

FUEL TAX REFUNDS FOR LOSS OR DESTRUCTION

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: John L. Valentine

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

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

ENACTS:

59-13-202.5, Utah Code Annotated 1953

59-13-322, Utah Code Annotated 1953

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

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

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

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

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

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

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

(d) The burden of proof of loss or destruction is on the claimant who shall provide evidence

of loss or destruction to the satisfaction of the commission.

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

(i) name of claimant;

(ii) claimant's address;

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

(iv) cause of the incident;

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

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

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

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

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

(4) Upon commission approval of the claim for a refund, the commission shall pay the amount found due to the claimant. The total amount of claims for refunds shall be paid from the Transportation Fund.

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

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

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

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

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

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

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

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

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

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

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

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

(i) name of claimant;

(ii) claimant's address;

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

(iv) cause of the incident;

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

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

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

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

original invoices.

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

(4) Upon commission approval of the claim for a refund, the commission shall pay the amount found due to the claimant. The total amount of claims for refunds shall be paid from the Transportation Fund.

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

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

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

Section 3. Effective date.

This act takes effect on July 1, 2000.