



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5726

Introduced 3/22/2022, by Rep. Adam Niemerg - Blaine Wilhour

SYNOPSIS AS INTRODUCED:

35 ILCS 505/2	from Ch. 120, par. 418
35 ILCS 505/8	from Ch. 120, par. 424
65 ILCS 5/8-11-2.3	

Amends the Motor Fuel Tax Law. Provides that, beginning on July 1, 2022, the rate of tax shall be \$0.19 per gallon (currently \$0.38 per gallon, adjusted each year according to the percentage increase in the Consumer Price Index), plus an additional 2 1/2 cents per gallon for diesel fuel, liquefied natural gas, or propane. Amends the Illinois Municipal Code. Provides that no tax may be imposed under the Municipal Motor Fuel Tax Law on or after July 1, 2022. Preempts the exercise of home rule powers. Effective immediately.

LRB102 26736 HLH 37627 b

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 8 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.

10 (a) Prior to August 1, 1989, the tax is imposed at the rate
11 of 13 cents per gallon on all motor fuel used in motor vehicles
12 operating on the public highways and recreational type
13 watercraft operating upon the waters of this State. Beginning
14 on August 1, 1989 and until January 1, 1990, the rate of the
15 tax imposed in this paragraph shall be 16 cents per gallon.
16 Beginning January 1, 1990 and until July 1, 2019, the rate of
17 tax imposed in this paragraph, including the tax on compressed
18 natural gas, shall be 19 cents per gallon. Beginning July 1,
19 2019 and until July 1, 2022, the rate of tax imposed in this
20 paragraph shall be 38 cents per gallon and increased on July 1
21 of each subsequent year by an amount equal to the percentage
22 increase, if any, in the Consumer Price Index for All Urban
23 Consumers for all items published by the United States

1 Department of Labor for the 12 months ending in March of each
2 year. The rate shall be rounded to the nearest one-tenth of one
3 cent. Beginning on July 1, 2022, the rate of tax imposed in
4 this paragraph, including the tax on compressed natural gas,
5 shall be \$0.19 per gallon.

6 (b) Until July 1, 2019, the tax on the privilege of
7 operating motor vehicles which use diesel fuel, liquefied
8 natural gas, or propane shall be the rate according to
9 paragraph (a) plus an additional 2 1/2 cents per gallon.
10 Beginning July 1, 2019 and until July 1, 2022, the tax on the
11 privilege of operating motor vehicles which use diesel fuel,
12 liquefied natural gas, or propane shall be the rate according
13 to subsection (a) plus an additional 7.5 cents per gallon.
14 "Diesel fuel" is defined as any product intended for use or
15 offered for sale as a fuel for engines in which the fuel is
16 injected into the combustion chamber and ignited by pressure
17 without electric spark.

18 (c) A tax is imposed upon the privilege of engaging in the
19 business of selling motor fuel as a retailer or reseller on all
20 motor fuel used in motor vehicles operating on the public
21 highways and recreational type watercraft operating upon the
22 waters of this State: (1) at the rate of 3 cents per gallon on
23 motor fuel owned or possessed by such retailer or reseller at
24 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents
25 per gallon on motor fuel owned or possessed by such retailer or
26 reseller at 12:01 A.M. on January 1, 1990.

1 Retailers and resellers who are subject to this additional
2 tax shall be required to inventory such motor fuel and pay this
3 additional tax in a manner prescribed by the Department of
4 Revenue.

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

8 (d) Except as provided in Section 2a, the collection of a
9 tax based on gallonage of gasoline used for the propulsion of
10 any aircraft is prohibited on and after October 1, 1979, and
11 the collection of a tax based on gallonage of special fuel used
12 for the propulsion of any aircraft is prohibited on and after
13 December 1, 2019.

