

1 AN ACT concerning revenue.

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

4 Section 3. The Retailers' Occupation Tax Act is amended by
5 changing Section 2d as follows:

6 (35 ILCS 120/2d) (from Ch. 120, par. 441d)

7 Sec. 2d. Tax prepayment by motor fuel retailer.

8 (a) Any person engaged in the business of selling motor
9 fuel at retail, as defined in the Motor Fuel Tax Law, and who
10 is not a licensed distributor or supplier, as defined in the
11 Motor Fuel Tax Law, shall prepay to his or her distributor,
12 supplier, or other reseller of motor fuel a portion of the tax
13 imposed by this Act if the distributor, supplier, or other
14 reseller of motor fuel is registered under Section 2a or
15 Section 2c of this Act. The prepayment requirement provided for
16 in this Section does not apply to liquid propane gas.

17 (b) Beginning on July 1, 2000 and through December 31,
18 2000, the Retailers' Occupation Tax paid to the distributor,
19 supplier, or other reseller shall be an amount equal to \$0.01
20 per gallon of the motor fuel, except gasohol as defined in
21 Section 2-10 of this Act which shall be an amount equal to
22 \$0.01 per gallon, purchased from the distributor, supplier, or
23 other reseller.

1 (c) Before July 1, 2000 and then beginning on January 1,
2 2001 and through June 30, 2003, the Retailers' Occupation Tax
3 paid to the distributor, supplier, or other reseller shall be
4 an amount equal to \$0.04 per gallon of the motor fuel, except
5 gasohol as defined in Section 2-10 of this Act which shall be
6 an amount equal to \$0.03 per gallon, purchased from the
7 distributor, supplier, or other reseller.

8 (d) Beginning July 1, 2003 and through December 31, 2010
9 ~~thereafter~~, the Retailers' Occupation Tax paid to the
10 distributor, supplier, or other reseller shall be an amount
11 equal to \$0.06 per gallon of the motor fuel, except gasohol as
12 defined in Section 2-10 of this Act which shall be an amount
13 equal to \$0.05 per gallon, purchased from the distributor,
14 supplier, or other reseller.

15 (e) Beginning on January 1, 2011 and thereafter, the
16 Retailers' Occupation Tax paid to the distributor, supplier, or
17 other reseller shall be at the rate established by the
18 Department under this subsection. The rate shall be established
19 by the Department on January 1 and July 1 of each year using
20 the average selling price, as defined in Section 1 of this Act,
21 per gallon of motor fuel sold in the State during the previous
22 6 months and multiplying that amount by 6.25% to determine the
23 cents per gallon rate. In the case of biodiesel blends, as
24 defined in Section 3-42 of the Use Tax Act, with no less than
25 1% and no more than 10% biodiesel, and in the case of gasohol,
26 as defined in Section 3-40 of the Use Tax Act, the rate shall

1 be 80% of the rate established by the Department under this
2 subsection for motor fuel. The Department shall provide persons
3 subject to this Section notice of the rate established under
4 this subsection at least 20 days prior to each January 1 and
5 July 1. Publication of the established rate on the Department's
6 internet website shall constitute sufficient notice under this
7 Section. The Department may use data derived from independent
8 surveys conducted or accumulated by third parties to determine
9 the average selling price per gallon of motor fuel sold in the
10 State.

11 (f) Any person engaged in the business of selling motor
12 fuel at retail shall be entitled to a credit against tax due
13 under this Act in an amount equal to the tax paid to the
14 distributor, supplier, or other reseller.

15 (g) Every distributor, supplier, or other reseller
16 registered as provided in Section 2a or Section 2c of this Act
17 shall remit the prepaid tax on all motor fuel that is due from
18 any person engaged in the business of selling at retail motor
19 fuel with the returns filed under Section 2f or Section 3 of
20 this Act, but the vendors discount provided in Section 3 shall
21 not apply to the amount of prepaid tax that is remitted. Any
22 distributor or supplier who fails to properly collect and remit
23 the tax shall be liable for the tax. For purposes of this
24 Section, the prepaid tax is due on invoiced gallons sold during
25 a month by the 20th day of the following month.

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

1 Section 5. The Motor Fuel Tax Law is amended by changing
2 Sections 1.2, 1.14, 1.22, 2, 3, 3a, 5, 5a, 6, 6a, 8, 13, 13a.4,
3 13a.5, and 15 and by adding Section 17a as follows:

4 (35 ILCS 505/1.2) (from Ch. 120, par. 417.2)

5 Sec. 1.2. Distributor. "Distributor" means a person who
6 either (i) produces, refines, blends, compounds or
7 manufactures motor fuel in this State, or (ii) transports motor
8 fuel into this State, or (iii) exports motor fuel out of this
9 State, or (iv) engages in the distribution of motor fuel
10 primarily by tank car or tank truck, or both, and who operates
11 an Illinois bulk plant where he or she has active bulk storage
12 capacity of not less than 30,000 gallons for gasoline as
13 defined in item (A) of Section 5 of this Law.

14 "Distributor" does not, however, include a person who
15 receives or transports into this State and sells or uses motor
16 fuel under such circumstances as preclude the collection of the
17 tax herein imposed, by reason of the provisions of the
18 constitution and statutes of the United States. However, a
19 person operating a motor vehicle into the State, may transport
20 motor fuel in the ordinary fuel tank attached to the motor
21 vehicle for the operation of the motor vehicle, without being
22 considered a distributor. Any railroad ~~licensed as a bulk user~~
23 ~~and~~ registered under Section 18c-7201 of the Illinois Vehicle
24 Code may deliver special fuel directly into the fuel supply

1 tank of a locomotive owned, operated, or controlled by any
2 other railroad registered under Section 18c-7201 of the
3 Illinois Vehicle Code without being considered a distributor or
4 supplier.

5 (Source: P.A. 91-173, eff. 1-1-00; 91-198, eff. 7-20-99; 92-16,
6 eff. 6-28-01.)

7 (35 ILCS 505/1.14) (from Ch. 120, par. 417.14)

8 Sec. 1.14. Supplier. "Supplier" means any person other than
9 a licensed distributor who (i) transports special fuel into
10 this State; ~~or~~ (ii) exports special fuel out of this State; or
11 (iii) engages in the distribution of special fuel primarily by
12 tank car or tank truck, or both, and who operates an Illinois
13 bulk plant where he has active bulk storage capacity of not
14 less than 30,000 gallons for special fuel as defined in Section
15 1.13 of this Law.

16 "Supplier" does not, however, include a person who receives
17 or transports into this State and sells or uses special fuel
18 under such circumstances as preclude the collection of the tax
19 herein imposed, by reason of the provisions of the Constitution
20 and laws of the United States. However, a person operating a
21 motor vehicle into the State, may transport special fuel in the
22 ordinary fuel tank attached to the motor vehicle for the
23 operation of the motor vehicle without being considered a
24 supplier. Any railroad licensed as a bulk user and registered
25 under Section 18c-7201 of the Illinois Vehicle Code may deliver

1 special fuel directly into the fuel supply tank of a locomotive
2 owned, operated, or controlled by any other railroad registered
3 under Section 18c-7201 of the Illinois Vehicle Code without
4 being considered a supplier.

5 (Source: P.A. 91-173, eff. 1-1-00; 91-198, eff. 7-20-99; 92-16,
6 eff. 6-28-01.)

7 (35 ILCS 505/1.22)

8 Sec. 1.22. "Jurisdiction" means a state of the United
9 States, the District of Columbia, a state of the United Mexican
10 States, or a province or Territory of Canada.

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

12 (35 ILCS 505/2) (from Ch. 120, par. 418)

13 Sec. 2. A tax is imposed on the privilege of operating
14 motor vehicles upon the public highways and recreational-type
15 watercraft upon the waters of this State.

16 (a) Prior to August 1, 1989, the tax is imposed at the rate
17 of 13 cents per gallon on all motor fuel used in motor vehicles
18 operating on the public highways and recreational type
19 watercraft operating upon the waters of this State. Beginning
20 on August 1, 1989 and until January 1, 1990, the rate of the
21 tax imposed in this paragraph shall be 16 cents per gallon.
22 Beginning January 1, 1990, the rate of tax imposed in this
23 paragraph shall be 19 cents per gallon.

