

AMENDED IN ASSEMBLY MAY 12, 2022

AMENDED IN ASSEMBLY APRIL 20, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2457

Introduced by Assembly Member Gray
*(Coauthors: Assembly Members Cunningham, Flora, Grayson,
Lackey, Mayes, Valladares, Villapudua, and Waldron)*
(Coauthors: Senators Hurtado and Newman)

February 17, 2022

~~An act to amend Section 52452 of the Food and Agricultural Code, relating to agriculture.~~ *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, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2457, as amended, Gray. ~~Agricultural seeds: labeling: quick response code.~~ *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.

Existing unfair competition laws establish a statutory cause of action for unfair competition, including any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising and acts prohibited by false advertisement laws.

This bill would suspend the imposition of the tax on motor vehicle fuels for one year. The bill would require that all savings realized based on the suspension of the motor vehicle fuels tax by a person other than

an end consumer, as defined, be passed on to the end consumer, and would make the violation of this requirement an unfair business practice, in violation of unfair competition laws, as provided. The bill would require a seller of motor vehicle fuels to provide a receipt to a purchaser that indicates the amount of tax that would have otherwise applied to the transaction.

This bill would also 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.

~~Existing law, the California Seed Law, regulates seed sold in California, and requires each container of agricultural seed that is for sale or sold within this state for sowing purposes to bear upon it or have attached to it in a conspicuous place a plainly written or printed label or tag in the English language that includes specified information, except as provided:~~

~~This bill would authorize any additional information related to the agricultural seed, the grower company, consumer information, or best practices relating to the agricultural seed to be met with a quick response (QR) code or other electronic label or tag.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~^{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) ~~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).

1 (3) If any person or entity is exempt or partially exempt from
2 the federal fuel tax at the time of a reduction, the person or entity
3 shall continue to be so exempt under this section.

4 (b) (1) ~~On~~*Except as provided in Section 7374, on* and after
5 July 1, 2010, in addition to the tax imposed by subdivision (a), a
6 tax is hereby imposed upon each gallon of motor vehicle fuel,
7 other than aviation gasoline, subject to the tax in Sections 7362,
8 7363, and 7364 in an amount equal to seventeen and three-tenths
9 cents (\$0.173) per gallon.

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

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

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

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

31 (c) ~~On~~*Except as provided in Section 7374, on* and after
32 November 1, 2017, in addition to the taxes imposed by subdivisions
33 (a) and (b), a tax is hereby imposed upon each gallon of motor
34 vehicle fuel, other than aviation gasoline, subject to the tax in
35 Sections 7362, 7363, and 7364, in an amount equal to twelve cents
36 (\$0.12) per gallon.

37 (d) On July 1, 2020, and every July 1 thereafter, the board shall
38 adjust the taxes imposed by subdivisions (a), (b), and (c), with the
39 adjustment to apply to both to the base tax rates specified in those
40 provisions and to any previous adjustment in rates made pursuant

1 to this subdivision, by increasing the taxes by a percentage amount
2 equal to the increase in the California Consumer Price Index, as
3 calculated by the Department of Finance with the resulting taxes
4 rounded to the nearest one-tenth of one cent (\$0.01). The first
5 adjustment pursuant to this subdivision shall be a percentage
6 amount equal to the increase in the California Consumer Price
7 Index from November 1, 2017, to November 1, 2019. Subsequent
8 annual adjustments shall cover subsequent 12 month periods. The
9 incremental change shall be added to the associated rate for that
10 year.

11 (e) Any increases to the taxes imposed under subdivisions (a),
12 (b), and (c) that are enacted by legislation subsequent to July 1,
13 2017, shall be deemed to be changes to the base tax rates for
14 purposes of the California Consumer Price Index calculation and
15 adjustment performed pursuant to subdivision (d).