14 (e) The collection of a tax, based on gallonage of all
15 products commonly or commercially known or sold as 1-K
16 kerosene, regardless of its classification or uses, is
17 prohibited (i) on and after July 1, 1992 until December 31,
18 1999, except when the 1-K kerosene is either: (1) delivered
19 into bulk storage facilities of a bulk user, or (2) delivered
20 directly into the fuel supply tanks of motor vehicles and (ii)
21 on and after January 1, 2000. Beginning on January 1, 2000, the
22 collection of a tax, based on gallonage of all products
23 commonly or commercially known or sold as 1-K kerosene,
24 regardless of its classification or uses, is prohibited except
25 when the 1-K kerosene is delivered directly into a storage
26 tank that is located at a facility that has withdrawal

1 facilities that are readily accessible to and are capable of
2 dispensing 1-K kerosene into the fuel supply tanks of motor
3 vehicles. For purposes of this subsection (e), a facility is
4 considered to have withdrawal facilities that are not "readily
5 accessible to and capable of dispensing 1-K kerosene into the
6 fuel supply tanks of motor vehicles" only if the 1-K kerosene
7 is delivered from: (i) a dispenser hose that is short enough so
8 that it will not reach the fuel supply tank of a motor vehicle
9 or (ii) a dispenser that is enclosed by a fence or other
10 physical barrier so that a vehicle cannot pull alongside the
11 dispenser to permit fueling.

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

16 (Source: P.A. 100-9, eff. 7-1-17; 101-10, eff. 6-5-19; 101-32,
17 eff. 6-28-19; 101-604, eff. 12-13-19.)

18 (35 ILCS 505/8) (from Ch. 120, par. 424)

19 Sec. 8. Except as provided in subsection (a-1) of this
20 Section, Section 8a, subdivision (h)(1) of Section 12a,
21 Section 13a.6, and items 13, 14, 15, and 16 of Section 15, all
22 money received by the Department under this Act, including
23 payments made to the Department by member jurisdictions
24 participating in the International Fuel Tax Agreement, shall
25 be deposited in a special fund in the State treasury, to be

1 known as the "Motor Fuel Tax Fund", and shall be used as
2 follows:

3 (a) 2 1/2 cents per gallon of the tax collected on special
4 fuel under paragraph (b) of Section 2 and Section 13a of this
5 Act shall be transferred to the State Construction Account
6 Fund in the State Treasury; the remainder of the tax collected
7 on special fuel under paragraph (b) of Section 2 and Section
8 13a of this Act shall be deposited into the Road Fund;

9 (a-1) Beginning on July 1, 2019 and until July 1, 2022, an
10 amount equal to the amount of tax collected under subsection
11 (a) of Section 2 as a result of the increase in the tax rate
12 under Public Act 101-32 shall be transferred each month into
13 the Transportation Renewal Fund;

14 (b) \$420,000 shall be transferred each month to the State
15 Boating Act Fund to be used by the Department of Natural
16 Resources for the purposes specified in Article X of the Boat
17 Registration and Safety Act;

18 (c) \$3,500,000 shall be transferred each month to the
19 Grade Crossing Protection Fund to be used as follows: not less
20 than \$12,000,000 each fiscal year shall be used for the
21 construction or reconstruction of rail highway grade
22 separation structures; \$2,250,000 in fiscal years 2004 through
23 2009 and \$3,000,000 in fiscal year 2010 and each fiscal year
24 thereafter shall be transferred to the Transportation
25 Regulatory Fund and shall be accounted for as part of the rail
26 carrier portion of such funds and shall be used to pay the cost

1 of administration of the Illinois Commerce Commission's
2 railroad safety program in connection with its duties under
3 subsection (3) of Section 18c-7401 of the Illinois Vehicle
4 Code, with the remainder to be used by the Department of
5 Transportation upon order of the Illinois Commerce Commission,
6 to pay that part of the cost apportioned by such Commission to
7 the State to cover the interest of the public in the use of
8 highways, roads, streets, or pedestrian walkways in the county
9 highway system, township and district road system, or
10 municipal street system as defined in the Illinois Highway
11 Code, as the same may from time to time be amended, for
12 separation of grades, for installation, construction or
13 reconstruction of crossing protection or reconstruction,
14 alteration, relocation including construction or improvement
15 of any existing highway necessary for access to property or
16 improvement of any grade crossing and grade crossing surface
17 including the necessary highway approaches thereto of any
18 railroad across the highway or public road, or for the
19 installation, construction, reconstruction, or maintenance of
20 safety treatments to deter trespassing or a pedestrian walkway
21 over or under a railroad right-of-way, as provided for in and
22 in accordance with Section 18c-7401 of the Illinois Vehicle
23 Code. The Commission may order up to \$2,000,000 per year in
24 Grade Crossing Protection Fund moneys for the improvement of
25 grade crossing surfaces and up to \$300,000 per year for the
26 maintenance and renewal of 4-quadrant gate vehicle detection

