

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

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act relating to regulation and taxation of electricity used as motor fuel and
2 electric vehicle charging stations, approved May 2, 2023 (Ga. L. 2023, p. 376/SB 146), as
3 amended, so as to extend the effective date of provisions relative to regulatory authority of
4 the Department of Agriculture and revenue and taxation; to amend Title 48 of the Official
5 Code of Georgia Annotated, relating to revenue and taxation, so as to provide for an
6 exception for collection of sales and use taxes and motor fuel taxes relative to electricity
7 delivered by certain electric vehicle charging stations; to revise and provide for definitions;
8 to provide for related matters; to provide for effective dates; to repeal conflicting laws; and
9 for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 An Act relating to regulation and taxation of electricity used as motor fuel and electric
13 vehicle charging stations, approved May 2, 2023 (Ga. L. 2023, p. 376/SB 146), as amended,
14 is amended by revising subsection (b) of Section 5-1 as follows:

"(b) Part II of this Act, which provides for the regulatory authority of the Department of Agriculture, and Part III of this Act, relating to revenue and taxation, shall become effective on January 1, 2027."

SECTION 2.

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 3.

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

39 Constitution providing for the automatic or mandatory appropriation of any amount of
40 funds equal to funds derived from motor fuel taxes."

41 **SECTION 4.**

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

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

48 "(5.3) 'Exempt special fuel' means fuel dispensed from an electric vehicle charging
49 station in operation as of January 1, 2025, that is owned or operated by a nonprofit
50 organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code,
51 that delivers electricity for no exchange of consideration or payment, and that is located
52 upon a federal interstate right of way.

53 (5.4) 'Export and import' means:

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

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

60 **SECTION 5.**

61 Said title is further amended in Code Section 48-9-3, relating to levy of excise tax, rate,
62 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

90 is no longer qualified for the nonhighway exemption. All applicable taxes ~~must~~
91 shall be charged the purchaser until the purchaser is granted a valid distributor's
92 license for that type of motor fuel."

93 **SECTION 6.**

94 (a) Except as otherwise provided in subsection (b) of this section, this Act shall become
95 effective on January 1, 2027.

96 (b) Section 1 of this Act shall become effective upon its approval by the Governor or upon
97 its becoming law without such approval.

98 **SECTION 7.**

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