

**Introduced by Committee on Transportation and Housing (Senators DeSaulnier (Chair), Beall, Cannella, Gaines, Galgiani, Hill, Lara, Liu, Pavley, Roth, and Wyland)**

February 22, 2013

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An act to amend Section 6480.1 of the Revenue and Taxation Code, and to amend Section 14606 of the Vehicle Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 788, as introduced, Committee on Transportation and Housing. Transportation.

(1) Existing law requires that on July 1 of each succeeding year, the prepayment rate per gallon for aircraft jet fuel, rounded to the nearest \$0.005, be established by the State Board of Equalization based upon 80% of the combined state and local sales tax rate and the California Constitution, as specified, on the arithmetic average selling price, excluding sales and state excise taxes, as determined by the board. Existing law requires the board to make its determination of the rate no later than March 1 of the year prior to the effective date of the new rate. Existing law requires the rate of the prepayment required to be collected for aircraft jet fuel be equal to 80% of the arithmetic average selling price of aircraft jet fuel as specified by industry publications. Existing law requires that immediately upon making its determination and setting of the rate, the board must each year, no later than May 1, notify every supplier, wholesaler, and retailer of aircraft jet fuel. Existing law permits the board to readjust the rate in the event the price of aircraft jet fuel decreases or increases, and the established rate results in prepayments that consistently exceed or are significantly lower than the retailers' sales tax liability.

This bill would revise the provision that requires the board to make its determination of the rate no later than March 1 of the year prior to the effective date of the new rate, and instead would require this determination to be made no later than March 1 of the same year as the effective date of the new rate.

(2) Existing law prohibits a person from employing, hiring, knowingly permitting, or authorizing any person to drive a motor vehicle owned by him or her or under his or her control upon the highways unless that person is licensed for the appropriate class of vehicle to be driven. Existing law requires that whenever a person fails to qualify, on reexamination, to operate a commercial motor vehicle, an employer shall report that failure to the Department of Motor Vehicles within 10 days. Existing law requires that, until January 30, 2014, if a driver has no medical certification status information in the Commercial Driver License Information System motor vehicle record obtained from the driver’s state licensing agency, the employing motor carrier may accept as proof of medical certification a medical examiner’s certificate issued to that driver prior to January 30, 2012. Existing law, operative January 1, 2014, requires an employer to obtain from a driver required to have a commercial driver’s license or commercial endorsement a copy of the driver’s medical certification before allowing the driver to operate a commercial motor vehicle. Existing law requires the employer to retain the certification as part of a driver qualification file.

This bill would change the provision with an operative date of January 1, 2014, to January 30, 2014.

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 6480.1 of the Revenue and Taxation  
2 Code is amended to read:  
3 6480.1. (a) At any time that motor vehicle fuel tax or diesel  
4 fuel tax is imposed or would be imposed, but for the dyed diesel  
5 fuel exemption in paragraph (1) of subdivision (a) of Section  
6 60100, or the train operator exemption in paragraph (7) of  
7 subdivision (a) of Section 60100 or paragraph (11) of subdivision  
8 (a) of Section 7401, or, pursuant to subdivision (f) of Section 6480,  
9 would be deemed to be imposed, on any removal, entry, or sale in  
10 this state of motor vehicle fuel, aircraft jet fuel, or diesel fuel, the

1 supplier shall collect prepayment of retail sales tax from the person  
2 to whom the motor vehicle fuel, aircraft jet fuel, or diesel fuel is  
3 sold. However, if no sale occurs at the time of imposition of motor  
4 vehicle fuel tax or diesel fuel tax, the supplier shall prepay the  
5 retail sales tax on that motor vehicle fuel, aircraft jet fuel, or diesel  
6 fuel. The prepayment required to be collected by the supplier  
7 constitutes a debt owed by the supplier to this state until paid to  
8 the board, until satisfactory proof has been submitted to prove that  
9 the retailer of the fuel has paid the retail sales tax to the board, or  
10 until a supplier or wholesaler who has consumed the fuel has paid  
11 the use tax to the board. Each supplier shall report and pay the  
12 prepayment amounts to the board, in a form as prescribed by the  
13 board, in the period in which the fuel is sold. On each subsequent  
14 sale of that fuel, each seller, other than the retailer, shall collect  
15 from his or her purchaser a prepayment computed using the rate  
16 applicable at the time of sale. Each supplier shall provide his or  
17 her purchaser with an invoice for, or other evidence of, the  
18 collection of the prepayment amounts which shall be separately  
19 stated thereon.

