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SENATE BILL NO. 178

Offered January 9, 2002

Prefiled January 8, 2002

A *BILL to amend and reenact §§ 33.1-23.03:1, 58.1-2217, 58.1-2249 and 58.1-2289 of the Code of Virginia, relating to an increase in the state fuels tax.*

Patron—Miller, K.G.

Referred to Committee on Finance**Be it enacted by the General Assembly of Virginia:**

1. That §§ 33.1-23.03:1, 58.1-2217, 58.1-2249 and 58.1-2289 of the Code Virginia are amended and reenacted as follows:

§ 33.1-23.03:1. Transportation Trust Fund.

There is hereby created in the Department of the Treasury a special nonreverting fund to be known as the Transportation Trust Fund, consisting of:

1. Funds remaining for highway construction purposes, among the several highway systems pursuant to § 33.1-23.1.

2. [Repealed.]

3. The additional revenues generated by enactments of Chapters 11, 12 and 15 of the Acts of Assembly, 1986 Special Session, and designated for this fund, *and the additional revenues attributable to the increase in the state fuels tax levied under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1, effective January 1, 2003, and designated for this fund.*

4. Tolls and other revenues derived from the projects financed or refinanced pursuant to this title which are payable into the state treasury and tolls and other revenues derived from other transportation projects, which may include upon the request of the applicable appointed governing body, as soon as their obligations have been satisfied, such tolls and revenue derived for transportation projects pursuant to § 33.1-253 (Chesapeake Bay Bridge and Tunnel District) and § 33.1-320 (Richmond Metropolitan Authority) or if the appointed governing body requests refunding or advanced refunding by the Board and such refunding or advanced refunding is approved by the General Assembly. Such funds shall be held in separate subaccounts of the Transportation Trust Fund to the extent required by law or the Board.

5. Tolls and other revenues derived from the Richmond-Petersburg Turnpike, provided that such funds shall be held in a separate subaccount of the Transportation Trust Fund and allocated as set forth in Chapter 574 of the Acts of Assembly of 1983 until expiration of that Act.

6. Such other funds as may be appropriated by the General Assembly from time to time, and designated for this fund.

7. All interest, dividends and appreciation which may accrue to the Transportation Trust Fund and the Highway Maintenance and Construction Fund, except that interest on funds becoming part of the Transportation Trust Fund under subdivision 1 and the Highway Maintenance and Construction Fund shall not become part of the Transportation Trust Fund until July 1, 1988.

8. All amounts required by contract to be paid over to the Transportation Trust Fund.

§ 58.1-2217. Taxes levied; rate.

A. There is hereby levied a tax at the rate of seventeen and one-half cents per gallon *through 12:00 p.m. on December 31, 2002, and beginning January 1, 2003, twenty-two and one-half cents per gallon* on gasoline and gasohol.

B. There is hereby levied a tax at the rate of sixteen cents per gallon *through 12:00 p.m. on December 31, 2002, and beginning January 1, 2003, eighteen cents per gallon* on diesel fuel.

C. Blended fuel that contains gasoline shall be taxed at the rate levied on gasoline. Blended fuel that contains diesel fuel shall be taxed at the rate levied on diesel fuel.

D. There is hereby levied a tax at the rate of five cents per gallon on aviation gasoline. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation gasoline shall be liable for the tax at the rate of seventeen and one-half cents per gallon *through 12:00 p.m. on December 31, 2002, and beginning January 1, 2003, shall be liable for the tax at the rate of twenty-two and one-half cents per gallon*, along with any penalties and interest that may accrue.

E. There is hereby levied a tax at the rate of five cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded

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59 aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is
60 hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded
61 aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in
62 any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells
63 or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for
64 the tax imposed at the rate of sixteen cents per gallon *through 12:00 p.m. on December 31, 2002, and*
65 *beginning January 1, 2003, shall be liable for the tax at the rate of twenty-two and one-half cents per*
66 *gallon*, along with any penalties and interest that may accrue.

67 F. In accordance with § 62.1-44.34:13, a storage tank fee is imposed on each gallon of gasoline,
68 aviation gasoline, diesel fuel (including dyed diesel fuel), blended fuel, and heating oil sold and
69 delivered or used in the Commonwealth.

