

HOUSE BILL No. 1126

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5.

Synopsis: Sales tax collections on sale of ethanol. Excludes ethanol from the gasoline use tax. Defines "ethanol" as a blended motor fuel consisting of at least 15% (E15) but not more than 85% (E85) agriculturally derived ethyl alcohol, and gasoline as the balance. Provides that the state gross retail tax on ethanol is collected in the same manner as the state gross retail tax on special fuel.

Effective: July 1, 2015.

Cherry

January 8, 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. 1126



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 6-2.5-3.5-2.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2015]: **Sec. 2.5. As used in this chapter,**
4 **"ethanol" refers to a blended motor fuel consisting of:**
5 **(1) at least fifteen percent (15%) but not more than**
6 **eighty-five percent (85%) agriculturally derived ethyl alcohol;**
7 **and**
8 **(2) gasoline as the balance.**
9 SECTION 2. IC 6-2.5-3.5-4, AS ADDED BY P.L.227-2013,
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2015]: **Sec. 4. As used in this chapter, "gasoline" has the**
12 **meaning set forth in IC 6-6-1.1-103(g): refers to a motor fuel subject**
13 **to taxation under IC 6-6-1.1 other than ethanol.**
14 SECTION 3. IC 6-2.5-7-1, AS AMENDED BY P.L.227-2013,
15 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 JULY 1, 2015]: Sec. 1. (a) The definitions in this section apply
 2 throughout this chapter.
- 3 (b) "Kerosene" has the same meaning as the definition contained in
 4 IC 16-44-2-2.
- 5 (c) "Special fuel" has the same meaning as the definition contained
 6 in IC 6-6-2.5-22.
- 7 (d) "Unit" means the unit of measure, such as a gallon or a liter, by
 8 which special fuel **or ethanol** is sold.
- 9 (e) "Metered pump" means a stationary pump which is capable of
 10 metering the amount of special fuel **or ethanol** dispensed from it and
 11 which is capable of simultaneously calculating and displaying the price
 12 of the special fuel **or ethanol** dispensed.
- 13 (f) "Indiana special fuel tax" means the tax imposed under
 14 IC 6-6-2.5.
- 15 (g) "Federal special fuel tax" means the excise tax imposed under
 16 Section 4041 or Section 4081 of the Internal Revenue Code.
- 17 (h) "Price per unit before the addition of state and federal taxes"
 18 means an amount which equals **either of the following:**
- 19 (1) **For special fuel**, the remainder of:
 20 (1) (A) the total price per unit; minus
 21 (2) (B) the state gross retail, Indiana special fuel, and federal
 22 special fuel taxes which are part of the total price per unit.
- 23 (2) **For ethanol, the remainder of:**
 24 (A) the total price per unit; minus
 25 (B) the state gross retail, Indiana gasoline, and federal
 26 gasoline taxes which are part of the total price per unit.
- 27 (i) "Total price per unit" means the price per unit at which:
 28 (1) special fuel is actually sold, including the state gross retail,
 29 Indiana special fuel, and federal special fuel taxes which are part
 30 of the sales price; **or**
 31 (2) ethanol is actually sold, including the state gross retail,
 32 Indiana gasoline, and federal gasoline taxes which are part of
 33 the sales price.
- 34 (j) "Ethanol" refers to a blended motor fuel consisting of:
 35 (1) at least fifteen percent (15%) but not more than
 36 eighty-five percent (85%) agriculturally derived ethyl alcohol;
 37 and
 38 (2) gasoline as the balance.
- 39 (k) "Federal gasoline tax" means the excise tax imposed on
 40 ethanol under Section 4081 of the Internal Revenue Code.
- 41 (l) "Indiana gasoline tax" refers to the tax imposed on ethanol
 42 under IC 6-6-1.1.



1 SECTION 4. IC 6-2.5-7-2, AS AMENDED BY P.L.227-2013,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 2. Except as provided in section 2.5 of this
4 chapter, a retail merchant who uses a metered pump to dispense special
5 fuel **or ethanol** shall display on the pump the total price per unit of the
6 special fuel **or ethanol**. Subject to the provisions of section 2.5 of this
7 chapter, a retail merchant may not advertise the special fuel **or ethanol**
8 at a price that is different than the price that the retail merchant is
9 required to display on the metered pump.