1 systems located at non-high speed rail grade crossings. In
2 entering orders for projects for which payments from the Grade
3 Crossing Protection Fund will be made, the Commission shall
4 account for expenditures authorized by the orders on a cash
5 rather than an accrual basis. For purposes of this requirement
6 an "accrual basis" assumes that the total cost of the project
7 is expended in the fiscal year in which the order is entered,
8 while a "cash basis" allocates the cost of the project among
9 fiscal years as expenditures are actually made. To meet the
10 requirements of this subsection, the Illinois Commerce
11 Commission shall develop annual and 5-year project plans of
12 rail crossing capital improvements that will be paid for with
13 moneys from the Grade Crossing Protection Fund. The annual
14 project plan shall identify projects for the succeeding fiscal
15 year and the 5-year project plan shall identify projects for
16 the 5 directly succeeding fiscal years. The Commission shall
17 submit the annual and 5-year project plans for this Fund to the
18 Governor, the President of the Senate, the Senate Minority
19 Leader, the Speaker of the House of Representatives, and the
20 Minority Leader of the House of Representatives on the first
21 Wednesday in April of each year;

22 (d) of the amount remaining after allocations provided for
23 in subsections (a), (a-1), (b), and (c), a sufficient amount
24 shall be reserved to pay all of the following:

- 25 (1) the costs of the Department of Revenue in
26 administering this Act;

1 (2) the costs of the Department of Transportation in
2 performing its duties imposed by the Illinois Highway Code
3 for supervising the use of motor fuel tax funds
4 apportioned to municipalities, counties and road
5 districts;

6 (3) refunds provided for in Section 13, refunds for
7 overpayment of decal fees paid under Section 13a.4 of this
8 Act, and refunds provided for under the terms of the
9 International Fuel Tax Agreement referenced in Section
10 14a;

11 (4) from October 1, 1985 until June 30, 1994, the
12 administration of the Vehicle Emissions Inspection Law,
13 which amount shall be certified monthly by the
14 Environmental Protection Agency to the State Comptroller
15 and shall promptly be transferred by the State Comptroller
16 and Treasurer from the Motor Fuel Tax Fund to the Vehicle
17 Inspection Fund, and for the period July 1, 1994 through
18 June 30, 2000, one-twelfth of \$25,000,000 each month, for
19 the period July 1, 2000 through June 30, 2003, one-twelfth
20 of \$30,000,000 each month, and \$15,000,000 on July 1,
21 2003, and \$15,000,000 on January 1, 2004, and \$15,000,000
22 on each July 1 and October 1, or as soon thereafter as may
23 be practical, during the period July 1, 2004 through June
24 30, 2012, and \$30,000,000 on June 1, 2013, or as soon
25 thereafter as may be practical, and \$15,000,000 on July 1
26 and October 1, or as soon thereafter as may be practical,

1 during the period of July 1, 2013 through June 30, 2015,
2 for the administration of the Vehicle Emissions Inspection
3 Law of 2005, to be transferred by the State Comptroller
4 and Treasurer from the Motor Fuel Tax Fund into the
5 Vehicle Inspection Fund;

6 (4.5) beginning on July 1, 2019, the costs of the
7 Environmental Protection Agency for the administration of
8 the Vehicle Emissions Inspection Law of 2005 shall be
9 paid, subject to appropriation, from the Motor Fuel Tax
10 Fund into the Vehicle Inspection Fund; beginning in 2019,
11 no later than December 31 of each year, or as soon
12 thereafter as practical, the State Comptroller shall
13 direct and the State Treasurer shall transfer from the
14 Vehicle Inspection Fund to the Motor Fuel Tax Fund any
15 balance remaining in the Vehicle Inspection Fund in excess
16 of \$2,000,000;

17 (5) amounts ordered paid by the Court of Claims; and

18 (6) payment of motor fuel use taxes due to member
19 jurisdictions under the terms of the International Fuel
20 Tax Agreement. The Department shall certify these amounts
21 to the Comptroller by the 15th day of each month; the
22 Comptroller shall cause orders to be drawn for such
23 amounts, and the Treasurer shall administer those amounts
24 on or before the last day of each month;

