



Sen. Donne E. Trotter

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LRB093 05724 MKM 51181 a

1 AMENDMENT TO HOUSE BILL 853

2 AMENDMENT NO. _____. Amend House Bill 853 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Motor Fuel Tax Law is amended by changing
5 the title and Sections 2, 4e, 4f, 5, 5a, 6, 6a, 7, 8, 12, 12a,
6 13, 13a, 13a.1, 13a.2, 13a.3, 15, and 17 and by adding Sections
7 1.30 and 13.1 as follows:

8
9 (35 ILCS 505/Act title)

10 An Act in relation to a tax upon the use of motor fuel in
11 Illinois ~~the privilege of operating motor vehicles upon the~~
12 ~~public highways and waters, based upon the consumption of motor~~
13 ~~fuel therein,~~ and a tax upon the privilege of being a receiver
14 of fuel for sale or use.

15 (Source: L. 1929, p. 625. Title amended by L. 1963, p. 2599;
16 L.1963, p. 2599.)

17 (35 ILCS 505/1.30 new)

18 Sec. 1.30. Production agriculture. "Production
19 agriculture" means the raising or propagation of livestock,
20 crops for sale for human consumption, crops for livestock
21 consumption, and production seed stock grown for the
22 propagation of feed grains and the husbandry of animals, or for
23 the purposes of providing a food product, including husbandry

1 of blood stock as a main source of providing a food product.
2 "Production agriculture" also includes animal husbandry,
3 floriculture, aquaculture, horticulture, and viticulture.

4 (35 ILCS 505/2) (from Ch. 120, par. 418)

5 Sec. 2. Until July 1, 2004, a ~~A~~ tax is imposed on the
6 privilege of operating motor vehicles upon the public highways
7 and recreational-type watercraft upon the waters of this State.
8 Beginning on July 1, 2004, a tax is imposed on the privilege of
9 using motor fuel in 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 through June 30, 2004, the rate
17 of tax imposed in this paragraph shall be 19 cents per gallon.
18 Beginning on July 1, 2004, the tax is imposed at the rate of 19
19 cents per gallon on all motor fuel used in this State.

20 (b) Until July 1, 2004, the ~~The~~ tax on the privilege of
21 operating motor vehicles which use diesel fuel shall be the
22 rate according to paragraph (a) plus an additional 2 1/2 cents
23 per gallon. "Diesel fuel" is defined as any product intended
24 for use or offered for sale as a fuel for engines in which the
25 fuel is injected into the combustion chamber and ignited by
26 pressure without electric spark. Beginning on July 1, 2004, the
27 tax on the use of diesel fuel in this State shall be at the rate
28 according to subsection (a) plus an additional 2.5 cents per
29 gallon.

30 (c) A tax is imposed upon the privilege of engaging in the
31 business of selling motor fuel as a retailer or reseller on all
32 motor fuel used in motor vehicles operating on the public
33 highways and recreational type watercraft operating upon the

1 waters of this State: (1) at the rate of 3 cents per gallon on
2 motor fuel owned or possessed by such retailer or reseller at
3 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per
4 gallon on motor fuel owned or possessed by such retailer or
5 reseller at 12:01 A.M. on January 1, 1990.

6 Retailers and resellers who are subject to this additional
7 tax shall be required to inventory such motor fuel and pay this
8 additional tax in a manner prescribed by the Department of
9 Revenue.

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

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

16 (e) The collection of a tax, based on gallonage of all
17 products commonly or commercially known or sold as 1-K
18 kerosene, regardless of its classification or uses, is
19 prohibited (i) on and after July 1, 1992 until December 31,
20 1999, except when the 1-K kerosene is either: (1) delivered
21 into bulk storage facilities of a bulk user, or (2) delivered
22 directly into the fuel supply tanks of motor vehicles and (ii)
23 on and after January 1, 2000. Beginning on January 1, 2000, the
24 collection of a tax, based on gallonage of all products
25 commonly or commercially known or sold as 1-K kerosene,
26 regardless of its classification or uses, is prohibited except
27 when the 1-K kerosene is delivered directly into a storage tank
28 that is located at a facility that has withdrawal facilities
29 that are readily accessible to and are capable of dispensing
30 1-K kerosene into the fuel supply tanks of motor vehicles.

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

1 (Source: P.A. 93-17, eff. 6-11-03.)

2 (35 ILCS 505/4e)

3 Sec. 4e. A legible and conspicuous notice stating "Dyed
4 Diesel Fuel, Non-highway ~~Non-taxable~~ Use Only, Penalty For
5 Unauthorized Taxable Use" must appear on all bills of lading
6 and invoices accompanying any sale of dyed diesel fuel.

7 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

8 (35 ILCS 505/4f)

9 Sec. 4f. A legible and conspicuous notice stating "Dyed
10 Diesel Fuel, Non-highway ~~Non-taxable~~ Use Only" must appear on
11 all containers, storage tanks, or facilities used to store or
12 distribute dyed diesel fuel.

13 (Source: P.A. 91-173, eff. 1-1-00.)

14 (35 ILCS 505/5) (from Ch. 120, par. 421)

15 Sec. 5. Except as hereinafter provided, a person holding a
16 valid unrevoked license to act as a distributor of motor fuel
17 shall, between the 1st and 20th days of each calendar month,
18 make return to the Department, showing an itemized statement of
19 the number of invoiced gallons of motor fuel of the types
20 specified in this Section which were purchased, acquired or
21 received during the preceding calendar month; the amount of
22 such motor fuel produced, refined, compounded, manufactured,
23 blended, sold, distributed, and used by the licensed
24 distributor during the preceding calendar month; the amount of
25 such motor fuel lost or destroyed during the preceding calendar
26 month; the amount of such motor fuel on hand at the close of
27 business for such month; and such other reasonable information
28 as the Department may require. If a distributor's only
29 activities with respect to motor fuel are either: (1)
30 production of alcohol in quantities of less than 10,000 proof
31 gallons per year or (2) blending alcohol in quantities of less

1 than 10,000 proof gallons per year which such distributor has
2 produced, he shall file returns on an annual basis with the
3 return for a given year being due by January 20 of the
4 following year. Distributors whose total production of alcohol
5 (whether blended or not) exceeds 10,000 proof gallons per year,
6 based on production during the preceding (calendar) year or as
7 reasonably projected by the Department if one calendar year's
8 record of production cannot be established, shall file returns
9 between the 1st and 20th days of each calendar month as
10 hereinabove provided.

11 The types of motor fuel referred to in the preceding
12 paragraph are: (A) All products commonly or commercially known
13 or sold as gasoline (including casing-head and absorption or
14 natural gasoline), gasohol, motor benzol or motor benzene
15 regardless of their classification or uses; and (B) all
16 combustible gases which exist in a gaseous state at 60 degrees
17 Fahrenheit and at 14.7 pounds per square inch absolute
18 including, but not limited to, liquefied petroleum gases ~~used~~
19 ~~for highway purposes~~; and (C) special fuel. Until July 1, 2004
20 only ~~Only~~ those quantities of combustible gases (example (B)
21 above) which are used or sold by the distributor to be used to
22 propel motor vehicles on the public highways, or which are
23 delivered into a storage tank that is located at a facility
24 that has withdrawal facilities which are readily accessible to
25 and are capable of dispensing combustible gases into the fuel
26 supply tanks of motor vehicles, shall be subject to return. For
27 the purposes of this Act, liquefied petroleum gases shall mean
28 and include any material having a vapor pressure not exceeding
29 that allowed for commercial propane composed predominantly of
30 the following hydrocarbons, either by themselves or as
31 mixtures: Propane, Propylene, Butane (normal butane or
32 iso-butane) and Butylene (including isomers).

33 Beginning on July 1, 2004, in case of a sale of dyed diesel
34 fuel made to a person engaged in production agriculture for use

1 in production agriculture for any purpose other than operating
2 a motor vehicle upon the public highways or recreational-type
3 watercraft upon the waters of this State, the distributor shall
4 show in his or her return the amount of invoiced gallons of
5 dyed diesel fuel sold and the name and address of the purchaser
6 in addition to any other information the Department may
7 require.

8 Beginning on July 1, 2004, in case of a sale of dyed home
9 heating oil, liquefied petroleum gas, or any other combustible
10 gas for use exclusively for residential heating purposes, the
11 distributor shall show in his or her return the amount of
12 invoiced gallons sold and the name and address of the purchaser
13 in addition to any other information the Department may
14 require.

15 ~~In case of a sale of special fuel to someone other than a~~
16 ~~licensed distributor, or a licensed supplier, for a use other~~
17 ~~than in motor vehicles, the distributor shall show in his~~
18 ~~return the amount of invoiced gallons sold and the name and~~
19 ~~address of the purchaser in addition to any other information~~
20 ~~the Department may require.~~

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

23 In case of a tax-free sale, as provided in Section 6, of
24 motor fuel which the distributor is required by this Section to
25 include in his return to the Department, the distributor in his
26 return shall show: (1) If the sale is made to another licensed
27 distributor the amount sold and the name, address and license
28 number of the purchasing distributor; (2) if the sale is made
29 to a person where delivery is made outside of this State the
30 name and address of such purchaser and the point of delivery
31 together with the date and amount delivered; (3) if the sale is
32 made to the Federal Government or its instrumentalities the
33 amount sold; (4) if the sale is made to a municipal corporation
34 owning and operating a local transportation system for public

1 service in this State the name and address of such purchaser,
2 and the amount sold, as evidenced by official forms of
3 exemption certificates properly executed and furnished by such
4 purchaser; (5) if the sale is made to a privately owned public
5 utility owning and operating 2-axle vehicles designed and used
6 for transporting more than 7 passengers, which vehicles are
7 used as common carriers in general transportation of
8 passengers, are not devoted to any specialized purpose and are
9 operated entirely within the territorial limits of a single
10 municipality or of any group of contiguous municipalities or in
11 a close radius thereof, and the operations of which are subject
12 to the regulations of the Illinois Commerce Commission, then
13 the name and address of such purchaser and the amount sold as
14 evidenced by official forms of exemption certificates properly
15 executed and furnished by the purchaser; (6) if the product
16 sold is special fuel and if the sale is made to a licensed
17 supplier under conditions which qualify the sale for tax
18 exemption under Section 6 of this Act, the amount sold and the
19 name, address and license number of the purchaser; ~~and~~ (7) if a
20 sale of special fuel is made before July 1, 2004 to someone
21 other than a licensed distributor, or a licensed supplier, for
22 a use other than in motor vehicles, by making a specific
23 notation thereof on the invoice or sales slip covering such
24 sales and obtaining such supporting documentation as may be
25 required by the Department; (8) beginning on July 1, 2004, if a
26 sale of dyed diesel fuel is made to a person engaged in
27 production agriculture for use in production agriculture for
28 any purpose other than operating a motor vehicle upon the
29 public highways or recreational-type watercraft upon the
30 waters of this State, by making a specific notation thereof on
31 the invoice or sales slip covering that sale and obtaining any
32 supporting documentation as may be required by the Department;
33 and (9) beginning on July 1, 2004, if a sale of dyed home
34 heating oil, liquefied petroleum gas, or any other combustible

1 gas for use exclusively for residential heating purposes is
2 made, by making specific notation thereof on the invoice or
3 sales slip covering that sale and obtaining any supporting
4 documentation as may be required by the Department.

