

AMENDED IN SENATE JULY 2, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2757**

---

---

**Introduced by ~~Committee on Revenue and Taxation (Bocanegra (Chair), Gordon, Mullin, Pan, V. Manuel Pérez, and Ting)~~**  
***Assembly Member Bocanegra***

March 24, 2014

---

---

An act to amend ~~Sections 60501 and 60505.5 of the Revenue and Taxation Code, relating to taxation~~ *Sections 4128, 4128.4, and 4128.5 of the Business and Professions Code, relating to pharmacy.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2757, as amended, ~~Committee on Revenue and Taxation~~ *Bocanegra. Diesel Fuel Tax Law: reimbursements. Centralized hospital packaging pharmacies: medication labels.*

*The Pharmacy Law provides for the licensure and regulation of pharmacies, including hospital pharmacies, by the California State Board of Pharmacy, and makes a knowing violation of that law a crime. Existing law authorizes a centralized hospital packaging pharmacy to prepare medications for administration to inpatients within its own general acute care hospital or certain other commonly owned hospitals. Existing law requires that these medications be barcoded to be readable at the inpatient's bedside in order to retrieve certain information, including the date that the medication was prepared and the components used in the drug product.*

*This bill would instead require that this information be displayed on a human-readable label or be retrievable using the lot number or control*

*number of the medication, rather than by reading the barcode. The bill would require that a medication’s barcode be machine readable using medication administration software, and that the software compare the information contained in the barcode to the electronic medical record of the inpatient in order to verify that the medication to be given is the correct medication, dosage, and route of administration for that patient. Because a knowing violation of these provisions would be a crime, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~The Diesel Fuel Tax Law imposes a tax upon the removal, entry, sale, delivery, or specified use of diesel fuel, at a specified rate per gallon. That law provides for a reimbursement of the amount of that tax to persons who have used that tax-paid fuel in specified nontaxable uses, which is allowed through a claim for refund.~~

~~This bill would allow a claim for refund for amounts of tax paid on the biodiesel fuel portion of dyed blended biodiesel fuel removed from an approved terminal at the terminal rack, as provided, to the extent a supplier can show that the tax on that biodiesel fuel has been paid by the same supplier.~~

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

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

- 1     SECTION 1. Section 4128 of the Business and Professions
- 2     Code is amended to read:
- 3     4128. (a) Notwithstanding Section 4029, a centralized hospital
- 4     packaging pharmacy may prepare medications, by performing the
- 5     following specialized functions, for administration only to
- 6     inpatients within its own general acute care hospital and one or
- 7     more general acute care hospitals if the hospitals are under common
- 8     ownership and located within a 75-mile radius of each other:
- 9     (1) Preparing unit dose packages for single administration to
- 10    inpatients from bulk containers, if each unit dose package is

1 barcoded *pursuant to contain at least the information required by*  
2 Section 4128.4.

3 (2) Preparing *sterile* compounded unit dose drugs for ~~parenteral~~  
4 ~~therapy for~~ administration to inpatients, if each compounded unit  
5 dose drug is barcoded *pursuant to contain at least the information*  
6 ~~required by~~ Section 4128.4.

7 (3) Preparing compounded unit dose drugs for administration  
8 to inpatients, if each unit dose package is barcoded *pursuant to*  
9 ~~contain at least the information required by~~ Section 4128.4.

10 (b) For purposes of this article, “common ownership” means  
11 that the ownership information on file with the board pursuant to  
12 Section 4201 for the licensed pharmacy is consistent with the  
13 ownership information on file with the board for the other licensed  
14 pharmacy or pharmacies for purposes of preparing medications  
15 pursuant to this section.

16 *SEC. 2. Section 4128.4 of the Business and Professions Code*  
17 *is amended to read:*

18 4128.4. (a) Any unit dose medication produced by a centralized  
19 hospital packaging pharmacy shall be barcoded to be *machine*  
20 *readable at the inpatient’s bedside using barcode medication*  
21 *administration software. Upon reading the barcode, the following*  
22 ~~information shall be retrievable:~~

- 23 ~~(a) The date the medication was prepared.~~
- 24 ~~(b) The components used in the drug product.~~
- 25 ~~(c) The lot number or control number.~~
- 26 ~~(d) The expiration date.~~
- 27 ~~(e) The National Drug Code Directory number.~~
- 28 ~~(f) The name of the centralized hospital packaging pharmacy.~~

29 (b) *The barcode medication administration software shall permit*  
30 *health care practitioners to ensure that, before a medication is*  
31 *administered to an inpatient, it is the right medication, for the*  
32 *right inpatient, in the right dose, and via the right route of*  
33 *administration. The software shall verify that the medication*  
34 *satisfies these criteria by reading the barcode on the medication*  
35 *and comparing the information retrieved to the electronic medical*  
36 *record of the inpatient.*

