

Part 3

Special Fuel

59-13-301 Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer and credited to Transportation Fund -- Reduction of tax in limited circumstances.

- (1)
- (a) Except as provided in Subsections (2), (3), (11), and (12) and Section 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)(a) on the:
- (i) removal of undyed diesel fuel from any refinery;
 - (ii) removal of undyed diesel fuel from any terminal;
 - (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or warehousing;
 - (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under this part unless the tax has been collected under this section;
 - (v) any untaxed special fuel blended with undyed diesel fuel; or
 - (vi) use of untaxed special fuel other than propane or electricity.
- (b) The tax imposed under this section shall only be imposed once upon any special fuel.
- (2)
- (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:
- (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon the public highways of the state, but this exemption applies only in those cases where the purchasers or the users of special fuel establish to the satisfaction of the commission that the special fuel was used for purposes other than to operate a motor vehicle upon the public highways of the state; or
 - (ii) is sold to this state or any of its political subdivisions.
- (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:
- (i) sold to the United States government or any of its instrumentalities or to this state or any of its political subdivisions;
 - (ii) exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;
 - (iii) used in a vehicle off-highway;
 - (iv) used to operate a power take-off unit of a vehicle;
 - (v) used for off-highway agricultural uses;
 - (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle upon the highways of the state; or
 - (vii) used in machinery and equipment not registered and not required to be registered for highway use.
- (3) No tax is imposed or collected on special fuel if it is:
- (a)
- (i) purchased for business use in machinery and equipment not registered and not required to be registered for highway use; and
 - (ii) used pursuant to the conditions of a state implementation plan approved under Title 19, Chapter 2, Air Conservation Act; or
- (b) propane or electricity.
- (4) Upon request of a buyer meeting the requirements under Subsection (3), the Division of Air Quality shall issue an exemption certificate that may be shown to a seller.
- (5) The special fuel tax shall be paid by the supplier.
- (6)

- (a) The special fuel tax shall be paid by every user who is required by Sections 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.
 - (b) The user shall receive a refundable credit for special fuel taxes paid on purchases which are delivered into vehicles and for which special fuel tax liability is reported.
- (7)
- (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the commission from taxes and license fees under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.
 - (b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the special fuel tax.
 - (c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303 may be used by the commission as a dedicated credit to cover the costs of electronic credentialing as provided in Section 41-1a-303.
- (8) The commission may either collect no tax on special fuel exported from the state or, upon application, refund the tax paid.
- (9)
- (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased special fuel from a supplier or from a retail dealer of special fuel and has paid the tax on the special fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund in a manner prescribed by the commission.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (9)(a).
- (10)
- (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid as provided in Subsection (9) and this Subsection (10).
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund for off-highway and nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).
 - (c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural uses shall be made in accordance with the tax return procedures under Section 59-13-202.
- (11)
- (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is reduced to the extent provided in Subsection (11)(b) if:
 - (i) the Navajo Nation imposes a tax on the special fuel;
 - (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the person required to pay the tax is an enrolled member of the Navajo Nation; and
 - (iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (11) for the administration of the reduction of tax.
 - (b)
 - (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this section:
 - (A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that difference is greater than \$0; and
 - (B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

- (ii) The difference described in Subsection (11)(b)(i) is equal to the difference between:
 - (A) the amount of tax imposed on the special fuel by this section; less
 - (B) the tax imposed and collected by the Navajo Nation on the special fuel.
- (c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on the special fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.
- (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (11).
- (e) The agreement required under Subsection (11)(a):
 - (i) may not:
 - (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
 - (B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (11); or
 - (C) affect the power of the state to establish rates of taxation;
 - (ii) shall:
 - (A) be in writing;
 - (B) be signed by:
 - (I) the chair of the commission or the chair's designee; and
 - (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
 - (C) be conditioned on obtaining any approval required by federal law;
 - (D) state the effective date of the agreement; and
 - (E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and
 - (iii) may:
 - (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:
 - (I) contained in a document filed with the commission; and
 - (II) related to the tax imposed under this section;
 - (B) provide for maintaining records by the commission or the Navajo Nation; or
 - (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.
- (f)
 - (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on special fuel, any change in the amount of the reduction of taxes under this Subsection (11) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:
 - (A) from the Navajo Nation; and
 - (B) meeting the requirements of Subsection (11)(f)(ii).
 - (ii) The notice described in Subsection (11)(f)(i) shall state:
 - (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on special fuel;
 - (B) the effective date of the rate change of the tax described in Subsection (11)(f)(ii)(A); and
 - (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).
- (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not permitted under this Subsection (11) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

- (h) If there is a conflict between this Subsection (11) and the agreement required by Subsection (11)(a), this Subsection (11) governs.

