

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 376

An Act to amend and reenact § 46.2-703 of the Code of Virginia, relating to the International Fuels Tax Agreement; violation; vehicle seizures; penalties.

[H 1305]

Approved April 8, 2004

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-703 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-703. Reciprocal agreement with other states; assessment and collection of fees on an apportionment or allocation basis; registration of vehicles and reporting of road tax; violations; vehicle seizures; penalties.

A. Notwithstanding any other provision of this title, the Governor may on the advice of the Department, enter into reciprocal agreements on behalf of the Commonwealth with the appropriate authorities of any state of the United States or a state or province of a country providing for the assessing and collecting of license fees for motor vehicles, tractor trucks, trucks, trailers, and semitrailers on an apportionment or allocation basis, as outlined in the International Registration Plan developed by the International Registration Plan, Inc.

The Commissioner is authorized to audit the records of any owner, lessor, or lessee to verify the accuracy of any information required by any jurisdiction to determine the registration fees due. Based on this audit, the Commissioner may assess any owner, lessor, or lessee for any license fees due this Commonwealth, including interest and penalties as provided in this section. In addition to any other penalties prescribed by law, the Commissioner or the Reciprocity Board may deny the owner, lessor, or lessee the right to operate any motor vehicle on the highways in the Commonwealth until the assessment has been paid.

Trip permit registration may be issued for any vehicle or combination of vehicles which could be lawfully operated in the jurisdiction if full registration or proportional registration were obtained. The fee for this permit shall be ~~fifteen dollars~~ \$15 and the permit shall be valid for ~~ten~~ 10 days.

Any person who operates or permits the operation of any motor vehicle, trailer, or semitrailer over any highway in the Commonwealth without first having paid to the Commissioner the fees prescribed and payable under this section shall be guilty of a Class 2 misdemeanor. Failure to display a license plate indicating that the vehicle is registered on an apportionment or allocation basis or carry a trip permit, as outlined in the International Registration Plan, shall constitute prima facie evidence the apportioned or allocated fee has not been paid.

If the Commissioner ascertains that any fees which he is authorized to assess any owner, lessor, or lessee for any license year have not been assessed or have been assessed for less than the law required for the year because of failure or refusal of any owner, lessor, or lessee to make his records available for audit as provided herein, or if any owner, lessor, or lessee misrepresents, falsifies, or conceals any of these records, the Commissioner shall determine from any information obtainable the lawful fees at the rate prescribed for that year, plus a penalty of five percent and interest at the rate of six percent per year, which shall be computed on the fees and penalty from the date the fees became due to the date of assessment, and is authorized to make an assessment therefor against the owner, lessor, or lessee. If the assessment is not paid within ~~thirty~~ 30 days after its date, interest at the rate of six percent per year shall accrue thereon from the date of such assessment until the fees and penalty are paid. The notice of the assessment shall be forthwith sent to the owner, lessor, or lessee by registered or certified mail to the address of the owner, lessor, or lessee as it appears on the records in the office of the Department. The notice, when sent in accordance with these requirements, shall be sufficient regardless of whether it was received.

If any owner, lessor, or lessee fails to pay the fees, penalty, and interest, or any portion thereof, assessed pursuant to this section, in addition to any other provision of law, the Attorney General or the Commissioner shall bring an appropriate action before the Circuit Court of the City of Richmond for the recovery of the fees, penalty, and interest, and judgment shall be rendered for the amount found to be due together with costs. If it is found that the failure to pay was willful on the part of the owner, lessor or lessee, judgment shall be rendered for double the amount of the fees found to be due, plus costs.

