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SENATE BILL NO. 1236

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on January 23, 2013)

(Patron Prior to Substitute—Senator Watkins)

A BILL to amend and reenact §§ 58.1-3503 and 58.1-3506 of the Code of Virginia, relating to personal property tax; outdoor advertising signs.

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3503 and 58.1-3506 of the Code of Virginia are amended and reenacted as follows:

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

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

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

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

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

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

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

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

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

8. Taxicabs.

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

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

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

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

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

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

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

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

17. All tangible personal property employed in a trade or business other than that described in

subdivisions 1 through 16 of this subsection, which shall be valued by means of a percentage or percentages of original cost.

18. *Outdoor advertising signs regulated under Article 1 (§ 33.1-351 et seq.) of Chapter 7 of Title 33.1.*

19. All other tangible personal property.

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

§ 58.1-3506. (Effective for tax years beginning on or after January 1, 2013) Other classifications of tangible personal property for taxation.

A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;

b. Boats or watercraft weighing less than five tons, not used solely for business purposes;

2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and operated by scheduled air carriers operating under certificates of public convenience and necessity issued by the State Corporation Commission or the Civil Aeronautics Board;

3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law, but not including any aircraft described in subdivision 4;

4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and otherwise used for educational purposes (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a new class of property. Such class of property shall not include any aircraft used for commercial purposes, including transportation and other services for a fee;

5. All other aircraft not included in subdivisions A 2, A 3, or A 4 and flight simulators;

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

7. Tangible personal property used in a research and development business;

8. Heavy construction machinery not used for business purposes, including but not limited to land movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity equipment and ditch and other types of diggers;

9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any other alternative energy source for use in manufacturing and any cogeneration equipment purchased to achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment shall include, without limitation, such equipment purchased by firms engaged in the business of generating electricity or steam, or both;

10. Vehicles without motive power, used or designed to be used as manufactured homes as defined in § 36-85.3;

11. Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;

12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes only;

13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons, including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;

14. Motor vehicles specially equipped to provide transportation for physically handicapped individuals;

15. Motor vehicles (i) owned by members of a volunteer rescue squad or volunteer fire department or (ii) leased by members of a volunteer rescue squad or volunteer fire department if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One

motor vehicle that is owned by each volunteer rescue squad member or volunteer fire department member, or leased by each volunteer rescue squad member or volunteer fire department member if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer rescue squad member or volunteer fire department member regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief or head of the volunteer organization, that the volunteer is a member of the volunteer rescue squad or fire department who regularly responds to calls or regularly performs other duties for the rescue squad or fire department, and the motor vehicle owned or leased by the volunteer rescue squad member or volunteer fire department member is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline. In any county that prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;

16. Motor vehicles (i) owned by auxiliary members of a volunteer rescue squad or volunteer fire department or (ii) leased by auxiliary members of a volunteer rescue squad or volunteer fire department if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or rescue squad member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief or head of the volunteer organization, that the volunteer is an auxiliary member of the volunteer rescue squad or fire department who regularly performs duties for the rescue squad or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer rescue squad or fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior or handicapped citizens in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1900, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100 which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

183 21. Until the first to occur of June 30, 2019, or the date that a special improvements tax is no longer
184 levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created
185 pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in
186 manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District,
187 provided that such business personal property is put into service within the District on or after July 1,
188 1999;

189 22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include
190 any vehicle described in subdivision 38 or 40;

191 23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly
192 licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such
193 use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the
194 boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that
195 are found in the wild, or in a wild state, and are native to a foreign country;

196 24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and
197 used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is
198 used by that organization for the purpose of maintaining or using the open or common space within a
199 residential development;

200 25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more
201 used to transport property for hire by a motor carrier engaged in interstate commerce;

202 26. All tangible personal property employed in a trade or business other than that described in
203 subdivisions A 1 through A 48 19, except for subdivision A 17, of § 58.1-3503;

204 27. Programmable computer equipment and peripherals employed in a trade or business;

205 28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational
206 purposes only;

207 29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for
208 recreational purposes only;

209 30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes
210 only;

211 31. Tangible personal property used in the provision of Internet services. For purposes of this
212 subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables
213 users to access content, information, electronic mail, and the Internet as part of a package of services
214 sold to customers;

215 32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy
216 sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if
217 the person is obligated by the terms of the lease to pay tangible personal property tax on the motor
218 vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve,
219 volunteer, or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy
220 sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In
221 order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification
222 shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of
223 revenue or other assessing officer with a certification from the governing body that has appointed such
224 auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That
225 certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor
226 vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification
227 is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by
228 January 31 of each year to the commissioner of revenue or other assessing officer; however, the
229 commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good
230 cause shown and without fault on the part of the member, to accept a certification after the January 31
231 deadline;

232 33. Forest harvesting and silvicultural activity equipment;

233 34. Equipment used primarily for research, development, production, or provision of biotechnology
234 for the purpose of developing or providing products or processes for specific commercial or public
235 purposes, including, but not limited to, medical, pharmaceutical, nutritional, and other health-related
236 purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as
237 defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes
238 of this section, biotechnology equipment means equipment directly used in activities associated with the
239 science of living things;

240 35. Boats or watercraft weighing less than five tons, used for business purposes only;

241 36. Boats or watercraft weighing five tons or more, used for business purposes only;

242 37. Tangible personal property which is owned and operated by a service provider who is not a
243 CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet
244 service. For purposes of this subdivision, "wireless broadband Internet service" means a service that

enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;

38. Low-speed vehicles as defined in § 46.2-100;

39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;

40. Motor vehicles powered solely by electricity; and

41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576.

B. The governing body of any county, city or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 41 of subsection A, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, A 9, A 21, and A 25, not exceed that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

2. That, notwithstanding any other provision of general or special law, no locality shall tax outdoor advertising signs regulated under Article 1 (§ 33.1-351 et seq.) of Chapter 7 of Title 33.1 of the Code of Virginia as real property or consider such sign, or income generated by such sign, in assessing the value of real property or leasehold or easement interest in such real property.

3. That the provisions of this act are effective for tax years beginning on or after January 1, 2013.

4. That an emergency exists and this act is in force from its passage.