



SPONSOR: Sen. Bonini

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 336

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO THE MOTOR FUEL TAX AND THE CREATION OF THE MOTOR FUEL TAX HOLIDAY FUND.

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

Section 1. Amend Section 5110, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5110. Levy and rate of tax; collection.

(a) ~~There is hereby levied and imposed for the state fiscal year commencing August 1, 1981, a tax of 11 cents per gallon on all gasoline which is sold or used in the State. For each state fiscal year thereafter, the rate of such tax per gallon shall equal the product of: Ten percent and the 12-month average of the "wholesale average price" per gallon of regular unleaded gasoline at self-service stations in the Philadelphia, Pennsylvania area, as reported in the McGraw-Hill Platt's/Lundberg Report (or successor report), such product to be rounded to the nearest whole cent. A calculation producing a rate including a fraction less than one-half of 1 cent shall be rounded down to the nearest whole cent, and a calculation producing a rate including a fraction equal to or greater than one-half cent shall be rounded up to the nearest whole cent. The rate of taxation for the fiscal years beginning July 1, 1982, and thereafter shall be calculated on the basis of such wholesale average prices reported for the consecutive 12-month period commencing March 1 and ending on the last day of February of the fiscal year next prior to the fiscal year in which the tax will be imposed. The Secretary of Transportation and the Secretary of Finance shall compute the applicable rate in March, or as soon as practicable thereafter, for the next state fiscal year and shall notify the Governor and the General Assembly of their findings and calculations not later than April 30 of that year. If the Platt's/Lundberg Report fails to contain reports on the wholesale average price per gallon of regular unleaded gasoline at self-service stations in the Philadelphia, Pennsylvania area for any month or if the report is discontinued and no successor report is published, the Secretary of Transportation and the Secretary of Finance shall use available figures reflecting such prices reported in any other nationally recognized publication. Notwithstanding the foregoing:~~

~~(1) The tax rate per gallon of gasoline levied pursuant to this section shall not be less than an amount equivalent to 11 cents per gallon;~~

(2) The tax rate for any fiscal year commencing July 1, 1982, and thereafter shall not be less than the rate for the prior state fiscal year nor more than 1 cent per gallon above the tax rate in effect for the prior state fiscal year; and

(3) The maximum aggregate tax rate shall not exceed an amount equivalent to 11 cents per gallon of gasoline.

(b) The tax shall be collected by and paid to the State but once in respect to any gasoline. Nothing in this section shall be construed to exempt from the tax any distributor of gasoline with respect to gasoline used in making such distribution. The tax shall be collected in the manner hereinafter provided.

(c) Notwithstanding subsection (a) of this section, the tax levied and imposed in subsection (a) of this section shall be 22 cents per gallon through December 31, 1994. Thereafter, the tax shall be 23 cents per gallon. Effective January 1, 1995, the tax shall be no more or no less than 23 cents per gallon until increased or decreased by the State. By virtue of the pledge and assignment of motor fuel tax revenues by the State to the Delaware Transportation Authority, said tax shall not be decreased during the period any bonds of that Authority are outstanding and unpaid. [Repealed.]

Section 2. Amend § 5132, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5132. Tax imposed: Fund Created

(a) There is hereby levied and imposed a tax of 22 cents per gallon, computed in the same manner and subject to the same limitations, as the tax rate established for gasoline in § 5110 of this title, as amended, on the sale or delivery of special fuel to any special fuel dealer or special fuel user not the holder of a valid special fuel dealer's or special fuel user's license. Said tax, with respect to all special fuel delivered by a special fuel supplier into the bulk storage tank or tanks of said dealer or user, shall attach at the time of such delivery and shall be collected by the supplier from the dealer or user and shall be paid over to the Department of Transportation as hereinafter provided.

(b) There is hereby levied and imposed a tax of 22 cents per gallon, computed in the same manner and subject to the same limitations, as the tax rate established for gasoline in § 5110 of this title, as amended, on the use (within the meaning of the word "use" as defined in § 5131 of this title) of special fuel when such special fuel is delivered into the supply tanks of motor vehicles in this State by a licensed special fuel dealer or a licensed special fuel user. Said tax, with respect to all special fuel delivered by a licensed special fuel dealer into supply tanks of motor vehicles in this State, shall attach at the time of such delivery and shall be collected by such dealer from the special fuel user and shall be paid over to the Department of Transportation as hereinafter provided. Said tax, with respect to special fuel acquired by any licensed special fuel user in any manner other than by delivery by a special fuel dealer into the supply tank of a motor vehicle, shall attach at the time of the use (as defined in § 5131 of this title) of such fuel and shall be paid over to the Department of Transportation by said user as herein provided. The Motor Fuel Tax Holiday Fund is created to provide a set aside from the

Delaware General Fund for the purpose of maintaining Delaware's bond rating and ensuring the availability of funds for road construction and other approved projects throughout the timeframe of the repeal of the Motor Fuel Tax. This fund shall be monetized from the Delaware General Fund in an amount consistent with the projections of the Delaware Economic and Financial Advisory Council's prediction of revenues from the Motor Fuel Tax for fiscal year 2023 as set forth in the Delaware Economic and Financial Advisory Council forecast dated May 2022. The fund created in this section shall be used to provide funding as needed to the Transportation Trust Fund and shall be subject to all the restrictions and requirements imposed on the Transportation Trust Fund pursuant to Title 2, Chapter 14 of the Delaware Code and Article VIII of the Delaware Constitution.

Section 3. This Act expires 365 days after enactment into law, unless extended by subsequent action of the General Assembly.

SYNOPSIS

This Act suspends the state taxes on motor fuel in this State for one year and sets aside a portion of the over one billion dollars in budget surplus for the current fiscal year to offset the tax holiday and ensure the stability of Delaware's bond rating.

Author: Senator Bonini