25 (e) after allocations for the purposes set forth in
26 subsections (a), (a-1), (b), (c), and (d), the remaining

1 amount shall be apportioned as follows:

2 (1) Until January 1, 2000, 58.4%, and beginning
3 January 1, 2000, 45.6% shall be deposited as follows:

4 (A) 37% into the State Construction Account Fund,
5 and

6 (B) 63% into the Road Fund, \$1,250,000 of which
7 shall be reserved each month for the Department of
8 Transportation to be used in accordance with the
9 provisions of Sections 6-901 through 6-906 of the
10 Illinois Highway Code;

11 (2) Until January 1, 2000, 41.6%, and beginning
12 January 1, 2000, 54.4% shall be transferred to the
13 Department of Transportation to be distributed as follows:

14 (A) 49.10% to the municipalities of the State,

15 (B) 16.74% to the counties of the State having
16 1,000,000 or more inhabitants,

17 (C) 18.27% to the counties of the State having
18 less than 1,000,000 inhabitants,

19 (D) 15.89% to the road districts of the State.

20 If a township is dissolved under Article 24 of the
21 Township Code, McHenry County shall receive any moneys
22 that would have been distributed to the township under
23 this subparagraph, except that a municipality that assumes
24 the powers and responsibilities of a road district under
25 paragraph (6) of Section 24-35 of the Township Code shall
26 receive any moneys that would have been distributed to the

1 township in a percent equal to the area of the dissolved
2 road district or portion of the dissolved road district
3 over which the municipality assumed the powers and
4 responsibilities compared to the total area of the
5 dissolved township. The moneys received under this
6 subparagraph shall be used in the geographic area of the
7 dissolved township. If a township is reconstituted as
8 provided under Section 24-45 of the Township Code, McHenry
9 County or a municipality shall no longer be distributed
10 moneys under this subparagraph.

11 As soon as may be after the first day of each month, the
12 Department of Transportation shall allot to each municipality
13 its share of the amount apportioned to the several
14 municipalities which shall be in proportion to the population
15 of such municipalities as determined by the last preceding
16 municipal census if conducted by the Federal Government or
17 Federal census. If territory is annexed to any municipality
18 subsequent to the time of the last preceding census the
19 corporate authorities of such municipality may cause a census
20 to be taken of such annexed territory and the population so
21 ascertained for such territory shall be added to the
22 population of the municipality as determined by the last
23 preceding census for the purpose of determining the allotment
24 for that municipality. If the population of any municipality
25 was not determined by the last Federal census preceding any
26 apportionment, the apportionment to such municipality shall be

1 in accordance with any census taken by such municipality. Any
2 municipal census used in accordance with this Section shall be
3 certified to the Department of Transportation by the clerk of
4 such municipality, and the accuracy thereof shall be subject
5 to approval of the Department which may make such corrections
6 as it ascertains to be necessary.

7 As soon as may be after the first day of each month, the
8 Department of Transportation shall allot to each county its
9 share of the amount apportioned to the several counties of the
10 State as herein provided. Each allotment to the several
11 counties having less than 1,000,000 inhabitants shall be in
12 proportion to the amount of motor vehicle license fees
13 received from the residents of such counties, respectively,
14 during the preceding calendar year. The Secretary of State
15 shall, on or before April 15 of each year, transmit to the
16 Department of Transportation a full and complete report
17 showing the amount of motor vehicle license fees received from
18 the residents of each county, respectively, during the
19 preceding calendar year. The Department of Transportation
20 shall, each month, use for allotment purposes the last such
21 report received from the Secretary of State.

