

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 423

An Act to amend and reenact §§ 5.1-51, 46.2-206, 58.1-2146, 58.1-2425, and 58.1-2701 of the Code of Virginia, relating, generally, to revenues of the Commonwealth dedicated to transportation purposes and to the Commonwealth Transportation Fund.

[H 2854]

Approved March 15, 1997

Whereas, it is the intent of the General Assembly that the fund known as the Highway Maintenance and Construction Fund in the Commonwealth Accounting and Reporting System shall be renamed the Commonwealth Transportation Fund; and

Whereas, it is further the intent of the General Assembly that this Fund shall include the special funds currently set out in Titles 5.1, 33.1, and 46.2, and Chapters 6, 21, 24, and 27 of Title 58.1; and

Whereas, the General Assembly also intends that the individual special funds comprising this Fund shall be set aside for the purposes enumerated within these titles and shall be used only in the manner specified therein; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. That §§ 5.1-51, 46.2-206, 58.1-2146, 58.1-2425, and 58.1-2701 of the Code of Virginia are amended and reenacted as follows:

§ 5.1-51. Special fund accumulated from taxes, fees, etc.

All funds accumulated from any special sales tax, excise tax or use tax, now or which may hereafter be imposed under the laws of this Commonwealth on aviation motor fuel purchased or used in this Commonwealth in the propulsion of aircraft, and all funds heretofore or hereafter accumulated from any fees for licensing or registering of airmen, aircraft and airports, now or hereafter imposed under the laws of this Commonwealth, and all funds heretofore, and which may hereafter be, appropriated to the Department for the purpose of the promotion and development of aviation and airports, including the expense of the administration by the Department of the laws pertaining to aviation, as now or as may be hereafter enacted, and the jurisdiction for the administration thereof conferred on the Department, are hereby constituted a special fund *within the Commonwealth Transportation Fund* for the administration of the aviation laws, heretofore or hereafter enacted, insofar as the administration has been, or shall be, imposed upon the Department, for the construction, maintenance and improvement of airports and landing fields and for the promotion of aviation in the interest of operators and in the interest of the public; ~~provided that. However,~~ of the moneys expended for the construction, maintenance and improvement of airports at least thirty-five ~~per centum~~ percent thereof computed over a period of three years shall be expended on carrier and reliever airports. *Beginning July 1, 1998, any balances remaining in*

this fund 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 fund shall accrue to the fund.

§ 46.2-206. Disposition of fees.

Except as otherwise provided in this title, all fees and moneys collected pursuant to the provisions of Chapters 1, 2, 3, 6, 8, ~~and~~ 10, 12, and 16 through 26 of this title shall be paid into the state treasury, and warrants for the expenditure of funds necessary for the proper enforcement of this title shall be issued by the Comptroller on certificates of the Commissioner or his representatives, designated by him and bonded, that the parties are entitled thereto, and shall be paid by the State Treasurer out of such funds, not exceeding the amount appropriated in the general appropriation bill.

These funds, except as is otherwise provided in this section, shall constitute special funds *within the Commonwealth Transportation Fund* to be expended (i) under the direction of the Commonwealth Transportation Commissioner for the construction, reconstruction, and maintenance of roads and bridges in the state highway system, interstate system, and secondary system of state highways and (ii) as authorized by the Commissioner for the expenses incident to the maintenance of the Department, including its ~~branch offices~~ *customer service centers*, and for other expenses incurred in the enforcement of this title. Any funds available for construction or reconstruction under the provisions of this section shall be, as nearly as possible, equitably apportioned by the Commonwealth Transportation Commission among the several construction districts. *Beginning July 1, 1998, any balances remaining in these funds at the end of the fiscal year shall be available for use in subsequent years for the purposes set forth in this section, and any interest income on such funds shall accrue to the respective individual special funds.*

There may be paid out of these funds such sums as may be provided by law for (i) contributions toward the construction, reconstruction, and maintenance of streets in cities or towns and (ii) the operation and maintenance of the Department of Transportation, *the Department of Rail and Public*

Transportation, the Department of Aviation, the Virginia Port Authority, the Department of State Police, and the Department of Motor Vehicles.

§ 58.1-2146. Disposition of tax revenues.

