

SB0117



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0117

Introduced 1/31/2007, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

35 ILCS 505/2b	from Ch. 120, par. 418b
35 ILCS 505/6	from Ch. 120, par. 422
35 ILCS 505/6a	from Ch. 120, par. 422a
415 ILCS 125/315	

Amends the Motor Fuel Tax Law and the Environmental Impact Fee Law. Requires certain taxpayers and receivers under the Acts to file monthly returns with the Department of Revenue and to make quarter-monthly payments. Effective immediately.

LRB095 04965 BDD 25031 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 2b, 6, and 6a as follows:

6 (35 ILCS 505/2b) (from Ch. 120, par. 418b)

7 Sec. 2b. In addition to the tax collection and reporting
8 responsibilities imposed elsewhere in this Act, except as
9 otherwise provided in this Section, a person who is required to
10 pay the tax imposed by Section 2a of this Act shall pay the tax
11 to the Department by return showing all fuel purchased,
12 acquired or received and sold, distributed or used during the
13 preceding calendar month including losses of fuel as the result
14 of evaporation or shrinkage due to temperature variations, and
15 such other reasonable information as the Department may
16 require. Losses of fuel as the result of evaporation or
17 shrinkage due to temperature variations may not exceed 1% of
18 the total gallons in storage at the beginning of the month,
19 plus the receipts of gallonage during the month, minus the
20 gallonage remaining in storage at the end of the month. Any
21 loss reported that is in excess of this amount shall be subject
22 to the tax imposed by Section 2a of this Law. On and after July
23 1, 2001, for each 6-month period January through June, net

1 losses of fuel (for each category of fuel that is required to
2 be reported on a return) as the result of evaporation or
3 shrinkage due to temperature variations may not exceed 1% of
4 the total gallons in storage at the beginning of each January,
5 plus the receipts of gallonage each January through June, minus
6 the gallonage remaining in storage at the end of each June. On
7 and after July 1, 2001, for each 6-month period July through
8 December, net losses of fuel (for each category of fuel that is
9 required to be reported on a return) as the result of
10 evaporation or shrinkage due to temperature variations may not
11 exceed 1% of the total gallons in storage at the beginning of
12 each July, plus the receipts of gallonage each July through
13 December, minus the gallonage remaining in storage at the end
14 of each December. Any net loss reported that is in excess of
15 this amount shall be subject to the tax imposed by Section 2a
16 of this Law. For purposes of this Section, "net loss" means the
17 number of gallons gained through temperature variations minus
18 the number of gallons lost through temperature variations or
19 evaporation for each of the respective 6-month periods.

20 The return shall be prescribed by the Department and shall
21 be filed between the 1st and 20th days of each calendar month.
22 The Department may, in its discretion, combine the returns
23 filed under this Section, Section 5, and Section 5a of this
24 Act. The return must be accompanied by appropriate
25 computer-generated magnetic media supporting schedule data in
26 the format required by the Department, unless, as provided by

1 rule, the Department grants an exception upon petition of a
2 taxpayer. If the return is filed timely, the seller shall take
3 a discount of 2% through June 30, 2003 and 1.75% thereafter
4 which is allowed to reimburse the seller for the expenses
5 incurred in keeping records, preparing and filing returns,
6 collecting and remitting the tax and supplying data to the
7 Department on request. Except as otherwise provided in this
8 Section, the ~~The~~ discount, however, shall be applicable only to
9 the amount of payment which accompanies a return that is filed
10 timely in accordance with this Section.

11 On and after July 1, 2007, if the taxpayer's average
12 monthly liability to the Department for the aggregate of the
13 tax imposed under Section 2a of this Law and the fee imposed
14 under Section 315 of the Environmental Impact Fee Law was
15 \$20,000 or more during the preceding 4 complete calendar
16 quarters, then the taxpayer shall file a return with the
17 Department each month by the 20th day of the month next
18 following the month during which such tax liability is incurred
19 and shall make payments to the Department on or before the 7th,
20 15th, 22nd, and last day of the month during which such
21 liability is incurred. Each payment shall be in an amount equal
22 to 22.5% of the taxpayer's actual liability for the month or
23 25% of the taxpayer's liability for the same calendar month of
24 the preceding year. The amount of the quarter-monthly payments
25 shall be credited against the final tax liability of the
26 taxpayer's return for that month filed under this Section. Once

