

Introduced by Senator Nguyen

December 5, 2022

An act to amend Section 7360 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as introduced, Nguyen. Motor Vehicle Fuel Tax Law: limitation on adjustment.

Existing law, the Motor Vehicle Fuel Tax Law, administered by the California Department of Tax and Fee Administration, 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 law requires the department to annually adjust the tax imposed by increasing the rates based on the California Consumer Price Index, as specified.

This bill would limit the above-described annual adjustment to a maximum of 2% for rate adjustments made on or after July 1, 2023.

This bill would take effect immediately as a tax levy.

Vote: 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.

1 (2) If the federal fuel tax is reduced below the rate of nine cents
2 (\$0.09) per gallon and federal financial allocations to this state for
3 highway and exclusive public mass transit guideway purposes are
4 reduced or eliminated correspondingly, the tax rate imposed by
5 paragraph (1), on and after the date of the reduction, shall be
6 recalculated by an amount so that the combined state rate under
7 paragraph (1) and the federal tax rate per gallon equal twenty-seven
8 cents (\$0.27).

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

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

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

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

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

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

38 (c) On and after November 1, 2017, in addition to the taxes
39 imposed by subdivisions (a) and (b), a tax is hereby imposed upon
40 each gallon of motor vehicle fuel, other than aviation gasoline,

1 subject to the tax in Sections 7362, 7363, and 7364, in an amount
2 equal to twelve cents (\$0.12) per gallon.

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

17 (2) *Rate adjustments made on or after July 1, 2023, pursuant*
18 *to this subdivision shall not exceed 2 percent.*

19 (e) Any increases to the taxes imposed under subdivisions (a),
20 (b), and (c) that are enacted by legislation subsequent to July 1,
21 2017, shall be deemed to be changes to the base tax rates for
22 purposes of the California Consumer Price Index calculation and
23 adjustment performed pursuant to subdivision (d).

24 SEC. 2. This act provides for a tax levy within the meaning of
25 Article IV of the California Constitution and shall go into
26 immediate effect.