

As Introduced

**135th General Assembly
Regular Session
2023-2024**

S. B. No. 48

Senator Huffman, S.

Cosponsors: Senators Reynolds, Schaffer, Romanchuk, Lang, Roegner

A BILL

To amend section 5735.05 of the Revised Code to 1
reduce the tax rate on certain motor fuel. 2

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5735.05 of the Revised Code be 3
amended to read as follows: 4

Sec. 5735.05. (A) There is hereby levied a motor fuel 5
excise tax on each motor fuel dealer, measured by gross gallons, 6
upon the receipt of motor fuel within this state. 7

The tax is levied at the ~~rates~~rate prescribed by 8
~~divisions~~division (E) ~~and (F)~~ of this section. 9

The revenue derived from twenty-eight cents per gallon of 10
such tax rates shall be distributed under divisions (A), (B), 11
(C), and (D) of section 5735.051 of the Revised Code to fund the 12
following purposes in the following amounts: 13

(1) Seventeen twenty-eighths of the revenue shall be used 14
solely to provide revenue for maintaining the state highway 15
system; to widen existing surfaces on such highways; to 16
resurface such highways; to pay that portion of the construction 17

cost of a highway project which a county, township, or municipal 18
corporation normally would be required to pay, but which the 19
director of transportation, pursuant to division (B) of section 20
5531.08 of the Revised Code, determines instead will be paid 21
from moneys in the highway operating fund; to enable the 22
counties of the state properly to plan, maintain, and repair 23
their roads and to pay principal, interest, and charges on bonds 24
and other obligations issued pursuant to Chapter 133. of the 25
Revised Code or incurred pursuant to section 5531.09 of the 26
Revised Code for highway improvements; to enable the municipal 27
corporations to plan, construct, reconstruct, repave, widen, 28
maintain, repair, clear, and clean public highways, roads, and 29
streets, and to pay the principal, interest, and charges on 30
bonds and other obligations issued pursuant to Chapter 133. of 31
the Revised Code or incurred pursuant to section 5531.09 of the 32
Revised Code for highway improvements; to enable the Ohio 33
turnpike and infrastructure commission to construct, 34
reconstruct, maintain, and repair turnpike projects; to maintain 35
and repair bridges and viaducts; to purchase, erect, and 36
maintain street and traffic signs and markers; to purchase, 37
erect, and maintain traffic lights and signals; to pay the costs 38
apportioned to the public under sections 4907.47 and 4907.471 of 39
the Revised Code and to supplement revenue already available for 40
such purposes; to pay the costs incurred by the public utilities 41
commission in administering sections 4907.47 to 4907.476 of the 42
Revised Code; to distribute equitably among those persons using 43
the privilege of driving motor vehicles upon such highways and 44
streets the cost of maintaining and repairing them; to pay the 45
interest, principal, and charges on highway capital improvements 46
bonds and other obligations issued pursuant to Section 2m of 47
Article VIII, Ohio Constitution, and section 151.06 of the 48
Revised Code; to pay the interest, principal, and charges on 49

highway obligations issued pursuant to Section 2i of Article 50
VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the 51
Revised Code; to pay the interest, principal, and charges on 52
major new state infrastructure bonds and other obligations of 53
the state issued pursuant to Section 13 of Article VIII, Ohio 54
Constitution, and section 5531.10 of the Revised Code; to 55
provide revenue for the purposes of sections 1547.71 to 1547.77 56
of the Revised Code; and to pay the expenses of the department 57
of taxation incident to the administration of the motor fuel 58
laws. 59

(2) Two twenty-eighths of the revenue shall be used solely 60
to pay the expenses of administering and enforcing the state law 61
relating to the registration and operation of motor vehicles; to 62
supply the state's share of the cost of planning, constructing, 63
widening, and reconstructing the state highways; to supply the 64
state's share of the cost of eliminating railway grade crossings 65
upon such highways; to pay that portion of the construction cost 66
of a highway project that a county, township, or municipal 67
corporation normally would be required to pay, but that the 68
director of transportation, pursuant to division (B) of section 69
5531.08 of the Revised Code, determines instead will be paid 70
from moneys in the highway operating fund; to enable counties 71
and townships to properly plan, construct, widen, reconstruct, 72
and maintain their public highways, roads, and streets; to 73
enable counties to pay principal, interest, and charges on bonds 74
and other obligations issued pursuant to Chapter 133. of the 75
Revised Code or incurred pursuant to section 5531.09 of the 76
Revised Code for highway improvements; to enable municipal 77
corporations to plan, construct, reconstruct, repave, widen, 78
maintain, repair, clear, and clean public highways, roads, and 79
streets; to enable municipal corporations to pay the principal, 80

