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HOUSE BILL NO. 1386

Offered January 22, 1996

A BILL to amend and reenact §§ 58.1-2105, 58.1-2113, 58.1-2116, 58.1-2122 and 58.1-2124 of the Code of Virginia, relating to the motor fuel tax.

Patron—Guest

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-2105, 58.1-2113, 58.1-2116, 58.1-2122 and 58.1-2124 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-2105. Levy of tax on all motor fuels.

A. Except as provided in subsection C, there is hereby levied a tax at the rate of ~~seventeen~~ *eighteen* and one-half cents per gallon on all motor fuel, except aviation motor fuel, sold and delivered or used in this Commonwealth. The tax shall be levied on all motor fuel sold by or through post exchanges, ship stores, ship service stores, commissaries, filling stations, licensed traders and other similar agencies located on United States military or other reservations within the boundaries of the Commonwealth, unless such fuel is for the exclusive use of the United States or its departments, agencies and instrumentalities. The tax herein imposed and assessed shall be collected by and paid to the Commonwealth but once in respect to any motor fuel. Nothing herein shall be construed to exempt from this tax any dealer in motor fuel on the motor fuel used in making such distribution. *The motor fuel tax revenue generated by the one-cent increase enacted by the 1996 Session of the General Assembly shall be paid to the Transportation Trust Fund as defined in § 33.1-23.03:1. Such funds shall be used for the repair and renovation of those bridges constituting a portion of any public highway system as determined by the Commonwealth Transportation Board.*

B. A tax at the rate of five cents per gallon is hereby levied on all aviation motor fuel which is sold and delivered or used in Virginia. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation fuel taxable under this chapter shall be liable for the tax at the rate of seventeen and one-half cents per gallon, along with any penalties and interest which may accrue.

C. Upon application to and approval by the Commissioner, any producer of synthetic motor fuel produced from coal in a county with a population between 19,000 and 51,000 as determined by the 1980 U.S. Census shall be subject to tax as set forth in this subsection:

1. For the first three years of production, the tax shall be three cents per gallon;
2. For the fourth year of production, the tax shall be nine cents per gallon;
3. For the fifth year of production, the tax shall be eleven and one-half cents per gallon;
4. For the sixth and seventh years of production, the tax shall be thirteen and one-half cents per gallon;
5. For the eighth and ninth years of production, the tax shall be fifteen and one-half cents per gallon;

6. Beginning in the tenth year of production and thereafter, the tax shall be at the rate prescribed in subsection A. The total number of gallons of synthetic motor fuel and synthetic special fuel subject to tax in subsection C of this section and subsection D of § 58.1-2116 shall not exceed twenty-five million gallons per fiscal year.

D. Any dealer who collects the tax on motor fuel shall be liable for the payment thereof to the Department of Motor Vehicles.

§ 58.1-2113. Payment of refund; amount.

A. Except as otherwise provided in this section, any person who paid the tax upon motor fuel at the time of its purchase shall be paid a refund, if entitled, pursuant to § 58.1-2111 for the amount of such tax.

B. If the applicant for refund includes with the application a statement that the fuel was used for agricultural purposes, the Commissioner shall refund to the applicant ~~seventeen~~ *eighteen* cents per gallon on all such motor fuel. One-half cent per gallon on such fuel so used shall be paid by the Commissioner into the state treasury to the credit of the Virginia Agricultural Foundation Fund.

C. If the applicant for refund of motor fuel tax collected pursuant to this chapter includes with the application a statement that the fuel was used for propelling a commercial boat or ship, the Commissioner shall refund to the applicant ~~sixteen~~ *seventeen* cents per gallon on all such motor fuel. The Commissioner shall pay the remaining one and one-half cents into the state treasury to be expended

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60 pursuant to subsection D of § 58.1-2146. If any applicant so requests, the Commissioner shall pay into
61 the state treasury, to the credit of the Game Protection Fund, the entire ~~seventeen~~^{eighteen} and one-half
62 cents per gallon tax paid by such applicant for the purposes specified in subsection D of § 58.1-2146. If
63 any applicant, who is an operator of commercial boats, so requests, the Commissioner shall pay into the
64 state treasury, to the credit of the Marine Fishing Improvement Fund, the entire ~~seventeen~~^{eighteen} and
65 one-half cents per gallon tax paid by such applicant for the purposes specified in § 28.2-208.