1 applicable, the requirement of the making of quarter-monthly
2 payments to the Department by taxpayers having an average
3 monthly tax liability of \$20,000 or more as determined in the
4 manner provided above, shall continue until the taxpayer's
5 average monthly liability to the Department during the
6 preceding 4 complete calendar quarters (excluding the month of
7 highest liability and the month of lowest liability) is less
8 than \$19,000 or until the taxpayer's average monthly liability
9 to the Department, as computed for each calendar quarter of the
10 4 preceding complete calendar quarter period, is less than
11 \$20,000. If, however, a taxpayer can show the Department that a
12 substantial change in the taxpayer's business has occurred that
13 causes the taxpayer to anticipate that his or her average
14 monthly tax liability for the reasonably foreseeable future
15 will fall below the \$20,000 threshold stated above, then the
16 taxpayer may petition the Department for a change in the
17 taxpayer's reporting status. The Department shall change the
18 taxpayer's reporting status unless it finds that the change is
19 seasonal in nature and not likely to be long-term. If any
20 quarter-monthly payment is not paid at the time or in the
21 amount required by this Section, then the taxpayer is liable
22 for penalties and interest on the difference between the
23 minimum amount due as a payment and the amount of the
24 quarter-monthly payment actually and timely paid, except
25 insofar as the taxpayer has previously made payments for that
26 month to the Department in excess of the minimum payments

1 previously due as provided in this Section. The Department
2 shall make reasonable rules and regulations to govern the
3 quarter-monthly payment amount and quarter-monthly payment
4 dates for taxpayers who file on other than a calendar monthly
5 basis.

6 (Source: P.A. 92-30, eff. 7-1-01; 93-32, eff. 6-20-03.)

7 (35 ILCS 505/6) (from Ch. 120, par. 422)

8 Sec. 6. Collection of tax; distributors. A distributor who
9 sells or distributes any motor fuel, which he is required by
10 Section 5 to report to the Department when filing a return,
11 shall (except as hereinafter provided) collect at the time of
12 such sale and distribution, the amount of tax imposed under
13 this Act on all such motor fuel sold and distributed, and,
14 except as otherwise provided in this Section, at the time of
15 making a return, the distributor shall pay to the Department
16 the amount so collected less a discount of 2% through June 30,
17 2003 and 1.75% thereafter which is allowed to reimburse the
18 distributor for the expenses incurred in keeping records,
19 preparing and filing returns, collecting and remitting the tax
20 and supplying data to the Department on request, and shall also
21 pay to the Department an amount equal to the amount that would
22 be collectible as a tax in the event of a sale thereof on all
23 such motor fuel used by said distributor during the period
24 covered by the return. However, no payment shall be made based
25 upon dyed diesel fuel used by the distributor for non-highway

1 purposes. Except as otherwise provided in this Section, the ~~The~~
2 discount shall only be applicable to the amount of tax payment
3 which accompanies a return which is filed timely in accordance
4 with Section 5 of this Act. In each subsequent sale of motor
5 fuel on which the amount of tax imposed under this Act has been
6 collected as provided in this Section, the amount so collected
7 shall be added to the selling price, so that the amount of tax
8 is paid ultimately by the user of the motor fuel. However, no
9 collection or payment shall be made in the case of the sale or
10 use of any motor fuel to the extent to which such sale or use of
11 motor fuel may not, under the constitution and statutes of the
12 United States, be made the subject of taxation by this State. A
13 person whose license to act as a distributor of fuel has been
14 revoked shall, at the time of making a return, also pay to the
15 Department an amount equal to the amount that would be
16 collectible as a tax in the event of a sale thereof on all
17 motor fuel, which he is required by the second paragraph of
18 Section 5 to report to the Department in making a return, and
19 which he had on hand on the date on which the license was
20 revoked, and with respect to which no tax had been previously
21 paid under this Act.

