

SB3090



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3090

Introduced 1/11/2022, by Sen. Ram Villivalam

SYNOPSIS AS INTRODUCED:

35 ILCS 505/6
35 ILCS 505/6a

from Ch. 120, par. 422
from Ch. 120, par. 422a

Amends the Motor Fuel Tax Law. In provisions allowing tax-free sales of dyed diesel fuel for non-highway purposes, provides that the sale must be made by the licensed distributor to the end user of the fuel who is not a licensed distributor (currently, someone who is not a licensed distributor). Effective immediately.

LRB102 21416 HLH 30532 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 6 and 6a as follows:

6 (35 ILCS 505/6) (from Ch. 120, par. 422)

7 Sec. 6. Collection of tax; distributors. A distributor who
8 sells or distributes any motor fuel, which he is required by
9 Section 5 to report to the Department when filing a return,
10 shall (except as hereinafter provided) collect at the time of
11 such sale and distribution, the amount of tax imposed under
12 this Act on all such motor fuel sold and distributed, and at
13 the time of making a return, the distributor shall pay to the
14 Department the amount so collected less a discount of 2%
15 through June 30, 2003 and 1.75% thereafter which is allowed to
16 reimburse the distributor for the expenses incurred in keeping
17 records, preparing and filing returns, collecting and
18 remitting the tax and supplying data to the Department on
19 request, and shall also pay to the Department an amount equal
20 to the amount that would be collectible as a tax in the event
21 of a sale thereof on all such motor fuel used by said
22 distributor during the period covered by the return. However,
23 no payment shall be made based upon dyed diesel fuel used by

1 the distributor for non-highway purposes. The discount shall
2 only be applicable to the amount of tax payment which
3 accompanies a return which is filed timely in accordance with
4 Section 5 of this Act. In each subsequent sale of motor fuel on
5 which the amount of tax imposed under this Act has been
6 collected as provided in this Section, the amount so collected
7 shall be added to the selling price, so that the amount of tax
8 is paid ultimately by the user of the motor fuel. However, no
9 collection or payment shall be made in the case of the sale or
10 use of any motor fuel to the extent to which such sale or use
11 of motor fuel may not, under the constitution and statutes of
12 the United States, be made the subject of taxation by this
13 State. A person whose license to act as a distributor of fuel
14 has been revoked shall, at the time of making a return, also
15 pay to the Department an amount equal to the amount that would
16 be collectible as a tax in the event of a sale thereof on all
17 motor fuel, which he is required by the second paragraph of
18 Section 5 to report to the Department in making a return, and
19 which he had on hand on the date on which the license was
20 revoked, and with respect to which no tax had been previously
21 paid under this Act.

22 A distributor may make tax free sales of motor fuel, with
23 respect to which he is otherwise required to collect the tax,
24 only as specified in the following items 1 through 7.

- 25 1. When the sale is made to a person holding a valid
26 unrevoked license as a distributor, by making a specific

1 notation thereof on invoices or sales slip covering each
2 sale.

3 2. When the sale is made with delivery to a purchaser
4 outside of this State.

5 3. When the sale is made to the Federal Government or
6 its instrumentalities.

7 4. When the sale is made to a municipal corporation
8 owning and operating a local transportation system for
9 public service in this State when an official certificate
10 of exemption is obtained in lieu of the tax.

11 5. When the sale is made to a privately owned public
12 utility owning and operating 2 axle vehicles designed and
13 used for transporting more than 7 passengers, which
14 vehicles are used as common carriers in general
15 transportation of passengers, are not devoted to any
16 specialized purpose and are operated entirely within the
17 territorial limits of a single municipality or of any
18 group of contiguous municipalities, or in a close radius
19 thereof, and the operations of which are subject to the
20 regulations of the Illinois Commerce Commission, when an
21 official certificate of exemption is obtained in lieu of
22 the tax.

23 6. When a sale of special fuel is made to a person
24 holding a valid, unrevoked license as a supplier, by
25 making a specific notation thereof on the invoice or sales
26 slip covering each such sale.

1 7. When a sale of dyed diesel fuel is made by the
2 licensed distributor to the end user of the fuel who is not
3 ~~someone other than~~ a licensed distributor or a licensed
4 supplier for non-highway purposes and the fuel is (i)
5 delivered from a vehicle designed for the specific purpose
6 of such sales and delivered directly into a stationary
7 bulk storage tank that displays the notice required by
8 Section 4f of this Act, (ii) delivered from a vehicle
9 designed for the specific purpose of such sales and
10 delivered directly into the fuel supply tanks of
11 non-highway vehicles that are not required to be
12 registered for highway use, or (iii) dispensed from a dyed
13 diesel fuel dispensing facility that has withdrawal
14 facilities that are not readily accessible to and are not
15 capable of dispensing dyed diesel fuel into the fuel
16 supply tank of a motor vehicle.

17 A specific notation is required on the invoice or
18 sales slip covering such sales, and any supporting
19 documentation that may be required by the Department must
20 be obtained by the distributor. The distributor shall
21 obtain and keep the supporting documentation in such form
22 as the Department may require by rule.

23 For purposes of this item 7, a dyed diesel fuel
24 dispensing facility is considered to have withdrawal
25 facilities that are "not readily accessible to and not
26 capable of dispensing dyed diesel fuel into the fuel

1 supply tank of a motor vehicle" only if the dyed diesel
2 fuel is delivered from: (i) a dispenser hose that is short
3 enough so that it will not reach the fuel supply tank of a
4 motor vehicle or (ii) a dispenser that is enclosed by a
5 fence or other physical barrier so that a vehicle cannot
6 pull alongside the dispenser to permit fueling.

