



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB0965

Introduced 1/25/2013, by Rep. Daniel V. Beiser

#### SYNOPSIS AS INTRODUCED:

35 ILCS 505/2  
35 ILCS 505/15

from Ch. 120, par. 418  
from Ch. 120, par. 431

Amends the Motor Fuel Tax Law. Exempts from taxation, motor fuel used or sold for recreational type watercraft operating upon the Mississippi, Wabash, or Ohio Rivers. Effective immediately.

LRB098 04045 HLH 34065 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 2 and 15 as follows:

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

7 Sec. 2. A tax is imposed on the privilege of operating  
8 motor vehicles upon the public highways and recreational-type  
9 watercraft upon the waters of this State (other than the  
10 Mississippi, Wabash, or Ohio Rivers).

11 (a) Prior to August 1, 1989, the tax is imposed at the rate  
12 of 13 cents per gallon on all motor fuel used in motor vehicles  
13 operating on the public highways and recreational type  
14 watercraft operating upon the waters of this State (other than  
15 the Mississippi, Wabash, or Ohio Rivers). Beginning on August  
16 1, 1989 and until January 1, 1990, the rate of the tax imposed  
17 in this paragraph shall be 16 cents per gallon. Beginning  
18 January 1, 1990, the rate of tax imposed in this paragraph  
19 shall be 19 cents per gallon.

20 (b) The tax on the privilege of operating motor vehicles  
21 which use diesel fuel shall be the rate according to paragraph  
22 (a) plus an additional 2 1/2 cents per gallon. "Diesel fuel" is  
23 defined as any product intended for use or offered for sale as

1 a fuel for engines in which the fuel is injected into the  
2 combustion chamber and ignited by pressure without electric  
3 spark.

4 (c) A tax is imposed upon the privilege of engaging in the  
5 business of selling motor fuel as a retailer or reseller on all  
6 motor fuel used in motor vehicles operating on the public  
7 highways and recreational type watercraft operating upon the  
8 waters of this State (other than the Mississippi, Wabash, or  
9 Ohio Rivers): (1) at the rate of 3 cents per gallon on motor  
10 fuel owned or possessed by such retailer or reseller at 12:01  
11 a.m. on August 1, 1989; and (2) at the rate of 3 cents per  
12 gallon on motor fuel owned or possessed by such retailer or  
13 reseller at 12:01 A.M. on January 1, 1990.

14 Retailers and resellers who are subject to this additional  
15 tax shall be required to inventory such motor fuel and pay this  
16 additional tax in a manner prescribed by the Department of  
17 Revenue.

18 The tax imposed in this paragraph (c) shall be in addition  
19 to all other taxes imposed by the State of Illinois or any unit  
20 of local government in this State.

21 (d) Except as provided in Section 2a, the collection of a  
22 tax based on gallonage of gasoline used for the propulsion of  
23 any aircraft is prohibited on and after October 1, 1979.

24 (e) The collection of a tax, based on gallonage of all  
25 products commonly or commercially known or sold as 1-K  
26 kerosene, regardless of its classification or uses, is

1 prohibited (i) on and after July 1, 1992 until December 31,  
2 1999, except when the 1-K kerosene is either: (1) delivered  
3 into bulk storage facilities of a bulk user, or (2) delivered  
4 directly into the fuel supply tanks of motor vehicles and (ii)  
5 on and after January 1, 2000. Beginning on January 1, 2000, the  
6 collection of a tax, based on gallonage of all products  
7 commonly or commercially known or sold as 1-K kerosene,  
8 regardless of its classification or uses, is prohibited except  
9 when the 1-K kerosene is delivered directly into a storage tank  
10 that is located at a facility that has withdrawal facilities  
11 that are readily accessible to and are capable of dispensing  
12 1-K kerosene into the fuel supply tanks of motor vehicles. For  
13 purposes of this subsection (e), a facility is considered to  
14 have withdrawal facilities that are not "readily accessible to  
15 and capable of dispensing 1-K kerosene into the fuel supply  
16 tanks of motor vehicles" only if the 1-K kerosene is delivered  
17 from: (i) a dispenser hose that is short enough so that it will  
18 not reach the fuel supply tank of a motor vehicle or (ii) a  
19 dispenser that is enclosed by a fence or other physical barrier  
20 so that a vehicle cannot pull alongside the dispenser to permit  
21 fueling.

