

**MOTOR FUEL TAX - OFF-HIGHWAY  
VEHICLE REFUND AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ben C. Ferry**

Senate Sponsor: Dennis E. Stowell

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**LONG TITLE**

**General Description:**

This bill modifies the Motor and Special Fuel Tax Act by amending provisions relating to the off-highway vehicle refund.

**Highlighted Provisions:**

This bill:

- ▶ repeals the cap on the percentage of motor fuel tax revenue that is deposited as a refund into the Off-highway Vehicle Account;
  - ▶ repeals the July 1, 2010 sunset of the refund into the Off-highway Vehicle Account;
- and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect July 1, 2008.

**Utah Code Sections Affected:**

AMENDS:

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

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



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

29 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**  
30 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**  
31 **in limited circumstances.**

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

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

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

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

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

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

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

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

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

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

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

57 (b) An appropriation from the Transportation Fund shall be made to the commission to  
58 cover expenses incurred in the administration and enforcement of this part and the collection of

59 the motor fuel tax.

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

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

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

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

76 (8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in  
77 the General Fund an amount equal to ~~[the lesser of the following: (i)]~~ .5% of the motor fuel tax  
78 revenues collected under this section~~[; or]~~.

79 ~~[(ii) \$1,050,000.]~~

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

81 ~~[(c) This Subsection (8) sunsets on July 1, 2010.]~~

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

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

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

89 (iii) the commission and the Navajo Nation execute and maintain an agreement as

90 provided in this Subsection (9) for the administration of the reduction of tax.

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

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

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

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

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

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

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

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

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

108 (i) may not:

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

110 (B) provide a reduction of taxes greater than or different from the reduction described  
111 in this Subsection (9); or

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

113 (ii) shall:

114 (A) be in writing;

115 (B) be signed by:

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

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

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

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

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

121 maintenance of state highways and other infrastructure within the Utah portion of the Navajo  
122 Nation; and

123 (iii) may:

124 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the  
125 Navajo Nation information that is:

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

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

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

129 (C) provide for inspections or audits of distributors, carriers, or retailers located or  
130 doing business within the Utah portion of the Navajo Nation.

131 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax  
132 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a  
133 result of the change in the tax rate is not effective until the first day of the calendar quarter after  
134 a 60-day period beginning on the date the commission receives notice:

135 (A) from the Navajo Nation; and

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

137 (ii) The notice described in Subsection (9)(f)(i) shall state:

138 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on  
139 motor fuel;

140 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);

141 and

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

143 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not  
144 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a  
145 30-day period beginning on the day the agreement terminates.

146 (h) If there is a conflict between this Subsection (9) and the agreement required by  
147 Subsection (9)(a), this Subsection (9) governs.

148 Section 2. **Effective date.**

149 This bill takes effect July 1, 2008.

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**Legislative Review Note**  
as of 1-22-08 11:40 AM

**Office of Legislative Research and General Counsel**

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**H.B. 362 - Motor Fuel Tax - Off-highway Vehicle Refund Amendments**

**Fiscal Note**

2008 General Session  
State of Utah

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**State Impact**

Enactment of this bill will reduce the amount available for state roads by \$262,000 and the amount available for B&C roads by \$100,00 with corresponding increases to OHV programs in FY 2009 and by amounts totaling \$366,000 in FY 2010.

|                         | <u>FY 2008</u><br><u>Approp.</u> | <u>FY 2009</u><br><u>Approp.</u> | <u>FY 2010</u><br><u>Approp.</u> | <u>FY 2008</u><br><u>Revenue</u> | <u>FY 2009</u><br><u>Revenue</u> | <u>FY 2010</u><br><u>Revenue</u> |
|-------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| General Fund Restricted | \$0                              | \$0                              | \$0                              | \$0                              | \$362,000                        | \$366,000                        |
| Transportation Fund     | \$0                              | \$0                              | \$0                              | \$0                              | (\$362,000)                      | (\$366,000)                      |
| <b>Total</b>            | <b>\$0</b>                       | <b>\$0</b>                       | <b>\$0</b>                       | <b>\$0</b>                       | <b>\$0</b>                       | <b>\$0</b>                       |

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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