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HOUSE BILL NO. 34

Offered January 14, 1998

Prefiled December 19, 1997

A BILL to amend and reenact §§ 58.1-2401 and 58.1-2405 of the Code of Virginia, relating to the sales price of motor vehicles subject to the motor vehicle sales and use tax.

Patrons—Clement and Jackson

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

- 1. That §§ 58.1-2401 and 58.1-2405 of the Code of Virginia are amended and reenacted as follows:**
 § 58.1-2401. Definitions.

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

"Commissioner" ~~shall mean~~ means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Daily rental vehicle" ~~shall mean~~ means a motor vehicle, except a motorcycle or a mobile home as defined in § 46.2-100, used for rental as defined in this section and for the transportation of persons or property, whether on its own structure or by drawing another vehicle or vehicles.

"Department" ~~shall mean~~ means the Department of Motor Vehicles of this Commonwealth, acting through its duly authorized officers and agents.

"Gross proceeds" ~~shall mean~~ means the charges made or voluntary contributions received for the rental of a motor vehicle where the rental or lease agreement is for a period of less than twelve months.

"Mobile office" ~~shall mean~~ means an industrialized building unit not subject to the federal regulation, which may be constructed on a chassis for the purpose of towing to the point of use and designed to be used with or without a permanent foundation, for commercial use and not for residential use; or two or more such units separately towable, but designed to be joined together at the point of use to form a single commercial structure, and which may be designed for removal to, and installation or erection on other sites.

"Motor vehicle" ~~shall mean~~ means every vehicle, except for mobile office as herein defined, which is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle, including mobile homes as defined in § 46.2-100 and every device in, upon and by which any person or property is, or can be, transported or drawn upon a highway, but excepting devices moved by human or animal power, devices used exclusively upon stationary rails or tracks and vehicles, other than mobile homes, used in this Commonwealth but not required to be licensed by the Commonwealth.

"Rental" ~~shall mean~~ means the transfer of the possession or use of a motor vehicle, whether or not the motor vehicle is required to be licensed by the Commonwealth, by a person for a consideration, without the transfer of the ownership of such motor vehicle, for a period of less than twelve months. Any fee arrangement between the holder of a permit issued by the State Corporation Commission or the Department for taxicab services and the driver or drivers of such taxicabs shall not be deemed a rental under this section.

"Rental in the Commonwealth" ~~shall mean~~ means any rental where a person received delivery of a motor vehicle within the Commonwealth. The term "Commonwealth" ~~shall include~~ includes all land or interest in land within the Commonwealth owned by or conveyed to the United States of America.

"Rentor" ~~shall mean~~ means a person engaged in the rental of motor vehicles for consideration as defined in this section.

"Sale" ~~shall mean~~ means any transfer of ownership or possession, by exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of a motor vehicle. The term ~~shall~~ also include includes a transaction whereby possession is transferred but title is retained by the seller as security. The term shall not include a transfer of ownership or possession made to secure payment of an obligation, ~~nor shall it include~~ or a refund for, or replacement of, a motor vehicle of equivalent or lesser value pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.). Where the replacement motor vehicle is of greater value than the motor vehicle replaced, only the difference in value shall constitute a sale.

"Sale price" ~~shall mean~~ means the total price paid for a motor vehicle and all attachments thereon and accessories thereto, as determined by the Commissioner, *less the lesser of (i) the amount of any allowance given by the seller for a motor vehicle taken in trade as a partial payment for the purchased motor vehicle or (ii) the wholesale value for the motor vehicle taken in trade as specified in a recognized pricing guide, and* exclusive of any federal manufacturers' excise tax, without any allowance

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60 or deduction for ~~trade-ins or~~ unpaid liens or encumbrances. However, "sale price" shall not include the
61 cost of controls, lifts, automatic transmission, power steering, power brakes or any other equipment
62 installed in or added to a motor vehicle which is required by law or regulation as a condition for
63 operation of a motor vehicle by a handicapped person.

64 § 58.1-2405. Basis of tax.

65 In the case of the sale or use of a motor vehicle upon which the pricing information is required by
66 federal law to be posted, the Commissioner may collect the tax upon the basis of the ~~total~~ sale price
67 shown on such document; however, if the Commissioner is satisfied that the purchaser has paid less than
68 such price, by such evidence as the Commissioner may require, he may assess and collect the tax upon
69 the basis of the sale price so found by him. ~~In no case shall such lesser price include credits for trade-in~~
70 ~~or any other transaction of such nature.~~ In the case of the sale or use of a motor vehicle which is not a
71 new motor vehicle, the Commissioner may employ such publications, sources of information, and other
72 data as are customarily employed in ascertaining the maximum sale price of such used motor vehicles
73 but in no case shall any credit be allowed for ~~trade-in~~, prior rental or any other transaction of like
74 nature.