

13101186D

## SENATE BILL NO. 855

Offered January 9, 2013

Prefiled January 2, 2013

A BILL to amend and reenact §§ 33.1-1, 33.1-2, 58.1-2201, 58.1-2217, 58.1-2249, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia and to amend the Code of Virginia by adding in Title 58.1 a chapter numbered 6.3, consisting of a section numbered 58.1-663, relating to transportation; funding and administration.

Patron—Petersen

Referred to Committee on Finance

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

1. That §§ 33.1-1, 33.1-2, 58.1-2201, 58.1-2217, 58.1-2249, 58.1-2701, as it is currently effective and as it may become effective, and 58.1-2706 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 58.1 a chapter numbered 6.3, consisting of a section numbered 58.1-663, as follows:

**§ 33.1-1. State Highway and Transportation Board continued as Commonwealth Transportation Board; number and terms of members; removal from office; Commonwealth Transportation Commissioner continued as Commissioner of Highways; vacancies.**

The State Highway and Transportation Board, formerly known as the State Highway and Transportation Commission, is continued and shall hereafter be known as the Commonwealth Transportation Board. Wherever either "Commission" or "Board" is used in this title referring to the State Highway and Transportation Board or the State Highway and Transportation Commission, it shall mean the Commonwealth Transportation Board.

The Board shall consist of ~~seventeen~~ 23 members: the Secretary of Transportation, the Commissioner of Highways, the Director of the Department of Rail and Public Transportation, and ~~fourteen~~ 20 citizen members. The citizen members shall be (i) appointed by the Governor as provided in § 33.1-2, (ii) subject to confirmation by the General Assembly, and (iii) removable from office during their respective terms by the Governor at his pleasure. Appointments of citizen members shall be for terms of four years commencing upon July 1, upon the expiration of the terms of the existing members, respectively. The initial terms of the members appointed in January, 1987, shall commence when appointed and shall be for terms ending June 30, 1988, June 30, 1989, and June 30, 1990, respectively. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term. No person shall be eligible to serve more than two successive terms of four years, other than the Secretary of Transportation, the Commissioner of Highways, and the Director of the Department of Rail and Public Transportation. A person heretofore or hereafter appointed to fill a vacancy may serve two additional successive terms.

The Secretary of Transportation shall serve as Chairman of the Board. The Secretary shall have voting privileges only in the event of a tie. The Commissioner of Highways shall serve as Vice-Chairman of the Board. The Commissioner shall have voting privileges only in the event of a tie when he is presiding during the absence of the Chairman. The Director of the Department of Rail and Public Transportation shall serve without a vote.

Whenever in this title and in the Code of Virginia "State Highway Commission" or "State Highway and Transportation Board" is used, it shall mean "Commonwealth Transportation Board"; "State Highway Commissioner" or "State Highway and Transportation Commissioner" or "Commonwealth Transportation Commissioner" shall mean Commissioner of Highways; and all references to "Department of Highways and Transportation" shall refer to the Department of Transportation.

**§ 33.1-2. Residence requirements; statewide interest.**

Of such Board, one member shall be a resident of the territory now included in the Bristol construction district, one in the Salem construction district, one in the Lynchburg construction district, one in the Staunton construction district, one in the Culpeper construction district, one in the Fredericksburg construction district, ~~one two~~ in the Richmond construction district, ~~one three~~ in the Hampton Roads construction district and ~~one four~~ in the Northern Virginia construction district. The remaining five members shall be appointed from the Commonwealth at large, but at least two shall reside in standard metropolitan statistical areas and be designated as urban at-large members, and at least two shall reside outside standard metropolitan statistical areas and be designated as rural at-large members. The at-large members shall be appointed to represent rural and urban transportation needs and

INTRODUCED

SB855

be mindful of the concerns of seaports and seaport users, airports and airport users, railways and railway users, and mass transit and mass transit users. Each member so appointed shall be mindful of the best interest of the Commonwealth at large primarily instead of those of the district from which chosen or of the transportation interest represented.