37 (c) *For purposes of this section, “barcode medication*  
38 *administration software” means a computerized system designed*  
39 *to prevent medication errors in health care settings.*

1 SEC. 3. Section 4128.5 of the Business and Professions Code  
2 is amended to read:

3 4128.5. ~~The label for each~~ (a) Any unit dose medication  
4 produced by a centralized hospital packaging pharmacy shall  
5 ~~contain~~ display a human-readable label that contains all of the  
6 following:

- 7 (1) The date that the medication was prepared.
- 8 ~~(a)~~
- 9 (2) ~~The expiration~~ beyond-use date.
- 10 ~~(b)~~
- 11 (3) The established name of the drug.
- 12 ~~(c)~~
- 13 (4) The quantity of the active ingredient.
- 14 ~~(d)~~
- 15 (5) Special storage or handling requirements.
- 16 (6) ~~The lot number or control number assigned by the~~  
17 centralized hospital packaging pharmacy.
- 18 (7) ~~The name of the centralized hospital packaging pharmacy.~~

19 (b) For quality control and investigative purposes, a pharmacist  
20 shall be able to retrieve all of the following information using the  
21 lot number or control number described in subdivision (a):

- 22 (1) The components used in the drug product.
- 23 (2) The expiration date of each of the drug’s components.
- 24 (3) The National Drug Code Directory number.

25 SEC. 4. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the penalty  
30 for a crime or infraction, within the meaning of Section 17556 of  
31 the Government Code, or changes the definition of a crime within  
32 the meaning of Section 6 of Article XIII B of the California  
33 Constitution.

34 SECTION 1. ~~Section 60501 of the Revenue and Taxation Code~~  
35 is amended to read:

36 60501. ~~Persons who have paid a tax for diesel fuel lost, sold,~~  
37 ~~or removed as provided in paragraph (4) of subdivision (a), or used~~  
38 ~~in a nontaxable use, other than on a farm for farming purposes or~~  
39 ~~in an exempt bus operation, shall, except as otherwise provided in~~  
40 ~~this part, be reimbursed and repaid the amount of the tax.~~

1 ~~(a) Except as otherwise provided in subdivision (b), a claim for~~  
2 ~~refund with respect to diesel fuel is allowed under this section only~~  
3 ~~if all of the following apply:~~

4 ~~(1) Tax was imposed on the diesel fuel to which the claim~~  
5 ~~relates.~~

6 ~~(2) The claimant bought or produced the diesel fuel and did not~~  
7 ~~sell or resell it in this state except as provided in paragraph (4).~~

8 ~~(3) The claimant has filed a timely claim for refund that contains~~  
9 ~~the information required under subdivision (b) and the claim is~~  
10 ~~supported by the original invoice or original invoice facsimile~~  
11 ~~retained in an alternative storage media showing the purchase. If~~  
12 ~~no original invoice was created, electronic invoicing shall be~~  
13 ~~accepted as reflected by a computerized facsimile when~~  
14 ~~accompanied by an original copy of the bill of lading or fuel~~  
15 ~~manifest that can be directly tied to the electronic invoice.~~

16 ~~(4) The diesel fuel was any of the following:~~

17 ~~(A) Used for purposes other than operating motor vehicles upon~~  
18 ~~the public highways of the state.~~

19 ~~(B) Exported for use outside of this state. Diesel fuel carried~~  
20 ~~from this state in the fuel tank of a motor vehicle is not deemed to~~  
21 ~~be exported from this state unless the diesel fuel becomes subject~~  
22 ~~to tax as an import under the laws of the destination state.~~

23 ~~(C) Used in any construction equipment that is exempt from~~  
24 ~~vehicle registration pursuant to the Vehicle Code, while operated~~  
25 ~~within the confines and limits of a construction project.~~

26 ~~(D) Used in the operation of a motor vehicle on any highway~~  
27 ~~that is under the jurisdiction of the United States Department of~~  
28 ~~Agriculture and with respect to the use of the highway the claimant~~  
29 ~~pays, or contributes to, the cost of construction or maintenance~~  
30 ~~thereof pursuant to an agreement with, or permission of, the United~~  
31 ~~States Department of Agriculture.~~

32 ~~(E) Used in any motor vehicle owned by any county, city and~~  
33 ~~county, city, district, or other political subdivision or public agency~~  
34 ~~when operated by it over any highway constructed and maintained~~  
35 ~~by the United States or any department or agency thereof within~~  
36 ~~a military reservation in this state. If the motor vehicle is operated~~  
37 ~~both over the highway and over a public highway outside the~~  
38 ~~military reservation in a continuous trip the tax shall not be~~  
39 ~~refunded as to that portion of the diesel fuel used to operate the~~  
40 ~~vehicle over the public highway outside the military reservation.~~

1 Nothing contained in this section shall be construed as a refund  
2 of the tax for the use of diesel fuel in any motor vehicle operated  
3 upon a public highway within a military reservation, which  
4 highway is constructed or maintained by this state or any political  
5 subdivision thereof.

