

# 2006 SPECIAL SESSION I

INTRODUCED

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## HOUSE BILL NO. 5059

Offered September 15, 2006

A *BILL to amend and reenact §§ 33.1-23.03:1, 58.1-2217, 58.1-2249, 58.1-2289, 58.1-2701, and 58.1-2706 of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 46.2-206.1 and 58.1-816.2, relating to additional funding for statewide transportation purposes.*

Patron—Sickles

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, 58.1-2289, 58.1-2701, and 58.1-2706 of the Code of Virginia are amended and reenacted and the Code of Virginia is amended by adding sections numbered 46.2-206.1 and 58.1-816.2 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 [Repealed.]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.

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.

9. Concession payments paid to the Commonwealth by a private entity pursuant to the Public-Private Transportation Act of 1995 (§ 56-556 et seq.).

10. After any required deposits to the Revenue Stabilization Fund pursuant to § 2.2-1829 and to the Virginia Water Quality Improvement Fund pursuant to § 10.1-2128, 75% of any remaining annual general fund revenue collections that are in excess of the official estimates in the general appropriation act and 75% of any remaining unreserved general fund balance at the close of each fiscal year whose reappropriation is not required in the general appropriation act.

§ 46.2-206.1. Imposition of certain additional fees on certain drivers; disposition of revenue to Highway Maintenance and Operating Fund.

A. The purpose of the civil remedial fees imposed in this section is to generate revenue from drivers whose proven dangerous driving behavior places significant financial burdens upon the Commonwealth. The civil remedial fees established by this section shall be in addition to any other fees, costs, or penalties imposed pursuant to the Code of Virginia.

B. The civil remedial fees established by this section shall be assessed on any person operating a motor vehicle on the highways of Virginia, including persons to whom Virginia driver's licenses, commercial driver's licenses, or learner's permits have been issued pursuant to this title, persons operating motor vehicles without licenses or whose license has been revoked or suspended, and persons operating motor vehicles with a license issued by a jurisdiction outside Virginia.

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59 C. Beginning January 1, 2007, the clerk of the court shall assess a person with the following fees  
60 upon each conviction of the following offenses:

61 1. Driving while his driver's license was suspended or revoked pursuant to § 18.2-272, 46.2-301,  
62 46.2-302, 46.2-341.21, or 46.2-391 shall be assessed a fee of \$250;

63 2. Reckless driving or aggressive driving in violation of Article 7 (§ 46.2-852 et seq.) of Chapter 8 of  
64 this title or any felony for any driving and/or motor vehicle related offense under Title 18.2 shall be  
65 assessed a fee of \$350;

66 3. Driving while intoxicated in violation of § 18.2-266, 18.2-266.1, or 46.2-341.24 shall be assessed  
67 a fee of \$750;

68 4. Any other misdemeanor conviction for a driving and/or motor vehicle related violation of Title  
69 18.2 or this title which is not included in one of the preceding three subdivisions of this subsection shall  
70 be assessed a fee of \$300.

71 D. The Court may order suspension of the driver's license as provided in § 46.2-395 of any person  
72 failing to pay the fees assessed in accordance with subsection C.

73 E. For all convictions reported to the Department for which fees are established under subdivisions  
74 C 1 through C 4, the Commissioner shall impose and collect the same fee amount on the second and  
75 third year anniversary of the conviction being reported to the Department. The Department shall notify  
76 every person assessed a fee under this provision by mailing a notice thereof by first-class mail  
77 addressed to such person's most recent address as shown in the Department's records, and such mailing  
78 shall constitute notice to the person of the assessment of the fee.

79 F. Any person whose driver's record with the Department shows a balance of eight or more driver  
80 demerit points on July 15 shall be assessed a fee of \$250 plus \$50 for each demerit point in excess of  
81 eight, but not greater than \$450. The Commissioner shall assess such fees annually, beginning on July  
82 15, 2007. The Department shall notify each person assessed a fee under this subsection by mailing a  
83 notice thereof by first-class mail addressed to such person's most recent address as shown in the  
84 Department's records, and such mailing shall constitute notice to the person of the assessment of the  
85 fee. These fees shall be in addition to the fees set forth in subsections C and E.

86 G. If any assessment made by the Commissioner under this section remains unpaid 60 days following  
87 the date on which the notice of assessment was mailed, the Department shall suspend the driver's  
88 license of the person upon whom the assessment was imposed. No license shall be reissued or reinstated  
89 until all fees assessed have been paid.

90 H. For the purposes of this section, a finding of guilty in the case of a juvenile and a conviction  
91 under substantially similar laws of any other state or of the United States shall be a conviction.

92 I. If a person disputes a conviction on his driver record based upon identity, if the person presents  
93 the Department a certified copy of a petition to a court of competent jurisdiction seeking to vacate an  
94 order of such conviction, the Department shall suspend the imposition of the assessment. Such  
95 suspension shall be valid for one year from the date of commencement or until 30 days after an entry of  
96 a final order on such petition, whichever first occurs.

97 J. Funds collected through the imposition of the fees provided for in this section shall be used first  
98 to pay the Department's costs in imposing and collecting such assessments as provided in the general  
99 appropriation act, and any remainder shall be deposited into the Highway Maintenance and Operating  
100 Fund.

