



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4695

Introduced 2/18/2020, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1035.1

from Ch. 34, par. 5-1035.1

Amends the County Motor Fuel Tax Law in the Counties Code. Provides that any county (currently, DuPage, Kane, Lake, Will, and McHenry counties only) may impose a tax upon all persons engaged in the business of selling motor fuel. Provides that, in addition to other uses currently allowed by law, the proceeds from the tax shall be used for the purpose of maintaining and constructing essential transportation-related infrastructure.

LRB101 14381 HLH 63267 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Counties Code is amended by changing Section
5 5-1035.1 as follows:

6 (55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

7 Sec. 5-1035.1. County Motor Fuel Tax Law.

8 (a) The county board of any county ~~the counties of DuPage,~~
9 ~~Kane, Lake, Will, and McHenry~~ may, by an ordinance or
10 resolution adopted by an affirmative vote of a majority of the
11 members elected or appointed to the county board, impose a tax
12 upon all persons engaged in the county in the business of
13 selling motor fuel, as now or hereafter defined in the Motor
14 Fuel Tax Law, at retail for the operation of motor vehicles
15 upon public highways or for the operation of recreational
16 watercraft upon waterways. The collection of a tax under this
17 Section based on gallonage of gasoline used for the propulsion
18 of any aircraft is prohibited, and the collection of a tax
19 based on gallonage of special fuel used for the propulsion of
20 any aircraft is prohibited on and after December 1, 2019. The
21 county ~~Kane County~~ may exempt diesel fuel from the tax imposed
22 pursuant to this Section. The initial tax rate may not be less
23 than 4 cents per gallon of motor fuel sold at retail within the

1 county for the purpose of use or consumption and not for the
2 purpose of resale and may not exceed 8 cents per gallon of
3 motor fuel sold at retail within the county for the purpose of
4 use or consumption and not for the purpose of resale. The
5 proceeds from the tax shall be used by the county solely for
6 the purposes ~~purpose~~ of operating, constructing, and improving
7 public highways and waterways, ~~and~~ acquiring real property and
8 rights-of-way ~~right-of-ways~~ for public highways and waterways
9 within the county imposing the tax, and maintaining and
10 constructing essential transportation-related infrastructure.

11 (a-5) By June 1, 2020, and by June 1 of each year
12 thereafter, the Department of Revenue shall determine an annual
13 rate increase to take effect on July 1 of that calendar year
14 and continue through June 30 of the next calendar year. Not
15 later than June 1 of each year, the Department of Revenue shall
16 publish on its website the rate that will take effect on July 1
17 of that calendar year. The rate shall be equal to the product
18 of the rate in effect multiplied by the transportation fee
19 index factor determined under Section 2e of the Motor Fuel Tax
20 Law. The rate shall be rounded to the nearest one-tenth of a
21 one cent. Each new rate may not exceed the rate in effect on
22 June 30 of the previous year plus one cent.

23 (b) A tax imposed pursuant to this Section, and all civil
24 penalties that may be assessed as an incident thereof, shall be
25 administered, collected, and enforced by the Illinois
26 Department of Revenue in the same manner as the tax imposed

1 under the Retailers' Occupation Tax Act, as now or hereafter
2 amended, insofar as may be practicable; except that in the
3 event of a conflict with the provisions of this Section, this
4 Section shall control. The Department of Revenue shall have
5 full power: to administer and enforce this Section; to collect
6 all taxes and penalties due hereunder; to dispose of taxes and
7 penalties so collected in the manner hereinafter provided; and
8 to determine all rights to credit memoranda arising on account
9 of the erroneous payment of tax or penalty hereunder.

10 (c) Whenever the Department determines that a refund shall
11 be made under this Section to a claimant instead of issuing a
12 credit memorandum, the Department shall notify the State
13 Comptroller, who shall cause the order to be drawn for the
14 amount specified, and to the person named, in the notification
15 from the Department. The refund shall be paid by the State
16 Treasurer out of the County Option Motor Fuel Tax Fund.

17 (d) The Department shall forthwith pay over to the State
18 Treasurer, ex officio ~~ex officio~~, as trustee, all taxes and
19 penalties collected hereunder, which shall be deposited into
20 the County Option Motor Fuel Tax Fund, a special fund in the
21 State Treasury which is hereby created. On or before the 25th
22 day of each calendar month, the Department shall prepare and
23 certify to the State Comptroller the disbursement of stated
24 sums of money to named counties for which taxpayers have paid
25 taxes or penalties hereunder to the Department during the
26 second preceding calendar month. The amount to be paid to each

1 county shall be the amount (not including credit memoranda)
2 collected hereunder from retailers within the county during the
3 second preceding calendar month by the Department, but not
4 including an amount equal to the amount of refunds made during
5 the second preceding calendar month by the Department on behalf
6 of the county; less 2% of the balance, which sum shall be
7 retained by the State Treasurer to cover the costs incurred by
8 the Department in administering and enforcing the provisions of
9 this Section. The Department, at the time of each monthly
10 disbursement to the counties, shall prepare and certify to the
11 Comptroller the amount so retained by the State Treasurer,
12 which shall be transferred into the Tax Compliance and
13 Administration Fund.

14 (e) ~~(f)~~ Nothing in this Section shall be construed to
15 authorize a county to impose a tax upon the privilege of
16 engaging in any business which under the Constitution of the
17 United States may not be made the subject of taxation by this
18 State.

19 (f) ~~(g)~~ An ordinance or resolution imposing a tax hereunder
20 or effecting a change in the rate thereof shall be effective on
21 the first day of the second calendar month next following the
22 month in which the ordinance or resolution is adopted and a
23 certified copy thereof is filed with the Department of Revenue,
24 whereupon the Department of Revenue shall proceed to administer
25 and enforce this Section on behalf of the county as of the
26 effective date of the ordinance or resolution. Upon a change in

1 rate of a tax levied hereunder, or upon the discontinuance of
2 the tax, the county board of the county shall, on or not later
3 than 5 days after the effective date of the ordinance or
4 resolution discontinuing the tax or effecting a change in rate,
5 transmit to the Department of Revenue a certified copy of the
6 ordinance or resolution effecting the change or
7 discontinuance.

8 (g) ~~(h)~~ This Section shall be known and may be cited as the
9 County Motor Fuel Tax Law.

10 (Source: P.A. 101-10, eff. 6-5-19; 101-32, eff. 6-28-19;
11 101-275, eff. 8-9-19; revised 9-10-19.)