22 As soon as may be after the first day of each month, the
23 Department of Transportation shall allot to the several
24 counties their share of the amount apportioned for the use of
25 road districts. The allotment shall be apportioned among the
26 several counties in the State in the proportion which the

1 total mileage of township or district roads in the respective
2 counties bears to the total mileage of all township and
3 district roads in the State. Funds allotted to the respective
4 counties for the use of road districts therein shall be
5 allocated to the several road districts in the county in the
6 proportion which the total mileage of such township or
7 district roads in the respective road districts bears to the
8 total mileage of all such township or district roads in the
9 county. After July 1 of any year prior to 2011, no allocation
10 shall be made for any road district unless it levied a tax for
11 road and bridge purposes in an amount which will require the
12 extension of such tax against the taxable property in any such
13 road district at a rate of not less than either .08% of the
14 value thereof, based upon the assessment for the year
15 immediately prior to the year in which such tax was levied and
16 as equalized by the Department of Revenue or, in DuPage
17 County, an amount equal to or greater than \$12,000 per mile of
18 road under the jurisdiction of the road district, whichever is
19 less. Beginning July 1, 2011 and each July 1 thereafter, an
20 allocation shall be made for any road district if it levied a
21 tax for road and bridge purposes. In counties other than
22 DuPage County, if the amount of the tax levy requires the
23 extension of the tax against the taxable property in the road
24 district at a rate that is less than 0.08% of the value
25 thereof, based upon the assessment for the year immediately
26 prior to the year in which the tax was levied and as equalized

1 by the Department of Revenue, then the amount of the
2 allocation for that road district shall be a percentage of the
3 maximum allocation equal to the percentage obtained by
4 dividing the rate extended by the district by 0.08%. In DuPage
5 County, if the amount of the tax levy requires the extension of
6 the tax against the taxable property in the road district at a
7 rate that is less than the lesser of (i) 0.08% of the value of
8 the taxable property in the road district, based upon the
9 assessment for the year immediately prior to the year in which
10 such tax was levied and as equalized by the Department of
11 Revenue, or (ii) a rate that will yield an amount equal to
12 \$12,000 per mile of road under the jurisdiction of the road
13 district, then the amount of the allocation for the road
14 district shall be a percentage of the maximum allocation equal
15 to the percentage obtained by dividing the rate extended by
16 the district by the lesser of (i) 0.08% or (ii) the rate that
17 will yield an amount equal to \$12,000 per mile of road under
18 the jurisdiction of the road district.

19 Prior to 2011, if any road district has levied a special
20 tax for road purposes pursuant to Sections 6-601, 6-602, and
21 6-603 of the Illinois Highway Code, and such tax was levied in
22 an amount which would require extension at a rate of not less
23 than .08% of the value of the taxable property thereof, as
24 equalized or assessed by the Department of Revenue, or, in
25 DuPage County, an amount equal to or greater than \$12,000 per
26 mile of road under the jurisdiction of the road district,

1 whichever is less, such levy shall, however, be deemed a
2 proper compliance with this Section and shall qualify such
3 road district for an allotment under this Section. Beginning
4 in 2011 and thereafter, if any road district has levied a
5 special tax for road purposes under Sections 6-601, 6-602, and
6 6-603 of the Illinois Highway Code, and the tax was levied in
7 an amount that would require extension at a rate of not less
8 than 0.08% of the value of the taxable property of that road
9 district, as equalized or assessed by the Department of
10 Revenue or, in DuPage County, an amount equal to or greater
11 than \$12,000 per mile of road under the jurisdiction of the
12 road district, whichever is less, that levy shall be deemed a
13 proper compliance with this Section and shall qualify such
14 road district for a full, rather than proportionate, allotment
15 under this Section. If the levy for the special tax is less
16 than 0.08% of the value of the taxable property, or, in DuPage
17 County if the levy for the special tax is less than the lesser
18 of (i) 0.08% or (ii) \$12,000 per mile of road under the
19 jurisdiction of the road district, and if the levy for the
20 special tax is more than any other levy for road and bridge
21 purposes, then the levy for the special tax qualifies the road
22 district for a proportionate, rather than full, allotment
23 under this Section. If the levy for the special tax is equal to
24 or less than any other levy for road and bridge purposes, then
25 any allotment under this Section shall be determined by the
26 other levy for road and bridge purposes.

1 Prior to 2011, if a township has transferred to the road
2 and bridge fund money which, when added to the amount of any
3 tax levy of the road district would be the equivalent of a tax
4 levy requiring extension at a rate of at least .08%, or, in
5 DuPage County, an amount equal to or greater than \$12,000 per
6 mile of road under the jurisdiction of the road district,
7 whichever is less, such transfer, together with any such tax
8 levy, shall be deemed a proper compliance with this Section
9 and shall qualify the road district for an allotment under
10 this Section.

