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# HOUSE BILL No. 1613

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-2.5-5-39; IC 6-2.5-7-3; IC 6-2.5-7-5.

**Synopsis:** Sales tax exemption for gasohol. For purposes of the state gross retail tax, defines "gasohol" to mean a fuel that contains not more than 90% gasoline and at least 10% agriculturally derived ethyl alcohol. Exempts two-fifths of the state gross retail income derived from sales of gasohol from the state gross retail tax. Requires a retail merchant to collect state gross retail tax in an amount equal to 3% of the price per unit, before taxes, of gasohol sold.

**Effective:** July 1, 2001.

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## Grubb, McClain, Herndon, Sturtz

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January 17, 2001, read first time and referred to Committee on Ways and Means.

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First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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# HOUSE BILL No. 1613



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 6-2.5-5-39 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2001]: **Sec. 39. (a) As used in this section, "gasohol" means a fuel**  
4 **that contains not more than ninety percent (90%) gasoline and at**  
5 **least ten percent (10%) agriculturally derived ethyl alcohol.**  
6 **(b) Two-fifths (2/5) of the state gross retail income derived from**  
7 **sales of gasohol is exempt from the state gross retail tax.**  
8 SECTION 2. IC 6-2.5-7-3, AS AMENDED BY P.L.222-1999,  
9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2001]: Sec. 3. (a) With respect to the sale of gasoline which  
11 is dispensed from a metered pump, a retail merchant shall collect, for  
12 each unit of gasoline sold, state gross retail tax in an amount equal to  
13 the product, rounded to the nearest one-tenth of one cent (\$.001), of:  
14 (i) (1) the price per unit before the addition of state and federal  
15 taxes; multiplied by  
16 (ii) ~~five percent (5%)~~; (2) **a percentage determined under**  
17 **subsection (c).**



1 The retail merchant shall collect the state gross retail tax prescribed in  
 2 this section even if the transaction is exempt from taxation under  
 3 IC 6-2.5-5.

4 (b) With respect to the sale of special fuel or kerosene which is  
 5 dispensed from a metered pump, unless the purchaser provides an  
 6 exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant  
 7 shall collect, for each unit of special fuel or kerosene sold, state gross  
 8 retail tax in an amount equal to the product, rounded to the nearest  
 9 one-tenth of one cent (\$.001), of:

10 (i) (1) the price per unit before the addition of state and federal  
 11 taxes; multiplied by

12 (ii) (2) five percent (5%).

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

16 **(c) In the case of gasoline that is not exempt from the state gross**  
 17 **retail tax under IC 6-2.5-5-39, the percentage used under**  
 18 **subsection (a)(2) equals five percent (5%). In the case of gasoline**  
 19 **that is partially exempt from the state gross retail tax under**  
 20 **IC 6-2.5-5-39, the percentage used under subsection (a)(2) equals**  
 21 **three percent (3%).**

22 SECTION 3. IC 6-2.5-7-5 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) Each retail  
 24 merchant who dispenses gasoline or special fuel from a metered pump  
 25 shall, in the manner prescribed in IC 6-2.5-6, report to the department  
 26 the following information:

27 (1) The total number of gallons of gasoline sold from a metered  
 28 pump during the period covered by the report.

29 (2) The total amount of money received from the sale of gasoline  
 30 described in subdivision (1) during the period covered by the  
 31 report.

32 (3) That portion of the amount described in subdivision (2) which  
 33 represents state and federal taxes imposed under IC 6-2.5,  
 34 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

35 (4) The total number of gallons of special fuel sold from a  
 36 metered pump during the period covered by the report.

37 (5) The total amount of money received from the sale of special  
 38 fuel during the period covered by the report.

39 (6) That portion of the amount described in subdivision (5) that  
 40 represents state and federal taxes imposed under IC 6-2.5,  
 41 IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

42 (b) Concurrently with filing the report, the retail merchant shall

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1 remit the state gross retail tax in an amount which equals ~~one~~  
 2 ~~twenty-first (1/21)~~ **a fractional amount (determined under**  
 3 **subsection (d))** of the gross receipts, including state gross retail taxes  
 4 but excluding Indiana and federal gasoline and special fuel taxes,  
 5 received by the retail merchant from the sale of the gasoline and special  
 6 fuel that is covered by the report and on which the retail merchant was  
 7 required to collect state gross retail tax. The retail merchant shall remit  
 8 that amount regardless of the amount of state gross retail tax which he  
 9 has actually collected under this chapter. However, the retail merchant  
 10 is entitled to deduct and retain the amounts prescribed in subsection  
 11 (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

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

- 15 (1) the sum of the prepayment amounts made during the period  
 16 covered by the retail merchant's report; minus  
 17 (2) the sum of prepayment amounts collected by the retail  
 18 merchant, in the merchant's capacity as a qualified distributor,  
 19 during the period covered by the retail merchant's report.

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

22 **(d) The fractional amount to be used under subsection (b) equals**  
 23 **one twenty-first (1/21) in the case of sales of gasoline and special**  
 24 **fuel that are not exempt from the state gross retail tax under**  
 25 **IC 6-2.5-5-39. In the case of gasoline that is partially exempt from**  
 26 **the state gross retail tax under IC 6-2.5-5-39, the fractional amount**  
 27 **to be used equals three one hundred-firsts (3/101).**

28 SECTION 4. [EFFECTIVE JULY 1, 2001] **(a) IC 6-2.5-5-39, as**  
 29 **added by this act, and IC 6-2.5-7-3, as amended by this act, apply**  
 30 **to sales of gasohol in retail transactions that occur after June 30,**  
 31 **2001.**

32 **(b) IC 6-2.5-7-5, as amended by this act, applies to state gross**  
 33 **retail and use tax returns filed after June 30, 2001.**

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