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SENATE BILL NO. 115

Offered January 13, 2010

Prefiled January 12, 2010

A *BILL to amend the Code of Virginia by adding in Chapter 38 of Title 58.1 an article numbered 8.1, consisting of sections numbered 58.1-3844 through 58.1-3849, relating to authorizing cities and counties to impose a surcharge on retail sales of fuels with the revenues from the surcharge to be used for funding of the urban or secondary system of state highways.*

Patron—Petersen

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 38 of Title 58.1 an article numbered 8.1, consisting of sections numbered 58.1-3844 through 58.1-3849, as follows:

*Article 8.1.**Surcharge on Fuels Sales in Cities and Counties.*

§ 58.1-3844. *Rules and regulations; bracket system.*

The Tax Commissioner shall promulgate rules and regulations for the registration of dealers and the procedures for filing returns for the payment of the surcharge imposed pursuant to this article. Such regulations shall include provisions for a bracket system, designed so that the surcharge 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 surcharge per unit measure in tenths of a cent, and shall be in increments of no more than 2 1/2 cents.

§ 58.1-3845. *Surcharge on fuels sales in cities and counties.*

A. In addition to all other taxes, fees, and other charges imposed on fuels subject to tax under Chapter 22 (§ 58.1-2200 et seq.) of this title, each city and county may by ordinance impose a surcharge of 1% of the retail price of such fuels sold at retail within the city or county. The surcharge shall become effective on April 1 of the year immediately following the calendar year in which the ordinance was adopted.

B. The surcharge imposed pursuant to this section shall be collected by the Tax Commissioner and shall be implemented, enforced, and collected in the same manner as retail sales and use taxes are implemented, enforced, and collected under the Virginia Retail Sales and Use Tax Act (§ 58.1-600 et seq.), except that the exemption provided for motor vehicle fuels under § 58.1-609.1, and the bracket system provided in such act, shall not be applicable.

§ 58.1-3846. *Exclusion from professional license tax.*

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

§ 58.1-3847. *Refund of surcharge on fuels sales.*

Anyone who purchases fuel (i) to which the surcharge is imposed pursuant to the provisions of § 58.1-3845 and (ii) upon which a refund is granted for motor fuels taxes paid pursuant to the provisions of Chapter 22 (§ 58.1-2200 et seq.) of this title, may file a claim for a refund of the surcharge paid pursuant to this article within 30 days after receipt of a refund pursuant to Chapter 22 on forms and under regulations adopted by the Department of Taxation.

§ 58.1-3848. *Disposition of tax revenues.*

All surcharges paid to the Tax Commissioner pursuant to this article, after subtraction of the direct costs of administration by the Department, shall be deposited in a special fund entitled the "Special Fund Transportation Account of the (City or County) of . . ." The amount deposited into the special fund for each city or county shall be the net surcharges collected from sales at retail of such fuels within the city or county. The amounts deposited in the special fund shall be distributed monthly to the applicable city or county to be used solely for funding the following: improvements to, the construction of, additions to, the acquisition costs of real property directly relating to, or the enhancement of roads or highways in the urban or secondary system of state highways.

The direct costs of administration of the surcharge by the Department of Taxation shall be credited to the funds appropriated to the Department.

§ 58.1-3849. *Disclosure of information; penalties.*

For purposes of administering the surcharge levied pursuant to this article, the Tax Commissioner, upon written request, is authorized to provide to the finance officer of the city or county, such

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59 *information as may be necessary for the performance of his official duties. Any person to whom*
60 *information is provided pursuant to this section shall be subject to the prohibitions and penalties*
61 *prescribed in § 58.1-3.*

62 **2. That any revenues generated by the imposition of a surcharge pursuant to Article 8.1**
63 **(§ 58.1-3844 et seq.) of Title 58.1 of the Code of Virginia shall not be used to calculate or reduce**
64 **the share of local, federal, or state revenues otherwise available to participating cities or counties.**
65 **Further, such revenues and moneys shall not be included in any computation of, or formula for, a**
66 **locality's ability to pay for public education, upon which appropriations of state revenues to local**
67 **governments for public education are determined.**