22 On and after July 1, 2007, if the taxpayer's average
23 monthly tax liability to the Department for the tax imposed
24 under Section 2 of this Law was \$20,000 or more during the
25 preceding 4 complete calendar quarters, then the taxpayer shall
26 file a return with the Department each month in accordance with

1 Section 5 of this Law and shall make payments to the Department
2 on or before the 7th, 15th, 22nd, and last day of the month
3 during which the liability is incurred. Each payment shall be
4 in an amount equal to 22.5% of the taxpayer's actual liability
5 for the month or 25% of the taxpayer's liability for the same
6 calendar month of the preceding year. The amount of the
7 quarter-monthly payments shall be credited against the final
8 tax liability of the taxpayer's return for that month filed
9 under this Section. Once applicable, the requirement of the
10 making of quarter-monthly payments to the Department by
11 taxpayers having an average monthly tax liability of \$20,000 or
12 more, as determined in the manner provided above, shall
13 continue until the taxpayer's average monthly liability to the
14 Department during the preceding 4 complete calendar quarters
15 (excluding the month of highest liability and the month of
16 lowest liability) is less than \$19,000 or until the taxpayer's
17 average monthly liability to the Department, as computed for
18 each calendar quarter of the 4 preceding complete calendar
19 quarter period, is less than \$20,000. If, however, a taxpayer
20 can show the Department that a substantial change in the
21 taxpayer's business has occurred that causes the taxpayer to
22 anticipate that his or her average monthly tax liability for
23 the reasonably foreseeable future will fall below the \$20,000
24 threshold stated above, then the taxpayer may petition the
25 Department for a change in the taxpayer's reporting status. The
26 Department shall change the taxpayer's reporting status unless

1 it finds that the change is seasonal in nature and not likely
2 to be long-term. If any quarter-monthly payment is not paid at
3 the time or in the amount required by this Section, then the
4 taxpayer is liable for penalties and interest on the difference
5 between the minimum amount due as a payment and the amount of
6 the quarter-monthly payment actually and timely paid, except
7 insofar as the taxpayer has previously made payments for that
8 month to the Department in excess of the minimum payments
9 previously due as provided in this Section. The Department
10 shall make reasonable rules and regulations to govern the
11 quarter-monthly payment amount and quarter-monthly payment
12 dates for taxpayers who file on other than a calendar monthly
13 basis.

14 A distributor may make tax free sales of motor fuel, with
15 respect to which he is otherwise required to collect the tax,
16 when the motor fuel is delivered from a dispensing facility
17 that has withdrawal facilities capable of dispensing motor fuel
18 into the fuel supply tanks of motor vehicles only as specified
19 in the following items 3, 4, and 5. A distributor may make
20 tax-free sales of motor fuel, with respect to which he is
21 otherwise required to collect the tax, when the motor fuel is
22 delivered from other facilities only as specified in the
23 following items 1 through 7.

24 1. When the sale is made to a person holding a valid
25 unrevoked license as a distributor, by making a specific
26 notation thereof on invoices or sales slip covering each

1 sale.

2 2. When the sale is made with delivery to a purchaser
3 outside of this State.

4 3. When the sale is made to the Federal Government or
5 its instrumentalities.

6 4. When the sale is made to a municipal corporation
7 owning and operating a local transportation system for
8 public service in this State when an official certificate
9 of exemption is obtained in lieu of the tax.

10 5. When the sale is made to a privately owned public
11 utility owning and operating 2 axle vehicles designed and
12 used for transporting more than 7 passengers, which
13 vehicles are used as common carriers in general
14 transportation of passengers, are not devoted to any
15 specialized purpose and are operated entirely within the
16 territorial limits of a single municipality or of any group
17 of contiguous municipalities, or in a close radius thereof,
18 and the operations of which are subject to the regulations
19 of the Illinois Commerce Commission, when an official
20 certificate of exemption is obtained in lieu of the tax.

21 6. When a sale of special fuel is made to a person
22 holding a valid, unrevoked license as a supplier, by making
23 a specific notation thereof on the invoice or sales slip
24 covering each such sale.

25 7. When a sale of special fuel is made to someone other
26 than a licensed distributor or a licensed supplier for a

1 use other than in motor vehicles, by making a specific
2 notation thereof on the invoice or sales slip covering such
3 sale and obtaining such supporting documentation as may be
4 required by the Department. The distributor shall obtain
5 and keep the supporting documentation in such form as the
6 Department may require by rule.

