

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 2012 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 479

---

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.5-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

**Chapter 3.5. Collection of Use Tax on Gasoline**

**Sec. 1.** As used in this chapter, "distributor" means a person that is the first purchaser of gasoline from a refiner, terminal operator, or supplier, regardless of the location of the purchase.

**Sec. 2.** As used in this chapter, "E85" has the meaning set forth in IC 6-6-1.1-103.

**Sec. 3.** As used in this chapter, "federal gasoline tax" means the excise tax imposed on gasoline under Section 4081 of the Internal Revenue Code.

**Sec. 4.** As used in this chapter, "gasoline" has the meaning set forth in IC 6-6-1.1-103(g).

**Sec. 5.** As used in this chapter, "Indiana gasoline tax" means the tax imposed under IC 6-6-1.1.

**Sec. 6.** As used in this chapter, "metered pump" means a stationary pump that is capable of metering the amount of gasoline or special fuel dispensed from it and that is capable of simultaneously calculating and displaying the price of the gasoline or special fuel dispensed.

**Sec. 7.** As used in this chapter, "price per unit before the

SEA 479 — CC 1+



C  
O  
P  
Y

addition of state and federal taxes" means an amount that equals the remainder of:

- (1) the total price per unit; minus
- (2) the gasoline use tax, Indiana gasoline tax, and federal gasoline taxes that are part of the total price per unit.

Sec. 8. As used in this chapter, "purchase or shipment" means a sale or delivery of gasoline, but does not include:

- (1) an exchange transaction between refiners, terminal operators, or a refiner and terminal operator; or
- (2) a delivery by pipeline, ship, or barge to a refiner or terminal operator.

Sec. 9. As used in this chapter, "qualified distributor" means a distributor that:

- (1) is a licensed distributor under IC 6-6-1.1; and
- (2) holds an uncanceled permit issued under section 17 of this chapter.

Sec. 10. As used in this chapter, "refiner" means a person who manufactures or produces gasoline by any process involving substantially more than the blending of gasoline.

Sec. 11. As used in this chapter, "terminal operator" means a person that:

- (1) stores gasoline in tanks and equipment used in receiving and storing gasoline from interstate or intrastate pipelines pending wholesale bulk reshipment; or
- (2) stores gasoline at a boat terminal transfer that is a dock or tank, or equipment contiguous to a dock or tank, including equipment used in the unloading of gasoline from a ship or barge and used in transferring the gasoline to a tank pending wholesale bulk reshipment.

Sec. 12. As used in this chapter, "total price per unit" means the price per unit at which gasoline is actually sold, including the gasoline use tax, Indiana gasoline tax, and federal gasoline tax that are part of the sales price.

Sec. 13. As used in this chapter, "unit" means the unit of measure, such as a gallon or a liter, by which gasoline is sold.

Sec. 14. As used in this chapter, "use tax rate" means a rate per gallon of gasoline determined by the department under section 15 of this chapter and used to calculate the use tax due on the retail sale of gasoline under section 16 of this chapter, notwithstanding the collection procedures set forth in this chapter.

Sec. 15. (a) Before the twenty-second day of each month, the department shall determine and provide a notice of the gasoline

C  
o  
p  
y



use tax rate to be used during the following month and the source of the data used to determine the gasoline use tax rate and the statewide average retail price per gallon of gasoline. The notice shall be published on the department's Internet web site in a departmental notice.

(b) In determining the gasoline use tax rate under this section, the department shall use:

- (1) the statewide average retail price per gallon of gasoline (based on the retail price per gallon of gasoline from the sixteenth day of the previous month to the fifteenth day of the current month), excluding the Indiana gasoline tax, federal gasoline tax, the Indiana gasoline use tax, and Indiana gross retail tax (if any); multiplied by
- (2) seven percent (7%).

To determine the statewide average retail price, the department shall use a data service that updates the most recent retail price of gasoline. The gasoline use tax rate per gallon of gasoline determined by the department under this section shall be rounded to the nearest one-tenth of one cent (\$0.001).

**Sec. 16.** A qualified distributor, a refiner, or a terminal operator that sells gasoline for delivery to a retail merchant located in Indiana shall remit the gasoline use tax to the department for each gallon of gasoline sold. The person shall remit that amount regardless of the amount of gasoline use tax that the person has actually collected under this chapter. However, the person is entitled to deduct and retain the amounts prescribed in IC 6-2.5-6-10 and IC 6-2.5-6-11.

**Sec. 17. (a)** A distributor, refiner, or terminal operator desiring to receive gasoline within Indiana without paying the gasoline use tax must hold an uncanceled permit issued by the department to collect payments of gasoline use tax from purchasers and recipients of gasoline.

(b) To obtain a permit, a distributor, refiner, or terminal operator must file with the department a sworn application containing information that the department reasonably requires.