(12)

(a)

- (i) Subject to Subsections (12)(a)(ii) and (iii), a tax imposed under this section on compressed natural gas is imposed at a rate of:
 - (A) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;
 - (B) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;
 - (C) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and
 - (D) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.
- (ii) Beginning on January 1, 2020, the commission shall, on January 1, annually adjust the rate of a tax imposed under this section on compressed natural gas by taking the rate for the previous calendar year and adding an amount equal to the greater of:
 - (A) an amount calculated by multiplying the rate of a tax imposed under this section on compressed natural gas for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and
 - (B) 0.
- (iii) The rate of a tax imposed under this section on compressed natural gas determined by the commission under Subsection (12)(a)(ii) may not exceed 22-1/2 cents per gasoline gallon equivalent.

(b)

- (i) Subject to Subsections (12)(b)(ii) and (iii), a tax imposed under this section on liquified natural gas is imposed at a rate of:
 - (A) until June 30, 2016, 10-1/2 cents per diesel gallon equivalent;
 - (B) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per diesel gallon equivalent;
 - (C) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per diesel gallon equivalent; and
 - (D) beginning on or after July 1, 2018, 16-1/2 cents per diesel gallon equivalent.
- (ii) Beginning on January 1, 2020, the commission shall, on January 1, annually adjust the rate of a tax imposed under this section on liquified natural gas by taking the rate for the previous calendar year and adding an amount equal to the greater of:
 - (A) an amount calculated by multiplying the rate of a tax imposed under this section on liquified natural gas for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and
 - (B) 0.
- (iii) The rate of a tax imposed under this section on liquified natural gas determined by the commission under Subsection (12)(b)(ii) may not exceed 22-1/2 cents per diesel gallon equivalent.

(c)

- (i) Subject to Subsections (12)(c)(ii) and (iii), a tax imposed under this section on hydrogen used to operate or propel a motor vehicle upon the public highways of the state is imposed at a rate of:
 - (A) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;
 - (B) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon equivalent;

- (C) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline gallon equivalent; and
- (D) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.
- (ii) Beginning on January 1, 2020, the commission shall, on January 1, annually adjust the rate of a tax imposed under this section on hydrogen used to operate or propel a motor vehicle upon the public highways of the state by taking the rate for the previous calendar year and adding an amount equal to the greater of:
 - (A) an amount calculated by multiplying the rate of a tax imposed under this section on hydrogen used to operate or propel a motor vehicle upon the public highways of the state for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and
 - (B) 0.
- (iii) The rate of a tax imposed under this section on hydrogen used to operate or propel a motor vehicle upon the public highways of the state determined by the commission under Subsection (12)(c)(ii) may not exceed 22-1/2 cents per gasoline gallon equivalent.
- (d)
 - (i) The commission shall annually:
 - (A) adjust the fuel tax rates imposed under Subsections (12)(a)(ii), (b)(ii), and (c)(ii), rounded to the nearest one-tenth of a cent;
 - (B) publish the adjusted fuel tax as a cents per gallon rate; and
 - (C) post or otherwise make public the adjusted fuel tax rate as determined in Subsection (12)(d)(i)(A) no later than 60 days prior to the annual effective date under Subsection (12)(d)(ii).
 - (ii) The tax rates imposed under this Subsection (12) and adjusted as required under Subsection (12)(d)(i) shall take effect on January 1 of each year.

Amended by Chapter 479, 2019 General Session

59-13-301.5 Refund of taxes impacting Ute tribe and Ute tribal members.

- (1) In accordance with this section, the Ute tribe may receive a refund from the state of amounts paid in accordance with Section 59-13-301 if:
 - (a) the amounts paid by the Ute tribe when it purchases the special fuel includes the amount paid in taxes on the special fuel;
 - (b) the special fuel is purchased for use by:
 - (i) the Ute tribe; or
 - (ii) a Ute tribal member from a retail station that is:
 - (A) wholly owned by the Ute tribe; and
 - (B) located on Ute trust land; and
 - (c) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of Subsection (3).
- (2) In addition to the agreement required by Subsection (1), the commission shall enter into an agreement with the Ute tribe that:
 - (a) provides an allocation formula or procedure for determining:
 - (i) the amount of special fuel sold by the Ute tribe to a Ute tribal member; and
 - (ii) the amount of special fuel sold by the Ute tribe to a person who is not a Ute tribal member; and
 - (b) provides a process by which:
 - (i) the Ute tribe obtains a refund permitted by this section; and

