

HOUSE BILL No. 1227

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-10-1; IC 6-6.

Synopsis: Highway funding and motor fuel taxation. Increases the amount of sales tax collections to be deposited in the motor vehicle highway account from 1% to 2%. Decreases the amount deposited in the state general fund by 1%. Indexes the gasoline and special fuel tax rates for inflation beginning in 2018.

Effective: July 1, 2015.

Wesco

January 13, 2015, read first time and referred to Committee on Ways and Means.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1227

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-2.5-10-1, AS AMENDED BY P.L.205-2013,
- 2 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2015]: Sec. 1. (a) The department shall account for all state
- 4 gross retail and use taxes that it collects.
- 5 (b) The department shall deposit those collections in the following
- 6 manner:
- 7 (1) ~~Ninety-eight~~ **Ninety-seven** and eight hundred forty-eight
- 8 thousandths percent (~~98.848%~~) (**97.848%**) of the collections shall
- 9 be paid into the state general fund.
- 10 (2) ~~One~~ **Two** percent (~~1%~~) (**2%**) of the collections shall be
- 11 deposited in the motor vehicle highway account established under
- 12 IC 8-14-1.
- 13 (3) Twenty-nine thousandths of one percent (0.029%) of the
- 14 collections shall be deposited into the industrial rail service fund
- 15 established under IC 8-3-1.7-2.



1 (4) One hundred twenty-three thousandths of one percent
 2 (0.123%) of the collections shall be deposited into the commuter
 3 rail service fund established under IC 8-3-1.5-20.5.

4 SECTION 2. IC 6-6-1.1-201 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 201. **(a) Before**
 6 **January 1, 2018**, a license tax of eighteen cents (\$0.18) per gallon is
 7 imposed on the use of all gasoline used in Indiana, except as otherwise
 8 provided by this chapter. **After December 31, 2017, the license tax**
 9 **rate is equal to the greater of:**

10 **(1) eighteen cents (\$0.18) per gallon; or**

11 **(2) the rate indexed for inflation as provided in subsection (c).**

12 **(b)** The distributor shall initially pay the tax on the billed gallonage
 13 of all gasoline the distributor receives in this state, less any deductions
 14 authorized by this chapter. The distributor shall then add the per gallon
 15 amount of tax to the selling price of each gallon of gasoline sold in this
 16 state and collected from the purchaser so that the ultimate consumer
 17 bears the burden of the tax.

18 **(c) The indexed per gallon tax rate to be used under subsection**
 19 **(a) is:**

20 **(1) the rate used for the previous year under this section;**
 21 **multiplied by**

22 **(2) the percent change in the average United States Bureau of**
 23 **Labor Statistics Consumer Price Index, all items, all urban**
 24 **consumers, or its successor index as last reported for the**
 25 **previous calendar year.**

26 **Not later than November 1 of each year beginning in 2017, the**
 27 **department shall publish in the Indiana Register the annual tax**
 28 **rate in effect for the immediately following year.**

29 SECTION 3. IC 6-6-2.5-28, AS AMENDED BY P.L.190-2014,
 30 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2015]: Sec. 28. (a) **Before January 1, 2018**, a license tax of
 32 sixteen cents (\$0.16) per:

33 (1) gallon;

34 (2) diesel gallon equivalent (as defined in IC 6-6-4.1-1(f)), in the
 35 case of a special fuel that is liquid natural gas; or

36 (3) gasoline gallon equivalent (as defined in IC 6-6-4.1-1(g)), in
 37 the case of a special fuel that is compressed natural gas;

38 is imposed on all special fuel sold or used in producing or generating
 39 power for propelling motor vehicles except fuel used under section
 40 30(a)(8) or 30.5 of this chapter. The tax shall be paid at those times, in
 41 the manner, and by those persons specified in this section and section
 42 35 of this chapter. **After December 31, 2017, the license tax rate is**



1 **equal to the greater of sixteen cents (\$0.16) or the rate indexed for**
2 **inflation as provided in subsection (j).**

3 (b) The department shall consider it a rebuttable presumption that
4 all undyed or unmarked special fuel, or both, received in Indiana is to
5 be sold for use in propelling motor vehicles.

6 (c) Except as provided in subsection (d), the tax imposed on special
7 fuel by subsection (a) shall be measured by invoiced gallons (or diesel
8 or gasoline gallon equivalents in the case of a special fuel described in
9 subsection (a)(2), or (a)(3)) of nonexempt special fuel received by a
10 licensed supplier in Indiana for sale or resale in Indiana or with respect
11 to special fuel subject to a tax precollection agreement under section
12 35(d) of this chapter, such special fuel removed by a licensed supplier
13 from a terminal outside of Indiana for sale for export or for export to
14 Indiana and in any case shall generally be determined in the same
15 manner as the tax imposed by Section 4081 of the Internal Revenue
16 Code and Code of Federal Regulations.

17 (d) The tax imposed by subsection (a) on special fuel imported into
18 Indiana, other than into a terminal, is imposed at the time the product
19 is entered into Indiana and shall be measured by invoiced gallons
20 received at a terminal or at a bulk plant.

21 (e) In computing the tax, all special fuel in process of transfer from
22 tank steamers at boat terminal transfers and held in storage pending
23 wholesale bulk distribution by land transportation, or in tanks and
24 equipment used in receiving and storing special fuel from interstate
25 pipelines pending wholesale bulk reshipment, shall not be subject to
26 tax.

27 (f) The department shall consider it a rebuttable presumption that
28 special fuel consumed in a motor vehicle plated for general highway
29 use is subject to the tax imposed under this chapter. A person claiming
30 exempt use of special fuel in such a vehicle must maintain adequate
31 records as required by the department to document the vehicle's taxable
32 and exempt use.

33 (g) A person that engages in blending fuel for taxable sale or use in
34 Indiana is primarily liable for the collection and remittance of the tax
35 imposed under subsection (a). The person shall remit the tax due in
36 conjunction with the filing of a monthly report in the form prescribed
37 by the department.

38 (h) A person that receives special fuel that has been blended for
39 taxable sale or use in Indiana is secondarily liable to the state for the
40 tax imposed under subsection (a).

41 (i) A person may not use special fuel on an Indiana public highway
42 if the special fuel contains a sulfur content that exceeds five



1 one-hundredths of one percent (0.05%). A person who knowingly:

2 (1) violates; or

3 (2) aids or abets another person to violate;

4 this subsection commits a Class A infraction. However, the violation
5 is a Class A misdemeanor if the person has committed one (1) prior
6 unrelated violation of this subsection, and a Level 6 felony if the person
7 has committed more than one (1) unrelated violation of this subsection.

8 **(j) The indexed per gallon tax rate to be used under subsection**
9 **(a) is:**

10 **(1) the rate used for the previous year under this section;**
11 **multiplied by**

12 **(2) the percent change in the average United States Bureau of**
13 **Labor Statistics Consumer Price Index, all items, all urban**
14 **consumers, or its successor index as last reported for the**
15 **previous calendar year.**

16 **Not later than November 1 of each year beginning in 2017, the**
17 **department shall publish in the Indiana Register the annual tax**
18 **rate in effect for the immediately following year.**