(c) The department may refuse to issue a permit to a distributor, refiner, or terminal operator if:

- (1) the application is filed by a distributor, refiner, or terminal operator whose permit has previously been canceled for cause;
- (2) the application is not filed in good faith, as determined by the department;



C  
O  
P  
Y

(3) the application is filed by a person as a subterfuge for the real person in interest whose permit has previously been canceled for cause; or

(4) the distributor, refiner, or terminal operator has outstanding tax liability with the department for which a tax warrant has been issued.

(d) A permit may not be issued unless the application is accompanied by an audited and current financial statement and a license fee of one hundred dollars (\$100).

(e) A permit issued under this section is not assignable and is valid only for the distributor, refiner, or terminal operator in whose name it is issued. If there is a change in name or ownership, the distributor, refiner, or terminal operator must apply for a new permit.

(f) The department may revoke a permit for good cause.

(g) Before being denied a permit under subsection (c) or before having a permit revoked under subsection (f), a distributor, refiner, or terminal operator is entitled to a hearing after five (5) business days written notice. At the hearing, the distributor, refiner, or terminal operator may appear in person or by counsel and present testimony.

(h) The department shall keep a record of all qualified distributors, refiners, and terminal operators.

(i) The department may publish a list of qualified distributors on the department's Internet web site. The list must be limited to the following information:

- (1) The name of each qualified distributor.
- (2) The complete address of each qualified distributor.
- (3) The telephone number of each qualified distributor.

(j) The information contained in a list published under subsection (i) is not confidential under IC 6-8.1-7-1.

Sec. 18. (a) The department may require a distributor, refiner, or terminal operator to file, concurrently with the filing of an application for a permit, a bond:

- (1) in an amount of at least two thousand dollars (\$2,000) and not more than an amount equal to a three (3) month gasoline use tax liability for the distributor, as estimated by the department;
- (2) in cash or with a surety company approved by the department;
- (3) upon which the distributor is the principal obligor and the state is the obligee; and

C  
o  
p  
y



(4) conditioned upon the prompt filing of true electronic reports and payment of all gasoline use taxes collected by the distributor, together with any penalties and interest, and upon faithful compliance with this chapter.

The department shall determine the amount of the distributor's bond, if any.

(b) If after a hearing (conducted after at least five (5) days written notice) the department determines that the amount of a distributor's bond is insufficient, the distributor shall upon written demand of the department file a new bond.

(c) The department may require a distributor to file a new bond with a satisfactory surety in the same form and amount if:

- (1) liability upon the old bond is discharged or reduced by judgment rendered, payment made, or otherwise; or
- (2) in the opinion of the department, any surety on the old bond becomes unsatisfactory.

(d) If a new bond obtained under subsection (b) or (c) is unsatisfactory, the department shall cancel the permit of the distributor. If the new bond is satisfactorily furnished, the department shall release in writing the surety on the old bond from any liability accruing after the effective date of the new bond.

(e) Sixty (60) days after making a written request for release to the department, the surety of a bond furnished by a distributor is released from any liability to the state accruing on the bond. The release does not affect any liability accruing before expiration of the sixty (60) day period. The department shall promptly notify the distributor furnishing the bond that the surety has requested release. Unless the distributor obtains a new bond that meets the requirements of this section and files the new bond with the department within the sixty (60) day period, the department shall cancel the distributor's permit.

(f) The department may require a distributor to furnish certified public accountant reviewed or audited annual financial statements to determine if any change is required in the amount of the distributor's bond.

Sec. 19. (a) Except as provided in section 22 of this chapter, at the time of purchase or shipment of gasoline from a refiner or terminal operator to a distributor that is not a qualified distributor, the refiner or terminal operator shall collect and the distributor shall pay to the refiner or terminal operator the gasoline use tax in an amount determined under subsection (d).

(b) At the time of purchase or shipment of gasoline from a

C  
o  
p  
y



qualified distributor to a retail merchant, the qualified distributor shall collect and the retail merchant shall pay to the qualified distributor the gasoline use tax in an amount determined under subsection (d).

(c) If gasoline is delivered to a retail merchant for resale and the gasoline use tax in the amount determined under subsection (d) has not been paid on the gasoline, the refiner, terminal operator, or qualified distributor making the delivery shall pay to the department the gasoline use tax in an amount determined under subsection (d). For purposes of this chapter, a bulk plant is considered to be a retail merchant, except when the bulk plant is also a qualified distributor.

(d) The amount of tax that must be paid under this section equals:

- (1) the gasoline use tax rate per gallon of gasoline, as determined by the department under section 15 of this chapter; multiplied by
- (2) the number of invoiced gallons purchased or shipped.

(e) A purchaser or receiver of gasoline that purchases the gasoline at retail from a metered pump and makes a payment under this chapter is not subject to any liability to the state for the amount of the payment.