### CHAPTER 6.3.

#### ELECTRIC MOTOR VEHICLE BATTERY FEE.

##### **§ 58.1-633. Electric Motor Vehicle Battery Fee.**

A. As used in this section, "electric motor vehicle" means a motor vehicle that uses electricity as its only source of motive power.

B. Beginning July 1, 2013, there is hereby levied and imposed upon every retailer of electric motor vehicle batteries in the Commonwealth, in addition to all other taxes and fees of every kind currently imposed by law, an electric motor vehicle battery fee of \$10 for each new electric motor vehicle battery sold by a retailer.

C. The electric motor vehicle battery fee shall be collected by the Tax Commissioner in the same manner as the retail sales and use tax pursuant to Chapter 6 (§ 58.1-600 et seq.).

D. For the purpose of compensating a retailer of electric motor vehicle batteries for accounting for and remitting the fee levied by this chapter, such retailer shall be allowed five percent of the amount of the fee due and accounted for in the form of a deduction when submitting his return and paying the amount due by him if the amount due was not delinquent at the time of the payment.

E. All taxes paid to the Commissioner pursuant to this section shall be deposited into the Highway Maintenance and Operating Fund.

F. The provisions of Chapter 6 (§ 58.1-600 et seq.) shall apply to this chapter, mutatis mutandis, except as provided herein.

##### **§ 58.1-2201. Definitions.**

As used in this chapter, unless the context requires otherwise:

"Alternative fuel" means a combustible gas, liquid or other energy source that can be used to generate power to operate a highway vehicle and that is neither a motor fuel nor electricity used to recharge an electric motor vehicle.

"Assessment" means a written determination by the Department of the amount of taxes owed by a taxpayer. Assessments made by the Department shall be deemed to be made when a written notice of assessment is delivered to the taxpayer by the Department or is mailed to the taxpayer at the last known address appearing in the Commissioner's files.

"Aviation consumer" means any person who uses in excess of 100,000 gallons of aviation jet fuel in any fiscal year and is licensed pursuant to Article 2 (§ 58.1-2204 et seq.) of this chapter.

"Aviation fuel" means aviation gasoline or aviation jet fuel.

"Aviation gasoline" means fuel designed for use in the operation of aircraft other than jet aircraft, and sold or used for that purpose.

"Aviation jet fuel" means fuel designed for use in the operation of jet or turbo-prop aircraft, and sold or used for that purpose.

"Base year fuel efficiency index" means the quotient obtained using as the numerator the total annual vehicle miles traveled in the Commonwealth in 2007 and using as the denominator the total gallons of motor fuel consumed for highway use in the Commonwealth in 2007. The numerator and the denominator shall be such amounts as published by the Federal Highway Administration of the U.S. Department of Transportation.

"Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle.

"Blender" means a person who produces blended fuel outside the terminal transfer system.

"Bonded aviation jet fuel" means aviation jet fuel held in bonded storage under United States Customs Law and delivered into a fuel tank of aircraft operated by certificated air carriers on international flights.

"Bonded importer" means a person, other than a supplier, who imports, by transport truck or another means of transfer outside the terminal transfer system, motor fuel removed from a terminal located in another state in which (i) the state from which the fuel is imported does not require the seller of the fuel to collect motor fuel tax on the removal either at that state's rate or the rate of the destination state; (ii) the supplier of the fuel is not an elective supplier; or (iii) the supplier of the fuel is not a permissive supplier.

"Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack.

"Bulk user" means a person who maintains storage facilities for motor fuel and uses part or all of the stored fuel to operate a highway vehicle, watercraft, or aircraft.

"Bulk user of alternative fuel" means a person who maintains storage facilities for alternative fuel

and uses part or all of the stored fuel to operate a highway vehicle.