24 (b) The tax on the privilege of operating motor vehicles

1 which use diesel fuel shall be the rate according to paragraph
2 (a) plus an additional 2 1/2 cents per gallon. "Diesel fuel" is
3 defined as any product intended for use or offered for sale as
4 a fuel for engines in which the fuel is injected into the
5 combustion chamber and ignited by pressure without electric
6 spark.

7 (c) A tax is imposed upon the privilege of engaging in the
8 business of selling motor fuel as a retailer or reseller on all
9 motor fuel used in motor vehicles operating on the public
10 highways and recreational type watercraft operating upon the
11 waters of this State: (1) at the rate of 3 cents per gallon on
12 motor fuel owned or possessed by such retailer or reseller at
13 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per
14 gallon on motor fuel owned or possessed by such retailer or
15 reseller at 12:01 A.M. on January 1, 1990.

16 Retailers and resellers who are subject to this additional
17 tax shall be required to inventory such motor fuel and pay this
18 additional tax in a manner prescribed by the Department of
19 Revenue.

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

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

26 (e) The collection of a tax, based on gallonage of all

1 products commonly or commercially known or sold as 1-K
2 kerosene, regardless of its classification or uses, is
3 prohibited (i) on and after July 1, 1992 until December 31,
4 1999, except when the 1-K kerosene is either: (1) delivered
5 into bulk storage facilities of a bulk user, or (2) delivered
6 directly into the fuel supply tanks of motor vehicles and (ii)
7 on and after January 1, 2000. Beginning on January 1, 2000, the
8 collection of a tax, based on gallonage of all products
9 commonly or commercially known or sold as 1-K kerosene,
10 regardless of its classification or uses, is prohibited except
11 when the 1-K kerosene is delivered directly into a storage tank
12 that is located at a facility that has withdrawal facilities
13 that are readily accessible to and are capable of dispensing
14 1-K kerosene into the fuel supply tanks of motor vehicles. For
15 purposes of this subsection (e), a facility is considered to
16 have withdrawal facilities that are not "readily accessible to
17 and capable of dispensing 1-K kerosene into the fuel supply
18 tanks of motor vehicles" only if the 1-K kerosene is delivered
19 from: (i) a dispenser hose that is short enough so that it will
20 not reach the fuel supply tank of a motor vehicle or (ii) a
21 dispenser that is enclosed by a fence or other physical barrier
22 so that a vehicle cannot pull alongside the dispenser to permit
23 fueling.

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

1 kerosene.

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

3 (35 ILCS 505/3) (from Ch. 120, par. 419)

4 Sec. 3. No person shall act as a distributor of motor fuel
5 within this State without first securing a license to act as a
6 distributor of motor fuel from the Department. Application for
7 such license shall be made to the Department upon blanks
8 furnished by it. The application shall be signed and verified,
9 and shall contain such information as the Department deems
10 necessary. A blender shall, in addition to securing a
11 distributor's license, make application to the Department for a
12 blender's permit, setting forth in the application such
13 information as the Department deems necessary. The applicant
14 for a distributor's license shall also file with the Department
15 a bond on a form to be approved by and with a surety or sureties
16 satisfactory to the Department conditioned upon such applicant
17 paying to the State of Illinois all monies becoming due by
18 reason of the sale, export, or use of motor fuel by the
19 applicant, together with all penalties and interest thereon.
20 The Department shall fix the penalty of such bond in each case
21 taking into consideration the amount of motor fuel expected to
22 be sold, distributed, exported, and used by such applicant and
23 the penalty fixed by the Department shall be such, as in its
24 opinion, will protect the State of Illinois against failure to
25 pay the amount hereinafter provided on motor fuel sold,

1 distributed, exported, and used, but the amount of the penalty
2 fixed by the Department shall not exceed twice the monthly
3 amount that would be collectable as a tax in the event of a
4 sale on all the motor fuel sold, distributed, exported, and
5 used by the distributor inclusive of tax-free sales, exports,
6 use, or distribution. Upon receipt of the application and bond
7 in proper form, the Department shall issue to the applicant a
8 license to act as a distributor. No person who is in default to
9 the State for monies due under this Act for the sale,
10 distribution, export, or use of motor fuel shall receive a
11 license to act as a distributor.

12 A license shall not be granted to any person whose
13 principal place of business is in a state other than Illinois,
14 unless such person is licensed for motor fuel distribution or
15 export in the state in which the principal place of business is
16 located and that such person is not in default to that State
17 for any monies due for the sale, distribution, export, or use
18 of motor fuel.

19 (Source: P.A. 90-491, eff. 1-1-98; 91-173, eff. 1-1-00.)

20 (35 ILCS 505/3a) (from Ch. 120, par. 419a)

21 Sec. 3a. No person, other than a licensed distributor,
22 shall act as a supplier of special fuel within this State
23 without first securing a license to act as a supplier of
24 special fuel from the Department.

25 Application for such license shall be made to the

1 Department upon blanks furnished by it. The application shall
2 be signed and verified and shall contain such information as
3 the Department deems necessary.

4 The applicant for a supplier's license shall also file,
5 with the Department, a bond on a form to be approved by and
6 with a surety or sureties satisfactory to the Department,
7 conditioned upon such applicant paying to the State of Illinois
8 all moneys becoming due by reason of the sale or use of special
9 fuel by the applicant, together with all penalties and interest
10 thereon. The Department shall fix the penalty of such bond in
11 each case, taking into consideration the amount of special fuel
12 expected to be sold, distributed, exported, and used by such
13 applicant, and the penalty fixed by the Department shall be
14 such, as in its opinion, will protect the State of Illinois
15 against failure to pay the amount hereinafter provided on
16 special fuel sold, distributed, exported, and used, but the
17 amount of the penalty fixed by the Department shall not exceed
18 twice the monthly amount of tax liability that would be
19 collectable as a tax in the event of a taxable sale on all the
20 special fuel sold, distributed, exported, and used by the
21 supplier inclusive of tax-free sales, use, exports, or
22 distribution.

23 Upon receipt of the application and bond in proper form,
24 the Department shall issue to the applicant a license to act as
25 a supplier. No person who is in default to the State for moneys
26 due under this Act for the sale, distribution, export, or use

1 of motor fuel shall receive a license to act as a supplier.

2 A license shall not be granted to any person whose
3 principal place of business is in a state other than Illinois,
4 unless such person is licensed for motor fuel distribution or
5 export in the State in which the principal place of business is
6 located and that other State requires such license and that
7 such person is not in default to that State for any monies due
8 for the sale, distribution, export, or use of motor fuel.

9 (Source: P.A. 90-491, eff. 1-1-98; 91-173, eff. 1-1-00.)

10 (35 ILCS 505/5) (from Ch. 120, par. 421)

11 Sec. 5. Except as hereinafter provided, a person holding a
12 valid unrevoked license to act as a distributor of motor fuel
13 shall, between the 1st and 20th days of each calendar month,
14 make return to the Department, showing an itemized statement of
15 the number of invoiced gallons of motor fuel of the types
16 specified in this Section which were purchased, acquired, ~~or~~
17 received, or exported during the preceding calendar month; the
18 amount of such motor fuel produced, refined, compounded,
19 manufactured, blended, sold, distributed, exported, and used
20 by the licensed distributor during the preceding calendar
21 month; the amount of such motor fuel lost or destroyed during
22 the preceding calendar month; the amount of such motor fuel on
23 hand at the close of business for such month; and such other
24 reasonable information as the Department may require. If a
25 distributor's only activities with respect to motor fuel are

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

13 The types of motor fuel referred to in the preceding
14 paragraph are: (A) All products commonly or commercially known
15 or sold as gasoline (including casing-head and absorption or
16 natural gasoline), gasohol, motor benzol or motor benzene
17 regardless of their classification or uses; and (B) all
18 combustible gases which exist in a gaseous state at 60 degrees
19 Fahrenheit and at 14.7 pounds per square inch absolute
20 including, but not limited to, liquefied petroleum gases used
21 for highway purposes; and (C) special fuel. Only those
22 quantities of combustible gases (example (B) above) which are
23 used or sold by the distributor to be used to propel motor
24 vehicles on the public highways, or which are delivered into a
25 storage tank that is located at a facility that has withdrawal
26 facilities which are readily accessible to and are capable of

1 dispensing combustible gases into the fuel supply tanks of
2 motor vehicles, shall be subject to return. For purposes of
3 this Section, a facility is considered to have withdrawal
4 facilities that are not "readily accessible to and capable of
5 dispensing combustible gases into the fuel supply tanks of
6 motor vehicles" only if the combustible gases are delivered
7 from: (i) a dispenser hose that is short enough so that it will
8 not reach the fuel supply tank of a motor vehicle or (ii) a
9 dispenser that is enclosed by a fence or other physical barrier
10 so that a vehicle cannot pull alongside the dispenser to permit
11 fueling. For the purposes of this Act, liquefied petroleum
12 gases shall mean and include any material having a vapor
13 pressure not exceeding that allowed for commercial propane
14 composed predominantly of the following hydrocarbons, either
15 by themselves or as mixtures: Propane, Propylene, Butane
16 (normal butane or iso-butane) and Butylene (including
17 isomers).

