

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2175**

---

**Introduced by Assembly Member Jones**

February 18, 2016

---

An act to amend Section 8352.6 of the Revenue and Taxation Code, relating to fuel taxes.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2175, as amended, Jones. Fuel taxes: Off-Highway Vehicle Trust Fund.

Existing law imposes an excise tax on motor vehicle fuel (gasoline). Existing law, as a result of the elimination of the sales tax on gasoline effective July 1, 2010, provides for a commensurate increase in the excise tax on gasoline. These taxes are deposited to the Motor Vehicle Fuel Account in the Transportation Tax Fund. Existing law requires certain moneys attributable to taxes imposed upon distribution of gasoline related to specified off-highway motor vehicles and off-highway vehicle activities to be transferred monthly from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund. Existing law, however, transfers, with respect to the increase in gasoline excise taxes as a result of the elimination of the sales tax on gasoline, to the General Fund the revenues attributable to off-highway vehicles that would otherwise be deposited in the Off-Highway Vehicle Trust Fund. Existing law also requires the Controller to withhold \$833,000 from the monthly transfer, and transfer that amount to the General Fund. The moneys in the Off-Highway Vehicle Trust Fund are required to be used,

upon appropriation, for specified purposes related to off-highway motor vehicle recreation.

This bill ~~would~~ *would, on June 30, 2017*, eliminate the requirement that the Controller withhold \$833,000 from the monthly transfer and transfer it to the General Fund and would thereby transfer this amount monthly to the Off-Highway Vehicle Trust Fund.

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 8352.6 of the Revenue and Taxation  
2 Code is amended to read:

3 8352.6. (a) (1) Subject to Section 8352.1, and except as  
4 otherwise provided in ~~paragraph (2)~~, *paragraphs (2) and (3)*, on  
5 the first day of every month, there shall be transferred from moneys  
6 deposited to the credit of the Motor Vehicle Fuel Account to the  
7 Off-Highway Vehicle Trust Fund created by Section 38225 of the  
8 Vehicle Code an amount attributable to taxes imposed upon  
9 distributions of motor vehicle fuel used in the operation of motor  
10 vehicles off highway and for which a refund has not been claimed.  
11 Transfers made pursuant to this section shall be made prior to  
12 transfers pursuant to Section 8352.2.

13 (2) Commencing July 1, 2012, the revenues attributable to the  
14 taxes imposed pursuant to subdivision (b) of Section 7360 and  
15 Section 7361.1 and otherwise to be deposited in the Off-Highway  
16 Vehicle Trust Fund pursuant to paragraph (1) shall instead be  
17 transferred to the General Fund. The revenues attributable to the  
18 taxes imposed pursuant to subdivision (b) of Section 7360 and  
19 Section 7361.1 that were deposited in the Off-Highway Vehicle  
20 Trust Fund in the 2010–11 and 2011–12 fiscal years shall be  
21 transferred to the General Fund.

22 (3) *Until June 30, 2017, the Controller shall withhold eight*  
23 *hundred thirty-three thousand dollars (\$833,000) from the monthly*  
24 *transfer to the Off-Highway Vehicle Trust Fund pursuant to*  
25 *paragraph (1), and transfer that amount to the General Fund.*

26 (b) The amount transferred to the Off-Highway Vehicle Trust  
27 Fund pursuant to paragraph (1) of subdivision (a), as a percentage  
28 of the Motor Vehicle Fuel Account, shall be equal to the percentage  
29 transferred in the 2006–07 fiscal year. Every five years, starting

1 in the 2013–14 fiscal year, the percentage transferred may be  
2 adjusted by the Department of Transportation in cooperation with  
3 the Department of Parks and Recreation and the Department of  
4 Motor Vehicles. Adjustments shall be based on, but not limited  
5 to, the changes in the following factors since the 2006–07 fiscal  
6 year or the last adjustment, whichever is more recent:

7 (1) The number of vehicles registered as off-highway motor  
8 vehicles as required by Division 16.5 (commencing with Section  
9 38000) of the Vehicle Code.

10 (2) The number of registered street-legal vehicles that are  
11 anticipated to be used off highway, including four-wheel drive  
12 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

13 (3) Attendance at the state vehicular recreation areas.

14 (4) Off-highway recreation use on federal lands as indicated by  
15 the United States Forest Service’s National Visitor Use Monitoring  
16 and the United States Bureau of Land Management’s Recreation  
17 Management Information System.

18 (c) It is the intent of the Legislature that transfers from the Motor  
19 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund  
20 should reflect the full range of motorized vehicle use off highway  
21 for both motorized recreation and motorized off-road access to  
22 other recreation opportunities. Therefore, the Legislature finds that  
23 the fuel tax baseline established in subdivision (b), attributable to  
24 off-highway estimates of use as of the 2006–07 fiscal year,  
25 accounts for the three categories of vehicles that have been found  
26 over the years to be users of fuel for off-highway motorized  
27 recreation or motorized access to nonmotorized recreational  
28 pursuits. These three categories are registered off-highway  
29 motorized vehicles, registered street-legal motorized vehicles used  
30 off highway, and unregistered off-highway motorized vehicles.

31 (d) It is the intent of the Legislature that the off-highway motor  
32 vehicle recreational use to be determined by the Department of  
33 Transportation pursuant to paragraph (2) of subdivision (b) be that  
34 usage by vehicles subject to registration under Division 3  
35 (commencing with Section 4000) of the Vehicle Code, for  
36 recreation or the pursuit of recreation on surfaces where the use  
37 of vehicles registered under Division 16.5 (commencing with  
38 Section 38000) of the Vehicle Code may occur.

39 (e) In the 2014–15 fiscal year, the Department of Transportation,  
40 in consultation with the Department of Parks and Recreation and

1 the Department of Motor Vehicles, shall undertake a study to  
2 determine the appropriate adjustment to the amount transferred  
3 pursuant to subdivision (b) and to update the estimate of the amount  
4 attributable to taxes imposed upon distributions of motor vehicle  
5 fuel used in the operation of motor vehicles off highway and for  
6 which a refund has not been claimed. The department shall provide  
7 a copy of this study to the Legislature no later than January 1,  
8 2016.

O