- (ii) reports and remits special fuel tax to the state for sales made to persons who are not Ute tribal members.
- (3) The agreement required under Subsection (1):
 - (a) may not:
 - (i) authorize the state to impose a tax in addition to a tax imposed under this chapter;
 - (ii) provide a refund, credit, or similar tax relief that is greater or different than the refund permitted under this section; or
 - (iii) affect the power of the state to establish rates of taxation; and
 - (b) shall:
 - (i) provide that the state agrees to allow the refund described in this section;
 - (ii) be in writing;
 - (iii) be signed by:
 - (A) the governor; and
 - (B) the chair of the Business Committee of the Ute tribe;
 - (iv) be conditioned on obtaining any approval required by federal law; and
 - (v) state the effective date of the agreement.
- (4)
 - (a) The governor shall report to the commission by no later than February 1 of each year as to whether or not an agreement meeting the requirements of this Subsection (4) is in effect.
 - (b) If an agreement meeting the requirements of this Subsection (4) is terminated, the refund permitted under this section is not allowed beginning the January 1 following the date the agreement terminates.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules regarding the procedures for seeking a refund agreed to under the agreement described in Subsection (2).

Amended by Chapter 382, 2008 General Session

59-13-302 Definitions -- License requirements -- Penalty -- Application process and requirements -- Fee not required -- Bonds -- Discontinuance of business -- Liens upon property.

- (1) As used in this section:
 - (a) "applicant" means a person that:
 - (i) is required by this section to obtain a license; and
 - (ii) submits an application:
 - (A) to the commission; and
 - (B) for a license under this section;
 - (b) "application" means an application for a license under this section;
 - (c) "fiduciary of the applicant" means a person that:
 - (i) is required to collect, truthfully account for, and pay over an amount under this part for an applicant; and
 - (ii)
 - (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);
 - (B) is a director of the applicant described in Subsection (1)(c)(i);
 - (C) is an employee of the applicant described in Subsection (1)(c)(i);
 - (D) is a partner of the applicant described in Subsection (1)(c)(i);
 - (E) is a trustee of the applicant described in Subsection (1)(c)(i); or

- (F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (d) "fiduciary of the licensee" means a person that:
 - (i) is required to collect, truthfully account for, and pay over an amount under this part for a licensee; and
 - (ii)
 - (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);
 - (B) is a director of the licensee described in Subsection (1)(d)(i);
 - (C) is an employee of the licensee described in Subsection (1)(d)(i);
 - (D) is a partner of the licensee described in Subsection (1)(d)(i);
 - (E) is a trustee of the licensee described in Subsection (1)(d)(i); or
 - (F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- (e) "license" means a license under this section; and
- (f) "licensee" means a person that is licensed under this section by the commission.
- (2) A person that is required to collect an amount under this part is guilty of a criminal violation as provided in Section 59-1-401 if before obtaining a license under this section that person engages in business within the state.
- (3) The license described in Subsection (2):
 - (a) shall be granted and issued:
 - (i) by the commission in accordance with this section;
 - (ii) without a license fee; and
 - (iii) if:
 - (A) an applicant:
 - (I) states the applicant's name and address in the application; and
 - (II) provides other information in the application that the commission may require; and
 - (B) the person meets the requirements of this section to be granted a license as determined by the commission;
 - (b) may not be assigned to another person; and
 - (c) is valid:
 - (i) only for the person named on the license; and
 - (ii) until:
 - (A) the person described in Subsection (3)(c)(i):
 - (I) ceases to do business; or
 - (II) changes that person's business address; or
 - (B) the commission revokes the license.
- (4) The commission shall review an application and determine whether:
 - (a) the applicant meets the requirements of this section to be issued a license; and
 - (b) a bond is required to be posted with the commission in accordance with Subsection (5) before the applicant may be issued a license.
- (5)
 - (a) An applicant shall post a bond with the commission before the commission may issue the applicant a license if:
 - (i) a license under this section was revoked for a delinquency under this part for:

