



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 452 Amendment in the Nature of a Substitute (Patrons Prior to Substitute – Edwards and Hanger)

**LD#:** 20107603

**Date:** 02/04/2020

**Topic:** Motor vehicle fuels tax

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

- **Juvenile Direct Care:**  
None (\$0) \*\*
- **Juvenile Detention Facilities:**  
None (\$0) \*\*

\*\*Provided by the Department of Juvenile Justice

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the 2019 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends § 58.1-2295 to establish a new wholesale fuels tax at a rate of 7.6 cents per gallon on gasoline and gasohol and at a rate of 7.7 cents per gallon on diesel fuel. Moreover, according to the proposal, beginning July 1, 2021, the tax rate shall be adjusted annually based on the greater of (i) the change in the United State Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics for the U.S. Department of Labor for the previous year or (ii) zero. For the purpose of imposing a wholesale fuels tax to any county or city in Virginia, the proposal also:

- Repeals § 58.1-2295.1 (relating to levy of tax in Interstate 81 Corridor);
- Adds § 58.1-2295(A)(3) to include any county or city that is located in a planning district established pursuant to Chapter 42 (§ 15.2-4200 et seq.) of Title 15.2 through which an interstate that (i) is more than 300 miles in length in the Commonwealth and (ii) as of January 1, 2019, carried more than 40 percent of interstate vehicle miles traveled for vehicles classified as Class 6 or higher; and
- Adds § 58.1-2295(A)(4) to include any county or city in which a tax is not imposed pursuant to the provisions of subdivisions 1, 2, or 3 under § 58.1-2295(A).

The proposal also amends § 58.1-2299.20 to specify that the fuel tax revenues in any county or city set forth in the proposed § 58.1-2295 (A)(3) shall be deposited into the Interstate 81 Corridor Improvement Fund. In addition, as proposed in § 58.1-2299.20, the fuel tax revenues in any county or city set forth in the proposed § 58.1-2295 (A)(4) shall be deposited into the Special Fund Account for the Highway Construction District Grant Program to be allocated by the Commonwealth Transportation Board as highway construction district grants to the construction districts where such revenues were generated.

Currently, under § 58.1-2299.10, any person who willfully evades or circumvents fuels sales tax requirements is guilty of a Class 6 felony.

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**Analysis:**

According to fiscal year (FY) 2014 through FY2019 Circuit Court Case Management System (CMS) data, there were no felony convictions for violations of § 58.1-2299.10.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposal expands provisions relating to motor vehicle fuels taxes in certain counties and cities, and therefore expands the applicability of the Class 6 felony for willfully evading fuels tax requirements. In this way, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Data are not available to estimate the number of additional felony convictions that would result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may increase local-responsible (jail) bed space needs. Because the number of new convictions that may result from enactment of the proposal cannot be determined, the magnitude of the impact on jail bed space needs cannot be estimated.

**Adult community corrections programs.** Because the proposal could result in more felony convictions and subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. However, the potential impact on state and local community corrections programs cannot be determined.

**Virginia's sentencing guidelines.** Felony convictions under § 58.1-2299.10 are not covered by the sentencing guidelines when the offense is the primary, or most serious, offense in a case. However, convictions under this statute could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile direct care.** According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the 2019 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.**

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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