"Commercial watercraft" means a watercraft employed in the business of commercial fishing, transporting persons or property for compensation or hire, or any other trade or business unless the watercraft is used in an activity of a type generally considered entertainment, amusement, or recreation. The definition shall include a watercraft owned by a private business and used in the conduct of its own business or operations, including but not limited to the transport of persons or property.

"Commissioner" means the Commissioner of the Department of Motor Vehicles.

"Corporate or partnership officer" means an officer or director of a corporation, partner of a partnership, or member of a limited liability company, who as such officer, director, partner or member is under a duty to perform on behalf of the corporation, partnership, or limited liability company the tax collection, accounting, or remitting obligations.

*"Current year fuel efficiency index" means the quotient obtained using as the numerator the total annual vehicle miles traveled in the Commonwealth for the most recently published year and using as the denominator the total gallons of motor fuel consumed for highway use in the Commonwealth for the most recently published year. The numerator and the denominator shall be such amounts as published by the Federal Highway Administration of the U.S. Department of Transportation.*

"Department" means the Department of Motor Vehicles, acting directly or through its duly authorized officers and agents.

"Designated inspection site" means any state highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Commissioner or his designee to be used as a fuel inspection site.

"Destination state" means the state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use. The term shall not include a tribal reservation of any recognized Native American tribe.

"Diesel fuel" means any liquid that is suitable for use as a fuel in a diesel-powered highway vehicle or watercraft. The term shall include undyed #1 fuel oil and undyed #2 fuel oil, but shall not include gasoline or aviation jet fuel.

"Distributor" means a person who acquires motor fuel from a supplier or from another distributor for subsequent sale.

"Dyed diesel fuel" means diesel fuel that meets the dyeing and marking requirements of 26 U.S.C. § 4082.

"Elective supplier" means a supplier who (i) is required to be licensed in the Commonwealth and (ii) elects to collect the tax due the Commonwealth on motor fuel that is removed at a terminal located in another state and has Virginia as its destination state.

"Electric motor vehicle" means a motor vehicle that uses electricity as its only source of motive power.

"End seller" means the person who sells fuel to the ultimate user of the fuel.

"Export" means to obtain motor fuel in Virginia for sale or distribution in another state, territory, or foreign country. Motor fuel delivered out-of-state by or for the seller constitutes an export by the seller, and motor fuel delivered out-of-state by or for the purchaser constitutes an export by the purchaser.

"Exporter" means a person who obtains motor fuel in Virginia for sale or distribution in another state, territory, or foreign country.

"Fuel" includes motor fuel and alternative fuel.

"Fuel alcohol" means methanol or fuel grade ethanol.

"Fuel alcohol provider" means a person who (i) produces fuel alcohol or (ii) imports fuel alcohol outside the terminal transfer system by means of a marine vessel, a transport truck, a tank wagon, or a railroad tank car.

"Gasohol" means a blended fuel composed of gasoline and fuel grade ethanol.

"Gasoline" means (i) all products that are commonly or commercially known or sold as gasoline and are suitable for use as a fuel in a highway vehicle, aircraft, or watercraft, other than products that have an American Society for Testing Materials octane number of less than 75 as determined by the motor method; (ii) a petroleum product component of gasoline, such as naphtha, reformate, or toluene; (iii) gasohol; and (iv) fuel grade ethanol. The term does not include aviation gasoline sold for use in an aircraft engine.

"Governmental entity" means (i) the Commonwealth or any political subdivision thereof or (ii) the United States or its departments, agencies, and instrumentalities.

"Gross gallons" means an amount of motor fuel measured in gallons, exclusive of any temperature, pressure, or other adjustments.

"Heating oil" means any combustible liquid, including but not limited to dyed #1 fuel oil, dyed #2 fuel oil, and kerosene, that is burned in a boiler, furnace, or stove for heating or for industrial

182 processing purposes.

183 "Highway" means every way or place of whatever nature open to the use of the public for purposes  
184 of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

185 "Highway vehicle" means a self-propelled vehicle designed for use on a highway.