- (A) the applicant;
- (B) a fiduciary of the applicant; or
- (C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this part; or
- (ii) there is a delinquency in paying a tax under this part for:
 - (A) the applicant;
 - (B) a fiduciary of the applicant; or
 - (C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over a tax under this part.
- (b) If the commission determines it is necessary to ensure compliance with this part, the commission may require a licensee to:
 - (i) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsections (5)(c) through (g); or
 - (ii) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.
- (c) A bond under this Subsection (5) shall be:
 - (i) executed by:
 - (A) for an applicant, the applicant as principal, with a corporate surety; or
 - (B) for a licensee, the licensee as principal, with a corporate surety; and
 - (ii) payable to the commission conditioned upon the faithful performance of all of the requirements of this part including:
 - (A) the payment of all amounts under this part;
 - (B) the payment of any:
 - (I) penalty as provided in Section 59-1-401; or
 - (II) interest as provided in Section 59-1-402; or
 - (C) any other obligation of the:
 - (I) applicant under this part; or
 - (II) licensee under this part.
- (d) Except as provided in Subsection (5)(f), the commission shall calculate the amount of a bond under this Subsection (5) on the basis of:
 - (i) commission estimates of:
 - (A) an applicant's liability for any amount under this part; or
 - (B) a licensee's liability for any amount under this part; and
 - (ii) the amount of a delinquency described in Subsection (5)(e) if:
 - (A) a license under this section was revoked for a delinquency under this part for:
 - (I)
 - (Aa) an applicant; or
 - (Bb) a licensee;
 - (II) a fiduciary of the:
 - (Aa) applicant; or
 - (Bb) licensee; or
 - (III) a person for which the applicant, licensee, fiduciary of the applicant, or fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part; or
 - (B) there is a delinquency in paying an amount under this part for:
 - (I)
 - (Aa) an applicant; or
 - (Bb) a licensee;

- (II) a fiduciary of the:
 - (Aa) applicant; or
 - (Bb) licensee; or
 - (III) a person for which the applicant, licensee, fiduciary of the applicant, or fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part.
- (e) Except as provided in Subsection (5)(f), for purposes of Subsection (5)(d)(ii):
- (i) for an applicant, the amount of the delinquency is the sum of:
 - (A) the amount of any delinquency that served as a basis for revoking the license under this section of:
 - (I) the applicant;
 - (II) a fiduciary of the applicant; or
 - (III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or
 - (B) the amount that any of the following owe under this part:
 - (I) the applicant;
 - (II) a fiduciary of the applicant; and
 - (III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or
 - (ii) for a licensee, the amount of the delinquency is the sum of:
 - (A) the amount of any delinquency that served as a basis for revoking the license under this section of:
 - (I) the licensee;
 - (II) a fiduciary of the licensee; or
 - (III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part; or
 - (B) the amount that any of the following owe under this part:
 - (I) the licensee;
 - (II) a fiduciary of the licensee; and
 - (III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part.
- (f) Notwithstanding Subsection (5)(d) or (e), a bond required by this Subsection (5) may not:
- (i) be less than \$10,000; or
 - (ii) exceed \$500,000.
- (g)
- (i) Subject to Subsection (5)(g)(ii), a bond required by this section may be combined into one bond with any other bond required by this chapter.
 - (ii) For purposes of Subsection (5)(g)(i), if a bond required by this section is combined into one bond with any other bond required by this chapter, the amount of that combined bond is determined by:
 - (A) calculating the separate amount of each bond required for each type of fuel included in the combined bond; and
 - (B) aggregating the separate amounts calculated in Subsection (5)(g)(ii)(A).
- (6)
- (a) The commission shall revoke a license under this section if:
 - (i) a licensee violates any provision of this part; and
 - (ii) before the commission revokes the license the commission provides the licensee:
 - (A) reasonable notice; and

- (B) a hearing.
- (b) If the commission revokes a licensee's license in accordance with Subsection (6)(a), the commission may not issue another license to that licensee until that licensee complies with the requirements of this part, including:
 - (i) paying any:
 - (A) amounts due under this part;
 - (B) penalty as provided in Section 59-1-401; or
 - (C) interest as provided in Section 59-1-402; and
 - (ii) posting a bond in accordance with Subsection (5).
- (7)
 - (a) If any person ceases to be a supplier within the state by reason of the discontinuance, sale, or transfer of the person's business, the supplier shall notify the commission in writing at the time the discontinuance, sale, or transfer takes effect.
 - (b) The notice shall give the date of discontinuance and, in the event of a sale, the date of the sale and the name and address of the purchaser or transferee.
 - (c) Taxes on all special fuel delivery or removal made prior to the discontinuance, sale, or transfer, shall become due and payable on the date of discontinuance, sale, or transfer.
 - (d) The supplier shall make a report and pay all taxes, interest, and penalties and surrender to the commission the license certificate that was issued to the supplier by the commission.
- (8)
 - (a) The tax imposed by this part shall be a lien upon the property of any supplier liable for an amount of tax that is required to be collected, if the supplier sells the business, stock of goods, or quits business, and if the supplier fails to make a final return and payment within 15 days after the date of selling or quitting business.
 - (b) The successor or assigns, if any, shall be required to withhold a sufficient amount of the purchase money to cover the amount of the taxes that are required to be collected and interest or penalties due and paid under Sections 59-1-401 and 59-1-402 until the former owner produces a receipt from the commission showing that the taxes have been paid or a certificate stating that no amount of tax is due. If the purchaser of a business or stock of goods fails to withhold sufficient purchase money, the purchaser shall be personally liable for the payment of the amount that is due.