interest, and charges on bonds and other obligations issued 81
pursuant to Chapter 133. of the Revised Code or incurred 82
pursuant to section 5531.09 of the Revised Code for highway 83
improvements; to maintain and repair bridges and viaducts; to 84
purchase, erect, and maintain street and traffic signs and 85
markers; to purchase, erect, and maintain traffic lights and 86
signals; to pay the costs apportioned to the public under 87
section 4907.47 of the Revised Code; to provide revenue for the 88
purposes of sections 1547.71 to 1547.77 of the Revised Code and 89
to supplement revenue already available for such purposes; to 90
pay the expenses of the department of taxation incident to the 91
administration of the motor fuel laws and to supplement revenue 92
already available for such purposes; to pay the interest, 93
principal, and charges on bonds and other obligations issued 94
pursuant to Section 2g of Article VIII, Ohio Constitution, and 95
sections 5528.10 and 5528.11 of the Revised Code; and to pay the 96
interest, principal, and charges on highway obligations issued 97
pursuant to Section 2i of Article VIII, Ohio Constitution, and 98
sections 5528.30 and 5528.31 of the Revised Code. 99

(3) Eight twenty-eighths of the revenue shall be used 100
solely to supply the state's share of the cost of constructing, 101
widening, maintaining, and reconstructing the state highways; to 102
maintain and repair bridges and viaducts; to purchase, erect, 103
and maintain street and traffic signs and markers; to purchase, 104
erect, and maintain traffic lights and signals; to pay the 105
expense of administering and enforcing the state law relative to 106
the registration and operation of motor vehicles; to make road 107
improvements associated with retaining or attracting business 108
for this state; to pay that portion of the construction cost of 109
a highway project that a county, township, or municipal 110
corporation normally would be required to pay, but that the 111

director of transportation, pursuant to division (B) of section 112
5531.08 of the Revised Code, determines instead will be paid 113
from moneys in the highway operating fund; to provide revenue 114
for the purposes of sections 1547.71 to 1547.77 of the Revised 115
Code and to supplement revenue already available for such 116
purposes; to pay the expenses of the department of taxation 117
incident to the administration of the motor fuel laws and to 118
supplement revenue already available for such purposes; to pay 119
the interest, principal, and charges on highway obligations 120
issued pursuant to Section 2i of Article VIII, Ohio 121
Constitution, and sections 5528.30 and 5528.31 of the Revised 122
Code; to enable counties and townships to properly plan, 123
construct, widen, reconstruct, and maintain their public 124
highways, roads, and streets; to enable counties to pay 125
principal, interest, and charges on bonds and other obligations 126
issued pursuant to Chapter 133. of the Revised Code or incurred 127
pursuant to section 5531.09 of the Revised Code for highway 128
improvements; to enable municipal corporations to plan, 129
construct, reconstruct, repave, widen, maintain, repair, clear, 130
and clean public highways, roads, and streets; to enable 131
municipal corporations to pay the principal, interest, and 132
charges on bonds and other obligations issued pursuant to 133
Chapter 133. of the Revised Code or incurred pursuant to section 134
5531.09 of the Revised Code for highway improvements; and to pay 135
the costs apportioned to the public under section 4907.47 of the 136
Revised Code. 137

(4) One twenty-eighth of the revenue shall be used solely 138
to pay the state's share of the cost of constructing and 139
reconstructing highways and eliminating railway grade crossings 140
on the major thoroughfares of the state highway system and urban 141
extensions thereof; to pay that portion of the construction cost 142

of a highway project that a county, township, or municipal 143
corporation normally would be required to pay, but that the 144
director of transportation, pursuant to division (B) of section 145
5531.08 of the Revised Code, determines instead will be paid 146
from moneys in the highway operating fund; to pay the interest, 147
principal, and charges on bonds and other obligations issued 148
pursuant to Section 2g of Article VIII, Ohio Constitution, and 149
sections 5528.10 and 5528.11 of the Revised Code; to pay the 150
interest, principal, and charges on highway obligations issued 151
pursuant to Section 2i of Article VIII, Ohio Constitution, and 152
sections 5528.30 and 5528.31 of the Revised Code; to provide 153
revenues for the purposes of sections 1547.71 to 1547.77 of the 154
Revised Code; and to pay the expenses of the department of 155
taxation incident to the administration of the motor fuel laws. 156