B. Notwithstanding any other provision of this title or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, the Governor, on the advice of the Department, may enter into reciprocal agreements on behalf of the Commonwealth with the duly authorized representatives of other jurisdictions providing for the road tax registration of vehicles, establishing periodic road tax reporting and road tax payment requirements from owners of such vehicles, and disbursement of funds collected due to other jurisdictions based on mileage traveled and fuel used in those jurisdictions *as outlined in the International Fuels Tax Agreement.*

Notwithstanding any statute contrary to the provisions of any reciprocal agreement entered into by the Governor or his duly authorized representative as authorized by this title, the provisions of the reciprocal agreement shall govern and apply to all matters relating to administration and enforcement of the road tax. In the event the language of any reciprocal agreement entered into by the Governor as authorized by this title is later amended so that it conflicts with or is contrary to any statute, the Department shall consider the amended language of the reciprocal agreement controlling and shall administer and enforce the road tax in accordance with the amended language of the reciprocal agreement.

An agreement may provide for determining the base state for motor carriers, records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying reporting requirements and periods, including defining uniform penalties and interest rates for late reporting, determining methods for collecting and forwarding of motor fuel taxes and penalties to another jurisdiction, and other provisions as will facilitate the administration of the agreement.

The Governor may, as required by the terms of the agreement, forward to officers of another member jurisdiction any information in the Department's possession relative to the use of motor fuels by any motor carrier. The Department may disclose to officers of another state the location of offices, motor vehicles, and other real and personal property of motor carriers.

An agreement may provide for each state to audit the records of motor carriers based in the state to determine if the road taxes due each member jurisdiction are properly reported and paid. Each member jurisdiction shall forward the findings of the audits performed on motor carriers based in the member jurisdiction to each jurisdiction in which the carrier has taxable use of motor fuels. For motor carriers not based in the Commonwealth and which have taxable use of motor fuel in the Commonwealth, the Department may serve the audit findings received from another jurisdiction, in the form of an assessment, on the carrier as though an audit had been conducted by the Department.

Any agreement entered into pursuant to this chapter does not preclude the Department from auditing the records of any motor carrier covered by the provisions of this chapter.

The Department shall not enter into any agreement which would affect the motor fuel road tax rate.

The Department may adopt and promulgate such rules, regulations, and procedures as may be necessary to effectuate and administer this title. Nothing in this title shall be construed to affect the tax rate provisions found in Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1.

C. Notwithstanding any other provision in this title or Title 56, the Governor, on the advice of the Department, may participate in the reciprocal standards for registration with states as authorized under 49 U.S.C. § 11506 and 49 C.F.R. Part 1023.

D. Notwithstanding any other provision of this title or Title 58.1, the following violations of laws shall be punished as follows:

1. Any person who operates or causes to be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration, identification marker, or other evidence of registration as required by reciprocal standards or agreements entered into by the Department pursuant to this section or § 58.1-2712.1 shall be guilty of a Class 4 misdemeanor.

2. Any person who knowingly displays or uses on any vehicle operated by him any identification marker or other identification that has not been issued to the owner or operator thereof for such vehicle and any person who knowingly assists him to do so shall be guilty of a Class 3 misdemeanor.

E. An officer charging a violation under subsection D shall serve a citation on the operator of the vehicle in violation. Such citation shall be directed to the owner, operator or other person responsible for the violation as determined by the officer. Service of the citation on the vehicle operator shall constitute service of process upon the owner, operator, or other person charged with the violation under this article, and shall have the same legal force as if served within the Commonwealth personally upon the owner, operator, or other person charged with the violation, whether such owner, operator, or other person charged is a resident or nonresident.

F. Any police officer of the Commonwealth authorized to serve process may hold a motor vehicle owned by a person against whom an order or penalty has been entered, but only for such time as is reasonably necessary to promptly petition for a writ of fieri facias. The Commonwealth shall not be required to post bond in order to hold and levy upon any vehicle held pursuant to this section. Upon notification of the judgment or penalty entered against the owner of the vehicle and notice to such person of the failure to satisfy the judgment or penalty, any investigator, special agent, or officer of the Commonwealth shall thereafter deny the offending person the right to operate the motor vehicle on the highways of the Commonwealth.