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

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

26 In case of a tax-free sale, as provided in Section 6, of

1 motor fuel which the distributor is required by this Section to
2 include in his return to the Department, the distributor in his
3 return shall show: (1) If the sale is made to another licensed
4 distributor the amount sold and the name, address and license
5 number of the purchasing distributor; (2) if the sale is made
6 to a person where delivery is made outside of this State the
7 name and address of such purchaser and the point of delivery
8 together with the date and amount delivered; (3) if the sale is
9 made to the Federal Government or its instrumentalities the
10 amount sold; (4) if the sale is made to a municipal corporation
11 owning and operating a local transportation system for public
12 service in this State the name and address of such purchaser,
13 and the amount sold, as evidenced by official forms of
14 exemption certificates properly executed and furnished by such
15 purchaser; (5) if the sale is made to a privately owned public
16 utility owning and operating 2-axle vehicles designed and used
17 for transporting more than 7 passengers, which vehicles are
18 used as common carriers in general transportation of
19 passengers, are not devoted to any specialized purpose and are
20 operated entirely within the territorial limits of a single
21 municipality or of any group of contiguous municipalities or in
22 a close radius thereof, and the operations of which are subject
23 to the regulations of the Illinois Commerce Commission, then
24 the name and address of such purchaser and the amount sold as
25 evidenced by official forms of exemption certificates properly
26 executed and furnished by the purchaser; (6) if the product

1 sold is special fuel and if the sale is made to a licensed
2 supplier under conditions which qualify the sale for tax
3 exemption under Section 6 of this Act, the amount sold and the
4 name, address and license number of the purchaser; and (7) if a
5 sale of special fuel is made to someone other than a licensed
6 distributor, or a licensed supplier, for a use other than in
7 motor vehicles, by making a specific notation thereof on the
8 invoice or sales slip covering such sales and obtaining such
9 supporting documentation as may be required by the Department.

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

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

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

26 If the Department has reason to believe and does believe

1 that the amount shown on the return as purchased, acquired,
2 received, exported, sold, used, lost or destroyed is incorrect,
3 or that an amount of motor fuel of the types required by the
4 second paragraph of this Section to be reported to the
5 Department has not been correctly reported the Department shall
6 fix an amount for such receipt, sales, export, use, loss or
7 destruction according to its best judgment and information,
8 which amount so fixed by the Department shall be prima facie
9 correct. All returns shall be made on forms prepared and
10 furnished by the Department, and shall contain such other
11 information as the Department may reasonably require. The
12 return must be accompanied by appropriate computer-generated
13 magnetic media supporting schedule data in the format required
14 by the Department, unless, as provided by rule, the Department
15 grants an exception upon petition of a taxpayer. All licensed
16 distributors shall report all losses of motor fuel sustained on
17 account of fire, theft, spillage, spoilage, leakage, or any
18 other provable cause when filing the return for the period
19 during which the loss occurred. If the distributor reports
20 losses due to fire or theft, then the distributor must include
21 fire department or police department reports and any other
22 documentation that the Department may require. The mere making
23 of the report does not assure the allowance of the loss as a
24 reduction in tax liability. Losses of motor fuel as the result
25 of evaporation or shrinkage due to temperature variations may
26 not exceed 1% of the total gallons in storage at the beginning

1 of the month, plus the receipts of gallonage during the month,
2 minus the gallonage remaining in storage at the end of the
3 month. Any loss reported that is in excess of 1% shall be
4 subject to the tax imposed by Section 2 of this Law. On and
5 after July 1, 2001, for each 6-month period January through
6 June, net losses of motor fuel (for each category of motor fuel
7 that is required to be reported on a return) as the result of
8 evaporation or shrinkage due to temperature variations may not
9 exceed 1% of the total gallons in storage at the beginning of
10 each January, plus the receipts of gallonage each January
11 through June, minus the gallonage remaining in storage at the
12 end of each June. On and after July 1, 2001, for each 6-month
13 period July through December, net losses of motor fuel (for
14 each category of motor fuel that is required to be reported on
15 a return) as the result of evaporation or shrinkage due to
16 temperature variations may not exceed 1% of the total gallons
17 in storage at the beginning of each July, plus the receipts of
18 gallonage each July through December, minus the gallonage
19 remaining in storage at the end of each December. Any net loss
20 reported that is in excess of this amount shall be subject to
21 the tax imposed by Section 2 of this Law. For purposes of this
22 Section, "net loss" means the number of gallons gained through
23 temperature variations minus the number of gallons lost through
24 temperature variations or evaporation for each of the
25 respective 6-month periods.

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

1 (35 ILCS 505/5a) (from Ch. 120, par. 421a)

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

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

23 The records, waybills and supporting documents kept by
24 railroads and other common carriers in the regular course of
25 business shall be prima facie evidence of the contents and

1 receipt of cars or tanks covered by those records, waybills or
2 supporting documents.

3 If the Department has reason to believe and does believe
4 that the amount shown on the return as purchased, acquired,
5 received, sold, exported, used, or lost is incorrect, or that
6 an amount of special fuel of the type required by the 1st
7 paragraph of this Section to be reported to the Department by
8 suppliers has not been correctly reported as a purchase,
9 receipt, sale, use, export, or loss the Department shall fix an
10 amount for such purchase, receipt, sale, use, export, or loss
11 according to its best judgment and information, which amount so
12 fixed by the Department shall be prima facie correct. All
13 licensed suppliers shall report all losses of special fuel
14 sustained on account of fire, theft, spillage, spoilage,
15 leakage, or any other provable cause when filing the return for
16 the period during which the loss occurred. If the supplier
17 reports losses due to fire or theft, then the supplier must
18 include fire department or police department reports and any
19 other documentation that the Department may require. The mere
20 making of the report does not assure the allowance of the loss
21 as a reduction in tax liability. Losses of special fuel as the
22 result of evaporation or shrinkage due to temperature
23 variations may not exceed 1% of the total gallons in storage at
24 the beginning of the month, plus the receipts of gallonage
25 during the month, minus the gallonage remaining in storage at
26 the end of the month.

1 Any loss reported that is in excess of 1% shall be subject
2 to the tax imposed by Section 2 of this Law. On and after July
3 1, 2001, for each 6-month period January through June, net
4 losses of special fuel (for each category of special fuel that
5 is required to be reported on a return) as the result of
6 evaporation or shrinkage due to temperature variations may not
7 exceed 1% of the total gallons in storage at the beginning of
8 each January, plus the receipts of gallonage each January
9 through June, minus the gallonage remaining in storage at the
10 end of each June. On and after July 1, 2001, for each 6-month
11 period July through December, net losses of special fuel (for
12 each category of special fuel that is required to be reported
13 on a return) as the result of evaporation or shrinkage due to
14 temperature variations may not exceed 1% of the total gallons
15 in storage at the beginning of each July, plus the receipts of
16 gallonage each July through December, minus the gallonage
17 remaining in storage at the end of each December. Any net loss
18 reported that is in excess of this amount shall be subject to
19 the tax imposed by Section 2 of this Law. For purposes of this
20 Section, "net loss" means the number of gallons gained through
21 temperature variations minus the number of gallons lost through
22 temperature variations or evaporation for each of the
23 respective 6-month periods.

