

AMENDED IN SENATE APRIL 4, 2013

SENATE BILL

No. 791

Introduced by Senator Wyland

February 22, 2013

~~An act to amend Section 14501 of the Public Resources Code, relating to beverage containers. An act to amend Section 7360 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 791, as amended, Wyland. ~~Beverage containers: recycling. Motor vehicle fuel tax: rate adjustment.~~

Existing law, as of July 1, 2010, exempts the sale of, and the storage, use, or other consumption of, motor vehicle fuel from specified sales and use taxes and increases the excise tax on motor vehicle fuel, as provided. Existing law requires the State Board of Equalization to annually adjust the excise tax rate for the state's next fiscal year so that the revenues from the sales and use tax exemption and motor vehicle fuel excise tax increase are revenue neutral.

This bill would eliminate the requirement that the State Board of Equalization adjust the rate of the excise tax on motor vehicle fuel, and instead would require the Department of Finance to annually calculate that rate and report that calculated rate to the Joint Legislative Budget Committee. The rate for the state's next fiscal year would remain the same as the rate of the current fiscal year or would decrease, as provided. This bill would further state that the rate may increase upon a further act by the Legislature.

This bill would take effect immediately as a tax levy.

Under existing law, the Division of Recycling within the Department of Resources Recycling and Recovery administers the California Beverage Container Recycling and Litter Reduction Act.

This bill would make a conforming change to the act's statement of legislative intent with regard to that authority.

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

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

1 SECTION 1. Section 7360 of the Revenue and Taxation Code
2 is amended to read:

3 7360. (a) (1) A tax of eighteen cents (\$0.18) is hereby imposed
4 upon each gallon of fuel subject to the tax in Sections 7362, 7363,
5 and 7364.

6 (2) If the federal fuel tax is reduced below the rate of nine cents
7 (\$0.09) per gallon and federal financial allocations to this state for
8 highway and exclusive public mass transit guideway purposes are
9 reduced or eliminated correspondingly, the tax rate imposed by
10 paragraph (1), on and after the date of the reduction, shall be
11 recalculated by an amount so that the combined state rate under
12 paragraph (1) and the federal tax rate per gallon equal twenty-seven
13 cents (\$0.27).

14 (3) If any person or entity is exempt or partially exempt from
15 the federal fuel tax at the time of a reduction, the person or entity
16 shall continue to be so exempt under this section.

17 (b) (1) On and after July 1, 2010, in addition to the tax imposed
18 by subdivision (a), a tax is hereby imposed upon each gallon of
19 motor vehicle fuel, other than aviation gasoline, subject to the tax
20 in Sections 7362, 7363, and 7364 in an amount equal to seventeen
21 and three-tenths cents (\$0.173) per gallon.

22 (2) (A) For the 2011–12 fiscal year and each fiscal year
23 thereafter, the ~~board~~ Department of Finance shall, on or before
24 March 1 of the fiscal year immediately preceding the applicable
25 fiscal year, ~~adjust~~ calculate the rate in paragraph (1) in that manner
26 as would be required to generate an amount of revenue that will
27 equal the amount of revenue loss attributable to the exemption
28 provided by Section 6357.7, based on estimates made by the ~~board~~,
29 and that rate shall be effective during the state's next fiscal year.
30 Department of Finance.

1 (B) *The Department of Finance shall report, on or before March*
2 *1, 2014, and each March 1 thereafter, the rate calculated pursuant*
3 *to subparagraph (A) to the Joint Legislative Budget Committee.*

4 (i) *If the Department of Finance finds that the calculated rate*
5 *is equal to or less than the rate of the current fiscal year, the*
6 *calculated rate shall be the rate that is effective during the state's*
7 *next fiscal year.*

8 (ii) *If the Department of Finance finds that the calculated rate*
9 *is greater than the rate of the current fiscal year, the rate effective*
10 *for the state's next fiscal year shall continue to be the rate of the*
11 *current fiscal year, unless the rate is increased by an act passed*
12 *by not less than two-thirds of the membership of each house of the*
13 *Legislature.*

14 (iii) *The Department of Finance shall notify the State Board of*
15 *Equalization and the Controller of the rate that is effective during*
16 *the state's next fiscal year.*

17 (3) ~~In order to maintain revenue neutrality for each year,~~
18 ~~beginning~~ *Beginning* with the rate adjustment on or before March
19 1, 2012, the adjustment under paragraph (2) shall also take into
20 account the extent to which the actual amount of revenues derived
21 pursuant to this subdivision and, as applicable, Section 7361.1,
22 and the revenue loss attributable to the exemption provided by
23 Section 6357.7 resulted in a net revenue gain or loss for the fiscal
24 year ending prior to the rate adjustment date on or before March
25 1.

