

**BULK DELIVERY OF MOTOR FUEL**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Howard A. Stephenson**

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**LONG TITLE**

**General Description:**

This bill modifies the Motor and Special Fuel Tax Act to amend motor fuel tax exemption provisions.

**Highlighted Provisions:**

This bill:

- ▶ repeals the minimum quantity purchase requirement by the United States government, this state, or political subdivisions of this state to qualify for a motor fuel tax exemption;
- ▶ grants rulemaking authority to the State Tax Commission to administer this tax exemption; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**59-13-201**, as last amended by Chapter 322, Laws of Utah 2003

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

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

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

**tax in limited circumstances.**

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

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

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

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

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

(ii) motor fuel that is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

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

(iv) motor fuel that is sold to the United States government, this state, or the political subdivisions of this state [~~where sale and delivery is made in quantities of 750 gallons or more~~].

~~[(b) For purposes of this Subsection (3), the state and its political subdivisions may make collective purchases for purposes of meeting the 750-gallon requirement, and the state and political subdivisions may provide for this purchase in any manner approved by the commission.]~~

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

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

(5) (a) All revenue received by the commission 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 motor fuel tax.

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

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

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

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (7)(a).

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

- (i) .5% of the motor fuel tax revenues collected under this section; or
  - (ii) \$1,050,000.
- (b) This amount shall be used as provided in Section 41-22-19.
- (c) This Subsection (8) sunsets on July 1, 2010.

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

- (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor fuel

is paid to the Navajo Nation;

(ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or not 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 (9) for the administration of the reduction of tax.

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

(A) the state shall be paid the difference described in Subsection (9)(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 (9)(b)(ii) is less than or equal to \$0.

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

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

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

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

(d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (9).

(e) The agreement required under Subsection (9)(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 (9); 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 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 motor fuel, any change in the reduction of taxes under this Subsection (9) 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 (9)(f)(ii).
  - (ii) The notice described in Subsection (9)(f)(i) shall state:
    - (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on motor fuel;
    - (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
- and

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(C) the new rate of the tax described in Subsection (9)(f)(ii)(A).

(g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not permitted under this Subsection (9) 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 (9) and the agreement required by Subsection (9)(a), this Subsection (9) governs.