

VIRGINIA ACTS OF ASSEMBLY -- 1997 RECONVENED SESSION

CHAPTER 877

An Act to amend and reenact §§ 29.1-712, 29.1-716, 29.1-717, 58.1-1401, 58.1-1404, 58.1-1405, and 58.1-1410 of the Code of Virginia, relating to the watercraft sales and use tax.

[H 2482]

Approved April 2, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 29.1-712, 29.1-716, 29.1-717, 58.1-1401, 58.1-1404, 58.1-1405, and 58.1-1410 of the Code of Virginia are amended and reenacted as follows:

§ 29.1-712. Definitions.

As used in this article:

"Dealer" means any person whom the Tax Commissioner finds to be in the regular business of selling watercraft, and who has held during the calendar year five or more watercraft for resale watercraft dealer as defined in § 29.1-801.

"Watercraft" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water and which is (i) fifteen feet or longer measured along the centerline and powered by a motor in excess of twenty-five horsepower any vessel, other than a seaplane, on the water, propelled by machinery whether or not the machinery is the principal source of propulsion or (ii) any sail-powered vessel longer than eighteen feet measured along the centerline. Watercraft which have a valid marine document issued by the United States Coast Guard shall not be included in this definition.

§ 29.1-716. Certificate of title prerequisite to issuance of certificate of number.

The Department shall neither issue nor renew a certificate of number to any watercraft required to be titled in this Commonwealth unless the Department has issued a certificate of title to the owner. *However, any owner of a watercraft that was not previously required to be titled, and whose certificate of number expires after January 1, 1998, shall apply for a certificate of title at the time of renewal of his certificate of number.*

§ 29.1-717. Certificate of title required; certificate as evidence; duration; transfer of title.

A. Except for amphibious vessels which have a valid title issued by the Department of Motor Vehicles, ~~or~~ a watercraft owned by a bona fide dealer licensed as provided in § 58.1-1406, *or any watercraft not required to be titled pursuant to § 29.1-716*, no person shall operate a watercraft subject to titling under this chapter unless the owner has applied to the Department for a certificate of title for the watercraft or has been issued a valid temporary registration certificate as provided for in § 29.1-703.1.

B. A certificate of title is prima facie evidence of the ownership of a watercraft. A certificate of title shall be in force for the life of the watercraft so long as the certificate is owned or held by the legal holder.

C. To sell, assign, or transfer a watercraft title in the Commonwealth, the certificate of title must be delivered to the purchaser or transferee with an assignment on the certificate showing title in the name of the purchaser or transferee. To purchase or otherwise acquire a watercraft required to be titled in the Commonwealth, any purchaser or transferee other than a licensed dealer must obtain a certificate of title for it in his name.

§ 58.1-1401. Definitions.

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

"Dealer" means any person who is in the regular business of selling watercraft. ~~Any person who has held five or more watercraft for resale during the calendar year shall be deemed, for purposes of this chapter, a "dealer."~~ *watercraft dealer as defined in § 29.1-801.*

"Gross receipts" means the amount received for the lease, charter, or other use of any watercraft. The term shall include hourly rental, maintenance, and all other charges for use of any watercraft and charges for pilots crew, or other services, unless separately stated on the invoice. The term shall also include the amount by which the price estimated under § 58.1-1403 exceeds the charge actually made.

"Sale" means any transfer of ownership or possession of a watercraft by exchange or barter, conditional or otherwise, in any manner. The term shall also include (i) a transaction whereby possession is transferred but title is retained by the seller as security, (ii) any lease or rental for a period of time substantially equal to the remaining life of the watercraft, and (iii) any lease or rental requiring total payments by the lessee during the lease or rental period which substantially equals the value of the watercraft. The term shall not include a transfer of ownership or possession made to secure the payment of an obligation.

"Sale price" means the total price paid for a watercraft and all attachments thereon and accessories

thereto, exclusive of any federal manufacturer's excise tax, without any allowance or deduction for trade-ins or unpaid liens or encumbrances.

