92\_SB0855 LRB9204998SMdv

- 1 AN ACT concerning taxation.
- 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 2a and 15 as follows:
- 6 (35 ILCS 505/2a) (from Ch. 120, par. 418a)
- 7 Sec. 2a. Except as hereinafter provided, on and after
- 8 January 1, 1990 and before January 1, 2013, a tax of
- 9 three-tenths of a cent per gallon is imposed upon the
- 10 privilege of being a receiver in this State of fuel for sale
- or use.
- 12 The tax shall be paid by the receiver in this State who
- 13 first sells or uses fuel. In the case of a sale, the tax
- shall be stated as a separate item on the invoice.
- 15 For the purpose of the tax imposed by this Section, being
- 16 a receiver of "motor fuel" as defined by Section 1.1 of this
- 17 Act, and aviation fuels, home heating oil and kerosene, but
- 18 excluding liquified petroleum gases, is subject to tax
- 19 without regard to whether the fuel is intended to be used for
- 20 operation of motor vehicles on the public highways and
- 21 waters. However, no such tax shall be imposed upon the
- 22 importation or receipt of aviation fuels and kerosene at
- 23 airports with over 300,000 operations per year, for years
- prior to 1991, and over 170,000 operations per year beginning
- in 1991, located in a city of more than 1,000,000 inhabitants
- 26 for sale to or use by holders of certificates of public
- 27 convenience and necessity or foreign air carrier permits,
- 28 issued by the United States Department of Transportation, and
- 29 their air carrier affiliates, or upon the importation or
- 30 receipt of aviation fuels and kerosene at facilities owned or
- 31 leased by those certificate or permit holders and used in

- 1 their activities at an airport described above. In addition,
- 2 no such tax shall be imposed upon the importation or receipt
- 3 of diesel fuel sold to or used by a rail carrier, registered
- 4 pursuant to Section 18c-7201 of the Illinois Vehicle Code or
- 5 <u>otherwise recognized by the Illinois Commerce Commission as a</u>
- 6 <u>rail carrier</u>, to the extent and used directly in railroad
- 7 operations. In addition, no such tax shall be imposed when
- 8 the sale is made with delivery to a purchaser outside this
- 9 State or when the sale is made to a person holding a valid
- 10 license as a receiver. In addition, no tax shall be imposed
- 11 upon diesel fuel consumed or used in the operation of ships,
- 12 barges, or vessels, that are used primarily in or for the
- 13 transportation of property in interstate commerce for hire on
- 14 rivers bordering on this State, if the diesel fuel is
- 15 delivered by a licensed receiver to the purchaser's barge,
- ship, or vessel while it is afloat upon that bordering river.
- 17 A specific notation thereof shall be made on the invoices or
- 18 sales slips covering each sale.
- 19 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
- 20 5-22-96; 89-468, eff. 1-1-97.)
- 21 (35 ILCS 505/15) (from Ch. 120, par. 431)
- Sec. 15. 1. Any person who knowingly acts as a
- 23 distributor of motor fuel or supplier of special fuel, or
- 24 receiver of fuel without having a license so to do, or who
- 25 knowingly fails or refuses to file a return with the
- 26 Department as provided in Section 2b, Section 5, or Section
- 27 5a of this Act, or who knowingly fails or refuses to make
- 28 payment to the Department as provided either in Section 2b,
- 29 Section 6, Section 6a, or Section 7 of this Act, shall be
- 30 guilty of a Class 3 felony. Each day any person knowingly
- 31 acts as a distributor of motor fuel, supplier of special
- 32 fuel, or receiver of fuel without having a license so to do
- 33 or after such a license has been revoked, constitutes a

