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HOUSE BILL NO. 1008

Offered January 13, 2016

Prefiled January 13, 2016

A BILL to amend and reenact § 58.1-2295, as it is currently effective, of the Code of Virginia, relating to the motor vehicle fuels sales tax in certain transportation districts; price floor.

Patrons—Levine and Hester

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:**1. That § 58.1-2295 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-2295. (Contingent expiration date) Levy; payment of tax.**

A. 1. In addition to all other taxes now imposed by law, there is hereby imposed a tax upon every distributor who engages in the business of selling fuels at wholesale to retail dealers for retail sale in any county or city that is a member of (i) 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 commission as defined in § 33.2-1901 or (ii) any transportation district that is subject to subsection C of § 33.2-1915 and that is contiguous to the Northern Virginia Transportation District.

2. In addition to all other taxes now imposed by law, there is hereby imposed a tax upon every distributor who engages in the business of selling fuels at wholesale to retail dealers for retail sale in any county or city that is located in a Planning District established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 that (i) as of January 1, 2013, has a population of not less than 1.5 million but fewer than two million, as shown by the most recent United States Census, has not less than 1.2 million but fewer than 1.7 million motor vehicles registered therein, and has a total transit ridership of not less than 15 million but fewer than 50 million riders per year across all transit systems within the Planning District or (ii) as shown by the most recent United States Census meets the population criteria set forth in clause (i) and also meets the vehicle registration and ridership criteria set forth in clause (i). In any case in which the tax is imposed pursuant to clause (ii) such tax shall be effective beginning on the July 1 immediately following the calendar year in which all of the criteria have been met.

B. ~~The~~ 1. Before July 1, 2016, 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 such county or city. In any such sale to a retail dealer in which the distributor and the retail dealer are the same person, the sales price charged by the distributor shall be the cost price to the distributor of the fuel. Beginning July 1, 2016, such tax shall be imposed on each gallon of fuel sold to a retail dealer at a rate of 2.1 percent of the statewide average sales price of a gallon of unleaded regular gasoline and a gallon of diesel fuel for the applicable base period, as determined by the Commissioner as set forth in subdivision 2.

The tax levied under this ~~section~~ subdivision shall be imposed at the time of sale by the distributor to the retail dealer.

2. In computing the average sales price of a gallon of unleaded regular gasoline, the Commissioner shall use the period from December 1 through May 31 as the base period for such determination for the immediately following period beginning July 1 and ending December 31, inclusive. The period from June 1 through November 30 shall be the next base period for the immediately following period beginning January 1 and ending June 30, inclusive. In no case shall the average sales price computed for purposes of this subsection be less than the statewide average sales price of a gallon of unleaded regular gasoline on February 20, 2013. The tax levied under this subdivision shall be imposed at the time of sale by the distributor to the retail dealer.

In computing the average sales price of a gallon of diesel fuel, the Commissioner shall use the period from December 1 through May 31 as the base period for such determination for the immediately following period beginning July 1 and ending December 31, inclusive. The period from June 1 through November 30 shall be the next base period for the immediately following period beginning January 1 and ending June 30, inclusive. In no case shall the average sales price computed for purposes of this subsection be less than the statewide average sales price of a gallon of diesel fuel on February 20, 2013.

C. The tax imposed by this section 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 to the distributor until paid and shall be recoverable at law in the same manner as other debts. No action at law or suit in equity under this chapter shall be maintained in the

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59 Commonwealth by any distributor who is not registered under § 58.1-2299.2 or is delinquent in the
60 payment of taxes imposed under this chapter.