

**Introduced by Senator Jones  
(Coauthors: Senators Dahle, Grove, Nguyen, Niello, Ochoa Bogh,  
Seyarto, and Wilk)**

December 5, 2022

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An act to add Sections 38567 and 38572 to the Health and Safety Code, and to amend Sections 7360, 7362, 7363, and 7364 of, and to add Section 7374 to, the Revenue and Taxation Code, relating to transportation fuels, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 32, as introduced, Jones. Motor vehicle fuel tax: greenhouse gas reduction programs: suspension.

(1) The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to adopt rules and regulations to achieve the maximum technologically feasible and cost-effective greenhouse gas emissions reductions to ensure that the statewide greenhouse gas emissions are reduced to at least 40% below the statewide greenhouse gas emissions limit, as defined, no later than December 31, 2030. Pursuant to the act, the state board has adopted the Low Carbon Fuel Standard regulations.

The act authorizes the state board to include in its regulation of those emissions the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund.

This bill would suspend the Low Carbon Fuel Standard regulations for one year. The bill would also exempt suppliers of transportation fuels from regulations for the use of market-based compliance mechanisms for one year.

This bill would direct the Controller to transfer a specified amount from the General Fund to the Greenhouse Gas Reduction Fund. By transferring General Fund moneys to a partially continuously appropriated fund, this bill would make an appropriation.

(2) 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 one year. 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.

(3) 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 require that all savings realized based on the suspension of the motor vehicle fuels tax, the suspension of the Low Carbon Fuel Standard regulations, and the exemption of suppliers of transportation fuels from regulations for use of market-based compliance mechanisms 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.

(4) 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 38567 is added to the Health and Safety  
2 Code, to read:

3 38567. (a) For purposes of this section, the following  
4 definitions apply:

5 (1) “End consumer” means a purchaser of motor vehicle fuels  
6 for the purpose of consumption, and not for resale.

7 (2) “Low Carbon Fuel Standard” means the Low Carbon Fuel  
8 Standard regulations (Subarticle 7 (commencing with Section  
9 95480) of Title 17 of the California Code of Regulations).

10 (b) The Low Carbon Fuel Standard is suspended for the period  
11 beginning on the effective date of this section and ending on the  
12 date one year after the effective date of this section.

13 (c) (1) All savings realized on the purchase of transportation  
14 fuel by any party other than an end consumer, due to the suspension  
15 of the Low Carbon Fuel Standard pursuant to this section, shall  
16 be passed on to the end consumer.

17 (2) Any violation of this subdivision shall constitute an unfair  
18 business practice punishable pursuant to Chapter 5 (commencing  
19 with Section 17200) of Part 2 of Division 7 of the Business and  
20 Professions Code.

21 (3) Notwithstanding any other law, a prospective plaintiff shall  
22 provide written notice of an alleged violation of this subdivision  
23 at least 60 days prior to bringing any enforcement action in order  
24 to give the defendant opportunity to remedy any deficiency.

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

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

34 SEC. 2. Section 38572 is added to the Health and Safety Code,  
35 to read:

36 38572. (a) Beginning on the effective date of this section and  
37 ending on the date one year after the effective date of this section,  
38 the regulations adopted pursuant to Section 38562 for the use of

1 market-based compliance mechanisms do not apply to suppliers  
2 of transportation fuels.

3 (b) (1) The Controller, no later than 60 days after the effective  
4 date of this section, shall transfer an amount equal to the amount  
5 collected by the state board from the auction or sale of allowances  
6 to the suppliers of transportation fuels pursuant to a market-based  
7 compliance mechanism in the 2021–22 fiscal year, adjusted for  
8 inflation, from the General Fund to the Greenhouse Gas Reduction  
9 Fund in accordance with Section 16428.8 of the Government Code.

10 (2) The transfer amount described in paragraph (1) is  
11 continuously appropriated in accordance with Section 39719.

12 (3) Notwithstanding paragraph (2), no portion of the amount  
13 transferred pursuant to this subdivision to the Greenhouse Gas  
14 Reduction Fund shall be appropriated to the High-Speed Rail  
15 Authority pursuant to paragraph (2) of subdivision (b) of Section  
16 39719.

17 (c) (1) All savings realized on the purchase of transportation  
18 fuel by any party other than an end consumer, due to the exemption  
19 of suppliers of transportation fuels from regulations adopted  
20 pursuant to Section 38562 for the use of market-based compliance  
21 mechanisms pursuant to this section, shall be passed on to the end  
22 consumer.

