

SB1936



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1936

Introduced 2/15/2013, by Sen. Wm. Sam McCann

SYNOPSIS AS INTRODUCED:

35 ILCS 505/2
35 ILCS 505/15

from Ch. 120, par. 418
from Ch. 120, par. 431

Amends the Motor Fuel Tax Law. Exempts from taxation, motor fuel used or sold for recreational type watercraft operating upon the Mississippi, Wabash, or Ohio Rivers. Effective immediately.

LRB098 09722 HLH 39871 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 15 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 (other than
14 the Mississippi, Wabash, or Ohio Rivers). Beginning on August
15 1, 1989 and until January 1, 1990, the rate of the tax imposed
16 in this paragraph shall be 16 cents per gallon. Beginning
17 January 1, 1990, the rate of tax imposed in this paragraph
18 shall be 19 cents per gallon.

19 (b) The tax on the privilege of operating motor vehicles
20 which use diesel fuel shall be the rate according to paragraph
21 (a) plus an additional 2 1/2 cents per gallon. "Diesel fuel" is
22 defined as any product intended for use or offered for sale as
23 a fuel for engines in which the fuel is injected into the

1 combustion chamber and ignited by pressure without electric
2 spark.

3 (c) A tax is imposed upon the privilege of engaging in the
4 business of selling motor fuel as a retailer or reseller on all
5 motor fuel used in motor vehicles operating on the public
6 highways and recreational type watercraft operating upon the
7 waters of this State (other than the Mississippi, Wabash, or
8 Ohio Rivers): (1) at the rate of 3 cents per gallon on motor
9 fuel owned or possessed by such retailer or reseller at 12:01
10 a.m. on August 1, 1989; and (2) at the rate of 3 cents per
11 gallon on motor fuel owned or possessed by such retailer or
12 reseller at 12:01 A.M. on January 1, 1990.

13 Retailers and resellers who are subject to this additional
14 tax shall be required to inventory such motor fuel and pay this
15 additional tax in a manner prescribed by the Department of
16 Revenue.

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

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

23 (e) The collection of a tax, based on gallonage of all
24 products commonly or commercially known or sold as 1-K
25 kerosene, regardless of its classification or uses, is
26 prohibited (i) on and after July 1, 1992 until December 31,

1 1999, except when the 1-K kerosene is either: (1) delivered
2 into bulk storage facilities of a bulk user, or (2) delivered
3 directly into the fuel supply tanks of motor vehicles and (ii)
4 on and after January 1, 2000. Beginning on January 1, 2000, the
5 collection of a tax, based on gallonage of all products
6 commonly or commercially known or sold as 1-K kerosene,
7 regardless of its classification or uses, is prohibited except
8 when the 1-K kerosene is delivered directly into a storage tank
9 that is located at a facility that has withdrawal facilities
10 that are readily accessible to and are capable of dispensing
11 1-K kerosene into the fuel supply tanks of motor vehicles. For
12 purposes of this subsection (e), a facility is considered to
13 have withdrawal facilities that are not "readily accessible to
14 and capable of dispensing 1-K kerosene into the fuel supply
15 tanks of motor vehicles" only if the 1-K kerosene is delivered
16 from: (i) a dispenser hose that is short enough so that it will
17 not reach the fuel supply tank of a motor vehicle or (ii) a
18 dispenser that is enclosed by a fence or other physical barrier
19 so that a vehicle cannot pull alongside the dispenser to permit
20 fueling.

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

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

1 (35 ILCS 505/15) (from Ch. 120, par. 431)

2 Sec. 15. 1. Any person who knowingly acts as a distributor
3 of motor fuel or supplier of special fuel, or receiver of fuel
4 without having a license so to do, or who knowingly fails or
5 refuses to file a return with the Department as provided in
6 Section 2b, Section 5, or Section 5a of this Act, or who
7 knowingly fails or refuses to make payment to the Department as
8 provided either in Section 2b, Section 6, Section 6a, or
9 Section 7 of this Act, shall be guilty of a Class 3 felony.
10 Each day any person knowingly acts as a distributor of motor
11 fuel, supplier of special fuel, or receiver of fuel without
12 having a license so to do or after such a license has been
13 revoked, constitutes a separate offense.

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

1 3. In case such person acting as a distributor, receiver,
2 supplier, or motor carrier is a corporation, then the officer
3 or officers, agent or agents, employee or employees, of such
4 corporation responsible for any act of such corporation, or
5 failure of such corporation to act, which acts or failure to
6 act constitutes a violation of any of the provisions of this
7 Act as enumerated in paragraphs 1 and 2 of this Section, shall
8 be punished by such fine or imprisonment, or by both such fine
9 and imprisonment as provided 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 who violates any
20 reasonable rule or regulation adopted by the Department for the
21 enforcement of this Act is guilty of a Class A misdemeanor. Any
22 person who acts as a blender in violation of Section 3 of this
23 Act or who having transported reportable motor fuel within
24 Section 7b of this Act fails to make the return required by
25 that Section, is guilty of a Class 4 felony.

26 5. Any person licensed under Section 13a.4, 13a.5, or the

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

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

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

25 8. Any person who provides false documentation required by
26 any Section of this Act is guilty of a Class 4 felony.

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

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

9 11. Any person who knowingly sells or attempts to sell dyed
 10 diesel fuel for highway use or for use by recreational-type
 11 watercraft on the waters of this State (other than the
 12 Mississippi, Wabash, or Ohio Rivers) 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 (other than the Mississippi, Wabash, or
 18 Ohio Rivers) is guilty of a Class A misdemeanor. For each
 19 subsequent offense, the person is guilty of a Class 4 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 (other
9 than the Mississippi, Wabash, or Ohio Rivers) is found to have
10 dyed diesel fuel within the ordinary fuel tanks attached to the
11 watercraft, the operator shall pay the 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 who sells or attempts to sell dyed diesel fuel for
16 highway use or for use by recreational-type watercraft on the
17 waters of this State (other than the Mississippi, Wabash, or
18 Ohio Rivers) shall 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 Section 99. Effective date. This Act takes effect upon
17 becoming law.