20 (b) (1) A wholesaler shall collect prepayment of the retail sales  
21 tax from the person to whom the motor vehicle fuel, aircraft jet  
22 fuel, or diesel fuel is sold. Each wholesaler shall provide his or  
23 her purchaser with an invoice for or other evidence of the collection  
24 of the prepayment amounts, which shall be separately stated  
25 thereon.

26 (2) Each wholesaler shall report to the board, in a form as  
27 prescribed by the board and for the period in which the motor  
28 vehicle fuel, aircraft jet fuel, or diesel fuel was sold, all of the  
29 following:

30 (A) The number of gallons of fuel sold and the amount of sales  
31 tax prepayments collected by the wholesaler.

32 (B) The number of tax-paid gallons purchased and the amount  
33 of sales tax prepayments made by the wholesaler.

34 (C) In the event that the amount of sales tax prepayments  
35 collected by the wholesaler is greater than the amount of sales tax  
36 prepayments made by the wholesaler, then the excess constitutes  
37 a debt owed by the wholesaler to the state until paid to the board,  
38 or until satisfactory proof has been submitted that the retailer of  
39 the fuel has paid the tax to the board.

1 (c) A supplier or wholesaler who pays the prepayment and issues  
2 a resale certificate to the seller, but subsequently consumes the  
3 motor vehicle fuel, aircraft jet fuel, or diesel fuel, shall be entitled  
4 to a credit against his or her sales and use taxes due and payable  
5 for the period in which the prepayment was made, provided that  
6 he or she reports and pays the use tax to the board on the  
7 consumption of that fuel.

8 (d) The amount of a prepayment paid by the retailer or a supplier  
9 or wholesaler who has consumed the motor vehicle fuel, aircraft  
10 jet fuel, or diesel fuel to the seller from whom he or she acquired  
11 the fuel shall constitute a credit against his or her sales and use  
12 taxes due and payable for the period in which the sale was made.  
13 Failure of the supplier or wholesaler to report prepayments or the  
14 supplier's or wholesaler's failure to comply with any other duty  
15 under this article shall not constitute grounds for denial of the  
16 credit to the retailer, supplier, or wholesaler, either on a temporary  
17 or permanent basis or otherwise. To be entitled to the credit, the  
18 retailer, supplier, or wholesaler shall retain for inspection by the  
19 board any receipts, invoices, or other documents showing the  
20 amount of sales tax prepaid to his or her supplier, together with  
21 the evidence of payment.

22 (e) The rate of the prepayment required to be collected during  
23 the period from July 1, 1986, through March 31, 1987, shall be  
24 four cents (\$0.04) per gallon of motor vehicle fuel distributed or  
25 transferred.

26 (f) The rate of prepayment required to be collected for motor  
27 vehicle fuel, aircraft jet fuel, and diesel fuel as established by the  
28 board in effect on January 1, 2013, shall remain in effect through  
29 June 30, 2013.

30 (g) On July 1 of each succeeding year, the prepayment rate per  
31 gallon for motor vehicle fuel, rounded to the nearest one-half of  
32 one cent (\$0.005), of the required prepayment shall be established  
33 by the board based upon 80 percent of the combined state and local  
34 sales tax rate established by Sections 6051, 6051.2, 6051.3, 6051.5,  
35 7202, and 7203.1, and Section 35 of Article XIII of the California  
36 Constitution on the arithmetic average selling price (excluding  
37 sales tax) as reported by an industry publication of all grades of  
38 gasoline sold through a self-service gasoline station. The board  
39 shall make its determination of the rate no later than March 1 of  
40 the same year as the effective date of the new rate. Immediately

1 upon making its determination and setting of the rate, the board  
2 shall each year, no later than May 1, notify every supplier,  
3 wholesaler, and retailer of motor vehicle fuel. In the event the price  
4 of fuel decreases or increases or an exemption from sales tax for  
5 sales of fuel is enacted, and the established rate results in or could  
6 result in prepayments which consistently exceed or are significantly  
7 lower than the retailers' sales tax liability, the board may readjust  
8 the rate.