22 Any person who sells or uses 1-K kerosene for use in motor  
23 vehicles upon which the tax imposed by this Law has not been  
24 paid shall be liable for any tax due on the sales or use of 1-K  
25 kerosene.

26 (Source: P.A. 96-1384, eff. 7-29-10.)

1 (35 ILCS 505/15) (from Ch. 120, par. 431)

2 Sec. 15. 1. Any person who knowingly acts as a distributor  
3 of motor fuel or supplier of special fuel, or receiver of fuel  
4 without having a license so to do, or who knowingly fails or  
5 refuses to file a return with the Department as provided in  
6 Section 2b, Section 5, or Section 5a of this Act, or who  
7 knowingly fails or refuses to make payment to the Department as  
8 provided either in Section 2b, Section 6, Section 6a, or  
9 Section 7 of this Act, shall be guilty of a Class 3 felony.  
10 Each day any person knowingly acts as a distributor of motor  
11 fuel, supplier of special fuel, or receiver of fuel without  
12 having a license so to do or after such a license has been  
13 revoked, constitutes a separate offense.

14 2. Any person who acts as a motor carrier without having a  
15 valid motor fuel use tax license, issued by the Department or  
16 by a member jurisdiction under the provisions of the  
17 International Fuel Tax Agreement, or a valid single trip permit  
18 is guilty of a Class A misdemeanor for a first offense and is  
19 guilty of a Class 4 felony for each subsequent offense. Any  
20 person (i) who fails or refuses to make payment to the  
21 Department as provided in Section 13a.1 of this Act or in the  
22 International Fuel Tax Agreement referenced in Section 14a, or  
23 (ii) who fails or refuses to make the quarterly return as  
24 provided in Section 13a.3 is guilty of a Class 4 felony; and  
25 for each subsequent offense, such person is guilty of a Class 3

1 felony.

2 3. In case such person acting as a distributor, receiver,  
3 supplier, or motor carrier is a corporation, then the officer  
4 or officers, agent or agents, employee or employees, of such  
5 corporation responsible for any act of such corporation, or  
6 failure of such corporation to act, which acts or failure to  
7 act constitutes a violation of any of the provisions of this  
8 Act as enumerated in paragraphs 1 and 2 of this Section, shall  
9 be punished by such fine or imprisonment, or by both such fine  
10 and imprisonment as provided in those paragraphs.

11 3.5. Any person who knowingly enters false information on  
12 any supporting documentation required to be kept by Section 6  
13 or 6a of this Act is guilty of a Class 3 felony.

14 3.7. Any person who knowingly attempts in any manner to  
15 evade or defeat any tax imposed by this Act or the payment of  
16 any tax imposed by this Act is guilty of a Class 2 felony.

17 4. Any person who refuses, upon demand, to submit for  
18 inspection, books and records, or who fails or refuses to keep  
19 books and records in violation of Section 12 of this Act, or  
20 any distributor, receiver, or supplier who violates any  
21 reasonable rule or regulation adopted by the Department for the  
22 enforcement of this Act is guilty of a Class A misdemeanor. Any  
23 person who acts as a blender in violation of Section 3 of this  
24 Act or who having transported reportable motor fuel within  
25 Section 7b of this Act fails to make the return required by  
26 that Section, is guilty of a Class 4 felony.

1           5. Any person licensed under Section 13a.4, 13a.5, or the  
2 International Fuel Tax Agreement who: (a) fails or refuses to  
3 keep records and books, as provided in Section 13a.2 or as  
4 required by the terms of the International Fuel Tax Agreement,  
5 (b) refuses upon demand by the Department to submit for  
6 inspection and examination the records required by Section  
7 13a.2 of this Act or by the terms of the International Fuel Tax  
8 Agreement, or (c) violates any reasonable rule or regulation  
9 adopted by the Department for the enforcement of this Act, is  
10 guilty of a Class A misdemeanor.

11           6. Any person who makes any false return or report to the  
12 Department as to any material fact required by Sections 2b, 5,  
13 5a, 7, 13, or 13a.3 of this Act or by the International Fuel  
14 Tax Agreement is guilty of a Class 2 felony.