7 8. (Blank).

8 All special fuel sold or used for non-highway purposes must
9 have a dye added in accordance with Section 4d of this Law.

10 All suits or other proceedings brought for the purpose of
11 recovering any taxes, interest or penalties due the State of
12 Illinois under this Act may be maintained in the name of the
13 Department.

14 (Source: P.A. 93-32, eff. 6-20-03.)

15 (35 ILCS 505/6a) (from Ch. 120, par. 422a)

16 Sec. 6a. Collection of tax; suppliers. A supplier, other
17 than a licensed distributor, who sells or distributes any
18 special fuel, which he is required by Section 5a to report to
19 the Department when filing a return, shall (except as
20 hereinafter provided) collect at the time of such sale and
21 distribution, the amount of tax imposed under this Act on all
22 such special fuel sold and distributed, and, except as
23 otherwise provided in this Section, at the time of making a
24 return, the supplier shall pay to the Department the amount so
25 collected less a discount of 2% through June 30, 2003 and 1.75%

1 thereafter which is allowed to reimburse the supplier for the
2 expenses incurred in keeping records, preparing and filing
3 returns, collecting and remitting the tax and supplying data to
4 the Department on request, and shall also pay to the Department
5 an amount equal to the amount that would be collectible as a
6 tax in the event of a sale thereof on all such special fuel
7 used by said supplier during the period covered by the return.
8 However, no payment shall be made based upon dyed diesel fuel
9 used by said supplier for non-highway purposes. Except as
10 otherwise provided in this Section, the ~~The~~ discount shall only
11 be applicable to the amount of tax payment which accompanies a
12 return which is filed timely in accordance with Section 5(a) of
13 this Act. In each subsequent sale of special fuel on which the
14 amount of tax imposed under this Act has been collected as
15 provided in this Section, the amount so collected shall be
16 added to the selling price, so that the amount of tax is paid
17 ultimately by the user of the special fuel. However, no
18 collection or payment shall be made in the case of the sale or
19 use of any special fuel to the extent to which such sale or use
20 of motor fuel may not, under the Constitution and statutes of
21 the United States, be made the subject of taxation by this
22 State.

23 A person whose license to act as supplier of special fuel
24 has been revoked shall, at the time of making a return, also
25 pay to the Department an amount equal to the amount that would
26 be collectible as a tax in the event of a sale thereof on all

1 special fuel, which he is required by the 1st paragraph of
2 Section 5a to report to the Department in making a return.

3 On and after July 1, 2007, if the taxpayer's average
4 monthly tax liability to the Department for the tax imposed
5 under Section 2 of this Law was \$20,000 or more during the
6 preceding 4 complete calendar quarters, then the taxpayer shall
7 file a return with the Department each month in accordance with
8 Section 5 of this Law and shall make payments to the Department
9 on or before the 7th, 15th, 22nd, and last day of the month
10 during which the liability is incurred. Each payment shall be
11 in an amount equal to 22.5% of the taxpayer's actual liability
12 for the month or 25% of the taxpayer's liability for the same
13 calendar month of the preceding year. The amount of the
14 quarter-monthly payments shall be credited against the final
15 tax liability of the taxpayer's return for that month filed
16 under this Section. Once applicable, the requirement of the
17 making of quarter-monthly payments to the Department by
18 taxpayers having an average monthly tax liability of \$20,000 or
19 more, as determined in the manner provided above, shall
20 continue until the taxpayer's average monthly liability to the
21 Department during the preceding 4 complete calendar quarters
22 (excluding the month of highest liability and the month of
23 lowest liability) is less than \$19,000 or until the taxpayer's
24 average monthly liability to the Department as computed for
25 each calendar quarter of the 4 preceding complete calendar
26 quarter period is less than \$20,000. If, however, a taxpayer

