



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3224

Introduced 2/15/2018, by Sen. Chris Nybo

SYNOPSIS AS INTRODUCED:

35 ILCS 505/1.1	from Ch. 120, par. 417.1
35 ILCS 505/1.2	from Ch. 120, par. 417.2
35 ILCS 505/1.3a new	
35 ILCS 505/1.6	from Ch. 120, par. 417.6
35 ILCS 505/1.14	from Ch. 120, par. 417.14
35 ILCS 505/1.20	from Ch. 120, par. 417.20
35 ILCS 505/1.30 new	
35 ILCS 505/3	from Ch. 120, par. 419
35 ILCS 505/3d new	
35 ILCS 505/3e new	
35 ILCS 505/3f new	
35 ILCS 505/3g new	
35 ILCS 505/12	from Ch. 120, par. 428
35 ILCS 505/12a	from Ch. 120, par. 428a
35 ILCS 505/13	from Ch. 120, par. 429
35 ILCS 505/15	from Ch. 120, par. 431
35 ILCS 505/16	from Ch. 120, par. 432
35 ILCS 120/2d	from Ch. 120, par. 441d

Amends the Motor Fuel Tax Law. Contains provisions requiring alternative fuel supplier licenses. Provides that licensed distributors, suppliers, and receivers are not considered blenders under the Act. Provides that the term "blender" includes persons who engage in the business of selling motor fuel at retail and not for resale that is blended by purchasers through the use of blender pumps. Amends the Retailers' Occupation Tax Act. Provides that prepayment provisions do not apply to alternative fuel.

LRB100 20669 HLH 36121 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Motor Fuel Tax Law is amended by changing
5 Sections 1.1, 1.2, 1.6, 1.14, 1.20, 3, 12, 12a, 13, 15, and 16
6 and by adding Sections 1.3a, 1.30, 3d, 3e, 3f, and 3g as
7 follows:

8 (35 ILCS 505/1.1) (from Ch. 120, par. 417.1)

9 Sec. 1.1. "Motor Fuel" means all volatile and inflammable
10 liquids, volatile and inflammable gases, or any other products,
11 now known or hereafter developed, that are produced, blended or
12 compounded for the purpose of, or which are suitable or
13 practicable for, operating motor vehicles. Among other things,
14 "Motor Fuel" includes "Special Fuel" as defined in Section 1.13
15 of this Act and "alternative fuel" as defined in Section 1.3a
16 of this Act.

17 (Source: Laws 1963, p. 1557.)

18 (35 ILCS 505/1.2) (from Ch. 120, par. 417.2)

19 Sec. 1.2. Distributor. "Distributor" means a person who
20 either (i) produces, refines, ~~blends,~~ compounds or
21 manufactures motor fuel in this State, or (ii) transports motor
22 fuel into this State, or (iii) exports motor fuel out of this

1 State, or (iv) engages in the distribution of motor fuel
2 primarily by tank car or tank truck, or both, and who operates
3 an Illinois bulk plant where he or she has active bulk storage
4 capacity of not less than 30,000 gallons for gasoline as
5 defined in item (A) of Section 5 of this Law. A person licensed
6 under the provisions of this Section is also authorized to
7 engage in blending. A person licensed under the provisions of
8 this Section is also authorized to engage in blending.

9 "Distributor" does not, however, include a person who
10 receives or transports into this State and sells or uses motor
11 fuel under such circumstances as preclude the collection of the
12 tax herein imposed, by reason of the provisions of the
13 constitution and statutes of the United States. However, a
14 person operating a motor vehicle into the State, may transport
15 motor fuel in the ordinary fuel tank attached to the motor
16 vehicle for the operation of the motor vehicle, without being
17 considered a distributor. Any railroad registered under
18 Section 18c-7201 of the Illinois Vehicle Code may deliver
19 special fuel directly into the fuel supply tank of a locomotive
20 owned, operated, or controlled by any other railroad registered
21 under Section 18c-7201 of the Illinois Vehicle Code without
22 being considered a distributor or supplier.

23 (Source: P.A. 96-1384, eff. 7-29-10.)

24 (35 ILCS 505/1.3a new)

25 Sec. 1.3a. Alternative fuel. "Alternative fuel" means: (i)

1 compressed natural gas, liquefied natural gas and liquefied
2 petroleum gas, when sold or used for operating motor vehicles
3 on public highways or recreational-type watercraft upon the
4 waters of this State; or (ii) any product, other than gasoline
5 or diesel fuel, that is used or purchased for the purpose of
6 blending with gasoline or diesel fuel to produce a product that
7 is sold or used for operating motor vehicles on public highways
8 and recreational-type watercraft upon the waters of this State.
9 Products purchased or used for the purpose of blending include,
10 but are not limited to, ethanol, butane, alcohol, and soy oil.

11 (35 ILCS 505/1.6) (from Ch. 120, par. 417.6)

12 Sec. 1.6. "Blender" means any person, other than a licensed
13 distributor, supplier, or receiver, who engages in the practice
14 of blending as herein defined. Blenders include, but are not
15 limited to, persons who engage in the business of selling motor
16 fuel at retail and not for resale that is blended by purchasers
17 through the use of blender pumps.

18 (Source: Laws 1961, p. 3653.)

19 (35 ILCS 505/1.14) (from Ch. 120, par. 417.14)

20 Sec. 1.14. Supplier. "Supplier" means any person other than
21 a licensed distributor who (i) transports special fuel into
22 this State; (ii) exports special fuel out of this State; or
23 (iii) engages in the distribution of special fuel primarily by
24 tank car or tank truck, or both, and who operates an Illinois

1 bulk plant where he has active bulk storage capacity of not
2 less than 30,000 gallons for special fuel as defined in Section
3 1.13 of this Law.

4 "Supplier" does not, however, include a person who receives
5 or transports into this State and sells or uses special fuel
6 under such circumstances as preclude the collection of the tax
7 herein imposed, by reason of the provisions of the Constitution
8 and laws of the United States. However, a person operating a
9 motor vehicle into the State, may transport special fuel in the
10 ordinary fuel tank attached to the motor vehicle for the
11 operation of the motor vehicle without being considered a
12 supplier. Any railroad licensed as a bulk user and registered
13 under Section 18c-7201 of the Illinois Vehicle Code may deliver
14 special fuel directly into the fuel supply tank of a locomotive
15 owned, operated, or controlled by any other railroad registered
16 under Section 18c-7201 of the Illinois Vehicle Code without
17 being considered a supplier. A person licensed as a supplier
18 under the provisions of this Section is also authorized to
19 engage in blending special fuel.

20 (Source: P.A. 96-1384, eff. 7-29-10.)

