

1                                   **FUEL TAX REFUNDS FOR LOSS OR**  
2   **DESTRUCTION**

3   2000 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: John L. Valentine**

6 AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING FOR CERTAIN  
7 REFUNDS OR CREDITS FOR FUEL TAXES DUE TO LOSS OF FUEL BY CERTAIN  
8 DESTRUCTION; PROVING PROCEDURES AND LIMITATIONS; PROVIDING PENALTIES;  
9 AND PROVIDING AN EFFECTIVE DATE.

10 This act affects sections of Utah Code Annotated 1953 as follows:

11 ENACTS:

12                   **59-13-202.5**, Utah Code Annotated 1953

13                   **59-13-322**, Utah Code Annotated 1953

14 *Be it enacted by the Legislature of the state of Utah:*

15                   Section 1. Section **59-13-202.5** is enacted to read:

16                   **59-13-202.5. Refunds of tax due to fire, flood, storm, or accident -- Filing claims and**  
17 **affidavits -- Commission approval -- Rulemaking -- Appeals -- Penalties.**

18                   (1) A retailer, wholesaler, or licensed distributor, who without fault, sustains a loss or  
19 destruction of 8,000 or more gallons of motor fuel in a single incident due to fire, flood, storm,  
20 accident, or the commitment of a crime and who has paid or is required to pay the tax on the motor  
21 fuel as provided by this part, is entitled to a refund or credit of the tax subject to the conditions and  
22 limitations provided under this section.

23                   (2) (a) The claimant shall file a claim for a refund or credit with the commission within  
24 90 days of the incident.

25                   (b) Any part of a loss or destruction eligible for indemnification under an insurance policy  
26 for the taxes paid or required on the loss or destruction of motor fuel is not eligible for a refund  
27 or credit under this section.

28 (c) Any claimant filing a claim for a refund or credit shall furnish any or all of the  
29 information outlined in this section upon request of the commission.

30 (d) The burden of proof of loss or destruction is on the claimant who shall provide  
31 evidence of loss or destruction to the satisfaction of the commission.

32 (3) (a) The claim shall include an affidavit containing the:

33 (i) name of claimant;

34 (ii) claimant's address;

35 (iii) date, time, and location of the incident;

36 (iv) cause of the incident;

37 (v) name of the investigating agencies at the scene;

38 (vi) number of gallons actually lost from sale; and

39 (vii) information on any insurance coverages related to the incident.

40 (b) The claimant shall support the claim by submitting the original invoices or copy of the  
41 original invoices.

42 (c) This original claim and all information contained in it, constitutes a permanent file with  
43 the commission in the name of the claimant.

44 (4) Upon commission approval of the claim for a refund, the § ~~Division of Finance~~ ]  
44a **COMMISSION** shall pay  
45 the amount found due to the claimant. The total amount of claims for refunds shall be paid from  
46 the Transportation Fund.

47 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
48 commission may promulgate rules to enforce this part, and may refuse to accept unsubstantiated  
49 evidence for the claim. If the commission is not satisfied with the evidence submitted in  
50 connection with the claim, it may reject the claim or require additional evidence.

51 (6) Any person aggrieved by the decision of the commission with respect to a refund or  
52 credit may file a request for agency action, requesting a hearing before the commission.

53 (7) Any person who makes any false claim, report, or statement, either as claimant, agent,  
54 or creditor, with intent to defraud or secure a refund or credit to which the claimant is not entitled,  
55 is subject to the criminal penalties provided under Section 59-1-401, and the commission shall  
56 initiate the filing of a complaint for alleged violations of this part. In addition to these penalties,  
57 the person may not receive any refund or credit as a claimant or as a creditor of a claimant for  
58 refund or credit for a period of five years.

59 (8) Any refund or credit made under this section does not affect any deduction allowed  
60 under Section 59-13-207.

61 Section 2. Section **59-13-322** is enacted to read:

62 **59-13-322. Refunds of tax due to fire, flood, storm, or accident -- Filing claims and**  
63 **affidavits -- Commission approval -- Rulemaking -- Appeals -- Penalties.**

64 (1) A retailer, wholesaler, or licensed supplier, who without fault, sustains a loss or  
65 destruction of \$ ~~8,000~~ 7,000 or more gallons of diesel fuel in a single incident due to fire, flood, storm,  
66 accident, or the commitment of a crime and who has paid or is required to pay the tax on the  
67 special fuel as provided by this part, is entitled to a refund or credit of the tax subject to the  
68 conditions and limitations provided under this section.

69 (2) (a) The claimant shall file a claim for a refund or credit with the commission within  
70 90 days of the incident.

71 (b) Any part of a loss or destruction eligible for indemnification under an insurance policy  
72 for the taxes paid or required on the loss or destruction of special fuel is not eligible for a refund  
73 or credit under this section.

74 (c) Any claimant filing a claim for a refund or credit shall furnish any or all of the  
75 information outlined in this section upon request of the commission.

76 (d) The burden of proof of loss or destruction is on the claimant who shall provide  
77 evidence of loss or destruction to the satisfaction of the commission.

78 (3) (a) The claim shall include an affidavit containing the:

79 (i) name of claimant;

80 (ii) claimant's address;

81 (iii) date, time, and location of the incident;

82 (iv) cause of the incident;

83 (v) name of the investigating agencies at the scene;

84 (vi) number of gallons actually lost from sale; and

85 (vii) information on any insurance coverages related to the incident.

86 (b) The claimant shall support the claim by submitting the original invoices or copy of the  
87 original invoices.

88 (c) This original claim and all information contained in it, constitutes a permanent file with  
89 the commission in the name of the claimant.

90           (4) Upon commission approval of the claim for a refund, the § [~~Division of Finance~~ ]  
 90a **COMMISSION** shall pay  
 91 the amount found due to the claimant. The total amount of claims for refunds shall be paid from  
 92 the Transportation Fund.

93           (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
 94 commission may promulgate rules to enforce this part, and may refuse to accept unsubstantiated  
 95 evidence for the claim. If the commission is not satisfied with the evidence submitted in  
 96 connection with the claim, it may reject the claim or require additional evidence.

97           (6) Any person aggrieved by the decision of the commission with respect to a refund or  
 98 credit may file a request for agency action, requesting a hearing before the commission.

99           (7) Any person who makes any false claim, report, or statement, either as claimant, agent,  
 100 or creditor, with intent to defraud or secure a refund or credit to which the claimant is not entitled,  
 101 is subject to the criminal penalties provided under Section 59-1-401, and the commission shall  
 102 initiate the filing of a complaint for alleged violations of this part. In addition to these penalties,  
 103 the person may not receive any refund or credit as a claimant or as a creditor of a claimant for  
 104 refund or credit for a period of five years.

105           Section 3. **Effective date.**  
 106           This act takes effect on July 1, 2000.

**Legislative Review Note**  
**as of 1-13-00 2:28 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**