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## SENATE BILL NO. 742

Offered January 22, 2016

A *BILL to amend and reenact §§ 58.1-2295 and 58.1-2299.20, as they are currently effective, of the Code of Virginia, relating to the motor vehicle fuels sales tax in certain transportation districts.*

Patrons—Wagner, Alexander, Lewis, McPike and Surovell; Delegate: Hester

Referred to Committee on Finance

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-2295 and 58.1-2299.20, as they are currently effective, of the Code of Virginia are 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. *The tax under this subsection 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.*

B. 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 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 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.~~

2. *Beginning July 1, 2016, the tax under this subsection shall be imposed as provided in this subdivision for fuels sold by a distributor to a retail dealer for retail sale in any such county or city. The tax shall be imposed based on the wholesale price of fuel, as determined by the Commissioner. 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.*

Wholesale price of fuel	Tax
\$2.50 and below	\$0.14 per gallon
\$2.50 through \$3.00	\$0.08 per gallon
\$3.01 and above	\$0.05 per gallon

*In determining the wholesale price, the Commissioner shall calculate the average wholesale price each calendar month as a base period for the succeeding applied period beginning two calendar months after the beginning of the base period.*

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

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

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**59        § 58.1-2299.20. (Contingent expiration date) Disposition of tax revenues.**

**60        A.** All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the  
**61** sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in subdivision A  
**62** 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be  
**63** deposited in a special fund entitled the "Special Fund Account of the Transportation District of ....."  
**64** The amounts deposited in the special fund shall be distributed monthly to the applicable transportation  
**65** district commission of which the county or city is a member to be applied to the operating deficit,  
**66** capital, and debt service of the mass transit system of such district or, in the case of a transportation  
**67** district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any  
**68** transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a  
**69** transportation district which was established on or before January 1, 1986, and is also subject to  
**70** subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended  
**71** for any transportation purpose of such jurisdiction. The direct costs of administration shall be credited to  
**72** the funds appropriated to the Department.

**73        B.** All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the  
**74** sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in subdivision A  
**75** 2 B 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be  
**76** deposited into special funds established by law. In the case of Planning District 23, the revenue  
**77** generated and collected therein shall be deposited into the fund established in § 33.2-2600. For  
**78** additional Planning Districts that may become subject to this section, funds shall be established by  
**79** appropriate legislation. The direct cost of administration shall be credited to the funds appropriated to  
**80** the Department.