21 (35 ILCS 505/1.20) (from Ch. 120, par. 417.20)

22 Sec. 1.20. "Receiver" means a person who either produces,
23 refines, blends, compounds or manufactures fuel in this State,
24 or transports fuel into this State or receives fuel transported
25 to him from without the State or exports fuel out of this

1 State, or who is engaged in distribution of fuel primarily by
2 tank car or tank truck, or both, and who operates an Illinois
3 bulk plant where he has active fuel bulk storage capacity of
4 not less than 30,000 gallons. A person licensed as a receiver
5 under the provisions of this Section is also authorized to
6 engage in blending.

7 (Source: P.A. 86-125; 86-958.)

8 (35 ILCS 505/1.30 new)

9 Sec. 1.30. Alternative fuel supplier. "Alternative fuel
10 supplier" means any person, other than a licensed distributor,
11 receiver, or supplier who sells alternative fuel: (i) to
12 persons for the purpose of blending motor fuel that will be
13 sold or used by such persons for the purpose of operating motor
14 vehicles upon the public highways and recreational-type
15 watercraft upon the waters of this State; (ii) to persons for
16 the purpose of retail sale as motor fuel that will be used for
17 the purpose of operating motor vehicles upon the public
18 highways and recreational-type watercraft upon the waters of
19 this State; or (iii) to persons for use by such persons in
20 operating motor vehicles on the public highways and
21 recreational-type watercraft upon the waters of this State.

22 (35 ILCS 505/3) (from Ch. 120, par. 419)

23 Sec. 3. No person shall act as a distributor of motor fuel
24 within this State without first securing a license to act as a

1 distributor of motor fuel from the Department. Application for
2 such license shall be made to the Department upon blanks
3 furnished by it. The application shall be signed and verified,
4 and shall contain such information as the Department deems
5 necessary. ~~A blender shall, in addition to securing a~~
6 ~~distributor's license, make application to the Department for a~~
7 ~~blender's permit, setting forth in the application such~~
8 ~~information as the Department deems necessary.~~ The applicant
9 for a distributor's license shall also file with the Department
10 a bond on a form to be approved by and with a surety or sureties
11 satisfactory to the Department conditioned upon such applicant
12 paying to the State of Illinois all monies becoming due by
13 reason of the sale, export, or use of motor fuel by the
14 applicant, together with all penalties and interest thereon.
15 The Department shall fix the penalty of such bond in each case
16 taking into consideration the amount of motor fuel expected to
17 be sold, distributed, exported, and used by such applicant and
18 the penalty fixed by the Department shall be such, as in its
19 opinion, will protect the State of Illinois against failure to
20 pay the amount hereinafter provided on motor fuel sold,
21 distributed, exported, and used, but the amount of the penalty
22 fixed by the Department shall not exceed twice the monthly
23 amount that would be collectable as a tax in the event of a
24 sale on all the motor fuel sold, distributed, exported, and
25 used by the distributor inclusive of tax-free sales, exports,
26 use, or distribution. Upon receipt of the application and bond

1 in proper form, the Department shall issue to the applicant a
2 license to act as a distributor. No person who is in default to
3 the State for monies due under this Act for the sale,
4 distribution, export, or use of motor fuel shall receive a
5 license to act as a distributor.

6 A license shall not be granted to any person whose
7 principal place of business is in a state other than Illinois,
8 unless such person is licensed for motor fuel distribution or
9 export in the state in which the principal place of business is
10 located and that such person is not in default to that State
11 for any monies due for the sale, distribution, export, or use
12 of motor fuel.

13 (Source: P.A. 96-1384, eff. 7-29-10.)

14 (35 ILCS 505/3d new)

15 Sec. 3d. Alternative fuel supplier license. No person
16 shall act as an alternative fuels supplier in this State
17 without first securing a license as an alternative fuel
18 supplier. Application for an alternative fuel supplier's
19 license shall be made in the form and manner required by the
20 Department. The application shall be signed and verified and
21 shall contain such information as the Department deems
22 necessary.

23 The Department, for cause, may require an applicant to post
24 a bond on a form to be approved by and with a surety or sureties
25 satisfactory to the Department conditioned upon such applicant

1 paying to the State of Illinois all monies becoming due by
2 reason of the sale or use of alternative fuel by the applicant,
3 together with all penalties and interest thereon. If a bond is
4 required, it shall be equal to at least twice the estimated
5 average tax liability of a monthly return. The Department shall
6 fix the penalty of such bond in each case taking into
7 consideration the amount of alternative fuel expected to be
8 sold or used by such applicant and the penalty fixed by the
9 Department shall be such as, in its opinion, will protect the
10 State of Illinois against failure to pay the amount hereinafter
11 provided on alternative fuel sold or used. No person who is in
12 default to the State for moneys due under this Act for the
13 sale, or use of motor fuel shall receive a license to act as an
14 alternative fuel supplier.

15 A license shall not be granted to any person whose
16 principal place of business is in a state other than Illinois,
17 unless such person is licensed for motor fuel distribution,
18 export or blending in the State in which the principal place of
19 business is located and that other State requires such license
20 and that such person is not in default to that State for any
21 monies due for the sale, distribution, export, blending or use
22 of motor fuel.

23 (35 ILCS 505/3e new)

24 Sec. 3e. Tax on purchases of alternative fuel; payment to
25 alternative fuel suppliers; self-assessment of tax by

1 purchasers. Persons, other than licensed distributors,
2 suppliers and receivers, that purchase alternative fuel for the
3 purpose of (i) blending motor fuel that will be sold or used by
4 such persons for the purpose of operating motor vehicles upon
5 the public highways and recreational-type watercraft upon the
6 waters of this State; (ii) sale to purchasers as motor fuel
7 that will be used for the purpose of operating motor vehicles
8 upon the public highways and recreational-type watercraft upon
9 the waters of this State; or (iii) use by such persons in
10 operating motor vehicles on the public highways and
11 recreational-type watercraft upon the waters of this State
12 shall remit the tax imposed under Sections 2 and 2a to licensed
13 alternative fuel suppliers. Any person purchasing alternative
14 fuel subject to tax under this Act as to which there has been
15 no charge made to him of the tax imposed by Section 2 or 2a, or
16 both, shall make payment to the Department of the tax imposed
17 by Sections 2 and 2a on such alternative fuel. Any person who
18 blends alternative fuel subject to tax under this Act that he
19 or she has refined (and to which there has been no charge made
20 to him of the tax imposed by Section 2 or 2a, or both) with
21 gasoline or diesel fuel, shall make payment to the Department
22 of the tax imposed by Sections 2 and 2a on such alternative
23 fuel. Such payment shall be made to the Department no later
24 than the 20th day of the month following the month in which the
25 alternative fuel was purchased and shall be reported on the
26 return required by Section 3f of the Law.

