



Sen. David Koehler

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LRB101 15791 HLH 71309 a

1 AMENDMENT TO SENATE BILL 2433

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2433 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Motor Fuel Tax Law is amended by changing  
5 Section 13 as follows:

6 (35 ILCS 505/13) (from Ch. 120, par. 429)

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

13 Any person who purchases motor fuel in Illinois and uses  
14 that motor fuel in another state and that other state imposes a  
15 tax on the use of such motor fuel shall be reimbursed and  
16 repaid the amount of Illinois tax paid under Section 2 of this

1 Act on the motor fuel used in such other state. Reimbursement  
2 and repayment shall be made by the Department upon receipt of  
3 adequate proof of taxes directly paid to another state and the  
4 amount of motor fuel used in that state.

5 Claims based in whole or in part on taxes paid to another  
6 state shall include (i) a certified copy of the tax return  
7 filed with such other state by the claimant; (ii) a copy of  
8 either the cancelled check paying the tax due on such return,  
9 or a receipt acknowledging payment of the tax due on such tax  
10 return; and (iii) such other information as the Department may  
11 reasonably require. This paragraph shall not apply to taxes  
12 paid on returns filed under Section 13a.3 of this Act.

13 Any person who purchases motor fuel use tax decals as  
14 required by Section 13a.4 and pays an amount of fees for such  
15 decals that exceeds the amount due shall be reimbursed and  
16 repaid the amount of the decal fees that are deemed by the  
17 department to be in excess of the amount due. Alternatively,  
18 any person who purchases motor fuel use tax decals as required  
19 by Section 13a.4 may credit any excess decal payment verified  
20 by the Department against amounts subsequently due for the  
21 purchase of additional decals, until such time as no excess  
22 payment remains.

23 Claims for such reimbursement must be made to the  
24 Department of Revenue, duly verified by the claimant (or by the  
25 claimant's legal representative if the claimant has died or  
26 become a person under legal disability), upon forms prescribed

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

23 Claims for full reimbursement for taxes paid on or before  
24 December 31, 1999 must be filed not later than one year after  
25 the date on which the tax was paid by the claimant. If,  
26 however, a claim for such reimbursement otherwise meeting the

1 requirements of this Section is filed more than one year but  
2 less than 2 years after that date, the claimant shall be  
3 reimbursed at the rate of 80% of the amount to which he would  
4 have been entitled if his claim had been timely filed.

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

8 The Department may make such investigation of the  
9 correctness of the facts stated in such claims as it deems  
10 necessary. When the Department has approved any such claim, it  
11 shall pay to the claimant (or to the claimant's legal  
12 representative, as such if the claimant has died or become a  
13 person under legal disability) the reimbursement provided in  
14 this Section, out of any moneys appropriated to it for that  
15 purpose.

16 Any distributor or supplier who has paid the tax imposed by  
17 Section 2 of this Act upon motor fuel lost or used by such  
18 distributor or supplier for any purpose other than operating a  
19 motor vehicle upon the public highways or waters may file a  
20 claim for credit or refund to recover the amount so paid. Such  
21 claims shall be filed on forms prescribed by the Department.  
22 Such claims shall be made to the Department, duly verified by  
23 the claimant (or by the claimant's legal representative if the  
24 claimant has died or become a person under legal disability),  
25 upon forms prescribed by the Department. The claim shall state  
26 such facts relating to the purchase, importation, manufacture

1 or production of the motor fuel by the claimant as the  
2 Department may deem necessary and the time when the loss or  
3 nontaxable use occurred, and the circumstances of its loss or  
4 the specific purpose for which it was used (as the case may  
5 be), together with such other information as the Department may  
6 reasonably require. Claims must be filed not later than one  
7 year after the date on which the tax was paid by the claimant.

8 The Department may make such investigation of the  
9 correctness of the facts stated in such claims as it deems  
10 necessary. When the Department approves a claim, the Department  
11 shall issue a refund or credit memorandum as requested by the  
12 taxpayer, to the distributor or supplier who made the payment  
13 for which the refund or credit is being given or, if the  
14 distributor or supplier has died or become incompetent, to such  
15 distributor's or supplier's legal representative, as such. The  
16 amount of such credit memorandum shall be credited against any  
17 tax due or to become due under this Act from the distributor or  
18 supplier who made the payment for which credit has been given.

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

22 In case the distributor or supplier requests and the  
23 Department determines that the claimant is entitled to a  
24 refund, such refund shall be made only from such appropriation  
25 as may be available for that purpose. If it appears unlikely  
26 that the amount appropriated would permit everyone having a

1 claim allowed during the period covered by such appropriation  
2 to elect to receive a cash refund, the Department, by rule or  
3 regulation, shall provide for the payment of refunds in  
4 hardship cases and shall define what types of cases qualify as  
5 hardship cases.

6 In any case in which there has been an erroneous refund of  
7 tax or fees payable under this Section, a notice of tax  
8 liability may be issued at any time within 3 years from the  
9 making of that refund, or within 5 years from the making of  
10 that refund if it appears that any part of the refund was  
11 induced by fraud or the misrepresentation of material fact. The  
12 amount of any proposed assessment set forth by the Department  
13 shall be limited to the amount of the erroneous refund.