Amended by Chapter 382, 2008 General Session

59-13-303 Special fuel user permits -- Application -- Revocation of permits under certain circumstances.

- (1)
 - (a) Except as provided in Subsection (1)(b), each user shall, prior to the use of the fuel in a qualified motor vehicle, apply to the commission on forms prescribed by the commission for a special fuel user permit. When the application is approved by the commission, a single special fuel user permit shall be issued to the user.
 - (b) In place of the special fuel user permit issued under Subsection (1)(a), a user may purchase a special fuel user trip permit. A special fuel user trip permit is valid for 96 hours or until the qualified vehicle leaves the state, whichever occurs first.
 - (c) The fee for the special fuel user trip permit is \$25.
- (2) A special fuel user permit number shall be assigned to each licensed user and is nontransferable and valid until surrendered by the user for nonuse or until revoked by the commission.

- (3) The special fuel user permit expires December 31 of each year. Special fuel user permits for the calendar year shall be honored until February 28 of the following year. An application shall be filed with the commission each year for a new special fuel user permit for vehicles operated by a licensed user.
- (4)
 - (a) The special fuel user permit shall be kept in the passenger compartment of each vehicle, or as otherwise authorized by the commission.
 - (b) A user that does not comply with the requirements of this section may be required to purchase a special fuel user trip permit.
- (5) The commission may revoke the special fuel user permit issued under this section from any person refusing or neglecting to comply with this part.
- (6) Any user reporting Utah special fuel tax liability under Part 5, Interstate Agreements, is exempted from the permit requirements of this section.

Amended by Chapter 198, 2005 General Session

59-13-304 Inspection of clean fuel vehicles.

- (1) The commission may require each clean fuel vehicle to be inspected for safe operation.
- (2) Each clean fuel vehicle shall be equipped with an approved and properly installed carburetion system if it is powered by a fuel that is gaseous at standard atmospheric conditions.

Amended by Chapter 153, 2008 General Session

59-13-305 User report required -- Contents of report -- Signature -- Penalties -- Exemptions from requirements -- Change of exemption status -- Duty to notify commission.

- (1) Unless exempted by Subsection (5), each user shall file with the commission, on or before the last day of the month following the end of a reporting period, a report on forms prescribed by the commission showing:
 - (a) the amount of fuel purchased and the amount of fuel used during the preceding reporting period by that user in the state; and
 - (b) any other information the commission may require to carry out the purposes of this part.
- (2) The report shall be signed by the user or a responsible representative. This signature need not be notarized, but when signed is considered to have been made under oath.
- (3) A penalty is imposed under Section 59-1-401 for failure to file reports as provided in this section for each report not filed, regardless of the imposition of other penalties under this part.
- (4)
 - (a) Each user that has a registered special fuel-powered motor vehicle other than a qualified motor vehicle and has facilities for bulk storage of special fuels shall declare special fuel tax liability for any nonqualified motor vehicle on the user report required by Subsection (1).
 - (b) Credit shall be given on the report for any special fuel taxes paid on purchases for any nonqualified vehicle. Purchase records must be maintained to substantiate the amount of any credit claimed.
- (5)
 - (a) The following users are exempt from the filing requirements of Subsections (1) and (2) for the motor vehicles specified:
 - (i) a user who purchases a special fuel user trip permit for all of its operations for qualified vehicles for the reporting period, except a user having a special fuel user permit under Subsection 59-13-303(1)(a);

- (ii) a user that has a registered special fuel-powered motor vehicle other than a qualified motor vehicle and does not have facilities for bulk storage of special fuels;
 - (iii) a user of special fuel, for which the tax imposed by this chapter has already been paid; or
 - (iv) a user that has a motor vehicle powered by special fuel for which the tax is paid under an interstate fuel tax agreement under Section 59-13-502.
- (b)
- (i) The exemption under Subsection (5)(a)(iii) applies only when the user retains records verifying that all special fuel purchases for the exempt vehicle were taxed as required under this part.
 - (ii) The commission may at the time of application or renewal of a special fuel user permit under Section 59-13-303 require that the user certify:
 - (A) that the user qualifies for an exemption under Subsection (5)(a)(iii); and
 - (B) whether the user has facilities for bulk storage of special fuel.

Amended by Chapter 198, 2005 General Session

59-13-306 Due date of special fuel tax.

