

AMENDED IN ASSEMBLY MAY 12, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2127**

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**Introduced by Assembly Members O'Donnell and Brough**

February 17, 2016

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An act to ~~amend~~ *amend, repeal, and add* Sections 7318 and 8651.8 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2127, as amended, O'Donnell. ~~Motor vehicle fuel: gasohol.~~  
*Taxation: motor vehicle fuel: use fuel: alcohol fuels.*

*Existing law subjects fuels, including alcohol fuels, used to propel a motor vehicle on a highway to either the Motor Vehicle Fuel Tax Law or the Use Fuel Tax Law. Existing law subjects alcohol fuels containing no more than 15% gasoline to the Use Fuel Tax Law at the tax rate of 9 cents per gallon. Existing law subjects gasohol, which includes alcohol containing more than 15% gasoline, to the Motor Vehicle Fuel Tax Law, which through June 30, 2016, is taxed at the rate of 30 cents per gallon.*

*The Motor Vehicle Fuel Tax Law imposes a tax upon each gallon of motor vehicle fuel removed from a refinery or terminal rack in this state, entered into this state, or sold in this state. That law also provides a refund to any person who buys and uses tax-paid gasoline to produce a blended alcohol fuel of no more than 15% gasoline, which is taxed as a use fuel.*

*The Use Fuel Tax Law imposes an excise tax for the use of certain fuels, including an alcohol fuel that is ethanol or methanol containing not more than 15% gasoline. The tax is imposed on the user and requires*

*the vendor who sells and delivers the fuel into a fuel tank of the user to collect the tax and give the user a receipt.*

*This bill instead, until January 1, 2022, would change the gasoline content percentage in both laws to 18 percent. By increasing the allowable percentage of gasoline in alcohol fuels subject to the Use Fuel Tax Law, this bill additionally would subject to that tax, users of alcohol fuels that contain more than 15% and not more than 18% gasoline.*

*This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.*

~~Existing law, the Motor Vehicle Fuel Tax Law, imposes a tax upon the privilege of distributing motor fuel and defines the term “gasohol” for purposes of that law. Gasohol is defined as all blends of gasoline, and alcohol containing more than 15% gasoline.~~

~~This bill would redefine gasohol to instead mean all blends of gasoline, and alcohol containing more than 18% gasoline.~~

~~Existing law, the Use Fuel Tax Law, imposes an excise tax for the use of fuel, as defined, and provides that the excise tax imposed upon ethanol or methanol containing not more than 15% gasoline or diesel fuels shall be  $\frac{1}{2}$  of that rate.~~

~~This bill would instead apply that discounted rate to ethanol or methanol containing not more than 18% gasoline or diesel fuel.~~

~~This bill would take effect immediately as a tax levy.~~

~~Vote: majority  $\frac{2}{3}$ . 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 7318 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 7318. (a) “Gasohol” means all blends of gasoline, and alcohol
- 4 containing more than 18 percent gasoline.
- 5 (b) *This section shall become inoperative and shall be repealed*
- 6 *on January 1, 2022.*
- 7 SEC. 2. Section 7318 is added to the Revenue and Taxation
- 8 Code, to read:
- 9 7318. (a) “Gasohol” means all blends of gasoline, and alcohol
- 10 containing more than 15 percent gasoline.

1 *(b) This section shall become operative on January 1, 2022.*

2 ~~SEC. 2.~~

3 *SEC. 3. Section 8651.8 of the Revenue and Taxation Code is*  
4 *amended to read:*

5 8651.8. (a) Notwithstanding Section 8651, the excise tax  
6 imposed upon ethanol or methanol containing not more than 18  
7 percent gasoline or diesel fuels shall be one-half the rate prescribed  
8 by Section 8651 for each gallon of fuel used.

9 (b) All references in this code to Section 8651 shall be deemed,  
10 with respect to the rate imposed upon ethanol or methanol, to also  
11 refer to this section.

12 *(c) This section shall become inoperative and shall be repealed*  
13 *on January 1, 2022.*

14 *SEC. 4. Section 8651.8 is added to the Revenue and Taxation*  
15 *Code, to read:*

16 8651.8. (a) Notwithstanding Section 8651, the excise tax  
17 imposed upon ethanol or methanol containing not more than 15  
18 percent gasoline or diesel fuels shall be one-half the rate  
19 prescribed by Section 8651 for each gallon of fuel used.

20 (b) All references in this code to Section 8651 shall be deemed,  
21 with respect to the rate imposed upon ethanol or methanol, to also  
22 refer to this section.

23 *(c) This section shall become operative on January 1, 2022.*

24 ~~SEC. 3.~~

25 *SEC. 5. This act provides for a tax levy within the meaning of*  
26 *Article IV of the Constitution and shall go into immediate effect.*