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HOUSE BILL NO. 2313

Offered January 18, 2013

A *BILL to amend and reenact §§ 33.1-23.03:8, 46.2-694, as it is currently effective and as it may become effective, 46.2-694.1, as it is currently effective and as it may become effective, 46.2-697, as it is currently effective and as it may become effective, 46.2-702.1, 58.1-601, 58.1-602, 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-608.3, 58.1-609.1, 58.1-612, as it is currently effective and as it may become effective, 58.1-614, 58.1-615, 58.1-625, as it is currently effective and as it shall become effective, 58.1-626, 58.1-635, 58.1-638, 58.1-639, 58.1-2201, 58.1-2217, 58.1-2237, 58.1-2249, 58.1-2251, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2292, as it shall become effective, 58.1-2701, as it is currently effective and as it may become effective, 58.1-2702, 58.1-2703, 58.1-2704, 58.1-2706, and 58.1-2708 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 46.2-702.1:1, 58.1-638.2, and 58.1-638.3; and to repeal § 58.1-609.13 of the Code of Virginia, relating to revenues and appropriations of the Commonwealth.*

Patrons—Howell, W.J., Hugo, Cox, M.K., Greason, Hodges, Kilgore, Merricks, Miller, Pogge, Poindexter, Purkey, Rust, Tata, Villanueva, Watson and Yancey

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.1-23.03:8, 46.2-694, as it is currently effective and as it may become effective, 46.2-694.1, as it is currently effective and as it may become effective, 46.2-697, as it is currently effective and as it may become effective, 46.2-702.1, 58.1-601, 58.1-602, 58.1-603, 58.1-604, 58.1-604.1, 58.1-605, 58.1-606, 58.1-608.3, 58.1-609.1, 58.1-612, as it is currently effective and as it may become effective, 58.1-614, 58.1-615, 58.1-625, as it is currently effective and as it shall become effective, 58.1-626, 58.1-635, 58.1-638, 58.1-639, 58.1-2201, 58.1-2217, 58.1-2237, 58.1-2249, 58.1-2251, 58.1-2289, as it is currently effective and as it may become effective, 58.1-2292, as it shall become effective, 58.1-2701, as it is currently effective and as it may become effective, 58.1-2702, 58.1-2703, 58.1-2704, 58.1-2706, and 58.1-2708 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-702.1:1, 58.1-638.2, and 58.1-638.3 as follows:

§ 33.1-23.03:8. **Priority Transportation Fund established.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Priority Transportation Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. All funds as may be designated in the appropriation act for deposit to the Fund shall be paid into the state treasury and credited to the Fund. Such funds shall include:

1. A portion of the moneys actually collected, including penalty and interest, attributable to any increase in revenues from the taxes imposed under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1, with such increase being calculated as the difference between such tax revenues collected in the manner prescribed under Chapter 22 less such tax revenues that would have been collected using the prescribed manner in effect immediately before the effective date of Chapter 22, computed without regard to increases in the rates of taxes under Chapter 22 pursuant to enactments of the 2007 Session of the General Assembly. The portion to be deposited to the Fund shall be the moneys actually collected from such increase in revenues and allocated for highway and mass transit improvement projects as set forth in § 33.1-23.03:2, but not including any amounts that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section. There shall also be deposited into the Fund all additional federal revenues attributable to Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1;

2. Beginning with the fiscal year ending June 30, 2000, and for fiscal years thereafter, all revenues that exceed the official forecast, pursuant to § 2.2-1503, for (i) the Highway Maintenance and Operating Fund and (ii) the allocation to highway and mass transit improvement projects as set forth in § 33.1-23.03:2, but not including any amounts that are allocated to the Commonwealth Port Fund and the Commonwealth Airport Fund under such section;

3. 2. All revenues deposited into the Fund pursuant to § 58.1-2531; and

4. 3. All revenues deposited into the Fund pursuant to § 58.1-638; and

4. Any other such funds as may be transferred, allocated, or appropriated.

All moneys in the Fund shall first be used for debt service payments on bonds or obligations for which the Fund is expressly required for making debt service payments, to the extent needed. The Fund

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58 shall be considered a part of the Transportation Trust Fund. Any moneys remaining in the Fund,
59 including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall
60 remain in the Fund. Moneys in the Fund shall be used solely for the purposes enumerated in subsection
61 B of this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer
62 on warrants issued by the Comptroller.

63 B. The Commonwealth Transportation Board shall use the Fund to facilitate the financing of priority
64 transportation projects throughout the Commonwealth. The Board may use the Fund either (i) by
65 expending amounts therein on such projects directly, (ii) by payment to any authority, locality,
66 commission or other entity for the purpose of paying the costs thereof, or (iii) by using such amounts to
67 support, secure, or leverage financing for such projects. No expenditures from or other use of amounts
68 in the Fund shall be considered in allocating highway maintenance and construction funds under §
69 33.1-23.1 or apportioning Transportation Trust Fund funds under § 58.1-638, but shall be in addition
70 thereto. The Board shall use the Fund to facilitate the financing of priority transportation projects as
71 designated by the General Assembly; provided, however, that, at the discretion of the Commonwealth
72 Transportation Board, funds allocated to projects within a transportation district may be allocated among
73 projects within the same transportation district as needed to meet construction cash-flow needs.

74 C. Notwithstanding any other provision of this section, beginning July 1, 2007, no bonds, obligations,
75 or other evidences of debt (the bonds) that expressly require as a source for debt service payments or
76 for the repayment of such bonds the revenues of the Fund, shall be issued or entered into unless at the
77 time of the issuance the revenues then in the Fund or reasonably anticipated to be deposited into the
78 Fund pursuant to the law then in effect are by themselves sufficient to make 100% of the contractually
79 required debt service payments on all such bonds, including any interest related thereto and the
80 retirement of such bonds.

81 **§ 46.2-694. (Contingent expiration date) Fees for vehicles designed and used for transportation**
82 **of passengers; weights used for computing fees; burden of proof.**

83 A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the
84 transportation of passengers on the highways in the Commonwealth are:

85 1. ~~Thirty-three~~ *Forty-eight* dollars for each private passenger car or motor home if the passenger car
86 or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of
87 passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease
88 without a chauffeur.

89 2. ~~Thirty-eight~~ *Fifty-three* dollars for each passenger car or motor home which weighs more than
90 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is
91 not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

92 3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a
93 motorcycle with a normal seating capacity of more than 10 adults including the driver if the private
94 motor vehicle is not used for the transportation of passengers for compensation and is not kept or used
95 for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less
96 than \$23 ~~\$48~~ if the vehicle weighs 4,000 pounds or less or ~~\$28~~ *\$53* if the vehicle weighs more than
97 4,000 pounds.

98 4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be
99 less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more than 4,000
100 pounds.

101 5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for human
102 beings.

103 6. Thirteen dollars plus \$0.30 per 100 pounds or major fraction thereof for each motor vehicle,
104 trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate.
105 Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed
106 in subdivision 7 of this subsection on submission to the Commissioner of a declaration of operations and
107 equipment as he may prescribe. An additional \$5 shall be charged if the motor vehicle weighs more
108 than 4,000 pounds.

109 7. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for each motor vehicle,
110 trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed
111 under this subsection. An additional \$5 shall be charged if the motor vehicle weighs more than 4,000
112 pounds. In lieu of the foregoing fee of \$0.70 per 100 pounds, a motor carrier of passengers, operating
113 two or more vehicles both within and outside the Commonwealth and registered for insurance purposes
114 with the Surface Transportation Board of the United States Department of Transportation, Federal
115 Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of
116 such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the
117 registration fees provided in this subsection so that the total registration fees to be paid for such vehicles
118 of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total
119 number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total

number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in each instance is the estimated total mileage to be traveled by such vehicles during the license year for which such fees are paid, subject to the adjustment in accordance with an audit to be made by representatives of the Commissioner at the end of such license year, the expense of such audit to be borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less than \$33. For the purpose of determining such apportioned registration fees, only those motor vehicles, trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion in determining the apportionment provided for herein.

8. Thirteen dollars plus \$0.80 per 100 pounds or major fraction thereof for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for the transportation of passengers. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the Department as required by law. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a surcharge of \$3 which shall be distributed as provided in § 46.2-1191.

11. Twenty-three dollars for a bus used exclusively for transportation to and from church school, for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be \$28.

12. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for other passenger-carrying vehicles.

13. An additional fee of \$4.25 per year shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of this subsection. All funds collected from \$4 of the \$4.25 fee shall be paid into the state treasury and shall be set aside as a special fund to be used only for emergency medical service purposes. The moneys in the special emergency medical services fund shall be distributed as follows:

a. Two percent shall be distributed to the State Department of Health to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention and training activities;

b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § 32.1-111.3; (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

All revenues generated by the remaining \$0.25 of the \$4.25 fee approved by the 2008 Session of the General Assembly shall be deposited into the Rescue Squad Assistance Fund and used only to pay for the costs associated with the certification and recertification training of emergency medical services personnel.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper

181 use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the
182 locality pursuant to this section for that year has not been received from a local governing body, any
183 funds due to that local governing body for the next fiscal year shall be retained until such time as the
184 report has been submitted to the Board.

185 B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-646
186 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or
187 § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the
188 number of months in the registration period for such motor vehicles, trailers, and semitrailers.

189 C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required
190 by this section to be based upon the weight of the vehicle.

191 D. The applicant for registration bears the burden of proof that the vehicle for which registration is
192 sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the
193 Commissioner or to his authorized agent.

194 **§ 46.2-694. (Contingent effective date) Fees for vehicles designed and used for transportation of**
195 **passengers; weights used for computing fees; burden of proof.**

196 A. The annual registration fees for motor vehicles, trailers, and semitrailers designed and used for the
197 transportation of passengers on the highways in the Commonwealth are:

198 1. ~~Twenty-three~~ *Thirty-eight* dollars for each private passenger car or motor home if the passenger
199 car or motor home weighs 4,000 pounds or less, provided that it is not used for the transportation of
200 passengers for compensation and is not kept or used for rent or for hire, or is not operated under a lease
201 without a chauffeur.

202 2. ~~Twenty-eight~~ *Forty-three* dollars for each passenger car or motor home which weighs more than
203 4,000 pounds, provided that it is not used for the transportation of passengers for compensation and is
204 not kept or used for rent or for hire, or is not operated under a lease without a chauffeur.

205 3. Thirty cents per 100 pounds or major fraction thereof for a private motor vehicle other than a
206 motorcycle with a normal seating capacity of more than 10 adults including the driver if the private
207 motor vehicle is not used for the transportation of passengers for compensation and is not kept or used
208 for rent or for hire or is not operated under a lease without a chauffeur. In no case shall the fee be less
209 than ~~\$23~~ *\$38* if the vehicle weighs 4,000 pounds or less or ~~\$28~~ *\$43* if the vehicle weighs more than
210 4,000 pounds.

211 4. Thirty cents per 100 pounds or major fraction thereof for a school bus. In no case shall the fee be
212 less than \$23 if the vehicle weighs 4,000 pounds or less or \$28 if the vehicle weighs more than 4,000
213 pounds.

214 5. Twenty-three dollars for each trailer or semitrailer designed for use as living quarters for human
215 beings.

216 6. Thirteen dollars plus \$0.30 per 100 pounds or major fraction thereof for each motor vehicle,
217 trailer, or semitrailer used as a common carrier of passengers, operating either intrastate or interstate.
218 Interstate common carriers of interstate passengers may elect to be licensed and pay the fees prescribed
219 in subdivision 7 of this subsection on submission to the Commissioner of a declaration of operations and
220 equipment as he may prescribe. An additional \$5 shall be charged if the motor vehicle weighs more
221 than 4,000 pounds.

222 7. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for each motor vehicle,
223 trailer, or semitrailer used as a common carrier of interstate passengers if election is made to be licensed
224 under this subsection. An additional \$5 shall be charged if the motor vehicle weighs more than 4,000
225 pounds. In lieu of the foregoing fee of \$0.70 per 100 pounds, a motor carrier of passengers, operating
226 two or more vehicles both within and outside the Commonwealth and registered for insurance purposes
227 with the Surface Transportation Board of the United States Department of Transportation, Federal
228 Highway Administration, may apply to the Commissioner for prorated registration. Upon the filing of
229 such application, in such form as the Commissioner may prescribe, the Commissioner shall apportion the
230 registration fees provided in this subsection so that the total registration fees to be paid for such vehicles
231 of such carrier shall be that proportion of the total fees, if there were no apportionment, that the total
232 number of miles traveled by such vehicles of such carrier within the Commonwealth bears to the total
233 number of miles traveled by such vehicles within and outside the Commonwealth. Such total mileage in
234 each instance is the estimated total mileage to be traveled by such vehicles during the license year for
235 which such fees are paid, subject to the adjustment in accordance with an audit to be made by
236 representatives of the Commissioner at the end of such license year, the expense of such audit to be
237 borne by the carrier being audited. Each vehicle passing into or through Virginia shall be registered and
238 licensed in Virginia and the annual registration fee to be paid for each such vehicle shall not be less
239 than \$33. For the purpose of determining such apportioned registration fees, only those motor vehicles,
240 trailers, or semitrailers operated both within and outside the Commonwealth shall be subject to inclusion
241 in determining the apportionment provided for herein.

242 8. Thirteen dollars plus \$0.80 per 100 pounds or major fraction thereof for each motor vehicle, trailer

or semitrailer kept or used for rent or for hire or operated under a lease without a chauffeur for the transportation of passengers. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

9. Twenty-three dollars for a taxicab or other vehicle which is kept for rent or hire operated with a chauffeur for the transportation of passengers, and which operates or should operate under permits issued by the Department as required by law. An additional fee of \$5 shall be charged if the vehicle weighs more than 4,000 pounds. This subsection does not apply to vehicles used as common carriers.

10. Eighteen dollars for a motorcycle, with or without a sidecar. To this fee shall be added a surcharge of \$3 which shall be distributed as provided in § 46.2-1191.

11. Twenty-three dollars for a bus used exclusively for transportation to and from church school, for the purpose of religious instruction, or church, for the purpose of divine worship. If the empty weight of the vehicle exceeds 4,000 pounds, the fee shall be \$28.

12. Thirteen dollars plus \$0.70 per 100 pounds or major fraction thereof for other passenger-carrying vehicles.

13. An additional fee of \$4.25 per year shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle under subdivisions 1 through 12 of this subsection. All funds collected from \$4 of the \$4.25 fee shall be paid into the state treasury and shall be set aside as a special fund to be used only for emergency medical service purposes. The moneys in the special emergency medical services fund shall be distributed as follows:

a. Two percent shall be distributed to the State Department of Health to provide funding to the Virginia Association of Volunteer Rescue Squads to be used solely for the purpose of conducting volunteer recruitment, retention and training activities;

b. Thirty percent shall be distributed to the State Department of Health to support (i) emergency medical services training programs (excluding advanced life support classes); (ii) advanced life support training; (iii) recruitment and retention programs (all funds for such support shall be used to recruit and retain volunteer emergency medical services personnel only, including public awareness campaigns, technical assistance programs, and similar activities); (iv) emergency medical services system development, initiatives, and priorities based on needs identified by the State Emergency Medical Services Advisory Board; (v) local, regional, and statewide performance contracts for emergency medical services to meet the objectives stipulated in § 32.1-111.3; (vi) technology and radio communication enhancements; and (vii) improved emergency preparedness and response. Any funds set aside for distribution under this provision and remaining undistributed at the end of any fiscal year shall revert to the Rescue Squad Assistance Fund;

c. Thirty-two percent shall be distributed to the Rescue Squad Assistance Fund;

d. Ten percent shall be available to the State Department of Health's Office of Emergency Medical Services for use in emergency medical services; and

e. Twenty-six percent shall be returned by the Comptroller to the locality wherein such vehicle is registered, to provide funding for training of volunteer or salaried emergency medical service personnel of licensed, nonprofit emergency medical services agencies and for the purchase of necessary equipment and supplies for use in such locality for licensed, nonprofit emergency medical and rescue services.