The special fuel tax is due and payable at the offices of the commission on or before the last day of the month following each reporting period. If not paid at the offices of the commission or if the envelope enclosing the report or remittance does not bear a post office cancellation mark dated on or before the due date, the special fuel tax is delinquent.

Enacted by Chapter 6, 1987 General Session

59-13-307 Supplier reports -- Signature required -- Penalties.

- (1) Each supplier shall file with the commission, on or before the last day of each month, a report on forms prescribed by the commission showing the amount of fuel delivered or removed during the preceding calendar month and any other information the commission may require to carry out the purposes of this part.
- (2) The report shall be signed by the supplier or a responsible representative. This signature need not be notarized, but when signed is considered to have been made under oath. The report shall be accompanied by a remittance payable to the commission for the amount of special fuel tax due.
- (3) A penalty is imposed under Section 59-1-401 upon each licensee and bonded supplier who fails to file any report as prescribed regardless of the imposition of other penalties under this part.

Amended by Chapter 9, 2001 General Session

59-13-308 Delinquency -- Penalties -- Interest.

If any user becomes delinquent in tax payments under this part, all licenses or permits issued under this part are automatically revoked. In addition, the commission shall impose a penalty determined under Section 59-1-401. The amount of the delinquent tax and the penalty shall bear interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 198, 2005 General Session

59-13-310 Special fuel from out of state -- Reports required -- Contents of reports.

- (1) Every person who delivers special fuel from outside the state to any consignee within the state shall file with the commission on or before the last day of each month a report on forms prescribed by the commission showing:
 - (a) all deliveries of special fuel within the state during the preceding month; and
 - (b) the points of origin and original destination.
- (2) Where any consignment of special fuel was diverted in transit and delivered within this state, the carrier making delivery of this consignment shall report to the commission:
 - (a) the place of the delivery of the consignment;
 - (b) to whom the consignment was delivered;
 - (c) the number of gallons of special fuel transported or delivered;
 - (d) the date of delivery and the name of the consignor and of the consignee; and
 - (e) any other information the commission may require.

Amended by Chapter 271, 1997 General Session

59-13-311 Tax is a lien against vehicle -- Removable only when tax is paid.

The special fuel tax constitutes a lien upon, and has the effect of an execution duly levied against, any vehicle in which special fuel is used. The lien may not be removed until the special fuel tax is paid or the vehicle subject to the lien is sold in payment of the tax.

Enacted by Chapter 6, 1987 General Session

59-13-312 Special fuel user records -- Auditing requirements -- Deposit of funds with treasurer as dedicated credits.

- (1)
 - (a) A user claiming a refund for taxes paid to a supplier shall retain on file a receipt or invoice, or a microfilm or microfiche of the receipt or invoice, evidencing the purchase of special fuel and the payment of the tax.
 - (b) The commission may require the user to furnish summaries or copies of original documentation substantiating the amount of refund claimed.
- (2) If the payer of this tax or the person dealing in special fuel does not maintain records in this state so that an audit of the records may be made by the commission or its representative, that person may be required to:
 - (a) forward the necessary records to the commission for examination; or
 - (b) pay the necessary expenses for an auditor of the commission to travel to the location of the records outside of this state to make an examination.
- (3) Funds collected under this section:
 - (a) shall be deposited with the state treasurer; and
 - (b) are dedicated credits for the commission.

Amended by Chapter 212, 2009 General Session

59-13-313 Commission to enforce the laws -- Estimations of tax -- Penalties -- Notice of determinations -- Information sharing with other states.

- (1)
 - (a) The commission is charged with the enforcement of this part and may prescribe rules relating to administration and enforcement of this part.

- (b) The commission may coordinate with state and federal agencies in the enforcement of this part.
 - (c) Enforcement procedures may include checking diesel fuel dye compliance of storage facilities and tanks of vehicles, in a manner consistent with state and federal law.
- (2)
- (a) If the commission has reason to question the report filed or the amount of special fuel tax paid to the state by a user or supplier, the commission may compute and determine the amount to be paid based upon the best information available to the commission.
 - (b) Any added amount of special fuel tax determined to be due under this section shall:
 - (i) have added to it a penalty as provided under Section 59-1-401; and
 - (ii) bear interest at the rate and in the manner prescribed in Section 59-1-402.
 - (c)
 - (i) The commission shall give to the user or supplier written notice of the commission's determination.
 - (ii) The commission may:
 - (A) serve the notice described in Subsection (2)(c)(i) personally; or
 - (B) send the notice described in Subsection (2)(c)(i) to the user or supplier at the user or supplier's last-known address as it appears in the records of the commission.
- (3) The commission may, upon the duly received request of the officials to whom the enforcement of the special fuel laws of any other state are entrusted, forward to those officials any information which the commission may have in its possession relative to the delivery, removal, production, manufacture, refining, compounding, receipt, sale, use, transportation, or shipment of special fuel by any person.

