

# HB0001



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0001

Introduced 1/14/2009, by Rep. John E. Bradley

#### SYNOPSIS AS INTRODUCED:

35 ILCS 505/2	from Ch. 120, par. 418
35 ILCS 505/6	from Ch. 120, par. 422
30 ILCS 105/5.719 new	

Amends the Motor Fuel Tax Law. Provides that, beginning on July 1, 2009, an additional surcharge of 8 cents per gallon shall be imposed on the privilege of operating motor vehicles upon the public highways and recreational-type watercraft upon the waters of the State. Provides that moneys collected from the additional surcharge shall be deposited into the GROW Illinois Fund, and must be used only for debt service and capital improvements. Amends the State Finance Act to create the GROW Illinois Fund. Effective immediately.

LRB096 03318 HLH 13339 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 2 and 6 as follows:

6 (35 ILCS 505/2) (from Ch. 120, par. 418)

7 Sec. 2. A tax is imposed on the privilege of operating  
8 motor vehicles upon the public highways and recreational-type  
9 watercraft upon the waters of this State.

10 (a) Prior to August 1, 1989, the tax is imposed at the rate  
11 of 13 cents per gallon on all motor fuel used in motor vehicles  
12 operating on the public highways and recreational type  
13 watercraft operating upon the waters of this State. Beginning  
14 on August 1, 1989 and until January 1, 1990, the rate of the  
15 tax imposed in this paragraph shall be 16 cents per gallon.  
16 Beginning January 1, 1990, the rate of tax imposed in this  
17 paragraph shall be 19 cents per gallon.

18 (b) The tax on the privilege of operating motor vehicles  
19 which use diesel fuel shall be the rate according to paragraph  
20 (a) plus an additional 2 1/2 cents per gallon. "Diesel fuel" is  
21 defined as any product intended for use or offered for sale as  
22 a fuel for engines in which the fuel is injected into the  
23 combustion chamber and ignited by pressure without electric

1 spark.

2 (b-5) In addition to all other taxes imposed by the State,  
3 beginning on July 1, 2009, any person who is required to pay a  
4 tax under subsection (a) or (b) of this Section must pay an  
5 additional surcharge of 8 cents per gallon on all motor fuel  
6 and diesel fuel used in motor vehicles operating on the public  
7 highways and recreational type watercraft operating upon the  
8 waters of this State. The surcharge shall be collected in the  
9 manner set forth in Section 6 of this Act. Moneys collected  
10 from this additional surcharge shall be deposited into the GROW  
11 Illinois Fund, a special fund created in the State Treasury.  
12 Moneys in the GROW Illinois Fund must be used, subject to  
13 appropriation, only for debt service and capital improvements.

14 (c) A tax is imposed upon the privilege of engaging in the  
15 business of selling motor fuel as a retailer or reseller on all  
16 motor fuel used in motor vehicles operating on the public  
17 highways and recreational type watercraft operating upon the  
18 waters of this State: (1) at the rate of 3 cents per gallon on  
19 motor fuel owned or possessed by such retailer or reseller at  
20 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per  
21 gallon on motor fuel owned or possessed by such retailer or  
22 reseller at 12:01 A.M. on January 1, 1990.

23 Retailers and resellers who are subject to this additional  
24 tax shall be required to inventory such motor fuel and pay this  
25 additional tax in a manner prescribed by the Department of  
26 Revenue.

1           The tax imposed in this paragraph (c) shall be in addition  
2 to all other taxes imposed by the State of Illinois or any unit  
3 of local government in this State.

4           (d) Except as provided in Section 2a, the collection of a  
5 tax based on gallonage of gasoline used for the propulsion of  
6 any aircraft is prohibited on and after October 1, 1979.

7           (e) The collection of a tax, based on gallonage of all  
8 products commonly or commercially known or sold as 1-K  
9 kerosene, regardless of its classification or uses, is  
10 prohibited (i) on and after July 1, 1992 until December 31,  
11 1999, except when the 1-K kerosene is either: (1) delivered  
12 into bulk storage facilities of a bulk user, or (2) delivered  
13 directly into the fuel supply tanks of motor vehicles and (ii)  
14 on and after January 1, 2000. Beginning on January 1, 2000, the  
15 collection of a tax, based on gallonage of all products  
16 commonly or commercially known or sold as 1-K kerosene,  
17 regardless of its classification or uses, is prohibited except  
18 when the 1-K kerosene is delivered directly into a storage tank  
19 that is located at a facility that has withdrawal facilities  
20 that are readily accessible to and are capable of dispensing  
21 1-K kerosene into the fuel supply tanks of motor vehicles.

22           Any person who sells or uses 1-K kerosene for use in motor  
23 vehicles upon which the tax imposed by this Law has not been  
24 paid shall be liable for any tax due on the sales or use of 1-K  
25 kerosene.

26           (Source: P.A. 93-17, eff. 6-11-03.)