10 SECTION 5. IC 6-2.5-7-3, AS AMENDED BY P.L.227-2013,
11 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2015]: Sec. 3. With respect to the sale of special fuel, **ethanol**,
13 or kerosene which is dispensed from a metered pump, unless the
14 purchaser provides an exemption certificate in accordance with
15 IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special
16 fuel, **ethanol**, or kerosene sold, state gross retail tax in an amount equal
17 to the product, rounded to the nearest one-tenth of one cent (\$0.001),
18 of:

19 (1) the price per unit before the addition of state and federal taxes;
20 multiplied by

21 (2) seven percent (7%).

22 Unless the exemption certificate is provided, the retail merchant shall
23 collect the state gross retail tax prescribed in this section even if the
24 transaction is exempt from taxation under IC 6-2.5-5.

25 SECTION 6. IC 6-2.5-7-4, AS AMENDED BY P.L.227-2013,
26 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2015]: Sec. 4. (a) If a sale of special fuel **or ethanol** is exempt
28 from the state gross retail tax, the person who pays the tax to the retail
29 merchant may file a claim for refund with the department. The person
30 must file the claim on the form, in the manner, and with the supporting
31 documentation, prescribed by the department. If a person properly files
32 a claim for refund, the department shall refund to the person the state
33 gross retail tax collected with respect to the exempt transaction.

34 (b) Notwithstanding the other provisions of this section, the
35 department may prescribe simplified procedures to make adjustments
36 for exempt transactions.

37 SECTION 7. IC 6-2.5-7-5, AS AMENDED BY P.L.2-2014,
38 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2015]: Sec. 5. (a) Each retail merchant who dispenses special
40 fuel **or ethanol** from a metered pump shall, in the manner prescribed
41 in IC 6-2.5-6, report to the department the following information:

42 (1) The total number of gallons of special fuel **or ethanol** sold



1 from a metered pump during the period covered by the report.

2 (2) The total amount of money received from the sale of special
3 fuel **or ethanol** during the period covered by the report.

4 (3) That portion of the amount described in subdivision (2) that
5 represents state and federal taxes imposed under this article,
6 **IC 6-6-1.1**, IC 6-6-2.5, or Section 4041 or Section 4081 of the
7 Internal Revenue Code.

8 (b) Concurrently with filing the report, the retail merchant shall
9 remit the state gross retail tax in an amount which equals six and
10 fifty-four hundredths percent (6.54%) of the gross receipts, including
11 state gross retail taxes but excluding Indiana and federal special fuel
12 taxes **or Indiana and federal gasoline taxes**, received by the retail
13 merchant from the sale of the special fuel **or ethanol** that is covered by
14 the report and on which the retail merchant was required to collect state
15 gross retail tax. The retail merchant shall remit that amount regardless
16 of the amount of state gross retail tax which the merchant has actually
17 collected under this chapter. However, the retail merchant is entitled to
18 deduct and retain the amounts prescribed in subsection (c),
19 IC 6-2.5-6-10, and IC 6-2.5-6-11.

20 (c) A retail merchant is entitled to deduct from the amount of state
21 gross retail tax required to be remitted under subsection (b) an amount
22 equal to:

23 (1) the sum of the prepayment amounts made during the period
24 covered by the retail merchant's report; minus

25 (2) the sum of prepayment amounts collected by the retail
26 merchant, in the merchant's capacity as a qualified distributor,
27 during the period covered by the retail merchant's report.

28 For purposes of this section, a prepayment of the gross retail tax is
29 presumed to occur on the date on which it is invoiced.

30 SECTION 8. [EFFECTIVE JULY 1, 2015] (a) **IC 6-2.5-3.5-4,**
31 **IC 6-2.5-7-1, IC 6-2.5-7-2, IC 6-2.5-7-3, IC 6-2.5-7-4, and**
32 **IC 6-2.5-7-5, all as amended by this act, apply to ethanol (as**
33 **defined by IC 6-2.5-3.5-2.5, as added by this act) acquired by a**
34 **retail merchant for resale after June 30, 2015.**

35 (b) **This SECTION expires July 1, 2016.**

