

1 AN ACT concerning taxation.

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

4 Section 5. The Motor Fuel Tax Law is amended by changing
5 Sections 2a and 15 as follows:

6 (35 ILCS 505/2a) (from Ch. 120, par. 418a)

7 Sec. 2a. Except as hereinafter provided, on and after
8 January 1, 1990 and before January 1, 2013, a tax of
9 three-tenths of a cent per gallon is imposed upon the
10 privilege of being a receiver in this State of fuel for sale
11 or use.

12 The tax shall be paid by the receiver in this State who
13 first sells or uses fuel. In the case of a sale, the tax
14 shall be stated as a separate item on the invoice.

15 For the purpose of the tax imposed by this Section, being
16 a receiver of "motor fuel" as defined by Section 1.1 of this
17 Act, and aviation fuels, home heating oil and kerosene, but
18 excluding liquified petroleum gases, is subject to tax
19 without regard to whether the fuel is intended to be used for
20 operation of motor vehicles on the public highways and
21 waters. However, no such tax shall be imposed upon the
22 importation or receipt of aviation fuels and kerosene at
23 airports with over 300,000 operations per year, for years
24 prior to 1991, and over 170,000 operations per year beginning
25 in 1991, located in a city of more than 1,000,000 inhabitants
26 for sale to or use by holders of certificates of public
27 convenience and necessity or foreign air carrier permits,
28 issued by the United States Department of Transportation, and
29 their air carrier affiliates, or upon the importation or
30 receipt of aviation fuels and kerosene at facilities owned or
31 leased by those certificate or permit holders and used in

1 their activities at an airport described above. In addition,
2 no such tax shall be imposed upon the importation or receipt
3 of diesel fuel sold to or used by a rail carrier, registered
4 pursuant to Section 18c-7201 of the Illinois Vehicle Code or
5 otherwise recognized by the Illinois Commerce Commission as a
6 rail carrier, to the extent and used directly in railroad
7 operations. In addition, no such tax shall be imposed when
8 the sale is made with delivery to a purchaser outside this
9 State or when the sale is made to a person holding a valid
10 license as a receiver. In addition, no tax shall be imposed
11 upon diesel fuel consumed or used in the operation of ships,
12 barges, or vessels, that are used primarily in or for the
13 transportation of property in interstate commerce for hire on
14 rivers bordering on this State, if the diesel fuel is
15 delivered by a licensed receiver to the purchaser's barge,
16 ship, or vessel while it is afloat upon that bordering river.
17 A specific notation thereof shall be made on the invoices or
18 sales slips covering each sale.

19 (Source: P.A. 88-496; 89-428, eff. 1-1-96; 89-457, eff.
20 5-22-96; 89-468, eff. 1-1-97.)

21 (35 ILCS 505/15) (from Ch. 120, par. 431)

22 Sec. 15. 1. Any person who knowingly acts as a
23 distributor of motor fuel or supplier of special fuel, or
24 receiver of fuel without having a license so to do, or who
25 knowingly fails or refuses to file a return with the
26 Department as provided in Section 2b, Section 5, or Section
27 5a of this Act, or who knowingly fails or refuses to make
28 payment to the Department as provided either in Section 2b,
29 Section 6, Section 6a, or Section 7 of this Act, shall be
30 guilty of a Class 3 felony. Each day any person knowingly
31 acts as a distributor of motor fuel, supplier of special
32 fuel, or receiver of fuel without having a license so to do
33 or after such a license has been revoked, constitutes a

1 separate offense.

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

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

25 3.5. Any person who knowingly enters false information
26 on any supporting documentation required to be kept by
27 Section 6 or 6a of this Act is guilty of a Class 3 felony.

28 3.7. Any person who knowingly attempts in any manner to
29 evade or defeat any tax imposed by this Act or the payment of
30 any tax imposed by this Act is guilty of a Class 2 felony.