"Watercraft" means any ~~contrivance~~ (i) ~~used or~~ which is capable of being used as a means of transportation on water, (ii) which is fifteen feet or more in overall length measured along the centerline and (iii) which is powered by a motor in excess of twenty-five horsepower ~~vessel propelled by machinery whether or not the machinery is the principal source of propulsion~~. The term shall also include any sail-powered vessel (i) ~~used or~~ which is capable of being used as a means of transportation ~~on water and~~ (ii) which is in excess of eighteen feet in length measured along the centerline. The term shall not include a seaplane on the water or a watercraft which has a valid marine titling document issued by the United States Coast Guard.

§ 58.1-1404. Exemptions.

A. Any watercraft sold to or used by the United States or any of the governmental agencies thereof, the Commonwealth of Virginia or any political subdivision thereof or sold to an insurance company for the sole purpose of disposition when such insurance company has paid the registered owner of such watercraft on a total loss claim, shall be exempt from the tax imposed by this chapter.

B. Any person who was the owner of a watercraft ~~on January 1, 1982, may which was not required to be titled prior to January 1, 1998, shall~~ apply for a title for such watercraft without incurring liability for the tax imposed under this chapter.

C. Any watercraft constructed by a commercial waterman for his own use shall be exempt from the tax imposed under this chapter.

D. Any registered dealer in watercraft shall be exempt from the tax imposed by subdivisions 1 and 2 of § 58.1-1402. Such dealer shall also be exempt from the titling requirement in ~~§ 62.1-186.2~~ 29.1-713.

E. ~~Any watercraft sold or used for which no title is required, unless the owner of such watercraft chooses to apply for a title under § 62.1-186.2, shall be exempt from the tax imposed under this chapter.~~

F. E. Any watercraft purchased by and for the use of a volunteer sea rescue squad, volunteer fire department or a volunteer rescue squad, not conducted for profit shall be exempt from the tax imposed under this chapter.

§ 58.1-1405. Time for payment of tax.

A. Except as provided in paragraph B of this section, the tax levied pursuant to this chapter shall be paid by the purchaser or user of such watercraft and collected by the Tax Commissioner at the time the owner is required to apply to the ~~Commission~~ Department of Game and Inland Fisheries for a title ~~therefor~~. Except as otherwise provided in § 58.1-1404, no title shall be issued unless the applicant for title ~~of such a watercraft~~ shows to the satisfaction of the ~~Commission~~ Department of Game and Inland Fisheries that such tax has been paid.

B. The tax on the gross receipts from the lease or charter of watercraft shall be paid by the registered dealer collecting such receipts to the Commissioner on or before the twentieth day of each month following the month in which such receipts were collected.

§ 58.1-1410. Disposition of funds.

Funds collected hereunder by the Tax Commissioner shall be paid into the general fund of the state treasury and allocated to ~~the motorboat and water safety fund~~ of the game protection fund in the following manner:

For Fiscal Year	Percentage of Collections
1996	50%
1997	50%
1998	50%
1999	75%
2000 and thereafter	100%

Not later than thirty days after the close of each quarter, the Comptroller shall transfer to ~~the motorboat and water safety fund~~ of the game protection fund the appropriate percentage of collections to be dedicated to such fund. The Comptroller may make such adjustments as necessary in subsequent quarters subject to the audit report of the Auditor of Public Accounts.

Such funds shall be made available only to the Department of Game and Inland Fisheries for the following: boating-related activities and expenses, and to enhance and improve recreation opportunities for boaters, including but not limited to, land acquisition, capital projects, maintenance, and facilities for boating access to the waters of the Commonwealth; boating safety law enforcement, including

salaries, benefits, equipment and overtime expenses for game wardens so assigned; boating and other aquatic resource educational activities, including personnel, and education and safety materials; boating-related expenses for required reporting to federal and state officials; information management costs, including personnel, hardware, and software needed to better serve boating customers; and related administrative costs for boating-related activities, including human resources, accounting, public relations, administration and facilities to support and house necessary boating-related personnel and equipment.

2. That the provisions of this act shall become effective on January 1, 1998.