**Sec. 20. (a)** Each refiner or terminal operator and each qualified distributor that is required to remit gasoline use tax under this chapter shall remit the tax due to the department semimonthly, through the department's online tax filing system, according to the following schedule:

- (1) On or before the tenth day of each month for gasoline sold after the fifteenth day and before the end of the preceding month.
- (2) On or before the twenty-fifth day of each month for gasoline sold after the end of the preceding month and before the sixteenth day of the month in which the gasoline was sold.

(b) Before the end of each month, each refiner or terminal operator and each qualified distributor shall file an electronic report covering the taxes owed and the gallons of gasoline sold or shipped during the preceding month. The report must include the following:

- (1) The number of gallons of gasoline sold or shipped during the preceding month, identifying each purchaser or receiver as required by the department.
- (2) The amount of tax paid by each purchaser or recipient.



C  
O  
P  
Y

(3) Any other information reasonably required by the department, including statistics to meet federal requirements.

(c) The gasoline use tax collected under this chapter shall be deposited in the same manner as state gross retail and use taxes are required to be deposited under IC 6-2.5-10-1.

Sec. 21. (a) Except as provided in subsection (b), a distributor that pays the gasoline use tax under this chapter shall separately state the amount of tax paid on the invoice the distributor issues to its purchaser or recipient. The purchaser or recipient shall pay to the distributor an amount equal to the gasoline use tax paid.

(b) A distributor that:

(1) pays the gasoline use tax under this chapter;

(2) is a retail merchant; and

(3) sells gasoline that is exempt from the gasoline use tax, as evidenced by a purchaser's exemption certificate issued by the department;

may not require the exempt purchaser to pay the gasoline use taxes paid on the gasoline sold to the exempt purchaser. A distributor that has paid gasoline use taxes and has not been reimbursed because the gasoline is sold to an exempt purchaser may file a claim for a refund. A claim for a refund must be on the form approved by the department and must include all supporting documentation reasonably required by the department. If a distributor files a completed refund claim form that includes all supporting documentation, the department shall authorize the auditor of state to issue a warrant for the refund.

Sec. 22. (a) If a purchase or shipment of gasoline is made to a distributor (other than a qualified distributor) outside Indiana for shipment into and subsequent sale or use by the distributor within Indiana, the distributor shall make the payment required by section 19 of this chapter directly to the department. The distributor shall pay the tax and submit the electronic report according to the schedule set forth in section 20 of this chapter.

(b) If a purchase or shipment is made within Indiana for shipment and subsequent sale outside Indiana, the purchase or shipment is exempt from the gasoline use tax payment requirements of section 19 of this chapter. In such a case, if the gasoline use tax has already been paid on the purchase or shipment, the distributor (including a qualified distributor) may claim a credit for that gasoline use tax against the amount required to be remitted if the distributor provides evidence that the shipment and subsequent sale were outside Indiana.



C  
O  
P  
Y

(c) A distributor importing gasoline into Indiana must obtain a permit from the department under section 17 of this chapter.

Sec. 23. (a) A refiner, terminal operator, or distributor (including a qualified distributor) that fails to remit the tax or file the returns or reports required by this chapter is subject to the penalties set forth in IC 6-8.1-10.

(b) A distributor that fails to file the reports required by this chapter is subject to the penalties set forth in IC 6-8.1-10.

Sec. 24. A retail merchant shall display on the metered pump the total price per unit of the gasoline. A retail merchant may not advertise the gasoline at a price that is different than the price that the retail merchant is required to display on the metered pump.

Sec. 25. If a sale of gasoline is exempt from the gasoline use tax, the person that pays the tax to the retail merchant may file a claim for refund with the department. The person must file the claim on the form, in the manner, and with the supporting documentation, prescribed by the department. If a person properly files a claim for refund, the department shall refund to the person the gasoline use tax collected with respect to the exempt transaction.

Sec. 26. (a) The gasoline use tax collected under this chapter is considered equivalent to the state gross retail tax that would be collected by a retail merchant in a retail sale and replaces the obligation of the retail merchant to collect the state gross retail tax on the sale of gasoline.

(b) The exemptions set forth in IC 6-2.5-5 apply to the gasoline use tax imposed by this chapter.

SECTION 2. IC 6-2.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person is a retail merchant making a retail transaction when ~~he~~ **the person** engages in selling at retail.

(b) A person is engaged in selling at retail when, in the ordinary course of ~~his~~ **the person's** regularly conducted trade or business, ~~he~~ **the person:**

- (1) acquires tangible personal property for the purpose of resale; and
- (2) transfers that property to another person for consideration.

(c) For purposes of determining what constitutes selling at retail, it does not matter whether:

- (1) the property is transferred in the same form as when it was acquired;
- (2) the property is transferred alone or in conjunction with other property or services; or

C  
o  
p  
y



(3) the property is transferred conditionally or otherwise.