186 "Import" means to bring motor fuel into Virginia by any means of conveyance other than in the fuel  
187 supply tank of a highway vehicle. Motor fuel delivered into Virginia from out-of-state by or for the  
188 seller constitutes an import by the seller, and motor fuel delivered into Virginia from out-of-state by or  
189 for the purchaser constitutes an import by the purchaser.

190 "Importer" means a person who obtains motor fuel outside of Virginia and brings that motor fuel  
191 into Virginia by any means of conveyance other than in the fuel tank of a highway vehicle. For  
192 purposes of this chapter, a motor fuel transporter shall not be considered an importer.

193 "In-state-only supplier" means (i) a supplier who is required to have a license and who elects not to  
194 collect the tax due the Commonwealth on motor fuel that is removed by that supplier at a terminal  
195 located in another state and has Virginia as its destination state or (ii) a supplier who does business only  
196 in Virginia.

197 "Licensee" means any person licensed by the Commissioner pursuant to Article 2 (§ 58.1-2204 et  
198 seq.) of this chapter or § 58.1-2244.

199 "Liquid" means any substance that is liquid above its freezing point.

200 "Motor fuel" means gasoline, diesel fuel, blended fuel, and aviation fuel.

201 "Motor fuel transporter" means a person who transports motor fuel for hire by means of a pipeline, a  
202 tank wagon, a transport truck, a railroad tank car, or a marine vessel.

203 "Net gallons" means the amount of motor fuel measured in gallons when adjusted to a temperature of  
204 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch.

205 "Occasional importer" means any person who (i) imports motor fuel by any means outside the  
206 terminal transfer system and (ii) is not required to be licensed as a bonded importer.

207 "Permissive supplier" means an out-of-state supplier who elects, but is not required, to have a  
208 supplier's license under this chapter.

209 "Person" means any individual; firm; cooperative; association; corporation; limited liability company;  
210 trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in  
211 bankruptcy; club, society or other group or combination acting as a unit; or public body, including but  
212 not limited to the Commonwealth, any other state, and any agency, department, institution, political  
213 subdivision or instrumentality of the Commonwealth or any other state.

214 "Position holder" means a person who holds an inventory position of motor fuel in a terminal, as  
215 reflected on the records of the terminal operator. A person holds an "inventory position of motor fuel"  
216 when he has a contract with the terminal operator for the use of storage facilities and terminaling  
217 services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal.

218 "Principal" means (i) if a partnership, all its partners; (ii) if a corporation, all its officers, directors,  
219 and controlling direct or indirect owners; (iii) if a limited liability company, all its members; and (iv) or  
220 an individual.

221 "Provider of alternative fuel" means a person who (i) acquires alternative fuel for sale or delivery to  
222 a bulk user or a retailer; (ii) maintains storage facilities for alternative fuel, part or all of which the  
223 person sells to someone other than a bulk user or a retailer to operate a highway vehicle; (iii) sells  
224 alternative fuel and uses part of the fuel acquired for sale to operate a highway vehicle by means of a  
225 fuel supply line from the cargo tank of the vehicle to the engine of the vehicle; or (iv) imports  
226 alternative fuel into Virginia, by a means other than the usual tank or receptacle connected with the  
227 engine of a highway vehicle, for sale or use by that person to operate a highway vehicle.

228 "Rack" means a facility that contains a mechanism for delivering motor fuel from a refinery,  
229 terminal, or bulk plant into a transport truck, railroad tank car, or other means of transfer that is outside  
230 the terminal transfer system.

231 "Refiner" means any person who owns, operates, or otherwise controls a refinery.

232 "Refinery" means a facility for the manufacture or reprocessing of finished or unfinished petroleum  
233 products usable as motor fuel and from which motor fuel may be removed by pipeline or marine vessel  
234 or at a rack.

235 "Removal" means a physical transfer other than by evaporation, loss, or destruction. A physical  
236 transfer to a transport truck or other means of conveyance outside the terminal transfer system is  
237 complete upon delivery into the means of conveyance.

