



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB1136

Introduced 2/11/2009, by Rep. Jim Watson

#### 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 River. Effective immediately.

LRB096 08769 RCE 18901 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.

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 (other than  
14 the Mississippi, Wabash, or Ohio River). Beginning on August 1,  
15 1989 and until January 1, 1990, the rate of the tax imposed in  
16 this paragraph shall be 16 cents per gallon. Beginning January  
17 1, 1990, the rate of tax imposed in this paragraph shall be 19  
18 cents per gallon.

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

1 combustion chamber and ignited by pressure without electric  
2 spark.

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

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

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

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

23 (e) The collection of a tax, based on gallonage of all  
24 products commonly or commercially known or sold as 1-K  
25 kerosene, regardless of its classification or uses, is  
26 prohibited (i) on and after July 1, 1992 until December 31,

1 1999, except when the 1-K kerosene is either: (1) delivered  
2 into bulk storage facilities of a bulk user, or (2) delivered  
3 directly into the fuel supply tanks of motor vehicles and (ii)  
4 on and after January 1, 2000. Beginning on January 1, 2000, the  
5 collection of a tax, based on gallonage of all products  
6 commonly or commercially known or sold as 1-K kerosene,  
7 regardless of its classification or uses, is prohibited except  
8 when the 1-K kerosene is delivered directly into a storage tank  
9 that is located at a facility that has withdrawal facilities  
10 that are readily accessible to and are capable of dispensing  
11 1-K kerosene into the fuel supply tanks of motor vehicles.

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. 93-17, eff. 6-11-03.)

17 (35 ILCS 505/15) (from Ch. 120, par. 431)

18 Sec. 15. 1. Any person who knowingly acts as a distributor  
19 of motor fuel or supplier of special fuel, or receiver of fuel  
20 without having a license so to do, or who knowingly fails or  
21 refuses to file a return with the Department as provided in  
22 Section 2b, Section 5, or Section 5a of this Act, or who  
23 knowingly fails or refuses to make payment to the Department as  
24 provided either in Section 2b, Section 6, Section 6a, or  
25 Section 7 of this Act, shall be guilty of a Class 3 felony.

1 Each day any person knowingly acts as a distributor of motor  
2 fuel, supplier of special fuel, or receiver of fuel without  
3 having a license so to do or after such a license has been  
4 revoked, constitutes a separate offense.

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

18 3. In case such person acting as a distributor, receiver,  
19 supplier, or motor carrier is a corporation, then the officer  
20 or officers, agent or agents, employee or employees, of such  
21 corporation responsible for any act of such corporation, or  
22 failure of such corporation to act, which acts or failure to  
23 act constitutes a violation of any of the provisions of this  
24 Act as enumerated in paragraphs 1 and 2 of this Section, shall  
25 be punished by such fine or imprisonment, or by both such fine  
26 and imprisonment as provided in those paragraphs.

1           3.5. Any person who knowingly enters false information on  
2 any supporting documentation required to be kept by Section 6  
3 or 6a of this Act is guilty of a Class 3 felony.

4           3.7. Any person who knowingly attempts in any manner to  
5 evade or defeat any tax imposed by this Act or the payment of  
6 any tax imposed by this Act is guilty of a Class 2 felony.

7           4. Any person who refuses, upon demand, to submit for  
8 inspection, books and records, or who fails or refuses to keep  
9 books and records in violation of Section 12 of this Act, or  
10 any distributor, receiver, or supplier who violates any  
11 reasonable rule or regulation adopted by the Department for the  
12 enforcement of this Act is guilty of a Class A misdemeanor. Any  
13 person who acts as a blender in violation of Section 3 of this  
14 Act or who having transported reportable motor fuel within  
15 Section 7b of this Act fails to make the return required by  
16 that Section, is guilty of a Class 4 felony.