70 § 58.1-2249. Tax on alternative fuel.

71 A. There is hereby levied a tax at the rate of sixteen cents per gallon *through 12:00 p.m. on*
72 *December 31, 2002, and beginning January 1, 2003, twenty-two and one-half cents per gallon* on liquid
73 alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel
74 only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate
75 equivalent to sixteen cents per gallon *through 12:00 p.m. on December 31, 2002, and beginning January*
76 *1, 2003, twenty-two and one-half cents per gallon* on all other alternative fuel used to operate a highway
77 vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

78 B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of fifty
79 dollars per vehicle on each highway vehicle that is fueled from a private source if the alternative fuels
80 tax levied under this article has not been paid on fuel used in the vehicle. If such a highway vehicle is
81 not in operation by January 1 of any year, the license tax shall be reduced by one-twelfth for each
82 complete month, which shall have elapsed since the beginning of such year.

83 § 58.1-2289. Disposition of tax revenue generally.

84 A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by
85 the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be
86 promptly paid into the state treasury and shall constitute special funds within the Commonwealth
87 Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for
88 use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds
89 shall accrue to these funds. Except as provided in § 33.1-23.03:1, no portion of the revenue derived
90 from taxes collected pursuant to §§ 58.1-2217, 58.1-2249 or § 58.1-2701, and remaining after authorized
91 refunds for nonhighway use of fuel, shall be used for any purpose other than the construction,
92 reconstruction or maintenance of the roads and projects comprising the State Highway System, the
93 Interstate System and the secondary system of state highways and expenditures directly and necessarily
94 required for such purposes, including the retirement of revenue bonds.

95 Revenues collected under this chapter may be also used for (i) contributions toward the construction,
96 reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law
97 and (ii) expenditures for the operation and maintenance of the Department of Transportation, the
98 Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority,
99 and the Department of Motor Vehicles as may be provided by law.

100 The Governor is hereby authorized to transfer out of such fund an amount necessary for the
101 inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection
102 and analysis of gasoline for purity.

103 B. The tax collected on each gallon of aviation fuel sold and delivered or used in this
104 Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of this
105 special fund within the Commonwealth Transportation Fund shall be disbursed upon order of the
106 Department of Aviation, on warrants of the Comptroller, to defray the cost of the administration of the
107 laws of this Commonwealth relating to aviation, for the construction, maintenance and improvement of
108 airports and landing fields to which the public now has or which it is proposed shall have access, and
109 for the promotion of aviation in the interest of operators and the public generally.

110 C. One-half cent of the tax collected on each gallon of fuel on which the refund has been paid at the
111 rate of seventeen cents per gallon *through 12:00 p.m. on December 31, 2002, and beginning January 1,*
112 *2003, twenty-two cents per gallon*, or in the case of diesel fuel, fifteen and one-half cents per gallon
113 *through 12:00 p.m. on December 31, 2002, and beginning January 1, 2003, seventeen and one-half*
114 *cents per gallon*, for fuel consumed in tractors and unlicensed equipment used for agricultural purposes
115 shall be paid into a special fund of the state treasury, known as the Virginia Agricultural Foundation
116 Fund, to be disbursed to make certain refunds and defray the costs of the research and educational
117 phases of the agricultural program, including supplemental salary payments to certain employees at
118 Virginia Polytechnic Institute and State University, the Department of Agriculture and Consumer
119 Services and the Virginia Truck and Ornamentals Research Station, including reasonable expenses of the
120 Virginia Agricultural Council.

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.1-223, a sum as established by the General Assembly.

E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected pursuant to this section to a special fund within the Commonwealth Transportation Fund in the state treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles, an amount equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this chapter and less taxes collected for aviation fuels.

F. An amount equal to the revenues attributable to an increase in the tax, beginning on January 1, 2003, on any of the fuels included in this chapter shall be paid into the Transportation Trust Fund.

2. That the additional state fuels tax increases and the associated increase in certain refunds of fuel purchases provided under this act are effective for fuel that is purchased on or after January 1, 2003.