All revenues generated by the remaining \$0.25 of the \$4.25 fee approved by the 2008 Session of the General Assembly shall be deposited into the Rescue Squad Assistance Fund and used only to pay for the costs associated with the certification and recertification training of emergency medical services personnel.

The Comptroller shall clearly designate on the warrant, check, or other means of transmitting these funds that such moneys are only to be used for purposes set forth in this subdivision. Such funds shall be in addition to any local appropriations and local governing bodies shall not use these funds to supplant local funds. Each local governing body shall report annually to the Board of Health on the use of the funds returned to it pursuant to this section. In any case in which the local governing body grants the funds to a regional emergency medical services council to be distributed to the licensed, nonprofit emergency medical and rescue services, the local governing body shall remain responsible for the proper use of the funds. If, at the end of any fiscal year, a report on the use of the funds returned to the locality pursuant to this section for that year has not been received from a local governing body, any funds due to that local governing body for the next fiscal year shall be retained until such time as the report has been submitted to the Board.

B. All motor vehicles, trailers, and semitrailers registered as provided in subsection B of § 46.2-646 shall pay a registration fee equal to one-twelfth of all fees required by subsection A of this section or § 46.2-697 for such motor vehicle, trailer, or semitrailer, computed to the nearest cent, multiplied by the number of months in the registration period for such motor vehicles, trailers, and semitrailers.

C. The manufacturer's shipping weight or scale weight shall be used for computing all fees required by this section to be based upon the weight of the vehicle.

D. The applicant for registration bears the burden of proof that the vehicle for which registration is sought is entitled by weight, design, and use to be registered at the fee tendered by the applicant to the Commissioner or to his authorized agent.

§ 46.2-694.1. (Contingent expiration date) Fees for trailers and semitrailers not designed and used for transportation of passengers.

Unless otherwise specified in this title, the registration fees for trailers and semitrailers not designed and used for the transportation of passengers on the highways in the Commonwealth shall be as follows:

Registered Gross Weight	1-Year Fee	2-Year Fee	Permanent Fee
0-1,500 lbs	\$18.00	\$36.00	\$70.00
	\$30.00	\$66.00	\$81.00
1,501-4,000 lbs	\$28.50	\$57.00	\$75.00
	\$43.50	\$87.00	\$102.00
4,001 lbs & above	\$40.00	\$80.00	\$100.00
	\$55.00	\$110.00	\$125.00

From the foregoing registration fees, the following amounts, regardless of weight category, shall be paid by the Department into the state treasury and set aside for the payment of the administrative costs of the safety inspection program provided for in Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of this title: (i) from each one-year registration fee, ~~one dollar and fifty cents \$1.50~~; (ii) from each two-year registration fee, ~~three dollars \$3~~; and (iii) from each permanent registration fee, ~~four dollars \$4~~.

§ 46.2-694.1. (Contingent effective date) Fees for trailers and semitrailers not designed and used for transportation of passengers.

Unless otherwise specified in this title, the registration fees for trailers and semitrailers not designed and used for the transportation of passengers on the highways in the Commonwealth shall be as follows:

Registered Gross Weight	1-Year Fee	2-Year Fee	Permanent Fee
0-1,500 lbs	\$8.00	\$16.00	\$50.00
	\$23.00	\$46.00	\$61.00
1,501-4,000 lbs	\$18.50	\$37.00	\$50.00
	\$33.50	\$67.00	\$82.00
4,001 lbs & above	\$23.50	\$47.00	\$50.00
	\$38.50	\$77.00	\$92.00

From the foregoing registration fees, the following amounts, regardless of weight category, shall be paid by the Department into the state treasury and set aside for the payment of the administrative costs of the safety inspection program provided for in Article 21 (§ 46.2-1157 et seq.) of Chapter 10 of this title: (i) from each one-year registration fee, ~~one dollar and fifty cents \$1.50~~; (ii) from each two-year registration fee, ~~three dollars \$3~~; and (iii) from each permanent registration fee, ~~four dollars \$4~~.

§ 46.2-697. (Contingent expiration date) Fees for vehicles not designed or used for transportation of passengers.

A. Except as otherwise provided in this section, the fee for registration of all motor vehicles not designed and used for the transportation of passengers shall be ~~\$23~~ \$38 plus an amount determined by the gross weight of the vehicle or combination of vehicles of which it is a part, when loaded to the maximum capacity for which it is registered and licensed, according to the schedule of fees set forth in this section. For each 1,000 pounds of gross weight, or major fraction thereof, for which any such vehicle is registered, there shall be paid to the Commissioner the fee indicated in the following schedule immediately opposite the weight group and under the classification established by the provisions of subsection B of § 46.2-711 into which such vehicle, or any combination of vehicles of which it is a part, falls when loaded to the maximum capacity for which it is registered and licensed. The fee for a pickup or panel truck shall be ~~\$33~~ \$48 if its gross weight is 4,000 pounds or less, and ~~\$38~~ \$53 if its gross weight is 4,001 pounds through 6,500 pounds. The fee shall be ~~\$39~~ \$54 for any motor vehicle with a gross weight of 6,501 pounds through 10,000 pounds.

Fee Per Thousand Pounds of Gross Weight		
Gross Weight Groups (pounds)	Private Carriers	For Rent or For Hire Carriers
10,001 - 11,000	\$3.17	\$4.75
11,001 - 12,000	3.42	4.90
12,001 - 13,000	3.66	5.15
13,001 - 14,000	3.90	5.40
14,001 - 15,000	4.15	5.65
15,001 - 16,000	4.39	5.90

363	16,001 - 17,000	4.88	6.15
364	17,001 - 18,000	5.37	6.40
365	18,001 - 19,000	5.86	7.50
366	19,001 - 20,000	6.34	7.70
367	20,001 - 21,000	6.83	7.90
368	21,001 - 22,000	7.32	8.10
369	22,001 - 23,000	7.81	8.30
370	23,001 - 24,000	8.30	8.50
371	24,001 - 25,000	8.42	8.70
372	25,001 - 26,000	8.48	8.90
373	26,001 - 27,000	10.07	10.35
374	27,001 - 28,000	10.13	10.55
375	28,001 - 29,000	10.18	10.75
376	29,001 - 40,000	10.31	10.95
377	40,001 - 45,000	10.43	11.15
378	45,001 - 50,000	10.68	11.25
379	50,001 - 55,000	11.29	13.25
380	55,001 - 76,000	13.73	15.25
381	76,001 - 80,000	16.17	16.25

382 For all such motor vehicles exceeding a gross weight of 6,500 pounds, an additional fee of ~~five~~
 383 ~~dollars \$5~~ shall be imposed.

384 B. In lieu of registering any motor vehicle referred to in this section for an entire licensing year, the
 385 owner may elect to register the vehicle only for one or more quarters of a licensing year, and in such
 386 case, the fee shall be ~~twenty-five~~ 25 percent of the annual fee plus ~~five dollars \$5~~ for each quarter that
 387 the vehicle is registered.

388 C. When an owner elects to register and license a motor vehicle under subsection B of this section,
 389 the provisions of §§ 46.2-646 and 46.2-688 shall not apply.

390 D. Notwithstanding any other provision of law, no vehicle designed, equipped, and used to tow
 391 disabled or inoperable motor vehicles shall be required to register in accordance with any gross weight
 392 other than the gross weight of the towing vehicle itself, exclusive of any vehicle being towed.

393 E. All registrations and licenses issued for less than a full year shall expire on the date shown on the
 394 license and registration.

395 **§ 46.2-697. (Contingent effective date) Fees for vehicles not designed or used for transportation**
 396 **of passengers.**

397 A. Except as otherwise provided in this section, the fee for registration of all motor vehicles not
 398 designed and used for the transportation of passengers shall be ~~thirteen dollars \$28~~ plus an amount
 399 determined by the gross weight of the vehicle or combination of vehicles of which it is a part, when
 400 loaded to the maximum capacity for which it is registered and licensed, according to the schedule of
 401 fees set forth in this section. For each 1,000 pounds of gross weight, or major fraction thereof, for
 402 which any such vehicle is registered, there shall be paid to the Commissioner the fee indicated in the
 403 following schedule immediately opposite the weight group and under the classification established by the
 404 provisions of subsection B of § 46.2-711 into which such vehicle, or any combination of vehicles of
 405 which it is a part, falls when loaded to the maximum capacity for which it is registered and licensed.
 406 The fee for a pickup or panel truck shall be ~~twenty-three dollars \$38~~ if its gross weight is 4,000 pounds
 407 or less, and ~~twenty-eight dollars \$43~~ if its gross weight is 4,001 pounds through 6,500 pounds. The fee
 408 shall be ~~twenty-nine dollars \$44~~ for any motor vehicle with a gross weight of 6,501 pounds through
 409 10,000 pounds.

Fee Per Thousand Pounds of Gross Weight

411 Gross Weight	Private	For Rent or
412 Groups (pounds)	Carriers	For Hire Carriers
413 -----	-----	-----
414 10,001 - 11,000	\$2.60	\$4.75
415 11,001 - 12,000	2.80	4.90
416 12,001 - 13,000	3.00	5.15
417 13,001 - 14,000	3.20	5.40
418 14,001 - 15,000	3.40	5.65
419 15,001 - 16,000	3.60	5.90
420 16,001 - 17,000	4.00	6.15
421 17,001 - 18,000	4.40	6.40

422	18,001 - 19,000	4.80	7.50
423	19,001 - 20,000	5.20	7.70
424	20,001 - 21,000	5.60	7.90
425	21,001 - 22,000	6.00	8.10
426	22,001 - 23,000	6.40	8.30
427	23,001 - 24,000	6.80	8.50
428	24,001 - 25,000	6.90	8.70
429	25,001 - 26,000	6.95	8.90
430	26,001 - 27,000	8.25	10.35
431	27,001 - 28,000	8.30	10.55
432	28,001 - 29,000	8.35	10.75
433	29,001 - 40,000	8.45	10.95
434	40,001 - 45,000	8.55	11.15
435	45,001 - 50,000	8.75	11.25
436	50,001 - 55,000	8.25	13.25
437	55,001 - 76,000	11.25	15.25
438	76,001 - 80,000	13.25	16.25

439 For all such motor vehicles exceeding a gross weight of 6,500 pounds, an additional fee of ~~five~~
440 ~~dollars~~ \$5 shall be imposed.

441 B. In lieu of registering any motor vehicle referred to in this section for an entire licensing year, the
442 owner may elect to register the vehicle only for one or more quarters of a licensing year, and in such
443 case, the fee shall be ~~twenty-five~~ 25 percent of the annual fee plus ~~five dollars~~ \$5 for each quarter that
444 the vehicle is registered.

445 C. When an owner elects to register and license a motor vehicle under subsection B of this section,
446 the provisions of §§ 46.2-646 and 46.2-688 shall not apply.

447 D. Notwithstanding any other provision of law, no vehicle designed, equipped, and used to tow
448 disabled or inoperable motor vehicles shall be required to register in accordance with any gross weight
449 other than the gross weight of the towing vehicle itself, exclusive of any vehicle being towed.

450 E. All registrations and licenses issued for less than a full year shall expire on the date shown on the
451 license and registration.

452 **§ 46.2-702.1. (Contingent expiration - see Editor's note) Distribution of certain revenue.**

453 A. Except as provided in subsection B, the net additional revenues generated by increases in the
454 registration fees under §§ 46.2-694, 46.2-694.1, and 46.2-697 pursuant to enactments of the 2007
455 Session of the General Assembly, shall be deposited into the Highway Maintenance and Operating Fund.

456 B. In the case of vehicles registered under the International Registration Plan, an amount that is
457 approximately equal to the net additional revenues generated by increases in the registration fees under
458 §§ 46.2-694, 46.2-694.1, and 46.2-697 that are in regard to such vehicles pursuant to enactments of the
459 2007 Session of the General Assembly shall be deposited into the Highway and Maintenance Operating
460 Fund.

461 C. For purposes of this ~~title~~ section, "net additional revenues" shall mean the additional revenues
462 provided pursuant to enactments of the 2007 Session of the General Assembly minus any refunds or
463 remittances required to be paid.

464 **§ 46.2-702.1:1. Distribution of additional revenues.**

465 A. *Except as provided in subsection B, the net additional revenues generated by increases in the*
466 *registration fees under §§ 46.2-694, 46.2-694.1, and 46.2-697 pursuant to enactments of the 2013*
467 *Session of the General Assembly shall be distributed as follows:*

468 *1. Fifty percent of the revenues shall be deposited to the Commonwealth Mass Transit Fund created*
469 *pursuant to § 58.1-638 and used for the purposes set forth therein; and*

470 *2. Fifty percent of the revenues shall be deposited to the Intercity Passenger Rail Operating and*
471 *Capital Fund created pursuant to § 33.1-221.1:1.3 and used for the purposes set forth therein.*

472 B. *In the case of vehicles registered under the International Registration Plan, an amount that is*
473 *approximately equal to the net additional revenues generated by the increase in the registration fees*
474 *under §§ 46.2-694, 46.2-694.1, and 46.2-697 that are in regard to such vehicles pursuant to enactments*
475 *of the 2013 Session of the General Assembly shall be deposited pursuant to the provisions of subsection*
476 *A.*

477 C. *For purposes of this section, "net additional revenues" means the additional revenues provided*
478 *pursuant to enactments of the 2013 Session of the General Assembly minus any refunds or remittances*
479 *required to be paid.*

480 **§ 58.1-601. Administration of chapter.**

481 A. The Tax Commissioner shall administer and enforce the assessment and collection of the taxes

and penalties imposed by this chapter, *including the collection and administration of all state and local sales and use taxes imposed on remote sellers.*

B. *To comply with any provisions in any legislation enacted by the Congress of the United States that require states to simplify the administration of their sales and use taxes as a condition to require remote sellers to collect and remit their state and local sales taxes, the Tax Commissioner shall take all administrative actions he deems necessary to facilitate the Commonwealth's compliance with the minimum simplification requirements, including but not limited to: (i) providing adequate software and services to remote sellers and single and consolidated providers that identify the applicable destination rate, including the state and local sales tax rate (if any), to be applied on sales on which the Commonwealth imposes sales and use tax; (ii) providing certification procedures for both single providers and consolidated providers to make software and services available to remote sellers; (iii) ensuring that no more than one audit be performed or required for all state and local taxing jurisdictions within the Commonwealth; and (iv) requiring that no more than one sales and use tax return per month be filed with the Department of Taxation by any remote seller or any single or consolidated provider on behalf of such remote seller.*

C. For purposes of evaluating the fiscal, economic and policy impact of sales and use tax exemptions, the Tax Commissioner may require from any person information relating to the evaluation of exempt purchases or sales, information relating to the qualification for exempt purchases, and information relating to direct or indirect government financial assistance ~~which~~ *that* the person receives. Such information shall be filed on forms prescribed by the Tax Commissioner.

§ 58.1-602. Definitions.

A. As used in this chapter, unless the context clearly shows otherwise, ~~the term or phrase:~~

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined herein shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program which is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person who has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of

543 America.

544 "Integrated process," when used in relation to semiconductor manufacturing, means a process that
545 begins with the research or development of semiconductor products, equipment, or processes, includes
546 the handling and storage of raw materials at a plant site, and continues to the point that the product is
547 packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing,
548 any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be
549 deemed used as part of the integrated process if its use contributes, before, during, or after production,
550 to higher product quality, production yields, or process efficiencies. Except as otherwise provided by
551 law, such term shall not mean general maintenance or administration.