17           5. Any person licensed under Section 13a.4, 13a.5, or the  
18 International Fuel Tax Agreement who: (a) fails or refuses to  
19 keep records and books, as provided in Section 13a.2 or as  
20 required by the terms of the International Fuel Tax Agreement,  
21 (b) refuses upon demand by the Department to submit for  
22 inspection and examination the records required by Section  
23 13a.2 of this Act or by the terms of the International Fuel Tax  
24 Agreement, or (c) violates any reasonable rule or regulation  
25 adopted by the Department for the enforcement of this Act, is  
26 guilty of a Class A misdemeanor.

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

5           7. A prosecution for any violation of this Section may be  
6 commenced anytime within 5 years of the commission of that  
7 violation. A prosecution for tax evasion as set forth in  
8 paragraph 3.7 of this Section may be prosecuted any time within  
9 5 years of the commission of the last act in furtherance of  
10 evasion. The running of the period of limitations under this  
11 Section shall be suspended while any proceeding or appeal from  
12 any proceeding relating to the quashing or enforcement of any  
13 grand jury or administrative subpoena issued in connection with  
14 an investigation of the violation of any provision of this Act  
15 is pending.

16           8. Any person who provides false documentation required by  
17 any Section of this Act is guilty of a Class 4 felony.

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

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

26           11. Any person who knowingly sells or attempts to sell dyed

1 diesel fuel for highway use or for use by recreational-type  
 2 watercraft on the waters of this State (other than the  
 3 Mississippi, Wabash, or Ohio River) is guilty of a Class 4  
 4 felony. For each subsequent offense, the person is guilty of a  
 5 Class 2 felony.

6 12. Any person who knowingly possesses dyed diesel fuel for  
 7 highway use or for use by recreational-type watercraft on the  
 8 waters of this State (other than the Mississippi, Wabash, or  
 9 Ohio River) is guilty of a Class A misdemeanor. For each  
 10 subsequent offense, the person is guilty of a Class 4 felony.

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

- 14 First occurrence ..... \$ 500
- 15 Second and each occurrence thereafter ..... \$1,000

16 14. Any person who owns, operates, or controls any  
 17 container, storage tank, or facility used to store or  
 18 distribute dyed diesel fuel without the notice required by  
 19 Section 4f shall pay the following penalty:

- 20 First occurrence ..... \$ 500
- 21 Second and each occurrence thereafter ..... \$1,000

22 15. If a motor vehicle required to be registered for  
 23 highway purposes is found to have dyed diesel fuel within the  
 24 ordinary fuel tanks attached to the motor vehicle or if a  
 25 recreational-type watercraft on the waters of this State (other  
 26 than the Mississippi, Wabash, or Ohio River) is found to have



1 dyed diesel fuel within the ordinary fuel tanks attached to the  
2 watercraft, the operator shall pay the following penalty:

3 First occurrence ..... \$2,500

4 Second and each occurrence thereafter ..... \$5,000

5 16. Any licensed motor fuel distributor or licensed  
6 supplier who sells or attempts to sell dyed diesel fuel for  
7 highway use or for use by recreational-type watercraft on the  
8 waters of this State (other than the Mississippi, Wabash, or  
9 Ohio River) shall pay the following penalty:

10 First occurrence ..... \$ 5,000

11 Second and each occurrence thereafter ..... \$10,000

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

16 18. Any person who knowingly owns, operates, or controls  
17 any container, storage tank, or facility used to store or  
18 distribute dyed diesel fuel without the notice required by  
19 Section 4f is guilty of a petty offense. For each subsequent  
20 offense the person is guilty of a Class A misdemeanor.

21 For purposes of this Section, dyed diesel fuel means any  
22 dyed diesel fuel whether or not dyed pursuant to Section 4d of  
23 this Law.

24 Any person aggrieved by any action of the Department under  
25 item 13, 14, 15, or 16 of this Section may protest the action  
26 by making a written request for a hearing within 60 days of the

1 original action. If the hearing is not requested in writing  
2 within 60 days, the original action is final.

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

6 (Source: P.A. 94-1074, eff. 12-26-06.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.