

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 2006 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1065

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AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-6-2.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. (a) A license tax of sixteen cents (\$0.16) per gallon is imposed on all special fuel sold or used in producing or generating power for propelling motor vehicles except fuel used under section 30(a)(8) **or 30.5** of this chapter. The tax shall be paid at those times, in the manner, and by those persons specified in this section and section 35 of this chapter.

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

(c) Except as provided in subsection (d), the tax imposed on special fuel by subsection (a) shall be measured by invoiced gallons of nonexempt special fuel received by a licensed supplier in Indiana for sale or resale in Indiana or with respect to special fuel subject to a tax precollection agreement under section 35(d) of this chapter, such special fuel removed by a licensed supplier from a terminal outside of Indiana for sale for export or for export to Indiana and in any case shall generally be determined in the same manner as the tax imposed by Section 4081 of the Internal Revenue Code and Code of Federal Regulations.

(d) The tax imposed by subsection (a) on special fuel imported into Indiana, other than into a terminal, is imposed at the time the product

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is entered into Indiana and shall be measured by invoiced gallons received at a terminal or at a bulk plant.

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

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

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

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

(i) A person may not use special fuel on an Indiana public highway if the special fuel contains a sulfur content that exceeds five one-hundredths of one percent (0.05%). A person who knowingly:

- (1) violates; or
- (2) aids or abets another person to violate;

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

SECTION 2. IC 6-6-2.5-30.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 30.5. (a) Except as provided in subsection (b), special fuel is exempt from the special fuel tax if:**

- (1) the special fuel has a nominal biodiesel content of at least twenty percent (20%);**
- (2) the special fuel is used only for a personal, noncommercial use and is not for resale; and**
- (3) the individual using the special fuel:**
  - (A) produces the biodiesel content of the special fuel; and**



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**(B) obtains an exemption certificate under subsection (c) before using the special fuel.**

**(b) The maximum number of gallons of special fuel for which an individual may claim the exemption under this section in a year is equal to:**

- (1) two thousand (2,000); divided by**
- (2) the average percentage volume of biodiesel in each gallon used by the individual.**

**(c) The department shall issue an exemption certificate to an individual who produces evidence of nontaxability under subsection (a)(1), (a)(2), and (a)(3). A certificate issued under this subsection is valid for a period determined by the department, but not to exceed five (5) years. The department may allow an individual to renew an exemption certification for additional five (5) year periods. An exemption certificate applies only to special fuel described in subsection (a). An individual holding a certificate issued under this subsection shall notify the department:**

- (1) of any address change by the individual; and**
- (2) when the individual ceases using special fuel that is exempt under this section.**

**(d) An individual who is issued an exemption certificate under this section must submit to the department a report, in a form prescribed by the department, not later than January 20 of each year. The report must include:**

- (1) the number of gallons of special fuel in the immediately preceding year; and**
- (2) the average percentage volume of biodiesel in each gallon of special fuel;**

**to which the exemption was applied in the calendar year ending on the immediately preceding December 31.**

**(e) An individual who is issued an exemption certificate under this section is not subject to the reporting requirements under section 35 of this chapter.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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HEA 1065 — Concur+