552 "Internet" means collectively, the myriad of computer and telecommunications facilities, which
553 comprise the interconnected world-wide network of computer networks.

554 "Internet service" means a service that enables users to access proprietary and other content,
555 information electronic mail, and the Internet as part of a package of services sold to end-user
556 subscribers.

557 "Lease or rental" means the leasing or renting of tangible personal property and the possession or use
558 thereof by the lessee or renter for a consideration, without transfer of the title to such property.

559 "Manufacturing, processing, refining, or conversion" includes the production line of the plant starting
560 with the handling and storage of raw materials at the plant site and continuing through the last step of
561 production where the product is finished or completed for sale and conveyed to a warehouse at the
562 production site, and also includes equipment and supplies used for production line testing and quality
563 control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and
564 magazine printing when such activities are performed by the publisher of any newspaper or magazine
565 for sale daily or regularly at average intervals not exceeding three months.

566 The determination whether any manufacturing, mining, processing, refining or conversion activity is
567 industrial in nature shall be made without regard to plant size, existence or size of finished product
568 inventory, degree of mechanization, amount of capital investment, number of employees or other factors
569 relating principally to the size of the business. Further, "industrial in nature" shall include, but not be
570 limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the
571 Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

572 "Modular building" means, but shall not be limited to, single and multifamily houses, apartment
573 units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are
574 intended to become real property, primarily constructed at a location other than the permanent site, built
575 to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the
576 Virginia Department of Housing and Community Development, and shipped with most permanent
577 components in place to the site of final assembly. For purposes of this chapter, a modular building shall
578 not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and
579 certified under the provisions of the National Manufactured Housing Construction and Safety Standards
580 Act of 1974 (42 U.S.C. § 5401 et seq.).

581 "Modular building manufacturer" means a person or corporation who owns or operates a
582 manufacturing facility and is engaged in the fabrication, construction and assembling of building
583 supplies and materials into modular buildings, as defined in this section, at a location other than at the
584 site where the modular building will be assembled on the permanent foundation and may or may not be
585 engaged in the process of affixing the modules to the foundation at the permanent site.

586 "Modular building retailer" means any person who purchases or acquires a modular building from a
587 modular building manufacturer, or from another person, for subsequent sale to a customer residing
588 within or outside of the Commonwealth, with or without installation of the modular building to the
589 foundation at the permanent site.

590 "Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of
591 the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all
592 applicable motor vehicle sales and use taxes have been paid.

593 "Occasional sale" means a sale of tangible personal property not held or used by a seller in the
594 course of an activity for which he is required to hold a certificate of registration, including the sale or
595 exchange of all or substantially all the assets of any business and the reorganization or liquidation of
596 any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in
597 number, scope and character to constitute an activity requiring the holding of a certificate of registration.

598 "Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for
599 purposes of this chapter only, shall also include Internet service regardless of whether the provider of
600 such service is also a telephone common carrier.

601 "Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation,
602 joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver,
603 auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body
604 politic or political subdivision, whether public or private, or quasi-public, and the plural of such term

shall mean the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; and (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons.

The term "transient" shall not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient; provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the price of the meal. Where used articles

are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. The term does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. The term does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person or entity that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator including, but not limited to, Internet service.

B. Notwithstanding the definitions in subsection A, to the extent that conformity to any remote collection authority legislation enacted by the Congress of the United States shall so require, the words and terms used in this chapter related to the minimum simplification requirements shall have the same meaning as provided in such federal legislation.

§ 58.1-603. Imposition of sales tax.

There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by law, a license or privilege tax upon every person who engages in the business of selling at retail or distributing tangible personal property in this Commonwealth, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this Commonwealth any item or article of tangible personal property as defined in this chapter, or who leases or rents such property within this Commonwealth, in the amount of ~~three and one-half percent~~ *through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004 4.8 percent:*

1. Of the gross sales price of each item or article of tangible personal property when sold at retail or distributed in this Commonwealth.

2. Of the gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to such business.

3. Of the cost price of each item or article of tangible personal property stored in this Commonwealth for use or consumption in this Commonwealth.

4. Of the gross proceeds derived from the sale or charges for rooms, lodgings or accommodations furnished to transients as set out in the definition of "retail sale" in § 58.1-602.

5. Of the gross sales of any services ~~which~~ *that* are expressly stated as taxable within this chapter.

§ 58.1-604. Imposition of use tax.

There is hereby levied and imposed, in addition to all other taxes and fees now imposed by law, a tax upon the use or consumption of tangible personal property in this Commonwealth, or the storage of such property outside the Commonwealth for use or consumption in this Commonwealth, in the amount of ~~three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004~~ *4.8 percent*:

1. Of the cost price of each item or article of tangible personal property used or consumed in this Commonwealth. Tangible personal property ~~which~~ *that* has been acquired for use outside this Commonwealth and subsequently becomes subject to the tax imposed hereunder shall be taxed on the basis of its cost price if such property is brought within this Commonwealth for use within six months of its acquisition; but if so brought within this Commonwealth six months or more after its acquisition, such property shall be taxed on the basis of the current market value (but not in excess of its cost price) of such property at the time of its first use within this Commonwealth. Such tax shall be based on such proportion of the cost price or current market value as the duration of time of use within this Commonwealth bears to the total useful life of such property (but it shall be presumed in all cases that such property will remain within this Commonwealth for the remainder of its useful life unless convincing evidence is provided to the contrary).

2. Of the cost price of each item or article of tangible personal property stored outside this Commonwealth for use or consumption in this Commonwealth.

3. A transaction taxed under § 58.1-603 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under either section.

4. The use tax shall not apply with respect to the use of any article of tangible personal property brought into this Commonwealth by a nonresident individual, visiting in Virginia, for his personal use, while within this Commonwealth.

~~5. The use tax shall not apply to out-of-state mail order catalog purchases totaling \$100 or less during any calendar year.~~

§ 58.1-604.1. Use tax on motor vehicles, machinery, tools and equipment brought into Virginia for use in performing contracts.

In addition to the use tax levied pursuant to § 58.1-604 and notwithstanding the provisions of § 58.1-611, a use tax is levied upon the storage or use of all motor vehicles, machines, machinery, tools or other equipment brought, imported or caused to be brought into this Commonwealth for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure, or any part thereof. The rate of tax is ~~three and one-half percent through midnight on July 31, 2004, and four percent beginning on and after August 1, 2004~~ *4.8 percent* on all tangible personal property except motor vehicles, which shall be taxed at the rate of three percent; aircraft, which shall be taxed at the rate of two percent; and watercraft, which shall be taxed at the rate of two percent with a maximum tax of \$1,000.

For purposes of this section ~~the words~~, "motor vehicle" means any vehicle which is self-propelled and designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways which is pulled by a self-propelled vehicle, but shall not include any implement of husbandry, farm tractor, road construction or maintenance machinery or equipment, special mobile equipment or any vehicle designed primarily for use in work off the highway.

The tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in this Commonwealth bears to the total useful life thereof. For purposes of this section, ~~the word~~ "use" means use, storage, consumption and "stand-by" time occasioned by weather conditions, controversies or other causes. The tax shall be computed upon the basis of the relative time each item of equipment is in this Commonwealth rather than upon the basis of actual use. In the absence of satisfactory evidence as to the period of use intended in this Commonwealth, it will be presumed that such property will remain in this Commonwealth for the remainder of its useful life, which shall be determined in accordance with the experiences and practices of the building and construction trades.

A transaction taxed under § 58.1-604, 58.1-605, 58.1-1402, 58.1-1502, 58.1-1736 or 58.1-2402 shall not also be taxed under this section, nor shall the same transaction be taxed more than once under any

789 section.

790 **§ 58.1-605. To what extent and under what conditions cities and counties may levy local sales**
791 **taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled**
792 **thereto.**

793 A. No county, city or town shall impose any local general sales or use tax or any local general retail
794 sales or use tax except as authorized by this section.

795 B. The council of any city and the governing body of any county may levy a general retail sales tax
796 at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall
797 be added to the rate of the state sales tax imposed by §§ 58.1-603 and 58.1-604 and shall be subject to
798 all the provisions of this chapter and the rules and regulations published with respect thereto. No
799 discount under § 58.1-622 shall be allowed on a local sales tax.

800 C. The council of any city and the governing body of any county desiring to impose a local sales tax
801 under this section may do so by the adoption of an ordinance stating its purpose and referring to this
802 section, and providing that such ordinance shall be effective on the first day of a month at least 60 days
803 after its adoption. A certified copy of such ordinance shall be forwarded to the Tax Commissioner so
804 that it will be received within five days after its adoption.

805 D. *Prior to any change in the rate of the local sales and use tax, the Tax Commissioner shall*
806 *provide remote sellers and single and consolidated providers with at least 30 days' notice. Any change*
807 *in the rate of local sales and use tax shall only become effective on the first day of a calendar quarter.*
808 *Failure to provide notice pursuant to this section shall require the Commonwealth and the locality to*
809 *hold the remote seller or single or consolidated provider harmless for collecting the tax at the*
810 *immediately preceding effective rate for any period of time prior to 30 days after notification is*
811 *provided.*

812 E. Any local sales tax levied under this section shall be administered and collected by the Tax
813 Commissioner in the same manner and subject to the same penalties as provided for the state sales tax.

814 ~~E.~~ F. All local sales tax moneys collected by the Tax Commissioner under this section shall be paid
815 into the state treasury to the credit of a special fund which is hereby created on the Comptroller's books
816 under the name "Collections of Local Sales Taxes." Such local sales tax moneys shall be credited to the
817 account of each particular city or county levying a local sales tax under this section. The basis of such
818 credit shall be the city or county in which the sales were made as shown by the records of the
819 Department and certified by it monthly to the Comptroller, namely, the city or county of location of
820 each place of business of every dealer paying the tax to the Commonwealth without regard to the city or
821 county of possible use by the purchasers. If a dealer has any place of business located in more than one
822 political subdivision by reason of the boundary line or lines passing through such place of business, the
823 amount of sales tax paid by such a dealer with respect to such place of business shall be treated for the
824 purposes of this section as follows: one-half shall be assignable to each political subdivision where two
825 are involved, one-third where three are involved, and one-fourth where four are involved.

826 ~~F.~~ G. As soon as practicable after the local sales tax moneys have been paid into the state treasury in
827 any month for the preceding month, the Comptroller shall draw his warrant on the Treasurer of Virginia
828 in the proper amount in favor of each city or county entitled to the monthly return of its local sales tax
829 moneys, and such payments shall be charged to the account of each such city or county under the
830 special fund created by this section. If errors are made in any such payment, or adjustments are
831 otherwise necessary, whether attributable to refunds to taxpayers, or to some other fact, the errors shall
832 be corrected and adjustments made in the payments for the next two months as follows: one-half of the
833 total adjustment shall be included in the payments for the next two months. In addition, the payment
834 shall include a refund of amounts erroneously not paid to the city or county and not previously refunded
835 during the three years preceding the discovery of the error. A correction and adjustment in payments
836 described in this subsection due to the misallocation of funds by the dealer shall be made within three
837 years of the date of the payment error.

838 ~~G.~~ H. Such payments to counties are subject to the qualification that in any county wherein is
839 situated any incorporated town constituting a special school district and operated as a separate school
840 district under a town school board of three members appointed by the town council, the county treasurer
841 shall pay into the town treasury for general governmental purposes the proper proportionate amount
842 received by him in the ratio that the school age population of such town bears to the school age
843 population of the entire county. If the school age population of any town constituting a separate school
844 district is increased by the annexation of territory since the last estimate of school age population
845 provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this
846 section, be added to the school age population of such town as shown by the last such estimate and a
847 proper reduction made in the school age population of the county or counties from which the annexed
848 territory was acquired.

849 ~~H.~~ I. One-half of such payments to counties are subject to the further qualification, other than as set
850 out in subsection ~~G~~ ~~above~~ H, that in any county wherein is situated any incorporated town not

constituting a separate special school district which has complied with its charter provisions providing for the election of its council and mayor for a period of at least four years immediately prior to the adoption of the sales tax ordinance, the county treasurer shall pay into the town treasury of each such town for general governmental purposes the proper proportionate amount received by him in the ratio that the school age population of each such town bears to the school age population of the entire county, based on the latest estimate provided by the Weldon Cooper Center for Public Service. The preceding requirement pertaining to the time interval between compliance with election provisions and adoption of the sales tax ordinance shall not apply to a tier-city. If the school age population of any such town not constituting a separate special school district is increased by the annexation of territory or otherwise since the last estimate of school age population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school age population of such town as shown by the last such estimate and a proper reduction made in the school age population of the county or counties from which the annexed territory was acquired.

I. J. Notwithstanding the provisions of subsection **H I**, the board of supervisors of a county may, in its discretion, appropriate funds to any incorporated town not constituting a separate school district within such county which has not complied with the provisions of its charter relating to the elections of its council and mayor, an amount not to exceed the amount it would have received from the tax imposed by this chapter if such election had been held.

J. K. It is further provided that if any incorporated town which would otherwise be eligible to receive funds from the county treasurer under subsection **G or H of this section or I** be located in a county which does not levy a general retail sales tax under the provisions of this law, such town may levy a general retail sales tax at the rate of one percent to provide revenue for the general fund of the town, subject to all the provisions of this section generally applicable to cities and counties. Any tax levied under the authority of this subsection shall in no case continue to be levied on or after the effective date of a county ordinance imposing a general retail sales tax in the county within which such town is located.

§ 58.1-606. To what extent and under what conditions cities and counties may levy local use tax; collection thereof by Commonwealth and return of revenues to the cities and counties.

A. The council of any city and the governing body of any county which has levied or may hereafter levy a city or county sales tax under § 58.1-605 may levy a city or county use tax at the rate of one percent to provide revenue for the general fund of such city or county. Such tax shall be added to the rate of the state use tax imposed by this chapter and shall be subject to all the provisions of this chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that no discount under § 58.1-622 shall be allowed on a local use tax.

B. The council of any city and the governing body of any county desiring to impose a local use tax under this section may do so in the manner following:

1. If the city or county has previously imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by the council or governing body by the adoption of a resolution by a majority of all the members thereof, by a recorded ye and nay vote, stating its purpose and referring to this section, and providing that the local use tax shall become effective on the first day of a month at least 60 days after the adoption of the resolution. A certified copy of such resolution shall be forwarded to the Tax Commissioner so that it will be received within five days after its adoption. The resolution authorized by this paragraph may be adopted in the manner stated notwithstanding any other provision of law, including any charter provision.

2. If the city or county has not imposed the local sales tax authorized by § 58.1-605, the local use tax may be imposed by ordinance together with the local sales tax in the manner set out in subsections B and C of § 58.1-605.

C. Any local use tax levied under this section shall be administered and collected by the Tax Commissioner in the same manner and subject to the same penalties as provided for the state use tax.

D. *Prior to any change in the rate of the local sales and use tax, the Tax Commissioner shall provide remote sellers and single and consolidated providers with at least 30 days' notice. Any change in the rate of local sales and use tax shall only become effective on the first day of a calendar quarter. Failure to provide notice pursuant to this section shall require the Commonwealth and the locality to hold the remote seller or single or consolidated provider harmless for collecting the tax at the immediately preceding effective rate for any period of time prior to 30 days after notification is provided.*

E. The local use tax authorized by this section shall not apply to transactions to which the sales tax applies, the situs of which for state and local sales tax purposes is the city or county of location of each place of business of every dealer paying the tax to the Commonwealth without regard to the city or county of possible use by the purchasers. However, the local use tax authorized by this section shall apply to tangible personal property purchased without this Commonwealth for use or consumption

912 within the city or county imposing the local use tax, or stored within the city or county for use or
913 consumption, where the property would have been subject to the sales tax if it had been purchased
914 within this Commonwealth. The local use tax shall also apply to leases or rentals of tangible personal
915 property where the place of business of the lessor is without this Commonwealth and such leases or
916 rentals are subject to the state tax. Moreover, the local use tax shall apply in all cases in which the state
917 use tax applies.

