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**SENATE BILL NO. 452**

Offered January 8, 2020

Prefiled January 7, 2020

*A BILL to amend and reenact § 58.1-2299.20, 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 58.1-2295.2, relating to motor vehicle fuels sales tax in certain counties and cities.*

Patrons—Edwards and Hanger

Referred to Committee on Finance and Appropriations

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

**1. That § 58.1-2299.20, 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 58.1-2295.2 as follows:**

**§ 58.1-2295.2. Levy of tax in certain counties and cities.**

*A. 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 in which a tax is not imposed pursuant to the provisions of § 58.1-2295 or 58.1-2295.1.*

*B. 1. The tax shall be imposed on each gallon of fuel, other than diesel fuel, sold by a distributor to a retail dealer for retail sale in any such county or city described in subsection A at a rate of 2.1 percent of the statewide average distributor price of a gallon of unleaded regular gasoline as determined by the Commissioner pursuant to subdivision C 1. For alternative fuels other than liquid alternative fuels, the Commissioner shall determine an equivalent tax rate based on gasoline gallon equivalency.*

*2. The tax shall be imposed on each gallon of diesel fuel sold by a distributor to a retail dealer for retail sale in any such county or city described in subsection A at a rate of 2.1 percent of the statewide average distributor price of a gallon of diesel fuel as determined by the Commissioner pursuant to subdivision C 2.*

*C. 1. To determine the statewide average distributor price of a gallon of unleaded regular gasoline, the Commissioner shall use the period from June 1 through November 30, inclusive, as the base period for such determination for the immediately following period beginning January 1 and ending June 30, inclusive. The Commissioner shall use the period from December 1 through May 31, inclusive, as the base period for the determination of the rate of tax for the immediately following period beginning July 1 and ending December 31, inclusive. In no case shall the statewide average distributor price of a gallon of unleaded regular gasoline determined for purposes of this section be less than the statewide average wholesale price of a gallon of unleaded regular gasoline on February 20, 2013, plus a distributor charge calculated by the Commissioner for that date.*

*2. To determine the statewide average distributor price of a gallon of diesel fuel, the Commissioner shall use the period from June 1 through November 30, inclusive, as the base period for such determination for the immediately following period beginning January 1 and ending June 30, inclusive. The Commissioner shall use the period from December 1 through May 31, inclusive, as the base period for the determination of the rate of tax for the immediately following period beginning July 1 and ending December 31, inclusive. In no case shall the statewide average distributor price of a gallon of diesel fuel determined for purposes of this section be less than the statewide average wholesale price of a gallon of diesel fuel on February 20, 2013, plus a distributor charge calculated by the Commissioner for that date.*

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

*E. 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 price or charge. Thereafter, such tax shall be 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.*

*F. Nothing in this section shall be construed to exempt the imposition and remittance of tax pursuant to this section in a sale to a retail dealer in which the distributor and the retail dealer are the same person.*

INTRODUCED

SB452

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

A. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in clause (i) of subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited each month as follows:

1. One-twelfth of an amount determined by multiplying \$15 million by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500;

2. a. Until June 30, 2019, an amount equal to the increase in taxes, interest, and civil penalties paid to the Commissioner each month, compared with the same month for fiscal year 2018, minus any amounts deposited pursuant to subdivision 1, shall be deposited into the Washington Metropolitan Area Transit Capital Fund established pursuant to § 33.2-3401; and

b. Beginning on July 1, 2019, an amount equal to one-twelfth of the increase in taxes, interest, and civil penalties paid to the Commissioner in fiscal year 2019 compared to fiscal year 2018, minus any amounts deposited pursuant to subdivision A 1, shall be deposited in the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to § 33.2-3401; and

3. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_\_. The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district which was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction.

B. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in clause (ii) of subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited each month as follows:

1. One-twelfth of an amount determined by multiplying \$15 million by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500; and

2. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_\_. The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district that was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction.

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

D. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in § 58.1-2295.1, after subtraction of the direct costs of administration by the Department, shall be deposited into the Interstate 81 Corridor Improvement Fund established pursuant to Chapter 36 (§ 33.2-3600) of Title 33.2.

E. All taxes, interest, and civil penalties paid to the Commonwealth pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in § 58.1-2295.2, after subtraction of the direct costs of administration by the Department, shall be deposited in a special fund titled the "Special Fund Account for the Highway Construction District Grant Program" to be allocated by the Commonwealth Transportation Board as highway construction district grants pursuant to § 33.2-371 to the construction districts in which the taxes, interest, and civil penalties were

generated.

F. The direct cost of administration of this section shall be credited to the funds appropriated to the Department.

**§ 58.1-2299.20. (For contingent effective date, see Acts 2019, cc. 837 and 846) Disposition of tax revenues.**

A. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in clause (i) of subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited each month as follows:

1. One-twelfth of an amount determined by multiplying \$15 million by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500;

2. a. Until June 30, 2019, an amount equal to the increase in taxes, interest, and civil penalties paid to the Commissioner each month, compared with the same month for fiscal year 2018, minus any amounts deposited pursuant to subdivision 1, shall be deposited into the Washington Metropolitan Area Transit Capital Fund established pursuant to § 33.2-3401; and

b. Beginning on July 1, 2019, an amount equal to one-twelfth of the increase in taxes, interest, and civil penalties paid to the Commissioner in fiscal year 2019 compared to fiscal year 2018, minus any amounts deposited pursuant to subdivision A 1, shall be deposited in the Washington Metropolitan Area Transit Authority Capital Fund established pursuant to § 33.2-3401; and

3. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_\_." The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district which was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction.

B. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in clause (ii) of subdivision A 1 of § 58.1-2295, after subtraction of the direct costs of administration by the Department, shall be deposited each month as follows:

1. One-twelfth of an amount determined by multiplying \$15 million by a fraction, the numerator of which shall be such transportation district's share of funding for the commuter rail service jointly operated by the two transportation districts and the denominator of which shall be the total funding share for such commuter rail service, shall be deposited in the Commuter Rail Operating and Capital Fund established pursuant to § 33.2-3500; and

2. All remaining funds shall be deposited in a special fund entitled the "Special Fund Account of the Transportation District of \_\_\_\_\_." The amounts deposited in the special fund shall be distributed monthly to the applicable transportation district commission of which the county or city is a member to be applied to the operating deficit, capital, and debt service of the mass transit system of such district or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district that was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose of such jurisdiction.

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

D. All taxes, interest, and civil penalties paid to the Commonwealth pursuant to this chapter for the sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in § 58.1-2295.2, after subtraction of the direct costs of administration by the Department, shall be deposited in a special fund titled the "Special Fund Account for the Highway Construction District Grant Program" to be allocated by the Commonwealth Transportation Board as highway construction district grants pursuant

182 to § 33.2-371 to the construction districts in which the taxes, interest, and civil penalties were  
183 generated.

184 E. The direct cost of administration of this section shall be credited to the funds appropriated to the  
185 Department.

186 **§ 58.1-2299.20. (Contingent effective date) Disposition of tax revenues.**

187 A. Except as provided in subsection B, all taxes, interest, and civil penalties paid to the  
188 Commissioner pursuant to this chapter, after subtraction of the direct costs of administration by the  
189 Department, shall be deposited in a special fund entitled the "Special Fund Account of the  
190 Transportation District of \_\_\_\_\_." The amounts deposited in the special fund shall be distributed  
191 monthly to the applicable transportation district commission of which the county or city is a member to  
192 be applied to the operating deficit, capital, and debt service of the mass transit system of such district  
193 or, in the case of a transportation district subject to the provisions of subsection C of § 33.2-1915, to be  
194 applied to and expended for any transportation purpose of such district. In the case of a jurisdiction  
195 which, after July 1, 1989, joins a transportation district which was established on or before January 1,  
196 1986, and is also subject to subsection C of § 33.2-1915, the funds collected from that jurisdiction shall  
197 be applied to and expended for any transportation purpose of such jurisdiction. The direct costs of  
198 administration shall be credited to the funds appropriated to the Department.

199 B. All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter for the  
200 sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in § 58.1-2295.1,  
201 after subtraction of the direct costs of administration by the Department, shall be deposited into the  
202 Interstate 81 Corridor Improvement Fund established pursuant to Chapter 36 (§ 33.2-3600) of Title 33.2.

203 C. All taxes, interest, and civil penalties paid to the Commonwealth pursuant to this chapter for the  
204 sale of fuels at wholesale to retail dealers for retail sale in any county or city set forth in § 58.1-2295.2,  
205 after subtraction of the direct costs of administration by the Department, shall be deposited in a special  
206 fund titled the "Special Fund Account for the Highway Construction District Grant Program" to be  
207 allocated by the Commonwealth Transportation Board as highway construction district grants pursuant  
208 to § 33.2-371 to the construction districts in which the taxes, interest, and civil penalties were  
209 generated.

210 **§ 58.1-2299.20. (Contingent effective date) Disposition of tax revenues.**

211 All taxes, interest, and civil penalties paid to the Commissioner pursuant to this chapter, after  
212 subtraction of the direct costs of administration by the Department, shall be deposited in a special fund  
213 entitled the "Special Fund Account of the Transportation District of \_\_\_\_\_ " The amounts deposited in  
214 the special fund shall be distributed monthly to the applicable transportation district commission of  
215 which the county or city is a member to be applied to the operating deficit, capital, and debt service of  
216 the mass transit system of such district or, in the case of a transportation district subject to the  
217 provisions of subsection C of § 33.2-1915, to be applied to and expended for any transportation purpose  
218 of such district. In the case of a jurisdiction which, after July 1, 1989, joins a transportation district  
219 which was established on or before January 1, 1986, and is also subject to subsection C of § 33.2-1915,  
220 the funds collected from that jurisdiction shall be applied to and expended for any transportation purpose  
221 of such jurisdiction. The direct costs of administration shall be credited to the funds appropriated to the  
222 Department.

223 2. That the provisions of this act that generate additional revenues for transportation shall expire  
224 on December 31 of any year in which the General Assembly appropriates or transfers any of such  
225 additional revenue for any non-transportation-related purpose.

226 3. That the provisions of this act may result in a net increase in periods of imprisonment or  
227 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the  
228 necessary appropriation cannot be determined for periods of imprisonment in state adult  
229 correctional facilities; therefore, Chapter 854 of the Acts of Assembly of 2019 requires the Virginia  
230 Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to  
231 § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \$0 for  
232 periods of commitment to the custody of the Department of Juvenile Justice.