24 In case of a sale of special fuel to someone other than a
25 licensed distributor or licensed supplier for a use other than
26 in motor vehicles, the supplier shall show in his return the

1 amount of invoiced gallons sold and the name and address of the
2 purchaser in addition to any other information the Department
3 may require.

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

6 All returns shall be made on forms prepared and furnished
7 by the Department and shall contain such other information as
8 the Department may reasonably require. The return must be
9 accompanied by appropriate computer-generated magnetic media
10 supporting schedule data in the format required by the
11 Department, unless, as provided by rule, the Department grants
12 an exception upon petition of a taxpayer.

13 In case of a tax-free sale, as provided in Section 6a, of
14 special fuel which the supplier is required by this Section to
15 include in his return to the Department, the supplier in his
16 return shall show: (1) If the sale of special fuel is made to
17 the Federal Government or its instrumentalities; (2) if the
18 sale of special fuel is made to a municipal corporation owning
19 and operating a local transportation system for public service
20 in this State, the name and address of such purchaser and the
21 amount sold, as evidenced by official forms of exemption
22 certificates properly executed and furnished by such
23 purchaser; (3) if the sale of special fuel is made to a
24 privately owned public utility owning and operating 2-axle
25 vehicles designed and used for transporting more than 7
26 passengers, which vehicles are used as common carriers in

1 general transportation of passengers, are not devoted to any
2 specialized purpose and are operated entirely within the
3 territorial limits of a single municipality or of any group of
4 contiguous municipalities or in a close radius thereof, and the
5 operations of which are subject to the regulations of the
6 Illinois Commerce Commission, then the name and address of such
7 purchaser and the amount sold, as evidenced by official forms
8 of exemption certificates properly executed and furnished by
9 such purchaser; (4) if the product sold is special fuel and if
10 the sale is made to a licensed supplier or to a licensed
11 distributor under conditions which qualify the sale for tax
12 exemption under Section 6a of this Act, the amount sold and the
13 name, address and license number of such purchaser; (5) if a
14 sale of special fuel is made to a person where delivery is made
15 outside of this State, the name and address of such purchaser
16 and the point of delivery together with the date and amount of
17 invoiced gallons delivered; and (6) if a sale of special fuel
18 is made to someone other than a licensed distributor or a
19 licensed supplier, for a use other than in motor vehicles, by
20 making a specific notation thereof on the invoice or sales slip
21 covering that sale and obtaining such supporting documentation
22 as may be required by the Department.

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

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

1 (35 ILCS 505/6) (from Ch. 120, par. 422)

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

1 collection or payment shall be made in the case of the sale or
2 use of any motor fuel to the extent to which such sale or use of
3 motor fuel may not, under the constitution and statutes of the
4 United States, be made the subject of taxation by this State. A
5 person whose license to act as a distributor of fuel has been
6 revoked shall, at the time of making a return, also pay to the
7 Department an amount equal to the amount that would be
8 collectible as a tax in the event of a sale thereof on all
9 motor fuel, which he is required by the second paragraph of
10 Section 5 to report to the Department in making a return, and
11 which he had on hand on the date on which the license was
12 revoked, and with respect to which no tax had been previously
13 paid under this Act.

14 A distributor may make tax free sales of motor fuel, with
15 respect to which he is otherwise required to collect the tax,
16 ~~when the motor fuel is delivered from a dispensing facility~~
17 ~~that has withdrawal facilities capable of dispensing motor fuel~~
18 ~~into the fuel supply tanks of motor vehicles only as specified~~
19 ~~in the following items 3, 4, and 5. A distributor may make~~
20 ~~tax free sales of motor fuel, with respect to which he is~~
21 ~~otherwise required to collect the tax, when the motor fuel is~~
22 ~~delivered from other facilities~~ only as specified in the
23 following items 1 through 7.

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

1 sale.

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

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

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

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

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

25 7. When a sale of dyed diesel ~~special~~ fuel is made to
26 someone other than a licensed distributor or a licensed

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

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

21 For purposes of this item 7, a dyed diesel fuel
22 dispensing facility is considered to have withdrawal
23 facilities that are "not readily accessible to and not
24 capable of dispensing dyed diesel fuel into the fuel supply
25 tank of a motor vehicle" only if the dyed diesel fuel is
26 delivered from: (i) a dispenser hose that is short enough

1 so that it will not reach the fuel supply tank of a motor
2 vehicle or (ii) a dispenser that is enclosed by a fence or
3 other physical barrier so that a vehicle cannot pull
4 alongside the dispenser to permit fueling.

5 8. (Blank).

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

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

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

13 (35 ILCS 505/6a) (from Ch. 120, par. 422a)

14 Sec. 6a. Collection of tax; suppliers. A supplier, other
15 than a licensed distributor, who sells or distributes any
16 special fuel, which he is required by Section 5a to report to
17 the Department when filing a return, shall (except as
18 hereinafter provided) collect at the time of such sale and
19 distribution, the amount of tax imposed under this Act on all
20 such special fuel sold and distributed, and at the time of
21 making a return, the supplier shall pay to the Department the
22 amount so collected less a discount of 2% through June 30, 2003
23 and 1.75% thereafter which is allowed to reimburse the supplier
24 for the expenses incurred in keeping records, preparing and
25 filing returns, collecting and remitting the tax and supplying

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

19 A person whose license to act as supplier of special fuel
20 has been revoked shall, at the time of making a return, also
21 pay to the Department an amount equal to the amount that would
22 be collectible as a tax in the event of a sale thereof on all
23 special fuel, which he is required by the 1st paragraph of
24 Section 5a to report to the Department in making a return.

25 A supplier may make tax-free sales of special fuel, with
26 respect to which he is otherwise required to collect the tax,

1 ~~when the motor fuel is delivered from a dispensing facility~~
2 ~~that has withdrawal facilities capable of dispensing special~~
3 ~~fuel into the fuel supply tanks of motor vehicles only as~~
4 ~~specified in the following items 1, 2, and 3. A supplier may~~
5 ~~make tax free sales of special fuel, with respect to which he~~
6 ~~is otherwise required to collect the tax, when the special fuel~~
7 ~~is delivered from other facilities~~ only as specified in the
8 following items 1 through 7.

9 1. When the sale is made to the federal government or
10 its instrumentalities.

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

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

26 4. When a sale ~~of special fuel~~ is made to a person

1 holding a valid unrevoked license as a supplier or a
2 distributor by making a specific notation thereof on
3 invoice or sales slip covering each such sale.

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

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

26 For purposes of this item 5, a dyed diesel fuel

1 dispensing facility is considered to have withdrawal
2 facilities that are "not readily accessible to and not
3 capable of dispensing dyed diesel fuel into the fuel supply
4 tank of a motor vehicle" only if the dyed diesel fuel is
5 delivered from: (i) a dispenser hose that is short enough
6 so that it will not reach the fuel supply tank of a motor
7 vehicle or (ii) a dispenser that is enclosed by a fence or
8 other physical barrier so that a vehicle cannot pull
9 alongside the dispenser to permit fueling.

10 6. (Blank).

