

HB0538



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0538

Introduced 01/27/05, by Rep. Patricia Reid Lindner

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1035.1

from Ch. 34, par. 5-1035.1

Amends the Counties Code. Adds Kendall County to counties (now, DuPage, Kane, and McHenry) authorized to impose a motor fuel tax.

LRB094 06460 AJO 36548 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning counties.

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

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

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

7 Sec. 5-1035.1. County Motor Fuel Tax Law. The county board
8 of the counties of DuPage, Kane, Kendall, and McHenry may, by
9 an ordinance or resolution adopted by an affirmative vote of a
10 majority of the members elected or appointed to the county
11 board, impose a tax upon all persons engaged in the county in
12 the business of selling motor fuel, as now or hereafter defined
13 in the Motor Fuel Tax Law, at retail for the operation of motor
14 vehicles upon public highways or for the operation of
15 recreational watercraft upon waterways. Kane County may exempt
16 diesel fuel from the tax imposed pursuant to this Section. The
17 tax may be imposed, in half-cent increments, at a rate not
18 exceeding 4 cents per gallon of motor fuel sold at retail
19 within the county for the purpose of use or consumption and not
20 for the purpose of resale. The proceeds from the tax shall be
21 used by the county solely for the purpose of operating,
22 constructing and improving public highways and waterways, and
23 acquiring real property and right-of-ways for public highways
24 and waterways within the county imposing the tax.

25 A tax imposed pursuant to this Section, and all civil
26 penalties that may be assessed as an incident thereof, shall be
27 administered, collected and enforced by the Illinois
28 Department of Revenue in the same manner as the tax imposed
29 under the Retailers' Occupation Tax Act, as now or hereafter
30 amended, insofar as may be practicable; except that in the
31 event of a conflict with the provisions of this Section, this
32 Section shall control. The Department of Revenue shall have

1 full power: to administer and enforce this Section; to collect
2 all taxes and penalties due hereunder; to dispose of taxes and
3 penalties so collected in the manner hereinafter provided; and
4 to determine all rights to credit memoranda arising on account
5 of the erroneous payment of tax or penalty hereunder.

6 Whenever the Department determines that a refund shall be
7 made under this Section to a claimant instead of issuing a
8 credit memorandum, the Department shall notify the State
9 Comptroller, who shall cause the order to be drawn for the
10 amount specified, and to the person named, in the notification
11 from the Department. The refund shall be paid by the State
12 Treasurer out of the County Option Motor Fuel Tax Fund.

13 The Department shall forthwith pay over to the State
14 Treasurer, ex-officio, as trustee, all taxes and penalties
15 collected hereunder, which shall be deposited into the County
16 Option Motor Fuel Tax Fund, a special fund in the State
17 Treasury which is hereby created. On or before the 25th day of
18 each calendar month, the Department shall prepare and certify
19 to the State Comptroller the disbursement of stated sums of
20 money to named counties for which taxpayers have paid taxes or
21 penalties hereunder to the Department during the second
22 preceding calendar month. The amount to be paid to each county
23 shall be the amount (not including credit memoranda) collected
24 hereunder from retailers within the county during the second
25 preceding calendar month by the Department, but not including
26 an amount equal to the amount of refunds made during the second
27 preceding calendar month by the Department on behalf of the
28 county; less the amount expended during the second preceding
29 month by the Department pursuant to appropriation from the
30 County Option Motor Fuel Tax Fund for the administration and
31 enforcement of this Section, which appropriation shall not
32 exceed \$200,000 for fiscal year 1990 and, for each year
33 thereafter, shall not exceed 2% of the amount deposited into
34 the County Option Motor Fuel Tax Fund during the preceding
35 fiscal year.

36 Nothing in this Section shall be construed to authorize a

1 county to impose a tax upon the privilege of engaging in any
2 business which under the Constitution of the United States may
3 not be made the subject of taxation by this State.

4 An ordinance or resolution imposing a tax hereunder or
5 effecting a change in the rate thereof shall be effective on
6 the first day of the second calendar month next following the
7 month in which the ordinance or resolution is adopted and a
8 certified copy thereof is filed with the Department of Revenue,
9 whereupon the Department of Revenue shall proceed to administer
10 and enforce this Section on behalf of the county as of the
11 effective date of the ordinance or resolution. Upon a change in
12 rate of a tax levied hereunder, or upon the discontinuance of
13 the tax, the county board of the county shall, on or not later
14 than 5 days after the effective date of the ordinance or
15 resolution discontinuing the tax or effecting a change in rate,
16 transmit to the Department of Revenue a certified copy of the
17 ordinance or resolution effecting the change or
18 discontinuance.

19 This Section shall be known and may be cited as the County
20 Motor Fuel Tax Law.

21 (Source: P.A. 86-1028; 87-289.)