

ASSEMBLY BILL

No. 1638

Introduced by Assembly Member Kiley

January 12, 2022

An act to amend Sections 7360, 7362, 7363, and 7364 of, and to add Section 7374 to, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1638, as introduced, Kiley. Motor Vehicle Fuel Tax Law: suspension of tax.

Existing law, 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, at a specified rate per gallon.

This bill would suspend the imposition of the tax on motor vehicle fuels for 6 months. The bill would direct the Controller to transfer a specified amount from the General Fund to the Motor Vehicle Fuel Account in the Transportation Tax Fund. By transferring General Fund moneys to a continuously appropriated account, this bill would make an appropriation.

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

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:

1 SECTION 1. Section 7360 of the Revenue and Taxation Code
2 is amended to read:

3 7360. (a) (1) ~~A~~*Except as provided in Section 7374*, a tax of
4 eighteen cents (\$0.18) is hereby imposed upon each gallon of fuel
5 subject to the tax in Sections 7362, 7363, 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.

17 (b) (1) ~~On~~*Except as provided in Section 7374*, on and after
18 July 1, 2010, in addition to the tax imposed by subdivision (a), a
19 tax is hereby imposed upon each gallon of motor vehicle fuel,
20 other than aviation gasoline, subject to the tax in Sections 7362,
21 7363, and 7364 in an amount equal to seventeen and three-tenths
22 cents (\$0.173) per gallon.

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

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

1 (4) The intent of paragraphs (2) and (3) is to ensure that the act
2 adding this subdivision and Section 6357.7 does not produce a net
3 revenue gain in state taxes.

4 (5) Commencing July 1, 2019, the adjustments in paragraphs
5 (2) and (3) shall cease, and the rate imposed by this subdivision
6 shall be the rate in paragraph (1).

7 (c) ~~On~~ *Except as provided in Section 7374*, on and after
8 November 1, 2017, in addition to the taxes imposed by subdivisions
9 (a) and (b), a tax is hereby imposed upon each gallon of motor
10 vehicle fuel, other than aviation gasoline, subject to the tax in
11 Sections 7362, 7363, and 7364, in an amount equal to twelve cents
12 (\$0.12) per gallon.

13 (d) On July 1, 2020, and every July 1 thereafter, the board shall
14 adjust the taxes imposed by subdivisions (a), (b), and (c), with the
15 adjustment to apply to both to the base tax rates specified in those
16 provisions and to any previous adjustment in rates made pursuant
17 to this subdivision, by increasing the taxes by a percentage amount
18 equal to the increase in the California Consumer Price Index, as
19 calculated by the Department of Finance with the resulting taxes
20 rounded to the nearest one-tenth of one cent (\$0.01). The first
21 adjustment pursuant to this subdivision shall be a percentage
22 amount equal to the increase in the California Consumer Price
23 Index from November 1, 2017, to November 1, 2019. Subsequent
24 annual adjustments shall cover subsequent 12 month periods. The
25 incremental change shall be added to the associated rate for that
26 year.

27 (e) Any increases to the taxes imposed under subdivisions (a),
28 (b), and (c) that are enacted by legislation subsequent to July 1,
29 2017, shall be deemed to be changes to the base tax rates for
30 purposes of the California Consumer Price Index calculation and
31 adjustment performed pursuant to subdivision (d).

32 SEC. 2. Section 7362 of the Revenue and Taxation Code is
33 amended to read:

34 7362. ~~The~~ *Except as provided in Section 7374*, the tax specified
35 in Section 7360 is imposed on the removal of motor vehicle fuel
36 in this state from a terminal if the motor vehicle fuel is removed
37 at the rack.

38 SEC. 3. Section 7363 of the Revenue and Taxation Code is
39 amended to read:

1 7363. ~~The~~*Except as provided in Section 7374, the* tax specified
2 in Section 7360 is also imposed on all of the following:
3 (a) The removal of motor vehicle fuel in this state from any
4 refinery if either of the following applies:
5 (1) The removal is by bulk transfer and the refiner or the owner
6 of the motor vehicle fuel immediately before the removal is not a
7 licensed supplier.
8 (2) The removal is at the refinery rack.
9 (b) The entry of motor vehicle fuel into this state for sale,
10 consumption, use, or warehousing if either of the following applies:
11 (1) The entry is by bulk transfer and the enterer is not a licensed
12 supplier.
13 (2) The entry is not by bulk transfer.
14 (c) The removal or sale of motor vehicle fuel in this state to an
15 unlicensed person unless there was a prior taxable removal, entry,
16 or sale of the motor vehicle fuel.
17 (d) The removal or sale of blended motor vehicle fuel in this
18 state by the blender thereof. The number of gallons of blended
19 motor vehicle fuel subject to tax is the difference between the total
20 number of gallons of blended motor vehicle fuel removed or sold
21 and the number of gallons of previously taxed motor vehicle fuel
22 used to produce the blended motor vehicle fuel.
23 SEC. 4. Section 7364 of the Revenue and Taxation Code is
24 amended to read:
25 7364. ~~The~~*Except as provided in Section 7374, the* tax specified
26 in Section 7360 is imposed as a backup tax as follows:
27 (a) On the delivery into the fuel tank of a motor vehicle
28 fuel-powered highway vehicle of:
29 (1) Any motor vehicle fuel on which a claim for refund has been
30 allowed; or
31 (2) Any liquid on which tax has not been imposed by this part,
32 Part 3 (commencing with Section 8601), or Part 31 (commencing
33 with Section 60001).
34 (b) On the sale of any motor vehicle fuel on which a claim for
35 refund has been allowed.
36 (c) On the sale and delivery into the fuel tank of a motor vehicle
37 fuel-powered highway vehicle of any liquid on which tax has not
38 been imposed by this part, Part 3 (commencing with Section 8601),
39 or Part 31 (commencing with Section 60001).

1 SEC. 5. Section 7374 is added to the Revenue and Taxation
2 Code, to read:

3 7374. (a) The imposition of taxes under Sections 7360, 7362,
4 7363, and 7364 is suspended for the period beginning on the
5 effective date of this section and ending on the date six months
6 after the effective date of this section.

7 (b) The Controller, no later 60 days after the effective date of
8 this section, shall transfer an amount equal to one-half of the
9 amount collected pursuant to Sections 7360, 7362, 7363, and 7364
10 in the 2020–21 fiscal year from the General Fund to the Motor
11 Vehicle Fuel Account in the Transportation Tax Fund. This transfer
12 amount is continuously appropriated in accordance with Section
13 8352.

14 SEC. 6. This act is an urgency statute necessary for the
15 immediate preservation of the public peace, health, or safety within
16 the meaning of Article IV of the California Constitution and shall
17 go into immediate effect. The facts constituting the necessity are:

18 In order to provide much needed relief to Californians struggling
19 with inflation, high gas prices, and high unemployment rates, it is
20 necessary for this to take immediate effect.