- 1 separate offense.
- 2. Any person who acts as a motor carrier without having
- 3 a valid motor fuel use tax license, issued by the Department
- 4 or by a member jurisdiction under the provisions of the
- 5 International Fuel Tax Agreement, or a valid single trip
- 6 permit is guilty of a Class A misdemeanor for a first offense
- 7 and is guilty of a Class 4 felony for each subsequent
- 8 offense. Any person (i) who fails or refuses to make payment
- 9 to the Department as provided in Section 13a.1 of this Act or
- in the International Fuel Tax Agreement referenced in Section
- 11 14a, or (ii) who fails or refuses to make the quarterly
- 12 return as provided in Section 13a.3 is guilty of a Class 4
- 13 felony; and for each subsequent offense, such person is
- 14 guilty of a Class 3 felony.
- 3. In case such person acting as a distributor,
- 16 receiver, supplier, or motor carrier is a corporation, then
- 17 the officer or officers, agent or agents, employee or
- 18 employees, of such corporation responsible for any act of
- 19 such corporation, or failure of such corporation to act,
- 20 which acts or failure to act constitutes a violation of any
- of the provisions of this Act as enumerated in paragraphs 1
- 22 and 2 of this Section, shall be punished by such fine or
- 23 imprisonment, or by both such fine and imprisonment as
- 24 provided in those paragraphs.
- 3.5. Any person who knowingly enters false information
- 26 on any supporting documentation required to be kept by
- 27 Section 6 or 6a of this Act is guilty of a Class 3 felony.
- 3.7. Any person who knowingly attempts in any manner to
- 29 evade or defeat any tax imposed by this Act or the payment of
- 30 any tax imposed by this Act is guilty of a Class 2 felony.
- 4. Any person who refuses, upon demand, to submit for
- inspection, books and records, or who fails or refuses to
- 33 keep books and records in violation of Section 12 of this
- 34 Act, or any distributor, receiver, or supplier who violates

- 1 any reasonable rule or regulation adopted by the Department
- 2 for the enforcement of this Act is guilty of a Class A
- 3 misdemeanor. Any person who acts as a blender in violation
- 4 of Section 3 of this Act or who having transported reportable
- 5 motor fuel within Section 7b of this Act fails to make the
- 6 return required by that Section, is guilty of a Class 4
- 7 felony.
- 8 5. Any person licensed under Section 13a.4, 13a.5, or
- 9 the International Fuel Tax Agreement who: (a) fails or
- 10 refuses to keep records and books, as provided in Section
- 11 13a.2 or as required by the terms of the International Fuel
- 12 Tax Agreement, (b) refuses upon demand by the Department to
- 13 submit for inspection and examination the records required by
- 14 Section 13a.2 of this Act or by the terms of the
- 15 International Motor Fuel Tax Agreement, or (c) violates any
- 16 reasonable rule or regulation adopted by the Department for
- 17 the enforcement of this Act, is guilty of a Class A
- 18 misdemeanor.
- 19 6. Any person who makes any false return or report to
- 20 the Department as to any material fact required by Sections
- 21 2b, 5, 5a, 7, 13, or 13a.3 of this Act or by the
- 22 International Fuel Tax Agreement is guilty of a Class 2
- 23 felony.
- 7. A prosecution for any violation of this Section may
- 25 be commenced anytime within 5 years of the commission of that
- 26 violation. A prosecution for tax evasion as set forth in
- 27 paragraph 3.7 of this Section may be prosecuted any time
- 28 within 5 years of the commission of the last act in
- 29 furtherance of evasion. The running of the period of
- 30 limitations under this Section shall be suspended while any
- 31 proceeding or appeal from any proceeding relating to the
- 32 quashing or enforcement of any grand jury or administrative
- 33 subpoena issued in connection with an investigation of the
- violation of any provision of this Act is pending.

- 1 8. Any person who provides false documentation required
- by any Section of this Act is guilty of a Class 4 felony. 9. Any person filing a fraudulent application or order 3
- 4 form under any provision of this Act is guilty of a Class A
- 5 misdemeanor. For each subsequent offense, the person is
- б guilty of a Class 4 felony.
- 7 10. Any person who acts as a motor carrier and who fails
- 8 to carry a manifest as provided in Section 5.5 is guilty of a
- 9 Class A misdemeanor. For each subsequent offense, the person
- is guilty of a Class 4 felony. 10
- 11 11. Any person who knowingly sells or attempts to sell
- 12 dyed diesel fuel for highway use or for use by
- recreational-type watercraft on the waters of this State is 13
- guilty of a Class 4 felony. For each subsequent offense, the 14
- 15 person is guilty of a Class 2 felony.
- 16 12. Any person who knowingly possesses dyed diesel fuel
- for highway use or for use by recreational-type watercraft on 17
- the waters of this State is guilty of a Class A misdemeanor. 18
- 19 For each subsequent offense, the person is guilty of a Class
- 4 felony. 20