31 4. Any person who refuses, upon demand, to submit for
32 inspection, books and records, or who fails or refuses to
33 keep books and records in violation of Section 12 of this
34 Act, or any distributor, receiver, or supplier who violates

1 any reasonable rule or regulation adopted by the Department
2 for the enforcement of this Act is guilty of a Class A
3 misdemeanor. Any person who acts as a blender in violation
4 of Section 3 of this Act or who having transported reportable
5 motor fuel within Section 7b of this Act fails to make the
6 return required by that Section, is guilty of a Class 4
7 felony.

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

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

24 7. A prosecution for any violation of this Section may
25 be commenced anytime within 5 years of the commission of that
26 violation. A prosecution for tax evasion as set forth in
27 paragraph 3.7 of this Section may be prosecuted any time
28 within 5 years of the commission of the last act in
29 furtherance of evasion. The running of the period of
30 limitations under this Section shall be suspended while any
31 proceeding or appeal from any proceeding relating to the
32 quashing or enforcement of any grand jury or administrative
33 subpoena issued in connection with an investigation of the
34 violation of any provision of this Act is pending.

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

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

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

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

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

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

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

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

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

32 15. If a licensed motor vehicle is found to have dyed
33 diesel fuel within the ordinary fuel tanks attached to the
34 motor vehicle or if a recreational-type watercraft on the

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

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

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

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

12 17. Any person who knowingly sells or transports dyed
13 diesel fuel without the notice required by Section 4e is
14 guilty of a petty offense. For each subsequent offense, the
15 person is guilty of a Class A misdemeanor.

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

21 For purposes of this Section, dyed diesel fuel means any
22 dyed diesel fuel whether or not dyed pursuant to Section 4d
23 of this Law.

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

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

28 Section 10. The Environmental Impact Fee Law is amended
29 by changing Section 310 as follows:

30 (415 ILCS 125/310)

31 (Section scheduled to be repealed on January 1, 2003)

32 Sec. 310. Environmental impact fee; imposition.

1 Beginning January 1, 1996, all receivers of fuel are subject
2 to an environmental impact fee of \$60 per 7,500 gallons of
3 fuel, or an equivalent amount per fraction thereof, that is
4 sold or used in Illinois. The fee shall be paid by the
5 receiver in this State who first sells or uses the fuel. The
6 environmental impact fee imposed by this Law replaces the fee
7 imposed under the corresponding provisions of Article 3 of
8 Public Act 89-428. Environmental impact fees paid under that
9 Article 3 shall satisfy the receiver's corresponding
10 liability under this Law.

11 A receiver of fuels is subject to the fee without regard
12 to whether the fuel is intended to be used for operation of
13 motor vehicles on the public highways and waters. However,
14 no fee shall be imposed upon the importation or receipt of
15 aviation fuels and kerosene at airports with over 170,000
16 operations per year, located in a city of more than 1,000,000
17 inhabitants, for sale to or use by holders of certificates of
18 public convenience and necessity or foreign air carrier
19 permits, issued by the United States Department of
20 Transportation, and their air carrier affiliates, or upon the
21 importation or receipt of aviation fuels and kerosene at
22 facilities owned or leased by those certificate or permit
23 holders and used in their activities at an airport described
24 above. In addition, no fee may be imposed upon the
25 importation or receipt of diesel fuel sold to or used by a
26 rail carrier registered under Section 18c-7201 of the
27 Illinois Vehicle Code or otherwise recognized by the Illinois
28 Commerce Commission as a rail carrier, to the extent and used
29 directly in railroad operations. In addition, no fee may be
30 imposed when the sale is made with delivery to a purchaser
31 outside this State or when the sale is made to a person
32 holding a valid license as a receiver. In addition, no fee
33 shall be imposed upon diesel fuel consumed or used in the
34 operation of ships, barges, or vessels, that are used

1 primarily in or for the transportation of property in
2 interstate commerce for hire on rivers bordering on this
3 State, if the diesel fuel is delivered by a licensed receiver
4 to the purchaser's barge, ship, or vessel while it is afloat
5 upon that bordering river. A specific notation thereof shall
6 be made on the invoices or sales slips covering each sale.

7 (Source: P.A. 89-428, eff. 1-1-96; 89-457, eff. 5-22-96;
8 89-468, eff. 1-1-97; 90-14, eff. 7-1-97.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.