16 *SEC. 2. Section 7362 of the Revenue and Taxation Code is*
17 *amended to read:*

18 7362. ~~The~~ *Except as provided in Section 7374, the tax specified*
19 *in Section 7360 is imposed on the removal of motor vehicle fuel*
20 *in this state from a terminal if the motor vehicle fuel is removed*
21 *at the rack.*

22 *SEC. 3. Section 7363 of the Revenue and Taxation Code is*
23 *amended to read:*

24 7363. ~~The~~ *Except as provided in Section 7374, the tax specified*
25 *in Section 7360 is also imposed on all of the following:*

26 (a) The removal of motor vehicle fuel in this state from any
27 refinery if either of the following applies:

28 (1) The removal is by bulk transfer and the refiner or the owner
29 of the motor vehicle fuel immediately before the removal is not a
30 licensed supplier.

31 (2) The removal is at the refinery rack.

32 (b) The entry of motor vehicle fuel into this state for sale,
33 consumption, use, or warehousing if either of the following applies:

34 (1) The entry is by bulk transfer and the enterer is not a licensed
35 supplier.

36 (2) The entry is not by bulk transfer.

37 (c) The removal or sale of motor vehicle fuel in this state to an
38 unlicensed person unless there was a prior taxable removal, entry,
39 or sale of the motor vehicle fuel.

1 (d) The removal or sale of blended motor vehicle fuel in this
2 state by the blender thereof. The number of gallons of blended
3 motor vehicle fuel subject to tax is the difference between the total
4 number of gallons of blended motor vehicle fuel removed or sold
5 and the number of gallons of previously taxed motor vehicle fuel
6 used to produce the blended motor vehicle fuel.

7 *SEC. 4. Section 7364 of the Revenue and Taxation Code is*
8 *amended to read:*

9 7364. ~~The~~ *Except as provided in Section 7374, the tax specified*
10 *in Section 7360 is imposed as a backup tax as follows:*

11 (a) On the delivery into the fuel tank of a motor vehicle
12 fuel-powered highway vehicle of:

13 (1) Any motor vehicle fuel on which a claim for refund has been
14 allowed; or

15 (2) Any liquid on which tax has not been imposed by this part,
16 Part 3 (commencing with Section 8601), or Part 31 (commencing
17 with Section 60001).

18 (b) On the sale of any motor vehicle fuel on which a claim for
19 refund has been allowed.

20 (c) On the sale and delivery into the fuel tank of a motor vehicle
21 fuel-powered highway vehicle of any liquid on which tax has not
22 been imposed by this part, Part 3 (commencing with Section 8601),
23 or Part 31 (commencing with Section 60001).

24 *SEC. 5. Section 7374 is added to the Revenue and Taxation*
25 *Code, to read:*

26 7374. (a) *The imposition of taxes under Sections 7360, 7362,*
27 *7363, and 7364 is suspended for the period beginning on the*
28 *effective date of this section and ending on the date one year after*
29 *the effective date of this section.*

30 (b) (1) *All savings realized on the purchase of motor vehicle*
31 *fuel by any party other than an end consumer due to the suspension*
32 *of taxes pursuant to this section shall be passed on to the end*
33 *consumer.*

34 (2) *Any violation of this subdivision shall constitute an unfair*
35 *business practice punishable pursuant to Chapter 5 (commencing*
36 *with Section 17200) of Part 2 of Division 7 of the Business and*
37 *Professions Code.*

38 (3) *Notwithstanding any other law, a prospective plaintiff shall*
39 *provide written notice of an alleged violation of this subdivision*

1 at least 60 days prior to bringing any enforcement action in order
 2 to give the defendant opportunity to remedy any deficiency.

3 (4) If a party receiving a notice pursuant to paragraph (3)
 4 responds in writing within 60 days, and the response offers an
 5 explanation for the deficiency and expresses an intent to remedy
 6 the deficiency, the opportunity to remedy a deficiency prior to
 7 initiating an enforcement action shall be extended an additional
 8 30 days.

9 (5) Any remediation of a deficiency during the waiting period
 10 described in this subdivision shall be an affirmative defense against
 11 in an enforcement action.