918 E. F. Out-of-state dealers who hold certificates of registration to collect the use tax from their
919 customers for remittance to this Commonwealth shall, to the extent reasonably practicable, in filing their
920 monthly use tax returns with the Tax Commissioner, break down their shipments into this
921 Commonwealth by cities and counties so as to show the city or county of destination. If, however, the
922 out-of-state dealer is unable accurately to assign any shipment to a particular city or county, the local
923 use tax on the tangible personal property involved shall be remitted to the Commonwealth by such
924 dealer without attempting to assign the shipment to any city or county.

925 F. G. Local use tax revenue shall be distributed among the cities and counties for which it is
926 collected, respectively, as shown by the records of the Department, and the procedure shall be the same
927 as that prescribed for distribution of local sales tax revenue under § 58.1-605. The local use tax revenue
928 that is not accurately assignable to a particular city or county shall be distributed monthly by the
929 appropriate state authorities among the cities and counties in this Commonwealth imposing the local use
930 tax upon the basis of taxable retail sales in the respective cities and counties in which the local sales
931 and use tax was in effect in the taxable month involved, as shown by the records of the Department,
932 and computed with respect to taxable retail sales as reflected by the amounts of the local sales tax
933 revenue distributed among such cities and counties, respectively, in the month of distribution.
934 Notwithstanding any other provision of this section, the Tax Commissioner shall develop a uniform
935 method to distribute local use tax. Any significant changes to the method of local use tax distribution
936 shall be phased in over a five-year period. Distribution information shall be shared with the affected
937 localities prior to implementation of the changes.

938 G. H. All local use tax revenue shall be used, applied or disbursed by the cities and counties as
939 provided in § 58.1-605 with respect to local sales tax revenue.

940 **§ 58.1-608.3. Entitlement to certain sales tax revenues.**

941 A. As used in this section, the following words and terms have the following meanings, unless some
942 other meaning is plainly intended:

943 "Bonds" means any obligations of a municipality for the payment of money.

944 "Cost," as applied to any public facility or to extensions or additions to any public facility, includes:
945 (i) the purchase price of any public facility acquired by the municipality or the cost of acquiring all of
946 the capital stock of the corporation owning the public facility and the amount to be paid to discharge
947 any obligations in order to vest title to the public facility or any part of it in the municipality; (ii)
948 expenses incident to determining the feasibility or practicability of the public facility; (iii) the cost of
949 plans and specifications, surveys and estimates of costs and of revenues; (iv) the cost of all land,
950 property, rights, easements and franchises acquired; (v) the cost of improvements, property or
951 equipment; (vi) the cost of engineering, legal and other professional services; (vii) the cost of
952 construction or reconstruction; (viii) the cost of all labor, materials, machinery and equipment; (ix)
953 financing charges; (x) interest before and during construction and for up to one year after completion of
954 construction; (xi) start-up costs and operating capital; (xii) payments by a municipality of its share of the
955 cost of any multijurisdictional public facility; (xiii) administrative expense; (xiv) any amounts to be
956 deposited to reserve or replacement funds; and (xv) other expenses as may be necessary or incident to
957 the financing of the public facility. Any obligation or expense incurred by the public facility in
958 connection with any of the foregoing items of cost may be regarded as a part of the cost.

959 "Municipality" means any county, city, town, authority, commission, or other public entity.

960 "Public facility" means (i) any auditorium, coliseum, convention center, sports facility that is
961 designed for use primarily as a baseball stadium for a minor league professional baseball affiliated team
962 or structures attached thereto, or conference center, which is owned by a Virginia county, city, town,
963 authority, or other public entity and where exhibits, meetings, conferences, conventions, seminars, or
964 similar public events may be conducted; (ii) any hotel which is owned by a foundation whose sole
965 purpose is to benefit a state-supported university and which is attached to and is an integral part of such
966 facility, together with any lands reasonably necessary for the conduct of the operation of such events;
967 (iii) any hotel which is attached to and is an integral part of such facility; or (iv) any hotel that is
968 adjacent to a convention center owned by a public entity and where the hotel owner enters into a
969 public-private partnership whereby the locality contributes infrastructure, real property, or conference
970 space. However, such public facility must be located in the City of Hampton, City of Lynchburg, City
971 of Newport News, City of Norfolk, City of Portsmouth, City of Richmond, City of Roanoke, City of
972 Salem, City of Staunton, City of Suffolk, City of Virginia Beach, or City of Winchester. Any property,
973 real, personal, or mixed, which is necessary or desirable in connection with any such auditorium,

coliseum, convention center, baseball stadium or conference center, including, without limitation, facilities for food preparation and serving, parking facilities, and administration offices, is encompassed within this definition. However, structures commonly referred to as "shopping centers" or "malls" shall not constitute a public facility hereunder. A public facility shall not include residential condominiums, townhomes, or other residential units. In addition, only a new public facility, or a public facility which will undergo a substantial and significant renovation or expansion, shall be eligible under subsection C of this section. A new public facility is one whose construction began after December 31, 1991. A substantial and significant renovation entails a project whose cost is at least 50 percent of the original cost of the facility being renovated and shall have begun after December 31, 1991. A substantial and significant expansion entails an increase in floor space of at least 50 percent over that existing in the preexisting facility and shall have begun after December 31, 1991; or an increase in floor space of at least 10 percent over that existing in a public facility that qualified as such under this section and was constructed after December 31, 1991.

"Sales tax revenues" means such tax collections realized under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.) of this title, as limited herein. "Sales tax revenues" does not include the revenue generated by the ~~one-half~~ 0.5 percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly which shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1, ~~nor shall it include the one 1.0 percent of the state sales and use tax revenue distributed among the counties and cities of the Commonwealth pursuant to subsection D of § 58.1-638 on the basis of school age population, or the revenue generated by the 0.8 percent sales and use tax increase enacted by the 2013 Session of the General Assembly.~~ For a public facility that is a sports facility, "sales tax revenues" shall include such revenues generated by transactions taking place upon the premises of a baseball stadium or structures attached thereto.

B. Notwithstanding the definition of "public facility" in subsection A, a development project that meets the requirements for a "development of regional impact" set forth herein shall be deemed to be a public facility under the provisions of this section. The locality in which the public facility is located shall be entitled to all sales tax revenues generated by transactions taking place at such public facility solely to pay the cost of any bonds issued to pay the cost, or portion thereof, of such public facility pursuant to subsection C. For purposes of this subsection, the development of regional impact must be located in the City of Bristol.

For purposes of this subsection, a "development of regional impact" means a development project (i) towards which the locality contributes infrastructure or real property as part of a public-private partnership with the developer that is equal to at least 20 percent of the aggregate cost of development, (ii) that is reasonably expected to require a capital investment of at least \$50 million, (iii) that is reasonably expected to generate at least \$5 million annually in state sales and use tax revenue from sales within the development, (iv) that is reasonably expected to attract at least one million visitors annually, (v) that is reasonably expected to create at least 2,000 permanent jobs, (vi) that is located in a locality that had a rate of unemployment at least three percentage points higher than the statewide average in November 2011, and (vii) that is located in a locality that is adjacent to a state that has adopted a Border Region Retail Tourism Development District Act. Within 30 days from the date of notification by a locality that it intends to contribute infrastructure or real property as part of a public-private partnership with the developer of a development of regional impact, the Department of Taxation shall review the findings of the locality with respect to clauses (i) through (vi) and shall file a written report with the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and the Senate Committee on Finance.

C. Any municipality which has issued bonds (i) after December 31, 1991, but before January 1, 1996, (ii) on or after January 1, 1998, but before July 1, 1999, (iii) on or after January 1, 1999, but before July 1, 2001, (iv) on or after July 1, 2000, but before July 1, 2003, (v) on or after July 1, 2001, but before July 1, 2005, (vi) on or after July 1, 2004, but before July 1, 2007, (vii) on or after July 1, 2009, but before July 1, 2012, or (viii) on or after January 1, 2011, but prior to July 1, 2015, to pay the cost, or portion thereof, of any public facility shall be entitled to all sales tax revenues generated by transactions taking place in such public facility. Such entitlement shall continue for the lifetime of such bonds, which entitlement shall not exceed 35 years, and all such sales tax revenues shall be applied to repayment of the bonds. The State Comptroller shall remit such sales tax revenues to the municipality on a quarterly basis, subject to such reasonable processing delays as may be required by the Department of Taxation to calculate the actual net sales tax revenues derived from the public facility. The State Comptroller shall make such remittances to eligible municipalities, as provided herein, notwithstanding any provisions to the contrary in the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.). No such remittances shall be made until construction is completed and, in the case of a renovation or expansion, until the governing body of the municipality has certified that the renovation or expansion is completed.

D. Nothing in this section shall be construed as authorizing the pledging of the faith and credit of the Commonwealth of Virginia, or any of its revenues, for the payment of any bonds. Any appropriation made pursuant to this section shall be made only from sales tax revenues derived from the public facility for which bonds may have been issued to pay the cost, in whole or in part, of such public facility.

§ 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 that were~~ subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.), *as such chapter was in effect on June 30, 2013. 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. 7. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

9. 8. Watercraft as defined in § 58.1-1401.

10. 9. 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. 10. Sales by prisoners confined in state correctional facilities of artistic products personally made by the prisoners as authorized by § 53.1-46.

12. 11. 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. 12. 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. 13. 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. 14. 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. 15. Tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg Transit Company, GRTC Transit System, or Greater Roanoke Transit Company, or to any other transit company that is owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services, and/or tangible personal property sold or leased to any county, city, or town, or any combination thereof, that is transferred to any of the companies set forth in this subdivision owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services.

18. 16. (Effective until July 1, 2017) Qualified products designated as Energy Star or WaterSense with a sales price of \$2,500 or less per product purchased for noncommercial home or personal use. The exemption provided by this subdivision shall apply only to sales occurring during the four-day period that begins each year on the Friday before the second Monday in October and ends at midnight on the second Monday in October.

For the purposes of this exemption, an Energy Star qualified product is any dishwasher, clothes washer, air conditioner, ceiling fan, compact fluorescent light bulb, dehumidifier, programmable

thermostat, or refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's requirements under the Energy Star program. For the purposes of this exemption, WaterSense qualified products are those that have been recognized as being water efficient by the WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a WaterSense label.

§ 58.1-612. (Contingent expiration date) Tax collectible from dealers; "dealer" defined; jurisdiction.

A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons who are dealers, as hereinafter defined, and who have sufficient contact with the Commonwealth to qualify under subsections B and C hereof.

B. The term "dealer," as used in this chapter, shall include every person who:

1. Manufactures or produces tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

2. Imports or causes to be imported into this Commonwealth tangible personal property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

3. Sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, tangible personal property;

4. Has sold at retail, used, consumed, distributed, or stored for use or consumption in this Commonwealth, tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal property;

5. Leases or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring title thereto;

6. Is the lessee or rentee of tangible personal property and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto;

7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts orders from persons in this Commonwealth for future delivery and whose principal refuses to register as a dealer under § 58.1-613; or

8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter, whether he holds, or is required to hold, a certificate of registration under § 58.1-613.

C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if he:

1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office, warehouse, or place of business of any nature;

2. Solicits business in this Commonwealth by employees, independent contractors, agents or other representatives;

3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on billboards or posters located in this Commonwealth, or through materials distributed in this Commonwealth by means other than the United States mail;

4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter this Commonwealth more than ~~twelve~~ 12 times during a calendar year to deliver goods sold by him;

5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or distributed from a location within this Commonwealth;

6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in this Commonwealth or benefits from the location in this Commonwealth of authorized installation, servicing, or repair facilities;

7. Is owned or controlled by the same interests which own or control a business located within this Commonwealth;

8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; or

9. Owns tangible personal property that is rented or leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers in this Commonwealth.

D. Notwithstanding any other provision of this section, the following shall not be considered to determine whether a person who has contracted with a commercial printer for printing in the

Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to be required to register under § 58.1-613:

1. The ownership or leasing by that person of tangible or intangible property located at the Virginia premises of the commercial printer which is used solely in connection with the printing contract with the person;

2. The sale by that person of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer;

3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and

4. Activities in connection with the printing contract with the person performed by the commercial printer within Virginia for or on behalf of that person.

E. In addition to the jurisdictional standards contained in subsection C of this section, nothing contained herein (other than subsection D) shall limit any authority which this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer who regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

F. Pursuant to any federal legislation that grants states the authority to require remote sellers to collect sales and use tax, the Commonwealth is authorized, as permitted by such federal legislation, to require collection of sales and use tax by any remote seller, or a single or consolidated provider acting on behalf of a remote seller. If the federal legislation has an exemption for sellers whose sales are less than a minimum amount, then in determining such amount, the sales made by all persons related within the meanings of subsections (b) and (c) of § 267 or § 707(b)(1) of the Internal Revenue Code of 1986 shall be aggregated.

§ 58.1-612. (Contingent effective date) Tax collectible from dealers; "dealer" defined; jurisdiction.

A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons who are dealers, as hereinafter defined, and who have sufficient contact with the Commonwealth to qualify under subsections (i) B and C or (ii) B and D hereof.

B. The term "dealer," as used in this chapter, shall include every person who:

1. Manufactures or produces tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

2. Imports or causes to be imported into this Commonwealth tangible personal property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

3. Sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, tangible personal property;

4. Has sold at retail, used, consumed, distributed, or stored for use or consumption in this Commonwealth, tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal property;

5. Leases or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring title thereto;

6. Is the lessee or rentee of tangible personal property and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto;

7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts orders from persons in this Commonwealth for future delivery and whose principal refuses to register as a dealer under § 58.1-613; or

8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter, whether he holds, or is required to hold, a certificate of registration under § 58.1-613.

C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if he:

1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office, warehouse, or place of business of any nature;

2. Solicits business in this Commonwealth by employees, independent contractors, agents or other representatives;

3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on billboards or posters located in this Commonwealth, or through materials distributed in this Commonwealth by means other than the United States mail;

4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter this Commonwealth more than 12 times during a calendar year to deliver goods sold by him;

5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or distributed from a location within this Commonwealth;

6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in this Commonwealth or benefits from the location in this Commonwealth of authorized installation, servicing, or repair facilities;

7. Is owned or controlled by the same interests which own or control a business located within this Commonwealth;

8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; or

9. Owns tangible personal property that is rented or leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers in this Commonwealth.

D. A dealer is presumed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 (unless the presumption is rebutted as provided herein) if any commonly controlled person maintains a distribution center, warehouse, fulfillment center, office, or similar location within the Commonwealth that facilitates the delivery of tangible personal property sold by the dealer to its customers. The presumption in this subsection may be rebutted by demonstrating that the activities conducted by the commonly controlled person in the Commonwealth are not significantly associated with the dealer's ability to establish or maintain a market in the Commonwealth for the dealer's sales. For purposes of this subsection, a "commonly controlled person" means any person that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered, as the dealer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the dealer as a corporation that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered.

E. Notwithstanding any other provision of this section, the following shall not be considered to determine whether a person who has contracted with a commercial printer for printing in the Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to be required to register under § 58.1-613:

1. The ownership or leasing by that person of tangible or intangible property located at the Virginia premises of the commercial printer which is used solely in connection with the printing contract with the person;

2. The sale by that person of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer;

3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and

4. Activities in connection with the printing contract with the person performed by the commercial printer within Virginia for or on behalf of that person.

