

AMENDED IN SENATE MAY 27, 2015  
AMENDED IN SENATE APRIL 23, 2015  
AMENDED IN SENATE MARCH 26, 2015

**SENATE BILL**

**No. 321**

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**Introduced by Senator Beall**

February 23, 2015

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An act to amend Section 7360 of the Revenue and Taxation Code, relating to ~~taxation, and declaring the urgency thereof, to take effect immediately:~~ *taxation*.

LEGISLATIVE COUNSEL'S DIGEST

SB 321, as amended, Beall. Motor vehicle fuel taxes: rates: adjustments.

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, for the 2011–12 fiscal year and each fiscal year thereafter, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, to adjust the motor vehicle fuel tax rate in a manner as to generate an amount of revenue equal to the amount of revenue loss attributable to the sales and use tax exemption on motor vehicle fuel, based on estimates made by the board. Existing law also requires, in order to maintain revenue for each year, the board to take into account actual net revenue gain or loss for the fiscal year ending prior to the rate adjustment date. Existing law requires this adjusted rate to be effective during the state's next fiscal year.

This bill for the 2015–16 fiscal year and each fiscal year thereafter would, instead require the board, on or before July 1, 2015, or March 1 of the fiscal year immediately preceding the applicable fiscal year, as specified, to adjust the rate in a manner as to generate an amount of revenue equal to the amount of revenue loss attributable to the exemption, based on estimates made by the board that reflect the combined average of the actual fuel price over the previous 4 fiscal years and the estimated fuel price for the current fiscal year, and continuing to take into account adjustments required by existing law to maintain revenue neutrality *for each year*.

This bill would also authorize, if, due to clear changes in either fuel prices or consumption in the state, the board makes a determination that the amount of revenue being generated by the motor vehicle fuel tax will be significantly different than the estimates made by the board, the board to adjust the rate more frequently than annually, but no more frequently than every 6 months in order to reduce the potential volatility of the revenues.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote:  $\frac{2}{3}$ -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 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.

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

(2) (A) For the 2011–12 fiscal year to the 2014–15 fiscal year, inclusive, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the board, and that rate shall be effective during the state’s next fiscal year.

(B) For the 2015–16 fiscal year, the board shall, on or before July 1, 2015, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the board that reflect the combined average of the actual fuel price over the previous four fiscal years and the estimated fuel price for the current fiscal year, and that rate shall be effective during the 2015–16 fiscal year.

(C) For the 2016–17 fiscal year and each fiscal year thereafter, the board shall, on or before March 1 of the fiscal year immediately preceding the applicable fiscal year, adjust the rate in paragraph (1) in that manner as to generate an amount of revenue that will equal the amount of revenue loss attributable to the exemption provided by Section 6357.7, based on estimates made by the board that reflect the combined average of the actual fuel price over the previous four fiscal years and the estimated fuel price for the current fiscal year, and that rate shall be effective during the state’s next fiscal year.

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

1 (4) If, due to clear changes in either fuel prices or consumption  
2 in the state, the board makes a determination that the amount of  
3 revenue being generated by the tax imposed by this section will  
4 be significantly different than the estimates made by the board,  
5 the board may adjust the rate in paragraph (1) more frequently  
6 than annually, but no more frequently than every six months in  
7 order to reduce the potential volatility of the revenues.

8 (5) The intent of paragraphs (2) and (3) is to ensure that Chapter  
9 6 of the Statutes of 2011, which added this subdivision and Section  
10 6357.7, does not produce a net revenue gain in state taxes.

11 (6) It is the intent of the Legislature that the amendments made  
12 by the act adding this paragraph does not produce a net revenue  
13 gain in state taxes. ~~Revenue neutrality, as used in this section, does~~  
14 ~~not refer to revenues generated in any particular fiscal year, but~~  
15 ~~instead means that, over a reasonable period of fiscal years, the~~  
16 ~~actual amount of revenues derived pursuant to this subdivision is~~  
17 ~~equal to the estimated amount of revenue loss attributable to the~~  
18 ~~exemption provided by Section 6357.7.~~

19 ~~SEC. 2.—This act is an urgency statute necessary for the~~  
20 ~~immediate preservation of the public peace, health, or safety within~~  
21 ~~the meaning of Article IV of the Constitution and shall go into~~  
22 ~~immediate effect. The facts constituting the necessity are:~~

23 ~~In order to avoid a significant and devastating decrease in the~~  
24 ~~amount of funding available for the maintenance of California's~~  
25 ~~local streets and roads, it is necessary that this act take effect~~  
26 ~~immediately.~~