1 can show the Department that a substantial change in the
2 taxpayer's business has occurred that causes the taxpayer to
3 anticipate that his or her average monthly tax liability for
4 the reasonably foreseeable future will fall below the \$20,000
5 threshold stated above, then the taxpayer may petition the
6 Department for a change in the taxpayer's reporting status. The
7 Department shall change the taxpayer's reporting status unless
8 it finds that the change is seasonal in nature and not likely
9 to be long-term. If any quarter-monthly payment is not paid at
10 the time or in the amount required by this Section, then the
11 taxpayer is liable for penalties and interest on the difference
12 between the minimum amount due as a payment and the amount of
13 the quarter-monthly payment actually and timely paid, except
14 insofar as the taxpayer has previously made payments for that
15 month to the Department in excess of the minimum payments
16 previously due as provided in this Section. The Department
17 shall make reasonable rules and regulations to govern the
18 quarter-monthly payment amount and quarter-monthly payment
19 dates for taxpayers who file on other than a calendar monthly
20 basis.

21 A supplier may make tax-free sales of special fuel, with
22 respect to which he is otherwise required to collect the tax,
23 when the motor fuel is delivered from a dispensing facility
24 that has withdrawal facilities capable of dispensing special
25 fuel into the fuel supply tanks of motor vehicles only as
26 specified in the following items 1, 2, and 3. A supplier may

1 make tax-free sales of special fuel, with respect to which he
2 is otherwise required to collect the tax, when the special fuel
3 is delivered from other facilities only as specified in the
4 following items 1 through 7.

5 1. When the sale is made to the federal government or
6 its instrumentalities.

7 2. When the sale is made to a municipal corporation
8 owning and operating a local transportation system for
9 public service in this State when an official certificate
10 of exemption is obtained in lieu of the tax.

11 3. When the sale is made to a privately owned public
12 utility owning and operating 2 axle vehicles designed and
13 used for transporting more than 7 passengers, which
14 vehicles are used as common carriers in general
15 transportation of passengers, are not devoted to any
16 specialized purpose and are operated entirely within the
17 territorial limits of a single municipality or of any group
18 of contiguous municipalities, or in a close radius thereof,
19 and the operations of which are subject to the regulations
20 of the Illinois Commerce Commission, when an official
21 certificate of exemption is obtained in lieu of the tax.

22 4. When a sale of special fuel is made to a person
23 holding a valid unrevoked license as a supplier or a
24 distributor by making a specific notation thereof on
25 invoice or sales slip covering each such sale.

26 5. When a sale of special fuel is made to someone other

1 than a licensed distributor or licensed supplier for a use
2 other than in motor vehicles, by making a specific notation
3 thereof on the invoice or sales slip covering such sale and
4 obtaining such supporting documentation as may be required
5 by the Department. The supplier shall obtain and keep the
6 supporting documentation in such form as the Department may
7 require by rule.

8 6. (Blank).

9 7. When a sale of special fuel is made to a person
10 where delivery is made outside of this State.

11 All special fuel sold or used for non-highway purposes must
12 have a dye added in accordance with Section 4d of this Law.

13 All suits or other proceedings brought for the purpose of
14 recovering any taxes, interest or penalties due the State of
15 Illinois under this Act may be maintained in the name of the
16 Department.

17 (Source: P.A. 92-30, eff. 7-1-01; 93-32, eff. 6-20-03.)

18 Section 10. The Environmental Impact Fee Law is amended by
19 changing Section 315 as follows:

20 (415 ILCS 125/315)

21 (Section scheduled to be repealed on January 1, 2013)

22 Sec. 315. Fee on receivers of fuel for sale or use;
23 collection and reporting. Except as otherwise provided in this
24 Section, a ~~A~~ person that is required to pay the fee imposed by

1 this Law shall pay the fee to the Department by return showing
2 all fuel purchased, acquired, or received and sold, distributed
3 or used during the preceding calendar month, including losses
4 of fuel as the result of evaporation or shrinkage due to
5 temperature variations, and such other reasonable information
6 as the Department may require. Losses of fuel as the result of
7 evaporation or shrinkage due to temperature variations may not
8 exceed 1% of the total gallons in storage at the beginning of
9 the month, plus the receipts of gallonage during the month,
10 minus the gallonage remaining in storage at the end of the
11 month. Any loss reported that is in excess of this amount shall
12 be subject to the fee imposed by Section 310 of this Law. On
13 and after July 1, 2001, for each 6-month period January through
14 June, net losses of fuel (for each category of fuel that is
15 required to be reported on a return) as the result of
16 evaporation or shrinkage due to temperature variations may not
17 exceed 1% of the total gallons in storage at the beginning of
18 each January, plus the receipts of gallonage each January
19 through June, minus the gallonage remaining in storage at the
20 end of each June. On and after July 1, 2001, for each 6-month
21 period July through December, net losses of fuel (for each
22 category of fuel that is required to be reported on a return)
23 as the result of evaporation or shrinkage due to temperature
24 variations may not exceed 1% of the total gallons in storage at
25 the beginning of each July, plus the receipts of gallonage each
26 July through December, minus the gallonage remaining in storage

