

11101726D

HOUSE BILL NO. 1653

Offered January 12, 2011

Prefiled January 10, 2011

A *BILL to amend the Code of Virginia by adding in Chapter 17 of Title 58.1 an article numbered 4.2, consisting of sections numbered 58.1-1724.8 through 58.1-1724.14, relating to motor fuels sales tax in certain districts; referendum.*

Patron—Purkey

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 17 of Title 58.1 an article numbered 4.2, consisting of sections numbered 58.1-1724.8 through 58.1-1724.14, as follows:

*Article 4.2.**Motor Vehicle Fuels Tax in Transportation Districts.**§ 58.1-1724.8. Definitions.*

As used in the Article, unless the context requires a different meaning:

"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, or any other person engaged in the business of selling fuels in the Commonwealth; (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.).

"Gross sales" means the same as that term is defined in § 58.1-602.

"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.

"Sales price" means the same as that term is defined in § 58.1-602 and also includes all transportation and delivery charges, regardless of whether the charges are separately stated on the invoice.

§ 58.1-1724.9. Rules and regulations.

The Tax Commissioner shall promulgate rules and regulations for the registration of distributors and dealers and the procedures for filing returns for the payment of the tax imposed pursuant to this article.

§ 58.1-1724.10. Tax on fuel sold in certain transportation districts.

A. 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 for retail sale in each county and city that is a member of a transportation district wherein a majority of the qualified voters of such counties and cities vote in the affirmative on the question of the imposition of such tax at the election directed by law to be held Tuesday, November 8, 2011.

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

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

§ 58.1-1724.11. Exclusion from professional license tax.

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

INTRODUCED

HB1653

59 § 58.1-1724.12. *Disposition of tax revenues.*

60 All taxes paid to the Commissioner pursuant to this article, after subtraction of the direct costs of
61 administration by the Department, shall be deposited into a special fund to be known as the "Special
62 Fund Account of the Transportation District of," to be used solely for the construction of
63 highways, bridges, or tunnels in the respective transportation district.

64 § 58.1-1724.13. *Rules and regulations; bracket system.*

65 The Tax Commissioner shall promulgate rules and regulations for the registration of dealers and the
66 procedures for filing returns for the payment of the tax imposed pursuant to this article. Such
67 regulations shall include provisions for a bracket system, designed so that the tax will appear on the
68 fuel pump as a part of the total cost of a unit of fuel, whether the unit is a gallon or other measure.
69 The bracket system shall state the tax per unit measure in tenths of a cent, and shall be in increments of
70 no more than two and one-half cents.

71 § 58.1-1724.14. *Exclusion from professional license tax.*

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

74 2. That it shall be the duty of the regular election officers of all the counties and cities of the
75 Commonwealth conducting the election directed by law to be held on Tuesday, November 8, 2011,
76 at the places appointed for holding the same, to open a poll on such day and take the sense of the
77 qualified voters of such counties and cities upon the ratification or rejection of a 2.1 percent motor
78 fuels tax pursuant to § 58.1-1724.10 of the Code of Virginia. Notice of the referendum shall be
79 given, the ballots shall be prepared, distributed and voted, and the results thereof ascertained and
80 certified in accordance with Title 24.2 of the Code of Virginia, relating to special elections.

81 The ballot shall contain the following question:

82 "QUESTION: Shall an additional motor fuels tax of 2.1 percent be imposed in the Transportation
83 District of , consisting of [list the appropriate counties and cities] with the revenues to be
84 used solely for the construction of highways, bridges, or tunnels in such counties and cities, as
85 specified in Chapter (. . .) of the Acts of Assembly of 2011?"

86 The State Board of Elections shall cause to be sent to the electoral boards of such counties and
87 cities sufficient copies of the full text of this act and the question contained herein for the officers
88 of election to post in each polling place on election day. The State Board of Elections shall without
89 delay make out and transmit to the Governor an official copy of the report, segregated by
90 transportation district, of the whole number of votes cast at the election for and against the
91 referendum question, certified by it. The expenses incurred in conducting this election shall be
92 defrayed as in the case of election of members of the General Assembly.

93 3. The counties and cities of each transportation district are as set forth in this enactment.

94 (a) The Bristol Transportation District shall consist of the Counties of Bland, Buchanan,
95 Dickenson, Grayson, Lee, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe; and the
96 Cities of Bristol and Norton.

97 (b) The Culpeper Transportation District shall consist of the Counties of Albemarle, Culpeper,
98 Fauquier, Fluvanna, Greene, Louisa, Madison, Orange, and Rappahannock; and the City of
99 Charlottesville.

100 (c) The Fredericksburg Transportation District shall consist of the Counties of Caroline, Essex,
101 Gloucester, King George, King and Queen, King William, Lancaster, Mathews, Middlesex,
102 Northumberland, Richmond, Spotsylvania, Stafford, and Westmoreland; and the City of
103 Fredericksburg.

104 (d) The Hampton Transportation District shall consist of the Counties of Accomack, Greensville,
105 Isle of Wight, James City, Northampton, Southampton, Surry, Sussex, and York; and the Cities of
106 Emporia, Hampton, Newport News, Norfolk, Portsmouth, Chesapeake, Suffolk, Virginia Beach,
107 Williamsburg, Franklin, and Poquoson.

108 (e) The Lynchburg Transportation Authority shall consist of the Counties of Amherst,
109 Appomattox, Buckingham, Campbell, Charlotte, Cumberland, Halifax, Nelson, Pittsylvania, and
110 Prince Edward; and the Cities of Danville and Lynchburg.

111 (f) The Northern Virginia Transportation Authority shall consist of the Counties of Arlington,
112 Fairfax, Loudoun, and Prince William; and the Cities of Alexandria, Falls Church, Fairfax,
113 Manassas, and Manassas Park.

114 (g) The Richmond Transportation Authority shall consist of the Counties of Amelia, Brunswick,
115 Charles City, Chesterfield, Dinwiddie, Goochland, Hanover, Henrico, Lunenburg, Mecklenburg,
116 New Kent, Nottoway, Powhatan, and Prince George; and the Cities of Colonial Heights, Hopewell,
117 Petersburg, and Richmond.

118 (h) The Salem Transportation Authority shall consist of the Counties of Bedford, Botetourt,
119 Carroll, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski, and Roanoke; and
120 the Cities of Galax, Martinsville, Radford, Roanoke, Salem, and Bedford.

121 (i) The Staunton Transportation Authority shall consist of the Counties of Alleghany, Augusta,
122 Bath, Clarke, Frederick, Highland, Page, Rockbridge, Rockingham, Shenandoah, and Warren; and
123 the Cities of Buena Vista, Covington, Harrisonburg, Lexington, Staunton, Waynesboro, and
124 Winchester.

INTRODUCED

HB1653