

FUEL TAX AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kathleen A. Riebe

House Sponsor: _____

LONG TITLE**General Description:**

This bill reduces the motor fuel taxes.

Highlighted Provisions:

This bill:

- reduces the motor fuel tax rate by the equivalent of 4.5 cents;
- modifies the increases of the motor fuel tax rate based on changes to the Consumer

Price Index; and

- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-13-201, as last amended by Laws of Utah 2022, Chapter 68

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **59-13-201** is amended to read:

**59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited into the
Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**



in limited circumstances.

(1) (a) Subject to the provisions of this section and except as provided in Subsection (1)(e), a tax is imposed at the rate of ~~[16.5%]~~ 14.6% of the statewide average rack price of a gallon of motor fuel per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

(b) (i) Until December 31, 2018, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous fiscal year statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending on the previous June 30 as published by an oil pricing service.

(ii) Beginning on January 1, 2019, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous three fiscal years statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months ending on the previous June 30 as published by an oil pricing service.

(c) (i) Subject to the requirement in Subsection (1)(c)(ii), the statewide average rack price of a gallon of motor fuel determined under Subsection (1)(b) may not be less than \$1.78 per gallon.

(ii) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the minimum statewide average rack price of a gallon of motor fuel described in Subsection (1)(c)(i) by taking the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(iii) The statewide average rack price of a gallon of motor fuel determined by the commission under Subsection (1)(b) may not exceed ~~[\$2.43 per gallon.]:~~

(A) for a calendar year beginning on January 1, 2024, \$2.43 per gallon;

(B) for a calendar year beginning on January 1, 2025, \$2.57 per gallon; and

(C) for a calendar year beginning on January 1, 2026, and thereafter, \$2.75 per gallon.

(iv) The minimum statewide average rack price of a gallon of motor fuel described and adjusted under Subsections (1)(c)(i) and (ii) may not exceed the maximum statewide average rack price of a gallon of motor fuel under Subsection (1)(c)(iii).

(d) (i) The commission shall annually:

(A) determine the statewide average rack price of a gallon of motor fuel in accordance with Subsections (1)(b) and (c);

(B) adjust the fuel tax rate imposed under Subsection (1)(a), rounded to the nearest one-tenth of a cent, based on the determination under Subsection (1)(b);

(C) publish the adjusted fuel tax as a cents per gallon rate; and

(D) post or otherwise make public the adjusted fuel tax rate as determined in Subsection (1)(d)(i)(B) no later than 60 days before the annual effective date under Subsection (1)(d)(ii).

(ii) The tax rate imposed under this Subsection (1) and adjusted as required under Subsection (1)(d)(i) shall take effect on January 1 of each year.

(e) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a), rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in Section 59-13-102 and are sold, used, or received for sale or use in this state.

(2) Any increase or decrease in tax rate applies to motor fuel that is imported to the state or sold at refineries in the state on or after the effective date of the rate change.

(3) (a) No motor fuel tax is imposed upon:

(i) motor fuel that is brought into and sold in this state in original packages as purely interstate commerce sales;

(ii) motor fuel that is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) motor fuel or components of motor fuel that is sold and used in this state and distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in this state; or

(iv) motor fuel that is sold to the United States government, this state, or the political subdivisions of this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

commission shall make rules governing the procedures for administering the tax exemption provided under Subsection (3)(a)(iv).

(4) The commission may either collect no tax on motor fuel exported from the state or, upon application, refund the tax paid.

(5) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the motor fuel tax.

(6) (a) The commission shall determine what amount of motor fuel tax revenue is received from the sale or use of motor fuel used in motorboats registered under Title 73, Chapter 18, State Boating Act, and this amount shall be deposited into a restricted revenue account in the General Fund of the state.

(b) The funds from this account shall be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the Division of Outdoor Recreation in administering and enforcing Title 73, Chapter 18, State Boating Act.

(7) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased motor fuel from a licensed distributor or from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (7)(a).

(8) (a) The commission shall refund annually into the Off-highway Vehicle Account in the General Fund an amount equal to .5% of the motor fuel tax revenues collected under this section.

(b) This amount shall be used as provided in Section 41-22-19.

(9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that is sold, used, or received for sale or use in this state is reduced to the extent provided in

Subsection (9)(b) if:

(i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor fuel is paid to the Navajo Nation;

(ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or not the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (9) for the administration of the reduction of tax.

(b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that difference is greater than \$0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (9)(b)(ii) is less than or equal to \$0.

(ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the motor fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the motor fuel.

(c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of motor fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (9).

(e) The agreement required under Subsection (9)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (9); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

152 (B) be signed by:
153 (I) the chair of the commission or the chair's designee; and
154 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
155 (C) be conditioned on obtaining any approval required by federal law;
156 (D) state the effective date of the agreement; and
157 (E) state any accommodation the Navajo Nation makes related to the construction and
158 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
159 Nation; and
160 (iii) may:
161 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
162 Navajo Nation information that is:
163 (I) contained in a document filed with the commission; and
164 (II) related to the tax imposed under this section;
165 (B) provide for maintaining records by the commission or the Navajo Nation; or
166 (C) provide for inspections or audits of distributors, carriers, or retailers located or
167 doing business within the Utah portion of the Navajo Nation.
168 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
169 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a
170 result of the change in the tax rate is not effective until the first day of the calendar quarter after
171 a 60-day period beginning on the date the commission receives notice:
172 (A) from the Navajo Nation; and
173 (B) meeting the requirements of Subsection (9)(f)(ii).
174 (ii) The notice described in Subsection (9)(f)(i) shall state:
175 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
176 motor fuel;
177 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
178 and
179 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).
180 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
181 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
182 30-day period beginning on the day the agreement terminates.

183 (h) If there is a conflict between this Subsection (9) and the agreement required by
184 Subsection (9)(a), this Subsection (9) governs.
185 Section 2. **Effective date.**
186 This bill takes effect on January 1, 2024.