

SB1382



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1382

Introduced 1/29/2025, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

35 ILCS 505/1.1
35 ILCS 505/13

from Ch. 120, par. 417.1
from Ch. 120, par. 429

Amends the Motor Fuel Tax Law. Provides that "motor fuel" means all volatile and inflammable substances, whether in liquid or gaseous form (currently, volatile and inflammable liquids). Provides that incidental use of motor fuel on private roads or private highways in the operation of a motor vehicle does not constitute a "purpose other than operating a motor vehicle upon the public highways" and does not form a basis for a claim for refund. Effective immediately, except that certain provisions take effect January 1, 2026.

LRB104 03440 HLH 16962 b

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 1.1 and 13 as follows:

6 (35 ILCS 505/1.1) (from Ch. 120, par. 417.1)

7 Sec. 1.1. "Motor Fuel" means all volatile and inflammable
8 substances (whether in liquid or gaseous form) that are
9 ~~liquids~~ produced, blended or compounded for the purpose of, or
10 that ~~which~~ are suitable or practicable for, operating motor
11 vehicles. Among other things, "Motor Fuel" includes "Special
12 Fuel" as defined in Section 1.13 of this Act.

13 (Source: Laws 1963, p. 1557.)

14 (35 ILCS 505/13) (from Ch. 120, par. 429)

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

22 Any person who purchases motor fuel in Illinois and uses

1 that motor fuel in another state and that other state imposes a
2 tax on the use of such motor fuel shall be reimbursed and
3 repaid the amount of Illinois tax paid under Section 2 of this
4 Act on the motor fuel used in such other state. Reimbursement
5 and repayment shall be made by the Department upon receipt of
6 adequate proof of taxes directly paid to another state and the
7 amount of motor fuel used in that state.

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

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

26 Claims for such reimbursement must be made to the

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

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
21 by 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

1 the claimant (or by the claimant's legal representative if the
2 claimant has died or become a person under legal disability),
3 upon forms prescribed by the Department. The claim shall state
4 such facts relating to the purchase, importation, manufacture
5 or production of the motor fuel by the claimant as the
6 Department may deem necessary and the time when the loss or
7 nontaxable use occurred, and the circumstances of its loss or
8 the specific purpose for which it was used (as the case may
9 be), together with such other information as the Department
10 may reasonably require. Claims must be filed not later than
11 one year after the date on which the tax was paid by the
12 claimant.

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

25 Any credit or refund that is allowed under this Section
26 shall bear interest at the rate and in the manner specified in

1 the Uniform Penalty and Interest Act.

2 In case the distributor or supplier requests and the
3 Department determines that the claimant is entitled to a
4 refund, such refund shall be made only from such appropriation
5 as may be available for that purpose. If it appears unlikely
6 that the amount appropriated would permit everyone having a
7 claim allowed during the period covered by such appropriation
8 to elect to receive a cash refund, the Department, by rule or
9 regulation, shall provide for the payment of refunds in
10 hardship cases and shall define what types of cases qualify as
11 hardship cases.

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

21 If no tax is due and no proceeding is pending to determine
22 whether such distributor or supplier is indebted to the
23 Department for tax, the credit memorandum so issued may be
24 assigned and set over by the lawful holder thereof, subject to
25 reasonable rules of the Department, to any other licensed
26 distributor or supplier who is subject to this Act, and the

1 amount thereof applied by the Department against any tax due
2 or to become due under this Act from such assignee.

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

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

22 For claims based upon taxes paid on or before December 31,
23 2000, a claim based upon the use of undyed diesel fuel shall
24 not be allowed except (i) if allowed under the following
25 paragraph or (ii) for undyed diesel fuel used by a commercial
26 vehicle, as that term is defined in Section 1-111.8 of the

1 Illinois Vehicle Code, for any purpose other than operating
2 the commercial vehicle upon the public highways and unlicensed
3 commercial vehicles operating on private property. Claims
4 shall be limited to commercial vehicles that are operated for
5 both highway purposes and any purposes other than operating
6 such vehicles upon the public highways.

7 For claims based upon taxes paid on or after January 1,
8 2000, a claim based upon the use of undyed diesel fuel shall
9 not be allowed except (i) if allowed under the preceding
10 paragraph or (ii) for claims for the following:

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

21 (2) Undyed diesel fuel used by a manufacturer on
22 private property in the research and development, as
23 defined in Section 1.29, of machinery or equipment
24 intended for manufacture.

25 (3) Undyed diesel fuel used by a single unit
26 self-propelled agricultural fertilizer implement,

1 designed for on and off road use, equipped with flotation
2 tires and specially adapted for the application of plant
3 food materials or agricultural chemicals.

4 (4) Undyed diesel fuel used by a commercial motor
5 vehicle for any purpose other than operating the
6 commercial motor vehicle upon the public highways. Claims
7 shall be limited to commercial motor vehicles that are
8 operated for both highway purposes and any purposes other
9 than operating such vehicles upon the public highways.

10 (5) Undyed diesel fuel used by a unit of local
11 government in its operation of an airport if the undyed
12 diesel fuel is used directly in airport operations on
13 airport property.

14 (6) Undyed diesel fuel used by refrigeration units
15 that are permanently mounted to a semitrailer, as defined
16 in Section 1.28 of this Law, wherein the refrigeration
17 units have a fuel supply system dedicated solely for the
18 operation of the refrigeration units.

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

21 (8) Beginning on the effective date of this amendatory
22 Act of the 94th General Assembly, undyed diesel fuel used
23 by tugs and spotter equipment to shift vehicles or parcels
24 on both private and airport property. Any claim under this
25 item (8) may be made only by a claimant that owns tugs and
26 spotter equipment and operates that equipment on both

1 private and airport property. The aggregate of all credits
2 or refunds resulting from claims filed under this item (8)
3 by a claimant in any calendar year may not exceed
4 \$100,000. A claim may not be made under this item (8) by
5 the same claimant more often than once each quarter. For
6 the purposes of this item (8), "tug" means a vehicle
7 designed for use on airport property that shifts
8 custom-designed containers of parcels from loading docks
9 to aircraft, and "spotter equipment" means a vehicle
10 designed for use on both private and airport property that
11 shifts trailers containing parcels between staging areas
12 and loading docks.

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
23 diesel 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 For purposes of claims for refund, "any purpose other than
13 operating a motor vehicle upon the public highways" refers to
14 the specific purpose for which the motor vehicle was used and
15 does not refer to the specific location where the motor fuel
16 was used. Incidental use of motor fuel on private roads or
17 private highways in the operation of a motor vehicle does not
18 constitute a "purpose other than operating a motor vehicle
19 upon the public highways" and does not form a basis for a claim
20 under this Section. The provisions of this amendatory Act of
21 the 104th General Assembly are declaratory of existing law as
22 to the meaning and scope of this claim for refund.

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

24 Section 99. Effective date. This Act takes effect upon
25 becoming law, except that the changes made to Section 1.1 of
26 the Motor Fuel Tax Law take effect January 1, 2026.