F. In addition to the jurisdictional standards contained in subsections C and D, nothing contained herein (other than subsection E) shall limit any authority which this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer who regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

G. Pursuant to any federal legislation that grants states the authority to require remote sellers to collect sales and use tax, the Commonwealth is authorized, as permitted by such federal legislation, to require collection of sales and use tax by any remote seller, or a single or consolidated provider acting on behalf of a remote seller. If the federal legislation has an exemption for sellers whose sales are less than a minimum amount, then in determining such amount, the sales made by all persons related within

1281 *the meanings of subsections (b) and (c) of § 267 or § 707(b)(1) of the Internal Revenue Code of 1986*
1282 *shall be aggregated.*

1283 **§ 58.1-614. Vending machine sales.**

1284 A. Notwithstanding the provisions of §§ 58.1-603 and 58.1-604, whenever a dealer makes sales of
1285 tangible personal property through vending machines, or in any other manner making collection of the
1286 tax impractical, as determined by the Tax Commissioner, such dealer shall be required to report his
1287 wholesale purchases for sale at retail from vending machines and shall be required to remit an amount
1288 based on ~~four and one-half percent through midnight on July 31, 2004, and five percent beginning on~~
1289 ~~and after August 1, 2004, 5.8 percent~~ of such wholesale purchases.

1290 B. Notwithstanding the provisions of §§ 58.1-605 and 58.1-606, dealers making sales of tangible
1291 personal property through vending machines shall report and remit the one percent local sales and use
1292 tax computed as provided in subsection A of this section.

1293 C. The provisions of subsections A and B of this section shall not be applicable to vending machine
1294 operators all of whose machines are under contract to nonprofit organizations. Such operators shall
1295 report only the gross receipts from machines selling items for more than 10 cents and shall be required
1296 to remit an amount based on a percentage of their remaining gross sales established by the Tax
1297 Commissioner to take into account the inclusion of sales tax.

1298 D. Notwithstanding any other provisions in this section, when the Tax Commissioner determines that
1299 it is impractical to collect the tax in the manner provided by those sections, such dealer shall be required
1300 to remit an amount based on a percentage of gross receipts which takes into account the inclusion of the
1301 sales tax.

1302 E. The provisions of this section shall not be applicable to any dealer who fails to maintain records
1303 satisfactory to the Tax Commissioner. A dealer making sales of tangible personal property through
1304 vending machines shall obtain a certificate of registration under § 58.1-613 in relevant form for each
1305 county or city in which he has machines.

1306 **§ 58.1-615. Returns by dealers.**

1307 A. Every dealer required to collect or pay the sales or use tax shall, on or before the twentieth day
1308 of the month following the month in which the tax shall become effective, transmit to the Tax
1309 Commissioner a return showing the gross sales, gross proceeds, or cost price, as the case may be,
1310 arising from all transactions taxable under this chapter during the preceding calendar month, and
1311 thereafter a like return shall be prepared and transmitted to the Tax Commissioner by every dealer on or
1312 before the twentieth day of each month, for the preceding calendar month. In the case of dealers
1313 regularly keeping books and accounts on the basis of an annual period which varies 52 to 53 weeks, the
1314 Tax Commissioner may make rules and regulations for reporting consistent with such accounting period.
1315 *The Tax Commissioner shall not require that more than one return per month be used or filed by any*
1316 *remote seller, single provider, or consolidated provider subject to the sales or use tax.*

1317 Notwithstanding any other provision of this chapter, a dealer may be required by the Tax
1318 Commissioner to file sales or use tax returns on an accounting period less frequent than monthly when,
1319 in the opinion of the Tax Commissioner, the administration of the taxes imposed by this chapter would
1320 be enhanced. If a dealer is required to file other than monthly, each such return shall be due on or
1321 before the twentieth day of the month following the close of the period. Each such return shall contain
1322 all information required for monthly returns.

1323 A sales or use tax return shall be filed by each registered dealer even though the dealer is not liable
1324 to remit to the Tax Commissioner any tax for the period covered by the return.

1325 B. [Expired.]

1326 C. Any return required to be filed with the Tax Commissioner under this section shall be deemed to
1327 have been filed with the Tax Commissioner on the date that such return is delivered by the dealer to the
1328 commissioner of the revenue or the treasurer for the locality in which the dealer is located and receipt is
1329 acknowledged by the commissioner of the revenue or treasurer. The commissioner of the revenue or the
1330 treasurer shall stamp such date on the return, and shall mail the return to the Tax Commissioner no later
1331 than the following business day. The commissioner of the revenue or the treasurer may collect from the
1332 dealer the cost of postage for such mailing.

1333 D. Every dealer who elects to file a consolidated sales tax return for any taxable period and who is
1334 required to remit payment by electronic funds transfer pursuant to subsection B of § 58.1-202.1
1335 beginning on and after July 1, 2010, shall file his monthly return using an electronic medium prescribed
1336 by the Tax Commissioner. A waiver of this requirement may be granted if the Tax Commissioner
1337 determines that it creates an unreasonable burden on the dealer.

1338 **§ 58.1-625. (Effective until July 1, 2017) Collection of tax.**

1339 A. The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the
1340 amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt
1341 from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the
1342 same manner as other debts. No action at law or suit in equity under this chapter may be maintained in

this Commonwealth by any dealer who is not registered under § 58.1-613 or is delinquent in the payment of the taxes imposed under this chapter.

B. Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as herein provided.

C. Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until he can affirmatively show that the tax has since been refunded to the purchaser or credited to his account.

D. Any dealer who neglects, fails, or refuses to collect such tax upon every taxable sale, distribution, lease, or storage of tangible personal property made by him, his agents, or employees shall be liable for and pay the tax himself, and such dealer shall not thereafter be entitled to sue for or recover in this Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid. Moreover, any dealer who neglects, fails, or refuses to pay or collect the tax herein provided, either by himself or through his agents or employees, shall be guilty of a Class 1 misdemeanor.

E. *Notwithstanding subsection D, any remote seller, single provider, or consolidated provider who has collected an incorrect amount of sales or use tax shall be relieved from liability for such additional amount, including any penalty or interest, if collection of the improper amount is a result of the remote seller, single provider, or consolidated provider's reasonable reliance upon information provided by the Commonwealth, including, but not limited to, any information obtained from software provided by the Department of Taxation pursuant to subsection B of § 58.1-601.*

F. All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the Commonwealth.

Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period of time set forth in §§ 58.1-611.2 and 58.1-611.3 or subdivision 16 of § 58.1-609.1 not to collect the tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to absorb such tax himself. A dealer electing to absorb such taxes shall be liable for payment of such taxes to the Tax Commissioner in the same manner as he is for tax collected from a purchaser pursuant to this section.

§ 58.1-625. (Effective July 1, 2017) Collection of tax.

A. The tax levied by this chapter shall be paid by the dealer, but the dealer shall separately state the amount of the tax and add such tax to the sales price or charge. Thereafter, such tax shall be a debt from the purchaser, consumer, or lessee to the dealer until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter may be maintained in this Commonwealth by any dealer who is not registered under § 58.1-613 or is delinquent in the payment of the taxes imposed under this chapter.

B. Notwithstanding any exemption from taxes which any dealer now or hereafter may enjoy under the Constitution or laws of this or any other state, or of the United States, such dealer shall collect such tax from the purchaser, consumer, or lessee and shall pay the same over to the Tax Commissioner as herein provided.

C. Any dealer collecting the sales or use tax on transactions exempt or not taxable under this chapter shall transmit to the Tax Commissioner such erroneously or illegally collected tax unless or until he can affirmatively show that the tax has since been refunded to the purchaser or credited to his account.

D. Any dealer who neglects, fails, or refuses to collect such tax upon every taxable sale, distribution, lease, or storage of tangible personal property made by him, his agents, or employees shall be liable for and pay the tax himself, and such dealer shall not thereafter be entitled to sue for or recover in this Commonwealth any part of the purchase price or rental from the purchaser until such tax is paid. Moreover, any dealer who neglects, fails, or refuses to pay or collect the tax herein provided, either by himself or through his agents or employees, shall be guilty of a Class 1 misdemeanor.

E. *Notwithstanding subsection D, any remote seller, single provider, or consolidated provider who has collected an incorrect amount of sales or use tax shall be relieved from liability for such additional amount, including any penalty or interest, if collection of the improper amount is a result of the remote seller, single provider, or consolidated provider's reasonable reliance upon information provided by the Commonwealth, including, but not limited to, any information obtained from software provided by the Department of Taxation pursuant to subsection B of § 58.1-601.*

F. All sums collected by a dealer as required by this chapter shall be deemed to be held in trust for the Commonwealth.

Notwithstanding the foregoing provisions of this section, any dealer is authorized during the period of time set forth in § 58.1-611.2 not to collect the tax levied by this chapter or levied under the authority granted in §§ 58.1-605 and 58.1-606 from the purchaser, and to absorb such tax himself. A dealer electing to absorb such taxes shall be liable for payment of such taxes to the Tax Commissioner

in the same manner as he is for tax collected from a purchaser pursuant to this section.

§ 58.1-626. (Effective until July 1, 2017) Absorption of tax prohibited.

No person shall advertise or hold out to the public, directly or indirectly, that he will absorb all or any part of the sales or use tax, or that he will relieve the purchaser, consumer, or lessee of the payment of all or any part of such tax. Any person who violates this section ~~shall be~~ *is* guilty of a Class 2 misdemeanor. The prohibitions contained in this section shall not apply (i) during the time period set out in § 58.1-611.2 or subdivision ~~48 16~~ of § 58.1-609.1 or during the 14 days immediately preceding such time period for advertisements relating to sales to be made during the time period set out in § 58.1-611.2 or subdivision ~~48 16~~ of § 58.1-609.1; and (ii) during the time period set out in § 58.1-611.3 or during the 14 days immediately preceding such time period for advertisements relating to sales to be made during the time period set out in § 58.1-611.3.

§ 58.1-635. Failure to file return; fraudulent return; civil penalties.

A. When any dealer fails to make any return and pay the full amount of the tax required by this chapter, there shall be imposed, in addition to other penalties provided herein, a specific penalty to be added to the tax in the amount of six percent if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed ~~thirty~~ 30 percent in the aggregate. In no case, however, shall the penalty be less than ~~ten~~ *\$10* and such minimum penalty shall apply whether or not any tax is due for the period for which such return was required. If such failure is due to providential or other good cause shown to the satisfaction of the Tax Commissioner, such return with or without remittance may be accepted exclusive of penalties. In the case of a false or fraudulent return where willful intent exists to defraud the Commonwealth of any tax due under this chapter, or in the case of a willful failure to file a return with the intent to defraud the Commonwealth of any such tax, a specific penalty of ~~thirty~~ 50 percent of the amount of the proper tax shall be assessed. All penalties and interest imposed by this chapter shall be payable by the dealer and collectible by the Tax Commissioner in the same manner as if they were a part of the tax imposed.

B. It shall be prima facie evidence of intent to defraud the Commonwealth of any tax due under this chapter when any dealer reports his gross sales, gross proceeds or cost price, as the case may be, at ~~thirty~~ 50 percent or less of the actual amount.

C. Interest at a rate determined in accordance with § 58.1-15, shall accrue on the tax until the same is paid, or until an assessment is made, pursuant to § 58.1-15, after which interest shall accrue as provided therein.

D. Notwithstanding any other provision of this section, any remote seller, single provider, or consolidated provider who collects an incorrect amount of sales or use tax shall be relieved of any liability, including penalties and interest, if collection of the improper amount is the result of the remote seller, single provider, or consolidated provider's reasonable reliance on information that has been provided by the Commonwealth.

§ 58.1-638. Disposition of state sales and use tax revenue; localities' share; Game Protection Fund.

A. The Comptroller shall designate a specific revenue code number for all the state sales and use tax revenue collected under the preceding sections of this chapter.

1. The sales and use tax revenue generated by the one-half percent sales and use tax increase enacted by the 1986 Special Session of the General Assembly shall be paid, in the manner hereinafter provided in this section, to the Transportation Trust Fund as defined in § 33.1-23.03:1. Of the funds paid to the Transportation Trust Fund, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund as provided in this section; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund as provided in this section; and an aggregate of 14.7 percent shall be set aside as the Commonwealth Mass Transit Fund as provided in this section. The Fund's share of such net revenue shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

2. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Port Fund.

a. The Commonwealth Port Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it. Funds may be paid to any authority, locality or commission for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be allocated by the Commonwealth Transportation Board to the Board of Commissioners of the Virginia Port Authority to be used to support port capital needs and the preservation of existing capital needs of all ocean, river, or tributary ports within the Commonwealth.

c. Commonwealth Port Fund revenue shall be allocated by the Board of Commissioners to the

Virginia Port Authority in order to foster and stimulate the flow of maritime commerce through the ports of Virginia, including but not limited to the ports of Richmond, Hopewell and Alexandria.

3. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be part of the Transportation Trust Fund and which shall be known as the Commonwealth Airport Fund. The Commonwealth Airport Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the funds shall be credited to the Fund. The funds so allocated shall be allocated by the Commonwealth Transportation Board to the Virginia Aviation Board. The funds shall be allocated by the Virginia Aviation Board to any Virginia airport which is owned by the Commonwealth, a governmental subdivision thereof, or a private entity to which the public has access for the purposes enumerated in § 5.1-2.16, or is owned or leased by the Metropolitan Washington Airports Authority (MWAA), as follows:

Any new funds in excess of \$12.1 million which are available for allocation by the Virginia Aviation Board from the Commonwealth Transportation Fund, shall be allocated as follows: 60 percent to MWAA, up to a maximum annual amount of \$2 million, and 40 percent to air carrier airports as provided in subdivision A 3 a. Except for adjustments due to changes in enplaned passengers, no air carrier airport sponsor, excluding MWAA, shall receive less funds identified under subdivision A 3 a than it received in fiscal year 1994-1995.

Of the remaining amount:

a. Forty percent of the funds shall be allocated to air carrier airports, except airports owned or leased by MWAA, based upon the percentage of enplanements for each airport to total enplanements at all air carrier airports, except airports owned or leased by MWAA. No air carrier airport sponsor, however, shall receive less than \$50,000 nor more than \$2 million per year from this provision.

b. Forty percent of the funds shall be allocated by the Aviation Board for air carrier and reliever airports on a discretionary basis, except airports owned or leased by MWAA.

c. Twenty percent of the funds shall be allocated by the Aviation Board for general aviation airports on a discretionary basis.

3a. There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Commonwealth Space Flight Fund. The Commonwealth Space Flight Fund shall be established on the books of the Comptroller and the funds remaining in such Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.

a. The amounts allocated to the Commonwealth Space Flight Fund pursuant to § 33.1-23.03:2 shall be allocated by the Commonwealth Transportation Board to the Board of Directors of the Virginia Commercial Space Flight Authority to be used to support the capital needs, maintenance, and operating costs of any and all facilities owned and operated by the Virginia Commercial Space Flight Authority.

b. Commonwealth Space Flight Fund revenue shall be allocated by the Board of Directors to the Virginia Commercial Space Flight Authority in order to foster and stimulate the growth of the commercial space flight industry in Virginia.