(B) The revenue derived from any portion of the tax rates 157
that exceeds twenty-eight cents per gallon of motor fuel shall 158
be distributed under division (E) of section 5735.051 of the 159
Revised Code to fund the purposes described in divisions (A) and 160
(D) of this section, as provided in divisions (A) and (B) of 161
section 5735.27 of the Revised Code. 162

(C) The tax imposed by this section does not apply to the 163
following transactions: 164

(1) The sale of dyed diesel fuel by a licensed motor fuel 165
dealer from a location other than a retail service station 166
provided the licensed motor fuel dealer places on the face of 167
the delivery document or invoice, or both if both are used, a 168
conspicuous notice stating that the fuel is dyed and is not for 169
taxable use, and that taxable use of that fuel is subject to a 170
penalty. The tax commissioner, by rule, may provide that any 171
notice conforming to rules or regulations issued by the United 172

States department of the treasury or the Internal Revenue	173
Service is sufficient notice for the purposes of division (C) (1)	174
of this section.	175
(2) The sale of K-1 kerosene to a retail service station,	176
except when placed directly in the fuel supply tank of a motor	177
vehicle. Such sale shall be rebuttably presumed to not be	178
distributed or sold for use or used to generate power for the	179
operation of motor vehicles upon the public highways or upon the	180
waters within the boundaries of this state.	181
(3) The sale of motor fuel by a licensed motor fuel dealer	182
to another licensed motor fuel dealer;	183
(4) The exportation of motor fuel by a licensed motor fuel	184
dealer from this state to any other state or foreign country;	185
(5) The sale of motor fuel to the United States government	186
or any of its agencies, except such tax as is permitted by it,	187
where such sale is evidenced by an exemption certificate, in a	188
form approved by the tax commissioner, executed by the United	189
States government or an agency thereof certifying that the motor	190
fuel therein identified has been purchased for the exclusive use	191
of the United States government or its agency;	192
(6) The sale of motor fuel that is in the process of	193
transportation in foreign or interstate commerce, except insofar	194
as it may be taxable under the Constitution and statutes of the	195
United States, and except as may be agreed upon in writing by	196
the dealer and the commissioner;	197
(7) The sale of motor fuel when sold exclusively for use	198
in the operation of aircraft, where such sale is evidenced by an	199
exemption certificate prescribed by the commissioner and	200
executed by the purchaser certifying that the motor fuel	201

purchased has been purchased for exclusive use in the operation of aircraft;	202 203
(8) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter described in division (DD) (1) of section 5735.01 of the Revised Code;	204 205 206
(9) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter described in division (DD) (2) of section 5735.01 of the Revised Code, provided that the destination state motor fuel tax has been paid or will be accrued and paid by the licensed motor fuel dealer.	207 208 209 210 211
(10) The sale to a consumer of diesel fuel, by a motor fuel dealer for delivery from a bulk lot vehicle, for consumption in operating a vessel when the use of such fuel in a vessel would otherwise qualify for a refund under section 5735.14 of the Revised Code.	212 213 214 215 216
Division (C) (1) of this section does not apply to the sale or distribution of dyed diesel fuel used to operate a motor vehicle on the public highways or upon water within the boundaries of this state by persons permitted under regulations of the United States department of the treasury or of the Internal Revenue Service to so use dyed diesel fuel.	217 218 219 220 221 222
(D) The use of any revenue from the tax levied under this section shall be used for construction, maintenance, and repair of roads and bridges, the operational costs of applicable state agencies, or used to match other revenue for these purposes.	223 224 225 226
(E) Except as otherwise provided by division (F) of this section, the rates <u>The rate</u> of tax imposed by this section on each gallon of motor fuel on and after July 1, 2019, shall be as follows:	227 228 229 230

(1) Thirty eight and one half cents on each gallon of gasoline;	231
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(2) Forty seven cents on each gallon of motor fuel other than gasoline <u>thirty eight and one half cents.</u>	233
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(F) The tax on each gallon equivalent of compressed natural gas shall be:	235
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(1) Ten cents on and after July 1, 2019, and before July 1, 2020;	237
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(2) Twenty cents on and after July 1, 2020, and before July 1, 2021;	239
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(3) Thirty cents on and after July 1, 2021, and before July 1, 2022;	241
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(4) Forty cents on and after July 1, 2022, and before July 1, 2023;	243
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(5) Forty seven cents on and after July 1, 2023.	245
(G) The tax commissioner may adopt rules as necessary to administer this section.	246
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Section 2. That existing section 5735.05 of the Revised Code is hereby repealed.	248
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Section 3. The amendment by this act of section 5735.05 of the Revised Code applies on and after January 1, 2024.	250
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