(d) Notwithstanding subsection (b), a person is not selling at retail if ~~he~~ **the person** is making a wholesale sale as described in section 2 of this chapter. **However, in the case of sales of gasoline (as defined in IC 6-6-1.1-103), a person shall collect the gasoline use tax as provided in IC 6-2.5-3.5.**

(e) The gross retail income received from selling at retail is only taxable under this article to the extent that the income represents:

- (1) the price of the property transferred, without the rendition of any service; and
- (2) except as provided in subsection (g), any bona fide charges which are made for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other service performed in respect to the property transferred before its transfer and which are separately stated on the transferor's records.

For purposes of this subsection, a transfer is considered to have occurred after delivery of the property to the purchaser.

(f) Notwithstanding subsection (e):

- (1) in the case of retail sales of ~~gasoline (as defined in IC 6-6-1.1-103)~~ and special fuel (as defined in IC 6-6-2.5-22), the gross retail income received from selling at retail is the total sales price of the ~~gasoline or~~ special fuel minus the part of that price attributable to tax imposed under ~~IC 6-6-1.1~~, IC 6-6-2.5 or Section 4041(a) or Section 4081 of the Internal Revenue Code; and
- (2) in the case of retail sales of cigarettes (as defined in IC 6-7-1-2), the gross retail income received from selling at retail is the total sales price of the cigarettes including the tax imposed under IC 6-7-1.

(g) Gross retail income does not include income that represents charges for serving or delivering food and food ingredients furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant. However, the exclusion under this subsection only applies if the charges for the serving or delivery are stated separately from the price of the food and food ingredients when the purchaser pays the charges.

SECTION 3. IC 6-2.5-6-10, AS AMENDED BY P.L.146-2008, SECTION 313, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) In order to compensate retail merchants **and those required to remit gasoline use tax** for collecting and timely remitting the state gross retail tax, ~~and~~ the state use tax, **and the gasoline use tax**, every retail merchant **or person required to remit the gasoline use tax**, except a retail merchant referred to as

C  
o  
p  
y



**provided** in subsection (c), is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5, **IC 6-2.5-3.5**, or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) The allowance equals a percentage of the retail merchant's state gross retail and use tax **or the person's gasoline use tax** liability accrued during a calendar year, specified as follows:

(1) Seventy-three hundredths percent (0.73%), if the retail merchant's state gross retail and use tax **or gasoline use tax** liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars (\$60,000).

(2) Fifty-three hundredths percent (0.53%), if the retail merchant's state gross retail and use tax **or gasoline use tax** liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year:

(A) was greater than sixty thousand dollars (\$60,000); and

(B) did not exceed six hundred thousand dollars (\$600,000).

(3) Twenty-six hundredths percent (0.26%), if the retail merchant's state gross retail and use tax liability **or the person's gasoline use tax** accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars (\$600,000).

(c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not entitled to the allowance provided by this section. **A retail merchant is not entitled to the allowance provided by this section with respect to gasoline use taxes imposed by IC 6-2.5-3.5.**

SECTION 4. IC 6-2.5-7-1, AS AMENDED BY P.L.1-2007, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Kerosene" has the same meaning as the definition contained in IC 16-44-2-2.

~~(c) "Gasoline" has the same meaning as the definition contained in IC 6-6-1.1-103.~~

~~(d) (c) "Special fuel" has the same meaning as the definition contained in IC 6-6-2.5-22.~~

~~(e) "E85" has the meaning set forth in IC 6-6-1.1-103.~~

~~(f) (d) "Unit" means the unit of measure, such as a gallon or a liter, by which gasoline or special fuel is sold.~~

~~(g) (e) "Metered pump" means a stationary pump which is capable of metering the amount of gasoline or special fuel dispensed from it~~



C  
O  
P  
Y

and which is capable of simultaneously calculating and displaying the price of the gasoline or special fuel dispensed.

(h) "Indiana gasoline tax" means the tax imposed under IC 6-6-1.1.

(i) (f) "Indiana special fuel tax" means the tax imposed under IC 6-6-2.5.

(j) "Federal gasoline tax" means the excise tax imposed under Section 4081 of the Internal Revenue Code.

(k) (g) "Federal special fuel tax" means the excise tax imposed under Section 4041 or Section 4081 of the Internal Revenue Code.

(l) (h) "Price per unit before the addition of state and federal taxes" means an amount which equals the remainder of:

- (1) the total price per unit; minus
- (2) the state gross retail, Indiana gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the total price per unit.

(m) (i) "Total price per unit" means the price per unit at which gasoline or special fuel is actually sold, including the state gross retail, Indiana gasoline or special fuel, and federal gasoline or special fuel taxes which are part of the sales price.

(n) "Distributor" means a person who is the first purchaser of gasoline from a refiner, a terminal operator, or supplier, regardless of the location of the purchase.

