

Assembly Bill No. 86

CHAPTER 8

An act to amend, repeal, and add Sections 60022 and 60023 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 2, 2001. Filed with
Secretary of State October 3, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 86, Florez. Diesel fuel tax.

The Diesel Fuel Tax Law, with respect to diesel fuel, as defined, imposes a tax at specified rates, upon the removal, entry, sale, delivery, and use of each gallon of diesel fuel, as defined.

This bill would, until January 1, 2007, revise the definition of diesel fuel for those purposes to exempt the water portion of a diesel fuel and water emulsion, as specified. The bill would, until January 1, 2007, also revise the definition of diesel fuel to eliminate references to the manner of use of the diesel fuel, and make related revisions to the definition of blended diesel fuel for purposes of the Diesel Fuel Tax Law.

This bill would incorporate additional changes in Section 60022 of the Revenue and Taxation Code proposed by AB 309, to be operative only if AB 309 and this bill are both enacted and become effective, as specified, and this bill is enacted last.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Section 60022 of the Revenue and Taxation Code is amended to read:

60022. (a) "Diesel fuel" means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the engine of a diesel-powered highway vehicle. However, a liquid does not possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in the engine of a diesel-powered highway vehicle.

(b) "Diesel fuel" does not include kerosene.

(c) "Diesel fuel" does not include the water in a diesel fuel and water emulsion of two immiscible liquids of diesel fuel and water, which



emulsion contains an additive that causes the water droplets to remain suspended within the diesel fuel, provided the diesel fuel emulsion meets standards set by the California Air Resources Board.

(d) This section shall remain in effect until January 1, 2007, and as of that date is repealed.

SEC. 2. Section 60022 of the Revenue and Taxation Code is amended to read:

60022. (a) “Diesel fuel” means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the engine of a diesel-powered highway vehicle. However, a liquid does not possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in the engine of a diesel-powered highway vehicle.

(b) “Diesel fuel” does not include gasoline, kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, or alcohol.

(c) “Diesel fuel” does not include the water in a diesel fuel and water emulsion of two immiscible liquids of diesel fuel and water, which emulsion contains an additive that causes the water droplets to remain suspended within the diesel fuel, provided the diesel fuel emulsion meets standards set by the California Air Resources Board.

(d) This section shall remain in effect until January 1, 2007, and as of that date is repealed.

SEC. 3. Section 60022 is added to the Revenue and Taxation Code to read:

60022. (a) “Diesel fuel” means any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the engine of a diesel-powered highway vehicle.

However, a liquid does not possess this practical and commercial fitness solely by reason of its possible or rare use as a fuel in the engine of a diesel-powered highway vehicle.

“Diesel fuel” does not include kerosene. “Diesel fuel” includes any combustible liquid, by whatever name the liquid may be known or sold, when the liquid is used in an internal combustion engine for the generation of power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject to the tax imposed in Part 2 (commencing with Section 7301) or Part 3 (commencing with Section 8601).

(b) This section shall become operative on January 1, 2007.



SEC. 4. Section 60023 of the Revenue and Taxation Code, as amended by Chapter 1053 of the Statutes of 2000, is amended to read:

60023. (a) “Blended diesel fuel” means any mixture of diesel fuel with respect to which tax has been imposed and any other liquid (such as kerosene) on which tax has not been imposed (other than diesel fuel dyed in accordance with United States Environmental Protection Agency or Internal Revenue Service rules). Blended diesel fuel also means any conversion of a liquid into diesel fuel. “Conversion of a liquid into diesel fuel” occurs when any liquid that is not included in the definition of diesel fuel and that is outside the bulk transfer/terminal system is sold as diesel fuel, delivered as diesel fuel, or represented to be diesel fuel.

(b) “Blended diesel fuel” does not include a diesel fuel and water emulsion of two immiscible liquids of diesel fuel and water, which emulsion contains an additive package that causes the water droplets to remain suspended within the diesel fuel, provided that the diesel fuel emulsion meets the standards set by the California Air Resources Board.

(c) This section shall remain in effect until January 1, 2007, and as of that date is repealed.

SEC. 5. Section 60023 is added to the Revenue and Taxation Code to read:

60023. (a) “Blended diesel fuel” means any mixture of diesel fuel with respect to which tax has been imposed and any other liquid (such as kerosene) on which tax has not been imposed (other than diesel fuel dyed in accordance with United States Environmental Protection Agency or Internal Revenue Service rules). Blended diesel fuel also means any conversion of a liquid into diesel fuel. “Conversion of a liquid into diesel fuel” occurs when any liquid that is not included in the definition of diesel fuel and that is outside the bulk transfer/terminal system is sold as diesel fuel, delivered as diesel fuel, or represented to be diesel fuel.

(b) This section shall become operative on January 1, 2007.

SEC. 6. Section 2 of this bill incorporates amendments to Section 60022 of the Revenue and Taxation Code proposed by both this bill and AB 309. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2002, (2) each bill amends Section 60022 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 309, in which case Section 1 of this bill shall not become operative.

SEC. 7. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

