The Senate Committee on Finance offered the following substitute to HB 652:

A BILL TO BE ENTITLED
AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for an exception for collection of sales and use taxes and motor fuel taxes relative to electricity delivered by certain electric vehicle charging stations; to revise and provide for definitions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-8-3, relating to exemptions from state sales and use tax, by striking "or" at the end of paragraph (104), by replacing the period at the end of paragraph (105) with "; or", and by adding a new paragraph to read as follows:

"(106) Sale or use of exempt special fuel as such term is defined in Code Section 48-9-2."

SECTION 2.

Said title is further amended by revising Code Section 48-8-3.1, relating to exemptions from sales and use tax for motor fuels, as follows:

″48-8-3.1.

(a) Except as provided in subsection (b) of this Code section, sales of motor fuels as defined in ~~paragraph (9) of~~ Code Section 48-9-2 shall be exempt from the state sales and use taxes levied or imposed by this article.

(b) Sales of motor fuel, other than gasoline and exempt special fuel as such term is defined in Code Section 48-9-2, purchased for purposes other than propelling motor vehicles on public highways as defined in Article 1 of Chapter 9 of this title shall be fully subject to the state sales and use taxes levied or imposed by this article unless otherwise specifically exempted by this article.

(c) It is specifically declared to be the intent of the General Assembly that taxation imposed on sales of motor fuel wholly or partially subject to taxation under this Code section shall not constitute motor fuel taxes for purposes of any provision of the Constitution providing for the automatic or mandatory appropriation of any amount of funds equal to funds derived from motor fuel taxes.″

SECTION 3.

Said title is further amended in Code Section 48-9-2, relating to definitions relative to motor fuel tax, by revising subparagraph (G) of paragraph (5), by revising paragraph (5.3), and by adding a new paragraph to read as follows:

″(G) Consumes, uses, or sells electricity as a motor fuel through an electric vehicle charging station for both highway and nonhighway use; provided, however, that such term shall not include the consumption, use, or sale of exempt special fuel;″

″(5.3) 'Exempt special fuel' means fuel dispensed from an electric vehicle charging station in operation as of January 1, 2025, that is owned or operated by a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, that delivers electricity for no exchange of consideration or payment, and that is located upon a federal interstate right of way.

(5.4) 'Export and import' means:

(A) When motor fuels are sold for export and delivered across the boundaries of this state by or for the seller, such action is presumed to be an export from the place of origin and an import into the destination state or country by the seller; and

(B) When motor fuels are purchased for export and transported across the boundaries of this state by or for the purchaser, such action is presumed to be an export from the place of origin and an import into the destination state or country by the purchaser.″

SECTION 4.

Said title is further amended in Code Section 48-9-3, relating to levy of excise tax, rate, taxation of motor fuels not commonly sold or measured by gallon, rate, prohibition of tax on motor fuel by political subdivisions, exception, and exempted sales, by revising paragraph (2) of subsection (a) and subdivision (b)(7)(B)(ii)(I) as follows:

″(2) In the event any motor fuels which are not commonly sold or measured by the gallon or which are not otherwise provided for by this Code section are used in any motor vehicles on the public highways of this state, the commissioner may assess, levy, and collect a tax upon such fuels, under such regulations as the commissioner may promulgate, in accordance with and measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline; provided, however, that no tax shall be imposed upon exempt special fuel. Any determination by the commissioner of the power potential equivalent of such motor fuels shall be prima-facie correct. Upon each such quantity of such fuels used upon the public highways of this state, a tax at the same rate per gallon imposed on motor fuel under paragraph (1) of this subsection shall be assessed and collected.″

″(ii)(I) Any special fuel sold by a distributor to a purchaser who has a storage receptacle which has a connection to a withdrawal outlet that may be used for highway use, as defined in ~~paragraph (8) of~~ Code Section 48-9-2, and any special fuel delivered from an electric vehicle charging station, is not exempt from the motor fuel and road taxes imposed by this article unless: ~~(1) the~~

(a) The purchaser is at the time of sale a valid licensed distributor of that type of motor fuel;~~, or (2) an~~

(b) The fuel is an exempt special fuel; or

(c) An exemption certificate has been obtained on forms furnished by the Department of Revenue showing that there is no highway use of such fuels and the person obtaining such fuel is not a reseller of such fuels. Each exemption certificate shall be valid for a period of not more than three years and shall be kept by the distributor as one of the records specified in Code Section 48-9-8. It shall be the responsibility of the purchaser to notify the distributor when the purchaser is no longer qualified for the nonhighway exemption. All applicable taxes ~~must~~ shall be charged the purchaser until the purchaser is granted a valid distributor's license for that type of motor fuel."

SECTION 5.

This Act shall become effective on January 1, 2026.

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.