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**HOUSE BILL NO. 1502**

Offered January 11, 2017

Prefiled December 17, 2016

*A BILL to amend and reenact § 58.1-647 of the Code of Virginia, relating to communications sales and use tax.*

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Patron—Davis

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Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-647 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-647. Definitions.**

Terms used in this chapter shall have the same meanings as those used in Chapter 6 of this title (§ 58.1-600 *et seq.*), unless defined otherwise, as follows:

"Cable service" means the one-way transmission to subscribers of (i) video programming as defined in 47 U.S.C. § 522 (20) or (ii) other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service. Cable service does not include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. § 332 (d) and any direct-to-home satellite service as defined in 47 U.S.C. § 303 (v).

"Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls.

"Coin-operated communications service" means a communications service paid for by means of inserting coins in a coin-operated telephone.

"Communications services" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for the transmission or conveyance. The term includes, but is not limited to, (i) the connection, movement, change, or termination of communications services; (ii) detailed billing of communications services; (iii) sale of directory listings in connection with a communications service; (iv) central office and custom calling features; (v) voice mail and other messaging services; and (vi) directory assistance.

"Communications services provider" means every person who provides communications services to customers in the Commonwealth and is or should be registered with the Department as a provider.

"Cost price" means the actual cost of the purchased communications service computed in the same manner as the sales price.

"Customer" means the person who contracts with the seller of communications services. If the person who utilizes the communications services is not the contracting party, the person who utilizes the services on his own behalf or on behalf of an entity is the customer of such service. "Customer" does not include a reseller of communications services or the mobile communications services of a serving carrier under an agreement to serve the customer outside the communications service provider's licensed service area.

"Customer channel termination point" means the location where the customer either inputs or receives the private communications service.

"Information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using, or making available information via communications services for purposes other than the electronic transmission, conveyance, or routing.

"Internet access service" means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to users. "Internet access service" does not include telecommunications services, except to the extent telecommunications services are purchased, used, or sold by a provider of Internet access to provide Internet access.

"Place of primary use" means the street address representative of where the customer's use of the communications services primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile communications services, the place of primary use shall be within the licensed service area of the home service provider.

"Postpaid calling service" means the communications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, debit card, or by a charge made to a telephone number that is not associated with the

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59 origination or termination of the communications service.

60 "Prepaid calling service" means the right to access exclusively communications services, which must  
61 be paid for in advance and which enables the origination of calls using an access number or  
62 authorization code, whether manually or electronically dialed, and that is sold in predetermined units or  
63 dollars that decrease in number with use.

64 "Private communications service" means a communications service that entitles the customer or user  
65 to exclusive or priority use of a communications channel or group of channels between or among  
66 channel termination points, regardless of the manner in which such channel or channels are connected,  
67 and includes switching capacity, extension lines, stations, and any other associated services that are  
68 provided in connection with the use of such channel or channels.

69 "Retail sale" or a "sale at retail" means a sale of communications services for any purpose other than  
70 for resale or for use as a component part of or for the integration into communications services to be  
71 resold in the ordinary course of business.

72 "Sales price" means the total amount charged in money or other consideration by a communications  
73 services provider for the sale of the right or privilege of using communications services in the  
74 Commonwealth, including any property or other services that are part of the sale. The sales price of  
75 communications services shall not be reduced by any separately identified components of the charge that  
76 constitute expenses of the communications services provider, including but not limited to, sales taxes on  
77 goods or services purchased by the communications services provider, property taxes, *and* taxes  
78 measured by net income, ~~and~~ *provided, however, that the sales price shall be reduced by any separately*  
79 *identified* universal-service fund fees.

80 "Service address" means; (i) the location of the telecommunications equipment to which a customer's  
81 call is charged and from which the call originates or terminates, regardless of where the call is billed or  
82 paid. If the location is not known in clause (i), "service address" means (ii) the origination point of the  
83 signal of the telecommunications system or in information received by the seller from its service  
84 provider, where the system used to transport such signals is not that of the seller. If the location is not  
85 known in clauses (i) and (ii), the service address means (iii) the location of the customer's place of  
86 primary use.