1 (35 ILCS 505/6) (from Ch. 120, par. 422)

2 Sec. 6. Collection of tax; distributors. A distributor who  
3 sells or distributes any motor fuel, which he is required by  
4 Section 5 to report to the Department when filing a return,  
5 shall (except as hereinafter provided) collect at the time of  
6 such sale and distribution, the amount of any tax and surcharge  
7 imposed under this Act on all such motor fuel sold and  
8 distributed, and at the time of making a return, the  
9 distributor shall pay to the Department the amount so collected  
10 less a discount of 2% through June 30, 2003 and 1.75%  
11 thereafter which is allowed to reimburse the distributor for  
12 the expenses incurred in keeping records, preparing and filing  
13 returns, collecting and remitting the tax and supplying data to  
14 the Department on request, and shall also pay to the Department  
15 an amount equal to the amount that would be collectible as a  
16 tax in the event of a sale thereof on all such motor fuel used  
17 by said distributor during the period covered by the return.  
18 However, no payment shall be made based upon dyed diesel fuel  
19 used by the distributor for non-highway purposes. The discount  
20 shall only be applicable to the amount of tax payment which  
21 accompanies a return which is filed timely in accordance with  
22 Section 5 of this Act. In each subsequent sale of motor fuel on  
23 which the amount of tax imposed under this Act has been  
24 collected as provided in this Section, the amount so collected  
25 shall be added to the selling price, so that the amount of tax

1 is paid ultimately by the user of the motor fuel. However, no  
2 collection or payment shall be made in the case of the sale or  
3 use of any motor fuel to the extent to which such sale or use of  
4 motor fuel may not, under the constitution and statutes of the  
5 United States, be made the subject of taxation by this State. A  
6 person whose license to act as a distributor of fuel has been  
7 revoked shall, at the time of making a return, also pay to the  
8 Department an amount equal to the amount that would be  
9 collectible as a tax in the event of a sale thereof on all  
10 motor fuel, which he is required by the second paragraph of  
11 Section 5 to report to the Department in making a return, and  
12 which he had on hand on the date on which the license was  
13 revoked, and with respect to which no tax had been previously  
14 paid under this Act.

15 A distributor may make tax free sales of motor fuel, with  
16 respect to which he is otherwise required to collect the tax,  
17 when the motor fuel is delivered from a dispensing facility  
18 that has withdrawal facilities capable of dispensing motor fuel  
19 into the fuel supply tanks of motor vehicles only as specified  
20 in the following items 3, 4, and 5. A distributor may make  
21 tax-free sales of motor fuel, with respect to which he is  
22 otherwise required to collect the tax, when the motor fuel is  
23 delivered from other facilities only as specified in the  
24 following items 1 through 7.

- 25 1. When the sale is made to a person holding a valid  
26 unrevoked license as a distributor, by making a specific

1 notation thereof on invoices or sales slip covering each  
2 sale.

3 2. When the sale is made with delivery to a purchaser  
4 outside of this State.

5 3. When the sale is made to the Federal Government or  
6 its instrumentalities.

7 4. When the sale is made to a municipal corporation  
8 owning and operating a local transportation system for  
9 public service in this State when an official certificate  
10 of exemption is obtained in lieu of the tax.

11 5. When the sale is made to a privately owned public  
12 utility owning and operating 2 axle vehicles designed and  
13 used for transporting more than 7 passengers, which  
14 vehicles are used as common carriers in general  
15 transportation of passengers, are not devoted to any  
16 specialized purpose and are operated entirely within the  
17 territorial limits of a single municipality or of any group  
18 of contiguous municipalities, or in a close radius thereof,  
19 and the operations of which are subject to the regulations  
20 of the Illinois Commerce Commission, when an official  
21 certificate of exemption is obtained in lieu of the tax.

22 6. When a sale of special fuel is made to a person  
23 holding a valid, unrevoked license as a supplier, by making  
24 a specific notation thereof on the invoice or sales slip  
25 covering each such sale.

26 7. When a sale of special fuel is made to someone other

1 than a licensed distributor or a licensed supplier for a  
2 use other than in motor vehicles, by making a specific  
3 notation thereof on the invoice or sales slip covering such  
4 sale and obtaining such supporting documentation as may be  
5 required by the Department. The distributor shall obtain  
6 and keep the supporting documentation in such form as the  
7 Department may require by rule.

8 8. (Blank).

9 All special fuel sold or used for non-highway purposes must  
10 have a dye added in accordance with Section 4d of this Law.

11 All suits or other proceedings brought for the purpose of  
12 recovering any taxes, interest or penalties due the State of  
13 Illinois under this Act may be maintained in the name of the  
14 Department.

15 (Source: P.A. 93-32, eff. 6-20-03.)

16 Section 10. The State Finance Act is amended by adding  
17 Section 5.719 as follows:

18 (30 ILCS 105/5.719 new)

19 Sec. 5.719. The GROW Illinois Fund.

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.