66 D. A dealer entitled to a refund pursuant to subdivision B 3 of § 58.1-2111 shall receive a refund
67 equal to one percent of the tax passed on to him on the gross gallonage of motor fuel transferred, in
68 consideration of shrinkage and evaporation. No dealer shall receive more than one such refund and not
69 more than one such refund shall be paid on the transfer of the same motor fuel.

70 § 58.1-2116. Levy of tax; liability for tax.

71 A. Except as otherwise provided in subsections B, C, D, and E, there is hereby levied a tax at the
72 rate of ~~sixteen~~^{seventeen} cents per gallon upon all diesel fuel:

- 73 1. Sold or delivered by any supplier into a bulk storage facility of any licensed reseller or bulk user;
- 74 2. Used by any supplier in any highway vehicle owned, leased, or operated by him;
- 75 3. Delivered by a supplier directly into the fuel supply tank of a highway vehicle;
- 76 4. Imported by a reseller or bulk user, into this Commonwealth;
- 77 5. Acquired tax free by a reseller, bulk user, or user in this Commonwealth, for resale or use for the
78 propulsion of a highway vehicle; or
- 79 6. Purchased by any person, firm or corporation, except a licensed supplier, and subsequently
80 transported and delivered by such person, firm, or corporation to another state, district, or country for
81 sale or use without the Commonwealth.

82 B. A tax at the rate of five cents per gallon is hereby imposed upon all aviation special fuel:

- 83 1. Sold or delivered by any supplier, other than an aviation consumer, to any licensed reseller or
84 bulk user;
- 85 2. Used by a supplier, other than an aviation consumer, in any aircraft owned, leased or operated by
86 him;
- 87 3. Delivered by a supplier directly into the fuel supply tank of an aircraft, other than an aircraft
88 owned, leased or operated by a licensed aviation consumer; or
- 89 4. Imported by a reseller or bulk user into, or acquired tax free by a reseller, bulk user or user in this
90 Commonwealth for resale or use for the propulsion of an aircraft.

91 C. A tax at the rate of five cents per gallon is hereby imposed on aviation special fuel purchased or
92 acquired for use by an aviation fuel user. A tax at the rate of five cents per gallon is hereby imposed
93 upon the first 100,000 gallons of aviation special fuel, excluding bonded aviation special fuel, purchased
94 or acquired for use by any aviation consumer in any fiscal year. A tax at the rate of one-half cent per
95 gallon is hereby imposed on all aviation special fuel, excluding bonded aviation special fuel, purchased
96 or acquired for use in excess of 100,000 gallons by an aviation consumer in any fiscal year.

97 Any person who shall, while licensed or unlicensed under this chapter, use, acquire for use, sell or
98 deliver for use in highway vehicles any aviation special fuel taxable under this article shall be liable for
99 the tax imposed at the rate of sixteen cents per gallon under this section, along with any penalties and
100 interest which may accrue.

101 D. Upon application to and approval by the Commissioner, any producer of synthetic diesel fuel
102 produced from coal in a county with a population between 19,000 and 51,000 as determined by the
103 1980 U.S. Census shall be subject to tax as follows:

- 104 1. For the first three years of production, the tax shall be three cents per gallon;
- 105 2. For the fourth year of production, the tax shall be nine cents per gallon;
- 106 3. For the fifth year of production, the tax shall be eleven and one-half cents per gallon;
- 107 4. For the sixth and seventh years of production, the tax shall be thirteen and one-half cents per
108 gallon;
- 109 5. For the eighth and ninth years of production, the tax shall be fifteen and one-half cents per gallon;
110 and
- 111 6. Beginning in the tenth year of production and thereafter, the tax shall be at the rate prescribed in
112 subsection A. The total number of gallons of synthetic diesel fuel and synthetic motor fuel subject to tax
113 in this subsection and subsection C of § 58.1-2105 shall not exceed twenty-five million gallons per fiscal
114 year.

