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## SENATE BILL NO. 1532

Offered January 23, 2009

A BILL to amend and reenact §§ 58.1-1719, 58.1-1720 and 58.1-1722 of the Code of Virginia, to amend the Code of Virginia by adding in Article 4 of Chapter 17 of Title 58.1 a section numbered 58.1-1718.1, and to repeal §§ 58.1-1721 and 58.1-1723 of the Code of Virginia, relating to the tax on sales of fuels in the Northern Virginia Transportation District and the Potomac and Rappahannock Transportation District.

Patron—Saslaw

Referred to Committee on Finance

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

1. That §§ 58.1-1719, 58.1-1720 and 58.1-1722 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Article 4 of Chapter 17 of Title 58.1 a section numbered 58.1-1718.1 as follows:

## § 58.1-1718.1. Definitions.

"Distributor" means (i) any person engaged in the business of selling fuels in the Commonwealth who brings, or causes to be brought, into the Commonwealth from outside the Commonwealth any fuels for sale; (ii) any person who makes, manufactures, fabricates, processes, or stores fuels in the Commonwealth for sale in the Commonwealth; or (iii) any person engaged in the business of selling fuels outside the Commonwealth who ships or transports fuels to any person in the business of selling fuels in the Commonwealth.

"Fuel" means any fuel subject to tax under Chapter 22 (§ 58.1-2200 et seq.) of this title.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

"Retail dealer" means any person who sells fuels to a consumer or to any person for any purpose other than resale.

## § 58.1-1719. Rules and regulations.

The Tax Commissioner shall promulgate rules and regulations for the registration of dealers distributors and 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  $2\frac{1}{2}$ ¢.

## § 58.1-1720. Tax on fuel sold in certain transportation districts.

A. There is hereby levied, in addition to all other taxes imposed on fuels subject to tax under Chapter 22 (§ 58.1-2200 et seq.) of this title In addition to all other taxes now imposed by law, there is hereby imposed a license or privilege tax upon every distributor who engages in the business of selling fuels at wholesale to retail dealers located in every (i) any county or city which that is a member of any transportation district in which a rapid heavy rail commuter mass transportation system operating on an exclusive right-of-way and a bus commuter mass transportation system are owned, operated or controlled, by an agency or a commission as defined in § 15.2-4502, or in (ii) any county or city that is a member of any transportation district which that is subject to § 15.2-4515 C and which that is contiguous to the Northern Virginia Transportation District, 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.

The tax shall be imposed at a rate of 2.1 percent of the sales price charged by a distributor for fuels sold to a retail dealer located in any such county or city described in clause (i) or (ii). Such tax shall be imposed at the time of the sale by the distributor to the retail dealer. The tax imposed by this article shall be paid by the distributor, but the distributor shall separately state the amount of the tax and such tax to the sales price or charge. Thereafter, such tax shall be a debt from the retail dealer until paid and shall be recoverable at law in the same manner as other debts.

B. The tax imposed under 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.

C. The tax imposed under this section shall be effective on the first day of the first month that is at least 60 days after the certification by the Secretary of the Commonwealth required under §§ 15.2-4504 and 15.2-4529.

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59 *B. Every distributor collecting the tax imposed under this article shall file a monthly return no later*  
60 *than the twentieth of each month on a form prescribed by the Department, covering the sale of fuels by*  
61 *such distributor during the preceding month, for which tax is imposed pursuant to subsection A.*

62 *For purposes of compensating a distributor for accounting for and remitting the tax levied by this*  
63 *article, such distributor shall be allowed to deduct two percent of the tax otherwise due in submitting*  
64 *his return and paying the amount due by him if the amount was not delinquent at the time of payment.*

65 § 58.1-1722. Exclusion from professional license tax.

66 The amount of the tax imposed by this article and collected by a ~~dealer~~ distributor in any taxable  
67 year shall be excluded from gross receipts for purposes of any tax imposed under Chapter 37  
68 (§ 58.1-3700 et seq.) of this title.

69 **2. That §§ 58.1-1721 and 58.1-1723 of the Code of Virginia are repealed effective January 1, 2010.**

70 **3. That the provisions of this act shall become effective on January 1, 2010.**