

HB4428



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4428

Introduced 1/16/2024, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1035.1

from Ch. 34, par. 5-1035.1

Amends the County Motor Fuel Tax Law in the Counties Code. Provides that any county (currently, DuPage, Kane, Lake, Will, and McHenry counties only) may impose a tax upon all persons engaged in the business of selling motor fuel. Provides that, in addition to other uses currently allowed by law, the proceeds from the tax shall be used for the purpose of maintaining and constructing essential transportation-related infrastructure.

LRB103 34758 AWJ 64608 b

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing
5 Section 5-1035.1 as follows:

6 (55 ILCS 5/5-1035.1) (from Ch. 34, par. 5-1035.1)

7 Sec. 5-1035.1. County Motor Fuel Tax Law.

8 (a) The county board of any county ~~the counties of DuPage,~~
9 ~~Kane, Lake, Will, and McHenry~~ may, by an ordinance or
10 resolution adopted by an affirmative vote of a majority of the
11 members elected or appointed to the county board, impose a tax
12 upon all persons engaged in the county in the business of
13 selling motor fuel, as now or hereafter defined in the Motor
14 Fuel Tax Law, at retail for the operation of motor vehicles
15 upon public highways or for the operation of recreational
16 watercraft upon waterways. The collection of a tax under this
17 Section based on gallonage of gasoline used for the propulsion
18 of any aircraft is prohibited, and the collection of a tax
19 based on gallonage of special fuel used for the propulsion of
20 any aircraft is prohibited on and after December 1, 2019. The
21 county ~~Kane County~~ may exempt diesel fuel from the tax imposed
22 pursuant to this Section. The initial tax rate may not be less
23 than 4 cents per gallon of motor fuel sold at retail within the

1 county for the purpose of use or consumption and not for the
2 purpose of resale and may not exceed 8 cents per gallon of
3 motor fuel sold at retail within the county for the purpose of
4 use or consumption and not for the purpose of resale. The
5 proceeds from the tax shall be used by the county solely for
6 the purposes of operating, constructing, and improving public
7 highways, waterways, shared-use paths for nonvehicular public
8 travel, sidewalks, and bike paths, ~~and~~ and acquiring real property
9 and rights-of-way for public highways, waterways, shared-use
10 paths for nonvehicular public travel, sidewalks, and bike
11 paths within the county imposing the tax, and maintaining and
12 constructing essential transportation-related infrastructure.

13 (a-5) By June 1, 2020, and by June 1 of each year
14 thereafter, the Department of Revenue shall determine an
15 annual rate increase to take effect on July 1 of that calendar
16 year and continue through June 30 of the next calendar year.
17 Not later than June 1 of each year, the Department of Revenue
18 shall publish on its website the rate that will take effect on
19 July 1 of that calendar year. The rate shall be equal to the
20 rate in effect increased by an amount equal to the percentage
21 increase, if any, in the Consumer Price Index for All Urban
22 Consumers for all items, published by the United States
23 Department of Labor for the 12 months ending in March of each
24 year. The rate shall be rounded to the nearest one-tenth of one
25 cent. Each new rate may not exceed the rate in effect on June
26 30 of the previous year plus one cent.

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

14 (b-5) Persons subject to any tax imposed under the
15 authority granted in this Section may reimburse themselves for
16 their seller's tax liability hereunder by separately stating
17 that tax as an additional charge, which charge may be stated in
18 combination, in a single amount, with State tax which sellers
19 are required to collect under the Use Tax Act, pursuant to such
20 bracket schedules as the Department may prescribe.

21 (c) Whenever the Department determines that a refund shall
22 be made under this Section to a claimant instead of issuing a
23 credit memorandum, the Department shall notify the State
24 Comptroller, who shall cause the order to be drawn for the
25 amount specified, and to the person named, in the notification
26 from the Department. The refund shall be paid by the State

1 Treasurer out of the County Option Motor Fuel Tax Fund.

2 (d) The Department shall forthwith pay over to the State
3 Treasurer, ex officio, as trustee, all taxes and penalties
4 collected hereunder, which shall be deposited into the County
5 Option Motor Fuel Tax Fund, a special fund in the State
6 Treasury which is hereby created. On or before the 25th day of
7 each calendar month, the Department shall prepare and certify
8 to the State Comptroller the disbursement of stated sums of
9 money to named counties for which taxpayers have paid taxes or
10 penalties hereunder to the Department during the second
11 preceding calendar month. The amount to be paid to each county
12 shall be the amount (not including credit memoranda) collected
13 hereunder from retailers within the county during the second
14 preceding calendar month by the Department, but not including
15 an amount equal to the amount of refunds made during the second
16 preceding calendar month by the Department on behalf of the
17 county; less 2% of the balance, which sum shall be retained by
18 the State Treasurer to cover the costs incurred by the
19 Department in administering and enforcing the provisions of
20 this Section. The Department, at the time of each monthly
21 disbursement to the counties, shall prepare and certify to the
22 Comptroller the amount so retained by the State Treasurer,
23 which shall be transferred into the Tax Compliance and
24 Administration Fund.

25 (e) Nothing in this Section shall be construed to
26 authorize a county to impose a tax upon the privilege of

1 engaging in any business which under the Constitution of the
2 United States may not be made the subject of taxation by this
3 State.

4 (f) Until January 1, 2020, an ordinance or resolution
5 imposing a tax hereunder or effecting a change in the rate
6 thereof shall be effective on the first day of the second
7 calendar month next following the month in which the ordinance
8 or resolution is adopted and a certified copy thereof is filed
9 with the Department of Revenue, whereupon the Department of
10 Revenue shall proceed to administer and enforce this Section
11 on behalf of the county as of the effective date of the
12 ordinance or resolution.

13 On and after January 1, 2020, an ordinance or resolution
14 imposing or discontinuing the tax hereunder or effecting a
15 change in the rate thereof shall either: (i) be adopted and a
16 certified copy thereof filed with the Department on or before
17 the first day of April, whereupon the Department shall proceed
18 to administer and enforce this Section as of the first day of
19 July next following the adoption and filing; or (ii) be
20 adopted and a certified copy thereof filed with the Department
21 on or before the first day of October, whereupon the
22 Department shall proceed to administer and enforce this
23 Section as of the first day of January next following the
24 adoption and filing.

25 (g) This Section shall be known and may be cited as the
26 County Motor Fuel Tax Law.

1 (Source: P.A. 101-10, eff. 6-5-19; 101-32, eff. 6-28-19;
2 101-275, eff. 8-9-19; 101-604, eff. 12-13-19; 102-452, eff.
3 8-20-21.)