238 "Retailer" means a person who (i) maintains storage facilities for motor fuel and (ii) sells the fuel at  
239 retail or dispenses the fuel at a retail location.

240 "Retailer of alternative fuel" means a person who (i) maintains storage facilities for alternative fuel  
241 and (ii) sells or dispenses the fuel at retail, to be used to generate power to operate a highway vehicle.

242 "Supplier" means (i) a position holder, or (ii) a person who receives motor fuel pursuant to a  
243 two-party exchange. A licensed supplier includes a licensed elective supplier and licensed permissive

supplier.

"System transfer" means a transfer (i) of motor fuel within the terminal transfer system or (ii) of fuel grade ethanol by transport truck or railroad tank car.

"Tank wagon" means a straight truck or straight truck/trailer combination designed or used to carry fuel and having a capacity of less than 6,000 gallons.

"Terminal" means a motor fuel storage and distribution facility (i) to which a terminal control number has been assigned by the Internal Revenue Service, (ii) to which motor fuel is supplied by pipeline or marine vessel, and (iii) from which motor fuel may be removed at a rack.

"Terminal operator" means a person who owns, operates, or otherwise controls a terminal.

"Terminal transfer system" means a motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals, and which is a "bulk transfer/terminal system" under 26 C.F.R. Part 48.4081-1.

"Transmix" means (i) the buffer or interface between two different products in a pipeline shipment or (ii) a mix of two different products within a refinery or terminal that results in an off-grade mixture.

"Transport truck" means a tractor truck/semitrailer combination designed or used to transport cargoes of motor fuel over a highway.

"Trustee" means a person who (i) is licensed as a supplier, an elective supplier, or a permissive supplier and receives tax payments from and on behalf of a licensed or unlicensed distributor, or other person pursuant to § 58.1-2231 or (ii) is licensed as a provider of alternative fuel and receives tax payments from and on behalf of a bulk user of alternative fuel, retailer of alternative fuel or other person pursuant to § 58.1-2252.

"Two-party exchange" means a transaction in which fuel is transferred from one licensed supplier to another licensed supplier pursuant to an exchange agreement, which transaction (i) includes a transfer from the person who holds the inventory position in taxable motor fuel in the terminal as reflected on the records of the terminal operator and (ii) is completed prior to removal of the product from the terminal by the receiving exchange partner.

"Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental Protection Agency or Internal Revenue Service fuel-dyeing requirements.

"Use" means the actual consumption or receipt of motor fuel by any person into a highway vehicle, aircraft, or watercraft.

"Watercraft" means any vehicle used on waterways.

#### **§ 58.1-2217. Taxes levied; rate.**

A. There is hereby levied a tax at the rate of ~~seventeen~~ *twenty-seven* and one-half cents per gallon on gasoline and gasohol.

B. (Contingent expiration date) There is hereby levied a tax at the rate of ~~seventeen~~ *twenty-seven* and one-half cents per gallon on diesel fuel.

B. (Contingent effective date) There is hereby levied a tax at the rate of ~~sixteen~~ *twenty-six* cents per gallon on diesel fuel.

C. Blended fuel that contains gasoline shall be taxed at the rate levied on gasoline. Blended fuel that contains diesel fuel shall be taxed at the rate levied on diesel fuel.

D. There is hereby levied a tax at the rate of five cents per gallon on aviation gasoline. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation gasoline shall be liable for the tax ~~at the rate of seventeen and one-half cents per gallon on a per-gallon basis at the same rate as the tax levied on gasoline~~, along with any penalties and interest that may accrue.

E. (Contingent expiration date) There is hereby levied a tax at the rate of five cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax ~~imposed at the rate of seventeen and one-half cents per gallon on a per-gallon basis at the same rate as the tax levied on diesel fuel~~, along with any penalties and interest that may accrue.

