

**HB4368**



**99TH GENERAL ASSEMBLY**

**State of Illinois**

**2015 and 2016**

**HB4368**

by Rep. Robert W. Pritchard

**SYNOPSIS AS INTRODUCED:**

55 ILCS 5/5-1035.1

from Ch. 34, par. 5-1035.1

Amends the Counties Code. Provides that the county board of Boone County (currently, only DuPage, Kane, and McHenry counties) may impose a tax on those selling motor fuel. Effective immediately.

LRB099 15607 AWJ 39899 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT 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. The county board  
8 of the counties of Boone, DuPage, Kane, and McHenry may, by an  
9 ordinance or resolution adopted by an affirmative vote of a  
10 majority of the members elected or appointed to the county  
11 board, impose a tax upon all persons engaged in the county in  
12 the business of selling motor fuel, as now or hereafter defined  
13 in the Motor Fuel Tax Law, at retail for the operation of motor  
14 vehicles upon public highways or for the operation of  
15 recreational watercraft upon waterways. Kane County may exempt  
16 diesel fuel from the tax imposed pursuant to this Section. The  
17 tax may be imposed, in half-cent increments, at a rate not  
18 exceeding 4 cents per gallon of motor fuel sold at retail  
19 within the county for the purpose of use or consumption and not  
20 for the purpose of resale. The proceeds from the tax shall be  
21 used by the county solely for the purpose of operating,  
22 constructing and improving public highways and waterways, and  
23 acquiring real property and right-of-ways for public highways

1 and waterways within the county imposing the tax.

2 A tax imposed pursuant to this Section, and all civil  
3 penalties that may be assessed as an incident thereof, shall be  
4 administered, collected and enforced by the Illinois  
5 Department of Revenue in the same manner as the tax imposed  
6 under the Retailers' Occupation Tax Act, as now or hereafter  
7 amended, insofar as may be practicable; except that in the  
8 event of a conflict with the provisions of this Section, this  
9 Section shall control. The Department of Revenue shall have  
10 full power: to administer and enforce this Section; to collect  
11 all taxes and penalties due hereunder; to dispose of taxes and  
12 penalties so collected in the manner hereinafter provided; and  
13 to determine all rights to credit memoranda arising on account  
14 of the erroneous payment of tax or penalty hereunder.

15 Whenever the Department determines that a refund shall be  
16 made under this Section to a claimant instead of issuing a  
17 credit memorandum, the Department shall notify the State  
18 Comptroller, who shall cause the order to be drawn for the  
19 amount specified, and to the person named, in the notification  
20 from the Department. The refund shall be paid by the State  
21 Treasurer out of the County Option Motor Fuel Tax Fund.

22 The Department shall forthwith pay over to the State  
23 Treasurer, ex-officio, as trustee, all taxes and penalties  
24 collected hereunder, which shall be deposited into the County  
25 Option Motor Fuel Tax Fund, a special fund in the State  
26 Treasury which is hereby created. On or before the 25th day of

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

19 A county may direct, by ordinance, that all or a portion of  
20 the taxes and penalties collected under the County Option Motor  
21 Fuel Tax shall be deposited into the Transportation Development  
22 Partnership Trust Fund.

23 Nothing in this Section shall be construed to authorize a  
24 county to impose a tax upon the privilege of engaging in any  
25 business which under the Constitution of the United States may  
26 not be made the subject of taxation by this State.

1           An ordinance or resolution imposing a tax hereunder or  
2           effecting a change in the rate thereof shall be effective on  
3           the first day of the second calendar month next following the  
4           month in which the ordinance or resolution is adopted and a  
5           certified copy thereof is filed with the Department of Revenue,  
6           whereupon the Department of Revenue shall proceed to administer  
7           and enforce this Section on behalf of the county as of the  
8           effective date of the ordinance or resolution. Upon a change in  
9           rate of a tax levied hereunder, or upon the discontinuance of  
10          the tax, the county board of the county shall, on or not later  
11          than 5 days after the effective date of the ordinance or  
12          resolution discontinuing the tax or effecting a change in rate,  
13          transmit to the Department of Revenue a certified copy of the  
14          ordinance or resolution effecting the change or  
15          discontinuance.

16           This Section shall be known and may be cited as the County  
17          Motor Fuel Tax Law.

18          (Source: P.A. 98-1049, eff. 8-25-14.)

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