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HOUSE BILL NO. 1578

Offered March 8, 2008

A BILL to declare certain fees and taxes imposed pursuant to Chapter 896 of the Acts of Assembly of 2007 null and void and to provide for the refund of such fees and taxes to the person or entity that paid such fee or tax.

 Patron—May

Introduced at the request of the Governor

 Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. § 1. Notwithstanding any contrary provision of law, the following fees and taxes imposed by the Northern Virginia Transportation Authority ("Authority") pursuant to Chapter 896 of the Acts of Assembly of 2007 are declared null and void in accordance with the Supreme Court of Virginia's decision dated February 29, 2008, wherein these fees and taxes were declared to be unconstitutional:

1. The congestion relief fee pursuant to § 58.1-802.1 of the Code of Virginia.
2. The registration fee pursuant to § 46.2-755.1 of the Code of Virginia.
3. The initial vehicle registration fee pursuant to § 46.2-755.2 of the Code of Virginia.
4. The motor vehicle rental tax pursuant to § 58.1-2402.1 of the Code of Virginia.
5. The transient occupancy tax pursuant to § 58.1-3825.1 of the Code of Virginia.
6. The safety inspection fee pursuant to § 46.2-1167.1 of the Code of Virginia.
7. The sales and use tax on motor vehicle repairs pursuant to subsection K of § 58.1-605 and subsection H of § 58.1-606 of the Code of Virginia.

All vendors, agencies, clerks, or other entities authorized to collect such fees and taxes shall cease collection of such fees and taxes immediately and shall remit or refund any such fees or taxes collected in accordance with the provisions of § 2.

§ 2. Any fees or taxes specified in § 1 that have been collected shall be returned to the person or entity that paid such fee or tax. The return of such fees and taxes shall be accomplished in the following manner:

For the congestion relief fee pursuant to § 58.1-802.1, any taxes previously paid to the Authority by the clerks of court shall be returned to the applicable clerk no later than 30 business days following the enactment of this legislation. All taxes collected by the clerks of court shall be returned by the clerks to the person or entity that paid the tax in accordance with guidelines that each clerk shall develop no later than April 1, 2008. Clerks of court are encouraged to consult with the Supreme Court of Virginia during the development of such guidelines to ensure consistency of the process. Such guidelines shall be available to the public upon request after April 1, 2008.

For the registration fee pursuant to § 46.2-755.1 and the initial vehicle registration fee pursuant to § 46.2-755.2, all vendors who collected any such fees shall pay such fees to the Department of Motor Vehicles no later than 30 business days following the enactment of this legislation. All fees collected by the Department of Motor Vehicles or its agents shall be returned by the Department of Motor Vehicles to the person or entity that paid the fee in accordance with guidelines that the Commissioner of the Department of Motor Vehicles shall develop no later than April 1, 2008. Such guidelines shall be available to the public upon request after April 1, 2008.

For the motor vehicle rental tax pursuant to § 58.1-2402.1, the transient occupancy tax pursuant to § 58.1-3825.1, the safety inspection fee pursuant to § 46.2-1167.1, and the sales and use tax on motor vehicle repairs pursuant to subsection K of § 58.1-605 and subsection H of § 58.1-606, all affected vendors shall pay any fees or taxes collected according to its established payment schedule but no later than 30 business days following the effective date of this act, to the designated collection agent as follows: to the Department of Motor Vehicles for the motor vehicle rental tax, the local governing body or the Authority for the transient occupancy tax, the Authority for the safety inspection fee, and the Department of Taxation for the sales and use tax on motor vehicle repairs. Any such payments received by the collection agent shall immediately become unclaimed property as defined in § 55-210.2 of the Code of Virginia. Notwithstanding any contrary provision of law, the collection agent shall have 40 business days following the effective date of this act to remit such property to the State Treasurer. For purposes of such remittance, the collection agent shall be exempt from the abandonment period provisions of § 55-210.9 of the Code of Virginia and the requirements of § 55-210.12 of the Code of Virginia. All such property received by the State Treasurer shall be managed in accordance with the

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59 requirements of the Uniform Disposition of Unclaimed Property Act under Chapter 11.1 (§ 55-210.1 et
60 seq.) of Title 55 of the Code of Virginia; provided, however, that the State Treasurer may establish
61 separate guidelines to facilitate and expedite the return of such property.

62 § 3. In the event the Authority has received or receives any payment of the fees and taxes listed in
63 § 1, excluding the congestion relief fee, made directly from a vendor pursuant to the provisions of
64 Chapter 896 of the Acts of Assembly of 2007, such payments shall be deemed unclaimed property as
65 defined in § 55-210.2 of the Code of Virginia. Accordingly, and notwithstanding any contrary provision
66 of law, the Authority shall have 40 business days following the effective date of this act to remit such
67 property currently in its possession to the State Treasurer. For any property received after such period,
68 the Authority shall have 10 business days to remit such property to the State Treasurer. For purposes of
69 such remittance, the Authority shall be exempt from the abandonment period provisions of § 55-210.9
70 Code of Virginia, and the requirements of § 55-210.12 of the Code of Virginia. All such property
71 received by the State Treasurer shall be managed in accordance with the requirements of the Uniform
72 Disposition of Unclaimed Property Act under Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 of the Code
73 of Virginia; provided, however, that the State Treasurer may establish separate guidelines to facilitate
74 and expedite the return of such property.

75 § 4. In the event that the clerks of the court and the Department of Motor Vehicles are not able to
76 return a portion of such fees and taxes pursuant to § 2 by September 30, 2008, such unreturned fees
77 and taxes shall be deemed unclaimed property, as defined in § 55-210.2 of the Code of Virginia.
78 Notwithstanding any contrary provision of law, such property shall be reported and remitted to the State
79 Treasurer on or before November 1, 2008. For purposes of such remittance, the Department of Motor
80 Vehicles and the clerks of the court shall be exempt from the abandonment period provisions of
81 § 55-210.9 of the Code of Virginia. All such property received by the State Treasurer shall be managed
82 in accordance with the requirements of the Uniform Disposition of Unclaimed Property Act under
83 Chapter 11.1 (§ 55-210.1 et seq.) of Title 55 of the Code of Virginia; provided, however, that the State
84 Treasurer may establish separate guidelines to facilitate and expedite the return of such property.

85 **2. That an emergency exists and this act is in force from its passage.**

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