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

7 A person whose license to act as a distributor of motor
8 fuel has been revoked shall make a return to the Department
9 covering the period from the date of the last return to the
10 date of the revocation of the license, which return shall be
11 delivered to the Department not later than 10 days from the
12 date of the revocation or termination of the license of such
13 distributor; the return shall in all other respects be subject
14 to the same provisions and conditions as returns by
15 distributors licensed under the provisions of this Act.

16 The records, waybills and supporting documents kept by
17 railroads and other common carriers in the regular course of
18 business shall be prima facie evidence of the contents and
19 receipt of cars or tanks covered by those records, waybills or
20 supporting documents.

21 If the Department has reason to believe and does believe
22 that the amount shown on the return as purchased, acquired,
23 received, sold, used, lost or destroyed is incorrect, or that
24 an amount of motor fuel of the types required by the second
25 paragraph of this Section to be reported to the Department has
26 not been correctly reported the Department shall fix an amount
27 for such receipt, sales, use, loss or destruction according to
28 its best judgment and information, which amount so fixed by the
29 Department shall be prima facie correct. All returns shall be
30 made on forms prepared and furnished by the Department, and
31 shall contain such other information as the Department may
32 reasonably require. The return must be accompanied by
33 appropriate computer-generated magnetic media supporting
34 schedule data in the format required by the Department, unless,

1 as provided by rule, the Department grants an exception upon
2 petition of a taxpayer. All licensed distributors shall report
3 all losses of motor fuel sustained on account of fire, theft,
4 spillage, spoilage, leakage, or any other provable cause when
5 filing the return for the period during which the loss
6 occurred. The mere making of the report does not assure the
7 allowance of the loss as a reduction in tax liability. Losses
8 of motor fuel as the result of evaporation or shrinkage due to
9 temperature variations may not exceed 1% of the total gallons
10 in storage at the beginning of the month, plus the receipts of
11 gallonage during the month, minus the gallonage remaining in
12 storage at the end of the month. Any loss reported that is in
13 excess of 1% shall be subject to the tax imposed by Section 2
14 of this Law. On and after July 1, 2001, for each 6-month period
15 January through June, net losses of motor fuel (for each
16 category of motor fuel that is required to be reported on a
17 return) as the result of evaporation or shrinkage due to
18 temperature variations may not exceed 1% of the total gallons
19 in storage at the beginning of each January, plus the receipts
20 of gallonage each January through June, minus the gallonage
21 remaining in storage at the end of each June. On and after July
22 1, 2001, for each 6-month period July through December, net
23 losses of motor fuel (for each category of motor fuel that is
24 required to be reported on a return) as the result of
25 evaporation or shrinkage due to temperature variations may not
26 exceed 1% of the total gallons in storage at the beginning of
27 each July, plus the receipts of gallonage each July through
28 December, minus the gallonage remaining in storage at the end
29 of each December. Any net loss reported that is in excess of
30 this amount shall be subject to the tax imposed by Section 2 of
31 this Law. For purposes of this Section, "net loss" means the
32 number of gallons gained through temperature variations minus
33 the number of gallons lost through temperature variations or
34 evaporation for each of the respective 6-month periods.

1 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

2 (35 ILCS 505/5a) (from Ch. 120, par. 421a)

3 Sec. 5a. A person holding a valid unrevoked license to act
4 as a supplier of special fuel shall, between the 1st and 20th
5 days of each calendar month, make return to the Department
6 showing an itemized statement of the number of invoiced gallons
7 of special fuel acquired, received, purchased, sold, or used
8 during the preceding calendar month; the amount of special fuel
9 sold, distributed, and used by the licensed supplier during the
10 preceding calendar month; the amount of special fuel lost or
11 destroyed during the preceding calendar month; the amount of
12 special fuel on hand at the close of business for the preceding
13 calendar month; and such other reasonable information as the
14 Department may require.

15 A person whose license to act as a supplier of special fuel
16 has been revoked shall make a return to the Department covering
17 the period from the date of the last return to the date of the
18 revocation of the license, which return shall be delivered to
19 the Department not later than 10 days from the date of the
20 revocation or termination of the license of such supplier. The
21 return shall in all other respects be subject to the same
22 provisions and conditions as returns by suppliers licensed
23 under this Act.

24 The records, waybills and supporting documents kept by
25 railroads and other common carriers in the regular course of
26 business shall be prima facie evidence of the contents and
27 receipt of cars or tanks covered by those records, waybills or
28 supporting documents.

29 If the Department has reason to believe and does believe
30 that the amount shown on the return as purchased, acquired,
31 received, sold, used, or lost is incorrect, or that an amount
32 of special fuel of the type required by the 1st paragraph of
33 this Section to be reported to the Department by suppliers has

1 not been correctly reported as a purchase, receipt, sale, use,
2 or loss the Department shall fix an amount for such purchase,
3 receipt, sale, use, or loss according to its best judgment and
4 information, which amount so fixed by the Department shall be
5 prima facie correct. All licensed suppliers shall report all
6 losses of special fuel sustained on account of fire, theft,
7 spillage, spoilage, leakage, or any other provable cause when
8 filing the return for the period during which the loss
9 occurred. The mere making of the report does not assure the
10 allowance of the loss as a reduction in tax liability. Losses
11 of special fuel as the result of evaporation or shrinkage due
12 to temperature variations may not exceed 1% of the total
13 gallons in storage at the beginning of the month, plus the
14 receipts of gallonage during the month, minus the gallonage
15 remaining in storage at the end of the month.

16 Any loss reported that is in excess of 1% shall be subject
17 to the tax imposed by Section 2 of this Law. On and after July
18 1, 2001, for each 6-month period January through June, net
19 losses of special fuel (for each category of special fuel that
20 is required to be reported on a return) as the result of
21 evaporation or shrinkage due to temperature variations may not
22 exceed 1% of the total gallons in storage at the beginning of
23 each January, plus the receipts of gallonage each January
24 through June, minus the gallonage remaining in storage at the
25 end of each June. On and after July 1, 2001, for each 6-month
26 period July through December, net losses of special fuel (for
27 each category of special fuel that is required to be reported
28 on a return) as the result of evaporation or shrinkage due to
29 temperature variations may not exceed 1% of the total gallons
30 in storage at the beginning of each July, plus the receipts of
31 gallonage each July through December, minus the gallonage
32 remaining in storage at the end of each December. Any net loss
33 reported that is in excess of this amount shall be subject to
34 the tax imposed by Section 2 of this Law. For purposes of this

1 Section, "net loss" means the number of gallons gained through
2 temperature variations minus the number of gallons lost through
3 temperature variations or evaporation for each of the
4 respective 6-month periods.

5 Beginning on July 1, 2004, in case of a sale of dyed diesel
6 fuel to a person engaged in production agriculture for use in
7 production agriculture for any purpose other than operating a
8 motor vehicle upon the public highways or recreational-type
9 watercraft upon the waters of this State, the supplier shall
10 show in his or her return the amount of invoiced gallons of
11 dyed diesel fuel sold and the name and address of the purchaser
12 in addition to any other information the Department may
13 require.

14 Beginning on July 1, 2004, in case of a sale of dyed home
15 heating oil, liquefied petroleum gas, or any other combustible
16 gas for use exclusively for residential heating purposes, the
17 supplier shall show in his or her return the amount of invoiced
18 gallons sold and the name and address of the purchaser in
19 addition to any other information the Department may require.

20 ~~In case of a sale of special fuel to someone other than a~~
21 ~~licensed distributor or licensed supplier for a use other than~~
22 ~~in motor vehicles, the supplier shall show in his return the~~
23 ~~amount of invoiced gallons sold and the name and address of the~~
24 ~~purchaser in addition to any other information the Department~~
25 ~~may require.~~

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

28 All returns shall be made on forms prepared and furnished
29 by the Department and shall contain such other information as
30 the Department may reasonably require. The return must be
31 accompanied by appropriate computer-generated magnetic media
32 supporting schedule data in the format required by the
33 Department, unless, as provided by rule, the Department grants
34 an exception upon petition of a taxpayer.