115 E. Beginning January 1, 1994, and until July 1, 1998, there is hereby levied a tax at the rate
116 equivalent to ten cents per gallon upon all clean special fuels:

- 117 1. Sold or delivered by any supplier to any licensed reseller or bulk user;
- 118 2. Used by any supplier in any highway vehicle owned, leased, or operated by him;
- 119 3. Delivered by a supplier directly into the fuel supply tank of a highway vehicle; or
- 120 4. Acquired tax free by a reseller, bulk user, or user in this Commonwealth, for resale or use for the
121 propulsion of a highway vehicle.

F. On and after July 1, 1998, there shall be levied a tax upon all clean special fuels at the same rate as the tax imposed upon diesel fuel as provided in subsection A of this section.

G. Any supplier who collects the tax on diesel fuel, aviation special fuel, and clean special fuels shall be liable for the payment thereof to the Department of Motor Vehicles.

§ 58.1-2122. Refund of tax on fuels.

Any person other than a person to whom § 58.1-2124 applies, who pays the tax at the rate of ~~sixteen~~^{seventeen} cents per gallon on the purchase of any fuel in quantities of five gallons or more at any one time shall be entitled to a refund in the amount of the tax paid if:

1. Such fuel is used (i) for purposes other than to propel highway vehicles, (ii) by buses owned or solely used by a private, nonprofit, nonsectarian school while being used to transport children to and from such school or from such school to and from educational or athletic activities, or (iii) by any private, nonprofit area agency on aging, designated by the Department for the Aging, providing transportation services to citizens in vehicles owned, leased, operated or under contract by such area agency;

2. Such fuel has been lost by accident, except through personal negligence or theft;

3. Such fuel was used by any county or city school board or any private, nonprofit nonsectarian school contracting with a private carrier to transport children to and from public schools or any private schools or any private nonsectarian school; or

4. Such fuel was (i) sold to any corporation, partnership or other entity performing transportation under contract or lease with any transportation district and (ii) used in a highway vehicle controlled by a transportation district created under the Transportation District Act of 1964, which highway vehicle is used in providing transit service by the transportation district by contract or lease. The refund provided for in this paragraph shall be paid to the corporation, partnership or other entity performing such transportation.

The total refunds allowed to any one applicant in all cases pursuant to clause (ii) of subdivision 1 of this section with respect to fuel which is subject to the tax imposed by this chapter shall not exceed the sum of \$2,000 in any fiscal year.

Application for refund shall show the purpose for which the fuel was used, and shall be accompanied by the invoice covering the sale of the fuel to such person. In the event an assessment is rendered for failure to report and pay any tax imposed by § 58.1-2116 and such fuel has been used for nonhighway purposes by the consumer, application for refund may be filed with the Commissioner by the consumer within twelve months from the date such assessment is paid and shall be accompanied by invoices covering the sale of the fuel and the billing of the tax to such person.

§ 58.1-2124. Refund for agricultural use.

Any person who at any one time buys fuel in quantities of five gallons or more on which the tax imposed by this chapter has been paid for the purpose of operating or propelling unlicensed highway vehicles and other unlicensed equipment used for agricultural purposes is entitled to a refund of the tax paid by such person. The amount of the refund shall be paid by the Commissioner as follows:

1. ~~Fifteen~~^{Sixteen} and one-half cents of the tax paid on each gallon of fuel so used shall be refunded to the claimant.

2. One-half cent of the tax paid on each gallon of fuel so used shall be paid by the Commissioner into the state treasury to the credit of the Virginia Agricultural Foundation Fund as provided by § 58.1-2146.