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## HOUSE BILL NO. 1121

Offered January 24, 2000

*A BILL to amend the Code of Virginia by adding in Chapter 17 of Title 58.1 an article numbered 4.1, consisting of sections numbered 58.1-1724.2 through 58.1-1724.11, relating to local motor vehicle fuel sales tax; referendum required; limitation on expenditure of revenue; disclosure of certain information prohibited; penalties.*

Patrons—Robinson, Almand, Christian, Crittenden, Darner, Dickinson, Jones, J.C., Moss, Plum, Rhodes, Rollison, Scott, Van Landingham, Van Yahres, Watts and Williams; Senators: Miller, Y.B. and Wampler

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 17 of Title 58.1 an article numbered 4.1, consisting of sections numbered 58.1-1724.2 through 58.1-1724.11 as follows:**

*Article 4.1.*

*Motor Vehicle Fuel Sales Tax in Transportation Districts, Generally.*

*§ 58.1-1724.2. Levy of the tax.*

*A. Any transportation district created pursuant to Chapter 45 (§ 15.2-4500 et seq.) of Title 15.2 and embracing at least two counties, two cities, or one county and one city may, in addition to all other taxes imposed on fuels subject to tax under Chapter 21 (§ 58.1-2100 et seq.) of this title, levy a sales tax of two percent of the retail price of such fuels sold within such county or city. As used in this section, "retail sale" means a sale to a consumer or to any person for any purpose other than resale.*

*B. The tax imposed pursuant to this section shall be subject to the provisions of the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), except that the exemption provided for motor vehicle fuels under § 58.1-609.13, and the bracket system provided in such act, shall not be applicable.*

*§ 58.1-1724.3. Levy subject to referendum.*

*The authority to levy a local tax on motor vehicle fuel sales as provided in § 58.1-1724.2 may be exercised by a transportation district only if approved in a referendum by a majority vote of the voters voting in such transportation district. Any such referendum shall identify with reasonable specificity the transportation projects or programs to be funded in whole or in part by proceeds derived from the levy of such tax. The referendum shall be held in accordance with § 24.2-684. The referendum may be initiated by a resolution of the transportation district commission. The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the transportation district once a week for three consecutive weeks prior to the election. The ballot used shall be printed to read as follows:*

*"Shall the (...name of the transportation district commission...) have the authority to levy a sales tax of two percent of the retail price of vehicle fuel sales as provided in § 58.1-1724.2 of the Code of Virginia for the purpose(s) of (...identification of project or program to be funded...)?*

*[ ] Yes*

*[ ] No"*

*If the voters, by a majority vote in every locality embraced within the transportation district, approve the authority of the transportation district commission to levy a local sales tax on motor vehicle fuel sales, the tax may be imposed by the adoption of a resolution by the transportation district commission in accordance with general or special law, subject only to the limitations herein. No local sales tax on motor vehicle fuel sales levied pursuant to this article shall be repealed unless and until all debts or other obligations of the transportation district to which such revenues are pledged or otherwise committed have been paid or provision made for payment.*

*No proceeds from any tax levied pursuant to this article shall be expended for any purpose not specifically identified in the referendum authorizing the levying of the tax.*

*§ 58.1-1724.4. Regulations; bracket system.*

*The Tax Commissioner shall promulgate regulations for the registration of dealers and the procedures for filing returns for the payment of the tax imposed pursuant to this article. Such regulations shall include provisions for a bracket system, designed so that the tax will appear on the fuel pump as a part of the total cost of a unit of fuel, whether the unit is a gallon or other measure. The bracket system shall state the tax per unit measure in tenths of a cent, and shall be in increments of no more than two and one-half cents.*

*§ 58.1-1724.5. Disposition of tax revenues.*

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57 All taxes paid to the Commissioner pursuant to this article, after subtraction of the direct costs of  
58 administration by the Department, shall be deposited in a special fund titled the "Special Fund Account  
59 of (...name of transportation district...)." The amounts deposited in the special fund shall be distributed  
60 monthly to the applicable transportation district to be expended for the purpose or purposes identified in  
61 the referendum authorizing the levying of the tax in the transportation district.

62 58.1-1724.6. Reduction of local appropriations prohibited.

63 No county or city embraced within a transportation district that levies a tax under this article shall  
64 reduce the total amount of its annual general fund appropriations, for transportation purposes below the  
65 total amount appropriated for those purposes in the fiscal year preceding the levying the tax under this  
66 article.

67 Revenues derived by a county or city embraced within such district from the tax levied under this  
68 article shall be in addition to those allocated to the county or city from state transportation funds,  
69 which allocations shall not be reduced as a result of any revenues received pursuant to this article.

70 § 58.1-1724.7. Expenditures for transportation facilities under control of certain entities.

71 If any revenues generated pursuant to this article are applied or expended for any transportation  
72 facilities under the control and jurisdiction of any state agency, board, commission or authority, such  
73 transportation facilities shall be constructed, operated, administered, improved and maintained in  
74 accordance with laws, rules, regulations, policies and procedures governing said state agency, board,  
75 commission or authority.

76 If such revenues or a portion thereof are expended for improving or constructing highways in a  
77 county which is subject to the provisions of § 33.1-75.3, such expenditures shall be undertaken in the  
78 manner prescribed in that section.

79 § 58.1-1724.8. Exclusion from professional license tax.

80 The amount of the tax imposed by this article and collected by a dealer in any taxable year shall be  
81 excluded from gross receipts for purposes of any tax imposed under Chapter 37 (§ 58.1-3700 et seq.) of  
82 this title.

83 § 58.1-1724.9. Refund of motor vehicle fuel sales tax.

84 Anyone who purchases fuel (i) that is taxed under the provisions of § 58.1-1724.2 and (ii) upon  
85 which a refund is granted for motor fuels taxes paid pursuant to the provisions of Article 2 (§ 58.1-2104  
86 et seq.) and Article 3 (§ 58.1-2115 et seq.) of Chapter 21 of this title, may file a claim for a refund of  
87 taxes paid under this article within thirty days after receipt of a refund under the above chapters on  
88 forms and under regulations adopted by the Department of Taxation.

89 § 58.1-1724.10. Tax may be imposed in addition to tax under Article 4 of this chapter.

90 Imposition of a tax under Article 4 (§ 58.1-1719 et seq.) of this chapter shall not bar the imposition  
91 of a tax under this article, nor shall imposition of a tax under this article bar the imposition of a tax  
92 under Article 4 of this chapter.

93 § 58.1-1724.11. Disclosure of information; penalties.

94 For purposes of administering the tax levied under this article, the Commissioner, upon written  
95 request, is authorized to provide to the finance officer of any city or county who is charged with  
96 administering the motor vehicle fuel sales tax, such information as may be necessary for the  
97 performance of official duties. Any person to whom information is provided pursuant to this section  
98 shall be subject to the prohibitions and penalties prescribed in § 58.1-3.