1 (35 ILCS 505/3f new)

2 Sec. 3f. Alternative fuel suppliers; returns. A person
3 holding a valid unrevoked license to act as an alternative fuel
4 supplier shall, between the 1st and 20th days of each calendar
5 month, make return to the Department, showing an itemized
6 statement of the number of invoiced gallons of alternative fuel
7 (i) sold to persons for the purpose of blending motor fuel that
8 will be sold or used by such persons for the purpose of
9 operating motor vehicles upon the public highways and
10 recreational-type watercraft upon the waters of this State;
11 (ii) sold to persons for the purpose of retail sale as motor
12 fuel that will be used for the purpose of operating motor
13 vehicles upon the public highways and recreational-type
14 watercraft upon the waters of this State; (iii) sold to persons
15 for use by such persons in operating motor vehicles upon public
16 highways and recreational-type watercraft upon the waters of
17 this State; and (iv) used by the alternative fuel supplier for
18 operating motor vehicles upon public highways and
19 recreational-type watercraft upon the waters of this State. The
20 return shall also include the amount of alternative fuel that
21 is lost or destroyed and such other reasonable information as
22 required by the Department.

23 A person whose license to act as an alternative fuel
24 supplier has been revoked shall make a return to the Department
25 covering the period from the date of the last return to the

1 date of the revocation of the license, which return shall be
2 delivered to the Department not later than 10 days from the
3 date of the revocation or termination of the license of such
4 alternative fuel supplier; the return shall in all other
5 respects be subject to the same provisions and conditions as
6 returns by alternative fuel suppliers licensed under the
7 provisions of this Act.

8 If the Department has reason to believe and does believe
9 that the amount shown on the return as sold, used, lost or
10 destroyed is incorrect, the Department shall fix an amount for
11 such sale, use, loss or destruction according to its best
12 judgment and information, which amount so fixed by the
13 Department shall be prima facie correct. All returns shall be
14 in the form and manner required by the Department, and shall
15 contain such other information as the Department may reasonably
16 require. The return must be accompanied by supporting schedule
17 data in the form required by the Department. All licensed
18 alternative fuel suppliers shall report all losses of
19 alternative fuel that are sustained on account of fire, theft,
20 spillage, spoilage, leakage, or any other provable cause when
21 filing the return for the period during which the loss
22 occurred. If the alternative fuel supplier reports losses due
23 to fire or theft, then the alternative fuel supplier must
24 include fire department or police department reports and any
25 other documentation that the Department may require. The mere
26 making of the report does not assure the allowance of the loss

1 as a reduction in tax liability.

2 (35 ILCS 505/3g new)

3 Sec. 3g. Alternative fuel suppliers; payment of tax.

4 Alternative fuel suppliers, when filing a return required by
5 Section 3f, shall report to the Department the amount of tax
6 imposed under this Act on all alternative fuels required to be
7 reported under Section 3f. At the time of making a return, an
8 alternative fuel supplier shall pay to the Department all taxes
9 due, less, except as otherwise provided, a discount of 1.75%
10 which is allowed to reimburse the alternative fuel supplier for
11 the expenses incurred in keeping records, preparing and filing
12 returns, remitting tax and supplying data to the Department on
13 request. The 1.75% discount shall not be allowed for amounts
14 remitted for alternative fuels used by the alternative fuel
15 supplier for operating motor vehicles upon the public highways
16 and recreational-type watercraft upon the waters of this State.
17 The 1.75% discount shall only be applicable to the amount of
18 tax payment which accompanies a return which is filed timely in
19 accordance with Section 3f of the Law. However, no payment
20 shall be made based upon alternative fuels that were sold and
21 used for the purpose of blending with special fuel to produce
22 dyed diesel fuel. An alternative fuel supplier shall not be
23 liable for tax on the sale of alternative fuel, to the extent
24 to which such sale or use of blended motor fuel may not, under
25 the constitution and statutes of the United States, be made the

1 subject of taxation by this State. A person whose license to
2 act as an alternative fuel supplier has been revoked shall, at
3 the time of making a return, also pay to the Department an
4 amount equal to the amount that would be due as a tax in the
5 event of a sale thereof on all alternative fuels, which he is
6 required by Section 3f to report to the Department in making a
7 return, and which he had on hand on the date on which the
8 license was revoked, and with respect to which no tax had been
9 previously paid under this Act.

10 An alternative fuel supplier is not liable for tax on
11 alternative fuels which he is otherwise required to remit to
12 the Department, only as specified in the following items (1)
13 through (5).

14 (1) When the sale of the alternative fuel is made with
15 delivery to a purchaser outside of this State.

16 (2) When the sale of the alternative fuel is made to
17 the Federal Government or its instrumentalities.

18 (3) When the sale of the alternative fuel is made to a
19 municipal corporation owning and operating a local
20 transportation system for public service in this State when
21 an official certificate of exemption is obtained in lieu of
22 the tax.

23 (4) When the sale of the alternative fuel is made to a
24 privately owned public utility owning and operating 2 axle
25 vehicles designed and used for transporting more than 7
26 passengers, which vehicles are used as common carriers in

1 general transportation of passengers, are not devoted to
2 any specialized purpose and are operated entirely within
3 the territorial limits of a single municipality or of any
4 group of contiguous municipalities, or in a close radius
5 thereof, and the operations of which are subject to the
6 regulations of the Illinois Commerce Commission, when an
7 official certificate of exemption is obtained in lieu of
8 the tax.

9 (5) When a sale of alternative fuel is made to someone
10 other than a licensed distributor or a licensed supplier
11 for non-highway purposes and the fuel is dispensed from a
12 fuel dispensing facility that has withdrawal facilities
13 that are not readily accessible to and are not capable of
14 dispensing fuel into the fuel supply tank of a motor
15 vehicle. A specific notation is required on the invoice or
16 sales slip covering such sales, and any supporting
17 documentation that may be required by the Department must
18 be obtained by the retail blender. The alternative fuel
19 supplier shall obtain and keep the supporting
20 documentation in such form as the Department may require by
21 rule for all exempt sales. For purposes of this exemption,
22 a fuel dispensing facility is considered to have withdrawal
23 facilities that are "not readily accessible to and not
24 capable of dispensing fuel into the fuel supply tank of a
25 motor vehicle" only if the fuel is delivered from: (i) a
26 dispenser hose that is short enough so that it will not

1 reach the fuel supply tank of a motor vehicle or (ii) a
2 dispenser that is enclosed by a fence or other physical
3 barrier so that a vehicle cannot pull alongside the
4 dispenser to permit fueling.

