

**SENATE BILL**

**No. 7**

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**Introduced by Senator Allen**

July 16, 2015

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An act to amend, repeal, and add Sections 6051.8 and 6201.8 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 7, as introduced, Allen. Diesel sales and use tax.

Existing law, beyond the sales and use tax rate generally applicable, imposes an additional sales and use tax on diesel fuel at the rate of 1.75%, subject to certain exemptions, and provides for the net revenues collected from the additional tax to be transferred to the Public Transportation Account. Existing law continuously appropriates these revenues to the Controller, for allocation by formula to transportation agencies for public transit purposes.

This bill, as of July 1, 2016, would increase the additional sales and use tax rate on diesel fuel to 5.25%. By increasing the revenues deposited in a continuously appropriated fund, the bill would thereby make an appropriation.

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.

This bill would take effect immediately as a tax levy.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

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

SECTION 1. Section 6051.8 of the Revenue and Taxation Code is amended to read:

6051.8. (a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 1.75 percent of the gross receipts of any retailer from the sale of all diesel fuel, as defined in Section 60022, sold at retail in this state on and after the operative date of this subdivision.

(b) Notwithstanding subdivision (a), for the 2011–12 fiscal year only, the rate referenced in subdivision (a) shall be 1.87 percent.

(c) Notwithstanding subdivision (a), for the 2012–13 fiscal year only, the rate referenced in subdivision (a) shall be 2.17 percent.

(d) Notwithstanding subdivision (a), for the 2013–14 fiscal year only, the rate referenced in subdivision (a) shall be 1.94 percent.

(e) Notwithstanding subdivision (b) of Section 7102, all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation pursuant to Section 99312.1 of the Public Utilities Code.

~~(f) Subdivisions (a) to (e), inclusive, shall become operative on July 1, 2011.~~

*(f) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.*

SEC. 2. Section 6051.8 is added to the Revenue and Taxation Code, to read:

6051.8. (a) Except as provided by Section 6357.3, in addition to the taxes imposed by this part, for the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers at the rate of 5.25 percent of the gross receipts of any retailer from the sale of all diesel fuel, as defined in Section 60022, sold at retail in this state.

(b) Notwithstanding subdivision (b) of Section 7102, all of the revenues, less refunds, collected pursuant to this section shall be

1 estimated by the State Board of Equalization, with the concurrence  
2 of the Department of Finance, and transferred quarterly to the  
3 Public Transportation Account in the State Transportation Fund  
4 for allocation pursuant to Section 99312.1 of the Public Utilities  
5 Code.

6 (c) This section shall become operative on July 1, 2016.

7 SEC. 3. Section 6201.8 of the Revenue and Taxation Code is  
8 amended to read:

9 6201.8. (a) Except as provided by Section 6357.3, in addition  
10 to the taxes imposed by this part, an excise tax is hereby imposed  
11 on the storage, use, or other consumption in this state of diesel  
12 fuel, as defined in Section 60022, at the rate of 1.75 percent of the  
13 sales price of the diesel fuel on and after the operative date of this  
14 subdivision.

15 (b) Notwithstanding subdivision (a), for the 2011–12 fiscal year  
16 only, the rate referenced in subdivision (a) shall be 1.87 percent.

17 (c) Notwithstanding subdivision (a), for the 2012–13 fiscal year  
18 only, the rate referenced in subdivision (a) shall be 2.17 percent.

19 (d) Notwithstanding subdivision (a), for the 2013–14 fiscal year  
20 only, the rate referenced in subdivision (a) shall be 1.94 percent.

21 (e) Notwithstanding subdivision (b) of Section 7102, all of the  
22 revenues, less refunds, collected pursuant to this section shall be  
23 estimated by the State Board of Equalization, with the concurrence  
24 of the Department of Finance, and transferred quarterly to the  
25 Public Transportation Account in the State Transportation Fund  
26 for allocation pursuant to Section 99312.1 of the Public Utilities  
27 Code.

28 ~~(f) Subdivisions (a) to (e), inclusive, shall become operative on~~  
29 ~~July 1, 2011.~~

30 *(f) This section shall become inoperative on July 1, 2016, and,*  
31 *as of January 1, 2017, is repealed, unless a later enacted statute,*  
32 *that becomes operative on or before January 1, 2017, deletes or*  
33 *extends the dates on which it becomes inoperative and is repealed.*

34 SEC. 4. Section 6201.8 is added to the Revenue and Taxation  
35 Code, to read:

36 6201.8. (a) Except as provided by Section 6357.3, in addition  
37 to the taxes imposed by this part, an excise tax is hereby imposed  
38 on the storage, use, or other consumption in this state of diesel  
39 fuel, as defined in Section 60022, at the rate of 5.25 percent of the  
40 sales price of the diesel fuel.

(b) Notwithstanding subdivision (b) of Section 7102, all of the revenues, less refunds, collected pursuant to this section shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and transferred quarterly to the Public Transportation Account in the State Transportation Fund for allocation pursuant to Section 99312.1 of the Public Utilities Code.

(c) This section shall become operative on July 1, 2016.

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

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