23 (2) Any violation of this subdivision shall constitute an unfair  
24 business practice punishable pursuant to Chapter 5 (commencing  
25 with Section 17200) of Part 2 of Division 7 of the Business and  
26 Professions Code.

27 (3) Notwithstanding any other law, a prospective plaintiff shall  
28 provide written notice of an alleged violation of this subdivision  
29 at least 60 days prior to bringing any enforcement action in order  
30 to give the defendant opportunity to remedy any deficiency.

31 (4) If a party receiving a notice pursuant to paragraph (3)  
32 responds in writing within 60 days, and the response offers an  
33 explanation for the deficiency and expresses an intent to remedy  
34 the deficiency, the opportunity to remedy a deficiency prior to  
35 initiating an enforcement action shall be extended an additional  
36 30 days.

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

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

4 SEC. 3. Section 7360 of the Revenue and Taxation Code is  
5 amended to read:

6 7360. (a) (1) ~~A~~*Except as provided in Section 7374*, a tax of  
7 eighteen cents (\$0.18) is hereby imposed upon each gallon of fuel  
8 subject to the tax in Sections 7362, 7363, and 7364.

9 (2) If the federal fuel tax is reduced below the rate of nine cents  
10 (\$0.09) per gallon and federal financial allocations to this state for  
11 highway and exclusive public mass transit guideway purposes are  
12 reduced or eliminated correspondingly, the tax rate imposed by  
13 paragraph (1), on and after the date of the reduction, shall be  
14 recalculated by an amount so that the combined state rate under  
15 paragraph (1) and the federal tax rate per gallon equal twenty-seven  
16 cents (\$0.27).

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

20 (b) (1) ~~On~~*Except as provided in Section 7374*, on and after  
21 July 1, 2010, in addition to the tax imposed by subdivision (a), a  
22 tax is hereby imposed upon each gallon of motor vehicle fuel,  
23 other than aviation gasoline, subject to the tax in Sections 7362,  
24 7363, and 7364 in an amount equal to seventeen and three-tenths  
25 cents (\$0.173) per gallon.

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

33 (3) In order to maintain revenue neutrality for each year,  
34 beginning with the rate adjustment on or before March 1, 2012,  
35 the adjustment under paragraph (2) shall also take into account the  
36 extent to which the actual amount of revenues derived pursuant to  
37 this subdivision and, as applicable, Section 7361.1, the revenue  
38 loss attributable to the exemption provided by Section 6357.7  
39 resulted in a net revenue gain or loss for the fiscal year ending  
40 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. 4. 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. 5. 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. 6. 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. 7. 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 one year after  
6 the effective date of this section.

7 (b) (1) All savings realized on the purchase of motor vehicle  
8 fuel by any party other than an end consumer due to the suspension  
9 of taxes pursuant to this section shall be passed on to the end  
10 consumer.

11 (2) Any violation of this subdivision shall constitute an unfair  
12 business practice punishable pursuant to Chapter 5 (commencing  
13 with Section 17200) of Part 2 of Division 7 of the Business and  
14 Professions Code.

15 (3) Notwithstanding any other law, a prospective plaintiff shall  
16 provide written notice of an alleged violation of this subdivision  
17 at least 60 days prior to bringing any enforcement action in order  
18 to give the defendant opportunity to remedy any deficiency.

19 (4) If a party receiving a notice pursuant to paragraph (3)  
20 responds in writing within 60 days, and the response offers an  
21 explanation for the deficiency and expresses an intent to remedy  
22 the deficiency, the opportunity to remedy a deficiency prior to  
23 initiating an enforcement action shall be extended an additional  
24 30 days.

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

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

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

35 (e) The Controller, no later than 60 days after the effective date  
36 of this section, shall transfer an amount equal to the amount  
37 collected pursuant to Sections 7360, 7362, 7363, and 7364 in the  
38 2021–22 fiscal year, adjusted for inflation, from the General Fund  
39 to the Motor Vehicle Fuel Account in the Transportation Tax Fund.



1 This transfer amount is continuously appropriated in accordance  
2 with Section 8352.

3 SEC. 8. This act is an urgency statute necessary for the  
4 immediate preservation of the public peace, health, or safety within  
5 the meaning of Article IV of the California Constitution and shall  
6 go into immediate effect. The facts constituting the necessity are:

7 In order to provide much needed relief to Californians struggling  
8 with inflation, high gas prices, and high unemployment rates, it is  
9 necessary for this act to take immediate effect.

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