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SENATE BILL NO. 1470

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Edwards
on February 5, 2019)

(Patrons Prior to Substitute—Senators Edwards and Hanger [SB 1322])

A *BILL to amend and reenact § 58.1-2289, as it is currently effective and as it may become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-2217.1, relating to additional motor fuels tax.*

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-2289, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-2217.1 as follows:

§ 58.1-2217.1. Additional tax levied.

A. *In addition to all other taxes now imposed by law, there is hereby imposed an additional tax at a rate of five percent of the statewide average wholesale price of a gallon of unleaded regular gasoline for the applicable base period, excluding federal and state excise taxes, as determined by the Commissioner pursuant to § 58.1-2217. In no case shall the statewide average wholesale price computed for purposes of this section be less than the statewide average wholesale price of a gallon of unleaded regular gasoline on February 20, 2013. Such tax shall be imposed upon the sale of every gallon of gasoline, gasohol, and alternative fuels. For alternative fuels other than liquid alternative fuels, the Commissioner shall determine an equivalent tax rate based on gasoline gallon equivalency.*

B. *In addition to all other taxes now imposed by law, there is hereby imposed an additional tax at a rate of five percent of the statewide average wholesale price of a gallon of diesel fuel for the applicable base period, excluding federal and state excise taxes, as determined by the Commissioner pursuant to § 58.1-2217. In no case shall the statewide average wholesale price computed for purposes of this section be less than the statewide average wholesale price of a gallon of diesel fuel on February 20, 2013. Such tax shall be imposed upon the sale of every gallon of diesel fuel.*

C. *The provisions of this chapter related to collection, remittance, reporting, refunds, enforcement, and administration of the motor fuels tax shall apply to this section, mutatis mutandis.*

§ 58.1-2289. (Contingent expiration date) Disposition of tax revenue generally.

A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be promptly paid into the state treasury and shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds.

The Governor is hereby authorized to transfer out of such fund an amount necessary for the inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection and analysis of gasoline for purity.

B. The tax collected on each gallon of aviation fuel sold and delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance and improvement of airports and landing fields to which the public now has or which it is proposed shall have access, and for the promotion of aviation in the interest of operators and the public generally.

C. One-half cent of the tax collected on each gallon of fuel on which a refund has been paid for gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel, for fuel consumed in tractors and unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds and defray the costs of the research and educational phases of the agricultural program, including supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University, the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research Station, including reasonable expenses of the Virginia Agricultural Council.

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this

60 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public
61 and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial
62 fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be
63 used for the construction, repair, improvement and maintenance of the public docks of this
64 Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction,
65 improvement and maintenance of the public docks shall be made according to a plan developed by the
66 Virginia Marine Resources Commission.

67 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for
68 the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury
69 for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the
70 State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public
71 docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters,
72 (iii) make environmental improvements including, without limitation, fisheries management and habitat
73 enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.2-1510,
74 a sum as established by the General Assembly.

75 E. (For contingent expiration date, see Acts 2018, cc. 854 and 856) Of the remaining revenues
76 deposited into the Commonwealth Transportation Fund pursuant to this chapter less refunds authorized
77 by this chapter: (i) 80 percent shall be deposited into the Highway Maintenance and Operating Fund
78 established pursuant to § 33.2-1530, (ii) 11.3 percent shall be deposited into the Transportation Trust
79 Fund established pursuant to § 33.2-1524, (iii) four percent shall be deposited into the Priority
80 Transportation Fund, (iv) 3.11 percent shall be deposited into the Commonwealth Transit Capital Fund
81 established pursuant to subdivision A 4 c of § 58.1-638, (v) one percent shall be transferred to a special
82 fund within the Commonwealth Transportation Fund in the state treasury, to be used to meet the
83 necessary expenses of the Department of Motor Vehicles, (vi) 0.35 of one percent shall be deposited
84 into the Commonwealth Mass Transit Fund established pursuant to subdivision A 4 of § 58.1-638 and
85 allocated to subdivision A 4 b (1)(b), and (vii) 0.24 of one percent shall be deposited into the
86 Commonwealth Mass Transit Fund established pursuant to subdivision A 4 of § 58.1-638 and allocated
87 to subdivision A 4 b (1)(a).

88 E. (For contingent effective date see Acts 2018, cc. 854 and 856) Of the remaining revenues
89 deposited into the Commonwealth Transportation Fund pursuant to this chapter less refunds authorized
90 by this chapter: (i) 80 percent shall be deposited into the Highway Maintenance and Operating Fund
91 established pursuant to § 33.2-1530, (ii) 11.3 percent shall be deposited into the Transportation Trust
92 Fund established pursuant to § 33.2-1524, (iii) four percent shall be deposited into the Priority
93 Transportation Fund, (iv) 3.7 percent shall be deposited into the Commonwealth Mass Transit Fund
94 established pursuant to subdivision A 4 of § 58.1-638, and (v) one percent shall be transferred to a
95 special fund within the Commonwealth Transportation Fund in the state treasury, to be used to meet the
96 necessary expenses of the Department of Motor Vehicles.

97 *F. Of the revenue collected pursuant to § 58.1-2217.1 and notwithstanding any other provision of*
98 *law, \$200 million shall be reserved for improvements on Interstate 81, and the remainder of shall be*
99 *distributed pursuant to subsection E.*

100 **§ 58.1-2289. (Contingent effective date) Disposition of tax revenue generally.**

101 A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by
102 the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be
103 promptly paid into the state treasury and shall constitute special funds within the Commonwealth
104 Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for
105 use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds
106 shall accrue to these funds.

107 The Governor is hereby authorized to transfer out of such fund an amount necessary for the
108 inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection
109 and analysis of gasoline for purity.

110 B. The tax collected on each gallon of aviation fuel sold and delivered or used in this
111 Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of this
112 special fund within the Commonwealth Transportation Fund shall be disbursed upon order of the
113 Department of Aviation, on warrants of the Comptroller, to defray the cost of the administration of the
114 laws of this Commonwealth relating to aviation, for the construction, maintenance and improvement of
115 airports and landing fields to which the public now has or which it is proposed shall have access, and
116 for the promotion of aviation in the interest of operators and the public generally.

117 C. One-half cent of the tax collected on each gallon of fuel on which a refund has been paid for
118 gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel, for fuel consumed in tractors and
119 unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state
120 treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds
121 and defray the costs of the research and educational phases of the agricultural program, including

supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University, the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research Station, including reasonable expenses of the Virginia Agricultural Council.

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters, (iii) make environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.2-1510, a sum as established by the General Assembly.

E. Of the remaining revenues deposited into the Commonwealth Transportation Fund pursuant to this chapter less refunds authorized by this chapter: (i) 80 percent shall be deposited into the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530, (ii) 15 percent shall be deposited into the Transportation Trust Fund established pursuant to § 33.2-1524, (iii) four percent shall be deposited into the Priority Transportation Fund, and (iv) one percent shall be transferred to a special fund within the Commonwealth Transportation Fund in the state treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles.

F. Of the revenue collected pursuant to § 58.1-2217.1 and notwithstanding any other provision of law, \$200 million shall be reserved for improvements on Interstate 81, and the remainder of shall be distributed pursuant to subsection E.

2. That the Secretary of Transportation shall evaluate (i) the impact of increased fuel efficiency and increased use of hybrid and electric vehicles on transportation revenues, and (ii) potential options to provide a sustainable funding stream for transportation infrastructure, and report to the General Assembly no later than December 10, 2019.