Amended by Chapter 212, 2009 General Session

59-13-314 Special fuel user permit required before registration of vehicle.

Before registering any motor vehicle which is operated by special fuels, the registered owner or lessee of the vehicle shall obtain a valid special fuel user permit for the current year if required under Section 59-13-303.

Amended by Chapter 153, 2008 General Session

59-13-315 Transfer of ownership of vehicle -- Lien to be removed -- Tax clearance by commission.

The transfer of registered ownership of any motor vehicle subject to a lien of the tax imposed by this part may be effected only after a certificate of clearance of the tax has been issued by the commission.

Enacted by Chapter 6, 1987 General Session

59-13-318 Refunds.

A refund that a taxpayer is allowed under this chapter shall be paid from the Transportation Fund.

Amended by Chapter 212, 2009 General Session

59-13-320 Penalties for violations of the special fuel tax provisions.

- (1) The following offenses, unless otherwise provided, are class B misdemeanors:
 - (a) failing or refusing to pay the tax imposed by this part;
 - (b) engaging in business in this state as a supplier without being the holder of an uncanceled license to engage in this business;
 - (c) operating a motor vehicle, which requires special fuel, upon the highways of this state without a valid special fuel user permit;
 - (d) failing to make any of the reports required by this part;
 - (e) making any false statement in any application, report, or statement required by this part;
 - (f) refusing to permit the commission or any employee to examine records as provided by this part;
 - (g) failing to keep proper records of quantities of fuel received, produced, refined, manufactured, compounded, used, or delivered in this state as required by this part;
 - (h) making any false statement in connection with an application for the refund of any money or taxes provided in this part; or
 - (i) violating any of the provisions of this part for which no penalty is provided.
- (2) Any person required to make, render, sign, or verify any report and who makes any false or fraudulent report with intent to defeat or evade the assessment required by law to be made, is subject to a criminal violation under Section 59-1-401.
- (3) The remedies of the state are cumulative and no action taken by the commission or any of its officers to pursue any remedy may be construed to be an election on the part of the state to exclude any other allowed by law.

Amended by Chapter 7, 2003 General Session

59-13-320.5 Use of dyed diesel on highways prohibited -- Penalty.

- (1) A person may not operate a motor vehicle on a highway if a fuel supply tank of the motor vehicle contains dyed diesel fuel, unless:
 - (a) permitted under federal law;
 - (b)
 - (i) the motor vehicle is used on the highway only to travel from one parcel of land owned or operated by the owner to another parcel of land owned or operated by the owner; and
 - (ii) the motor vehicle's travel on the highway is necessary for furtherance of agricultural purposes; or
 - (c) the motor vehicle is special mobile equipment, as defined in Section 41-1a-102, including off-road motorized construction or maintenance equipment, that is only incidentally operated or moved on a highway in connection with a construction project.
- (2) A person who violates Subsection (1) shall pay a penalty assessed by the commission as follows:
 - (a) the greater of \$500 or \$5 per gallon of dyed diesel fuel within each fuel supply tank of the motor vehicle, based on the maximum storage capacity of each fuel supply tank; or
 - (b) for a second and subsequent offense, the greater of \$1,000 or \$10 per gallon of dyed diesel fuel within each fuel supply tank of the motor vehicle, based on the maximum storage capacity of each fuel supply tank.
- (3) The penalty imposed under this section:
 - (a) is in addition to any other taxes, interest, or penalties imposed under this chapter; and
 - (b) shall be deposited in the Transportation Fund.
- (4) Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise the penalty imposed under this section.

Enacted by Chapter 29, 2001 General Session

59-13-321 Wholesaler option for rack distributions tax payments -- Notification -- Security.

- (1) As used in this section "wholesaler" means a person who receives a rack distribution of diesel fuel from a supplier for purposes of resale.
- (2)
 - (a) Upon agreement of wholesaler and supplier, the payment of the taxes to the supplier under this part may be made on or before one business day prior to the time that the supplier is required to remit those taxes to the commission.
 - (b) The wholesaler shall provide written notification to the supplier of the wholesaler's intent to exercise the payment option under Subsection (2)(a) at least 30 days prior to the payment.
 - (c) The wholesaler's payment of the taxes under Subsection (2)(a) shall be made by electronic funds transfer.
- (3) Upon the wholesaler's exercise of the payment option provided in Subsection (2), the supplier may require security for the payment of the taxes if no security exists between the wholesaler and the supplier.
- (4) At the option of the supplier, the wholesaler's exercise of the payment option provided under this section may be terminated if the wholesaler fails to:
 - (a) remit timely payment of the taxes as provided in Subsection (2); or
 - (b) provide security as provided in Subsection (3).

