

Senator Kevin T. Van Tassell proposes the following substitute bill:

MOTOR AND SPECIAL FUEL TAX AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ increases the motor and special fuel tax rate;
- ▶ increases the tax rate imposed on compressed natural gas;
- ▶ provides that the motor fuel and special fuel tax rate shall be increased every two years;
- ▶ provides procedures for implementing the motor fuel and special fuel tax rate adjustment;
- ▶ grants the State Tax Commission rulemaking authority to establish rules to implement the motor fuel and special fuel tax rate increase provisions;
- ▶ repeals certain tax rate decal posting requirements; ~~§~~→ [and]
- ▶ **increases the amount of the cap on the motor fuel tax revenue refund into the**

Off-Highway Vehicle Account; and ←§

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill takes effect on July 1, 2011.

27 This bill coordinates with H.B. 184, Motor and Special Fuel Tax Act Amendments, by
28 making substantive amendments.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **59-13-201**, as last amended by Laws of Utah 2010, Chapter 308

32 **59-13-301**, as last amended by Laws of Utah 2008, Chapters 153 and 382

33 REPEALS:

34 **59-13-104**, as enacted by Laws of Utah 1998, Chapter 253

35 **Utah Code Sections Affected by Coordination Clause:**

36 **59-13-301**, as last amended by Laws of Utah 2008, Chapters 153 and 382

37

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

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

40 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
41 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
42 **in limited circumstances.**

43 (1) (a) Subject to the provisions of this section, a tax is imposed at the rate of [~~24-1/2~~]
44 29 1/2 cents per gallon upon all motor fuel that is sold, used, or received for sale or used in this
45 state.

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

50 (c) (i) Beginning on or after January 1, 2013, the commission shall, every two years in
51 the odd year, increase the rate imposed under Subsection (1)(a) by ~~\$.75~~ **3/4 of one cent** ~~-\$~~ .

52 (ii) The adjusted fuel tax rate shall take effect on January 1 in a year that the fuel tax
53 rate is required to be adjusted in accordance with Subsection (1)(c)(i).

54 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
55 the commission ~~shall~~ **may** ~~-\$~~ make rules implementing the provisions of this Subsection
55a (1)(c).

56 (2) Any increase or decrease in tax rate applies to motor fuel that is imported to the

88 from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this
89 section is entitled to a refund of the tax and may file with the commission for a quarterly
90 refund.

91 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
92 commission shall make rules governing the application and refund provided for in Subsection
93 (7)(a).

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

- 96 (i) .5% of the motor fuel tax revenues collected under this section; or
97 (ii) ~~§~~ → [~~\$1,050,000~~] \$1,300,000 ← ~~§~~ .

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

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

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

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

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

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

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

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

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

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

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

117 (c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under
118 a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of

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

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

276 (E) state any accommodation the Navajo Nation makes related to the construction and
277 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
278 Nation; and

279 (iii) may:

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

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

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

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

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

287 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
288 imposed on special fuel, any change in the amount of the reduction of taxes under this
289 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
290 calendar quarter after a 60-day period beginning on the date the commission receives notice:

291 (A) from the Navajo Nation; and

292 (B) meeting the requirements of Subsection (11)(f)(ii).

293 (ii) The notice described in Subsection (11)(f)(i) shall state:

294 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
295 special fuel;

296 (B) the effective date of the rate change of the tax described in Subsection
297 (11)(f)(ii)(A); and

298 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

299 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
300 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
301 30-day period beginning on the day the agreement terminates.

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

304 (12) Beginning on [~~January 1, 2009~~] July 1, ~~§~~ → ~~[2011]~~ 2012 ← ~~§~~, a tax imposed under this
304a section on

305 compressed natural gas is imposed at a reduced rate of ~~[8-1/2]~~ 10 cents per gasoline gallon
306 equivalent ~~[to be increased or decreased proportionately with any increase or decrease in the~~
307 ~~rate in Subsection 59-13-201(1)(a)].~~

308 Section 3. **Repealer.**

309 This bill repeals:

310 Section **59-13-104, Tax rate decals -- Posted on pump.**

311 Section 4. **Effective date.**

312 This bill takes effect on July 1, ~~§~~→ [2011] 2012 ←~~§~~ .

313 Section 5. **Coordinating S.B. 239 with H.B. 184 -- Substantive amendments.**

314 If this S.B. 239 and H.B. 184, Motor and Special Fuel Tax Act Amendments, both pass,

315 it is the intent of the Legislature that the Office of Legislative Research and General Counsel,

316 in preparing the Utah Code database for publication, modify Subsection 59-13-301(12)(b) to

317 read as follows:

318 "(b) Beginning on July 1, 2011, a tax imposed under this section on liquified natural
319 gas is imposed at a reduced rate of 10 cents per gasoline gallon equivalent."