101 § 58.1-816.2. Distribution of recordation tax to certain cities and counties.

102 Beginning January 1, 2007, an amount equivalent to 10 cents on every \$100 or fraction thereof of  
103 the consideration or the actual value of the property conveyed, whichever is greater, for each deed or  
104 other instrument for which a tax is imposed pursuant to §§ 58.1-801 through 58.1-809 shall be  
105 distributed among the counties and cities of the Commonwealth to be used solely for transportation  
106 purposes, including, without limitation, construction, administration, operation, improvement,  
107 maintenance and financing of transportation facilities. The share of each locality of this amount shall be  
108 determined by multiplying the amount to be distributed by a fraction in which the numerator is the  
109 amount of the taxes imposed under §§ 58.1-801 through 58.1-809 and actually paid into the state  
110 treasury which are attributable to deeds and other instruments recorded in the county or city and the  
111 denominator is the amount of taxes imposed under §§ 58.1-801 through 58.1-809 actually paid into the  
112 state treasury.

113 § 58.1-2217. Taxes levied; rate.

114 A. There is hereby levied a tax at the rate of seventeen and one-half cents per gallon on gasoline and  
115 , gasohol, and diesel fuel. On and after January 1, 2007, this rate shall be indexed annually by an  
116 amount equal to the percentage increase in the Consumer Price Index for All Urban Consumers  
117 (CPI-U), for all items, from October 1 through September 30 for the year immediately preceding the  
118 affected year.

119 B. There is hereby levied a tax at the rate of sixteen cents per gallon on diesel fuel.

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

*gasohol, and diesel fuel. Blended fuel that contains diesel fuel shall be taxed at the rate levied on diesel fuel.*

DC. 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~~ *levied on gasoline, gasohol, and diesel fuel*, along with any penalties and interest that may accrue.

ED. 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 aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of ~~sixteen cents per gallon~~ *levied on gasoline, gasohol, and diesel fuel*, along with any penalties and interest that may accrue.

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

§ 58.1-2249. Tax on alternative fuel.

A. There is hereby levied a tax, at the rate of ~~sixteen cents per gallon~~ *levied on gasoline, gasohol, and diesel fuel*, on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to ~~sixteen cents per gallon~~ *that levied on gasoline, gasohol, and diesel fuel* on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

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

§ 58.1-2289. Disposition of tax revenue generally.

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

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

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

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

C. One-half cent of the tax collected on each gallon of fuel on which the refund has been paid at the rate of ~~seventeen cents per gallon~~, or in the case of diesel fuel, ~~fifteen and one-half cents per gallon~~ for

182 *gasoline, gasohol, diesel, blended fuel, and alternative fuel*, for fuel consumed in tractors and unlicensed  
183 equipment used for agricultural purposes shall be paid into a special fund of the state treasury, known as  
184 the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds and defray the costs  
185 of the research and educational phases of the agricultural program, including supplemental salary  
186 payments to certain employees at Virginia Polytechnic Institute and State University, the Department of  
187 Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research Station, including  
188 reasonable expenses of the Virginia Agricultural Council.

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

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

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

215 § 58.1-2701. Amount of tax.

216 A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to  
217 ~~nineteen~~ *three* and one-half cents per gallon *greater than the total tax imposed on each gallon of*  
218 *gasoline, gasohol, and diesel fuel*, calculated on the amount of motor fuel, diesel fuel or liquefied gases  
219 (which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of 14.7  
220 pounds per square inch absolute), used in its operations within the Commonwealth.

221 The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed  
222 on a motor carrier by any other provision of law.

223 B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles  
224 that are not registered under the International Registration Plan shall pay a fee of \$100 per year for each  
225 qualified highway vehicle. The fee is due and payable when the vehicle registration fees are paid  
226 pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

227 If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due  
228 at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration  
229 expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the  
230 registration fee paid is authorized by law.

231 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway  
232 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.

233 § 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.

234 A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax equivalent to  
235 ~~sixteen cents per gallon~~ *the total tax imposed on each gallon of gasoline, gasohol, and diesel fuel* on all  
236 motor fuel, diesel fuel and liquefied gases purchased by such carrier within the Commonwealth for use  
237 in its operations either within or without the Commonwealth and upon which the motor fuel, diesel fuel  
238 or liquefied gases tax imposed by the laws of the Commonwealth has been paid by such carrier.  
239 Evidence of the payment of such tax in such form as may be required by, or is satisfactory to, the  
240 Department shall be furnished by each carrier claiming the credit herein allowed.

241 B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the  
242 amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as  
243 a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding

244 quarters or (ii) be refunded, upon application, duly verified and presented and supported by such  
245 evidence as may be satisfactory to the Department.

246 C. The Department may allow a refund upon receipt of proper application and review. It shall be at  
247 the discretion of the Department to determine whether an audit is required.

248 D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the  
249 applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of  
250 not less than ten days to the applicant and the Attorney General.

251 E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and  
252 Construction Fund.

253 F. Whenever a person operating under lease to a motor carrier to perform transport services on  
254 behalf of the carrier purchases motor fuel, diesel fuel or liquefied gases relating to such services, such  
255 payments or purchases may, at the discretion of the Department, be considered payment or purchases by  
256 the carrier.

257 **2. That the provisions of this act are effective January 1, 2007.**

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