5 (35 ILCS 505/12) (from Ch. 120, par. 428)

6 Sec. 12. It is the duty of every distributor, receiver, ~~and~~
7 supplier, and alternative fuel supplier under this Act to keep
8 within this State or at some office outside this State for any
9 period for which the Department is authorized to issue a Notice
10 of Tax Liability to the distributor, receiver, ~~or~~ supplier, or
11 alternative fuel supplier records and books showing all
12 purchases, receipts, losses through any cause, sales,
13 distribution and use of motor fuel, aviation fuels, home
14 heating oils, and kerosene, and products used for the purpose
15 of blending to produce motor fuel, which records and books
16 shall, at all times during business hours of the day, be
17 subject to inspection by the Department, or its duly authorized
18 agents and employees. For purposes of this Section, "records"
19 means all data maintained by the taxpayer including data on
20 paper, microfilm, microfiche or any type of machine-sensible
21 data compilation. The Department may, in its discretion,
22 prescribe reasonable and uniform methods for keeping of records
23 and books by licensees and that set forth requirements for the
24 form and format of records that must be maintained in order to
25 comply with any recordkeeping requirement under this Act.

1 (Source: P.A. 91-173, eff. 1-1-00.)

2 (35 ILCS 505/12a) (from Ch. 120, par. 428a)

3 Sec. 12a. (a) Any duly authorized agent or employee of the
4 Department shall have authority to enter in or upon the
5 premises of any manufacturer, vendor, dealer, retailer,
6 distributor, receiver, supplier, alternative fuel supplier, or
7 user of motor fuel or special fuels during the regular business
8 hours in order to examine books, records, invoices, storage
9 tanks, and any other applicable equipment pertaining to motor
10 fuel, alternative fuel, aviation fuels, home heating oils,
11 kerosene, or special fuels, to determine whether or not the
12 taxes imposed by this Act have been paid.

13 (b) Any duly authorized agent of the Department, upon
14 presenting appropriate credentials and a written notice to the
15 person who owns, operates, or controls the place to be
16 inspected, shall have the authority to enter any place and to
17 conduct inspections in accordance with subsections (b) through
18 (g) of this Section.

19 (c) Inspections will be performed in a reasonable manner
20 and at times that are reasonable under the circumstances,
21 taking into consideration the normal business hours of the
22 place to be entered.

23 (d) Inspections may be at any place at which taxable motor
24 fuel is or may be produced or stored or at any inspection site
25 where evidence of the following activities may be discovered:

1 (1) Where any dyed diesel fuel is sold or held for sale
2 by any person for any use which the person knows or has
3 reason to know is not a nontaxable use of such fuel.

4 (2) Where any dyed diesel fuel is held for use or used
5 by any person for a use other than a nontaxable use and the
6 person knew, or had reason to know, that the fuel was dyed
7 according to Section 4d.

8 (3) Where any person willfully alters, or attempts to
9 alter, the strength or composition of any dye or marking
10 done pursuant to Section 4d of this Law.

11 The places may include, but are not limited to, the
12 following:

13 (1) Any terminal.

14 (2) Any fuel storage facility that is not a terminal.

15 (3) Any retail fuel facility.

16 (4) Any designated inspection site.

17 (e) Duly authorized agents of the Department may physically
18 inspect, examine, or otherwise search any tank, reservoir, or
19 other container that can or may be used for the production,
20 storage, or transportation of fuel, fuel dyes, or fuel markers.
21 Inspection may also be made of any equipment used for, or in
22 connection with, production, storage, or transportation of
23 fuel, fuel dyes, or fuel markers. This includes any equipment
24 used for the dyeing or marking of fuel. This also includes
25 books and records, if any, that are maintained at the place of
26 inspection and are kept to determine tax liability under this

1 Law.

2 (f) Duly authorized agents of the Department may detain any
3 motor vehicle, train, barge, ship, or vessel for the purpose of
4 inspecting its fuel tanks and storage tanks. Detainment will be
5 either on the premises under inspection or at a designated
6 inspection site. Detainment may continue for a reasonable
7 period of time as is necessary to determine the amount and
8 composition of the fuel.

9 (g) Duly authorized agents of the Department may take and
10 remove samples of fuel in quantities as are reasonably
11 necessary to determine the composition of the fuel.

12 (h) (1) Any person that refuses to allow an inspection
13 shall pay a \$1,000 penalty for each refusal. This penalty
14 is in addition to any other penalty or tax that may be
15 imposed upon that person or any other person liable for tax
16 under this Law. All penalties received under this
17 subsection shall be deposited into the Tax Compliance and
18 Administration Fund. Any person aggrieved by any action of
19 the Department under this subsection (h) (1) may protest the
20 action by making a written request for a hearing within 60
21 days of the original action. If the hearing is not
22 requested in writing within 60 days, the original action is
23 final.

24 (2) In addition, any licensee who refuses to allow an
25 inspection shall be subject to license revocation as
26 provided by Section 16 of this Law.

1 (Source: P.A. 91-173, eff. 1-1-00.)

2 (35 ILCS 505/13) (from Ch. 120, par. 429)

3 Sec. 13. Refund of tax paid. Any person other than a
4 licensed distributor ~~or~~ supplier, or alternative fuel
5 supplier, who loses motor fuel through any cause or uses motor
6 fuel (upon which he has paid the amount required to be
7 collected under Section 2 of this Act) for any purpose other
8 than operating a motor vehicle upon the public highways or
9 waters, shall be reimbursed and repaid the amount so paid.

10 Any person who purchases motor fuel in Illinois and uses
11 that motor fuel in another state and that other state imposes a
12 tax on the use of such motor fuel shall be reimbursed and
13 repaid the amount of Illinois tax paid under Section 2 of this
14 Act on the motor fuel used in such other state. Reimbursement
15 and repayment shall be made by the Department upon receipt of
16 adequate proof of taxes directly paid to another state and the
17 amount of motor fuel used in that state.

18 Claims based in whole or in part on taxes paid to another
19 state shall include (i) a certified copy of the tax return
20 filed with such other state by the claimant; (ii) a copy of
21 either the cancelled check paying the tax due on such return,
22 or a receipt acknowledging payment of the tax due on such tax
23 return; and (iii) such other information as the Department may
24 reasonably require. This paragraph shall not apply to taxes
25 paid on returns filed under Section 13a.3 of this Act.

1 Any person who purchases motor fuel use tax decals as
2 required by Section 13a.4 and pays an amount of fees for such
3 decals that exceeds the amount due shall be reimbursed and
4 repaid the amount of the decal fees that are deemed by the
5 department to be in excess of the amount due.