1 In case of a tax-free sale, as provided in Section 6a, of
2 special fuel which the supplier is required by this Section to
3 include in his return to the Department, the supplier in his
4 return shall show: (1) If the sale of special fuel is made to
5 the Federal Government or its instrumentalities; (2) if the
6 sale of special fuel is made to a municipal corporation owning
7 and operating a local transportation system for public service
8 in this State, the name and address of such purchaser and the
9 amount sold, as evidenced by official forms of exemption
10 certificates properly executed and furnished by such
11 purchaser; (3) if the sale of special fuel is made to a
12 privately owned public utility owning and operating 2-axle
13 vehicles designed and used for transporting more than 7
14 passengers, which vehicles are used as common carriers in
15 general 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 group of
18 contiguous municipalities or in a close radius thereof, and the
19 operations of which are subject to the regulations of the
20 Illinois Commerce Commission, then the name and address of such
21 purchaser and the amount sold, as evidenced by official forms
22 of exemption certificates properly executed and furnished by
23 such purchaser; (4) if the product sold is special fuel and if
24 the sale is made to a licensed supplier or to a licensed
25 distributor under conditions which qualify the sale for tax
26 exemption under Section 6a of this Act, the amount sold and the
27 name, address and license number of such purchaser; (5) if a
28 sale of special fuel is made to a person where delivery is made
29 outside of this State, the name and address of such purchaser
30 and the point of delivery together with the date and amount of
31 invoiced gallons delivered; ~~and~~ (6) if a sale of special fuel
32 is made before July 1, 2004 to someone other than a licensed
33 distributor or a licensed supplier, for a use other than in
34 motor vehicles, by making a specific notation thereof on the

1 invoice or sales slip covering that sale and obtaining such
2 supporting documentation as may be required by the Department;
3 (7) beginning on July 1, 2004, if a sale of dyed diesel fuel is
4 made to a person engaged in production agriculture for use in
5 production agriculture for any purpose other than operating a
6 motor vehicle upon the public highways or recreational-type
7 watercraft on the waters of this State, by making a specific
8 notation thereof on the invoice or sales slip covering that
9 sale and obtaining any supporting documentation as may be
10 required by the Department; and (8) beginning on July 1, 2004,
11 if a sale of dyed home heating oil, liquefied petroleum gas, or
12 any other combustible gas for use exclusively for residential
13 heating purposes is made, by making specific notation thereof
14 on the invoice or sales slip covering that sale and obtaining
15 any supporting documentation as may be required by the
16 Department.

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

19 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

20 (35 ILCS 505/6) (from Ch. 120, par. 422)

21 Sec. 6. Collection of tax; distributors. A distributor who
22 sells or distributes any motor fuel, which he is required by
23 Section 5 to report to the Department when filing a return,
24 shall (except as hereinafter provided) collect at the time of
25 such sale and distribution, the amount of tax imposed under
26 this Act on all such motor fuel sold and distributed, and at
27 the time of making a return, the distributor shall pay to the
28 Department the amount so collected less a discount of 2%
29 through June 30, 2003 and 1.75% thereafter which is allowed to
30 reimburse the distributor for the expenses incurred in keeping
31 records, preparing and filing returns, collecting and
32 remitting the tax and supplying data to the Department on
33 request, and shall also pay to the Department an amount equal

1 to the amount that would be collectible as a tax in the event
2 of a sale thereof on all such motor fuel used by said
3 distributor during the period covered by the return. However,
4 before July 1, 2004, no payment shall be made based upon dyed
5 diesel fuel used by the distributor for non-highway purposes.
6 The discount shall only be applicable to the amount of tax
7 payment which accompanies a return which is filed timely in
8 accordance with Section 5 of this Act. In each subsequent sale
9 of motor fuel on which the amount of tax imposed under this Act
10 has been collected as provided in this Section, the amount so
11 collected shall be added to the selling price, so that the
12 amount of tax is paid ultimately by the user of the motor fuel.
13 However, no collection or payment shall be made in the case of
14 the sale or use of any motor fuel to the extent to which such
15 sale or use of motor fuel may not, under the constitution and
16 statutes of the United States, be made the subject of taxation
17 by this State. A person whose license to act as a distributor
18 of fuel has been revoked shall, at the time of making a return,
19 also pay to the Department an amount equal to the amount that
20 would be collectible as a tax in the event of a sale thereof on
21 all motor fuel, which he is required by the second paragraph of
22 Section 5 to report to the Department in making a return, and
23 which he had on hand on the date on which the license was
24 revoked, and with respect to which no tax had been previously
25 paid under this Act.

26 A distributor may make tax free sales of motor fuel, with
27 respect to which he is otherwise required to collect the tax,
28 when the motor fuel is delivered from a dispensing facility
29 that has withdrawal facilities capable of dispensing motor fuel
30 into the fuel supply tanks of motor vehicles only as specified
31 in the following items 3, 4, and 5. A distributor may make
32 tax-free sales of motor fuel, with respect to which he is
33 otherwise required to collect the tax, when the motor fuel is
34 delivered from other facilities only as specified in the

1 following items 1 through 10 ~~7~~.

2 1. When the sale is made to a person holding a valid
3 unrevoked license as a distributor, by making a specific
4 notation thereof on invoices or sales slip covering each
5 sale.

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

8 3. When the sale is made to the Federal Government or
9 its instrumentalities.

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

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

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

29 7. When a sale of special fuel is made before July 1,
30 2004 to someone other than a licensed distributor or a
31 licensed supplier for a use other than in motor vehicles,
32 by making a specific notation thereof on the invoice or
33 sales slip covering such sale and obtaining such supporting
34 documentation as may be required by the Department. The

1 distributor shall obtain and keep the supporting
2 documentation in such form as the Department may require by
3 rule.

4 8. (Blank).

5 9. Beginning on July 1, 2004, when a sale of dyed
6 diesel fuel is made to a person engaged in production
7 agriculture for use in production agriculture for any
8 purpose other than operating a motor vehicle upon the
9 public highways or recreational-type watercraft upon the
10 waters of this State, by making a specific notation thereof
11 on the invoice or sales slip covering that sale and
12 obtaining any supporting documentation as may be required
13 by the Department. The distributor shall obtain and keep
14 the supporting documentation in such form as the Department
15 may require by rule.

16 10. Beginning on July 1, 2004, when a sale of dyed home
17 heating oil, liquefied petroleum gas, or any other
18 combustible gas for use exclusively for residential
19 heating purposes is made, by making a specific notation
20 thereof on the invoice or sales slip covering that sale and
21 obtaining any supporting documentation as may be required
22 by the Department. The distributor shall obtain and keep
23 the supporting documentation in such form as the Department
24 may require by rule.

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

27 All suits or other proceedings brought for the purpose of
28 recovering any taxes, interest or penalties due the State of
29 Illinois under this Act may be maintained in the name of the
30 Department.

31 (Source: P.A. 93-32, eff. 6-20-03.)

32 (35 ILCS 505/6a) (from Ch. 120, par. 422a)

33 Sec. 6a. Collection of tax; suppliers. A supplier, other

1 than a licensed distributor, who sells or distributes any
2 special fuel, which he is required by Section 5a to report to
3 the Department when filing a return, shall (except as
4 hereinafter provided) collect at the time of such sale and
5 distribution, the amount of tax imposed under this Act on all
6 such special fuel sold and distributed, and at the time of
7 making a return, the supplier shall pay to the Department the
8 amount so collected less a discount of 2% through June 30, 2003
9 and 1.75% thereafter which is allowed to reimburse the supplier
10 for the expenses incurred in keeping records, preparing and
11 filing returns, collecting and remitting the tax and supplying
12 data to the Department on request, and shall also pay to the
13 Department an amount equal to the amount that would be
14 collectible as a tax in the event of a sale thereof on all such
15 special fuel used by said supplier during the period covered by
16 the return. However, before July 1, 2004, no payment shall be
17 made based upon dyed diesel fuel used by said supplier for
18 non-highway purposes. The discount shall only be applicable to
19 the amount of tax payment which accompanies a return which is
20 filed timely in accordance with Section 5(a) of this Act. In
21 each subsequent sale of special fuel on which the amount of tax
22 imposed under this Act has been collected as provided in this
23 Section, the amount so collected shall be added to the selling
24 price, so that the amount of tax is paid ultimately by the user
25 of the special fuel. However, no collection or payment shall be
26 made in the case of the sale or use of any special fuel to the
27 extent to which such sale or use of motor fuel may not, under
28 the Constitution and statutes of the United States, be made the
29 subject of taxation by this State.

30 A person whose license to act as supplier of special fuel
31 has been revoked shall, at the time of making a return, also
32 pay to the Department an amount equal to the amount that would
33 be collectible as a tax in the event of a sale thereof on all
34 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 when the motor fuel is delivered from a dispensing facility
5 that has withdrawal facilities capable of dispensing special
6 fuel into the fuel supply tanks of motor vehicles only as
7 specified in the following items 1, 2, and 3. A supplier may
8 make tax-free sales of special fuel, with respect to which he
9 is otherwise required to collect the tax, when the special fuel
10 is delivered from other facilities only as specified in the
11 following items 1 through 9 7.

12 1. When the sale is made to the federal government or
13 its instrumentalities.

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

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

29 4. When a sale of special fuel is made to a person
30 holding a valid unrevoked license as a supplier or a
31 distributor by making a specific notation thereof on
32 invoice or sales slip covering each such sale.

33 5. When a sale of special fuel is made before July 1,
34 2004 to someone other than a licensed distributor or

1 licensed supplier for a use other than in motor vehicles,
2 by making a specific notation thereof on the invoice or
3 sales slip covering such sale and obtaining such supporting
4 documentation as may be required by the Department. The
5 supplier shall obtain and keep the supporting
6 documentation in such form as the Department may require by
7 rule.

8 6. (Blank).

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

11 8. Beginning on July 1, 2004, when a sale of dyed
12 diesel fuel is made to a person engaged in production
13 agriculture for use in production agriculture for any
14 purpose other than operating a motor vehicle upon the
15 public highways or recreational-type watercraft upon the
16 waters of this State, by making a specific notation thereof
17 on the invoice or sales slip covering that sale and
18 obtaining any supporting documentation as may be required
19 by the Department. The supplier shall obtain and keep the
20 supporting documentation in such form as the Department may
21 require by rule.

22 9. Beginning on July 1, 2004, when a sale of dyed home
23 heating oil, liquefied petroleum gas, or any other
24 combustible gas for use exclusively for residential
25 heating purposes is made, by making a specific notation
26 thereof on the invoice or sales slip covering that sale and
27 obtaining any supporting documentation as may be required
28 by the Department. The supplier shall obtain and keep the
29 supporting documentation in such form as the Department may
30 require by rule.

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

33 All suits or other proceedings brought for the purpose of
34 recovering any taxes, interest or penalties due the State of

1 Illinois under this Act may be maintained in the name of the
2 Department.

3 (Source: P.A. 92-30, eff. 7-1-01; 93-32, eff. 6-20-03.)

4 (35 ILCS 505/7) (from Ch. 120, par. 423)

5 Sec. 7. Any person, not licensed as a receiver, distributor
6 or supplier, purchasing fuel or motor fuel as to which there
7 has been no charge made to him of the tax imposed by Section 2
8 or 2a, or both, shall make payment of the tax imposed by
9 Section 2a of this Act and if the same be thereafter used in
10 Illinois ~~the operation of a motor vehicle upon the public~~
11 ~~highways~~, make payment of the motor fuel tax computed at the
12 rate prescribed in Section 2 of this Act on the amount so used,
13 such payment to be made to the Department not later than the
14 20th day of the month succeeding the month in which the motor
15 fuel was so used.