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

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

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

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

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

1 Agreement, shall be deposited in a special fund in the State
2 treasury, to be known as the "Motor Fuel Tax Fund", and shall
3 be used as follows:

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

8 (b) \$420,000 shall be transferred each month to the State
9 Boating Act Fund to be used by the Department of Natural
10 Resources for the purposes specified in Article X of the Boat
11 Registration and Safety Act;

12 (c) \$3,500,000 shall be transferred each month to the Grade
13 Crossing Protection Fund to be used as follows: not less than
14 \$12,000,000 each fiscal year shall be used for the construction
15 or reconstruction of rail highway grade separation structures;
16 \$2,250,000 in fiscal years 2004 through 2009 and \$3,000,000 in
17 fiscal year 2010 and each fiscal year thereafter shall be
18 transferred to the Transportation Regulatory Fund and shall be
19 accounted for as part of the rail carrier portion of such funds
20 and shall be used to pay the cost of administration of the
21 Illinois Commerce Commission's railroad safety program in
22 connection with its duties under subsection (3) of Section
23 18c-7401 of the Illinois Vehicle Code, with the remainder to be
24 used by the Department of Transportation upon order of the
25 Illinois Commerce Commission, to pay that part of the cost
26 apportioned by such Commission to the State to cover the

1 interest of the public in the use of highways, roads, streets,
2 or pedestrian walkways in the county highway system, township
3 and district road system, or municipal street system as defined
4 in the Illinois Highway Code, as the same may from time to time
5 be amended, for separation of grades, for installation,
6 construction or reconstruction of crossing protection or
7 reconstruction, alteration, relocation including construction
8 or improvement of any existing highway necessary for access to
9 property or improvement of any grade crossing and grade
10 crossing surface including the necessary highway approaches
11 thereto of any railroad across the highway or public road, or
12 for the installation, construction, reconstruction, or
13 maintenance of a pedestrian walkway over or under a railroad
14 right-of-way, as provided for in and in accordance with Section
15 18c-7401 of the Illinois Vehicle Code. The Commission may order
16 up to \$2,000,000 per year in Grade Crossing Protection Fund
17 moneys for the improvement of grade crossing surfaces and up to
18 \$300,000 per year for the maintenance and renewal of 4-quadrant
19 gate vehicle detection systems located at non-high speed rail
20 grade crossings. The Commission shall not order more than
21 \$2,000,000 per year in Grade Crossing Protection Fund moneys
22 for pedestrian walkways. In entering orders for projects for
23 which payments from the Grade Crossing Protection Fund will be
24 made, the Commission shall account for expenditures authorized
25 by the orders on a cash rather than an accrual basis. For
26 purposes of this requirement an "accrual basis" assumes that

1 the total cost of the project is expended in the fiscal year in
2 which the order is entered, while a "cash basis" allocates the
3 cost of the project among fiscal years as expenditures are
4 actually made. To meet the requirements of this subsection, the
5 Illinois Commerce Commission shall develop annual and 5-year
6 project plans of rail crossing capital improvements that will
7 be paid for with moneys from the Grade Crossing Protection
8 Fund. The annual project plan shall identify projects for the
9 succeeding fiscal year and the 5-year project plan shall
10 identify projects for the 5 directly succeeding fiscal years.
11 The Commission shall submit the annual and 5-year project plans
12 for this Fund to the Governor, the President of the Senate, the
13 Senate Minority Leader, the Speaker of the House of
14 Representatives, and the Minority Leader of the House of
15 Representatives on the first Wednesday in April of each year;

16 (d) of the amount remaining after allocations provided for
17 in subsections (a), (b) and (c), a sufficient amount shall be
18 reserved to pay all of the following:

19 (1) the costs of the Department of Revenue in
20 administering this Act;

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

25 (3) refunds provided for in Section 13 of this Act,
26 refunds for overpayment of decal fees paid under Section

1 13a.4 of this Act, and refunds provided for under the terms
2 of the International Fuel Tax Agreement referenced in
3 Section 14a;

4 (4) from October 1, 1985 until June 30, 1994, the
5 administration of the Vehicle Emissions Inspection Law,
6 which amount shall be certified monthly by the
7 Environmental Protection Agency to the State Comptroller
8 and shall promptly be transferred by the State Comptroller
9 and Treasurer from the Motor Fuel Tax Fund to the Vehicle
10 Inspection Fund, and for the period July 1, 1994 through
11 June 30, 2000, one-twelfth of \$25,000,000 each month, for
12 the period July 1, 2000 through June 30, 2003, one-twelfth
13 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,
14 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each
15 July 1 and October 1, or as soon thereafter as may be
16 practical, during the period July 1, 2004 through June 30,
17 2010, for the administration of the Vehicle Emissions
18 Inspection Law of 2005, to be transferred by the State
19 Comptroller and Treasurer from the Motor Fuel Tax Fund into
20 the Vehicle Inspection Fund;

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

22 (6) payment of motor fuel use taxes due to member
23 jurisdictions under the terms of the International Fuel Tax
24 Agreement. The Department shall certify these amounts to
25 the Comptroller by the 15th day of each month; the
26 Comptroller shall cause orders to be drawn for such

1 amounts, and the Treasurer shall administer those amounts
2 on or before the last day of each month;

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

6 (1) Until January 1, 2000, 58.4%, and beginning January
7 1, 2000, 45.6% shall be deposited as follows:

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

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

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

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

19 (B) 16.74% to the counties of the State having
20 1,000,000 or more inhabitants,

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

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

24 As soon as may be after the first day of each month the
25 Department of Transportation shall allot to each municipality
26 its share of the amount apportioned to the several

1 municipalities which shall be in proportion to the population
2 of such municipalities as determined by the last preceding
3 municipal census if conducted by the Federal Government or
4 Federal census. If territory is annexed to any municipality
5 subsequent to the time of the last preceding census the
6 corporate authorities of such municipality may cause a census
7 to be taken of such annexed territory and the population so
8 ascertained for such territory shall be added to the population
9 of the municipality as determined by the last preceding census
10 for the purpose of determining the allotment for that
11 municipality. If the population of any municipality was not
12 determined by the last Federal census preceding any
13 apportionment, the apportionment to such municipality shall be
14 in accordance with any census taken by such municipality. Any
15 municipal census used in accordance with this Section shall be
16 certified to the Department of Transportation by the clerk of
17 such municipality, and the accuracy thereof shall be subject to
18 approval of the Department which may make such corrections as
19 it ascertains to be necessary.

20 As soon as may be after the first day of each month the
21 Department of Transportation shall allot to each county its
22 share of the amount apportioned to the several counties of the
23 State as herein provided. Each allotment to the several
24 counties having less than 1,000,000 inhabitants shall be in
25 proportion to the amount of motor vehicle license fees received
26 from the residents of such counties, respectively, during the

1 preceding calendar year. The Secretary of State shall, on or
2 before April 15 of each year, transmit to the Department of
3 Transportation a full and complete report showing the amount of
4 motor vehicle license fees received from the residents of each
5 county, respectively, during the preceding calendar year. The
6 Department of Transportation shall, each month, use for
7 allotment purposes the last such report received from the
8 Secretary of State.

9 As soon as may be after the first day of each month, the
10 Department of Transportation shall allot to the several
11 counties their share of the amount apportioned for the use of
12 road districts. The allotment shall be apportioned among the
13 several counties in the State in the proportion which the total
14 mileage of township or district roads in the respective
15 counties bears to the total mileage of all township and
16 district roads in the State. Funds allotted to the respective
17 counties for the use of road districts therein shall be
18 allocated to the several road districts in the county in the
19 proportion which the total mileage of such township or district
20 roads in the respective road districts bears to the total
21 mileage of all such township or district roads in the county.
22 After July 1 of any year, no allocation shall be made for any
23 road district unless it levied a tax for road and bridge
24 purposes in an amount which will require the extension of such
25 tax against the taxable property in any such road district at a
26 rate of not less than either .08% of the value thereof, based

1 upon the assessment for the year immediately prior to the year
2 in which such tax was levied and as equalized by the Department
3 of Revenue or, in DuPage County, an amount equal to or greater
4 than \$12,000 per mile of road under the jurisdiction of the
5 road district, whichever is less. If any road district has
6 levied a special tax for road purposes pursuant to Sections
7 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such
8 tax was levied in an amount which would require extension at a
9 rate of not less than .08% of the value of the taxable property
10 thereof, as equalized or assessed by the Department of Revenue,
11 or, in DuPage County, an amount equal to or greater than
12 \$12,000 per mile of road under the jurisdiction of the road
13 district, whichever is less, such levy shall, however, be
14 deemed a proper compliance with this Section and shall qualify
15 such road district for an allotment under this Section. If a
16 township has transferred to the road and bridge fund money
17 which, when added to the amount of any tax levy of the road
18 district would be the equivalent of a tax levy requiring
19 extension at a rate of at least .08%, or, in DuPage County, an
20 amount equal to or greater than \$12,000 per mile of road under
21 the jurisdiction of the road district, whichever is less, such
22 transfer, together with any such tax levy, shall be deemed a
23 proper compliance with this Section and shall qualify the road
24 district for an allotment under this Section.

