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## SENATE BILL NO. 612

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation)

(Patron Prior to Substitute—Senator Boysko)

Senate Amendments in [ ] - February 14, 2022

A *BILL to amend and reenact §§ 46.2-772 and 46.2-773 of the Code of Virginia, relating to highway use fee, mileage-based user fee program; program clarifications developed by the working group.*

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

**1. That §§ 46.2-772 and 46.2-773 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-772. Highway use fee.**

A. Except as provided in subsection C, there is hereby imposed an annual highway use fee on any motor vehicle registered in the Commonwealth under § 46.2-694 or 46.2-697 that is an alternative fuel vehicle, an electric motor vehicle, or a fuel-efficient vehicle. The fee shall be collected by the Department at the time of vehicle registration. If the vehicle is registered for a period of other than one year as provided in § 46.2-646, the highway use fee shall be multiplied by the number of years or fraction thereof that the vehicle will be registered.

B. For an electric motor vehicle, the highway use fee shall be 85 percent of the amount of taxes paid under subsection A of § 58.1-2217 on fuel used by a vehicle with a combined fuel economy of 23.7 miles per gallon for the average number of miles traveled by a passenger vehicle in the Commonwealth, as determined by the Commissioner. For all other fuel-efficient vehicles, the highway use fee shall be 85 percent of the difference between the tax paid under subsection A of § 58.1-2217 on the fuel used by a vehicle with a combined fuel economy of 23.7 miles per gallon for the average number of miles traveled by a passenger vehicle in the Commonwealth in a year, as determined by the Commissioner, and the tax paid under subsection A of § 58.1-2217 on the fuel used by the vehicle being registered for the average number of miles traveled by a passenger vehicle in the Commonwealth in a year, as determined by the Commissioner.

For purposes of this chapter, the Commissioner shall use combined fuel economy as determined by the manufacturer of the vehicle. If the Commissioner is unable to obtain the manufacturer's fuel economy for a vehicle, then the Commissioner shall use the final estimate of average fuel economy, as determined by the U.S. Environmental Protection Agency, of (i) all trucks having the same model year as the vehicle being registered, if the vehicle has a gross weight between 6,000 pounds and 10,000 pounds, or (ii) all cars having the same model year as the vehicle. If data is not available for the model year of the vehicle being registered, then the Commissioner shall use available data for the model year that is closest to the model year of the vehicle being registered.

The Commissioner shall update the fees calculated under this section by July 1 of each year.

C. This section shall not apply to:

1. An autocycle, moped, or motorcycle;
2. A vehicle with a gross weight over 10,000 pounds;
3. A vehicle that is owned by a governmental entity as defined in § 58.1-2201; or
4. A vehicle that is registered under the International Registration Plan.

A vehicle shall not be subject to the fee set forth in this section in any year in which such vehicle is registered to participate in the mileage-based user fee program established pursuant to § 46.2-773.

*D. In any case where an applicant has requested and is eligible for a refund pursuant to § 46.2-688, the Commissioner shall refund to the applicant the cost of the highway use fee, prorated in six-month increments, if such application is made when six or more months remain in the registration period.*

**§ 46.2-773. Mileage-based user fee program.**

A. There is hereby established a mileage-based user fee program. The program shall be a voluntary program that allows owners of vehicles subject to the highway use fee pursuant to § 46.2-772 to pay a mileage-based fee in lieu of the highway use fee. No owner of a motor vehicle registered in the Commonwealth shall be required to participate in the program established pursuant to this section.

B. In any year that an owner pays the fee set forth in this section, such owner shall not be subject to the fee set forth in § 46.2-772 for the same vehicle. In no case shall the fees paid pursuant to this section during a 12-month period exceed the annual highway use fee that would have otherwise been paid.

C. The fee schedule for the mileage-based user fee program shall be calculated by dividing the amount of the highway use fee as determined pursuant to subsection B of § 46.2-772 by the average number of miles traveled by a passenger vehicle in the Commonwealth to determine a fee per mile driven.

D. The Department shall establish procedures for the collection of the fees set forth in this section.

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60 Such procedures may limit the total number of participants during the first four years of the program.

61 *E. The Department shall offer program participants the option to participate without location*  
62 *tracking.*

63 *F. Upon receipt of notice from a vendor that has entered into an agreement with the Department to*  
64 *administer the mileage-based user fee program that a program participant has failed to pay the*  
65 *mileage-based user fee, the Commissioner shall refuse to issue or renew the vehicle registration*  
66 *certificate or the license plate issued for any vehicles owned by the program participant until the*  
67 *mileage-based user fee has been paid. The Department shall send each program participant identified*  
68 *pursuant to this subsection notice of the intent to deny renewal of registration at least 30 days prior to*  
69 *the expiration date of a current vehicle registration. Such notice shall include instructions for contacting*  
70 *the vendor that administers the mileage-based user fee program to pay the amount owed. Upon receipt*  
71 *of notice from the vendor that the outstanding fee has been paid, the Commissioner shall release the*  
72 *hold and permit the vehicle registrations to be issued or renewed.*

73 *G. Information collected by the Department and any other entity pursuant to this chapter shall be*  
74 *limited exclusively to that information necessary for the administration of the mileage-based user fee*  
75 *and shall be used solely for such purpose. Information collected shall not (i) be open to the public or*  
76 *subject to disclosure pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); (ii) be*  
77 *sold for sales, solicitation, or marketing purposes; or (iii) be disclosed to any other entity except as may*  
78 *be necessary for the collection of unpaid mileage-based user fees or to the owner of a vehicle as part of*  
79 *the owner's challenge to the imposition of a mileage-based user fee.*

80 *[ H. The Department and any entity collecting information pursuant to this chapter on behalf of the*  
81 *Department may retain, aggregate, and use the information collected pursuant to this chapter for the*  
82 *purposes of traffic management, research, and analysis of the effectiveness of the program in such a*  
83 *manner that individuals cannot be identified. ]*

84 **2. That the Commissioner of the Department of Motor Vehicles shall establish a process to issue a**  
85 **refund of the highway use fee, without interest, pursuant to subsection D of § 46.2-772 of the Code**  
86 **of Virginia, as amended by this act, if a refund was made for a vehicle pursuant to § 46.2-688 of**  
87 **the Code of Virginia on or after July 1, 2020, and such vehicle would have met the conditions set**  
88 **out in subsection D of § 46.2-772 of the Code of Virginia, as amended by this act.**