16 This Section does not apply in cases of such use of motor
17 fuel which was obtained tax-free under an official certificate
18 of exemption mentioned in Sections 6 and 6a of this Act.

19 (Source: P.A. 86-125.)

20 (35 ILCS 505/8) (from Ch. 120, par. 424)

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

29 (a) 2 1/2 cents per gallon of the tax collected on special
30 fuel under paragraph (b) of Section 2 and Section 13a of this
31 Act shall be transferred to the State Construction Account Fund
32 in the State Treasury;

1 (a-5) On or before the last day of each month there shall
2 be transferred from the Motor Fuel Tax Fund to the General
3 Revenue Fund an amount equal to the proceeds deposited into the
4 Motor Fuel Tax Fund during the preceding month from the tax
5 imposed on dyed diesel fuel under this Act.

6 (a-10) Beginning on August 1, 2004, on or before the last
7 day of each month there shall be transferred from the Motor
8 Fuel Tax Fund to the General Revenue Fund an amount equal to
9 1/12 of the average annual amount refunded to taxpayers under
10 this Act during calendar years 2001, 2002, and 2003 for
11 non-highway use of motor fuel and for loss of motor fuel as
12 defined in Section 13, minus the amount paid from the Motor
13 Fuel Tax Fund during that month under Section 13.1.

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) \$2,250,000 shall be transferred each month to the Grade
19 Crossing Protection Fund to be used as follows: not less than
20 \$6,000,000 each fiscal year shall be used for the construction
21 or reconstruction of rail highway grade separation structures;
22 \$2,250,000 in fiscal year 2004 and each fiscal year thereafter
23 shall be transferred to the Transportation Regulatory Fund and
24 shall be accounted for as part of the rail carrier portion of
25 such funds and shall be used to pay the cost of administration
26 of the Illinois Commerce Commission's railroad safety program
27 in connection with its duties under subsection (3) of Section
28 18c-7401 of the Illinois Vehicle Code, with the remainder to be
29 used by the Department of Transportation upon order of the
30 Illinois Commerce Commission, to pay that part of the cost
31 apportioned by such Commission to the State to cover the
32 interest of the public in the use of highways, roads, streets,
33 or pedestrian walkways in the county highway system, township
34 and district road system, or municipal street system as defined

1 in the Illinois Highway Code, as the same may from time to time
2 be amended, for separation of grades, for installation,
3 construction or reconstruction of crossing protection or
4 reconstruction, alteration, relocation including construction
5 or improvement of any existing highway necessary for access to
6 property or improvement of any grade crossing including the
7 necessary highway approaches thereto of any railroad across the
8 highway or public road, or for the installation, construction,
9 reconstruction, or maintenance of a pedestrian walkway over or
10 under a railroad right-of-way, as provided for in and in
11 accordance with Section 18c-7401 of the Illinois Vehicle Code.
12 The Commission shall not order more than \$2,000,000 per year in
13 Grade Crossing Protection Fund moneys for pedestrian walkways.
14 In entering orders for projects for which payments from the
15 Grade Crossing Protection Fund will be made, the Commission
16 shall account for expenditures authorized by the orders on a
17 cash rather than an accrual basis. For purposes of this
18 requirement an "accrual basis" assumes that the total cost of
19 the project is expended in the fiscal year in which the order
20 is entered, while a "cash basis" allocates the cost of the
21 project among fiscal years as expenditures are actually made.
22 To meet the requirements of this subsection, the Illinois
23 Commerce Commission shall develop annual and 5-year project
24 plans of rail crossing capital improvements that will be paid
25 for with moneys from the Grade Crossing Protection Fund. The
26 annual project plan shall identify projects for the succeeding
27 fiscal year and the 5-year project plan shall identify projects
28 for the 5 directly succeeding fiscal years. The Commission
29 shall submit the annual and 5-year project plans for this Fund
30 to the Governor, the President of the Senate, the Senate
31 Minority Leader, the Speaker of the House of Representatives,
32 and the Minority Leader of the House of Representatives on the
33 first Wednesday in April of each year;

34 (d) of the amount remaining after allocations provided for

1 in subsections (a), (a-5), (a-10), (b), and (c), a sufficient
2 amount shall be reserved to pay all of the following:

3 (1) the costs of the Department of Revenue in
4 administering this Act;

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

9 (3) refunds provided for in Section 13 and 13.1 of this
10 Act and under the terms of the International Fuel Tax
11 Agreement referenced in Section 14a;

12 (4) from October 1, 1985 until June 30, 1994, the
13 administration of the Vehicle Emissions Inspection Law,
14 which amount shall be certified monthly by the
15 Environmental Protection Agency to the State Comptroller
16 and shall promptly be transferred by the State Comptroller
17 and Treasurer from the Motor Fuel Tax Fund to the Vehicle
18 Inspection Fund, and for the period July 1, 1994 through
19 June 30, 2000, one-twelfth of \$25,000,000 each month, for
20 the period July 1, 2000 through June 30, 2003, one-twelfth
21 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,
22 and \$15,000,000 on January 1 and \$15,000,000 on July 1 of
23 each calendar year for the period January 1, 2004 through
24 June 30, 2006, for the administration of the Vehicle
25 Emissions Inspection Law of 1995, to be transferred by the
26 State Comptroller and Treasurer from the Motor Fuel Tax
27 Fund into the Vehicle Inspection Fund;

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

29 (6) payment of motor fuel use taxes due to member
30 jurisdictions under the terms of the International Fuel Tax
31 Agreement. The Department shall certify these amounts to
32 the Comptroller by the 15th day of each month; the
33 Comptroller shall cause orders to be drawn for such
34 amounts, and the Treasurer shall administer those amounts

1 on or before the last day of each month;

2 (e) after allocations for the purposes set forth in
3 subsections (a), (a-5), (a-10), (b), (c), and (d), the
4 remaining amount shall be apportioned as follows:

5 (1) Until January 1, 2000, 58.4%, and beginning January
6 1, 2000, 45.6% shall be deposited as follows:

7 (A) 37% into the State Construction Account Fund,
8 and

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

14 (2) Until January 1, 2000, 41.6%, and beginning January
15 1, 2000, 54.4% shall be transferred to the Department of
16 Transportation to be distributed as follows:

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

18 (B) 16.74% to the counties of the State having
19 1,000,000 or more inhabitants,

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

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

23 As soon as may be after the first day of each month the
24 Department of Transportation shall allot to each municipality
25 its share of the amount apportioned to the several
26 municipalities which shall be in proportion to the population
27 of such municipalities as determined by the last preceding
28 municipal census if conducted by the Federal Government or
29 Federal census. If territory is annexed to any municipality
30 subsequent to the time of the last preceding census the
31 corporate authorities of such municipality may cause a census
32 to be taken of such annexed territory and the population so
33 ascertained for such territory shall be added to the population
34 of the municipality as determined by the last preceding census

1 for the purpose of determining the allotment for that
2 municipality. If the population of any municipality was not
3 determined by the last Federal census preceding any
4 apportionment, the apportionment to such municipality shall be
5 in accordance with any census taken by such municipality. Any
6 municipal census used in accordance with this Section shall be
7 certified to the Department of Transportation by the clerk of
8 such municipality, and the accuracy thereof shall be subject to
9 approval of the Department which may make such corrections as
10 it ascertains to be necessary.

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

26 As soon as may be after the first day of each month, the
27 Department of Transportation shall allot to the several
28 counties their share of the amount apportioned for the use of
29 road districts. The allotment shall be apportioned among the
30 several counties in the State in the proportion which the total
31 mileage of township or district roads in the respective
32 counties bears to the total mileage of all township and
33 district roads in the State. Funds allotted to the respective
34 counties for the use of road districts therein shall be

1 allocated to the several road districts in the county in the
2 proportion which the total mileage of such township or district
3 roads in the respective road districts bears to the total
4 mileage of all such township or district roads in the county.
5 After July 1 of any year, no allocation shall be made for any
6 road district unless it levied a tax for road and bridge
7 purposes in an amount which will require the extension of such
8 tax against the taxable property in any such road district at a
9 rate of not less than either .08% of the value thereof, based
10 upon the assessment for the year immediately prior to the year
11 in which such tax was levied and as equalized by the Department
12 of Revenue or, in DuPage County, an amount equal to or greater
13 than \$12,000 per mile of road under the jurisdiction of the
14 road district, whichever is less. If any road district has
15 levied a special tax for road purposes pursuant to Sections
16 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such
17 tax was levied in an amount which would require extension at a
18 rate of not less than .08% of the value of the taxable property
19 thereof, as equalized or assessed by the Department of Revenue,
20 or, in DuPage County, an amount equal to or greater than
21 \$12,000 per mile of road under the jurisdiction of the road
22 district, whichever is less, such levy shall, however, be
23 deemed a proper compliance with this Section and shall qualify
24 such road district for an allotment under this Section. If a
25 township has transferred to the road and bridge fund money
26 which, when added to the amount of any tax levy of the road
27 district would be the equivalent of a tax levy requiring
28 extension at a rate of at least .08%, or, in DuPage County, an
29 amount equal to or greater than \$12,000 per mile of road under
30 the jurisdiction of the road district, whichever is less, such
31 transfer, together with any such tax levy, shall be deemed a
32 proper compliance with this Section and shall qualify the road
33 district for an allotment under this Section.

34 In counties in which a property tax extension limitation is

1 imposed under the Property Tax Extension Limitation Law, road
2 districts may retain their entitlement to a motor fuel tax
3 allotment if, at the time the property tax extension limitation
4 was imposed, the road district was levying a road and bridge
5 tax at a rate sufficient to entitle it to a motor fuel tax
6 allotment and continues to levy the maximum allowable amount
7 after the imposition of the property tax extension limitation.
8 Any road district may in all circumstances retain its
9 entitlement to a motor fuel tax allotment if it levied a road
10 and bridge tax in an amount that will require the extension of
11 the tax against the taxable property in the road district at a
12 rate of not less than 0.08% of the assessed value of the
13 property, based upon the assessment for the year immediately
14 preceding the year in which the tax was levied and as equalized
15 by the Department of Revenue or, in DuPage County, an amount
16 equal to or greater than \$12,000 per mile of road under the
17 jurisdiction of the road district, whichever is less.

