

077122392

HOUSE BILL NO. 2464

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend and reenact §§ 58.1-2217, 58.1-2259, and 58.1-2701 of the Code of Virginia, relating to motor fuels tax and road tax rates and refunds.

Patron—Marshall, D.W.

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-2217, 58.1-2259, and 58.1-2701 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-2217. Taxes levied; rate.

A. 1. There is hereby levied a tax at the rate of ~~seventeen~~ twenty-two and one-half cents per gallon on gasoline and gasohol, *effective on January 1, 2008, and ending on February 1, 2009.*

2. *There is hereby levied a tax at the rate of twenty-seven and one-half cents per gallon on gasoline and gasohol effective on and after February 1, 2009.*

B. 1. There is hereby levied a tax at the rate of ~~sixteen~~ twenty-one cents per gallon on diesel fuel, *effective on January 1, 2008, and ending on February 1, 2009.*

2. *There is hereby levied a tax at the rate of twenty-six cents per gallon diesel fuel effective on and after February 1, 2009.*

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, 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 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, along with any penalties and interest that may accrue.

F. 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.

§ 58.1-2259. Fuel uses eligible for refund.

A. A refund of the tax paid for the purchase of fuel in quantities of five gallons or more at any time shall be granted in accordance with the provisions of § 58.1-2261 to any person who establishes to the satisfaction of the Commissioner that such person has paid the tax levied pursuant to this chapter upon any fuel:

1. Sold and delivered to a governmental entity for its exclusive use;

2. Used by a governmental entity, provided persons operating under contract with a governmental entity shall not be eligible for such refund;

3. Sold and delivered to an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-2250 for its exclusive use in the operation of an aircraft;

4. Used by an organization described in subdivision 2 of § 58.1-2226 or subdivision 2 of § 58.1-2250 for its exclusive use in the operation of an aircraft, provided persons operating under contract with such an organization shall not be eligible for such refund;

5. Purchased by a licensed exporter and subsequently transported and delivered by such licensed exporter to another state for sales or use outside the boundaries of the Commonwealth if the tax applicable in the destination state has been paid, provided 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 an aircraft;

INTRODUCED

HB2464

59 6. Used by any person performing transportation under contract or lease with any transportation
60 district for use in a highway vehicle controlled by a transportation district created under the
61 Transportation District Act of 1964 (§ 15.2-4500 et seq.) and used in providing transit service by the
62 transportation district by contract or lease, provided the refund shall be paid to the person performing
63 such transportation;

64 7. Used by any private, nonprofit agency on aging, designated by the Department for the Aging,
65 providing transportation services to citizens in highway vehicles owned, operated or under contract with
66 such agency;

67 8. Used in operating or propelling highway vehicles owned by a nonprofit organization that provides
68 specialized transportation to various locations for elderly or disabled individuals to secure essential
69 services and to participate in community life according to the individual's interest and abilities;

70 9. Used in operating or propelling buses owned and operated by a county or the school board thereof
71 while being used to transport children to and from public school or from school to and from educational
72 or athletic activities;

73 10. Used by buses owned or solely used by a private, nonprofit, nonreligious school while being
74 used to transport children to and from such school or from such school to and from educational or
75 athletic activities;

76 11. Used by any county or city school board or any private, nonprofit, nonreligious school
77 contracting with a private carrier to transport children to and from public schools or any private,
78 nonprofit, nonreligious school, provided the tax shall be refunded to the private carrier performing such
79 transportation;

80 12. Used in operating or propelling the equipment of volunteer firefighting companies and of
81 volunteer rescue squads within the Commonwealth used actually and necessarily for firefighting and
82 rescue purposes;

83 13. Used in operating or propelling motor equipment belonging to counties, cities and towns, if
84 actually used in public activities;

85 14. Used for a purpose other than in operating or propelling highway vehicles, watercraft or aircraft;

86 15. Used off-highway in self-propelled equipment manufactured for a specific off-road purpose,
87 which is used on a job site and the movement of which on any highway is incidental to the purpose for
88 which it was designed and manufactured;

89 16. Proven to be lost by accident, including the accidental mixing of (i) dyed diesel fuel with
90 tax-paid motor fuel, (ii) gasoline with diesel fuel, or (iii) undyed diesel fuel with dyed kerosene, but
91 excluding fuel lost through personal negligence or theft;

92 17. Used in operating or propelling vehicles used solely for racing other vehicles on a racetrack;

93 18. Used in operating or propelling unlicensed highway vehicles and other unlicensed equipment
94 used exclusively for agricultural or horticultural purposes on lands owned or leased by the owner or
95 lessee of such vehicles and not operated on or over any highway for any purpose other than to move it
96 in the manner and for the purpose mentioned. The amount of refund shall be equal to the amount of the
97 taxes paid less one-half cent per gallon on such fuel so used which shall be paid by the Commissioner
98 into the state treasury to the credit of the Virginia Agricultural Foundation Fund;

99 19. Used in operating or propelling commercial watercraft. The amount of refund shall be equal to
100 the amount of the taxes paid less one and one-half cents per gallon on such fuel so used which shall be
101 paid by the Commissioner into the state treasury to be credited as provided in subsection D of
102 § 58.1-2289. If any applicant so requests, the Commissioner shall pay into the state treasury, to the
103 credit of the Game Protection Fund, the entire tax paid by such applicant for the purposes specified in
104 subsection D of § 58.1-2289. If any applicant who is an operator of commercial watercraft so requests,
105 the Commissioner shall pay into the state treasury, to the credit of the Marine Fishing Improvement
106 Fund, the entire tax paid by such applicant for the purposes specified in § 28.2-208;

107 20. Used in operating stationary engines, or pumping or mixing equipment on a highway vehicle if
108 the fuel used to operate such equipment is stored in an auxiliary tank separate from the fuel tank used to
109 propel the highway vehicle, and the highway vehicle is mechanically incapable of self-propulsion while
110 fuel is being used from the auxiliary tank; or

111 21. Used in operating or propelling recreational and pleasure watercraft.

