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**SENATE BILL NO. 138**

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend the Code of Virginia by adding in Title 58.1 a chapter numbered 22.1, consisting of sections numbered 58.1-2291 through 58.1-2297, and to repeal Article 4 (§§ 58.1-1718.1 through 58.1-1724.1) and Article 4.1 (§§ 58.1-1724.2 through 58.1-1724.4) of Chapter 17 of Title 58.1 of the Code of Virginia, relating to motor vehicle fuels sales tax.*

Patrons—Puller, Barker and Colgan; Delegate: Lingamfelter

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 Title 58.1 a chapter numbered 22.1, consisting of sections numbered 58.1-2291 through 58.1-2297, as follows:**

**CHAPTER 22.1.****MOTOR VEHICLE FUELS SALES TAX IN CERTAIN TRANSPORTATION DISTRICTS.**

§ 58.1-2291. Title.

*This chapter shall be known and may be cited as the "Motor Vehicle Fuels Sales Tax Act."*

§ 58.1-2292. Definitions.

*As used in this chapter unless the context requires a different meaning:*

*"Commissioner" means the Commissioner of the Department of Motor Vehicles.*

*"Department" means the Department of Motor Vehicles, acting directly or through its duly authorized officers and agents.*

*"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.*

§ 58.1-2293. Administration of the tax.

*The provisions of Chapter 22 (§ 58.1-2200 et seq.) shall apply to this chapter, mutatis mutandis, except as herein provided. The Commissioner may promulgate rules and regulations for the registration of distributors and the procedures for filing returns for the payment of the tax imposed pursuant to this chapter.*

§ 58.1-2294. 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 (i) any county or city 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 bus commuter mass transportation system are owned, operated, or controlled by an agency or a commission as defined in § 15.2-4502 or (ii) any county or city that is a member of any transportation district that is subject to subsection C of § 15.2-4515 and that is contiguous to the Northern Virginia Transportation District.*

*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 in any 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 chapter 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*

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59 dealer until paid and shall be recoverable at law in the same manner as other debts.

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

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

66 § 58.1-2295. Exclusion from professional license tax.

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

70 § 58.1-2296. Disposition of tax revenues.

71 All taxes paid to the Commission pursuant to this chapter, after subtraction of the direct costs of  
72 administration by the Department, shall be deposited into a special fund entitled the "Special Fund  
73 Account of the Transportation District of . . ." The amounts deposited in the special fund shall be  
74 distributed monthly to the applicable transportation district commission of which the county or city is a  
75 member to be applied to the operating deficit, capital, and debt service of the mass transit system of  
76 such district or, in the case of a transportation district subject to the provisions of subsection C of  
77 § 15.2-4515, to be applied to and expended for any transportation of such district. In the case of a  
78 jurisdiction which, after July 1, 1989, joins a transportation district which was established on or before  
79 January 1, 1986, and is also subject to the provisions of subsection C of § 15.2-4515, the funds  
80 collected from that jurisdiction shall be applied to and expended for any transportation purpose of such  
81 jurisdiction. The direct costs of administration shall be credited to the funds appropriated to the  
82 Department.

83 § 58.1-2297. Disclosure of information; penalties.

84 A. Notwithstanding the provisions of § 58.1-3 or any other provision of this title, the Commissioner is  
85 authorized to provide the Executive Directors of the Northern Virginia Transportation Commission and  
86 the Potomac and Rappahannock Transportation Commission for their confidential use such tax  
87 information as may be necessary to facilitate the collection of the motor vehicle fuel sales tax.

88 B. For purposes of administering the tax levied under this chapter, the Commissioner, upon written  
89 request, is authorized to provide to the finance officer of any city or county that is charged with  
90 administering the motor vehicle fuel sales tax such information as may be necessary for the performance  
91 of official duties.

92 C. Any person to whom information is provided pursuant to this section shall be subject to the  
93 prohibitions and penalties prescribed in § 58.1-3.

94 2. That Article 4 (§§ 58.1-1718.1 through 58.1-1724.1) and Article 4.1 (§§ 58.1-1724.2 through  
95 58.1-1724.4) of Chapter 17 of Title 58.1 of the Code of Virginia are repealed.

96 3. That the provisions of this act shall become effective on July 1, 2013.