(o) "Prepayment rate" means a rate per gallon of gasoline determined by the department under section 14 of this chapter for use in calculating prepayment amounts of gross retail tax under section 9 of this chapter.

(p) "Purchase or shipment" means a sale or delivery of gasoline; but does not include:

- (1) an exchange transaction between refiners, terminal operators; or a refiner and terminal operator; or
- (2) a delivery by pipeline, ship, or barge to a refiner or terminal operator.

(q) "Qualified distributor" means a distributor who:

- (1) is a licensed distributor under IC 6-6-1.1; and
- (2) holds an unrevoked permit issued under section 7 of this chapter.

(r) "Refiner" means a person who manufactures or produces gasoline by any process involving substantially more than the blending of gasoline.

(s) "Terminal operator" means a person that:

- (1) stores gasoline in tanks and equipment used in receiving and storing gasoline from interstate or intrastate pipelines pending

C  
O  
P  
Y



wholesale bulk reshipment; or

(2) stores gasoline at a boat terminal transfer that is a dock or tank; or equipment contiguous to a dock or tank; including equipment used in the unloading of gasoline from a ship or barge and used in transferring the gasoline to a tank pending wholesale bulk reshipment.

SECTION 5. IC 6-2.5-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. Except as provided in section 2.5 of this chapter, a retail merchant who uses a metered pump to dispense gasoline or special fuel shall display on the pump the total price per unit of the gasoline or special fuel. Subject to the provisions of section 2.5 of this chapter, a retail merchant may not advertise the gasoline or special fuel at a price that is different than the price that ~~he~~ **the retail merchant** is required to display on the metered pump.

SECTION 6. IC 6-2.5-7-3, AS AMENDED BY P.L.146-2008, SECTION 314, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) ~~With respect to the sale of gasoline which is dispensed from a metered pump,~~ a retail merchant shall collect, for each unit of gasoline sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

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

(2) seven percent (7%).

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

(b) With respect to the sale of special fuel or kerosene which is dispensed from a metered pump, unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special fuel or kerosene sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

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

(2) seven percent (7%).

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

SECTION 7. IC 6-2.5-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) If a sale of

C  
o  
p  
y



~~gasoline or~~ special fuel is exempt from the state gross retail tax, the person who pays the tax to the retail merchant may file a claim for refund with the department. The person must file the claim on the form, in the manner, and with the supporting documentation, prescribed by the department. If a person properly files a claim for refund, the department shall refund to ~~him~~ **the person** the state gross retail tax collected with respect to the exempt transaction.

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

SECTION 8. IC 6-2.5-7-5, AS AMENDED BY P.L.98-2012, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) Each retail merchant who dispenses gasoline or special fuel from a metered pump shall, in the manner prescribed in IC 6-2.5-6, report to the department the following information:

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

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

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

~~(4) (1) The total number of gallons of special fuel sold from a metered pump during the period covered by the report.~~

~~(5) (2) The total amount of money received from the sale of special fuel during the period covered by the report.~~

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

~~(7) The total number of gallons of E85 sold from a metered pump during the period covered by the report.~~

(b) Concurrently with filing the report, the retail merchant shall remit the state gross retail tax in an amount which equals six and fifty-four hundredths percent (6.54%) of the gross receipts, including state gross retail taxes but excluding Indiana and federal ~~gasoline and~~ special fuel taxes, received by the retail merchant from the sale of the ~~gasoline and~~ special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state

C  
o  
p  
y



gross retail tax which the merchant has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in IC 6-2.5-6-10, and IC 6-2.5-6-11.

SECTION 9. IC 6-2.5-7-7 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 7. (a) A distributor desiring to receive gasoline within Indiana without prepaying gross retail tax must hold an uncancelled permit issued by the department to collect prepayments of gross retail tax from retail merchants:

(b) To obtain a permit, a distributor must file with the department a sworn application containing information that the department reasonably requires:

- (c) The department may refuse to issue a permit to a distributor if:
- (1) the application is filed by a distributor whose permit has previously been cancelled for cause;
  - (2) the application is not filed in good faith, as determined by the department; or
  - (3) the application is filed by some person as a subterfuge for the real person in interest whose permit has previously been cancelled for cause.

(d) A permit may not be issued unless the application is accompanied by an audited and current financial statement and a license fee of one hundred dollars (\$100):

(e) A permit issued under this section is not assignable and is valid only for the distributor in whose name it is issued. If there is a change in name or ownership, the distributor must apply for a new permit:

(f) The department may revoke a distributor's permit for good cause:

(g) Before being denied a permit under subsection (e) or before having a permit revoked under subsection (f), a distributor is entitled to a hearing after five (5) days written notice. At the hearing the distributor may appear in person or by counsel and present testimony:

(h) The department shall keep a record of all qualified distributors:

SECTION 10. IC 6-2.5-7-8 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 8. (a) The department may require a distributor to file, concurrently with the filing of an application for a permit, a bond:

- (1) in an amount of not less than two thousand dollars (\$2,000) nor more than a three (3) month prepayment tax liability for the distributor, as estimated by the department;
- (2) in cash or with a surety company approved by the department;
- (3) upon which the distributor is the principal obligor and the state is the obligee; and
- (4) conditioned upon the prompt filing of true reports and payment of all prepayment of gross retail taxes collected by the



distributor, together with any penalties and interest, and upon faithful compliance with this chapter.