25 In counties in which a property tax extension limitation is
26 imposed under the Property Tax Extension Limitation Law, road

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

17 As used in this Section the term "road district" means any
18 road district, including a county unit road district, provided
19 for by the Illinois Highway Code; and the term "township or
20 district road" means any road in the township and district road
21 system as defined in the Illinois Highway Code. For the
22 purposes of this Section, "road district" also includes park
23 districts, forest preserve districts and conservation
24 districts organized under Illinois law and "township or
25 district road" also includes such roads as are maintained by
26 park districts, forest preserve districts and conservation

1 districts. The Department of Transportation shall determine
2 the mileage of all township and district roads for the purposes
3 of making allotments and allocations of motor fuel tax funds
4 for use in road districts.

5 Payment of motor fuel tax moneys to municipalities and
6 counties shall be made as soon as possible after the allotment
7 is made. The treasurer of the municipality or county may invest
8 these funds until their use is required and the interest earned
9 by these investments shall be limited to the same uses as the
10 principal funds.

11 (Source: P.A. 95-744, eff. 7-18-08; 96-34, eff. 7-13-09; 96-45,
12 eff. 7-15-09; revised 11-3-09.)

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

14 Sec. 13. Refund of tax paid. Any person other than a
15 distributor or supplier, who loses motor fuel through any cause
16 or uses motor fuel (upon which he has paid the amount required
17 to be collected under Section 2 of this Act) for any purpose
18 other than operating a motor vehicle upon the public highways
19 or waters, shall be 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

1 adequate proof of taxes directly paid to another state and the
2 amount of motor fuel used in that state.

3 Claims based in whole or in part on taxes paid to another
4 state shall include (i) a certified copy of the tax return
5 filed with such other state by the claimant; (ii) a copy of
6 either the cancelled check paying the tax due on such return,
7 or a receipt acknowledging payment of the tax due on such tax
8 return; and (iii) such other information as the Department may
9 reasonably require. This paragraph shall not apply to taxes
10 paid on returns filed under Section 13a.3 of this Act.

11 Any person who purchases motor fuel use tax decals as
12 required by Section 13a.4 and pays an amount of fees for such
13 decals that exceeds the amount due shall be reimbursed and
14 repaid the amount of the decal fees that are deemed by the
15 department to be in excess of the amount due.

16 Claims for such reimbursement must be made to the
17 Department of Revenue, duly verified by the claimant (or by the
18 claimant's legal representative if the claimant has died or
19 become a person under legal disability), upon forms prescribed
20 by the Department. The claim must state such facts relating to
21 the purchase, importation, manufacture or production of the
22 motor fuel by the claimant as the Department may deem
23 necessary, and the time when, and the circumstances of its loss
24 or the specific purpose for which it was used (as the case may
25 be), together with such other information as the Department may
26 reasonably require. No claim based upon idle time shall be

1 allowed. Claims for reimbursement for overpayment of decal fees
2 shall be made to the Department of Revenue, duly verified by
3 the claimant (or by the claimant's legal representative if the
4 claimant has died or become a person under legal disability),
5 upon forms prescribed by the Department. The claim shall state
6 facts relating to the overpayment of decal fees, together with
7 such other information as the Department may reasonably
8 require. Claims for reimbursement of overpayment of decal fees
9 paid on or after January 1, 2011 must be filed not later than
10 one year after the date on which the fees were paid by the
11 claimant. If it is determined that the Department should
12 reimburse a claimant for overpayment of decal fees, the
13 Department shall first apply the amount of such refund against
14 any tax or penalty or interest due by the claimant under
15 Section 13a of this Act.

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

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

1 The Department may make such investigation of the
2 correctness of the facts stated in such claims as it deems
3 necessary. When the Department has approved any such claim, it
4 shall pay to the claimant (or to the claimant's legal
5 representative, as such if the claimant has died or become a
6 person under legal disability) the reimbursement provided in
7 this Section, out of any moneys appropriated to it for that
8 purpose.

9 Any distributor or supplier who has paid the tax imposed by
10 Section 2 of this Act upon motor fuel lost or used by such
11 distributor or supplier for any purpose other than operating a
12 motor vehicle upon the public highways or waters may file a
13 claim for credit or refund to recover the amount so paid. Such
14 claims shall be filed on forms prescribed by the Department.
15 Such claims shall be made to the Department, duly verified by
16 the claimant (or by the claimant's legal representative if the
17 claimant has died or become a person under legal disability),
18 upon forms prescribed by the Department. The claim shall state
19 such facts relating to the purchase, importation, manufacture
20 or production of the motor fuel by the claimant as the
21 Department may deem necessary and the time when the loss or
22 nontaxable use occurred, and the circumstances of its loss or
23 the specific purpose for which it was used (as the case may
24 be), together with such other information as the Department may
25 reasonably require. Claims must be filed not later than one
26 year after the date on which the tax was paid by the claimant.

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

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

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

25 In any case in which there has been an erroneous refund of
26 tax or fees payable under this Section, a notice of tax

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

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

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

1 If any person ceases to be licensed as a distributor or
2 supplier while still holding an unused credit memorandum issued
3 under this Act, such person may, at his election (instead of
4 assigning the credit memorandum to a licensed distributor or
5 licensed supplier under this Act), surrender such unused credit
6 memorandum to the Department and receive a refund of the amount
7 to which such person is entitled.

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

19 For claims based upon taxes paid on or after January 1,
20 2000, a claim based upon the use of undyed diesel fuel shall
21 not be allowed except (i) if allowed under the preceding
22 paragraph or (ii) for claims for the following:

23 (1) Undyed diesel fuel used (i) in a manufacturing
24 process, as defined in Section 2-45 of the Retailers'
25 Occupation Tax Act, wherein the undyed diesel fuel becomes
26 a component part of a product or by-product, other than

1 fuel or motor fuel, when the use of dyed diesel fuel in
2 that manufacturing process results in a product that is
3 unsuitable for its intended use or (ii) for testing
4 machinery and equipment in a manufacturing process, as
5 defined in Section 2-45 of the Retailers' Occupation Tax
6 Act, wherein the testing takes place on private property.

7 (2) Undyed diesel fuel used by a manufacturer on
8 private property in the research and development, as
9 defined in Section 1.29, of machinery or equipment intended
10 for manufacture.

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

16 (4) Undyed diesel fuel used by a commercial motor
17 vehicle for any purpose other than operating the commercial
18 motor vehicle upon the public highways. Claims shall be
19 limited to commercial motor vehicles that are operated for
20 both highway purposes and any purposes other than operating
21 such vehicles upon the public highways.

22 (5) Undyed diesel fuel used by a unit of local
23 government in its operation of an airport if the undyed
24 diesel fuel is used directly in airport operations on
25 airport property.

26 (6) Undyed diesel fuel used by refrigeration units that

1 are permanently mounted to a semitrailer, as defined in
2 Section 1.28 of this Law, wherein the refrigeration units
3 have a fuel supply system dedicated solely for the
4 operation of the refrigeration units.

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

7 (8) Beginning on the effective date of this amendatory
8 Act of the 94th General Assembly, undyed diesel fuel used
9 by tugs and spotter equipment to shift vehicles or parcels
10 on both private and airport property. Any claim under this
11 item (8) may be made only by a claimant that owns tugs and
12 spotter equipment and operates that equipment on both
13 private and airport property. The aggregate of all credits
14 or refunds resulting from claims filed under this item (8)
15 by a claimant in any calendar year may not exceed \$100,000.
16 A claim may not be made under this item (8) by the same
17 claimant more often than once each quarter. For the
18 purposes of this item (8), "tug" means a vehicle designed
19 for use on airport property that shifts custom-designed
20 containers of parcels from loading docks to aircraft, and
21 "spotter equipment" means a vehicle designed for use on
22 both private and airport property that shifts trailers
23 containing parcels between staging areas and loading
24 docks.

25 Any person who has paid the tax imposed by Section 2 of
26 this Law upon undyed diesel fuel that is unintentionally mixed

1 with dyed diesel fuel and who owns or controls the mixture of
2 undyed diesel fuel and dyed diesel fuel may file a claim for
3 refund to recover the amount paid. The amount of undyed diesel
4 fuel unintentionally mixed must equal 500 gallons or more. Any
5 claim for refund of unintentionally mixed undyed diesel fuel
6 and dyed diesel fuel shall be supported by documentation
7 showing the date and location of the unintentional mixing, the
8 number of gallons involved, the disposition of the mixed diesel
9 fuel, and any other information that the Department may
10 reasonably require. Any unintentional mixture of undyed diesel
11 fuel and dyed diesel fuel shall be sold or used only for
12 non-highway purposes.