6 Claims for such reimbursement must be made to the
7 Department of Revenue, duly verified by the claimant (or by the
8 claimant's legal representative if the claimant has died or
9 become a person under legal disability), upon forms prescribed
10 by the Department. The claim must state such facts relating to
11 the purchase, importation, manufacture or production of the
12 motor fuel by the claimant as the Department may deem
13 necessary, and the time when, and the circumstances of its loss
14 or the specific purpose for which it was used (as the case may
15 be), together with such other information as the Department may
16 reasonably require. No claim based upon idle time shall be
17 allowed. Claims for reimbursement for overpayment of decal fees
18 shall be made to the Department of Revenue, duly verified by
19 the claimant (or by the claimant's legal representative if the
20 claimant has died or become a person under legal disability),
21 upon forms prescribed by the Department. The claim shall state
22 facts relating to the overpayment of decal fees, together with
23 such other information as the Department may reasonably
24 require. Claims for reimbursement of overpayment of decal fees
25 paid on or after January 1, 2011 must be filed not later than
26 one year after the date on which the fees were paid by the

1 claimant. If it is determined that the Department should
2 reimburse a claimant for overpayment of decal fees, the
3 Department shall first apply the amount of such refund against
4 any tax or penalty or interest due by the claimant under
5 Section 13a of this Act.

6 Claims for full reimbursement for taxes paid on or before
7 December 31, 1999 must be filed not later than one year after
8 the date on which the tax was paid by the claimant. If,
9 however, a claim for such reimbursement otherwise meeting the
10 requirements of this Section is filed more than one year but
11 less than 2 years after that date, the claimant shall be
12 reimbursed at the rate of 80% of the amount to which he would
13 have been entitled if his claim had been timely filed.

14 Claims for full reimbursement for taxes paid on or after
15 January 1, 2000 must be filed not later than 2 years after the
16 date on which the tax was paid by the claimant.

17 The Department may make such investigation of the
18 correctness of the facts stated in such claims as it deems
19 necessary. When the Department has approved any such claim, it
20 shall pay to the claimant (or to the claimant's legal
21 representative, as such if the claimant has died or become a
22 person under legal disability) the reimbursement provided in
23 this Section, out of any moneys appropriated to it for that
24 purpose.

25 Any distributor, ~~or~~ supplier, or alternative fuel supplier
26 who has paid the tax imposed by Section 2 of this Act upon

1 motor fuel that is lost or used by such distributor, ~~or~~
2 supplier, or alternative fuel supplier for any purpose other
3 than operating a motor vehicle upon the public highways or
4 recreational-type watercraft upon the waters of this State may
5 file a claim for credit or refund to recover the amount so
6 paid. Such claims shall be filed on forms prescribed by the
7 Department. Such claims shall be made to the Department, duly
8 verified by the claimant (or by the claimant's legal
9 representative if the claimant has died or become a person
10 under legal disability), upon forms prescribed by the
11 Department. The claim shall state such facts relating to the
12 purchase, importation, manufacture or production of the motor
13 fuel by the claimant as the Department may deem necessary and
14 the time when the loss or nontaxable use occurred, and the
15 circumstances of its loss or the specific purpose for which it
16 was used (as the case may be), together with such other
17 information as the Department may reasonably require. Claims
18 must be filed not later than one year after the date on which
19 the tax was paid by the claimant.

20 The Department may make such investigation of the
21 correctness of the facts stated in such claims as it deems
22 necessary. When the Department approves a claim, the Department
23 shall issue a refund or credit memorandum as requested by the
24 taxpayer, to the distributor, ~~or~~ supplier, or alternative fuel
25 supplier who made the payment for which the refund or credit is
26 being given or, if the distributor, ~~or~~ supplier, or

1 alternative fuel supplier has died or become incompetent, to
2 such distributor's, ~~or~~ supplier's, or alternative fuel
3 supplier legal representative, as such. The amount of such
4 credit memorandum shall be credited against any tax due or to
5 become due under this Act from the distributor, ~~or~~ supplier,
6 or alternative fuel supplier who made the payment for which
7 credit has been given.

8 Any credit or refund that is allowed under this Section
9 shall bear interest at the rate and in the manner specified in
10 the Uniform Penalty and Interest Act.

11 In case the distributor or supplier requests and the
12 Department determines that the claimant is entitled to a
13 refund, such refund shall be made only from such appropriation
14 as may be available for that purpose. If it appears unlikely
15 that the amount appropriated would permit everyone having a
16 claim allowed during the period covered by such appropriation
17 to elect to receive a cash refund, the Department, by rule or
18 regulation, shall provide for the payment of refunds in
19 hardship cases and shall define what types of cases qualify as
20 hardship cases.

21 In any case in which there has been an erroneous refund of
22 tax or fees payable under this Section, a notice of tax
23 liability may be issued at any time within 3 years from the
24 making of that refund, or within 5 years from the making of
25 that refund if it appears that any part of the refund was
26 induced by fraud or the misrepresentation of material fact. The

1 amount of any proposed assessment set forth by the Department
2 shall be limited to the amount of the erroneous refund.

3 If no tax is due and no proceeding is pending to determine
4 whether such distributor, ~~or~~ supplier, or alternative fuel
5 supplier is indebted to the Department for tax, the credit
6 memorandum so issued may be assigned and set over by the lawful
7 holder thereof, subject to reasonable rules of the Department,
8 to any other licensed distributor, ~~or~~ supplier, or alternative
9 fuel supplier who is subject to this Act, and the amount
10 thereof applied by the Department against any tax due or to
11 become due under this Act from such assignee.

12 If the payment for which the distributor's, ~~or~~ supplier's,
13 or alternative fuel supplier's claim is filed is held in the
14 protest fund of the State Treasury during the pendency of the
15 claim for credit proceedings pursuant to the order of the court
16 in accordance with Section 2a of the State Officers and
17 Employees Money Disposition Act and if it is determined by the
18 Department or by the final order of a reviewing court under the
19 Administrative Review Law that the claimant is entitled to all
20 or a part of the credit claimed, the claimant, instead of
21 receiving a credit memorandum from the Department, shall
22 receive a cash refund from the protest fund as provided for in
23 Section 2a of the State Officers and Employees Money
24 Disposition Act.

25 If any person ceases to be licensed as a distributor, ~~or~~
26 supplier, or alternative fuel supplier while still holding an

1 unused credit memorandum issued under this Act, such person
2 may, at his election (instead of assigning the credit
3 memorandum to a licensed distributor, ~~or~~ licensed supplier, or
4 licensed alternative fuel supplier under this Act), surrender
5 such unused credit memorandum to the Department and receive a
6 refund of the amount to which such person is entitled.

