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HOUSE BILL NO. 236

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact §§ 58.1-609.1 and 58.1-611.3 of the Code of Virginia and to repeal the third enactment of Chapter 608 of the Acts of Assembly of 2007, relating to sales and use tax exemption; hurricane preparedness products and energy-efficient or water-efficient products.

Patron—Cosgrove

Referred to Committee on Finance

_____ *third enactment of Chapter 608 of the Acts of Assembly of 2007, relating to sales and use tax exemption; hurricane preparedness products and energy-efficient or water-efficient products.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-609.1 and 58.1-611.3 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-609.1. Governmental and commodities exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.) of this title. Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

4. Tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States. Further, this exemption shall not apply to tangible personal property which is acquired by the Commonwealth or any of its political subdivisions and then transferred to private businesses for their use in a facility or real property improvement to be used by a private entity or for nongovernmental purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.).

6. Motor fuels and alternative fuels for use in a commercial watercraft, as defined in § 58.1-2201, upon which a fuel tax is refunded pursuant to § 58.1-2259.

7. Sales by a government agency of the official flags of the United States, the Commonwealth of Virginia, or of any county, city or town.

8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

9. Watercraft as defined in § 58.1-1401.

10. Tangible personal property used in and about a marine terminal under the supervision of the Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit corporation that operates a marine terminal or terminals on behalf of the Authority.

11. Sales by prisoners confined in state correctional facilities of artistic products personally made by the prisoners as authorized by § 53.1-46.

12. Tangible personal property for use or consumption by the Virginia Department for the Blind and Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

13. [Expired.]

14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at a canteen operated by the Department of Veterans Services.

15. Tangible personal property for use or consumption by any nonprofit organization whose members include the Commonwealth and other states and which is organized for the purpose of fostering interstate cooperation and excellence in government.

16. Tangible personal property purchased for use or consumption by any soil and conservation district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

17. Beginning September 1, 2004, (i) tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg Transit Company, GRTC Transit System, or Greater Roanoke Transit

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59 Company that is owned, operated, or controlled by any county, city, or town, or any combination
60 thereof, that provides public transportation services, and/or (ii) tangible personal property sold or leased
61 to any county, city, or town, or any combination thereof, that is transferred to any of the companies set
62 forth in clause (i) owned, operated, or controlled by any county, city, or town, or any combination
63 thereof, that provides public transportation services.

64 18. (Effective until July 1, 2012) Qualified products designated as Energy Star or WaterSense with a
65 sales price of \$2,500 or less per product purchased for noncommercial home or personal use. The
66 exemption provided by this subdivision shall apply only to sales occurring during the four-day period
67 that begins each year on the Friday before the second Monday in October and ends at midnight on the
68 second Monday in October.

69 For the purposes of this exemption, an Energy Star qualified product is any dishwasher, clothes
70 washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable
71 thermostat, or refrigerator, the energy efficiency of which has been designated by the United States
72 Environmental Protection Agency and the United States Department of Energy as meeting or exceeding
73 each such agency's requirements under the Energy Star program. For the purposes of this exemption,
74 WaterSense qualified products are those that have been recognized as being water efficient by the
75 WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a
76 WaterSense label.

77 § 58.1-611.3. Limited exemption for certain hurricane preparedness equipment and certain
78 energy-efficient or water-efficient products.

79 Beginning in 2008, ~~for~~For a seven-day period that begins each year on May 25 and ends at 11:59
80 p.m. on May 31, the tax imposed by this chapter or pursuant to the authority granted in § 58.1-605 or
81 58.1-606 shall not apply to (i) portable generators used to provide light or communications or preserve
82 food in the event of a power outage *with a selling price of \$1000 or less per generator* and, (ii) certain
83 other hurricane preparedness equipment *with a selling price of \$60 or less per item*, including, but not
84 limited to, blue ice, carbon monoxide detectors, cell phone batteries, cell phone chargers, gas or diesel
85 fuel tanks, nonelectric food storage coolers, portable self-powered light sources, portable self-powered
86 radios, two-way radios, weather band radios, storm shutter devices, tarpaulins or other flexible
87 waterproof sheeting, ground anchor systems or tie down kits, and packages of AAA cell, AA cell, C
88 cell, D cell, 6 volt, or 9 volt batteries, excluding automobile and boat batteries, *and (iii) certain*
89 *qualified products designated as Energy Star or WaterSense with a selling price of \$2,500 or less per*
90 *product purchased for noncommercial home or personal use.*

91 As used in this section, (a) "storm shutter" means materials and products manufactured, rated, and
92 marketed specifically for the purpose of preventing window damage from storms, (b) *an Energy Star*
93 *qualified product is any dishwasher, clothes washer, air conditioner, ceiling fan, compact fluorescent*
94 *lightbulb, dehumidifier, programmable thermostat, or refrigerator, the energy efficiency of which has*
95 *been designated by the U.S. Environmental Protection Agency and the U.S. Department of Energy as*
96 *meeting or exceeding each such agency's requirements under the Energy Star program, and (c) a*
97 *WaterSense qualified product is any product that has been recognized as being water efficient by the*
98 *WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a*
99 *WaterSense label.*

100 The tax exemption shall apply to each portable generator with a selling price of \$1,000 or less, and
101 each article of other hurricane preparedness equipment with a selling price of \$60 or less. Any discount,
102 coupon, or other credit offered either by the retailer or by a vendor of the retailer to reduce the final
103 price to the customer shall be taken into account in determining the selling price for purposes of this
104 exemption.

105 The Department shall develop guidelines that describe the items of merchandise that qualify for the
106 exemption and make such guidelines available, both electronically and in hard copy, no later than May
107 15 of each year.

108 **2. That the third enactment of Chapter 608 of the Acts of Assembly of 2007 is repealed.**