E. (Contingent effective date) There is hereby levied a tax at the rate of five cents per gallon on aviation jet fuel purchased or acquired for use by a user of aviation fuel other than an aviation consumer. There is hereby levied a tax at the rate of five cents per gallon upon the first 100,000 gallons of aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by any aviation consumer in any fiscal year. There is hereby levied a tax at the rate of one-half cent per gallon on all

aviation jet fuel, excluding bonded aviation jet fuel, purchased or acquired for use by an aviation consumer in excess of 100,000 gallons in any fiscal year. Any person, whether or not licensed under this chapter, who uses, acquires for use, sells or delivers for use in highway vehicles any aviation jet fuel taxable under this chapter shall be liable for the tax imposed at the rate of sixteen cents per gallon on a per-gallon basis at the same rate as the tax levied on diesel fuel, along with any penalties and interest that may accrue.

*F. The rates of taxes on gasoline, gasohol, and diesel fuel under subsections A and B shall be increased or decreased annually using the base year fuel efficiency index and the current year fuel efficiency index. If the current year fuel efficiency index is greater than the base year fuel efficiency index, then the adjusted rate of tax for each such fuel shall be the product of (i) the rate of tax for such fuel as set forth under subsection A or B, as applicable, and (ii) the sum of 1 plus the percentage by which the current year fuel efficiency index is greater than the base year fuel efficiency index. If the current year fuel efficiency index is less than the base year fuel efficiency index, then the adjusted rate of tax for each such fuel shall be the product of (a) the rate of tax for such fuel as set forth under subsection A or B, as applicable, and (b) the quotient obtained using as the numerator the current year fuel efficiency index and using as the denominator the base year fuel efficiency index.*

*In December of each year, the Commissioner shall compute the adjusted rate of tax for gasoline, gasohol, and diesel fuel on a per-gallon basis rounded to the nearest one-tenth of one cent and shall promptly report the same in writing to the Governor and the General Assembly. Once the Commissioner has computed the adjusted rates of taxes, then the adjusted rate of tax for each such fuel shall be imposed for the immediately following 12-month period beginning on April 1 and ending on the next April 1 in lieu of the rate of tax for gasoline, gasohol, and diesel fuel as set forth under subsection A or B, as applicable.*

*F. G. In accordance with § 62.1-44.34:13, a storage tank fee is imposed on each gallon of gasoline, aviation gasoline, diesel fuel (including dyed diesel fuel), blended fuel, and heating oil sold and delivered or used in the Commonwealth.*

**§ 58.1-2249. Tax on alternative fuel.**

A. (Contingent expiration date) There is hereby levied a tax at the rate of seventeen and one-half cents per gallon on a per-gallon basis at the same rate as the tax levied on gasoline under § 58.1-2217 on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to seventeen and one-half cents per gallon on a per-gallon basis at the same rate as the tax levied on gasoline under § 58.1-2217 on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

A. (Contingent effective date) There is hereby levied a tax at the rate of sixteen cents per gallon on a per-gallon basis at the same rate as the tax levied on diesel fuel under § 58.1-2217 on liquid alternative fuel used to operate a highway vehicle by means of a vehicle supply tank that stores fuel only for the purpose of supplying fuel to operate the vehicle. There is hereby levied a tax at a rate equivalent to sixteen cents per gallon on a per-gallon basis at the same rate as the tax levied on diesel fuel under § 58.1-2217 on all other alternative fuel used to operate a highway vehicle. The Commissioner shall determine the equivalent rate applicable to such other alternative fuels.

B. In addition to any tax imposed by this article, there is hereby levied an annual license tax of \$50 per vehicle on each highway vehicle registered in Virginia that is an electric motor vehicle. If such a highway vehicle is registered for a period other than one year as provided under § 46.2-646, the license tax shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

**§ 58.1-2701. (Contingent expiration date) Amount of tax.**

A. Except as provided in subsection B, every motor carrier shall pay a road tax at a per-gallon rate equivalent to ~~\$0.24~~ three and one-half cents per gallon greater than the tax imposed on each gallon of diesel fuel under § 58.1-2217 (excluding subsection G of such section) calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of ~~sixty~~ 60 degrees Fahrenheit 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.