18 As used in this Section the term "road district" means any
19 road district, including a county unit road district, provided
20 for by the Illinois Highway Code; and the term "township or
21 district road" means any road in the township and district road
22 system as defined in the Illinois Highway Code. For the
23 purposes of this Section, "road district" also includes park
24 districts, forest preserve districts and conservation
25 districts organized under Illinois law and "township or
26 district road" also includes such roads as are maintained by
27 park districts, forest preserve districts and conservation
28 districts. The Department of Transportation shall determine
29 the mileage of all township and district roads for the purposes
30 of making allotments and allocations of motor fuel tax funds
31 for use in road districts.

32 Payment of motor fuel tax moneys to municipalities and
33 counties shall be made as soon as possible after the allotment
34 is made. The treasurer of the municipality or county may invest

1 these funds until their use is required and the interest earned
2 by these investments shall be limited to the same uses as the
3 principal funds.

4 (Source: P.A. 92-16, eff. 6-28-01; 92-30, eff. 7-1-01; 93-32,
5 eff. 6-20-03.)

6 (35 ILCS 505/12) (from Ch. 120, par. 428)

7 Sec. 12. Records and books. It is the duty of every
8 distributor, receiver, and supplier under this Act to keep
9 within this State or at some office outside this State for any
10 period for which the Department is authorized to issue a Notice
11 of Tax Liability to the distributor, receiver, or supplier
12 records and books showing all purchases, receipts, losses
13 through any cause, sales, distribution and use of motor fuel,
14 aviation fuels, home heating oils, and kerosene, and products
15 used for the purpose of blending to produce motor fuel, which
16 records and books shall, at all times during business hours of
17 the day, be subject to inspection by the Department, or its
18 duly authorized agents and employees. In addition, every person
19 making tax-free purchases of motor fuel under this Act shall
20 keep within this State or at some office outside this State for
21 any period for which the Department is authorized to issue a
22 Notice of Tax Liability to such person records and books
23 showing all purchases, receipts, losses through any cause,
24 distribution and use of motor fuel, which records and books
25 shall, at all times during business hours of the day, be
26 subject to inspection by the Department, or its duly authorized
27 agents and employees. For purposes of this Section, "records"
28 means all data maintained by the taxpayer including data on
29 paper, microfilm, microfiche or any type of machine-sensible
30 data compilation. The Department may, in its discretion,
31 prescribe reasonable and uniform methods for keeping of records
32 and books by licensees and other persons subject to this
33 Section and that set forth requirements for the form and format

1 of records that must be maintained in order to comply with any
2 recordkeeping requirement under this Act.

3 (Source: P.A. 91-173, eff. 1-1-00.)

4 (35 ILCS 505/12a) (from Ch. 120, par. 428a)

5 Sec. 12a. (a) Any duly authorized agent or employee of the
6 Department shall have authority to enter in or upon the
7 premises of any manufacturer, vendor, dealer, retailer,
8 distributor, receiver, supplier or user of motor fuel or
9 special fuels during the regular business hours in order to
10 examine books, records, invoices, storage tanks, and any other
11 applicable equipment pertaining to motor fuel, aviation fuels,
12 home heating oils, kerosene, or special fuels, to determine
13 whether or not the taxes imposed by this Act have been paid and
14 to determine compliance with all other provisions of this Law.

15 (b) Any duly authorized agent of the Department, upon
16 presenting appropriate credentials and a written notice to the
17 person who owns, operates, or controls the place to be
18 inspected, shall have the authority to enter any place and to
19 conduct inspections in accordance with subsections (b) through
20 (g) of this Section.

21 (c) Inspections will be performed in a reasonable manner
22 and at times that are reasonable under the circumstances,
23 taking into consideration the normal business hours of the
24 place to be entered.

25 (d) Inspections may be at any place at which taxable or
26 non-taxable motor fuel is or may be produced or stored or at
27 any inspection site where evidence of the following activities
28 may be discovered:

29 (1) Where any dyed diesel fuel is sold or held for sale
30 by any person for any use which the person knows or has
31 reason to know is not a non-highway ~~a nontaxable~~ use of
32 such fuel.

33 (2) Where any dyed diesel fuel is held for use or used

1 by any person for a use other than a non-highway ~~a~~
2 ~~non-taxable~~ use and the person knew, or had reason to know,
3 that the fuel was dyed according to Section 4d.

4 (3) Where any person willfully alters, or attempts to
5 alter, the strength or composition of any dye or marking
6 done pursuant to Section 4d of this Law.

7 The places may include, but are not limited to, the
8 following:

9 (1) Any terminal.

10 (2) Any fuel storage facility that is not a terminal.

11 (3) Any retail fuel facility.

12 (4) Any designated inspection site.

13 (e) Duly authorized agents of the Department may physically
14 inspect, examine, or otherwise search any tank, reservoir, or
15 other container that can or may be used for the production,
16 storage, or transportation of fuel, fuel dyes, or fuel markers.
17 Inspection may also be made of any equipment used for, or in
18 connection with, production, storage, or transportation of
19 fuel, fuel dyes, or fuel markers. This includes any equipment
20 used for the dyeing or marking of fuel. This also includes
21 books and records, if any, that are maintained at the place of
22 inspection and are kept to determine tax liability under this
23 Law.

24 (f) Duly authorized agents of the Department may detain any
25 motor vehicle, train, barge, ship, or vessel for the purpose of
26 inspecting its fuel tanks and storage tanks. Detainment will be
27 either on the premises under inspection or at a designated
28 inspection site. Detainment may continue for a reasonable
29 period of time as is necessary to determine the amount and
30 composition of the fuel.

31 (g) Duly authorized agents of the Department may take and
32 remove samples of fuel in quantities as are reasonably
33 necessary to determine the composition of the fuel.

34 (h) (1) Any person that refuses to allow an inspection

1 shall pay a \$1,000 penalty for each refusal. This penalty
2 is in addition to any other penalty or tax that may be
3 imposed upon that person or any other person liable for tax
4 under this Law. All penalties received under this
5 subsection shall be deposited into the Tax Compliance and
6 Administration Fund.

7 (2) In addition, any licensee who refuses to allow an
8 inspection shall be subject to license revocation as
9 provided by Section 16 of this Law.

10 (Source: P.A. 91-173, eff. 1-1-00.)

11 (35 ILCS 505/13) (from Ch. 120, par. 429)

12 Sec. 13. Refund of tax paid before July 1, 2004. This
13 Section applies to claims based upon taxes paid before July 1,
14 2004. Any person other than a distributor or supplier, who
15 loses motor fuel through any cause or uses motor fuel (upon
16 which he has paid the amount required to be collected under
17 Section 2 of this Act) for any purpose other than operating a
18 motor vehicle upon the public highways or waters, shall be
19 reimbursed and repaid the amount so paid.

20 Any person who purchases motor fuel in Illinois and uses
21 that motor fuel in another state and that other state imposes a
22 tax on the use of such motor fuel shall be reimbursed and
23 repaid the amount of Illinois tax paid under Section 2 of this
24 Act on the motor fuel used in such other state. Reimbursement
25 and repayment shall be made by the Department upon receipt of
26 adequate proof of taxes paid to another state and the amount of
27 motor fuel used in that state.

28 Claims for such reimbursement must be made to the
29 Department of Revenue, duly verified by the claimant (or by the
30 claimant's legal representative if the claimant has died or
31 become a person under legal disability), upon forms prescribed
32 by the Department. The claim must state such facts relating to
33 the purchase, importation, manufacture or production of the

1 motor fuel by the claimant as the Department may deem
2 necessary, and the time when, and the circumstances of its loss
3 or the specific purpose for which it was used (as the case may
4 be), together with such other information as the Department may
5 reasonably require. No claim based upon idle time shall be
6 allowed.

7 Claims for full reimbursement for taxes paid on or before
8 December 31, 1999 must be filed not later than one year after
9 the date on which the tax was paid by the claimant. If,
10 however, a claim for such reimbursement otherwise meeting the
11 requirements of this Section is filed more than one year but
12 less than 2 years after that date, the claimant shall be
13 reimbursed at the rate of 80% of the amount to which he would
14 have been entitled if his claim had been timely filed.

15 Claims for full reimbursement for taxes paid on or after
16 January 1, 2000 must be filed not later than 2 years after the
17 date on which the tax was paid by the claimant.

18 The Department may make such investigation of the
19 correctness of the facts stated in such claims as it deems
20 necessary. When the Department has approved any such claim, it
21 shall pay to the claimant (or to the claimant's legal
22 representative, as such if the claimant has died or become a
23 person under legal disability) the reimbursement provided in
24 this Section, out of any moneys appropriated to it for that
25 purpose.

26 Any distributor or supplier who has paid the tax imposed by
27 Section 2 of this Act upon motor fuel lost or used by such
28 distributor or supplier for any purpose other than operating a
29 motor vehicle upon the public highways or waters may file a
30 claim for credit or refund to recover the amount so paid. Such
31 claims shall be filed on forms prescribed by the Department.
32 Such claims shall be made to the Department, duly verified by
33 the claimant (or by the claimant's legal representative if the
34 claimant has died or become a person under legal disability),

1 upon forms prescribed by the Department. The claim shall state
2 such facts relating to the purchase, importation, manufacture
3 or production of the motor fuel by the claimant as the
4 Department may deem necessary and the time when the loss or
5 nontaxable use occurred, and the circumstances of its loss or
6 the specific purpose for which it was used (as the case may
7 be), together with such other information as the Department may
8 reasonably require. Claims must be filed not later than one
9 year after the date on which the tax was paid by the claimant.

10 The Department may make such investigation of the
11 correctness of the facts stated in such claims as it deems
12 necessary. When the Department approves a claim, the Department
13 shall issue a refund or credit memorandum as requested by the
14 taxpayer, to the distributor or supplier who made the payment
15 for which the refund or credit is being given or, if the
16 distributor or supplier has died or become incompetent, to such
17 distributor's or supplier's legal representative, as such. The
18 amount of such credit memorandum shall be credited against any
19 tax due or to become due under this Act from the distributor or
20 supplier who made the payment for which credit has been given.