4. There is hereby created in the Department of the Treasury a special nonreverting fund which shall be a part of the Transportation Trust Fund and which shall be known as the Commonwealth Mass Transit Fund.

a. The Commonwealth Mass Transit Fund shall be established on the books of the Comptroller and any funds remaining in such Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall be credited to the Fund. Funds may be paid to any local governing body, transportation district commission, or public service corporation for the purposes hereinafter specified.

b. The amounts allocated pursuant to this section shall be used to support the public transportation administrative costs and the costs borne by the locality for the purchase of fuels, lubricants, tires and maintenance parts and supplies for public transportation at a state share of 80 percent in 2002 and 95 percent in 2003 and succeeding years. These amounts may be used to support up to 95 percent of the local or nonfederal share of capital project costs for public transportation and ridesharing equipment, facilities, and associated costs. Capital costs may include debt service payments on local or agency transit bonds. The term "borne by the locality" means the local share eligible for state assistance consisting of costs in excess of the sum of fares and other operating revenues plus federal assistance received by the locality.

c. Commonwealth Mass Transit Fund revenue shall be allocated by the Commonwealth Transportation Board as follows:

(1) Funds for special programs, which shall include ridesharing, experimental transit, and technical assistance, shall not exceed 1.5 percent of the Fund.

(2) The Board may allocate these funds to any locality or planning district commission to finance up

1527 to 80 percent of the local share of all costs associated with the development, implementation, and
1528 continuation of ridesharing programs.

1529 (3) Funds allocated for experimental transit projects may be paid to any local governing body,
1530 transportation district commission, or public corporation or may be used directly by the Department of
1531 Rail and Public Transportation for the following purposes:

1532 (a) To finance up to 95 percent of the capital costs related to the development, implementation and
1533 promotion of experimental public transportation and ridesharing projects approved by the Board.

1534 (b) To finance up to 95 percent of the operating costs of experimental mass transportation and
1535 ridesharing projects approved by the Board for a period of time not to exceed 12 months.

1536 (c) To finance up to 95 percent of the cost of the development and implementation of any other
1537 project designated by the Board where the purpose of such project is to enhance the provision and use
1538 of public transportation services.

1539 d. Funds allocated for public transportation promotion and operation studies may be paid to any local
1540 governing body, planning district commission, transportation district commission, or public transit
1541 corporation, or may be used directly by the Department of Rail and Public Transportation for the
1542 following purposes and aid of public transportation services:

1543 (1) At the approval of the Board to finance a program administered by the Department of Rail and
1544 Public Transportation designed to promote the use of public transportation and ridesharing throughout
1545 Virginia.

1546 (2) To finance up to 50 percent of the local share of public transportation operations planning and
1547 technical study projects approved by the Board.

1548 e. At least 73.5 percent of the Fund shall be distributed to each transit property in the same
1549 proportion as its operating expenses bear to the total statewide operating expenses and shall be spent for
1550 the purposes specified in subdivision 4 b.

1551 f. The remaining 25 percent shall be distributed for capital purposes on the basis of 95 percent of the
1552 nonfederal share for federal projects and 95 percent of the total costs for nonfederal projects. In the
1553 event that total capital funds available under this subdivision are insufficient to fund the complete list of
1554 eligible projects, the funds shall be distributed to each transit property in the same proportion that such
1555 capital expenditure bears to the statewide total of capital projects. Prior to the annual adoption of the
1556 Six-Year Improvement Program, the Commonwealth Transportation Board may allocate up to 20 percent
1557 of the funds in the Commonwealth Mass Transit Fund designated for capital purposes to transit
1558 operating assistance if operating funds for the next fiscal year are estimated to be less than the current
1559 fiscal year's allocation, to attempt to maintain transit operations at approximately the same level as the
1560 previous fiscal year.

1561 g. There is hereby created in the Department of the Treasury a special nonreverting fund known as
1562 the Commonwealth Transit Capital Fund. The Commonwealth Transit Capital Fund shall be part of the
1563 Commonwealth Mass Transit Fund. The Commonwealth Transit Capital Fund subaccount shall be
1564 established on the books of the Comptroller and consist of such moneys as are appropriated to it by the
1565 General Assembly and of all donations, gifts, bequests, grants, endowments, and other moneys given,
1566 bequeathed, granted, or otherwise made available to the Commonwealth Transit Capital Fund. Any funds
1567 remaining in the Commonwealth Transit Capital Fund at the end of the biennium shall not revert to the
1568 general fund, but shall remain in the Commonwealth Transit Capital Fund. Interest earned on funds
1569 within the Commonwealth Transit Capital Fund shall remain in and be credited to the Commonwealth
1570 Transit Capital Fund. Proceeds of the Commonwealth Transit Capital Fund may be paid to any political
1571 subdivision, another public entity created by an act of the General Assembly, or a private entity as
1572 defined in § 56-557 and for purposes as enumerated in subdivision 4c of § 33.1-269 or expended by the
1573 Department of Rail and Public Transportation for the purposes specified in this subdivision. Revenues of
1574 the Commonwealth Transit Capital Fund shall be used to support capital expenditures involving the
1575 establishment, improvement, or expansion of public transportation services through specific projects
1576 approved by the Commonwealth Transportation Board. Projects financed by the Commonwealth Transit
1577 Capital Fund shall receive local, regional or private funding for at least 20 percent of the nonfederal
1578 share of the total project cost.

1579 5. Funds for Metro shall be paid by the Northern Virginia Transportation Commission (NVTC) to the
1580 Washington Metropolitan Area Transit Authority (WMATA) and be a credit to the Counties of
1581 Arlington and Fairfax and the Cities of Alexandria, Falls Church and Fairfax in the following manner:

1582 a. Local obligations for debt service for WMATA rail transit bonds apportioned to each locality
1583 using WMATA's capital formula shall be paid first by NVTC. NVTC shall use 95 percent state aid for
1584 these payments.

1585 b. The remaining funds shall be apportioned to reflect WMATA's allocation formulas by using the
1586 related WMATA-allocated subsidies and relative shares of local transit subsidies. Capital costs shall
1587 include 20 percent of annual local bus capital expenses. Hold harmless protections and obligations for
1588 NVTC's jurisdictions agreed to by NVTC on November 5, 1998, shall remain in effect.

Appropriations from the Commonwealth Mass Transit Fund are intended to provide a stable and reliable source of revenue as defined by Public Law 96-184.

B. The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of the Commonwealth in the manner provided in subsections C and D.

C. The localities' share of the net revenue distributable under this section among the counties and cities shall be apportioned by the Comptroller and distributed among them by warrants of the Comptroller drawn on the Treasurer of Virginia as soon as practicable after the close of each month during which the net revenue was received into the state treasury. The distribution of the localities' share of such net revenue shall be computed with respect to the net revenue received into the state treasury during each month, and such distribution shall be made as soon as practicable after the close of each such month.

D. The net revenue so distributable among the counties and cities shall be apportioned and distributed upon the basis of the latest yearly estimate of the population of cities and counties ages five to 19, provided by the Weldon Cooper Center for Public Service of the University of Virginia. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who are domiciled in orphanages or charitable institutions or who are dependents living on any federal military or naval reservation or other federal property within the school division in which the institutions or federal military or naval reservation or other federal property is located. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for members of the military services who are under 20 years of age within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for individuals receiving services in state hospitals, state training centers, or mental health facilities, persons who are confined in state or federal correctional institutions, or persons who attend the Virginia School for the Deaf and the Blind within the school division in which the parents or guardians of such persons legally reside. Such population estimate produced by the Weldon Cooper Center for Public Service of the University of Virginia shall account for persons who attend institutions of higher education within the school division in which the student's parents or guardians legally reside. To such estimate, the Department of Education shall add the population of students with disabilities, ages two through four and 20 through 21, as provided to the Department of Education by school divisions. The revenue so apportionable and distributable is hereby appropriated to the several counties and cities for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, which shall be considered as funds raised from local resources. In any county, however, wherein is situated any incorporated town constituting a school division, the county treasurer shall pay into the town treasury for maintenance, operation, capital outlays, debt and interest payments, or other expenses incurred in the operation of the public schools, the proper proportionate amount received by him in the ratio that the school population of such town bears to the school population of the entire county. If the school population of any city or of any town constituting a school division is increased by the annexation of territory since the last estimate of school population provided by the Weldon Cooper Center for Public Service, such increase shall, for the purposes of this section, be added to the school population of such city or town as shown by the last such estimate and a proper reduction made in the school population of the county or counties from which the annexed territory was acquired.

E. Beginning July 1, 2000, of the remaining sales and use tax revenue, the revenue generated by a two percent sales and use tax, up to an annual amount of \$13 million, collected from the sales of hunting equipment, auxiliary hunting equipment, fishing equipment, auxiliary fishing equipment, wildlife-watching equipment, and auxiliary wildlife-watching equipment in Virginia, as estimated by the most recent U.S. Department of the Interior, Fish and Wildlife Service and U.S. Department of Commerce, Bureau of the Census National Survey of Fishing, Hunting, and Wildlife-Associated Recreation, shall be paid into the Game Protection Fund established under § 29.1-101 and shall be used, in part, to defray the cost of law enforcement. Not later than 30 days after the close of each quarter, the Comptroller shall transfer to the Game Protection Fund the appropriate amount of collections to be dedicated to such Fund. At any time that the balance in the Capital Improvement Fund, established under § 29.1-101.01, is equal to or in excess of \$35 million, any portion of sales and use tax revenues that would have been transferred to the Game Protection Fund, established under § 29.1-101, in excess of the net operating expenses of the Board, after deduction of other amounts which accrue to the Board and are set aside for the Game Protection Fund, shall remain in the general fund until such time as the balance in the Capital Improvement Fund is less than \$35 million.

F. 1. Of the net revenue generated from the one-half percent increase in the rate of the state sales and use tax effective August 1, 2004, pursuant to enactments of the 2004 Special Session I of the General Assembly, the Comptroller shall transfer from the general fund of the state treasury to the

Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1 an amount equivalent to one-half of the net revenue generated from such one-half percent increase as provided in this subdivision. The transfers to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund under this subdivision shall be for one-half of the net revenue generated (and collected in the succeeding month) from such one-half percent increase for the month of August 2004 and for each month thereafter.

2. For the purposes of the Comptroller making the required transfers under subdivision 1, the Tax Commissioner shall make a written certification to the Comptroller no later than the twenty-fifth of each month certifying the sales and use tax revenues generated in the preceding month. Within three calendar days of receiving such certification, the Comptroller shall make the required transfers to the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund.

G. *Beginning July 1, 2013, of the remaining sales and use tax revenue, an amount equal to the following percentages of the revenue generated by a one-half percent sales and use tax, such as that paid to the Transportation Trust Fund as provided in subdivision A 1, shall be paid to the Highway Maintenance and Operating Fund:*

1. *For fiscal year 2014, an amount equal to 10 percent;*
2. *For fiscal year 2015, an amount equal to 20 percent;*
3. *For fiscal year 2016, an amount equal to 30 percent;*
4. *For fiscal year 2017, an amount equal to 40 percent; and*
5. *For fiscal year 2018 and thereafter, an amount equal to 50 percent.*

The Highway Maintenance and Operating Fund's share of the net revenue distributable under this section shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

H. If errors are made in any distribution, or adjustments are otherwise necessary, the errors shall be corrected and adjustments made in the distribution for the next quarter or for subsequent quarters.

H. I. The term "net revenue," as used in this section, means the gross revenue received into the general fund or the Transportation Trust Fund of the state treasury under the preceding sections of this chapter, less refunds to taxpayers.

§ 58.1-638.2. Disposition of state and local sales tax revenue collected pursuant to federal legislation granting remote collection authority.

Notwithstanding any provisions of § 58.1-638 to the contrary, any state and local sales and use tax revenue collected pursuant to federal legislation granting the Commonwealth authority to compel remote sellers to collect the tax for sales made into the Commonwealth shall be paid in the manner provided in this section:

1. *The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of the Commonwealth in the manner provided in subsections F and G of §§ 58.1-605 and 58.1-606. Each locality shall be required to designate an amount equal to 50 percent of the local sales and use tax distribution to transportation needs.*

2. *The sales and use tax revenue generated by a one percent sales and use tax shall be distributed among the counties and cities of the Commonwealth in the manner provided in subsections C and D of § 58.1-638.*

3. *The sales and use tax revenue generated by a 0.125 percent sales and use tax shall be distributed among the counties and cities of the Commonwealth in the manner provided in § 58.1-638.1.*

4. *The Comptroller shall transfer annually to each locality that levied the local tax on fuels for domestic consumption pursuant to the former § 58.1-609.13 as of the date of enactment of the federal legislation described above an amount to compensate the locality for the locality's revenue loss resulting from cessation of the local authority to impose tax on the sale of fuel for domestic consumption due to the repeal of § 58.1-609.13. The amount paid to the locality shall be an amount equal to the locality's revenue from its tax on fuels for domestic consumption in the calendar year prior to the repeal of § 58.1-609.13, but the aggregate amount of such revenue paid to all localities shall not exceed \$7.5 million per year. If the total aggregate amount exceeds \$7.5 million, then each locality shall receive a pro rata portion based on the proportion that the locality's revenue from its tax on fuels for domestic consumption in the calendar year preceding the repeal of § 58.1-609.13 is to the total amount of such revenue in all localities that levied such tax.*

5. *Notwithstanding subsection E of § 58.1-605, subsection E of § 58.1-606, and the provisions of § 58.1-638, all remaining revenue collected pursuant to this section, as estimated by the Department, shall be transferred to the Transportation Trust Fund to be allocated pursuant to § 33.1-23.03:2.*

§ 58.1-638.3. Disposition of 0.8 percent state and local sales and use tax for transportation.

A. *The sales and use tax revenue generated by the 0.8 percent sales and use tax increase enacted by the 2013 Session of the General Assembly shall be paid to the Commonwealth Transportation Fund and allocated as follows:*

1. An amount equal to 4.75 percent of the amount generated by a 0.8 percent sales and use tax increase shall be deposited into the Priority Transportation Fund;

2. An amount equal to 0.7 percent of the amount generated by a 0.8 percent sales and use tax increase shall be transferred to the Department of Motor Vehicles;

3. Of the remaining amount generated by a 0.8 percent sales and use tax increase, 85 percent shall be deposited in the Highway Maintenance and Operating Fund; and

The remaining amount generated by a 0.8 percent sales and use tax shall be deposited to the Transportation Trust Fund and allocated pursuant to the provisions of § 33.1-23.03:2.

B. The Commonwealth Transportation Fund's share of the net revenue distributable under this section shall be computed as an estimate of the net revenue to be received into the state treasury each month, and such estimated payment shall be adjusted for the actual net revenue received in the preceding month. All payments shall be made to the Fund on the last day of each month.

§ 58.1-639. Transitional provisions.

A. To the extent of the ~~one-half~~ 0.8 percent increase in the state sales and use tax rate effective ~~August 1, 2004~~ July 1, 2013, enacted by the ~~2004 Special Session I~~ 2013 Session of the Virginia General Assembly, the Tax Commissioner, upon application of the purchaser in accordance with regulations promulgated by the Commissioner, shall have the authority to refund state sales or use taxes paid on purchases of tangible personal property made pursuant to bona fide real estate construction contracts, contracts for the sale of tangible personal property, and leases, provided that the real estate construction contract, contract for the sale of tangible personal property or lease is entered into prior to the date of enactment of such increase in the state sales and use tax rate; and further provided that the date of delivery of the tangible personal property is on or before ~~October 31, 2004~~ September 30, 2013. The term "bona fide contract," when used in this section in relation to real estate construction contracts, shall include but not be limited to those contracts which are entered into prior to the enactment of such increase in the state sales and use tax rate, provided that such contracts include plans and specifications.

B. Notwithstanding the foregoing ~~October 31, 2004~~ September 30, 2013, delivery date requirement, with respect to bona fide real estate construction contracts which contain a specific and stated date of completion, the date of delivery of such tangible personal property shall be on or before the completion date of the applicable project.