26 (4) ~~The intent of paragraphs (2) and (3) is to ensure that the act~~
27 ~~adding this subdivision and Section 6357.7 does not produce a net~~
28 ~~revenue gain in state taxes.~~

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

31 ~~SECTION 1. Section 14501 of the Public Resources Code is~~
32 ~~amended to read:~~

33 ~~14501. The Legislature finds and declares as follows:~~

34 (a) ~~Experience in this state and others demonstrates that financial~~
35 ~~incentives and convenient return systems ensure the efficient and~~
36 ~~large-scale recycling of beverage containers. Accordingly, it is the~~
37 ~~intent of the Legislature to encourage increased, and more~~
38 ~~convenient, beverage container redemption opportunities for all~~
39 ~~consumers. These redemption opportunities shall consist of dealer~~
40 ~~and other shopping center locations, independent and industry~~

1 operated recycling centers, curbside programs, and other recycling
2 systems that assure all consumers, in every region of the state, the
3 opportunity to return beverage containers conveniently, efficiently,
4 and economically.

5 (b) ~~California grocery, beer, soft drink, container manufacturing,~~
6 ~~labor, agricultural, consumer, environmental, government, citizen,~~
7 ~~recreational, taxpayer, and recycling groups have joined together~~
8 ~~in calling for an innovative program to generate large-scale~~
9 ~~redemption and recycling of beverage containers.~~

10 (c) ~~This division establishes a beverage container recycling goal~~
11 ~~of 80 percent.~~

12 (d) ~~It is the intent of the Legislature to ensure that every~~
13 ~~container type proves its own recyclability.~~

14 (e) ~~It is the intent of the Legislature to make redemption and~~
15 ~~recycling convenient to consumers, and the Legislature hereby~~
16 ~~urges cities and counties, when exercising their zoning authority,~~
17 ~~to act favorably on the siting of multimaterial recycling centers,~~
18 ~~reverse vending machines, mobile recycling units, or other types~~
19 ~~of recycling opportunities, as necessary for consumer convenience,~~
20 ~~and the overall success of litter abatement and beverage container~~
21 ~~recycling in the state.~~

22 (f) ~~The purpose of this division is to create and maintain a~~
23 ~~marketplace where it is profitable to establish sufficient recycling~~
24 ~~centers and locations to provide consumers with convenient~~
25 ~~recycling opportunities through the establishment of minimum~~
26 ~~refund values and processing fees and, through the proper~~
27 ~~application of these elements, to enhance the profitability of~~
28 ~~recycling centers, recycling locations, and other beverage container~~
29 ~~recycling programs.~~

30 (g) ~~The responsibility to provide convenient, efficient, and~~
31 ~~economical redemption opportunities rests jointly with~~
32 ~~manufacturers, distributors, dealers, recyclers, processors, and the~~
33 ~~Division of Recycling within the Department of Resources~~
34 ~~Recycling and Recovery.~~

35 (h) ~~It is the intent of the Legislature, in enacting this division,~~
36 ~~that all empty beverage containers redeemed shall be recycled,~~
37 ~~and that the responsibilities and regulations of the department shall~~
38 ~~be determined and implemented in a manner that favors the~~
39 ~~recycling of redeemed containers, as opposed to their disposal.~~

1 (i) ~~Nothing in this division shall be interpreted as affecting the~~
2 ~~current business practices of scrap dealers or recycling centers,~~
3 ~~except that, to the extent they function as a recycling center or~~
4 ~~processor, they shall do so in accordance with this division.~~

5 (j) ~~The program established by this division will contribute~~
6 ~~significantly to the reduction of the beverage container component~~
7 ~~of litter in this state.~~

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