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of ~~\$150~~ \$175 per year for each qualified highway vehicle regardless of whether such vehicle will be included on the motor carrier's IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the

registration fee paid is authorized by law.

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

**§ 58.1-2701. (Contingent effective date) Amount of tax.**

A. Except as provided in subsection B, every motor carrier shall pay a road tax *at a per-gallon rate equivalent to ~~nineteen and one-half~~ three and one-half cents per gallon greater than the tax imposed on each gallon of diesel fuel under § 58.1-2217 (excluding subsection G of such section)* calculated on the amount of motor fuel, diesel fuel or liquefied gases (which would not exist as liquids at a temperature of ~~sixty~~ 60 degrees Fahrenheit 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.

B. In lieu of the tax imposed in subsection A, motor carriers registering qualified highway vehicles that are not registered under the International Registration Plan shall pay a fee of ~~\$100~~ \$125 per year for each qualified highway vehicle, regardless of whether such vehicle will be included on the motor carrier's IFTA return. The fee is due and payable when the vehicle registration fees are paid pursuant to the provisions of Article 7 (§ 46.2-685 et seq.) of Chapter 6 of Title 46.2.

If a vehicle becomes a qualified highway vehicle before the end of its registration period, the fee due at the time the vehicle becomes a qualified highway vehicle shall be prorated monthly to the registration expiration month. Fees paid under this subsection shall not be refunded unless a full refund of the registration fee paid is authorized by law.

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

**§ 58.1-2706. Credit for payment of motor fuel, diesel fuel or liquefied gases tax.**

A. Every motor carrier subject to the road tax shall be entitled to a credit on such tax *at a per-gallon rate equivalent to ~~seventeen and one-half~~ cents per gallon the tax imposed on each gallon of diesel fuel under § 58.1-2217 (excluding subsection G of such section)* on all motor fuel, diesel fuel and liquefied gases purchased by such carrier within the Commonwealth for use in its operations either within or without the Commonwealth and upon which the motor fuel, diesel fuel or liquefied gases tax imposed by the laws of the Commonwealth has been paid by such carrier. Evidence of the payment of such tax in such form as may be required by, or is satisfactory to, the Department shall be furnished by each carrier claiming the credit herein allowed.

B. When the amount of the credit to which any motor carrier is entitled for any quarter exceeds the amount of the tax for which such carrier is liable for the same quarter, the excess may: (i) be allowed as a credit on the tax for which such carrier would be otherwise liable for any of the eight succeeding quarters or (ii) be refunded, upon application, duly verified and presented and supported by such evidence as may be satisfactory to the Department.

C. The Department may allow a refund upon receipt of proper application and review. It shall be at the discretion of the Department to determine whether an audit is required.

D. The refund may be allowed without a formal hearing if the amount of refund is agreed to by the applicant. Otherwise, a formal hearing on the application shall be held by the Department after notice of not less than ten days to the applicant and the Attorney General.

E. Whenever any refund is ordered it shall be paid out of the Highway Maintenance and Construction Fund.

F. Whenever a person operating under lease to a motor carrier to perform transport services on behalf of the carrier purchases motor fuel, diesel fuel or liquefied gases relating to such services, such payments or purchases may, at the discretion of the Department, be considered payment or purchases by the carrier.

2. That the Commissioner of the Department of Motor Vehicles shall develop and make publicly available guidelines no later than September 1, 2013, for purposes of developing processes and procedures implementing the provisions of this act relating to the indexing of the tax on motor fuels. The development, issuance, and publication of the guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

3. That the Commissioner of the Department of Motor Vehicles shall periodically publish the rates of taxes on fuels taxable under Chapter 22 (§ 58.1-2200 et seq.) of Title 58.1 of the Code of Virginia for purposes of identifying the rates of taxes currently in effect under §§ 58.1-2217 and 58.1-2249 of the Code of Virginia.