

DEPARTMENT OF TAXATION

2023 Fiscal Impact Statement

1. **Patron** Kimberly A. Taylor

2. **Bill Number** HB 1677

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Retail Sales and Use Tax; Service exemptions; Diagnostic work for automotive repair and emergency roadside service

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would provide an exemption from the Retail Sales and Use Tax for amounts separately charged for labor rendered in connection with diagnostic work for automotive repair and emergency roadside service for motor vehicles regardless of whether there is a sale of a repair or replacement part or a shop supply charge.

Under current law, amounts charged for diagnostic services are exempt from sales tax when those charges are not made in connection with the sale of tangible personal property or the tangible personal property exchanged is inconsequential to the transaction.

If enacted during the regular session of the 2023 General Assembly, this bill would become effective July 1, 2023.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill to be "routine" and does not require additional funding. This bill would have no impact on local administrative costs.

Revenue Impact

This bill would have an unknown but likely insubstantial negative impact to the General Fund, the Commonwealth Transportation Fund, and local revenues.

9. **Specific agency or political subdivisions affected:**

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Labor Charges for Diagnostic Services

Code of Virginia § 58.1-609.5 (2) provides an exemption from the Retail Sales and Use Tax for “an amount separately charged for labor or services rendered in installing, applying, remodeling, or repairing property sold.” The Department clarified in Public Documents 01-78 and 96-88 that this exemption is applicable only to labor performed in the actual repair activity and would not be applicable to services performed prior to, in preparation of, or after the actual repair.

Code of Virginia § 58.1-609.5 (1) provides an exemption from sales tax for “services rendered by repairmen for which a separate charge is made.” The Department’s long-standing policy regarding this exemption has been that it is applicable only to those transactions in which such services are not performed in connection with the sale of tangible personal property. This exemption is meant to apply when the true object of the transaction is an exempt service, in other words, when no tangible personal property is transferred as part of the transaction or the property transferred is inconsequential.

A law change in 2017 provided that separately stated charges for shop supplies are subject to sales tax regardless of whether or not there is transfer of title or possession of the supplies or whether or not the supplies are attached to the automobile. If an automotive shop, repair service, or emergency roadside service provider charges for and separately states the shop supply charges to the customer, those charges comprise the taxable exchange of tangible personal property.

Accordingly, amounts charged for labor rendered in connection with diagnostic work are exempt from the Retail Sales and Use Tax if the charges are: (i) separately stated; and (ii) provided no consequential tangible personal property is exchanged as part of the transaction. Diagnostic or emergency roadside services involving the exchange of taxable shop supply charges do not currently qualify for exemption from sales tax.

Proposal

This bill would provide an exemption from the Retail Sales and Use Tax for amounts separately charged for labor rendered in connection with diagnostic work for automotive repair and emergency roadside service for motor vehicles regardless of whether there is a sale of a repair or replacement part or a shop supply charge.

The bill would define “motor vehicle” as every vehicle that is self-propelled or designed for self-propulsion except any device defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, moped, or personal delivery device. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle.

If enacted during the regular session of the 2023 General Assembly, this bill would become effective July 1, 2023.

cc : Secretary of Finance

Date: 2/21/2023 VB
HB1677FER161