The department shall determine the amount of the distributor's bond; if any:

(b) If after a hearing (after at least five (5) days written notice) the department determines that the amount of a distributor's bond is insufficient, the distributor shall upon written demand of the department file a new bond:

(c) The department may require a distributor to file a new bond with a satisfactory surety in the same form and amount if:

(1) liability upon the old bond is discharged or reduced by judgment rendered; payment made; or otherwise; or

(2) in the opinion of the department any surety on the old bond becomes unsatisfactory.

(d) If a new bond obtained under subsection (b) or (c) is unsatisfactory, the department shall cancel the permit of the distributor. If the new bond is satisfactorily furnished, the department shall release in writing the surety on the old bond from any liability accruing after the effective date of the new bond.

(e) Sixty (60) days after making a written request for release to the department, the surety of a bond furnished by a distributor is released from any liability to the state accruing on the bond. The release does not affect any liability accruing before expiration of the sixty (60) day period. The department shall promptly notify the distributor furnishing the bond that the surety has requested release. Unless the distributor obtains a new bond that meets the requirements of this section and files the new bond with the department within the sixty (60) day period, the department shall cancel the distributor's permit.

(f) The department may require a distributor to furnish audited annual financial statements to determine if any change is required in the amount of the distributor's bond.

SECTION 11. IC 6-2.5-7-9 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 9: (a) Except as provided in section 13 of this chapter, at the time of purchase or shipment of gasoline from a refiner or terminal operator, a distributor who is not a qualified distributor shall prepay to the refiner or terminal operator the state gross retail tax in an amount determined under subsection (d):

(b) At the time of purchase or shipment of gasoline from a qualified distributor, a retail merchant shall prepay to the qualified distributor the state gross retail tax in an amount determined under subsection (d):

(c) If gasoline is delivered to a retail outlet for resale and the gross retail tax in the amount determined under subsection (d) has not been

C  
o  
p  
y



prepaid on the gasoline; the refiner, terminal operator, or qualified distributor making the delivery shall prepay to the department the gross retail tax in an amount determined under subsection (d). A bulk plant is not considered to be a retail outlet.

(d) The amount of tax that must be prepaid under this section equals:

- (1) the prepayment rate per gallon of gasoline; multiplied by
- (2) the number of invoiced gallons purchased or shipped.

(e) A purchaser or receiver of gasoline that makes a prepayment under this chapter is not subject to any liability to the state for the amount of the prepayment.

SECTION 12. IC 6-2.5-7-10 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 10: (a) Each refiner or terminal operator and each qualified distributor that has received a prepayment of the state gross retail tax under this chapter shall remit the tax received to the department semimonthly; through the department's online tax filing system; according to the following schedule:

- (1) On or before the tenth day of each month for prepayments received after the fifteenth day and before the end of the preceding month.
- (2) On or before the twenty-fifth day of each month for prepayments received after the end of the preceding month and before the sixteenth day of the month in which the prepayments are made.

(b) Before the end of each month, each refiner or terminal operator and each qualified distributor shall file a report covering the prepaid taxes received and the gallons of gasoline sold or shipped during the preceding month. The report must include the following:

- (1) The number of gallons of gasoline sold or shipped during the preceding month, identifying each purchaser or receiver as required by the department.
- (2) The amount of tax prepaid by each purchaser or receiver.
- (3) Any other information reasonably required by the department.

SECTION 13. IC 6-2.5-7-11 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 11: Each distributor that prepaes the state gross retail tax under this chapter shall file a monthly report with the department. The report shall be filed no later than the last day of the month following the month that the report covers. The report must include the following:

- (1) The number of gallons of gasoline purchased or received by the distributor from each refiner, terminal operator, or another distributor.
- (2) The amount of state gross retail tax prepaid to each refiner;

C  
o  
p  
y



terminal operator, or distributor.

(3) The number of gallons of gasoline sold to each distributor; retail merchant; exempt purchaser; or other person and the amount of state gross retail tax collected from each distributor; retail merchant; or other person identifying the location of each distributor; retail merchant; exempt purchaser; or other person; as required by the department.

(4) Any other information reasonably required by the department.