7 For claims based upon taxes paid on or before December 31,
8 2000, a claim based upon the use of undyed diesel fuel shall
9 not be allowed except (i) if allowed under the following
10 paragraph or (ii) for undyed diesel fuel used by a commercial
11 vehicle, as that term is defined in Section 1-111.8 of the
12 Illinois Vehicle Code, for any purpose other than operating the
13 commercial vehicle upon the public highways and unlicensed
14 commercial vehicles operating on private property. Claims
15 shall be limited to commercial vehicles that are operated for
16 both highway purposes and any purposes other than operating
17 such vehicles upon the public highways.

18 For claims based upon taxes paid on or after January 1,
19 2000, a claim based upon the use of undyed diesel fuel shall
20 not be allowed except (i) if allowed under the preceding
21 paragraph or (ii) for claims for the following:

22 (1) Undyed diesel fuel used (i) in a manufacturing
23 process, as defined in Section 2-45 of the Retailers'
24 Occupation Tax Act, wherein the undyed diesel fuel becomes
25 a component part of a product or by-product, other than
26 fuel or motor fuel, when the use of dyed diesel fuel in

1 that manufacturing process results in a product that is
2 unsuitable for its intended use or (ii) for testing
3 machinery and equipment in a manufacturing process, as
4 defined in Section 2-45 of the Retailers' Occupation Tax
5 Act, wherein the testing takes place on private property.

6 (2) Undyed diesel fuel used by a manufacturer on
7 private property in the research and development, as
8 defined in Section 1.29, of machinery or equipment intended
9 for manufacture.

10 (3) Undyed diesel fuel used by a single unit
11 self-propelled agricultural fertilizer implement, designed
12 for on and off road use, equipped with flotation tires and
13 specially adapted for the application of plant food
14 materials or agricultural chemicals.

15 (4) Undyed diesel fuel used by a commercial motor
16 vehicle for any purpose other than operating the commercial
17 motor vehicle upon the public highways. Claims shall be
18 limited to commercial motor vehicles that are operated for
19 both highway purposes and any purposes other than operating
20 such vehicles upon the public highways.

21 (5) Undyed diesel fuel used by a unit of local
22 government in its operation of an airport if the undyed
23 diesel fuel is used directly in airport operations on
24 airport property.

25 (6) Undyed diesel fuel used by refrigeration units that
26 are permanently mounted to a semitrailer, as defined in

1 Section 1.28 of this Law, wherein the refrigeration units
2 have a fuel supply system dedicated solely for the
3 operation of the refrigeration units.

4 (7) Undyed diesel fuel used by power take-off equipment
5 as defined in Section 1.27 of this Law.

6 (8) Beginning on the effective date of this amendatory
7 Act of the 94th General Assembly, undyed diesel fuel used
8 by tugs and spotter equipment to shift vehicles or parcels
9 on both private and airport property. Any claim under this
10 item (8) may be made only by a claimant that owns tugs and
11 spotter equipment and operates that equipment on both
12 private and airport property. The aggregate of all credits
13 or refunds resulting from claims filed under this item (8)
14 by a claimant in any calendar year may not exceed \$100,000.
15 A claim may not be made under this item (8) by the same
16 claimant more often than once each quarter. For the
17 purposes of this item (8), "tug" means a vehicle designed
18 for use on airport property that shifts custom-designed
19 containers of parcels from loading docks to aircraft, and
20 "spotter equipment" means a vehicle designed for use on
21 both private and airport property that shifts trailers
22 containing parcels between staging areas and loading
23 docks.

24 Any person who has paid the tax imposed by Section 2 of
25 this Law upon undyed diesel fuel that is unintentionally mixed
26 with dyed diesel fuel and who owns or controls the mixture of

1 undyed diesel fuel and dyed diesel fuel may file a claim for
2 refund to recover the amount paid. The amount of undyed diesel
3 fuel unintentionally mixed must equal 500 gallons or more. Any
4 claim for refund of unintentionally mixed undyed diesel fuel
5 and dyed diesel fuel shall be supported by documentation
6 showing the date and location of the unintentional mixing, the
7 number of gallons involved, the disposition of the mixed diesel
8 fuel, and any other information that the Department may
9 reasonably require. Any unintentional mixture of undyed diesel
10 fuel and dyed diesel fuel shall be sold or used only for
11 non-highway purposes.

12 The Department shall promulgate regulations establishing
13 specific limits on the amount of undyed diesel fuel that may be
14 claimed for refund.

15 For purposes of claims for refund, "loss" means the
16 reduction of motor fuel resulting from fire, theft, spillage,
17 spoilage, leakage, or any other provable cause, but does not
18 include a reduction resulting from evaporation, or shrinkage
19 due to temperature variations. In the case of losses due to
20 fire or theft, the claimant must include fire department or
21 police department reports and any other documentation that the
22 Department may require.

23 (Source: P.A. 96-1384, eff. 7-29-10.)

24 (35 ILCS 505/15) (from Ch. 120, par. 431)

25 Sec. 15. 1. Any person who knowingly acts as a distributor

1 of motor fuel, ~~or~~ supplier of special fuel, ~~or~~ receiver of
2 fuel, or alternative fuel supplier without having a license so
3 to do, or who knowingly fails or refuses to file a return with
4 the Department as provided in Section 2b, Section 3f, Section
5 5, or Section 5a of this Act, or who knowingly fails or refuses
6 to make payment to the Department as provided either in Section
7 2b, 3g, Section 6, Section 6a, or Section 7 of this Act, shall
8 be guilty of a Class 3 felony. Each day any person knowingly
9 acts as a distributor of motor fuel, supplier of special fuel,
10 ~~or~~ receiver of fuel fuel, or alternative fuel supplier without
11 having a license so to do or after such a license has been
12 revoked, constitutes a separate offense.

13 2. Any person who acts as a motor carrier without having a
14 valid motor fuel use tax license, issued by the Department or
15 by a member jurisdiction under the provisions of the
16 International Fuel Tax Agreement, or a valid single trip permit
17 is guilty of a Class A misdemeanor for a first offense and is
18 guilty of a Class 4 felony for each subsequent offense. Any
19 person (i) who fails or refuses to make payment to the
20 Department as provided in Section 13a.1 of this Act or in the
21 International Fuel Tax Agreement referenced in Section 14a, or
22 (ii) who fails or refuses to make the quarterly return as
23 provided in Section 13a.3 is guilty of a Class 4 felony; and
24 for each subsequent offense, such person is guilty of a Class 3
25 felony.