13 The Department shall promulgate regulations establishing
14 specific limits on the amount of undyed diesel fuel that may be
15 claimed for refund.

16 For purposes of claims for refund, "loss" means the
17 reduction of motor fuel resulting from fire, theft, spillage,
18 spoilage, leakage, or any other provable cause, but does not
19 include a reduction resulting from evaporation, or shrinkage
20 due to temperature variations. In the case of losses due to
21 fire or theft, the claimant must include fire department or
22 police department reports and any other documentation that the
23 Department may require.

24 (Source: P.A. 94-654, eff. 8-22-05.)

25 (35 ILCS 505/13a.4) (from Ch. 120, par. 429a4)

1 Sec. 13a.4. Except as provided in Section 13a.5 of this
2 Act, no motor carrier shall operate in Illinois without first
3 securing a motor fuel use tax license and decals from the
4 Department or a motor fuel use tax license and decals issued
5 under the International Fuel Tax Agreement by any member
6 jurisdiction. Notwithstanding any other provision of this
7 Section to the contrary, however, the Director of Revenue or
8 his designee may, upon determining that a disaster exists in
9 Illinois or in any other state, temporarily waive the licensing
10 requirements of this Section for commercial motor vehicles that
11 travel through Illinois, or return to Illinois from a point
12 outside Illinois, for the purpose of assisting in disaster
13 relief efforts. Temporary waiver of the licensing requirements
14 of this Section shall not exceed a period of 30 days from the
15 date the Director temporarily waives the licensing
16 requirements of this Section. For purposes of this Section, a
17 disaster includes flood, tornado, hurricane, fire, earthquake,
18 or any other disaster that causes or threatens loss of life or
19 destruction or damage to property of such a magnitude as to
20 endanger the public health, safety, and welfare. The licensing
21 requirements of this Section shall be temporarily waived only
22 if the operator of the commercial motor vehicle can provide
23 proof by manifest that the commercial motor vehicle is
24 traveling through Illinois or returning to Illinois from a
25 point outside Illinois for purposes of assisting in disaster
26 relief efforts. Application for such license and decals shall

1 be made annually to the Department on forms prescribed by the
2 Department. The application shall be under oath, and shall
3 contain such information as the Department deems necessary. The
4 Department, for cause, may require an applicant to post a bond
5 on a form to be approved by and with a surety or sureties
6 satisfactory to the Department conditioned upon such applicant
7 paying to the State of Illinois all monies becoming due by
8 reason of the sale or use of motor fuel by the applicant,
9 together with all penalties and interest thereon. If a bond is
10 required, it shall be equal to at least twice the estimated
11 average tax liability of a quarterly return. The Department
12 shall fix the penalty of such bond in each case taking into
13 consideration the amount of motor fuel expected to be used by
14 such applicant and the penalty fixed by the Department shall be
15 such as, in its opinion, will protect the State of Illinois
16 against failure to pay the amount hereinafter provided on motor
17 fuel used. No person who is in default to the State for monies
18 due under this Act for the sale, distribution or use of motor
19 fuel shall receive such a license or decal.

20 Upon receipt of the application for license in proper form,
21 and upon payment of any required \$100 reinstatement fee, and
22 upon approval by the Department of the bond furnished by the
23 applicant, the Department may issue to such applicant a license
24 which allows the operation of commercial motor vehicles in
25 Illinois, and decals for each commercial motor vehicle
26 operating in Illinois. Prior to January 1, 1985, motor fuel use

1 tax licenses shall be conspicuously displayed in the cab of
2 each commercial motor vehicle operating in Illinois. After
3 January 1, 1986, motor fuel use tax licenses shall be carried
4 in the cab of each commercial motor vehicle operating in
5 Illinois.

6 The Department shall, by regulation, provide for the use of
7 reproductions of original motor fuel use tax licenses in lieu
8 of issuing multiple original motor fuel use tax licenses to
9 licensees.

10 On and after January 1, 1985, external motor fuel tax
11 decals shall be conspicuously displayed on the passenger side
12 of each commercial motor vehicle propelled by motor fuel
13 operating in Illinois, except buses, which may display such
14 devices on the driver's side of the vehicle. Beginning with the
15 effective date of this amendatory Act of 1993 or the membership
16 of the State of Illinois in the International Fuel Tax
17 Agreement, whichever is later, the decals issued to the
18 licensee shall be placed on both exterior sides of the cab. In
19 the case of transporters, manufacturers, dealers, or driveway
20 operations, the decals need not be permanently affixed but may
21 be temporarily displayed in a visible manner on the exterior
22 sides of the cab. Failure to display the decals in the required
23 locations may subject the vehicle operator to the purchase of a
24 trip permit and a citation. Such motor fuel tax decals shall be
25 issued by the Department and remain valid for a period of 2
26 calendar years, beginning January 1, 1985. The decals shall

1 expire at the end of the regular 2 year issuance period, with
2 new decals required to be displayed at that time. Beginning
3 January 1, 1993, the motor fuel decals shall be issued by the
4 Department and remain valid for a period of one calendar year.
5 The decals shall expire at the end of the regular one year
6 issuance period, with new decals required to be displayed at
7 that time. Decals shall be no larger than 3 inches by 3 inches.
8 Prior to January 1, 1993, a fee of \$7.50 shall be charged by
9 the Department for each decal issued prior to and during the 2
10 calendar years such decal is valid. Beginning January 1, 1993,
11 a fee of \$3.75 shall be charged by the Department for each
12 decal issued prior to and during the calendar year such decal
13 is valid. Beginning January 1, 1994, \$3.75 shall be charged for
14 a set of 2 decals. The Department may also prescribe procedures
15 for the issuance of replacement decals, with a maximum fee of
16 \$2 for each set of replacement decals issued. The transfer of
17 decals from one vehicle to another vehicle or from one motor
18 carrier to another motor carrier is prohibited. The fees paid
19 for the decals issued under this Section shall be deposited in
20 the Motor Fuel Tax Fund, and may be appropriated to the
21 Department for administration of this Section and enforcement
22 of the tax imposed by Section 13a of this Act.

23 To avoid duplicate reporting of mileage and payment of any
24 tax arising therefrom under Section 13a.3 of this Act, the
25 Department shall, by regulation, provide for the allocation
26 between lessors and lessees of the same commercial motor

1 vehicle or vehicles of the responsibility as a motor carrier
2 for the reporting of mileage and the liability for tax arising
3 under Section 13a.3 of this Act, and for registration,
4 furnishing of bond, carrying of motor fuel use tax licenses,
5 and display of decals under this Section, and for all other
6 duties imposed upon motor carriers by this Act.

7 (Source: P.A. 94-1074, eff. 12-26-06.)

8 (35 ILCS 505/13a.5) (from Ch. 120, par. 429a5)

9 Sec. 13a.5. As to a commercial motor vehicle operated in
10 Illinois in the course of interstate traffic by a motor carrier
11 not holding a motor fuel use tax license issued under this Act,
12 a single trip permit authorizing operation of such commercial
13 motor vehicle for a single trip into the State of Illinois,
14 through the State of Illinois, or from a point on the border of
15 this State to a point within and return to the border may be
16 issued by the Department or its agents after proper
17 application. The fee for each single trip permit shall be \$40
18 ~~\$20~~ and such single trip permit shall be valid for a period of
19 96 ~~72~~ hours. This fee shall be in lieu of the tax required by
20 Section 13a of this Act, all reports required by Section 13a.3
21 of this Act, and the registration, decal display and furnishing
22 of bond required by Section 13a.4 of this Act. Notwithstanding
23 any other provision of this Section to the contrary, however,
24 the Director of Revenue or his designee may, upon determining
25 that a disaster exists in Illinois or in any other state,

1 temporarily waive the permit provisions of this Section for
2 commercial motor vehicles that travel into the State of
3 Illinois, through Illinois, or return to Illinois from a point
4 outside Illinois, for the purpose of assisting in disaster
5 relief efforts. Temporary waiver of the permit provisions of
6 this Section shall not exceed a period of 30 days from the date
7 the Director waives the permit provisions of this Section. For
8 purposes of this Section, a disaster includes flood, tornado,
9 hurricane, fire, earthquake, or any other disaster that causes
10 or threatens loss of life or destruction or damage to property
11 of such a magnitude as to endanger the public health, safety,
12 and welfare. The permit provisions of this Section shall be
13 temporarily waived only if the operator of the commercial motor
14 vehicle can provide proof by manifest that the commercial motor
15 vehicle is traveling through Illinois or returning to Illinois
16 from a point outside Illinois for purposes of assisting in
17 disaster relief efforts. Rules or regulations promulgated by
18 the Department under this Section shall provide for reasonable
19 and proper limitations and restrictions governing application
20 for and issuance and use of, single trip permits, so as to
21 preclude evasion of the license requirement in Section 13a.4.