SECTION 14. IC 6-2.5-7-12 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 12: (a) Except as provided in subsection (b), a distributor that prepays the state gross retail tax under this chapter shall separately state the amount of tax prepaid on the invoice the distributor issues to its purchaser or recipient. The purchaser or recipient shall pay to the distributor an amount equal to the prepaid tax:

(b) A distributor that:

(1) prepays the state gross retail tax under this chapter;

(2) is a retail merchant; and

(3) sells gasoline that is exempt from the gross retail tax; as evidenced by a purchaser's exemption certificate issued by the department;

may not require the exempt purchaser to pay the gross retail taxes prepaid in the gasoline sold to the exempt purchaser. A distributor that has prepaid gross retail taxes and has not been reimbursed because the gasoline is sold to an exempt purchaser may file a claim for a refund; if the amount of unreimbursed prepaid gross retail taxes exceeds five hundred dollars (\$500). A claim for a refund must be on the form approved by the department and include all supporting documentation reasonably required by the department. If a distributor files a completed refund claim form that includes all supporting documentation; the department shall authorize the auditor of state to issue a warrant for the refund.

SECTION 15. IC 6-2.5-7-13 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 13: (a) If a purchase or shipment of gasoline is made to a distributor (other than a qualified distributor) outside Indiana for shipment into and subsequent sale or use by the distributor within Indiana; the distributor shall make the prepayment required by section 9 of this chapter directly to the department. The distributor shall pay the tax and submit the report according to the schedule set forth in section 10 of this chapter:

(b) If a purchase or shipment is made within Indiana for shipment and subsequent sale outside Indiana; the purchase or shipment is exempt from the prepayment requirements of section 9 of this chapter.



C  
o  
p  
y

SECTION 16. IC 6-2.5-7-14 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 14: (a) Before June 10 and December 10 of each year, the department shall determine and provide to:

- (1) each refiner and terminal operator and each qualified distributor known to the department to be required to collect prepayments of the state gross retail tax under this chapter; and
- (2) any other person that makes a request;

a notice of the prepayment rate to be used during the following six (6) month period. The department, after approval by the office of management and budget, may determine a new prepayment rate if the department finds that the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax, has changed by at least twenty-five percent (25%) since the most recent determination.

(b) In determining the prepayment rate under this section, the department shall use the most recent retail price of gasoline available to the department.

(c) The prepayment rate per gallon of gasoline determined by the department under this section is the amount per gallon of gasoline determined under STEP FOUR of the following formula:

STEP ONE: Determine the statewide average retail price per gallon of gasoline, excluding the Indiana and federal gasoline taxes and the Indiana gross retail tax.

STEP TWO: Determine the product of the following:

- (A) The STEP ONE amount.
- (B) The Indiana gross retail tax rate.
- (C) Eighty percent (80%).

STEP THREE: Determine the lesser of:

- (A) the STEP TWO result; or
- (B) the product of:
  - (i) the prepayment rate in effect on the day immediately preceding the day on which the prepayment rate is redetermined under this section; multiplied by
  - (ii) one hundred twenty-five percent (125%).

STEP FOUR: Round the STEP THREE result to the nearest one-tenth of one cent (\$0.001).

SECTION 17. IC 6-2.5-7-15 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 15: (a) A refiner, terminal operator, or distributor (including a qualified distributor) that fails to remit the tax or file the returns or reports required by this chapter is subject to the penalties set forth in IC 6-8.1-10:

- (b) A distributor that fails to file the reports required by section 11

C  
o  
p  
y



of this chapter is subject to the penalties set forth in IC 6-8.1-10.

SECTION 18. IC 6-6-2.5-26.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 26.5. As used in this chapter, "truck stop" means a place of business designed for providing service to trucks and truck drivers, including selling fuel to truck drivers and providing support facilities for truck drivers.**

SECTION 19. IC 6-6-2.5-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 41. (a) Each supplier engaged in business in Indiana as a supplier shall first obtain a supplier's license. The fee for a supplier's license shall be five hundred dollars (\$500).

(b) Any person who desires to collect the tax imposed by this chapter as a supplier and who meets the definition of a permissive supplier may obtain a permissive supplier's license. Application for or possession of a permissive supplier's license shall not in itself subject the applicant or licensee to the jurisdiction of Indiana for any other purpose than administration and enforcement of this chapter. The fee for a permissive supplier's license is fifty dollars (\$50).

(c) Each terminal operator other than a supplier licensed under subsection (a) engaged in business in Indiana as a terminal operator shall first obtain a terminal operator's license for each terminal site. The fee for a terminal operator's license is three hundred dollars (\$300).

(d) Each exporter engaged in business in Indiana as an exporter shall first obtain an exporter's license. However, in order to obtain a license to export special fuel from Indiana to another specified state, a person shall be licensed either to collect and remit special fuel taxes or be licensed to deal in tax free special fuel in that other specified state of destination. The fee for an exporter's license is two hundred dollars (\$200).

