

AMENDED IN SENATE APRIL 19, 2012

SENATE BILL

No. 1485

Introduced by Senator Kehoe

February 24, 2012

An act to amend Section 8101 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1485, as amended, Kehoe. Fuel Taxes: blended fuels.

The Motor Vehicle Fuel Tax Law and the Diesel Fuel Tax Law impose state excise taxes at specified rates per gallon on the removal, entry, sale, delivering, or specified use of motor vehicle fuel and diesel fuel respectively, and the Use Fuel Tax Law imposes a state excise tax on the use of other fuel at specified rates. The Motor Vehicle Fuel Tax Law requires certain persons who have paid a tax for motor vehicle fuel, as specified, to be reimbursed and repaid the amount of the tax.

This bill would also make the provision requiring reimbursement and repayment applicable to any person who buys and uses motor vehicle fuel for the purpose of producing a blended fuel that will be used to operate motor vehicles upon the public highways of the state that is taxed under the Use Fuel Tax Law ~~or the Diesel Fuel Tax Law~~, to the extent that the person *has submitted the refund application request on or after January 1, 2011 and* can show that the applicable California fuel tax has been paid on the fuel produced by the person.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 8101 of the Revenue and Taxation Code
2 is amended to read:

3 8101. The following persons who have paid a tax for motor
4 vehicle fuel, either directly or to the vendor from whom it was
5 purchased, or indirectly by the adding of the amount of the tax to
6 the price of the fuel, shall, except as otherwise provided in this
7 part, be reimbursed and repaid the amount of the tax:

8 (a) Any person who buys and uses the motor vehicle fuel for
9 purposes other than operating motor vehicles upon the public
10 highways of the state, except vehicles subject to identification
11 under Division 16.5 (commencing with Section 38000) of the
12 Vehicle Code, which are used for recreational purposes or are
13 rented or leased for recreational purposes, and, on and after July
14 1, 1974, except motor vehicles subject to registration under
15 Division 3 (commencing with Section 4000) of the Vehicle Code
16 while engaged in off-highway recreational use.

17 (b) Any person who exports the motor vehicle fuel for use
18 outside of this state. Motor vehicle fuel carried from this state in
19 the fuel tank of a motor vehicle or aircraft is not deemed to be
20 exported from this state unless the motor vehicle fuel becomes
21 subject to tax as an “import” under the laws of the destination state.

22 (c) Any person who sells the motor vehicle fuel to the Armed
23 Forces of the United States for use in ships or aircraft or for use
24 outside this state, under circumstances that would have entitled
25 him or her to an exemption from the payment of the tax under
26 Section 7401 had he or she been the supplier of this fuel.

27 (d) Any person who buys and uses the motor vehicle fuel in any
28 construction equipment which is exempt from vehicle registration
29 pursuant to the Vehicle Code, while operated within the confines
30 and limits of a construction project.

31 (e) Any supplier who sells motor vehicle fuel which is sold to
32 any consulate officer or consulate employee under circumstances
33 which would have entitled the supplier to an exemption under
34 paragraph (4) of subdivision (a) of Section 7401 if the supplier
35 had sold the motor vehicle fuel directly to the consulate officer or
36 consulate employee.

37 (f) Any supplier who removes motor vehicle fuel at a rack and
38 pays tax on that removal or who purchases tax-paid motor vehicle

1 fuel outside the bulk transfer/terminal system and then delivers
2 the tax-paid motor vehicle fuel to another approved terminal from
3 which that supplier subsequently removes the tax-paid motor
4 vehicle fuel at the terminal rack, but only to the extent that the
5 supplier can show that tax on the same amount of motor vehicle
6 fuel has been paid more than one time by the same supplier.

7 (g) Any supplier who purchases tax-paid motor vehicle fuel in
8 the bulk transfer/terminal system and subsequently removes the
9 tax-paid motor vehicle fuel at the terminal rack, but only to the
10 extent that the supplier can show that tax on the same amount of
11 motor vehicle fuel has been paid more than one time by the same
12 supplier. This subdivision applies only to those purchases made
13 on or after January 1, 2002.

14 (h) Any person who buys and uses motor vehicle fuel for the
15 purpose of producing a blended fuel that will be used to operate
16 motor vehicles upon the public highways of the state that is taxed
17 under Part 3 (commencing with Section 8601) of Division 2 ~~or~~
18 ~~Part 31 (commencing with Section 60001) of Division 2~~, but only
19 to the extent that the person can show that the applicable California
20 fuel tax has been paid on the fuel produced by the person. *To be*
21 *eligible, a person must show that the applicable California fuel*
22 *has been paid and submitted the refund application request on or*
23 *after January 1, 2011.*

24 SEC. 2. This act provides for a tax levy within the meaning of
25 Article IV of the Constitution and shall go into immediate effect.