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**HOUSE BILL NO. 779**

Offered January 8, 2020

Prefiled January 7, 2020

*A BILL to amend and reenact §§ 58.1-2204, 58.1-2272, and 59.1-162.1 of the Code of Virginia, relating to Virginia Fuels Tax Act; refueling vehicles.*

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 Patron—Reid
 

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 Referred to Committee on Finance
 

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

**1. That §§ 58.1-2204, 58.1-2272, and 59.1-162.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-2204. Persons required to be licensed.**

A. A person shall obtain a license issued by the Commissioner before conducting the activities of:

1. A refiner, who shall be licensed as a supplier;
2. A supplier;
3. A terminal operator;
4. An importer;
5. An exporter;
6. A blender;
7. A motor fuel transporter;
8. An aviation consumer;
9. A bonded importer;
10. An elective supplier; ~~or~~
11. A fuel alcohol provider; *or*

12. *A fuel distributor operating as provided in clause (ii) of subdivision A 18 of § 58.1-2272.*

B. A person who is engaged in more than one activity for which a license is required shall have a separate license for each activity, except as provided in subsection C.

C. 1. A person who is licensed as a supplier shall not be required to obtain a separate license for any other activity for which a license is required and shall be considered to have a license as a distributor.

2. A person who is licensed as an occasional importer shall not be required to obtain a license as a distributor.

3. A person who is licensed as a distributor shall not be required to obtain a separate license as an importer if the distributor acquires fuel for import only from an elective supplier or permissive supplier. Such licensed distributor shall not be required to obtain a separate license as an exporter.

4. A person who is licensed as a distributor or a blender shall not be required to obtain a separate license as a motor fuel transporter if he does not transport motor fuel for others for hire.

**§ 58.1-2272. Prohibited acts; criminal penalties.**

A. Any person who commits any of the following acts shall be guilty of a Class 1 misdemeanor:

1. Failing to obtain a license required by this chapter;
2. Failing to file a return required by this chapter;
3. Failing to pay a tax when due under this chapter;
4. Failing to pay a tax collected on behalf of a destination state to that state when it is due;
5. Making a false statement in an application, return, ticket, invoice, statement, or any other document required under this chapter;
6. Making a false statement in an application for a refund;
7. Failing to keep records as required under this chapter;
8. Refusing to allow the Commissioner or a representative of the Commissioner to examine the person's books and records concerning fuel;
9. Failing to make a required disclosure of the correct amount of fuel sold or used in the Commonwealth;
10. Failing to file a replacement or additional bond or certificate of deposit as required under this chapter;
11. Failing to show or give a shipping document as required under this chapter;
12. Refusing to allow a licensed distributor, licensed exporter, or licensed importer to defer payment of tax to the supplier, as required by § 58.1-2231;
13. Refusing to allow a bulk user of alternative fuel or a retailer of alternative fuel who has posted a bond in accordance with § 58.1-2246 to defer payment of tax to the provider of alternative fuel, as

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59 required by § 58.1-2252;

60 14. Refusing to allow a licensed distributor or a licensed importer to take a deduction or discount  
61 allowed by § 58.1-2233 when remitting the tax to the supplier, or to allow a licensed retailer of  
62 alternative fuel to take a deduction or discount allowed by § 58.1-2254 when remitting the tax to the  
63 provider of alternative fuel;

64 15. Using, delivering, or selling any aviation fuel for use or intended for use in highway vehicles or  
65 watercraft;

66 16. Violating the provisions of § 58.1-2278;

67 17. Interfering with or refusing to permit seizures authorized under § 58.1-2274; or

68 18. Delivering fuel from a transport truck or tank wagon to the fuel tank of a highway vehicle,  
69 except (i) in an emergency or (ii) *when such transport truck or tank wagon is being operated in the*  
70 *normal course of business by a person properly licensed by the Department and in compliance with*  
71 *§ 59.1-162.1.*

72 B. A person who knowingly commits any of the following acts shall be guilty of a Class 1  
73 misdemeanor:

74 1. Dispenses any fuel on which tax levied pursuant to this chapter has not been paid into the supply  
75 tank of a highway vehicle, watercraft, or aircraft; or

76 2. Allows any fuel on which tax levied pursuant to this chapter has not been paid to be dispensed  
77 into the supply tank of a highway vehicle, watercraft, or aircraft.

78 **§ 59.1-162.1. Direct fueling of certain vehicles authorized; conditions.**

79 Notwithstanding any other provision of law, the dispensing of *gasoline and* diesel fuel from a tank  
80 vehicle into the fuel tank of any highway vehicle on the premises of a commercial, industrial,  
81 governmental or manufacturing establishment *or a site approved at the discretion of the local fire*  
82 *official* is permitted, provided *that* the following conditions are met:

83 1. ~~The highway vehicle is used in connection with the business or function of the establishment;~~

84 ~~2.~~ The owner or operator of the tank vehicle complies with all requirements pertaining to the  
85 collection and payment of taxes on *gasoline and* diesel fuel pursuant to Title 58.1 and fees pursuant to  
86 Title 62.1;

87 ~~3.~~ 2. The owner or operator of the tank vehicle complies with all requirements pertaining to Chapter  
88 56 (§ 3.2-5600 et seq.) of Title 3.2;

89 ~~4.~~ 3. Each delivery shall be metered and recorded and the customer shall be provided an invoice or  
90 delivery ticket plainly indicating the quantity of fuel dispensed, the price per gallon, the amount of tax  
91 and the total price of the fuel dispensed;

92 ~~5.~~ 4. The tank vehicle is designed, equipped and operated to prevent spills during fueling operations  
93 and to minimize spillage in the event of operator error or equipment malfunction;

94 ~~6.~~ 5. The owner of the tank vehicle has established and maintains in place a contingency plan for the  
95 cleanup of spills occurring during fueling operations, and the operator has been trained in the prevention  
96 of spills, and containment of spills should they occur, and in compliance with such spill plan; and

97 ~~7.~~ 6. The owner is licensed in Virginia as a distributor.