112 B. 1. Any person purchasing fuel for consumption in a solid waste compacting or ready-mix concrete
113 highway vehicle, or a bulk feed delivery truck, where the vehicle's equipment is mechanically or
114 hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in
115 an amount equal to 35 percent of the tax paid on such fuel. For purposes of this section, a "bulk feed
116 delivery truck" means bulk animal feed delivery trucks utilizing power take-off (PTO) driven auger or
117 air feed discharge systems for off-road deliveries of animal feed.

118 2. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely
119 and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer,
120 where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine

that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such fuel.

C. Any person purchasing any fuel on which tax imposed pursuant to this chapter has been paid may apply for a refund of the tax if such fuel was consumed by a highway vehicle used in operating an urban or suburban bus line or a taxicab service. This refund also applies to a common carrier of passengers which has been issued a certificate of public convenience and necessity pursuant to §§ 46.2-2005 and 58.1-2204 providing regular route service over the highways of the Commonwealth. No refund shall be granted unless the majority of the passengers using such bus line, taxicab service or common carrier of passengers do so for travel of a distance of not more than 40 miles, one way, in a single day between their place of abode and their place of employment, shopping areas or schools.

If the applicant for a refund is a taxicab service, he shall hold a valid permit from the Department to engage in the business of a taxicab service. No applicant shall be denied a refund by reason of the fee arrangement between the holder of the permit and the driver or drivers, if all other conditions of this section have been met.

Under no circumstances shall a refund be granted more than once for the same fuel. The amount of refund under this subsection shall be equal to the amount of the taxes paid, except refunds granted on the tax paid on fuel used by a taxicab service shall be in an amount equal to the tax paid less \$0.01 per gallon on the fuel used.

Any refunds made under this subsection shall be deducted from the urban highway funds allocated to the highway construction district, pursuant to Article 1.1 (§ 33.1-23.01 et seq.) of Chapter 1 of Title 33.1, in which the recipient has its principal place of business.

Except as otherwise provided in this chapter, all provisions of law applicable to the refund of fuel taxes by the Commissioner generally shall apply to the refunds authorized by this subsection. Any county having withdrawn its roads from the secondary system of state highways under provisions of § 11 Chapter 415 of the Acts of 1932 shall receive its proportionate share of such special funds as is now provided by law with respect to other fuel tax receipts.

D. Any person purchasing fuel for consumption in a vehicle designed or permanently adapted solely and exclusively for bulk spreading or spraying of agricultural liming materials, chemicals, or fertilizer, where the vehicle's equipment is mechanically or hydraulically driven by an internal combustion engine that propels the vehicle, is entitled to a refund in an amount equal to 55 percent of the tax paid on such fuel.

E. Refunds resulting from any fuel shipments diverted from Virginia shall be based on the amount of tax paid for the fuel less discounts allowed by § 58.1-2233.

F. Any person who is required to be licensed under this chapter and is applying for a refund shall not be eligible for such refund if the applicant was not licensed at the time the refundable transaction was conducted.

G. Beginning January 1, 2008, and ending January 1, 2010, a refund of the tax paid for the purchase of fuel taxable under this chapter shall be granted to any person who has established to the satisfaction of the Commissioner that such person has paid the tax levied pursuant to this chapter and whose total combined household income received from all sources during the preceding calendar year is no more than \$25,000. Such person shall be entitled to an amount equal to \$50 each year. The person seeking the refund shall submit an application in writing on a form prepared and furnished by the Commissioner and shall apply no later than July 1 each year. Such refunds shall be made no later than the immediately following October 31.

§ 58.1-2701. Amount of tax.

A. Except as provided in subsection B, every motor carrier shall pay a road tax equivalent to nineteen and one-half cents per gallon calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth. *Effective on and after January 1, 2008, the rate of the road tax imposed herein shall be three cents more than the rate of the motor fuels tax imposed on diesel fuel pursuant to § 58.1-2217.*

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

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

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

182 C. All taxes and fees paid under the provisions of this chapter shall be credited to the Highway
183 Maintenance and Operating Fund, a special fund within the Commonwealth Transportation Fund.
184 2. That all of the provisions of this act, other than those adding subdivisions A 2 and B 2 in
185 § 58.1-2217 of the Code of Virginia, shall become effective on January 1, 2008. The provisions of
186 this act adding subdivisions A 2 and B 2 in § 58.1-2217 shall become effective on February 1,
187 2009, provided a constitutional amendment making the Transportation Trust Fund a permanent,
188 constitutional fund is approved by a majority of the voters voting in the 2008 November general
189 election.