15           7. A prosecution for any violation of this Section may be  
16 commenced anytime within 5 years of the commission of that  
17 violation. A prosecution for tax evasion as set forth in  
18 paragraph 3.7 of this Section may be prosecuted any time within  
19 5 years of the commission of the last act in furtherance of  
20 evasion. The running of the period of limitations under this  
21 Section shall be suspended while any proceeding or appeal from  
22 any proceeding relating to the quashing or enforcement of any  
23 grand jury or administrative subpoena issued in connection with  
24 an investigation of the violation of any provision of this Act  
25 is pending.

26           8. Any person who provides false documentation required by

1 any Section of this Act is guilty of a Class 4 felony.

2 9. Any person filing a fraudulent application or order form  
3 under any provision of this Act is guilty of a Class A  
4 misdemeanor. For each subsequent offense, the person is guilty  
5 of a Class 4 felony.

6 10. Any person who acts as a motor carrier and who fails to  
7 carry a manifest as provided in Section 5.5 is guilty of a  
8 Class A misdemeanor. For each subsequent offense, the person is  
9 guilty of a Class 4 felony.

10 11. Any person who knowingly sells or attempts to sell dyed  
11 diesel fuel for highway use or for use by recreational-type  
12 watercraft on the waters of this State (other than the  
13 Mississippi, Wabash, or Ohio Rivers) is guilty of a Class 4  
14 felony. For each subsequent offense, the person is guilty of a  
15 Class 2 felony.

16 12. Any person who knowingly possesses dyed diesel fuel for  
17 highway use or for use by recreational-type watercraft on the  
18 waters of this State (other than the Mississippi, Wabash, or  
19 Ohio Rivers) is guilty of a Class A misdemeanor. For each  
20 subsequent offense, the person is guilty of a Class 4 felony.

21 13. Any person who sells or transports dyed diesel fuel  
22 without the notice required by Section 4e shall pay the  
23 following penalty:

- 24 First occurrence ..... \$ 500
- 25 Second and each occurrence thereafter ..... \$1,000

26 14. Any person who owns, operates, or controls any



1 container, storage tank, or facility used to store or  
2 distribute dyed diesel fuel without the notice required by  
3 Section 4f shall pay the following penalty:

- 4 First occurrence ..... \$ 500
- 5 Second and each occurrence thereafter ..... \$1,000

6 15. If a motor vehicle required to be registered for  
7 highway purposes is found to have dyed diesel fuel within the  
8 ordinary fuel tanks attached to the motor vehicle or if a  
9 recreational-type watercraft on the waters of this State (other  
10 than the Mississippi, Wabash, or Ohio Rivers) is found to have  
11 dyed diesel fuel within the ordinary fuel tanks attached to the  
12 watercraft, the operator shall pay the following penalty:

- 13 First occurrence ..... \$1,000
- 14 Second and each occurrence thereafter ..... \$5,000

15 16. Any licensed motor fuel distributor or licensed  
16 supplier who sells or attempts to sell dyed diesel fuel for  
17 highway use or for use by recreational-type watercraft on the  
18 waters of this State (other than the Mississippi, Wabash, or  
19 Ohio Rivers) shall pay the following penalty:

- 20 First occurrence ..... \$1,000
- 21 Second and each occurrence thereafter ..... \$5,000

22 17. Any person who knowingly sells or distributes dyed  
23 diesel fuel without the notice required by Section 4e is guilty  
24 of a petty offense. For each subsequent offense, the person is  
25 guilty of a Class A misdemeanor.

26 18. Any person who knowingly owns, operates, or controls

1 any container, storage tank, or facility used to store or  
2 distribute dyed diesel fuel without the notice required by  
3 Section 4f is guilty of a petty offense. For each subsequent  
4 offense the person is guilty of a Class A misdemeanor.

5 For purposes of this Section, dyed diesel fuel means any  
6 dyed diesel fuel whether or not dyed pursuant to Section 4d of  
7 this Law.

8 Any person aggrieved by any action of the Department under  
9 item 13, 14, 15, or 16 of this Section may protest the action  
10 by making a written request for a hearing within 60 days of the  
11 original action. If the hearing is not requested in writing  
12 within 60 days, the original action is final.

13 All penalties received under items 13, 14, 15, and 16 of  
14 this Section shall be deposited into the Tax Compliance and  
15 Administration Fund.

16 (Source: P.A. 96-1384, eff. 7-29-10.)

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