C. Applications for refunds pursuant to this section shall be made in accordance with the provisions of § 58.1-1823. Interest computed in accordance with § 58.1-1833 shall be added to the tax refunded pursuant to this section.

§ 58.1-2201. Definitions.

As used in this chapter, unless the context requires otherwise:

"Alternative fuel" means a combustible gas, liquid or other energy source that can be used to generate power to operate a highway vehicle and that is neither a motor fuel nor electricity used to recharge an electric motor vehicle ~~or a hybrid electric motor vehicle~~.

"Alternative fuel vehicle" means a vehicle equipped to be powered by a combustible gas, liquid, or other source of energy that can be used to generate power to operate a highway vehicle and that is neither a motor fuel nor electricity used to recharge an electric motor vehicle ~~or a hybrid electric motor vehicle~~.

"Assessment" means a written determination by the Department of the amount of taxes owed by a taxpayer. Assessments made by the Department shall be deemed to be made when a written notice of assessment is delivered to the taxpayer by the Department or is mailed to the taxpayer at the last known address appearing in the Commissioner's files.

"Aviation consumer" means any person who uses in excess of 100,000 gallons of aviation jet fuel in any fiscal year and is licensed pursuant to Article 2 (§ 58.1-2204 et seq.) of this chapter.

"Aviation fuel" means aviation gasoline or aviation jet fuel.

"Aviation gasoline" means fuel designed for use in the operation of aircraft other than jet aircraft, and sold or used for that purpose.

"Aviation jet fuel" means fuel designed for use in the operation of jet or turbo-prop aircraft, and sold or used for that purpose.

"Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle.

"Blender" means a person who produces blended fuel outside the terminal transfer system.

"Bonded aviation jet fuel" means aviation jet fuel held in bonded storage under United States Customs Law and delivered into a fuel tank of aircraft operated by certificated air carriers on international flights.

"Bonded importer" means a person, other than a supplier, who imports, by transport truck or another means of transfer outside the terminal transfer system, motor fuel removed from a terminal located in

- 1773 another state in which (i) the state from which the fuel is imported does not require the seller of the fuel
1774 to collect motor fuel tax on the removal either at that state's rate or the rate of the destination state; (ii)
1775 the supplier of the fuel is not an elective supplier; or (iii) the supplier of the fuel is not a permissive
1776 supplier.
- 1777 "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from
1778 which motor fuel may be removed at a rack.
- 1779 "Bulk user" means a person who maintains storage facilities for motor fuel and uses part or all of the
1780 stored fuel to operate a highway vehicle, watercraft, or aircraft.
- 1781 "Bulk user of alternative fuel" means a person who maintains storage facilities for alternative fuel
1782 and uses part or all of the stored fuel to operate a highway vehicle.
- 1783 "Commercial watercraft" means a watercraft employed in the business of commercial fishing,
1784 transporting persons or property for compensation or hire, or any other trade or business unless the
1785 watercraft is used in an activity of a type generally considered entertainment, amusement, or recreation.
1786 The definition shall include a watercraft owned by a private business and used in the conduct of its own
1787 business or operations, including but not limited to the transport of persons or property.
- 1788 "Commissioner" means the Commissioner of the Department of Motor Vehicles.
- 1789 "Corporate or partnership officer" means an officer or director of a corporation, partner of a
1790 partnership, or member of a limited liability company, who as such officer, director, partner or member
1791 is under a duty to perform on behalf of the corporation, partnership, or limited liability company the tax
1792 collection, accounting, or remitting obligations.
- 1793 "Department" means the Department of Motor Vehicles, acting directly or through its duly authorized
1794 officers and agents.
- 1795 "Designated inspection site" means any state highway inspection station, weigh station, agricultural
1796 inspection station, mobile station, or other location designated by the Commissioner or his designee to
1797 be used as a fuel inspection site.
- 1798 "Destination state" means the state, territory, or foreign country to which motor fuel is directed for
1799 delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the
1800 purpose of resale or use. The term shall not include a tribal reservation of any recognized Native
1801 American tribe.
- 1802 "Diesel fuel" means any liquid that is suitable for use as a fuel in a diesel-powered highway vehicle
1803 or watercraft. The term shall include undyed #1 fuel oil and undyed #2 fuel oil, but shall not include
1804 gasoline or aviation jet fuel.
- 1805 "Distributor" means a person who acquires motor fuel from a supplier or from another distributor for
1806 subsequent sale.
- 1807 "Dyed diesel fuel" means diesel fuel that meets the dyeing and marking requirements of 26 U.S.C.
1808 § 4082.
- 1809 "Elective supplier" means a supplier who (i) is required to be licensed in the Commonwealth and (ii)
1810 elects to collect the tax due the Commonwealth on motor fuel that is removed at a terminal located in
1811 another state and has Virginia as its destination state.
- 1812 "Electric motor vehicle" means a motor vehicle that uses electricity as its only source of motive
1813 power.
- 1814 "End seller" means the person who sells fuel to the ultimate user of the fuel.
- 1815 "Export" means to obtain motor fuel in Virginia for sale or distribution in another state, territory, or
1816 foreign country. Motor fuel delivered out-of-state by or for the seller constitutes an export by the seller,
1817 and motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.
- 1818 "Exporter" means a person who obtains motor fuel in Virginia for sale or distribution in another
1819 state, territory, or foreign country.
- 1820 "Fuel" includes motor fuel and alternative fuel.
- 1821 "Fuel alcohol" means methanol or fuel grade ethanol.
- 1822 "Fuel alcohol provider" means a person who (i) produces fuel alcohol or (ii) imports fuel alcohol
1823 outside the terminal transfer system by means of a marine vessel, a transport truck, a tank wagon, or a
1824 railroad tank car.
- 1825 "Gasohol" means a blended fuel composed of gasoline and fuel grade ethanol.
- 1826 "Gasoline" means (i) all products that are commonly or commercially known or sold as gasoline and
1827 are suitable for use as a fuel in a highway vehicle, aircraft, or watercraft, other than products that have
1828 an American Society for Testing Materials octane number of less than 75 as determined by the motor
1829 method; (ii) a petroleum product component of gasoline, such as naphtha, reformate, or toluene; (iii)
1830 gasohol; and (iv) fuel grade ethanol. The term does not include aviation gasoline sold for use in an
1831 aircraft engine.
- 1832 "Governmental entity" means (i) the Commonwealth or any political subdivision thereof or (ii) the
1833 United States or its departments, agencies, and instrumentalities.
- 1834 "Gross gallons" means an amount of motor fuel measured in gallons, exclusive of any temperature,

pressure, or other adjustments.

"Heating oil" means any combustible liquid, including but not limited to dyed #1 fuel oil, dyed #2 fuel oil, and kerosene, that is burned in a boiler, furnace, or stove for heating or for industrial processing purposes.

"Highway" means every way or place of whatever nature open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

"Highway vehicle" means a self-propelled vehicle designed for use on a highway.

"Hybrid electric motor vehicle" means a motor vehicle that uses electricity and another source of motive power.

"Import" means to bring motor fuel into Virginia by any means of conveyance other than in the fuel supply tank of a highway vehicle. Motor fuel delivered into Virginia from out-of-state by or for the seller constitutes an import by the seller, and motor fuel delivered into Virginia from out-of-state by or for the purchaser constitutes an import by the purchaser.

"Importer" means a person who obtains motor fuel outside of Virginia and brings that motor fuel into Virginia by any means of conveyance other than in the fuel tank of a highway vehicle. For purposes of this chapter, a motor fuel transporter shall not be considered an importer.

"In-state-only supplier" means (i) a supplier who is required to have a license and who elects not to collect the tax due the Commonwealth on motor fuel that is removed by that supplier at a terminal located in another state and has Virginia as its destination state or (ii) a supplier who does business only in Virginia.

"Licensee" means any person licensed by the Commissioner pursuant to Article 2 (§ 58.1-2204 et seq.) of this chapter or § 58.1-2244.

"Liquid" means any substance that is liquid above its freezing point.

"Motor fuel" means gasoline, diesel fuel, blended fuel, and aviation fuel.

"Motor fuel transporter" means a person who transports motor fuel for hire by means of a pipeline, a tank wagon, a transport truck, a railroad tank car, or a marine vessel.

"Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.

"Occasional importer" means any person who (i) imports motor fuel by any means outside the terminal transfer system and (ii) is not required to be licensed as a bonded importer.

"Permissive supplier" means an out-of-state supplier who elects, but is not required, to have a supplier's license under this chapter.

"Person" means any individual; firm; cooperative; association; corporation; limited liability company; trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in bankruptcy; club, society or other group or combination acting as a unit; or public body, including but not limited to the Commonwealth, any other state, and any agency, department, institution, political subdivision or instrumentality of the Commonwealth or any other state.

"Position holder" means a person who holds an inventory position of motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds an "inventory position of motor fuel" when he has a contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal.

"Principal" means (i) if a partnership, all its partners; (ii) if a corporation, all its officers, directors, and controlling direct or indirect owners; (iii) if a limited liability company, all its members; and (iv) or an individual.

"Provider of alternative fuel" means a person who (i) acquires alternative fuel for sale or delivery to a bulk user or a retailer; (ii) maintains storage facilities for alternative fuel, part or all of which the person sells to someone other than a bulk user or a retailer to operate a highway vehicle; (iii) sells alternative fuel and uses part of the fuel acquired for sale to operate a highway vehicle by means of a fuel supply line from the cargo tank of the vehicle to the engine of the vehicle; or (iv) imports alternative fuel into Virginia, by a means other than the usual tank or receptacle connected with the engine of a highway vehicle, for sale or use by that person to operate a highway vehicle.

"Rack" means a facility that contains a mechanism for delivering motor fuel from a refinery, terminal, or bulk plant into a transport truck, railroad tank car, or other means of transfer that is outside the terminal transfer system.

"Refiner" means any person who owns, operates, or otherwise controls a refinery.

"Refinery" means a facility for the manufacture or reprocessing of finished or unfinished petroleum products usable as motor fuel and from which motor fuel may be removed by pipeline or marine vessel or at a rack.

"Removal" means a physical transfer other than by evaporation, loss, or destruction. A physical transfer to a transport truck or other means of conveyance outside the terminal transfer system is complete upon delivery into the means of conveyance.

1896 "Retailer" means a person who (i) maintains storage facilities for motor fuel and (ii) sells the fuel at
 1897 retail or dispenses the fuel at a retail location.

1898 "Retailer of alternative fuel" means a person who (i) maintains storage facilities for alternative fuel
 1899 and (ii) sells or dispenses the fuel at retail, to be used to generate power to operate a highway vehicle.

1900 "Supplier" means (i) a position holder, or (ii) a person who receives motor fuel pursuant to a
 1901 two-party exchange. A licensed supplier includes a licensed elective supplier and licensed permissive
 1902 supplier.

1903 "System transfer" means a transfer (i) of motor fuel within the terminal transfer system or (ii) of fuel
 1904 grade ethanol by transport truck or railroad tank car.

1905 "Tank wagon" means a straight truck or straight truck/trailer combination designed or used to carry
 1906 fuel and having a capacity of less than 6,000 gallons.

1907 "Terminal" means a motor fuel storage and distribution facility (i) to which a terminal control
 1908 number has been assigned by the Internal Revenue Service, (ii) to which motor fuel is supplied by
 1909 pipeline or marine vessel, and (iii) from which motor fuel may be removed at a rack.

1910 "Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

1911 "Terminal transfer system" means a motor fuel distribution system consisting of refineries, pipelines,
 1912 marine vessels, and terminals, and which is a "bulk transfer/terminal system" under 26 C.F.R. Part
 1913 48.4081-1.

1914 "Transmix" means (i) the buffer or interface between two different products in a pipeline shipment or
 1915 (ii) a mix of two different products within a refinery or terminal that results in an off-grade mixture.

1916 "Transport truck" means a tractor truck/semitrailer combination designed or used to transport cargoes
 1917 of motor fuel over a highway.

1918 "Trustee" means a person who (i) is licensed as a supplier, an elective supplier, or a permissive
 1919 supplier and receives tax payments from and on behalf of a licensed or unlicensed distributor, or other
 1920 person pursuant to § 58.1-2231 or (ii) is licensed as a provider of alternative fuel and receives tax
 1921 payments from and on behalf of a bulk user of alternative fuel, retailer of alternative fuel or other
 1922 person pursuant to § 58.1-2252.

1923 "Two-party exchange" means a transaction in which fuel is transferred from one licensed supplier to
 1924 another licensed supplier pursuant to an exchange agreement, which transaction (i) includes a transfer
 1925 from the person who holds the inventory position in taxable motor fuel in the terminal as reflected on
 1926 the records of the terminal operator and (ii) is completed prior to removal of the product from the
 1927 terminal by the receiving exchange partner.

1928 "Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental
 1929 Protection Agency or Internal Revenue Service fuel-dyeing requirements.

1930 "Use" means the actual consumption or receipt of motor fuel by any person into a highway vehicle,
 1931 aircraft, or watercraft.

1932 "Watercraft" means any vehicle used on waterways.

1933 **§ 58.1-2217. Taxes levied; rate.**

1934 A. There is hereby levied a tax at the rate of seventeen and one-half cents per gallon on gasoline and
 1935 gasohol.

1936 B. (Contingent expiration date) There is hereby levied a tax at the rate of seventeen and one-half
 1937 cents per gallon on diesel fuel.

1938 B. A. (Contingent effective date) There is hereby levied a tax at the rate of sixteen cents per gallon
 1939 on diesel fuel.

1940 C. ~~Blended fuel that contains gasoline shall be taxed at the rate levied on gasoline.~~ B. Blended fuel
 1941 that contains diesel fuel shall be taxed at the rate levied on diesel fuel.

1942 D. C. There is hereby levied a tax at the rate of five cents per gallon on aviation gasoline. Any
 1943 person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use
 1944 in highway vehicles any aviation gasoline shall be liable for the tax at the rate of seventeen and one-half
 1945 cents per gallon, along with any penalties and interest that may accrue.

1946 E. D. (Contingent expiration date) There is hereby levied a tax at the rate of five cents per gallon on
 1947 aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation
 1948 consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons
 1949 of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation
 1950 consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all
 1951 aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation
 1952 consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under
 1953 this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet
 1954 fuel taxable under this chapter shall be liable for the tax imposed at the rate of seventeen and one-half
 1955 cents per gallon, along with any penalties and interest that may accrue.

1956 E. D. (Contingent effective date) There is hereby levied a tax at the rate of five cents per gallon on
 1957 aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation

consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of sixteen cents per gallon, along with any penalties and interest that may accrue.

F. E. In accordance with § 62.1-44.34:13, a storage tank fee is imposed on each gallon of gasoline, aviation gasoline, diesel fuel (including dyed diesel fuel), blended fuel, and heating oil sold and delivered or used in the Commonwealth. *The provisions of this chapter related to the administration, enforcement, penalties, and record keeping of the taxes imposed herein shall also apply to the collection of the storage tank fee.*

§ 58.1-2237. Duties of supplier as trustee.

A. All tax payments due to the Commonwealth received by a supplier pursuant to § 58.1-2231 shall be held by the supplier as trustee in trust for the Commonwealth, and a supplier has a fiduciary duty to remit to the Commissioner the amount of tax received by the supplier. A supplier shall be liable for the taxes paid to him.

B. A supplier shall notify a licensed distributor, licensed exporter, or licensed importer who received motor fuel from the supplier during a reporting period of the number of taxable *and untaxed* gallons received. The supplier shall give this notice after the end of each reporting period and before the licensee is required to remit to the supplier the amount of tax due on the fuel.

C. A supplier of motor fuel at a terminal shall notify the Commissioner within 10 business days after a return is due of any licensed distributor or licensed importer who did not pay the tax due the supplier when the supplier filed his return. The notice shall be transmitted to the Commissioner in the form required by the Commissioner.