21 Any credit or refund that is allowed under this Section
22 shall bear interest at the rate and in the manner specified in
23 the Uniform Penalty and Interest Act.

24 In case the distributor or supplier requests and the
25 Department determines that the claimant is entitled to a
26 refund, such refund shall be made only from such appropriation
27 as may be available for that purpose. If it appears unlikely
28 that the amount appropriated would permit everyone having a
29 claim allowed during the period covered by such appropriation
30 to elect to receive a cash refund, the Department, by rule or
31 regulation, shall provide for the payment of refunds in
32 hardship cases and shall define what types of cases qualify as
33 hardship cases.

34 In any case in which there has been an erroneous refund of

1 tax payable under this Section, a notice of tax liability may
2 be issued at any time within 3 years from the making of that
3 refund, or within 5 years from the making of that refund if it
4 appears that any part of the refund was induced by fraud or the
5 misrepresentation of material fact. The amount of any proposed
6 assessment set forth by the Department shall be limited to the
7 amount of the erroneous refund.

8 If no tax is due and no proceeding is pending to determine
9 whether such distributor or supplier is indebted to the
10 Department for tax, the credit memorandum so issued may be
11 assigned and set over by the lawful holder thereof, subject to
12 reasonable rules of the Department, to any other licensed
13 distributor or supplier who is subject to this Act, and the
14 amount thereof applied by the Department against any tax due or
15 to become due under this Act from such assignee.

16 If the payment for which the distributor's or supplier's
17 claim is filed is held in the protest fund of the State
18 Treasury during the pendency of the claim for credit
19 proceedings pursuant to the order of the court in accordance
20 with Section 2a of the State Officers and Employees Money
21 Disposition Act and if it is determined by the Department or by
22 the final order of a reviewing court under the Administrative
23 Review Law that the claimant is entitled to all or a part of
24 the credit claimed, the claimant, instead of receiving a credit
25 memorandum from the Department, shall receive a cash refund
26 from the protest fund as provided for in Section 2a of the
27 State Officers and Employees Money Disposition Act.

28 If any person ceases to be licensed as a distributor or
29 supplier while still holding an unused credit memorandum issued
30 under this Act, such person may, at his election (instead of
31 assigning the credit memorandum to a licensed distributor or
32 licensed supplier under this Act), surrender such unused credit
33 memorandum to the Department and receive a refund of the amount
34 to which such person is entitled.

1 For claims based upon taxes paid on or before December 31,
2 2000, a claim based upon the use of undyed diesel fuel shall
3 not be allowed except (i) if allowed under the following
4 paragraph or (ii) for undyed diesel fuel used by a commercial
5 vehicle, as that term is defined in Section 1-111.8 of the
6 Illinois Vehicle Code, for any purpose other than operating the
7 commercial vehicle upon the public highways and unlicensed
8 commercial vehicles operating on private property. Claims
9 shall be limited to commercial vehicles that are operated for
10 both highway purposes and any purposes other than operating
11 such vehicles upon the public highways.

12 For claims based upon taxes paid on or after January 1,
13 2000, a claim based upon the use of undyed diesel fuel shall
14 not be allowed except (i) if allowed under the preceding
15 paragraph or (ii) for claims for the following:

16 (1) Undyed diesel fuel used (i) in a manufacturing
17 process, as defined in Section 2-45 of the Retailers'
18 Occupation Tax Act, wherein the undyed diesel fuel becomes
19 a component part of a product or by-product, other than
20 fuel or motor fuel, when the use of dyed diesel fuel in
21 that manufacturing process results in a product that is
22 unsuitable for its intended use or (ii) for testing
23 machinery and equipment in a manufacturing process, as
24 defined in Section 2-45 of the Retailers' Occupation Tax
25 Act, wherein the testing takes place on private property.

26 (2) Undyed diesel fuel used by a manufacturer on
27 private property in the research and development, as
28 defined in Section 1.29, of machinery or equipment intended
29 for manufacture.

30 (3) Undyed diesel fuel used by a single unit
31 self-propelled agricultural fertilizer implement, designed
32 for on and off road use, equipped with flotation tires and
33 specially adapted for the application of plant food
34 materials or agricultural chemicals.

1 (4) Undyed diesel fuel used by a commercial motor
2 vehicle for any purpose other than operating the commercial
3 motor vehicle upon the public highways. Claims shall be
4 limited to commercial motor vehicles that are operated for
5 both highway purposes and any purposes other than operating
6 such vehicles upon the public highways.

7 (5) Undyed diesel fuel used by a unit of local
8 government in its operation of an airport if the undyed
9 diesel fuel is used directly in airport operations on
10 airport property.

11 (6) Undyed diesel fuel used by refrigeration units that
12 are permanently mounted to a semitrailer, as defined in
13 Section 1.28 of this Law, wherein the refrigeration units
14 have a fuel supply system dedicated solely for the
15 operation of the refrigeration units.

16 (7) Undyed diesel fuel used by power take-off equipment
17 as defined in Section 1.27 of this Law.

18 Any person who has paid the tax imposed by Section 2 of
19 this Law upon undyed diesel fuel that, before July 1, 2004, is
20 unintentionally mixed with dyed diesel fuel and who owns or
21 controls the mixture of undyed diesel fuel and dyed diesel fuel
22 may file a claim for refund to recover the amount paid. The
23 amount of undyed diesel fuel unintentionally mixed must equal
24 500 gallons or more. Any claim for refund of unintentionally
25 mixed undyed diesel fuel and dyed diesel fuel shall be
26 supported by documentation showing the date and location of the
27 unintentional mixing, the number of gallons involved, the
28 disposition of the mixed diesel fuel, and any other information
29 that the Department may reasonably require. Any unintentional
30 mixture of undyed diesel fuel and dyed diesel fuel shall be
31 sold or used only for non-highway purposes.

32 The Department shall promulgate regulations establishing
33 specific limits on the amount of undyed diesel fuel that may be
34 claimed for refund.

1 For purposes of claims for refund, "loss" means the
2 reduction of motor fuel resulting from fire, theft, spillage,
3 spoilage, leakage, or any other provable cause, but does not
4 include a reduction resulting from evaporation or shrinkage due
5 to temperature variations.

6 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

7 (35 ILCS 505/13.1 new)

8 Sec. 13.1. Refund of taxes paid on or after July 1, 2004.
9 This Section applies to claims based upon taxes paid on or
10 after July 1, 2004.

11 (a) Any person, other than a distributor or supplier,
12 engaged in production agriculture who uses undyed diesel fuel
13 in a single unit self-propelled agricultural fertilizer
14 implement, designed for on and off road use, equipped with
15 flotation tires and specially adapted for the application of
16 plant food materials or agricultural chemicals (upon which he
17 or she has paid the amount required to be collected under
18 Section 2 of this Act) in production agriculture for any
19 purpose other than operating a motor vehicle upon the public
20 highways or recreational-type watercraft upon the waters of
21 this State shall be reimbursed and repaid the amount so paid.

22 Any person who purchases motor fuel in Illinois and uses
23 that motor fuel in another state and that other state imposes a
24 tax on the use of such motor fuel shall be reimbursed and
25 repaid the amount of Illinois tax paid under Section 2 of this
26 Act on the motor fuel used in such other state. Reimbursement
27 and repayment shall be made by the Department upon receipt of
28 adequate proof of taxes paid to another state and the amount of
29 motor fuel used in that state.

30 Claims for such reimbursement must be made to the
31 Department of Revenue, duly verified by the claimant (or by the
32 claimant's legal representative if the claimant has died or
33 become a person under legal disability), upon forms prescribed

1 by the Department. The claim must state any facts relating to
2 the purchase, importation, manufacture, or production of the
3 motor fuel by the claimant that the Department may deem
4 necessary and the time when and the specific purpose for which
5 it was used, together with any other information as the
6 Department may reasonably require. No claim based upon idle
7 time shall be allowed, regardless of where the idling occurs.

8 Claims for reimbursement for taxes must be filed not later
9 than 2 years after the date on which the tax was paid by the
10 claimant.

11 The Department may make any investigation of the
12 correctness of the facts stated in such claims that it deems
13 necessary. When the Department has approved the claim, it shall
14 pay to the claimant (or to the claimant's legal representative
15 if the claimant has died or become a person under legal
16 disability) the reimbursement provided in this Section, out of
17 any moneys appropriated to it for that purpose.

18 Any distributor or supplier engaged in production
19 agriculture who uses undyed diesel fuel in a single unit
20 self-propelled agricultural fertilizer implement, designed for
21 on and off road use, equipped with flotation tires and
22 specially adapted for the application of plant food materials
23 or agricultural chemicals (upon which he or she has paid the
24 amount required to be collected under Section 2 of this Act) in
25 production agriculture for any purpose other than operating a
26 motor vehicle upon the public highways or recreational-type
27 watercraft upon the waters of this State may file a claim for
28 credit or refund to recover the amount so paid. The claims
29 shall be filed on forms prescribed by the Department. The
30 claims shall be made to the Department, duly verified by the
31 claimant (or by the claimant's legal representative if the
32 claimant has died or become a person under legal disability),
33 upon forms prescribed by the Department. The claim must state
34 any facts relating to the purchase, importation, manufacture,

1 or production of the motor fuel by the claimant that the
2 Department may deem necessary and the time when the nontaxable
3 use occurred and the specific purpose for which it was used,
4 together with any other information that the Department may
5 reasonably require. Claims must be filed not later than one
6 year after the date on which the tax was paid by the claimant.

7 The Department may make any investigation of the
8 correctness of the facts stated in the claims that it deems
9 necessary. When the Department approves a claim, the Department
10 shall issue a refund or credit memorandum, as requested by the
11 taxpayer, to the distributor or supplier who made the payment
12 for which the refund or credit is being given or, if the
13 distributor or supplier has died or become incompetent, to the
14 distributor's or supplier's legal representative. The amount
15 of the credit memorandum shall be credited against any tax due
16 or to become due under this Act from the distributor or
17 supplier who made the payment for which credit has been given.

18 Any credit or refund that is allowed under this Section
19 shall bear interest at the rate and in the manner specified in
20 the Uniform Penalty and Interest Act.

21 In case the distributor or supplier requests and the
22 Department determines that the claimant is entitled to a
23 refund, the refund shall be made only from appropriations
24 available for that purpose. If it appears unlikely that the
25 amount appropriated would permit everyone having a claim
26 allowed during the period covered by the appropriation to elect
27 to receive a cash refund, the Department, by rule, shall
28 provide for the payment of refunds in hardship cases and shall
29 define what types of cases qualify as hardship cases.