22 (Source: P.A. 94-1074, eff. 12-26-06.)

23 (35 ILCS 505/15) (from Ch. 120, par. 431)

24 Sec. 15. 1. Any person who knowingly acts as a distributor
25 of motor fuel or supplier of special fuel, or receiver of fuel

1 without having a license so to do, or who knowingly fails or
2 refuses to file a return with the Department as provided in
3 Section 2b, Section 5, or Section 5a of this Act, or who
4 knowingly fails or refuses to make payment to the Department as
5 provided either in Section 2b, Section 6, Section 6a, or
6 Section 7 of this Act, shall be guilty of a Class 3 felony.
7 Each day any person knowingly acts as a distributor of motor
8 fuel, supplier of special fuel, or receiver of fuel without
9 having a license so to do or after such a license has been
10 revoked, constitutes a separate offense.

11 2. Any person who acts as a motor carrier without having a
12 valid motor fuel use tax license, issued by the Department or
13 by a member jurisdiction under the provisions of the
14 International Fuel Tax Agreement, or a valid single trip permit
15 is guilty of a Class A misdemeanor for a first offense and is
16 guilty of a Class 4 felony for each subsequent offense. Any
17 person (i) who fails or refuses to make payment to the
18 Department as provided in Section 13a.1 of this Act or in the
19 International Fuel Tax Agreement referenced in Section 14a, or
20 (ii) who fails or refuses to make the quarterly return as
21 provided in Section 13a.3 is guilty of a Class 4 felony; and
22 for each subsequent offense, such person is guilty of a Class 3
23 felony.

24 3. In case such person acting as a distributor, receiver,
25 supplier, or motor carrier is a corporation, then the officer
26 or officers, agent or agents, employee or employees, of such

1 corporation responsible for any act of such corporation, or
2 failure of such corporation to act, which acts or failure to
3 act constitutes a violation of any of the provisions of this
4 Act as enumerated in paragraphs 1 and 2 of this Section, shall
5 be punished by such fine or imprisonment, or by both such fine
6 and imprisonment as provided in those paragraphs.

7 3.5. Any person who knowingly enters false information on
8 any supporting documentation required to be kept by Section 6
9 or 6a of this Act is guilty of a Class 3 felony.

10 3.7. Any person who knowingly attempts in any manner to
11 evade or defeat any tax imposed by this Act or the payment of
12 any tax imposed by this Act is guilty of a Class 2 felony.

13 4. Any person who refuses, upon demand, to submit for
14 inspection, books and records, or who fails or refuses to keep
15 books and records in violation of Section 12 of this Act, or
16 any distributor, receiver, or supplier who violates any
17 reasonable rule or regulation adopted by the Department for the
18 enforcement of this Act is guilty of a Class A misdemeanor. Any
19 person who acts as a blender in violation of Section 3 of this
20 Act or who having transported reportable motor fuel within
21 Section 7b of this Act fails to make the return required by
22 that Section, is guilty of a Class 4 felony.

23 5. Any person licensed under Section 13a.4, 13a.5, or the
24 International Fuel Tax Agreement who: (a) fails or refuses to
25 keep records and books, as provided in Section 13a.2 or as
26 required by the terms of the International Fuel Tax Agreement,

1 (b) refuses upon demand by the Department to submit for
2 inspection and examination the records required by Section
3 13a.2 of this Act or by the terms of the International Fuel Tax
4 Agreement, or (c) violates any reasonable rule or regulation
5 adopted by the Department for the enforcement of this Act, is
6 guilty of a Class A misdemeanor.

7 6. Any person who makes any false return or report to the
8 Department as to any material fact required by Sections 2b, 5,
9 5a, 7, 13, or 13a.3 of this Act or by the International Fuel
10 Tax Agreement is guilty of a Class 2 felony.

11 7. A prosecution for any violation of this Section may be
12 commenced anytime within 5 years of the commission of that
13 violation. A prosecution for tax evasion as set forth in
14 paragraph 3.7 of this Section may be prosecuted any time within
15 5 years of the commission of the last act in furtherance of
16 evasion. The running of the period of limitations under this
17 Section shall be suspended while any proceeding or appeal from
18 any proceeding relating to the quashing or enforcement of any
19 grand jury or administrative subpoena issued in connection with
20 an investigation of the violation of any provision of this Act
21 is pending.

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

24 9. Any person filing a fraudulent application or order form
25 under any provision of this Act is guilty of a Class A
26 misdemeanor. For each subsequent offense, the person is guilty

1 of a Class 4 felony.

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

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

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

16 13. Any person who sells or transports dyed diesel fuel
17 without the notice required by Section 4e shall pay the
18 following penalty:

- 19 First occurrence \$ 500
- 20 Second and each occurrence thereafter \$1,000

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

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

1 15. If a motor vehicle required to be registered for
 2 highway purposes is found to have dyed diesel fuel within the
 3 ordinary fuel tanks attached to the motor vehicle or if a
 4 recreational-type watercraft on the waters of this State is
 5 found to have dyed diesel fuel within the ordinary fuel tanks
 6 attached to the watercraft, the operator shall pay the
 7 following penalty:

8 First occurrence \$1,000 ~~\$2,500~~
 9 Second and each occurrence thereafter \$5,000

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

14 First occurrence \$1,000 ~~\$5,000~~
 15 Second and each occurrence thereafter \$5,000 ~~\$10,000~~

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

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

25 For purposes of this Section, dyed diesel fuel means any
 26 dyed diesel fuel whether or not dyed pursuant to Section 4d of

1 this Law.

2 Any person aggrieved by any action of the Department under
3 item 13, 14, 15, or 16 of this Section may protest the action
4 by making a written request for a hearing within 60 days of the
5 original action. If the hearing is not requested in writing
6 within 60 days, the original action is final.

7 All penalties received under items 13, 14, 15, and 16 of
8 this Section shall be deposited into the Tax Compliance and
9 Administration Fund.

10 (Source: P.A. 94-1074, eff. 12-26-06.)

11 (35 ILCS 505/17a new)

12 Sec. 17a. Forms; electronic filing. All returns,
13 applications, and other forms required by this Act must be in
14 the form required by the Department. The Department is
15 authorized to adopt rules to require the electronic payment of
16 tax or fees under this Act, and the electronic filing of
17 returns, applications or other forms required by this Act.

18 Section 10. The Environmental Impact Fee Law is amended by
19 changing Section 325 as follows:

20 (415 ILCS 125/325)

21 (Section scheduled to be repealed on January 1, 2025)

22 Sec. 325. Incorporation of other Acts. The provisions of
23 Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b,

1 6c, 8, 9, 10 and 12 (except to the extent to which the minimum
2 notice requirement for hearings conflicts with that provided
3 for in Section 16 of the Motor Fuel Tax Law), of the Retailers'
4 Occupation Tax Act that are not inconsistent with this Act, and
5 Section 3-7 of the Uniform Penalty and Interest Act shall apply
6 as far as practicable, to the subject matter of this Law to the
7 same extent as if those provisions were included in this Law.

8 In addition, Sections 2d, 12, 12a, 13a.8, 14, 15, 16, 17,
9 17a, and 18 of the Motor Fuel Tax Law shall apply as far as
10 practicable, to the subject matter of this Law to the same
11 extent as if those provisions were included in this Law.

12 References to "taxes" in these incorporated Sections shall
13 be construed to apply to the administration, payment, and
14 remittance of all fees under this Law.

15 (Source: P.A. 95-264, eff. 8-17-07.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.