9 (h) On July 1 of each succeeding year, the prepayment rate per  
10 gallon for aircraft jet fuel, rounded to the nearest one-half of one  
11 cent (\$0.005), shall be established by the board based upon 80  
12 percent of the combined state and local sales tax rate established  
13 by Sections 6051, 6051.2, 6051.3, 6051.5, 7202, and 7203.1, and  
14 Section 35 of Article XIII of the California Constitution on the  
15 arithmetic average selling price (excluding sales and state excise  
16 taxes) as determined by the board. The board shall make its  
17 determination of the rate no later than March 1 of the *same* year  
18 ~~prior to~~ as the effective date of the new rate. The rate of the  
19 prepayment required to be collected for aircraft jet fuel shall be  
20 equal to 80 percent of the arithmetic average selling price of aircraft  
21 jet fuel as specified by industry publications. Immediately upon  
22 making its determination and setting of the rate, the board shall  
23 each year, no later than May 1, notify every supplier, wholesaler,  
24 and retailer of aircraft jet fuel. In the event the price of aircraft jet  
25 fuel decreases or increases, and the established rate results in  
26 prepayments that consistently exceed or are significantly lower  
27 than the retailers' sales tax liability, the board may readjust the  
28 rate.

29 (i) On July 1 of each succeeding year, the prepayment rate per  
30 gallon for diesel fuel, rounded to the nearest one-half of one cent  
31 (\$0.005), shall be established by the board based upon 80 percent  
32 of the combined state and local sales tax rate established by  
33 Sections 6051, 6051.2, 6051.3, 6051.5, 6051.8, 7202, and 7203.1,  
34 and Section 35 of Article XIII of the California Constitution on  
35 the arithmetic average selling price (excluding sales and state  
36 excise taxes) as determined by the board. The board shall make  
37 its determination of the rate no later than March 1 of the same year  
38 as the effective date of the new rate. The rate of the prepayment  
39 required to be collected for diesel fuel shall be equal to 80 percent  
40 of the arithmetic average selling price of diesel fuel as specified

1 by industry publications. Immediately upon making its  
2 determination and setting of the rate, the board shall each year, no  
3 later than May 1, notify every supplier, wholesaler, and retailer of  
4 diesel fuel. In the event the rate of sales tax imposed on sales of  
5 diesel fuel increases or decreases or the price of diesel fuel  
6 decreases or increases, and the established rate results in or could  
7 result in prepayments that consistently exceed or are significantly  
8 lower than the retailers' sales tax liability, the board may readjust  
9 the rate.

10 (j) (1) Notwithstanding any other provision of this section,  
11 motor vehicle fuel sold by a supplier or wholesaler to a qualified  
12 purchaser who, pursuant to a contract with the State of California  
13 or its instrumentalities, resells that fuel to the State of California  
14 or its instrumentalities shall be exempt from the prepayment  
15 requirements.

16 (2) A qualified purchaser who acquires motor vehicle fuel for  
17 subsequent resale to the State of California or its instrumentalities  
18 pursuant to this subdivision shall furnish to the supplier or  
19 wholesaler from whom the fuel is acquired an exemption  
20 certificate, completed in accordance with any instructions or  
21 regulations as the board may prescribe. The supplier or wholesaler  
22 shall retain the certificate in his or her records in support of the  
23 exemption. To qualify for the prepayment exemption, both of the  
24 following conditions shall apply:

25 (A) The qualified purchaser does not take possession of the fuel  
26 at any time.

27 (B) The fuel is delivered into storage tanks owned or leased by  
28 the State of California or its instrumentalities via facilities of the  
29 supplier or wholesaler, or by common or contract carriers under  
30 contract with the supplier or wholesaler.

31 (3) For purposes of this subdivision, "qualified purchaser" means  
32 a wholesaler who does not have or maintain a storage facility or  
33 facilities for the purpose of selling motor vehicle fuel.

34 SEC. 2. Section 14606 of the Vehicle Code, as added by  
35 Section 7 of Chapter 670 of the Statutes of 2012, is amended to  
36 read:

37 14606. (a) A person shall not employ, hire, knowingly permit,  
38 or authorize any person to drive a motor vehicle owned by him or  
39 her or under his or her control upon the highways unless that person  
40 is licensed for the appropriate class of vehicle to be driven.

1 (b) Whenever a person fails to qualify, on reexamination, to  
2 operate a commercial motor vehicle, an employer shall report that  
3 failure to the department within 10 days.

4 (c) An employer shall obtain from a driver required to have a  
5 commercial driver's license or commercial endorsement a copy  
6 of the driver's medical certification before allowing the driver to  
7 operate a commercial motor vehicle. The employer shall retain the  
8 certification as part of a driver qualification file.

9 (d) This section shall become operative on January~~1~~, 30, 2014.

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