D. A supplier who receives a payment of tax shall not apply the payment to a debt that the person making the payment owes the supplier for motor fuel purchased from the supplier.

§ 58.1-2249. Tax on alternative fuel.

A. (Contingent expiration date) There is hereby levied a tax at the rate of seventeen and one-half cents per gallon on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to seventeen and one-half cents per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

A. (Contingent effective date) There is hereby levied a tax at the rate of sixteen cents per gallon on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to sixteen cents per gallon on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of \$50 \$100 per vehicle on each highway vehicle registered in Virginia that is an electric motor vehicle, a hybrid electric motor vehicle, or an alternative fuel vehicle. However, no license tax shall be levied on any vehicle that is subject to the tax levied by subsection A or that is registered under the International Registration Plan. If such a highway vehicle is registered for a period other than one year as provided under § 46.2-646, the license tax shall be multiplied by the number of years or fraction thereof that the vehicle will be registered. *The revenues generated by this subsection shall be deposited in the Commonwealth Mass Transit Fund, created pursuant to § 58.1-638, and used for the purposes set forth therein.*

§ 58.1-2251. Liability for tax; filing returns; payment of tax.

A. A bulk user of alternative fuel or retailer of alternative fuel who stores highway and nonhighway alternative fuel in the same storage tank shall be liable for the tax imposed by this article, and shall file tax returns and remit taxes in accordance with subsection D. The tax payable by a bulk user of alternative fuel or retailer of alternative fuel is imposed at the point that alternative fuel is withdrawn from the storage tank.

B. A provider of alternative fuel who sells or delivers alternative fuel shall be liable for the tax imposed by this article (i) on sales to a bulk user of alternative fuel or retailer of alternative fuel who stores highway product in a separate storage tank or (ii) if the alternative fuel is sold or used by the provider of alternative fuel for highway use.

C. The owner of a highway vehicle subject to an annual license tax pursuant to subsection B of § 58.1-2249 shall be liable for such annual license tax. The annual license tax shall be due ~~on or before~~

2019 the last day of December of each year when the highway vehicle is first registered in Virginia and upon
2020 each subsequent renewal of registration.

2021 D. 1. Each (i) bulk user of alternative fuel or retailer of alternative fuel liable for tax pursuant to
2022 subsection A and (ii) provider of alternative fuel liable for the tax pursuant to subsection B shall file a
2023 monthly tax return with the Department. The tax on alternative fuel levied by this article, except for the
2024 annual license tax imposed under subsection B of § 58.1-2249, that is required to be remitted to the
2025 Commonwealth shall be payable to the Commonwealth not later than the date on which the return is
2026 due. A return and payment shall be (i) postmarked on or before the fifteenth day of the second month
2027 succeeding the month for which the return and payment are due or (ii) received by the Department by
2028 the twentieth day of the second month succeeding the month for which the return and payment are due.
2029 However, a monthly return of the tax for the month of May shall be (i) postmarked by June 25 or (ii)
2030 received by the Commissioner by the last business day the Department is open for business in June.

2031 2. If a tax return and payment due date falls on a Saturday, Sunday, or a state or banking holiday,
2032 the return shall be postmarked on or before the fifteenth day of the second month succeeding the month
2033 for which the return and payment are due or received by the Department by midnight of the next
2034 business day the Department is open for business. This provision shall not apply to a return of the tax
2035 for the month of May.

2036 3. A return and payment shall be deemed postmarked if it carries the official cancellation mark of
2037 the United States Postal Service or other postal or delivery service.

2038 4. A return shall be filed with the Commissioner and shall be in the form and contain the
2039 information required by the Commissioner.

2040 **§ 58.1-2289. (Contingent expiration date) Disposition of tax revenue generally.**

2041 A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by
2042 the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be
2043 promptly paid into the state treasury and shall constitute special funds within the Commonwealth
2044 Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for
2045 use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds
2046 shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived
2047 from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or 58.1-2701, and remaining after authorized
2048 refunds for nonhighway use of fuel, shall be used for any purpose other than the construction,
2049 reconstruction or maintenance of the roads and projects comprising the State Highway System, the
2050 Interstate System and the secondary system of state highways and expenditures directly and necessarily
2051 required for such purposes, including the retirement of revenue bonds.

2052 Revenues collected under this chapter may be also used for (i) contributions toward the construction,
2053 reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law
2054 and (ii) expenditures for the operation and maintenance of the Department of Transportation, the
2055 Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority,
2056 and the Department of Motor Vehicles as may be provided by law.

2057 The Governor is hereby authorized to transfer out of such fund an amount necessary for the
2058 inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection
2059 and analysis of gasoline for purity.

2060 B. Except as provided in subsection F, the tax collected on each gallon of aviation fuel sold and
2061 delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state
2062 treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed
2063 upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the
2064 administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance
2065 and improvement of airports and landing fields to which the public now has or which it is proposed
2066 shall have access, and for the promotion of aviation in the interest of operators and the public generally.

2067 C. One-half cent of the tax collected on each gallon of fuel on which a refund has been paid for
2068 gasoline, ~~gasohol~~, diesel fuel, blended fuel, or alternative fuel, for fuel consumed in tractors and
2069 unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state
2070 treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds
2071 and defray the costs of the research and educational phases of the agricultural program, including
2072 supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,
2073 the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research
2074 Station, including reasonable expenses of the Virginia Agricultural Council.

2075 D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial
2076 watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of
2077 the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the
2078 purposes provided generally in subsection C of § 29.1-701, including acquisition, construction,
2079 improvement and maintenance of public boating access areas on the public waters of this
2080 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public

and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established by the General Assembly.

E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected pursuant to this section to a special fund within the Commonwealth Transportation Fund in the state treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, an amount equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less taxes collected for aviation fuels.

F. The additional revenues, less any additional refunds authorized, generated by increases in the rates of taxes under this chapter pursuant to enactments of the 2007 Session of the General Assembly shall be collected pursuant to Article 4 of this chapter and deposited into the Highway Maintenance and Operating Fund.

§ 58.1-2289. (Contingent effective date) Disposition of tax revenue generally.

A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be promptly paid into the state treasury and shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or § 58.1-2701, and remaining after authorized refunds for nonhighway use of fuel, shall be used for any purpose other than the construction, reconstruction or maintenance of the roads and projects comprising the State Highway System, the Interstate System and the secondary system of state highways and expenditures directly and necessarily required for such purposes, including the retirement of revenue bonds.

Revenues collected under this chapter may be also used for (i) contributions toward the construction, reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law and (ii) expenditures for the operation and maintenance of the Department of Transportation, the Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority, and the Department of Motor Vehicles as may be provided by law.

The Governor is hereby authorized to transfer out of such fund an amount necessary for the inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection and analysis of gasoline for purity.

B. The tax collected on each gallon of aviation fuel sold and delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance and improvement of airports and landing fields to which the public now has or which it is proposed shall have access, and for the promotion of aviation in the interest of operators and the public generally.

C. One-half cent of the tax collected on each gallon of fuel on which the refund has been paid at the rate of seventeen cents per gallon, or in the case of diesel fuel, fifteen and one-half cents per gallon, for fuel consumed in tractors and unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds and defray the costs of the research and educational phases of the agricultural program, including supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University, the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research Station, including reasonable expenses of the Virginia Agricultural Council.

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of

the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section; (ii) improve commercial and sports fisheries in Virginia's tidal waters; (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries; and (iv) further the purposes set forth in §- 33.1-223, a sum as established by the General Assembly.

E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected pursuant to this section to a special fund within the Commonwealth Transportation Fund in the state treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, an amount equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less taxes collected for aviation fuels.

§ 58.1-2292. (Effective July 1, 2013) Definitions.

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

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

"Cost price" means the same as that term is defined in § 58.1-602, and also includes all federal and state excise taxes and storage tank fees paid by the distributor. "Cost price" does not include separately stated federal diesel fuel excise taxes, unless the distributor fails to exclude the federal diesel excise tax when collecting the tax imposed pursuant to this chapter.

"Department" means the Department of Motor Vehicles, acting directly or through its duly authorized officers and agents.

"Distributor" means (i) any person engaged in the business of selling fuels in the Commonwealth who brings, or causes to be brought, into the Commonwealth from outside the Commonwealth any fuels for sale, or any other person engaged in the business of selling fuels in the Commonwealth; (ii) any person who makes, manufactures, fabricates, processes, or stores fuels in the Commonwealth for sale in the Commonwealth; or (iii) any person engaged in the business of selling fuels outside the Commonwealth who ships or transports fuels to any person in the business of selling fuels in the Commonwealth.

"Fuel" means any fuel *that was* subject to tax under Chapter 22 (§ 58.1-2200 et seq.) *as such chapter was in effect on June 30, 2013.*

"Gross sales" means the same as that term is defined in § 58.1-602.

"Retail dealer" means any person, including a distributor, who sells fuels to a consumer or to any person for any purpose other than resale.

"Sale" means the same as that term is defined in § 58.1-602 and also includes the distribution of fuel by a distributor to itself as a retail dealer.

"Sales price" means the same as that term is defined in § 58.1-602 and also includes all transportation and delivery charges, regardless of whether the charges are separately stated on the invoice. Sales price does not include separately stated federal diesel fuel excise taxes, unless the distributor fails to exclude the federal diesel excise tax when collecting the tax imposed pursuant to this chapter.

§ 58.1-2701. (Contingent expiration date) Amount of tax.

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to \$0.21 per gallon calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of ~~sixty~~ 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), *other than gasoline, gasohol, or blended fuel that contains gasoline*, used in its operations within the Commonwealth.

The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed on a motor carrier by any other provision of law.

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan *and that are not powered by gasoline*,

gasohol, or blended fuel that contains gasoline shall pay a fee of \$150 per year for each qualified highway vehicle regardless of whether such vehicle will be included on the motor carrier's IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

§ 58.1-2701. (Contingent effective date) Amount of tax.

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to nineteen and one-half cents per gallon calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of ~~sixty~~ 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), *other than gasoline, gasohol, or blended fuel that contains gasoline*, used in its operations within the Commonwealth.

The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed on a motor carrier by any other provision of law.

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan *and that are not powered by gasoline, gasohol, or blended fuel that contains gasoline* shall pay a fee of \$100 per year for each qualified highway vehicle, regardless of whether such vehicle will be included on the motor carrier's IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

§ 58.1-2702. Exemptions and exceptions.

The provisions of this chapter shall not apply to a person, firm or corporation owning or operating:

1. Recreational vehicles, as defined in the provisions of the International Fuel Tax Agreement (IFTA);

2. The first two Virginia-licensed trucks and tractor trucks *powered by a motor fuel other than gasoline, gasohol, or blended fuel that contains gasoline*, if used exclusively for farm use as defined in § 46.2-698 and if not licensed in any other state;

3. Qualified highway vehicles of a licensed highway vehicle dealer when operated without compensation for purposes incident to a sale or for demonstration; or

4. Any highway vehicle owned and operated by the United States, the District of Columbia, the Commonwealth of Virginia or any municipality or any other political subdivision of the Commonwealth, or any other state.

§ 58.1-2703. Payment of tax.

The tax imposed under § 58.1-2701 shall be paid by each motor carrier quarterly to the State Treasurer on or before the last day of April, July, October and January of each year and calculated upon the amount of ~~gasoline or other~~ motor fuel used in its operations within the Commonwealth by each such carrier during the quarter ending with the last day of the preceding month.

§ 58.1-2704. How amount of fuel used in the Commonwealth ascertained.

On and after October 1, 1992, the amount of ~~gasoline or other~~ motor fuel used in the operations of any motor carrier in the Commonwealth shall be determined by dividing the total number of miles traveled within the Commonwealth by such carrier's vehicles during a calendar quarter by a consumption factor, such factor being comprised of the total number of miles traveled by all vehicles of the motor carrier during the quarter divided by the total amount of ~~gasoline or other~~ motor fuel used in its entire operations during such quarter.

§ 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.

A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax equivalent to seventeen and one-half cents per gallon on all motor fuel, diesel fuel and liquefied gases, *other than gasoline, gasohol, or blended fuel that contains gasoline*, purchased by such carrier within the Commonwealth for use in its operations either within or without the Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such form as may be required by, or is

2265 satisfactory to, the Department shall be furnished by each carrier claiming the credit herein allowed.

2266 B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the
2267 amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as
2268 a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding
2269 quarters or (ii) be refunded, upon application, duly verified and presented and supported by such
2270 evidence as may be satisfactory to the Department.

2271 C. The Department may allow a refund upon receipt of proper application and review. It shall be at
2272 the discretion of the Department to determine whether an audit is required.

2273 D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the
2274 applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of
2275 not less than ~~ten~~ 10 days to the applicant and the Attorney General.

2276 E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and
2277 Construction Fund.

2278 F. Whenever a person operating under lease to a motor carrier to perform transport services on
2279 behalf of the carrier purchases motor fuel, diesel fuel, or liquefied gases, *other than gasoline, gasohol,*
2280 *or blended fuel that contains gasoline*, relating to such services, such payments or purchases may, at the
2281 discretion of the Department, be considered payment or purchases by the carrier.

2282 **§ 58.1-2708. Inspection of books and records.**

2283 The Department and its authorized agents and representatives shall have the right at any reasonable
2284 time to inspect the books and records of any motor carrier subject to the tax imposed by this chapter *or*
2285 *to any tax collectible under the International Fuel Tax Agreement.*

2286 **2. That § 58.1-609.13 of the Code of Virginia is repealed.**

2287 **3. That in computing the amount of sales and use tax revenue paid under subsection G of**
2288 **§ 58.1-638 as added by this act and § 58.1-638.3 as added by this act, the amount of such revenue**
2289 **attributable to sales and use tax on food for human consumption, as defined in § 58.1-611.1 of the**
2290 **Code of Virginia, shall be excluded.**

2291 **4. Notwithstanding the provisions of subsection G of § 58.1-638 as added by this act to the**
2292 **contrary, the Highway Maintenance and Operating Fund's portion of the revenue in fiscal years**
2293 **2014, 2015, and 2016 shall be dedicated to Phase 2 of the Dulles Corridor Metrorail Extension**
2294 **Project, provided, however, that the Metropolitan Washington Airports Authority (MWAA) Board**
2295 **of Directors first address all deficiencies cited in the Office of the Inspector General of the U.S.**
2296 **Department of Transportation's Report on MWAA Governance and the auditor appointed by the**
2297 **U.S. Secretary of Transportation determines that such deficiencies have been addressed.**

2298 **5. That the provisions of this act relating to the authority to compel remote sellers to collect the**
2299 **Commonwealth's sales and use tax on sales made in the Commonwealth shall not become effective**
2300 **unless (i) the federal government enacts legislation ("the federal act") that grants states that meet**
2301 **minimum simplification requirements specified in the federal act the authority to compel remote**
2302 **retailers to collect sales and use tax on sales made into the Commonwealth and (ii) the Tax**
2303 **Commissioner publishes notice in the Virginia Register of Regulations that declares that**
2304 **conformity to the federal act is cost effective, generates additional sales and use tax revenues for**
2305 **the Commonwealth, is not in conflict with the Constitution of Virginia, and is otherwise**
2306 **advantageous to the Commonwealth, and adheres to all notice requirements set forth in the federal**
2307 **act. Before publishing such public notice, the Tax Commissioner shall consult with the Governor**
2308 **to determine whether conformity to any provision of the federal act is not advantageous to the**
2309 **Commonwealth.**

2310 **6. That the provisions of § 58.1-2289 of this act shall become effective July 1, 2014.**