A. Unless otherwise provided in this section, all taxes and fees 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. Beginning July 1, 1998, 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.* Except as provided in § 33.1-23.03:1, no portion of the revenue derived from taxes collected pursuant to §§ 58.1-2701, 58.1-2105 and 58.1-2116, and remaining after authorized refunds for nonhighway use of fuels, shall be used for any purpose other than the construction, reconstruction or maintenance of the roads and projects comprising the State Highway System, the Interstate System and the secondary system of state highways and expenditures directly and necessarily required for such purposes, including the retirement of revenue bonds.

Revenues collected under this chapter may be also used for (i) making a contribution towards the construction, reconstruction or maintenance of streets in cities and towns of such sums as may be provided by law; and (ii) expenditures for the operation and maintenance of the Department of Transportation, *the Department of Rail and Public Transportation, the Department of Aviation, the Virginia Port Authority,* and the Department of Motor Vehicles as may be provided by law.

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

B. The tax collected on each gallon of aviation fuel sold and delivered or used in the Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of ~~the~~ *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 the refund has been paid at the rate of seventeen cents per gallon, or in the case of diesel fuel fifteen and one-half cents per gallon, 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 the Virginia Polytechnic Institute and State University, the State 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 motor fuel used to propel a commercial boat or ship 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 the 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 the Commonwealth used by said commercial boats. 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 motor fuels used for the propelling of boats or ships, 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 for the purpose of (i) improving the public docks as specified in this section, (ii) improving commercial and sports fisheries in Virginia's tidal waters, (iii) environmental improvements including, without limitation, fisheries management and habitat enhancement in the Chesapeake and its tributaries, and (iv) for the purposes set forth in § 33.1-223 a sum as established by the General Assembly.

E. Notwithstanding other provisions of this section, there shall be transferred from moneys collected pursuant to this section 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, an amount equal to one percent of a sum to be calculated as follows: the tax revenues collected pursuant to this chapter, at the tax rates in effect on December 31, 1986, less refunds authorized by this title and less taxes collected for aviation fuels.

§ 58.1-2425. Disposition of revenues.

A. All funds collected hereunder by the Commissioner shall be forthwith paid into the state treasury. *Except as otherwise provided in this section, these funds 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 revenue so derived, after refunds have been deducted, is hereby allocated for the construction, reconstruction and maintenance of highways and the regulation of traffic thereon and for no other purpose. However, (i) all funds collected pursuant to the provisions of this chapter from mobile homes, as defined in § 46.2-100, shall be distributed to the city, town, or county wherein such mobile home is to be situated as a dwelling, (ii) all funds collected from the additional tax imposed by subdivision A 4 of § 58.1-2402 on the rental of daily rental passenger cars shall be distributed quarterly to the city, town, or county wherein such car was delivered to the rentee, and (iii) effective January 1, 1987, an amount equivalent to the net additional revenues generated by enactments of the 1986 Special Session of the Virginia General Assembly which amended §§ 46.2-694, 46.2-697, 58.1-2401, 58.1-2402 and this section shall be distributed to and paid into the Transportation Trust Fund, *a special fund within the Commonwealth Transportation Fund*, and are hereby appropriated to the Commonwealth Transportation Board for transportation needs, and (iv) except as otherwise provided in subdivision (iii) of this sentence, all moneys collected from the tax on the gross proceeds from the rental in Virginia of any motor vehicle pursuant to subdivision A 3 of § 58.1-2402 at the tax rate in effect on December 31, 1986, shall be paid by the Commissioner into the state treasury and shall be set aside in a special fund *within the Commonwealth Transportation Fund* to be used to meet the expenses of the Department of Motor Vehicles.

B. As provided in subsection A of § 58.1-638, of the funds becoming part of the Transportation Trust Fund pursuant to subdivision (iii) of subsection A of this section, an aggregate of 4.2 percent shall be set aside as the Commonwealth Port Fund; an aggregate of 2.4 percent shall be set aside as the Commonwealth Airport Fund; and an aggregate of 8.4 percent shall be set aside as the Commonwealth Mass Transit Fund.

§ 58.1-2701. Amount of tax.

Every motor carrier of property shall pay a road tax equivalent to nineteen and one-half cents per gallon calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of sixty degrees F. and a pressure of 14.7 pounds per square inch absolute), used in its operations within the Commonwealth.

The tax imposed by this chapter shall be in addition to all other taxes of whatever character imposed on a motor carrier by any other provision of law.

All taxes *and fees* paid under the provisions of this chapter shall be credited to the Highway Maintenance and ~~Construction~~ Operating Fund, *a special fund within the Commonwealth Transportation Fund*.