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- 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:
- First occurrence.....\$ 500 24
- 25 Second and each occurrence thereafter.....\$1,000
- 26 14. Any person who owns, operates, or controls any
- container, storage tank, or facility used to store or 27
- distribute dyed diesel fuel without the notice required by 28
- 29 Section 4f shall pay the following penalty:
- 30 First occurrence.....\$ 500
- Second and each occurrence thereafter.....\$1,000 31
- 32 15. If a licensed motor vehicle is found to have dyed
- diesel fuel within the ordinary fuel tanks attached to the 33
- motor vehicle or if a recreational-type watercraft on the 34

- 1 waters of this State is found to have dyed diesel fuel within
- 2 the ordinary fuel tanks attached to the watercraft, the
- 3 operator shall pay the following penalty:
- 4 First occurrence.....\$2,500
- 5 Second and each occurrence thereafter.....\$5,000
- 6 16. Any licensed motor fuel distributor or licensed
- 7 supplier who sells or attempts to sell dyed diesel fuel for
- 8 highway use or for use by recreational-type watercraft on the
- 9 <u>waters of this State</u> shall pay the following penalty:
- 10 First occurrence.....\$ 5,000
- Second and each occurrence thereafter.....\$10,000
- 12 17. Any person who knowingly sells or transports dyed
- 13 diesel fuel without the notice required by Section 4e is
- 14 guilty of a petty offense. For each subsequent offense, the
- person is 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
- 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
- 23 of this Law.
- 24 All penalties received under items 13, 14, 15, and 16 of
- 25 this Section shall be deposited into the Tax Compliance and
- 26 Administration Fund.
- 27 (Source: P.A. 91-173, eff. 1-1-00.)
- 28 Section 10. The Environmental Impact Fee Law is amended
- 29 by changing Section 310 as follows:
- 30 (415 ILCS 125/310)
- 31 (Section scheduled to be repealed on January 1, 2003)
- 32 Sec. 310. Environmental impact fee; imposition.

liability under this Law.

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Beginning January 1, 1996, all receivers of fuel are subject 1 2 to an environmental impact fee of \$60 per 7,500 gallons of fuel, or an equivalent amount per fraction thereof, that is 3 4 or used in Illinois. The fee shall be paid by the 5 receiver in this State who first sells or uses the fuel. 6 environmental impact fee imposed by this Law replaces the fee 7 imposed under the corresponding provisions of Article Public Act 89-428. 8 Environmental impact fees paid under that 9 Article 3 shall satisfy the receiver's corresponding

11 A receiver of fuels is subject to the fee without regard to whether the fuel is intended to be used for operation of 12 motor vehicles on the public highways and waters. 13 However, no fee shall be imposed upon the importation or receipt of 14 aviation fuels and kerosene at airports with over 15 16 operations per year, located in a city of more than 1,000,000 inhabitants, for sale to or use by holders of certificates of 17 18 public convenience and necessity or foreign air carrier 19 permits, issued by the United States Department of Transportation, and their air carrier affiliates, or upon the 20 21 importation or receipt of aviation fuels and kerosene at facilities owned or leased by those certificate or 22 23 holders and used in their activities at an airport described In addition, no fee may be imposed upon 24 25 importation or receipt of diesel fuel sold to or used by a rail carrier registered under Section 18c-7201 of 26 Illinois Vehicle Code or otherwise recognized by the Illinois 2.7 Commerce Commission as a rail carrier, to the extent and used 28 29 directly in railroad operations. In addition, no fee may be 30 imposed when the sale is made with delivery to a purchaser outside this State or when the sale is made to a person 31 32 holding a valid license as a receiver. In addition, imposed upon diesel fuel consumed or used in the 33 shall be 34 operation of ships, barges, or vessels, that are used

- 1 primarily in or for the transportation of property in
- 2 interstate commerce for hire on rivers bordering on this
- 3 State, if the diesel fuel is delivered by a licensed receiver
- 4 to the purchaser's barge, ship, or vessel while it is afloat
- 5 upon that bordering river. A specific notation thereof shall
- 6 be made on the invoices or sales slips covering each sale.
- 7 (Source: P.A. 89-428, eff. 1-1-96; 89-457, eff. 5-22-96;
- 8 89-468, eff. 1-1-97; 90-14, eff. 7-1-97.)
- 9 Section 99. Effective date. This Act takes effect upon
- 10 becoming law.