Enacted by Chapter 271, 1997 General Session

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

- (1)
 - (a) A retailer, wholesaler, licensed distributor, 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 commission 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.
 - (b) The claimant shall file a claim for a refund or credit with the commission within 90 days of the incident.
 - (c) 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.
 - (d) 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.
 - (e) 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.
 - (f)
 - (i) The claim shall include an affidavit containing the:
 - (A) name of claimant;
 - (B) claimant's address;
 - (C) date, time, and location of the incident;
 - (D) cause of the incident;

- (E) name of the investigating agencies at the scene;
 - (F) number of gallons actually lost from sale; and
 - (G) information on any insurance coverages related to the incident.
 - (ii) The claimant shall support the claim by submitting the original invoices or copy of the original invoices.
 - (iii) This original claim and all information contained in it constitutes a permanent file with the commission in the name of the claimant.
- (2)
- (a) A retailer, wholesaler, licensed distributor, or licensed supplier who has paid the tax on special fuel as provided by this part is entitled to a refund for taxes paid on that portion of an account that:
 - (i) relates to 4,500 or more gallons of special fuel purchased in a single transaction for which no payment has been received; and
 - (ii) has been discharged in a bankruptcy proceeding.
 - (b) The claimant shall file a claim for refund with the commission within 90 days from the date of the discharge.
 - (c) Any claimant filing a claim for a refund shall furnish any or all of the information outlined in this section upon request of the commission.
 - (d) The burden of proof of discharge is on the claimant who shall provide evidence of discharge to the satisfaction of the commission.
 - (e) The claim shall include an affidavit containing the following:
 - (i) the name of the claimant;
 - (ii) the claimant's address;
 - (iii) the name of the debtor that received a discharge in bankruptcy; and
 - (iv) the portion of the account that is subject to an order granting a discharge.
 - (f) The claimant shall support the claim by submitting:
 - (i) the original invoices or a copy of the original invoices; and
 - (ii) a certified copy of the notice of discharge.
 - (g) This original claim and all information contained in it constitutes a permanent file with the commission in the name of the claimant.
 - (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall promulgate rules for the allocation of the discharge under this Subsection (2) to maximize the claimant's refund amount.
- (3)
- (a) Subject to the conditions and limitations of this section, a retailer, wholesaler, licensed distributor, or licensed supplier is entitled to a refund or credit of special fuel tax if:
 - (i) dyed diesel fuel or special fuel is mixed with special fuel; and
 - (ii) the retailer, wholesaler, licensed distributor, or licensed supplier:
 - (A) returns the mixed special fuel to the refinery for re-refining; and
 - (B) has paid the tax on the special fuel as provided by this part.
 - (b) The claimant shall file a claim for a refund or credit with the commission within 90 days of the date the special fuel was returned to the refinery for re-refinement.
 - (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 that the special fuel was returned to the refinery for re-refinement is on the claimant who shall provide evidence to the satisfaction of the commission that the special fuel was returned to the refinery for re-refinement.
 - (e)

- (i) The claim shall include an affidavit containing the:
 - (A) name of claimant;
 - (B) claimant's address;
 - (C) date, time, and location of the incident;
 - (D) nature of the incident; and
 - (E) number of gallons of special fuel actually required to be re-refined.
 - (ii) The claimant shall support the claim by submitting written verification from a refinery that:
 - (A) the special fuel mixed with the dyed diesel fuel or special fuel was returned to the refinery for re-refinement; and
 - (B) special fuel tax was paid on the returned special fuel.
 - (iii) The claim filed pursuant to Subsection (3)(b) and all information contained in it constitutes a permanent file with the commission in the name of the claimant.
- (4)
- (a) Upon commission approval of the claim for a refund, the commission shall pay the amount found due to the claimant.
 - (b) The total amount of claims for refunds shall be paid from the Transportation Fund.
- (5)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may:
 - (i) promulgate rules to enforce this part; and
 - (ii) refuse to accept unsubstantiated evidence for the claim.
 - (b) If the commission is not satisfied with the evidence submitted in connection with the claim, it may:
 - (i) reject the claim; or
 - (ii) 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)
- (a) 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.
 - (b) In addition to the penalties under Subsection (7)(a), 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.

Amended by Chapter 134, 2008 General Session

Amended by Chapter 382, 2008 General Session