

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 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  
17 Act on the motor fuel used in such other state. Reimbursement  
18 and repayment shall be made by the Department upon receipt of  
19 adequate proof of taxes paid to another state and the amount of  
20 motor fuel used in that state.

21 Claims for such reimbursement must be made to the  
22 Department of Revenue, duly verified by the claimant (or by the  
23 claimant's legal representative if the claimant has died or  
24 become a person under legal disability), upon forms prescribed  
25 by the Department. The claim must state such facts relating to  
26 the purchase, importation, manufacture or production of the  
27 motor fuel by the claimant as the Department may deem  
28 necessary, and the time when, and the circumstances of its loss  
29 or the specific purpose for which it was used (as the case may  
30 be), together with such other information as the Department may  
31 reasonably require. No claim based upon idle time shall be  
32 allowed.

1           Claims for full reimbursement for taxes paid on or before  
2           December 31, 1999 must be filed not later than one year after  
3           the date on which the tax was paid by the claimant. If,  
4           however, a claim for such reimbursement otherwise meeting the  
5           requirements of this Section is filed more than one year but  
6           less than 2 years after that date, the claimant shall be  
7           reimbursed at the rate of 80% of the amount to which he would  
8           have been entitled if his claim had been timely filed.

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

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

20          Any distributor or supplier who has paid the tax imposed by  
21          Section 2 of this Act upon motor fuel lost or used by such  
22          distributor or supplier for any purpose other than operating a  
23          motor vehicle upon the public highways or waters may file a  
24          claim for credit or refund to recover the amount so paid. Such  
25          claims shall be filed on forms prescribed by the Department.  
26          Such claims shall be made to the Department, duly verified by  
27          the claimant (or by the claimant's legal representative if the  
28          claimant has died or become a person under legal disability),  
29          upon forms prescribed by the Department. The claim shall state  
30          such facts relating to the purchase, importation, manufacture  
31          or production of the motor fuel by the claimant as the  
32          Department may deem necessary and the time when the loss or  
33          nontaxable use occurred, and the circumstances of its loss or  
34          the specific purpose for which it was used (as the case may  
35          be), together with such other information as the Department may  
36          reasonably require. Claims must be filed not later than one

1 year after the date on which the tax was paid by the claimant.

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

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

16 In case the distributor or supplier requests and the  
17 Department determines that the claimant is entitled to a  
18 refund, such refund shall be made only from such appropriation  
19 as may be available for that purpose. If it appears unlikely  
20 that the amount appropriated would permit everyone having a  
21 claim allowed during the period covered by such appropriation  
22 to elect to receive a cash refund, the Department, by rule or  
23 regulation, shall provide for the payment of refunds in  
24 hardship cases and shall define what types of cases qualify as  
25 hardship cases.

26 In any case in which there has been an erroneous refund of  
27 tax payable under this Section, a notice of tax liability may  
28 be issued at any time within 3 years from the making of that  
29 refund, or within 5 years from the making of that refund if it  
30 appears that any part of the refund was induced by fraud or the  
31 misrepresentation of material fact. The amount of any proposed  
32 assessment set forth by the Department shall be limited to the  
33 amount of the erroneous refund.

34 If no tax is due and no proceeding is pending to determine  
35 whether such distributor or supplier is indebted to the  
36 Department for tax, the credit memorandum so issued may be

1 assigned and set over by the lawful holder thereof, subject to  
2 reasonable rules of the Department, to any other licensed  
3 distributor or supplier who is subject to this Act, and the  
4 amount thereof applied by the Department against any tax due or  
5 to become due under this Act from such assignee.

6 If the payment for which the distributor's or supplier's  
7 claim is filed is held in the protest fund of the State  
8 Treasury during the pendency of the claim for credit  
9 proceedings pursuant to the order of the court in accordance  
10 with Section 2a of the State Officers and Employees Money  
11 Disposition Act and if it is determined by the Department or by  
12 the final order of a reviewing court under the Administrative  
13 Review Law that the claimant is entitled to all or a part of  
14 the credit claimed, the claimant, instead of receiving a credit  
15 memorandum from the Department, shall receive a cash refund  
16 from the protest fund as provided for in Section 2a of the  
17 State Officers and Employees Money Disposition Act.

18 If any person ceases to be licensed as a distributor or  
19 supplier while still holding an unused credit memorandum issued  
20 under this Act, such person may, at his election (instead of  
21 assigning the credit memorandum to a licensed distributor or  
22 licensed supplier under this Act), surrender such unused credit  
23 memorandum to the Department and receive a refund of the amount  
24 to which such person is entitled.

25 For claims based upon taxes paid on or before December 31,  
26 2000, a claim based upon the use of undyed diesel fuel shall  
27 not be allowed except (i) if allowed under the following  
28 paragraph or (ii) for undyed diesel fuel used by a commercial  
29 vehicle, as that term is defined in Section 1-111.8 of the  
30 Illinois Vehicle Code, for any purpose other than operating the  
31 commercial vehicle upon the public highways and unlicensed  
32 commercial vehicles operating on private property. Claims  
33 shall be limited to commercial vehicles that are operated for  
34 both highway purposes and any purposes other than operating  
35 such vehicles upon the public highways.

36 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  
27 both highway purposes and any purposes other than operating  
28 such vehicles upon the public highways.

29 (5) Undyed diesel fuel used by a unit of local  
30 government in its operation of an airport if the undyed  
31 diesel fuel is used directly in airport operations on  
32 airport property.

33 (6) Undyed diesel fuel used by refrigeration units that  
34 are permanently mounted to a semitrailer, as defined in  
35 Section 1.28 of this Law, wherein the refrigeration units  
36 have a fuel supply system dedicated solely for the

1 operation of the refrigeration units.

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

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

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

36 The Department shall promulgate regulations establishing

1 specific limits on the amount of undyed diesel fuel that may be  
2 claimed for refund.

3 For purposes of claims for refund, "loss" means the  
4 reduction of motor fuel resulting from fire, theft, spillage,  
5 spoilage, leakage, or any other provable cause, but does not  
6 include a reduction resulting from evaporation or shrinkage due  
7 to temperature variations.

8 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.