7 8. (Blank).

8 All special fuel sold or used for non-highway purposes
9 must have a dye added in accordance with Section 4d of this
10 Law.

11 All suits or other proceedings brought for the purpose of
12 recovering any taxes, interest or penalties due the State of
13 Illinois under this Act may be maintained in the name of the
14 Department.

15 (Source: P.A. 96-1384, eff. 7-29-10.)

16 (35 ILCS 505/6a) (from Ch. 120, par. 422a)

17 Sec. 6a. Collection of tax; suppliers. A supplier, other
18 than a licensed distributor, who sells or distributes any
19 special fuel, which he is required by Section 5a to report to
20 the Department when filing a return, shall (except as
21 hereinafter provided) collect at the time of such sale and
22 distribution, the amount of tax imposed under this Act on all
23 such special fuel sold and distributed, and at the time of
24 making a return, the supplier shall pay to the Department the
25 amount so collected less a discount of 2% through June 30, 2003

1 and 1.75% thereafter which is allowed to reimburse the
2 supplier for the expenses incurred in keeping records,
3 preparing and filing returns, collecting and remitting the tax
4 and supplying data to the Department on request, and shall
5 also pay to the Department an amount equal to the amount that
6 would be collectible as a tax in the event of a sale thereof on
7 all such special fuel used by said supplier during the period
8 covered by the return. However, no payment shall be made based
9 upon dyed diesel fuel used by said supplier for non-highway
10 purposes. The discount shall only be applicable to the amount
11 of tax payment which accompanies a return which is filed
12 timely in accordance with Section 5(a) of this Act. In each
13 subsequent sale of special fuel on which the amount of tax
14 imposed under this Act has been collected as provided in this
15 Section, the amount so collected shall be added to the selling
16 price, so that the amount of tax is paid ultimately by the user
17 of the special fuel. However, no collection or payment shall
18 be made in the case of the sale or use of any special fuel to
19 the extent to which such sale or use of motor fuel may not,
20 under the Constitution and statutes of the United States, be
21 made the subject of taxation by this State.

22 A person whose license to act as supplier of special fuel
23 has been revoked shall, at the time of making a return, also
24 pay to the Department an amount equal to the amount that would
25 be collectible as a tax in the event of a sale thereof on all
26 special fuel, which he is required by the 1st paragraph of

1 Section 5a to report to the Department in making a return.

2 A supplier may make tax-free sales of special fuel, with
3 respect to which he is otherwise required to collect the tax,
4 only as specified in the following items 1 through 7.

5 1. When the sale is made to the federal government or
6 its instrumentalities.

7 2. When the sale is made to a municipal corporation
8 owning and operating a local transportation system for
9 public service in this State when an official certificate
10 of exemption is obtained in lieu of the tax.

11 3. When the sale is made to a privately owned public
12 utility owning and operating 2 axle vehicles designed and
13 used for transporting more than 7 passengers, which
14 vehicles are used as common carriers in general
15 transportation of passengers, are not devoted to any
16 specialized purpose and are operated entirely within the
17 territorial limits of a single municipality or of any
18 group of contiguous municipalities, or in a close radius
19 thereof, and the operations of which are subject to the
20 regulations of the Illinois Commerce Commission, when an
21 official certificate of exemption is obtained in lieu of
22 the tax.

23 4. When a sale is made to a person holding a valid
24 unrevoked license as a supplier or a distributor by making
25 a specific notation thereof on invoice or sales slip
26 covering each such sale.

1 5. When a sale of dyed diesel fuel is made by the
2 licensed supplier to the end user of the fuel who is not
3 ~~someone other than~~ a licensed distributor or licensed
4 supplier for non-highway purposes and the fuel is (i)
5 delivered from a vehicle designed for the specific purpose
6 of such sales and delivered directly into a stationary
7 bulk storage tank that displays the notice required by
8 Section 4f of this Act, (ii) delivered from a vehicle
9 designed for the specific purpose of such sales and
10 delivered directly into the fuel supply tanks of
11 non-highway vehicles that are not required to be
12 registered for highway use, or (iii) dispensed from a dyed
13 diesel fuel dispensing facility that has withdrawal
14 facilities that are not readily accessible to and are not
15 capable of dispensing dyed diesel fuel into the fuel
16 supply tank of a motor vehicle.

17 A specific notation is required on the invoice or
18 sales slip covering such sales, and any supporting
19 documentation that may be required by the Department must
20 be obtained by the supplier. The supplier shall obtain and
21 keep the supporting documentation in such form as the
22 Department may require by rule.

23 For purposes of this item 5, a dyed diesel fuel
24 dispensing facility is considered to have withdrawal
25 facilities that are "not readily accessible to and not
26 capable of dispensing dyed diesel fuel into the fuel

1 supply tank of a motor vehicle" only if the dyed diesel
2 fuel is delivered from: (i) a dispenser hose that is short
3 enough so that it will not reach the fuel supply tank of a
4 motor vehicle or (ii) a dispenser that is enclosed by a
5 fence or other physical barrier so that a vehicle cannot
6 pull alongside the dispenser to permit fueling.

7 6. (Blank).

8 7. When a sale of special fuel is made to a person
9 where delivery is made outside of this State.

10 All special fuel sold or used for non-highway purposes
11 must have a dye added in accordance with Section 4d of this
12 Law.

13 All suits or other proceedings brought for the purpose of
14 recovering any taxes, interest or penalties due the State of
15 Illinois under this Act may be maintained in the name of the
16 Department.

17 (Source: P.A. 96-1384, eff. 7-29-10.)

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