14 If no tax is due and no proceeding is pending to determine  
15 whether such distributor or supplier is indebted to the  
16 Department for tax, the credit memorandum so issued may be  
17 assigned and set over by the lawful holder thereof, subject to  
18 reasonable rules of the Department, to any other licensed  
19 distributor or supplier who is subject to this Act, and the  
20 amount thereof applied by the Department against any tax due or  
21 to become due under this Act from such assignee.

22 If the payment for which the distributor's or supplier's  
23 claim is filed is held in the protest fund of the State  
24 Treasury during the pendency of the claim for credit  
25 proceedings pursuant to the order of the court in accordance  
26 with Section 2a of the State Officers and Employees Money

1 Disposition Act and if it is determined by the Department or by  
2 the final order of a reviewing court under the Administrative  
3 Review Law that the claimant is entitled to all or a part of  
4 the credit claimed, the claimant, instead of receiving a credit  
5 memorandum from the Department, shall receive a cash refund  
6 from the protest fund as provided for in Section 2a of the  
7 State Officers and Employees Money Disposition Act.

8 If any person ceases to be licensed as a distributor or  
9 supplier while still holding an unused credit memorandum issued  
10 under this Act, such person may, at his election (instead of  
11 assigning the credit memorandum to a licensed distributor or  
12 licensed supplier under this Act), surrender such unused credit  
13 memorandum to the Department and receive a refund of the amount  
14 to which such person is entitled.

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

26 For claims based upon taxes paid on or after January 1,

1 2000, a claim based upon the use of undyed diesel fuel shall  
2 not be allowed except (i) if allowed under the preceding  
3 paragraph or (ii) for claims for the following:

4 (1) Undyed diesel fuel used (i) in a manufacturing  
5 process, as defined in Section 2-45 of the Retailers'  
6 Occupation Tax Act, wherein the undyed diesel fuel becomes  
7 a component part of a product or by-product, other than  
8 fuel or motor fuel, when the use of dyed diesel fuel in  
9 that manufacturing process results in a product that is  
10 unsuitable for its intended use or (ii) for testing  
11 machinery and equipment in a manufacturing process, as  
12 defined in Section 2-45 of the Retailers' Occupation Tax  
13 Act, wherein the testing takes place on private property.

14 (2) Undyed diesel fuel used by a manufacturer on  
15 private property in the research and development, as  
16 defined in Section 1.29, of machinery or equipment intended  
17 for manufacture.

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

23 (4) Undyed diesel fuel used by a commercial motor  
24 vehicle for any purpose other than operating the commercial  
25 motor vehicle upon the public highways. Claims shall be  
26 limited to commercial motor vehicles that are operated for



1 both highway purposes and any purposes other than operating  
2 such vehicles upon the public highways.

3 (5) Undyed diesel fuel used by a unit of local  
4 government in its operation of an airport if the undyed  
5 diesel fuel is used directly in airport operations on  
6 airport property.

7 (6) Undyed diesel fuel used by refrigeration units that  
8 are permanently mounted to a semitrailer, as defined in  
9 Section 1.28 of this Law, wherein the refrigeration units  
10 have a fuel supply system dedicated solely for the  
11 operation of the refrigeration units.

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

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

1 containers of parcels from loading docks to aircraft, and  
2 "spotter equipment" means a vehicle designed for use on  
3 both private and airport property that shifts trailers  
4 containing parcels between staging areas and loading  
5 docks.

6 (9) Beginning on the effective date of this amendatory  
7 Act of the 101st General Assembly, undyed diesel fuel used  
8 by vehicles operated by a municipal fire department or a  
9 fire protection district recognized by the Office of the  
10 State Fire Marshal. A claim may not be made under this item  
11 (9) by the same claimant more often than once each calendar  
12 quarter.

13 Any person who has paid the tax imposed by Section 2 of  
14 this Law upon undyed diesel fuel that is unintentionally mixed  
15 with dyed diesel fuel and who owns or controls the mixture of  
16 undyed diesel fuel and dyed diesel fuel may file a claim for  
17 refund to recover the amount paid. The amount of undyed diesel  
18 fuel unintentionally mixed must equal 500 gallons or more. Any  
19 claim for refund of unintentionally mixed undyed diesel fuel  
20 and dyed diesel fuel shall be supported by documentation  
21 showing the date and location of the unintentional mixing, the  
22 number of gallons involved, the disposition of the mixed diesel  
23 fuel, and any other information that the Department may  
24 reasonably require. Any unintentional mixture of undyed diesel  
25 fuel and dyed diesel fuel shall be sold or used only for  
26 non-highway purposes.

1           The Department shall promulgate regulations establishing  
2 specific limits on the amount of undyed diesel fuel that may be  
3 claimed for refund.

4           For purposes of claims for refund, "loss" means the  
5 reduction of motor fuel resulting from fire, theft, spillage,  
6 spoilage, leakage, or any other provable cause, but does not  
7 include a reduction resulting from evaporation, or shrinkage  
8 due to temperature variations. In the case of losses due to  
9 fire or theft, the claimant must include fire department or  
10 police department reports and any other documentation that the  
11 Department may require.

12           (Source: P.A. 100-1171, eff. 1-4-19.)

13           Section 99. Effective date. This Act takes effect upon  
14 becoming law."