

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 353

An Act to amend and reenact §§ 58.1-2111 and 58.1-2123 of the Code of Virginia, relating to refunds of motor fuel tax.

[H 478]

Approved April 3, 2000

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-2111 and 58.1-2123 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-2111. Refund of tax on motor fuel.

A. A refund shall be granted in accordance with the provisions of § 58.1-2112 to any person who establishes to the satisfaction of the Commissioner that he has paid the tax levied pursuant to this chapter and such tax was paid upon the single purchase of five or more gallons of any motor fuel utilized for any of the following purposes:

1. Operating or propelling commercial boats and ships, stationary gas engines, or pumping or mixing equipment on highway vehicles if the motor fuel used to operate such equipment is stored in an auxiliary tank separate from the motor fuel tank used to propel the highway vehicle, and the highway vehicle is mechanically incapable of self-propulsion while motor fuel is being used from the auxiliary tank;

2. Operating or propelling tractors used for agricultural purposes;

3. Operating or propelling buses owned and operated by a county or the school board thereof while being used to transport children to and from public schools;

4. Operating or propelling buses owned or solely used by a private nonprofit nonsectarian school while being used to transport children to and from such school or from such school to and from educational or athletic activities. The total refunds allowed to any applicant under this subdivision with respect to all motor fuel which is subject to the tax under this chapter shall not, in any fiscal year, exceed the sum of \$2,000;

5. Operating or propelling the equipment of volunteer fire-fighting companies and of volunteer rescue squads within the Commonwealth actually and necessarily used for fire-fighting or rescue purposes;

6. Operating or propelling motor equipment belonging to counties, cities and towns if actually and exclusively used in public activities;

7. Operating or propelling licensed or unlicensed highway vehicles and other equipment used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner or lessee of such vehicle and not operated on or over any public highway for any purpose other than for the purpose of moving it in the manner and for the purposes hereinbefore authorized. If such highway vehicle has been licensed under the provisions of Chapter 6 (§ 46.2-600 et seq.) of Title 46.2, no refund shall be granted until the license tags furnished for the vehicle have been delivered to the clerk of the circuit court in which the owner or lessee of such vehicle resides or to the nearest office issuing such licenses. The clerk or agent of such office shall issue a receipt for the tags and shall be entitled to a fee of twenty-five cents. The owner or lessee of such highway vehicle shall be entitled to a fuel tax refund as above provided on fuel used in the operation of such vehicle for such time as the tags are left with the clerk or agent. The owner or lessee may surrender the receipt to the clerk or agent at any time, who shall forthwith return the tags and notify the Commissioner;

8. Spraying ~~purposes~~ or for cleaning, dyeing or other commercial use, except in highway vehicles;

9. Operating and propelling highway vehicles used solely for racing other highway vehicles on a racetrack;

10. ~~Operation~~ *Operating* of a farm by a resident of the Commonwealth, such farm being located on any island outside the Commonwealth but within one mile of its boundaries;

11. ~~Any private, nonprofit area agency on aging, designated by the Department for the Aging,~~ Providing transportation services to citizens in highway vehicles owned, leased, operated or under contract by ~~such any private, nonprofit area agency on aging designated by the Department for the Aging;~~ and

12. Operating or propelling highway vehicles owned by a nonprofit organization which provides specialized transportation to various locations for elderly or handicapped individuals to secure essential services and to participate in community life according to the individual's respective interests and abilities.

B. A refund shall be granted in accordance with § 58.1-2112 of any tax paid pursuant to this chapter upon motor fuel:

1. Purchased by a ~~person, firm or corporation~~ *licensed exporter* and subsequently transported and delivered by such ~~person, firm or corporation~~ *licensed exporter* to another state, district or country for

sale or use without the Commonwealth *and provides proof that the appropriate tax has been paid to the state, district or country to which such fuel was transported and delivered*;

2. Sold by a dealer in the Commonwealth to any corporation, partnership or other entity performing transportation under contract or lease with any transportation district created under the Transportation District Act of 1964 (§ 15.1-1342 et seq.) for use in a highway vehicle which is controlled by a transportation district and used in providing transit service by the transportation district by contract or lease. The refund provided for in this paragraph shall be paid to the corporation, partnership or other entity performing such transportation;

3. Transferred to a duly licensed dealer for bulk storage in the Commonwealth by tank car, barge, pipeline or transport truck from a point within the Commonwealth by another duly licensed dealer who has paid or assumed the payment of the tax. No dealer who is reporting the tax on a sales basis with stock loss shown as a nontaxable item shall be eligible for such a refund, nor shall any refund be paid on any fuel which is subsequently sold tax exempt or exported from the Commonwealth as subject to export refund under subdivision B 1 of this section; or

4. Proven to be lost by accident, except through personal negligence or theft.

C. Any county or city school board or any private, nonprofit, nonsectarian school contracting with a private carrier to transport children to and from public schools or any private, nonprofit, nonsectarian school shall be refunded the tax imposed by this chapter on such carrier on fuel so used. Such refund shall be paid pursuant to § 58.1-2112.

D. On any island in this Commonwealth on which no highway vehicle is operated, the refund provided for by this section may be made, pursuant to § 58.1-2112, to the merchant selling such motor fuel to the consumer.

E. Refunds shall be issued by the Commissioner when he determines that a Virginia licensee's tax-paid purchases from a conduit exceed their taxable distribution in Virginia. No refund shall be granted by the Commissioner unless the Department has deposited the licensee's tax payment for the tax period that immediately precedes the request for a refund and that payment has cleared bank processing. Refunds shall be reduced or denied by the Commissioner if the licensee has outstanding taxes, penalties or interest due the Department.

§ 58.1-2123. Refund where tax-paid fuels transported to another state, district or country for sale or use.

Any ~~person~~ *licensed exporter* who purchases fuels upon which the fuels tax imposed by this chapter has been paid shall be entitled to a refund for the entire amount of the tax paid if such ~~person~~ *licensed exporter* subsequently transports and delivers such fuel to another state, district or country for sale or use outside of the Commonwealth *and provides proof that the appropriate tax has been paid to the state, district or country to which such fuel was transported and delivered*. A refund shall not be granted pursuant to this section on any fuel which is transported and delivered outside of the Commonwealth in the fuel supply tank of a highway vehicle or aircraft.

The application for a refund shall set forth the fact that such fuels were transferred out of the Commonwealth for sale or use. The claim must be filed with the Commissioner within three years of the date of payment of the tax for which the refund is claimed.