26 3. In case such person acting as a distributor, receiver,

1 supplier, alternative fuel supplier or motor carrier is a
2 corporation, then the officer or officers, agent or agents,
3 employee or employees, of such corporation responsible for any
4 act of such corporation, or failure of such corporation to act,
5 which acts or failure to act constitutes a violation of any of
6 the provisions of this Act as enumerated in paragraphs 1 and 2
7 of this Section, shall be punished by such fine or
8 imprisonment, or by both such fine and imprisonment as provided
9 in those paragraphs.

10 3.5. Any person who knowingly enters false information on
11 any supporting documentation required to be kept by Section 6
12 or 6a of this Act is guilty of a Class 3 felony.

13 3.7. Any person who knowingly attempts in any manner to
14 evade or defeat any tax imposed by this Act or the payment of
15 any tax imposed by this Act is guilty of a Class 2 felony.

16 4. Any person who refuses, upon demand, to submit for
17 inspection, books and records, or who fails or refuses to keep
18 books and records in violation of Section 12 of this Act, or
19 any distributor, receiver, ~~or~~ supplier, or alternative fuel
20 supplier who violates any reasonable rule or regulation adopted
21 by the Department for the enforcement of this Act is guilty of
22 a Class A misdemeanor. Any person who ~~acts as a blender in~~
23 ~~violation of Section 3 of this Act or who~~ having transported
24 reportable motor fuel within Section 7b of this Act fails to
25 make the return required by that Section, is guilty of a Class
26 4 felony.

1 5. Any person licensed under Section 13a.4, 13a.5, or the
2 International Fuel Tax Agreement who: (a) fails or refuses to
3 keep records and books, as provided in Section 13a.2 or as
4 required by the terms of the International Fuel Tax Agreement,
5 (b) refuses upon demand by the Department to submit for
6 inspection and examination the records required by Section
7 13a.2 of this Act or by the terms of the International Fuel Tax
8 Agreement, or (c) violates any reasonable rule or regulation
9 adopted by the Department for the enforcement of this Act, is
10 guilty of a Class A misdemeanor.

11 6. Any person who makes any false return or report to the
12 Department as to any material fact required by Sections 2b, 3f,
13 5, 5a, 7, 13, or 13a.3 of this Act or by the International Fuel
14 Tax Agreement is guilty of a Class 2 felony.

15 7. A prosecution for any violation of this Section may be
16 commenced anytime within 5 years of the commission of that
17 violation. A prosecution for tax evasion as set forth in
18 paragraph 3.7 of this Section may be prosecuted any time within
19 5 years of the commission of the last act in furtherance of
20 evasion. The running of the period of limitations under this
21 Section shall be suspended while any proceeding or appeal from
22 any proceeding relating to the quashing or enforcement of any
23 grand jury or administrative subpoena issued in connection with
24 an investigation of the violation of any provision of this Act
25 is pending.

26 8. Any person who provides false documentation required by

1 any Section of this Act is guilty of a Class 4 felony.

2 9. Any person filing a fraudulent application or order form
3 under any provision of this Act is guilty of a Class A
4 misdemeanor. For each subsequent offense, the person is guilty
5 of a Class 4 felony.

6 10. Any person who acts as a motor carrier and who fails to
7 carry a manifest as provided in Section 5.5 is guilty of a
8 Class A misdemeanor. For each subsequent offense, the person is
9 guilty of a Class 4 felony.

10 11. Any person who knowingly sells or attempts to sell dyed
11 diesel fuel for highway use or for use by recreational-type
12 watercraft on the waters of this State is guilty of a Class 4
13 felony. For each subsequent offense, the person is guilty of a
14 Class 2 felony.

15 12. Any person who knowingly possesses dyed diesel fuel for
16 highway use or for use by recreational-type watercraft on the
17 waters of this State is guilty of a Class A misdemeanor. For
18 each subsequent offense, the person is guilty of a Class 4
19 felony.

20 13. Any person who sells or transports dyed diesel fuel
21 without the notice required by Section 4e shall pay the
22 following penalty:

- 23 First occurrence \$ 500
- 24 Second and each occurrence thereafter \$1,000

25 14. Any person who owns, operates, or controls any
26 container, storage tank, or facility used to store or

1 distribute dyed diesel fuel without the notice required by
2 Section 4f shall pay the following penalty:

3 First occurrence \$ 500

4 Second and each occurrence thereafter \$1,000

5 15. If a motor vehicle required to be registered for
6 highway purposes is found to have dyed diesel fuel within the
7 ordinary fuel tanks attached to the motor vehicle or if a
8 recreational-type watercraft on the waters of this State is
9 found to have dyed diesel fuel within the ordinary fuel tanks
10 attached to the watercraft, the operator shall pay the
11 following penalty:

12 First occurrence \$1,000

13 Second and each occurrence thereafter \$5,000

14 16. Any licensed motor fuel distributor or licensed
15 supplier, or licensed alternative fuel supplier who sells or
16 attempts to sell dyed diesel fuel for highway use or for use by
17 recreational-type watercraft on the waters of this State shall
18 pay the following penalty:

19 First occurrence \$1,000

20 Second and each occurrence thereafter \$5,000

21 17. Any person who knowingly sells or distributes dyed
22 diesel fuel without the notice required by Section 4e is guilty
23 of a petty offense. For each subsequent offense, the person is
24 guilty of a Class A misdemeanor.

25 18. Any person who knowingly owns, operates, or controls
26 any container, storage tank, or facility used to store or

1 distribute dyed diesel fuel without the notice required by
2 Section 4f is guilty of a petty offense. For each subsequent
3 offense the person is guilty of a Class A misdemeanor.

4 For purposes of this Section, dyed diesel fuel means any
5 dyed diesel fuel whether or not dyed pursuant to Section 4d of
6 this Law.

7 Any person aggrieved by any action of the Department under
8 item 13, 14, 15, or 16 of this Section may protest the action
9 by making a written request for a hearing within 60 days of the
10 original action. If the hearing is not requested in writing
11 within 60 days, the original action is final.

12 All penalties received under items 13, 14, 15, and 16 of
13 this Section shall be deposited into the Tax Compliance and
14 Administration Fund.

15 (Source: P.A. 96-1384, eff. 7-29-10.)

16 (35 ILCS 505/16) (from Ch. 120, par. 432)

17 Sec. 16. The Department may, after 5 days' notice, revoke
18 the distributor's, receiver's, or supplier's, or alternative
19 fuel supplier's license ~~or permit~~ of any person (1) who does
20 not operate as a distributor, receiver, alternative fuel
21 supplier, or supplier ~~(a)~~ under Sections 1.2, 1.14, or 1.20,
22 1.30 or (2) who violates any provision of this Act or any rule
23 or regulation promulgated by the Department under Section 14 of
24 this Act, or (3) who refuses to allow any inspection or test
25 authorized by this Law.