(e) Each person who is not licensed as a supplier shall obtain a transporter's license before transporting special fuel by whatever manner from a point outside Indiana to a point inside Indiana, or from a point inside Indiana to a point outside Indiana, regardless of whether the person is engaged for hire in interstate commerce or for hire in intrastate commerce. The registration fee for a transporter's license is fifty dollars (\$50).

(f) Each person who wishes to cause special fuel to be delivered into Indiana on the person's own behalf, for the person's own account, or for resale to an Indiana purchaser, from another state in a fuel transport vehicle having a capacity of more than five thousand four hundred

C  
o  
p  
y



(5,400) gallons, or in a pipeline or barge shipment into storage facilities other than a qualified terminal, shall first make an application for and obtain an importer's license. The fee for an importer's license is two hundred dollars (\$200). This subsection does not apply to a person who imports special fuel that is exempt because the special fuel has been dyed or marked, or both, in accordance with section 31 of this chapter. This subsection does not apply to a person who imports nonexempt special fuels meeting the following conditions:

(1) The special fuel is subject to one (1) or more tax precollection agreements with suppliers as provided in section 35 of this chapter.

(2) The special fuel tax precollection by the supplier is expressly evidenced on the terminal-issued shipping paper as specifically provided in section 62(e)(2) of this chapter.

(g) A person desiring to import special fuel to an Indiana destination who does not enter into an agreement to prepay Indiana special fuel tax to a supplier or permissive supplier under section 35 of this chapter on the imports must do the following:

(1) Obtain a valid license under subsection (f).

(2) Obtain an import verification number from the department not earlier than twenty-four (24) hours before entering the state with each import, if importing in a vehicle with a capacity of more than five thousand four hundred (5,400) gallons.

(3) Display a proper import verification number on the shipping document, if importing in a vehicle with a capacity of more than five thousand four hundred (5,400) gallons.

(h) The department may require a person that wants to blend special fuel to first obtain a license from the department. The department may establish reasonable requirements for the proper enforcement of this subsection, including the following:

(1) Guidelines under which a person may be required to obtain a license.

(2) A requirement that a licensee file reports in the form and manner required by the department.

(3) A requirement that a licensee meet the bonding requirements specified by the department.

(i) The department may require a person that:

(1) is subject to the special fuel tax under this chapter;

(2) qualifies for a federal diesel fuel tax exemption under Section 4082 of the Internal Revenue Code; and

(3) is purchasing red dyed low sulfur diesel fuel;

to register with the department as a dyed fuel user. The department may

C  
O  
P  
Y



establish reasonable requirements for the proper enforcement of this subsection, including guidelines under which a person may be required to register and the form and manner of reports a registrant is required to file.

**(j) A person who owns a truck stop in Indiana must obtain from the department a truck stop owner's license in the manner prescribed by the department. A truck stop owner's license must be renewed every two (2) years.**

SECTION 20. IC 6-8.1-7-1, AS AMENDED BY P.L.182-2009(ss), SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

- (1) members and employees of the department;
- (2) the governor;
- (3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or
- (4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

- (1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and
- (2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a county office of the division of family resources located in Indiana, upon receipt of a written request

C  
O  
P  
Y



from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

- (1) the state agency shows an official need for the information; and
- (2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana when it is agreed that the information is to be confidential and to be used solely for official purposes.

(h) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(j) may be released solely for tax collection purposes to township assessors and county assessors.

(i) The department shall notify the appropriate innkeepers' tax

C  
O  
P  
Y



board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(j) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(m) All information relating to the delinquency or evasion of the excise taxes imposed on recreational vehicles and truck campers that are payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.1.

(n) This section does not apply to:

- (1) the beer excise tax, including brand and packaged type (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

(o) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

**(p) The names and business addresses of persons issued licenses by the department under IC 6-6 and IC 6-7 may be released for the purpose of reporting the status of the license.**

SECTION 21. [EFFECTIVE JANUARY 1, 2014] **(a) Before June**



C  
o  
p  
y

30, 2014, and for purposes of IC 6-2.5-3.5, as added by this act, the department of state revenue shall publish the gasoline use tax rate prescribed by IC 6-2.5-3.5, as added by this act, that will apply to the sales of gasoline occurring in July 2014.

(b) Each retail merchant covered by IC 6-2.5-7 shall take an inventory of the gasoline in storage on the commencement of business on July 1, 2014. A retail merchant shall remit to the department of state revenue the product of:

- (1) the number of gallons in storage on July 1, 2014; multiplied by
- (2) the gasoline use tax rate in effect on July 1, 2014.

A retail merchant shall remit the amount due on or before August 1, 2014, on forms and in a manner prescribed by the department.

(c) This SECTION expires July 1, 2015.

C  
o  
p  
y



---

President of the Senate

---

President Pro Tempore

---

Speaker of the House of Representatives

---

Governor of the State of Indiana

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

C  
o  
p  
y