1 at the end of each December. Any net loss reported that is in
2 excess of this amount shall be subject to the fee imposed by
3 Section 310 of this Law. For purposes of this Section, "net
4 loss" means the number of gallons gained through temperature
5 variations minus the number of gallons lost through temperature
6 variations or evaporation for each of the respective 6-month
7 periods.

8 The return shall be prescribed by the Department and shall
9 be filed between the 1st and 20th days of each calendar month.

10 On and after July 1, 2007, if the receiver's average
11 monthly liability to the Department for the aggregate of the
12 tax imposed under Section 2a of the Motor Fuel Tax Law and the
13 fee imposed under Section 315 of this Law was \$20,000 or more
14 during the preceding 4 complete calendar quarters, then the
15 receiver shall file a return with the Department each month by
16 the 20th day of the month next following the month during which
17 the liability is incurred and shall make payments to the
18 Department on or before the 7th, 15th, 22nd, and last day of
19 the month during which the liability is incurred. Each payment
20 shall be in an amount equal to 22.5% of the receiver's actual
21 liability for the month or 25% of the receiver's liability for
22 the same calendar month of the preceding year. The amount of
23 the quarter-monthly payments shall be credited against the
24 final liability of the receiver's return for that month filed
25 under this Section. Once applicable, the requirement of the
26 making of quarter-monthly payments to the Department by

1 receivers having an average monthly liability of \$20,000 or
2 more, as determined in the manner provided above, shall
3 continue until the receiver's average monthly liability to the
4 Department during the preceding 4 complete calendar quarters
5 (excluding the month of highest liability and the month of
6 lowest liability) is less than \$19,000 or until the receiver's
7 average monthly liability to the Department as computed for
8 each calendar quarter of the 4 preceding complete calendar
9 quarter period, is less than \$20,000. If, however, a receiver
10 can show the Department that a substantial change in the
11 receiver's business has occurred that causes the receiver to
12 anticipate that his or her average monthly tax liability for
13 the reasonably foreseeable future will fall below the \$20,000
14 threshold stated above, then the receiver may petition the
15 Department for a change in the receiver's reporting status. The
16 Department shall change the receiver's reporting status unless
17 it finds that the change is seasonal in nature and not likely
18 to be long-term. If any quarter-monthly payment is not paid at
19 the time or in the amount required by this Section, then the
20 receiver is liable for penalties and interest on the difference
21 between the minimum amount due as a payment and the amount of
22 the quarter-monthly payment actually and timely paid, except
23 insofar as the receiver has previously made payments for that
24 month to the Department in excess of the minimum payments
25 previously due as provided in this Section. The Department
26 shall make reasonable rules and regulations to govern the

1 quarter-monthly payment amount and quarter-monthly payment
2 dates for receivers who file on other than a calendar monthly
3 basis.

4 The Department may, in its discretion, combine the return
5 filed under this Law with the return filed under Section 2b of
6 the Motor Fuel Tax Law. If the return is timely filed, the
7 receiver may take a discount of 2% through June 30, 2003 and
8 1.75% thereafter to reimburse himself for the expenses incurred
9 in keeping records, preparing and filing returns, collecting
10 and remitting the fee, and supplying data to the Department on
11 request. Except as otherwise provided in this Section, however
12 ~~However~~, the discount applies only to the amount of the fee
13 payment that accompanies a return that is timely filed in
14 accordance with this Section.

15 (Source: P.A. 92-30, eff. 7-1-01; 93-32, eff. 6-20-03.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.