

**Department of Planning and Budget
2012 Fiscal Impact Statement**

1. Bill Number: HB536

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Orrock

3. Committee: Passed Both Houses

4. Title: Motor fuels tax.

5. Summary: This bill removes the requirement that bulk users and retailers of undyed diesel fuel be licensed and requires shipping documents to be issued to and carried by everyone transporting fuel that has been loaded at a terminal rack or bulk plant rack. The bill also gives the Commissioner of the Department of Motor Vehicles discretion in determining whether to seize a tank or storage unit containing illegal fuel and lock it until taxes have been paid.

6. Budget Amendment Necessary: No.

7. No Fiscal Impact: Final.

8. Fiscal Implications: None.

9. Specific Agency or Political Subdivisions Affected: Department of Motor Vehicles, retailers and users of undyed diesel fuel, transporters of fuel loaded at a terminal rack or bulk plant rack.

10. Technical Amendment Necessary: No.

11. Other Comments: When the point of taxation was changed from the distributor to the terminal rack, the law required bulk users of undyed diesel fuel and retailers of undyed diesel fuel to be licensed with the Department of Motor Vehicles (DMV). These entities, however, are not required to file tax reports and they do not remit any tax. DMV has determined that licensing these entities imposes substantial burdens on both users and the retailers, as well as DMV, without conferring any real benefit. Accordingly, the bill would eliminate the requirement that these entities be licensed.

Section 58.1-2201 of the Code currently includes tank wagons under the definition of "motor fuel transporter," but tank wagons are not included in § 58.1-2263, which imposes certain requirements regarding shipping documents related to the transportation of fuel. It is DMV's understanding that most tank wagon operators already carry the same shipping documents as other fuel transporters. Requiring this documentation for all vehicles transporting fuel that has been loaded at a terminal rack or bulk plant rack will make it easier for law enforcement

to determine whether the fuel being transported by a tank wagon - or by any other means of conveyance - is legal.

The Code currently requires the DMV Commissioner to order a tank or storage unit containing illegal fuel to be seized and locked until taxes have been paid. Motor fuels are hazardous substances, and there are few sites where DMV can safely store fuel tanks that have been seized. Seizure may not be required in every case to ensure payment of taxes and penalties. One enforcement alternative is to allow delivery of the fuel to its destination, and then to collect taxes from the person or entity to whom it is delivered. In addition, criminal sanctions can be used to punish and deter tax evasion. This legislation would therefore grant DMV enforcement agents additional flexibility in determining whether or not to seize tanks and storage units containing fuel that has been illegally transported, delivered, stored, sold, acquired or imported into Virginia. (The bill also would make a technical amendment to § 58.1-2274 (A), clarifying that its provisions, like those of the statute's other subdivisions, apply to fuel illegally acquired in Virginia.)

Date: 3/2/12

Document: Janet Vogelgesang C:\FIS2012\HB536ER.doc

c: Secretary of Transportation