

**HB4027**



**94TH GENERAL ASSEMBLY**

**State of Illinois**

**2005 and 2006**

**HB4027**

Introduced 2/28/2005, by Rep. James D. Brosnahan

**SYNOPSIS AS INTRODUCED:**

55 ILCS 5/5-1035.1

from Ch. 34, par. 5-1035.1

Amends the County Motor Fuel Tax Law in the Counties Code. Makes a technical change.

LRB094 10313 AJO 40583 b

**A BILL FOR**

1 AN ACT concerning local government.

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~~ The county  
8 board of the counties of DuPage, Kane and McHenry may, by an  
9 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.)