11 In counties in which a property tax extension limitation
12 is imposed under the Property Tax Extension Limitation Law,
13 road districts may retain their entitlement to a motor fuel
14 tax allotment or, beginning in 2011, their entitlement to a
15 full allotment if, at the time the property tax extension
16 limitation was imposed, the road district was levying a road
17 and bridge tax at a rate sufficient to entitle it to a motor
18 fuel tax allotment and continues to levy the maximum allowable
19 amount after the imposition of the property tax extension
20 limitation. Any road district may in all circumstances retain
21 its entitlement to a motor fuel tax allotment or, beginning in
22 2011, its entitlement to a full allotment if it levied a road
23 and bridge tax in an amount that will require the extension of
24 the tax against the taxable property in the road district at a
25 rate of not less than 0.08% of the assessed value of the
26 property, based upon the assessment for the year immediately

1 preceding the year in which the tax was levied and as equalized
2 by the Department of Revenue or, in DuPage County, an amount
3 equal to or greater than \$12,000 per mile of road under the
4 jurisdiction of the road district, whichever is less.

5 As used in this Section, the term "road district" means
6 any road district, including a county unit road district,
7 provided for by the Illinois Highway Code; and the term
8 "township or district road" means any road in the township and
9 district road system as defined in the Illinois Highway Code.
10 For the purposes of this Section, "township or district road"
11 also includes such roads as are maintained by park districts,
12 forest preserve districts and conservation districts. The
13 Department of Transportation shall determine the mileage of
14 all township and district roads for the purposes of making
15 allotments and allocations of motor fuel tax funds for use in
16 road districts.

17 Payment of motor fuel tax moneys to municipalities and
18 counties shall be made as soon as possible after the allotment
19 is made. The treasurer of the municipality or county may
20 invest these funds until their use is required and the
21 interest earned by these investments shall be limited to the
22 same uses as the principal funds.

23 (Source: P.A. 101-32, eff. 6-28-19; 101-230, eff. 8-9-19;
24 101-493, eff. 8-23-19; 102-16, eff. 6-17-21; 102-558, eff.
25 8-20-21.)

1 Section 10. The Illinois Municipal Code is amended by
2 changing Section 8-11-2.3 as follows:

3 (65 ILCS 5/8-11-2.3)

4 Sec. 8-11-2.3. Municipal Motor Fuel Tax Law.
5 Notwithstanding any other provision of law, in addition to any
6 other tax that may be imposed, a municipality in a county with
7 a population of over 3,000,000 inhabitants may also impose, by
8 ordinance, a tax upon all persons engaged in the municipality
9 in the business of selling motor fuel, as defined in the Motor
10 Fuel Tax Law, at retail for the operation of motor vehicles
11 upon public highways or for the operation of recreational
12 watercraft upon waterways. The tax may be imposed, in one cent
13 increments, at a rate not to exceed \$0.03 per gallon of motor
14 fuel sold at retail within the municipality for the purpose of
15 use or consumption and not for the purpose of resale. The tax
16 may not be imposed under this Section on aviation fuel, as
17 defined in Section 3 of the Retailers' Occupation Tax Act.

18 Persons subject to any tax imposed under the authority
19 granted in this Section may reimburse themselves for their
20 seller's tax liability hereunder by separately stating that
21 tax as an additional charge, which charge may be stated in
22 combination, in a single amount, with State tax which sellers
23 are required to collect under the Use Tax Act, pursuant to such
24 bracket schedules as the Department may prescribe.

25 A tax imposed pursuant to this Section, and all civil

1 penalties that may be assessed as an incident thereof, shall
2 be administered, collected, and enforced by the Department of
3 Revenue in the same manner as the tax imposed under the
4 Retailers' Occupation Tax Act, as now or hereafter amended,
5 insofar as may be practicable; except that in the event of a
6 conflict with the provisions of this Section, this Section
7 shall control. The Department of Revenue shall have full power
8 to: administer and enforce this Section; collect all taxes and
9 penalties due hereunder; dispose of taxes and penalties so
10 collected in the manner hereinafter provided; and determine
11 all rights to credit memoranda arising on account of the
12 erroneous payment of tax or penalty hereunder.

