

**MOTOR FUEL AND SPECIAL FUEL TAX -
INDEXING FOR INFLATION**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Motor Fuel and Special Fuel Tax Act by amending provisions relating to the motor fuel and special fuel tax rate.

Highlighted Provisions:

This bill:

- ▶ provides that the motor fuel and special fuel tax rate shall be increased or decreased every two years based on the actual percentage change in the consumer price index over the previous two calendar years;

- ▶ provides procedures for implementing the motor fuel and special fuel tax rate adjustment;

- ▶ grants the State Tax Commission rulemaking authority to establish rules implementing the motor fuel and special fuel tax rate adjustment provisions; and

- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **59-13-201**, as last amended by Laws of Utah 2004, Chapter 237



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

31 Section 1. Section **59-13-201** is amended to read:

32 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
33 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
34 **in limited circumstances.**

35 (1) (a) (i) Subject to the provisions of this section, a tax is imposed at the rate of 24-1/2
36 cents per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

37 (ii) (A) Beginning on or after January 1, 2009, the commission shall, every two years in
38 the odd year, increase or decrease the rate imposed under Subsection (1)(a)(i) by an amount
39 equal to the actual percentage change in the Consumer Price Index during the previous two
40 calendar years rounded up to the nearest half penny.

41 (B) For purposes of Subsection (1)(a)(ii)(A), the commission shall calculate the
42 Consumer Price Index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

43 (C) The adjusted fuel tax rate shall take effect on January 1 in a year that the fuel tax
44 rate is required to be adjusted in accordance with Subsection (1)(a)(ii)(A).

45 (D) The first adjustment to the fuel tax rate under this Subsection (1)(a)(ii) shall be
46 made on January 1, 2009.

47 (E) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
48 the commission may make rules implementing the provisions of this Subsection (1)(a)(ii).

49 (b) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of
50 this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a),
51 rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in
52 Section 59-13-102 and are sold, used, or received for sale or use in this state.

53 (2) Any increase or decrease in tax rate applies to motor fuel that is imported to the
54 state or sold at refineries in the state on or after the effective date of the rate change.

55 (3) (a) No motor fuel tax is imposed upon:

56 (i) motor fuel that is brought into and sold in this state in original packages as purely
57 interstate commerce sales;

58 (ii) motor fuel that is exported from this state if proof of actual exportation on forms

59 prescribed by the commission is made within 180 days after exportation;

60 (iii) motor fuel or components of motor fuel that is sold and used in this state and
61 distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in
62 this state; or

63 (iv) motor fuel that is sold to the United States government, this state, or the political
64 subdivisions of this state.

65 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
66 commission shall make rules governing the procedures for administering the tax exemption
67 provided under Subsection (3)(a)(iv).

68 (4) The commission may either collect no tax on motor fuel exported from the state or,
69 upon application, refund the tax paid.

70 (5) (a) All revenue received by the commission under this part shall be deposited daily
71 with the state treasurer and credited to the Transportation Fund.

72 (b) An appropriation from the Transportation Fund shall be made to the commission to
73 cover expenses incurred in the administration and enforcement of this part and the collection of
74 the motor fuel tax.

75 (6) (a) The commission shall determine what amount of motor fuel tax revenue is
76 received from the sale or use of motor fuel used in motorboats registered under the provisions
77 of the State Boating Act, and this amount shall be deposited in a restricted revenue account in
78 the General Fund of the state.

79 (b) The funds from this account shall be used for the construction, improvement,
80 operation, and maintenance of state-owned boating facilities and for the payment of the costs
81 and expenses of the Division of Parks and Recreation in administering and enforcing the State
82 Boating Act.

83 (7) (a) The United States government or any of its instrumentalities, this state, or a
84 political subdivision of this state that has purchased motor fuel from a licensed distributor or
85 from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this
86 section is entitled to a refund of the tax and may file with the commission for a quarterly
87 refund.

88 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
89 commission shall make rules governing the application and refund provided for in Subsection

90 (7)(a).

91 (8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in
92 the General Fund an amount equal to the lesser of the following:

93 (i) .5% of the motor fuel tax revenues collected under this section; or

94 (ii) \$1,050,000.

95 (b) This amount shall be used as provided in Section 41-22-19.

96 (c) This Subsection (8) sunsets on July 1, 2010.

97 (9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that
98 is sold, used, or received for sale or use in this state is reduced to the extent provided in
99 Subsection (9)(b) if:

100 (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor
101 fuel is paid to the Navajo Nation;

102 (ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or
103 not the person required to pay the tax is an enrolled member of the Navajo Nation; and

104 (iii) the commission and the Navajo Nation execute and maintain an agreement as
105 provided in this Subsection (9) for the administration of the reduction of tax.

106 (b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this
107 section:

108 (A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that
109 difference is greater than \$0; and

110 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
111 if the difference described in Subsection (9)(b)(ii) is less than or equal to \$0.

112 (ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

113 (A) the amount of tax imposed on the motor fuel by this section; less

114 (B) the tax imposed and collected by the Navajo Nation on the motor fuel.

115 (c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under
116 a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of
117 motor fuel does not include any interest or penalties a taxpayer may be required to pay to the
118 Navajo Nation.

119 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
120 commission shall make rules governing the procedures for administering the reduction of tax

121 provided under this Subsection (9).

122 (e) The agreement required under Subsection (9)(a):

123 (i) may not:

124 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

125 (B) provide a reduction of taxes greater than or different from the reduction described

126 in this Subsection (9); or

127 (C) affect the power of the state to establish rates of taxation;

128 (ii) shall:

129 (A) be in writing;

130 (B) be signed by:

131 (I) the chair of the commission or the chair's designee; and

132 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;

133 (C) be conditioned on obtaining any approval required by federal law;

134 (D) state the effective date of the agreement; and

135 (E) state any accommodation the Navajo Nation makes related to the construction and

136 maintenance of state highways and other infrastructure within the Utah portion of the Navajo

137 Nation; and

138 (iii) may:

139 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the

140 Navajo Nation information that is:

141 (I) contained in a document filed with the commission; and

142 (II) related to the tax imposed under this section;

143 (B) provide for maintaining records by the commission or the Navajo Nation; or

144 (C) provide for inspections or audits of distributors, carriers, or retailers located or

145 doing business within the Utah portion of the Navajo Nation.

146 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax

147 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a

148 result of the change in the tax rate is not effective until the first day of the calendar quarter after

149 a 60-day period beginning on the date the commission receives notice:

150 (A) from the Navajo Nation; and

151 (B) meeting the requirements of Subsection (9)(f)(ii).

- 152 (ii) The notice described in Subsection (9)(f)(i) shall state:
- 153 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
- 154 motor fuel;
- 155 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
- 156 and
- 157 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).
- 158 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
- 159 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
- 160 30-day period beginning on the day the agreement terminates.
- 161 (h) If there is a conflict between this Subsection (9) and the agreement required by
- 162 Subsection (9)(a), this Subsection (9) governs.

Legislative Review Note
as of **1-18-08 1:28 PM**

Office of Legislative Research and General Counsel

H.B. 313 - Motor Fuel and Special Fuel Tax - Indexing for Inflation

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will increase the Transportation Fund by \$5,800,000 in FY 2009 and by \$11,800,000 in FY 2010.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Transportation Fund	\$0	\$0	\$0	\$0	\$5,800,000	\$11,800,000
Total	\$0	\$0	\$0	\$0	\$5,800,000	\$11,800,000

Individual, Business and/or Local Impact

Individuals and businesses will pay a higher price for gas at the pump as the inflation component gets built into the cost of motor fuels.