30 In any case in which there has been an erroneous refund of
31 tax payable under this Section, a notice of tax liability may
32 be issued at any time within 3 years from the making of that
33 refund, or within 5 years from the making of that refund if it
34 appears that any part of the refund was induced by fraud or the

1 misrepresentation of material fact. The amount of any proposed
2 assessment set forth by the Department shall be limited to the
3 amount of the erroneous refund.

4 If no tax is due and no proceeding is pending to determine
5 whether the distributor or supplier is indebted to the
6 Department for tax, the credit memorandum so issued may be
7 assigned and set over by the lawful holder thereof, subject to
8 reasonable rules of the Department, to any other licensed
9 distributor or supplier who is subject to this Act, and the
10 amount thereof applied by the Department against any tax due or
11 to become due under this Act from the assignee.

12 If the payment for which the distributor's or supplier's
13 claim is filed is held in the protest fund of the State
14 Treasury during the pendency of the claim for credit
15 proceedings pursuant to the order of the court in accordance
16 with Section 2a of the State Officers and Employees Money
17 Disposition Act and if it is determined by the Department or by
18 the final order of a reviewing court under the Administrative
19 Review Law that the claimant is entitled to all or a part of
20 the credit claimed, the claimant, instead of receiving a credit
21 memorandum from the Department, shall receive a cash refund
22 from the protest fund as provided for in Section 2a of the
23 State Officers and Employees Money Disposition Act.

24 If any person ceases to be licensed as a distributor or
25 supplier while still holding an unused credit memorandum issued
26 under this Act, that person may, at his or her election
27 (instead of assigning the credit memorandum to a licensed
28 distributor or licensed supplier under this Act), surrender the
29 unused credit memorandum to the Department and receive a refund
30 of the amount to which the person is entitled.

31 (b) Any person, other than a distributor or supplier, who
32 loses motor fuel through any cause (upon which he has paid the
33 amount required to be collected under Section 2 of this Act)
34 shall be reimbursed and repaid the amount so paid.

1 Claims for the reimbursement must be made to the Department
2 of Revenue, duly verified by the claimant (or by the claimant's
3 legal representative if the claimant has died or become a
4 person under legal disability), upon forms prescribed by the
5 Department. The claim must state any facts relating to the
6 purchase, importation, manufacture, or production of the motor
7 fuel by the claimant that the Department may deem necessary and
8 the time when and the circumstances of its loss, together with
9 any other information that the Department may reasonably
10 require. No claim based upon idle time shall be allowed,
11 regardless of where the idling occurs.

12 Claims for reimbursement for taxes must be filed not later
13 than 2 years after the date on which the tax was paid by the
14 claimant.

15 The Department may make any investigation of the
16 correctness of the facts stated in the claims that it deems
17 necessary. When the Department has approved the claim, it shall
18 pay to the claimant (or to the claimant's legal representative
19 if the claimant has died or become a person under legal
20 disability) the reimbursement provided in this Section, out of
21 any moneys appropriated to it for that purpose.

22 Any distributor or supplier who has paid the tax imposed by
23 Section 2 of this Act upon motor fuel lost by the distributor
24 or supplier may file a claim for credit or refund to recover
25 the amount so paid. The claims shall be filed on forms
26 prescribed by the Department. The claims shall be made to the
27 Department, duly verified by the claimant (or by the claimant's
28 legal representative if the claimant has died or become a
29 person under legal disability), upon forms prescribed by the
30 Department. The claim must state the facts relating to the
31 purchase, importation, manufacture, or production of the motor
32 fuel by the claimant as the Department may deem necessary and
33 the time when the loss occurred and the circumstances of its
34 loss, together with any other information as the Department may

1 reasonably require. Claims must be filed not later than one
2 year after the date on which the tax was paid by the claimant.

3 The Department may make any investigation of the
4 correctness of the facts stated in the claims that it deems
5 necessary. When the Department approves a claim, the Department
6 shall issue a refund or credit memorandum, as requested by the
7 taxpayer, to the distributor or supplier who made the payment
8 for which the refund or credit is being given or, if the
9 distributor or supplier has died or become incompetent, to the
10 distributor's or supplier's legal representative. The amount
11 of the credit memorandum shall be credited against any tax due
12 or to become due under this Act from the distributor or
13 supplier who made the payment for which credit has been given.

14 Any credit or refund that is allowed under this Section
15 shall bear interest at the rate and in the manner specified in
16 the Uniform Penalty and Interest Act.

17 In case the distributor or supplier requests and the
18 Department determines that the claimant is entitled to a
19 refund, the refund shall be made only from appropriations
20 available for that purpose. If it appears unlikely that the
21 amount appropriated would permit everyone having a claim
22 allowed during the period covered by such appropriation to
23 elect to receive a cash refund, the Department, by rule, shall
24 provide for the payment of refunds in hardship cases and shall
25 define what types of cases qualify as hardship cases.

26 In any case in which there has been an erroneous refund of
27 tax payable under this Section, a notice of tax liability may
28 be issued at any time within 3 years from the making of that
29 refund or within 5 years from the making of that refund if it
30 appears that any part of the refund was induced by fraud or the
31 misrepresentation of material fact. The amount of any proposed
32 assessment set forth by the Department shall be limited to the
33 amount of the erroneous refund. If no tax is due and no
34 proceeding is pending to determine whether such distributor or

1 supplier is indebted to the Department for tax, the credit
2 memorandum so issued may be assigned and set over by the lawful
3 holder thereof, subject to reasonable rules of the Department,
4 to any other licensed distributor or supplier who is subject to
5 this Act, and the amount thereof applied by the Department
6 against any tax due or to become due under this Act from such
7 assignee.

8 If the payment for which the distributor's or supplier's
9 claim is filed is held in the protest fund of the State
10 Treasury during the pendency of the claim for credit
11 proceedings pursuant to the order of the court in accordance
12 with Section 2a of the State Officers and Employees Money
13 Disposition Act and if it is determined by the Department or by
14 the final order of a reviewing court under the Administrative
15 Review Law that the claimant is entitled to all or a part of
16 the credit claimed, the claimant, instead of receiving a credit
17 memorandum from the Department, shall receive a cash refund
18 from the protest fund as provided for in Section 2a of the
19 State Officers and Employees Money Disposition Act.

20 If any person ceases to be licensed as a distributor or
21 supplier while still holding an unused credit memorandum issued
22 under this Act, that person may, at his election (instead of
23 assigning the credit memorandum to a licensed distributor or
24 licensed supplier under this Act), surrender the unused credit
25 memorandum to the Department and receive a refund of the amount
26 to which the person is entitled.

27 For purposes of claims for refund under this subsection
28 (b), "loss" means the reduction of motor fuel resulting from
29 fire, spillage, spoilage, leakage, or any other provable cause,
30 but does not include a reduction resulting from evaporation or
31 shrinkage due to temperature variations.

32 (35 ILCS 505/13a) (from Ch. 120, par. 429a)

33 Sec. 13a.

1 (1) Before July 1, 2004, a A tax is hereby imposed upon the
2 use of motor fuel upon highways of this State by commercial
3 motor vehicles. Beginning on July 1, 2004, a tax is imposed
4 upon the use of motor fuel in this State by commercial motor
5 vehicles. The tax shall be comprised of 2 parts. Part (a) shall
6 be at the rate established by Section 2 of this Act, as
7 heretofore or hereafter amended. Part (b) shall be at the rate
8 established by subsection (2) of this Section as now or
9 hereafter amended.

10 (2) A rate shall be established by the Department as of
11 January 1 of each year using the average "selling price", as
12 defined in the Retailers' Occupation Tax Act, per gallon of
13 motor fuel sold in this State during the previous 12 months and
14 multiplying it by 6 1/4% to determine the cents per gallon
15 rate. For the period beginning on July 1, 2000 and through
16 December 31, 2000, the Department shall establish a rate using
17 the average "selling price", as defined in the Retailers'
18 Occupation Tax Act, per gallon of motor fuel sold in this State
19 during calendar year 1999 and multiplying it by 1.25% to
20 determine the cents per gallon rate.

21 (Source: P.A. 91-872, eff. 7-1-00.)

22 (35 ILCS 505/13a.1) (from Ch. 120, par. 429a1)

23 Sec. 13a.1. Every commercial motor carrier shall pay the
24 tax imposed by Section 13a hereof to the Department, calculated
25 on the amount of motor fuel consumed ~~on any highway~~ within this
26 State.

27 (Source: P.A. 88-480.)

28 (35 ILCS 505/13a.2) (from Ch. 120, par. 429a2)

29 Sec. 13a.2. Each motor carrier shall keep records which
30 accurately reflect the type and number of gallons of motor fuel
31 consumed, the number of miles traveled with each type of fuel
32 on the highways of each jurisdiction and the number of miles

1 traveled with each type of fuel in ~~the highways of~~ Illinois,
2 the type and number of gallons of tax paid fuel purchased in
3 this State, and every jurisdiction, and the number of miles
4 traveled and the amount of fuel consumed in ~~on the highways of~~
5 this State and on the highways of every jurisdiction. Licensees
6 shall preserve the records for a period of 4 years from the due
7 date of their returns or the date filed, whichever is later. In
8 the absence of such records, the Department shall presume that
9 one gallon of fuel is used for each 4.0 miles traveled in this
10 State. Every authorized agent of the Department shall have
11 power to make any reasonable investigations to prevent
12 avoidance of the tax imposed by Section 13a hereof.

13 Failure to provide records demanded for the purpose of
14 audit extends the statute of limitations until the records are
15 provided.

16 (Source: P.A. 88-480.)