13 Whenever the Department determines that a refund shall be
14 made under this Section to a claimant instead of issuing a
15 credit memorandum, the Department shall notify the State
16 Comptroller, who shall cause the order to be drawn for the
17 amount specified, and to the person named, in the notification
18 from the Department. The refund shall be paid by the State
19 Treasurer out of the Municipal Motor Fuel Tax Fund.

20 The Department shall immediately pay over to the State
21 Treasurer, ex officio, as trustee, all taxes and penalties
22 collected under this Section. Those taxes and penalties shall
23 be deposited into the Municipal Motor Fuel Tax Fund, a trust
24 fund created in the State treasury. Moneys in the Municipal
25 Motor Fuel Tax Fund shall be used to make payments to
26 municipalities and for the payment of refunds under this

1 Section.

2 On or before the 25th day of each calendar month, the
3 Department shall prepare and certify to the State Comptroller
4 the disbursement of stated sums of money to named
5 municipalities for which taxpayers have paid taxes or
6 penalties hereunder to the Department during the second
7 preceding calendar month. The amount to be paid to each
8 municipality shall be the amount (not including credit
9 memoranda) collected under this Section from retailers within
10 the municipality during the second preceding calendar month by
11 the Department, plus an amount the Department determines is
12 necessary to offset amounts that were erroneously paid to a
13 different municipality, and not including an amount equal to
14 the amount of refunds made during the second preceding
15 calendar month by the Department on behalf of the
16 municipality, and not including any amount that the Department
17 determines is necessary to offset any amounts that were
18 payable to a different municipality but were erroneously paid
19 to the municipality, less 1.5% of the remainder, which the
20 Department shall transfer into the Tax Compliance and
21 Administration Fund. The Department, at the time of each
22 monthly disbursement, shall prepare and certify to the State
23 Comptroller the amount to be transferred into the Tax
24 Compliance and Administration Fund under this Section. Within
25 10 days after receipt by the Comptroller of the disbursement
26 certification to the municipalities and the Tax Compliance and

1 Administration Fund provided for in this Section to be given
2 to the Comptroller by the Department, the Comptroller shall
3 cause the orders to be drawn for the respective amounts in
4 accordance with the directions contained in the certification.

5 Nothing in this Section shall be construed to authorize a
6 municipality to impose a tax upon the privilege of engaging in
7 any business which under the Constitution of the United States
8 may not be made the subject of taxation by this State.

9 An ordinance or resolution imposing or discontinuing the
10 tax under this Section or effecting a change in the rate
11 thereof shall either: (i) be adopted and a certified copy
12 thereof filed with the Department on or before the first day of
13 April, whereupon the Department shall proceed to administer
14 and enforce this Section as of the first day of July next
15 following the adoption and filing; or (ii) be adopted and a
16 certified copy thereof filed with the Department on or before
17 the first day of October, whereupon the Department shall
18 proceed to administer and enforce this Section as of the first
19 day of January next following the adoption and filing.

20 An ordinance adopted in accordance with the provisions of
21 this Section in effect before the effective date of this
22 amendatory Act of the 101st General Assembly shall be deemed
23 to impose the tax in accordance with the provisions of this
24 Section as amended by this amendatory Act of the 101st General
25 Assembly and shall be administered by the Department of
26 Revenue in accordance with the provisions of this Section as

1 amended by this amendatory Act of the 101st General Assembly;
2 provided that, on or before October 1, 2020, the municipality
3 adopts and files a certified copy of a superseding ordinance
4 that imposes the tax in accordance with the provisions of this
5 Section as amended by this amendatory Act of the 101st General
6 Assembly. If a superseding ordinance is not so adopted and
7 filed, then the tax imposed in accordance with the provisions
8 of this Section in effect before the effective date of this
9 amendatory Act of the 101st General Assembly shall be
10 discontinued on January 1, 2021.

11 This Section shall be known and may be cited as the
12 Municipal Motor Fuel Tax Law.

13 No tax may be imposed under this Section on or after July
14 1, 2022. This is a denial and limitation under subsection (g)
15 of Section 6 of Article VII of the Illinois Constitution of the
16 power of a home rule municipality to impose a tax.

17 (Source: P.A. 101-32, eff. 6-28-19; 101-604, eff. 12-13-19.)

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