All-terrain vehicles and off-road motorcycles as defined in § 46.2-100.*

825 10. All other tangible personal property used by an individual or a family or household incident to
826 maintaining an abode.

827 The classification above set forth shall apply only to such property owned and used by an individual
828 or by a family or household incident to maintaining an abode.

829 The governing body of any county, city or town may, by ordinance duly adopted, exempt from
830 taxation all of the above classes of household goods and personal effects.

831 B. Notwithstanding any provision set forth above, household appliances in residential rental property
832 used by an individual or by a family or household incident to maintaining an abode shall be deemed to
833 be fixtures and shall be assessed as part of the real property in which they are located.

834 For purposes of this subsection, "household appliances" shall mean all major appliances customarily
835 used in a residential home and which are the property of the owner of the real estate, including, without
836 limitation, refrigerators, stoves, ranges, microwave ovens, dishwashers, trash compactors, clothes dryers,
837 garbage disposals and air conditioning units.

838 § 58.1-3523. Definitions.

839 As used in this chapter:

840 "Commissioner" means the Commissioner of the Department of Motor Vehicles.

841 "Commissioner of the revenue" means the same as that set forth in § 58.1-3100. For purposes of this
842 chapter, in a county or city which does not have an elected commissioner of the revenue, "commissioner
843 of the revenue" means the officer who is primarily responsible for assessing motor vehicles for the
844 purposes of tangible personal property taxation.

845 "Department" means the Department of Motor Vehicles.

846 "Effective tax rate" means the tax rate imposed by a locality on tangible personal property on the
847 applicable class of tangible personal property multiplied by the assessment ratio.

848 "Leased" means leased by a natural person as lessee and used for nonbusiness purposes.

849 "Percentage level" means the percentage of the reimbursable amount to be reimbursed or paid by the
850 Commonwealth.

851 "Privately owned" means owned by a natural person and used for nonbusiness purposes.

852 "Qualifying vehicle" means any passenger car, motorcycle, and pickup or panel truck, as those terms
853 are defined in § 46.2-100, that is determined by the commissioner of the revenue of the county or city
854 in which the vehicle has situs as provided by § 58.1-3511 to be (i) privately owned or (ii) leased
855 pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle. In
856 determining whether a vehicle is a qualifying vehicle, the commissioner of revenue may rely on the
857 registration of such vehicle with the Department pursuant to Chapter 6 (§ 46.2-600 et seq.) of Title 46.2.
858 *For purposes of this chapter, all-terrain vehicles and off-road motorcycles titled with the Department of*

859 *Motor Vehicles shall not be deemed qualifying vehicles.*

860 "Reimbursable amount" means the value of a qualifying vehicle, up to the first \$20,000 of value,
861 multiplied by the effective tax rate in effect in the locality on July 1, 1997, or August 1, 1997,
862 whichever is greater.

863 "Tangible personal property tax" means the tax levied pursuant to Article 1 (§ 58.1-3500 et seq.) of
864 Chapter 35 of Title 58.1.

865 "Treasurer" means the same as that set forth in § 58.1-3123, when used herein with respect to a
866 county or city. When used herein with respect to a town, "treasurer" means the officer who is primarily
867 responsible for the billing and collection of tangible personal property taxes levied upon motor vehicles
868 by such town, and means the treasurer of the county or counties in which such town is located if such
869 functions are performed for the town by the county treasurer or treasurers.

870 "Used for nonbusiness purposes" means the preponderance of use is for other than business purposes.
871 The preponderance of use for other than business purposes shall be deemed not to be satisfied if: (i) the
872 motor vehicle is expensed on the taxpayer's federal income tax return pursuant to Internal Revenue Code
873 § 179; (ii) more than fifty percent of the basis for depreciation of the motor vehicle is depreciated for
874 federal income tax purposes; or (iii) the allowable expense of total annual mileage in excess of fifty
875 percent is deductible for federal income tax purposes or reimbursed pursuant to an arrangement between
876 an employer and employee.

877 "Value" means the fair market value determined by the method prescribed in § 58.1-3503 and used
878 by the locality as of August 1, 1997, in valuing the qualifying vehicle.