1 Any person whose returns for 2 or more consecutive months
2 do not show sufficient taxable sales to indicate an active
3 business as a distributor, receiver, ~~or~~ supplier, or
4 alternative fuel supplier shall be deemed to not be operating
5 as a distributor, receiver, ~~or~~ supplier, or alternative fuel
6 supplier as defined in Sections 1.2, 1.14, ~~or~~ 1.20, 1.30.

7 The Department may, after 5 days notice, revoke any
8 distributor's, receiver's, or supplier's license of a person
9 who is registered as a reseller of motor fuel pursuant to
10 Section 2a or 2c of the Retailers' Occupation Tax Act and who
11 fails to collect such prepaid tax on invoiced gallons of motor
12 fuel sold or who fails to deliver a statement of tax paid to
13 the purchaser or to the Department as required by Sections 2d
14 and 2e of the Retailers' Occupation Tax Act.

15 ~~The Department may, on notice given by registered mail,~~
16 ~~cancel a Blender's Permit for any violation of any provisions~~
17 ~~of this Act or for noncompliance with any rule or regulation~~
18 ~~made by the Department under Section 14 of this Act.~~

19 The Department, upon complaint filed in the circuit court,
20 may, by injunction, restrain any person who fails or refuses to
21 comply with the provisions of this Act from acting as a ~~blender~~
22 ~~or~~ distributor of motor fuel, supplier of special fuel, ~~or~~
23 receiver of fuel, or alternative fuel supplier in this State.

24 The Department may revoke the motor fuel use tax license of
25 a motor carrier registered under Section 13a.4, or that is
26 required to be registered under the terms of the International

1 Fuel Tax Agreement, that violates any provision of this Act or
2 any rule promulgated by the Department under Sections 14 or 14a
3 of this Act. Motor fuel use tax licenses that have been revoked
4 are subject to a \$100 reinstatement fee.

5 Licensees registered or required to be registered under
6 Section 13a.4, or persons required to obtain single trip
7 permits under Section 13a.5, may protest any action or audit
8 finding made by the Department by making a written request for
9 a hearing within 30 days after service of the notice of the
10 original action or finding. If the hearing is not requested
11 within 30 days in writing, the original finding or action is
12 final. Once a hearing has been properly requested, the
13 Department shall give at least 20 days written notice of the
14 time and place of the hearing.

15 (Source: P.A. 94-1074, eff. 12-26-06.)

16 Section 10. The Retailers' Occupation Tax Act is amended by
17 changing Section 2d as follows:

18 (35 ILCS 120/2d) (from Ch. 120, par. 441d)

19 Sec. 2d. Tax prepayment by motor fuel retailer.

20 (a) Any person engaged in the business of selling motor
21 fuel at retail, as defined in the Motor Fuel Tax Law, and who
22 is not a licensed distributor or supplier, as defined in the
23 Motor Fuel Tax Law, shall prepay to his or her distributor,
24 supplier, or other reseller of motor fuel a portion of the tax

1 imposed by this Act if the distributor, supplier, or other
2 reseller of motor fuel is registered under Section 2a or
3 Section 2c of this Act. The prepayment requirement provided for
4 in this Section does not apply to alternative fuel, as defined
5 in Section 1.3a of the Motor Fuel Tax Law ~~liquid propane gas~~.

6 (b) Beginning on July 1, 2000 and through December 31,
7 2000, the Retailers' Occupation Tax paid to the distributor,
8 supplier, or other reseller shall be an amount equal to \$0.01
9 per gallon of the motor fuel, except gasohol as defined in
10 Section 2-10 of this Act which shall be an amount equal to
11 \$0.01 per gallon, purchased from the distributor, supplier, or
12 other reseller.

13 (c) Before July 1, 2000 and then beginning on January 1,
14 2001 and through June 30, 2003, the Retailers' Occupation Tax
15 paid to the distributor, supplier, or other reseller shall be
16 an amount equal to \$0.04 per gallon of the motor fuel, except
17 gasohol as defined in Section 2-10 of this Act which shall be
18 an amount equal to \$0.03 per gallon, purchased from the
19 distributor, supplier, or other reseller.

20 (d) Beginning July 1, 2003 and through December 31, 2010,
21 the Retailers' Occupation Tax paid to the distributor,
22 supplier, or other reseller shall be an amount equal to \$0.06
23 per gallon of the motor fuel, except gasohol as defined in
24 Section 2-10 of this Act which shall be an amount equal to
25 \$0.05 per gallon, purchased from the distributor, supplier, or
26 other reseller.

1 (e) Beginning on January 1, 2011 and thereafter, the
2 Retailers' Occupation Tax paid to the distributor, supplier, or
3 other reseller shall be at the rate established by the
4 Department under this subsection. The rate shall be established
5 by the Department on January 1 and July 1 of each year using
6 the average selling price, as defined in Section 1 of this Act,
7 per gallon of motor fuel sold in the State during the previous
8 6 months and multiplying that amount by 6.25% to determine the
9 cents per gallon rate. In the case of biodiesel blends, as
10 defined in Section 3-42 of the Use Tax Act, with no less than
11 1% and no more than 10% biodiesel, and in the case of gasohol,
12 as defined in Section 3-40 of the Use Tax Act, the rate shall
13 be 80% of the rate established by the Department under this
14 subsection for motor fuel. The Department shall provide persons
15 subject to this Section notice of the rate established under
16 this subsection at least 20 days prior to each January 1 and
17 July 1. Publication of the established rate on the Department's
18 internet website shall constitute sufficient notice under this
19 Section. The Department may use data derived from independent
20 surveys conducted or accumulated by third parties to determine
21 the average selling price per gallon of motor fuel sold in the
22 State.

23 (f) Any person engaged in the business of selling motor
24 fuel at retail shall be entitled to a credit against tax due
25 under this Act in an amount equal to the tax paid to the
26 distributor, supplier, or other reseller.

1 (g) Every distributor, supplier, or other reseller
2 registered as provided in Section 2a or Section 2c of this Act
3 shall remit the prepaid tax on all motor fuel that is due from
4 any person engaged in the business of selling at retail motor
5 fuel with the returns filed under Section 2f or Section 3 of
6 this Act, but the vendors discount provided in Section 3 shall
7 not apply to the amount of prepaid tax that is remitted. Any
8 distributor or supplier who fails to properly collect and remit
9 the tax shall be liable for the tax. For purposes of this
10 Section, the prepaid tax is due on invoiced gallons sold during
11 a month by the 20th day of the following month.

12 (Source: P.A. 96-1384, eff. 7-29-10.)