6 ~~As used in this section, “military reservation” includes any~~  
7 ~~establishment of the United States Government or any agency~~  
8 ~~thereof used by the Armed Forces of the United States for military,~~  
9 ~~air, or naval operations, including research projects.~~

10 ~~(F) Sold by a supplier and which was sold to any consulate~~  
11 ~~officer or consulate employee under circumstances which would~~  
12 ~~have entitled the supplier to an exemption under paragraph (6) of~~  
13 ~~subdivision (a) of Section 60100 if the supplier had sold the diesel~~  
14 ~~fuel directly to the consulate officer or consulate employee.~~

15 ~~(G) Lost in the ordinary course of handling, transportation, or~~  
16 ~~storage.~~

17 ~~(H) (i) Sold by a person to the United States and its agencies~~  
18 ~~and instrumentalities under circumstances that would have entitled~~  
19 ~~that person to an exemption from the payment of diesel fuel tax~~  
20 ~~under Section 60100 had that person been the supplier of this diesel~~  
21 ~~fuel.~~

22 ~~(ii) Sold by a supplier and which was sold by credit card to the~~  
23 ~~United States and its agencies and instrumentalities under~~  
24 ~~circumstances which would have entitled the supplier to an~~  
25 ~~exemption under Section 60100 if the supplier had sold the diesel~~  
26 ~~fuel directly to the United States and its agencies and~~  
27 ~~instrumentalities.~~

28 ~~(I) Sold by a person to a train operator for use in a~~  
29 ~~diesel-powered train or for other off-highway use under~~  
30 ~~circumstances that would have entitled that person to an exemption~~  
31 ~~from the payment of diesel fuel tax under Section 60100 had that~~  
32 ~~person been the supplier of this diesel fuel.~~

33 ~~(J) Removed from an approved terminal at the terminal rack,~~  
34 ~~but only to the extent that the supplier can show that the tax on the~~  
35 ~~same amount of diesel fuel has been paid more than one time by~~  
36 ~~the same supplier.~~

37 ~~(b) Where tax is not imposed on dyed blended biodiesel fuel~~  
38 ~~upon removal from an approved terminal at the terminal rack, if~~  
39 ~~tax was previously imposed on the biodiesel fuel portion of the~~  
40 ~~dyed blended biodiesel fuel, then, pursuant to paragraph (1) of~~

1 subdivision (a), a claim for refund is allowed for the tax that was  
2 paid on that biodiesel fuel, but only to the extent a supplier can  
3 show that the tax on that biodiesel fuel has been paid by the same  
4 supplier.

5 (e) Each claim for refund under this section shall contain the  
6 following information with respect to all of the diesel fuel covered  
7 by the claim:

8 (1) The name, address, telephone number, and permit number  
9 of the person that sold the diesel fuel to the claimant and the date  
10 of the purchase.

11 (2) A statement by the claimant that the diesel fuel covered by  
12 the claim did not contain visible evidence of dye.

13 (3) A statement, which may appear on the invoice, original  
14 invoice facsimile, or similar document, by the person that sold the  
15 diesel fuel to the claimant that the diesel fuel sold did not contain  
16 visible evidence of dye.

17 (4) The total amount of diesel fuel covered by the claim.

18 (5) The use made of the diesel fuel covered by the claim  
19 described by reference to specific categories listed in paragraph  
20 (4) of subdivision (a).

21 (6) If the diesel fuel covered by the claim was exported, a  
22 statement that the claimant has the proof of exportation.

23 (d) Each claim for refund under this section shall be made on  
24 a form prescribed by the board and shall be filed for a calendar  
25 year. If, at the close of any of the first three quarters of the calendar  
26 year, more than seven hundred fifty dollars (\$750) is refundable  
27 under this section with respect to diesel fuel used or exported  
28 during that quarter or any prior quarter during the calendar year,  
29 and for which no other claim has been filed, a claim may be filed  
30 for the quarterly period. To facilitate the administration of this  
31 section, the board may require the filing of claims for refund for  
32 other than yearly periods.

33 SEC. 2. Section 60505.5 of the Revenue and Taxation Code  
34 is amended to read:

35 60505.5. The claim for refund forms prescribed in subdivision  
36 (d) of Section 60501 and subdivision (d) of Section 60502 may  
37 include, but not be limited to, electronic media. The claim for  
38 refund forms shall be authenticated in a form or pursuant to  
39 methods as may be prescribed by the board.

O