12 (c) Upon any sale of motor vehicle fuels to which this section
 13 applies, the seller shall provide a receipt to the purchaser that
 14 clearly indicates the amount of motor vehicle fuel tax that would
 15 have applied to the sale if not for this section.

16 (d) For purposes of this section, “end consumer” means a
 17 purchaser of motor vehicle fuels for the purpose of consumption,
 18 and not for resale.

19 (e) The Controller, no later than 60 days after the effective date
 20 of this section, shall transfer an amount equal to the amount
 21 collected pursuant to Sections 7360, 7362, 7363, and 7364 in the
 22 2021–22 fiscal year, adjusted for inflation, from the General Fund
 23 to the Motor Vehicle Fuel Account in the Transportation Tax Fund.
 24 This transfer amount is continuously appropriated in accordance
 25 with Section 8352.

26 SECTION 1. ~~Section 52452 of the Food and Agricultural Code~~
 27 ~~is amended to read:~~

28 ~~52452. (a) Except as otherwise provided in Section 52454,~~
 29 ~~each container of agricultural seed that is for sale or sold within~~
 30 ~~this state for sowing purposes shall bear upon it or have attached~~
 31 ~~to it in a conspicuous place a plainly written or printed label or tag~~
 32 ~~in the English language that includes all of the following~~
 33 ~~information:~~

34 ~~(1) The commonly accepted name of the kind, kind and variety,~~
 35 ~~or kind and type of each agricultural seed component in excess of~~
 36 ~~5 percent of the whole, and the percentage by weight of each. If~~
 37 ~~the aggregate of agricultural seed components, each present in an~~
 38 ~~amount not exceeding 5 percent of the whole, exceeds 10 percent~~
 39 ~~of the whole, each component in excess of 1 percent of the whole~~
 40 ~~shall be named together with the percentage by weight of each. If~~

1 more than one component is required to be named, the names of
2 all components shall be shown in letters of the same type and size.

3 ~~(2) The lot number or other lot identification.~~

4 ~~(3) The percentage by weight of all weed seeds.~~

5 ~~(4) The name and approximate number of each kind of restricted
6 noxious weed seed per pound.~~

7 ~~(5) The percentage by weight of any agricultural seed except
8 that which is required to be named on the label.~~

9 ~~(6) The percentage by weight of inert matter. If a percentage
10 by weight is required to be shown by any provision of this section,
11 that percentage shall be exclusive of any substance that is added
12 to the seed as a coating and shown on the label as such.~~

13 ~~(7) For each agricultural seed in excess of 5 percent of the
14 whole, stated in accordance with paragraph (1), the percentage of
15 germination exclusive of hard seed, the percentage of hard seed,
16 if present, and the calendar month and year the test was completed
17 to determine the percentages. Following the statement of those
18 percentages, the additional statement "total germination and hard
19 seed" may be stated.~~

20 ~~(8) The name and address of the person who labeled the seed
21 or of the person who sells the seed within this state.~~

22 ~~(b) Any additional information related to the agricultural seed,
23 the grower company, consumer information, or best practices
24 relating to the agricultural seed not described in subdivision (a)
25 may be met with a quick response (QR) code or other electronic
26 label or tag.~~

27 ~~(e) Subdivision (a) does not apply in the following instances:~~

28 ~~(1) The sale is an occasional sale of seed grain by the producer
29 of the seed grain to their neighbor for use by the purchaser within
30 the county of production.~~

31 ~~(2) Any cannabis seed, as defined in Section 26001 of the
32 Business and Professions Code, sold or offered for sale in the state.~~

33 ~~(d) All determinations of noxious weed seeds are subject to
34 tolerances and methods of determination prescribed in the
35 regulations that are adopted pursuant to this chapter.~~

36 ~~(e) For purposes of this section, "neighbor" means a person who
37 lives in close proximity, not to exceed three miles, to another.~~

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