17 (35 ILCS 505/13a.3) (from Ch. 120, par. 429a3)

18 Sec. 13a.3. Every person holding a valid unrevoked motor
19 fuel use tax license issued under Section 13a.4 of this Act
20 shall, on or before the last day of the month next succeeding
21 any calendar quarter, file with the Department a report, in
22 such form as the Department may by rule or regulation
23 prescribe, setting forth a statement of the number of miles
24 traveled in every jurisdiction and in this State during the
25 previous calendar quarter, the number of gallons and type of
26 reportable motor fuel consumed on the highways of every
27 jurisdiction and the number of gallons and type of reportable
28 motor fuel consumed in ~~of~~ this State, and the total number of
29 gallons and types of tax paid fuel purchased within every
30 jurisdiction during said previous calendar quarter. A motor
31 carrier who purchases motor fuel in this State who pays a tax
32 thereon under any section of the Motor Fuel Tax Law other than
33 Sections 13a, 13a.1, 13a.2 and 13a.3, and who does not apply

1 for a refund under Section 13 or 13.1 of the Motor Fuel Tax
2 Law, shall receive a gallon for gallon credit against his
3 liability under Sections 13a, 13a.1, 13a.2 and 13a.3 hereof.
4 The rate under Section 2 of this Act shall apply to each gallon
5 of motor fuel used by such motor carrier in ~~on the highways of~~
6 Illinois during the previous calendar quarter in excess of the
7 motor fuel purchased in Illinois during such previous calendar
8 quarter.

9 The rate under subsection (2) of Section 13a of this Act
10 shall apply to each gallon of motor fuel used by such motor
11 carrier in ~~on the highways of~~ Illinois during the previous
12 calendar quarter. For purposes of the preceding paragraphs
13 "used" shall be determined as provided in Section 13a.2 of this
14 Act.

15 For such motor fuel consumed during the previous calendar
16 quarter, said tax shall be payable on the last day of the month
17 next succeeding such previous calendar quarter and shall bear
18 interest at the rate of 1% per month or fraction of month until
19 paid. Motor carriers required to file bonds under Section 13a.4
20 of this Act shall make tax payments to the Department by
21 certified check.

22 Reports not filed by the due date shall be considered late
23 and any taxes due considered delinquent. The licensee may be
24 assessed a penalty of \$50 or 10% of the delinquent taxes,
25 whichever is greater, for failure to file a report, or for
26 filing a late report, or for underpayment of taxes due.

27 As to each gallon of motor fuel purchased in Illinois by
28 such motor carrier during the previous calendar quarter in
29 excess of the number of gallons of motor fuel used by such
30 motor carrier in ~~on the highways of~~ Illinois during such
31 previous calendar quarter, the taxpayer may take a credit for
32 the current calendar quarter or the Department may issue a
33 credit memorandum or refund to such motor carrier for any tax
34 imposed by Part (a) of Section 13a of this Act paid on each

1 such gallon. If a credit is given, the credit memorandum shall
2 be carried over to offset liabilities of the licensee until the
3 credit is fully offset or until 8 calendar quarters pass after
4 the end of the calendar quarter in which the credit accrued,
5 whichever occurs sooner.

6 A motor carrier who purchases motor fuel in this State
7 shall be entitled to a refund under this Section or a credit
8 against all his liabilities under Sections 13a, 13a.1, 13a.2
9 and 13a.3 hereof for taxes imposed by the Use Tax Act, the
10 Retailers' Occupation Tax Act, the Municipal Retailers'
11 Occupation Tax Act and the County Retailers' Occupation Tax Act
12 on such motor fuel at a rate equal to that established by
13 subsection (2) of Section 13a of this Act, provided that such
14 taxes have been paid by the taxpayer and such taxes have been
15 charged to the motor carrier claiming the credit or refund.

16 (Source: P.A. 87-205; 88-480; 88-669, eff. 11-29-94.)

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

18 Sec. 15. Offenses; penalties.

19 1. Any person who knowingly acts as a distributor of motor
20 fuel or supplier of special fuel, or receiver of fuel without
21 having a license so to do, or who knowingly fails or refuses to
22 file a return with the Department as provided in Section 2b,
23 Section 5, or Section 5a of this Act, or who knowingly fails or
24 refuses to make payment to the Department as provided either in
25 Section 2b, Section 6, Section 6a, or Section 7 of this Act,
26 shall be guilty of a Class 3 felony. Each day any person
27 knowingly acts as a distributor of motor fuel, supplier of
28 special fuel, or receiver of fuel without having a license so
29 to do or after such a license has been revoked, constitutes a
30 separate offense.

31 2. Any person who acts as a motor carrier without having a
32 valid motor fuel use tax license, issued by the Department or
33 by a member jurisdiction under the provisions of the

1 International Fuel Tax Agreement, or a valid single trip permit
2 is guilty of a Class A misdemeanor for a first offense and is
3 guilty of a Class 4 felony for each subsequent offense. Any
4 person (i) who fails or refuses to make payment to the
5 Department as provided in Section 13a.1 of this Act or in the
6 International Fuel Tax Agreement referenced in Section 14a, or
7 (ii) who fails or refuses to make the quarterly return as
8 provided in Section 13a.3 is guilty of a Class 4 felony; and
9 for each subsequent offense, such person is guilty of a Class 3
10 felony.

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

20 3.5. Any person who knowingly enters false information on
21 any supporting documentation required to be kept by Section 6
22 or 6a of this Act is guilty of a Class 3 felony.

23 3.6. Any person who knowingly enters false information on
24 any supporting documentation required to be kept by item 8 or 9
25 of Section 5, item 7 or 8 of Section 5a, item 9 or 10 of Section
26 6, or item 8 or 9 of Section 6a of this Act shall pay the
27 following penalty:

28 \$2,500 for the first occurrence; and

29 \$5,000 for the second occurrence and each occurrence
30 thereafter.

31 3.7. Any person who knowingly attempts in any manner to
32 evade or defeat any tax imposed by this Act or the payment of
33 any tax imposed by this Act is guilty of a Class 2 felony.

34 4. Any person who refuses, upon demand, to submit for

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

10 5. Any person licensed under Section 13a.4, 13a.5, or the
11 International Fuel Tax Agreement who: (a) fails or refuses to
12 keep records and books, as provided in Section 13a.2 or as
13 required by the terms of the International Fuel Tax Agreement,
14 (b) refuses upon demand by the Department to submit for
15 inspection and examination the records required by Section
16 13a.2 of this Act or by the terms of the International Fuel Tax
17 Agreement, or (c) violates any reasonable rule or regulation
18 adopted by the Department for the enforcement of this Act, is
19 guilty of a Class A misdemeanor.

20 6. Any person who makes any false return or report to the
21 Department as to any material fact required by Sections 2b, 5,
22 5a, 7, 13, 13.1, or 13a.3 of this Act or by the International
23 Fuel Tax Agreement is guilty of a Class 2 felony.

24 7. A prosecution for any violation of this Section may be
25 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 within
28 5 years of the commission of the last act in furtherance of
29 evasion. The running of the period of limitations under this
30 Section shall be suspended while any proceeding or appeal from
31 any proceeding relating to the quashing or enforcement of any
32 grand jury or administrative subpoena issued in connection with
33 an investigation of the violation of any provision of this Act
34 is pending.

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

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

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

11 11. Any person who knowingly sells or attempts to sell dyed
12 diesel fuel for highway use or for use by recreational-type
13 watercraft on the waters of this State is guilty of a Class 4
14 felony. For each subsequent offense, the person is guilty of a
15 Class 2 felony.

16 12. Any person who knowingly possesses dyed diesel fuel for
17 highway use or for use by recreational-type watercraft on the
18 waters of this State is guilty of a Class A misdemeanor. For
19 each subsequent offense, the person is guilty of a Class 4
20 felony.

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:

- 24 First occurrence \$ 500
- 25 Second and each occurrence thereafter\$1,000

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

- 30 First occurrence \$ 500
- 31 Second and each occurrence thereafter\$1,000

32 15. If a motor vehicle required to be registered for
33 highway purposes is found to have dyed diesel fuel within the
34 ordinary fuel tanks attached to the motor vehicle or if a

1 recreational-type watercraft on the waters of this State is
2 found to have dyed diesel fuel within the ordinary fuel tanks
3 attached to the watercraft, the operator shall pay the
4 following penalty:

- 5 First occurrence\$2,500
- 6 Second and each occurrence thereafter\$5,000

7 16. Any licensed motor fuel distributor or licensed
8 supplier who sells or attempts to sell dyed diesel fuel for
9 highway use or for use by recreational-type watercraft on the
10 waters of this State shall pay the following penalty:

- 11 First occurrence \$ 5,000
- 12 Second and each occurrence thereafter \$10,000

13 (16.1) Any person other than a licensed motor fuel
14 distributor or licensed supplier who purchases motor fuel
15 tax-free and who sells or attempts to sell that motor fuel
16 shall pay the following penalty:

- 17 First occurrence.....\$ 5,000
- 18 Second and each occurrence thereafter.....\$10,000

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

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

28 For purposes of this Section, dyed diesel fuel means any
29 dyed diesel fuel whether or not dyed pursuant to Section 4d of
30 this Law.

31 Any person aggrieved by any action of the Department under
32 item 3.6, 13, 14, 15, ~~or~~ 16 , or 16.1 of this Section may
33 protest the action by making a written request for a hearing
34 within 60 days of the original action. If the hearing is not

1 requested in writing within 60 days, the original action is
2 final.

3 All penalties received under items 3.6, 13, 14, 15, ~~and~~ 16
4 , and 16.1 of this Section shall be deposited into the Tax
5 Compliance and Administration Fund.

6 (Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01; 92-232,
7 eff. 8-2-01; 92-651, eff. 7-11-02.)

8 (35 ILCS 505/17) (from Ch. 120, par. 433)

9 Sec. 17. It is the purpose of Sections 2 and 13a of this
10 Act to impose a tax upon the privilege of using motor fuel in
11 ~~operating each motor vehicle as defined in this Act upon the~~
12 ~~public highways and the waters of~~ this State, such tax to be
13 based upon the consumption of motor fuel in this State ~~such~~
14 ~~motor vehicle~~, so far as the same may be done, under the
15 Constitution and statutes of the United States, and the
16 Constitution of the State of Illinois. It is the purpose of
17 Section 2a of this Act to impose a tax upon the privilege of
18 importing or receiving in this State fuel for sale or use, such
19 tax to be used to fund the Underground Storage Tank Fund. If
20 any of the provisions of this Act include transactions which
21 are not taxable or are in any other respect unconstitutional,
22 it is the intent of the General Assembly that, so far as
23 possible, the remaining provisions of the Act be given effect.

24 (Source: P.A. 86-125.)

25 Section 99. Effective date. This Act takes effect on July
26 1, 2004."