

H. B. 2598

(By Delegates Gearheart, Cooper and Howell)
[Introduced February 22, 2013; referred to the
Committee on Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §11-14C-2 and §11-14C-9 of the Code of
West Virginia, 1931, as amended, all relating to exempting
heating oil for residential use from the Motor Fuel Excise
Tax.

Be it enacted by the Legislature of West Virginia:

That §11-14C-2 and §11-14C-9 of the Code of West Virginia,
1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 14C. MOTOR FUEL EXCISE TAX.

§11-14C-2. Definitions.

As used in this article and unless the context requires
otherwise, the following terms have the meaning ascribed herein.

(1) "Agricultural purposes" means the activities of:

(A) Cultivating the soil, including the planting and
harvesting of crops, for the commercial production of food, fiber

1 and ornamental woodland products;

2 (B) Using land for breeding and management of farm livestock
3 including dairy, apiary, equine or poultry husbandry; and

4 (C) Using land for the practice of horticulture including the
5 growing of Christmas trees, orchards and nursery stock. ~~Provided,~~
6 ~~That~~ Agricultural purposes ~~shall~~ does not include commercial
7 forestry, growing of timber for commercial purposes or any other
8 activity that normally would not be included in subdivision (A),
9 (B) or (C) of this definition.

10 (2) "Aircraft" includes any airplane or helicopter.

11 (3) "Alcohol" means motor fuel grade ethanol or a mixture of
12 motor fuel-grade ethanol and methanol, excluding denaturant and
13 water that is a minimum of ninety-eight percent ethanol or methanol
14 by volume.

15 (4) "Article" or "this article" means article fourteen-c,
16 chapter eleven of this code.

17 (5) "Assessment" means a written determination by the
18 commissioner of the amount of taxes owed by a taxpayer.

19 (6) "Aviation fuel" means aviation gasoline or aviation jet
20 fuel.

21 (7) "Aviation gasoline" means motor fuel designed for use in
22 the operation of aircraft other than jet aircraft and sold or used
23 for that purpose.

24 (8) "Aviation jet fuel" means motor fuel designed for use in

1 the operation of jet or turbo-prop aircraft and sold or used for
2 that purpose.

3 (9) "Biodiesel fuel" means any motor fuel or mixture of motor
4 fuels that is derived, in whole or in part, from agricultural
5 products or animal fats, or the wastes of such products or fats,
6 and is advertised as or offered for sale as suitable for use or
7 used as motor fuel in an internal combustion engine.

8 (10) "Blended fuel" means a mixture composed of gasoline or
9 diesel fuel and another liquid including, but not limited to,
10 gasoline blend stocks, gasohol, ethanol, methanol, fuel grade
11 alcohol, diesel fuel enhancers and resulting blends, other than a
12 de minimus amount of a product such as carburetor detergent or
13 oxidation inhibitor, that can be used as a motor fuel in a highway
14 vehicle.

15 (11) "Blender" means a person who produces blended motor fuel
16 outside the bulk transfer/terminal system.

17 (12) "Blending" means the mixing of one or more petroleum
18 products, with or without another product, regardless of the
19 original character of the product blended, if the product obtained
20 by the blending is capable of use in the generation of power for
21 the propulsion of a motor vehicle, an airplane or a marine vessel.
22 Blending does not include mixing that occurs in the process of
23 refining by the original refiner of crude petroleum or the blending
24 of products known as lubricating oil in the production of

1 lubricating oils and greases.

2 (13) "Bulk plant" means a motor fuel storage and distribution
3 facility that is not a terminal and from which motor fuel may be
4 removed at a rack.

5 (14) "Bulk transfer" means ~~any~~ a transfer of motor fuel from
6 one location to another by pipeline tender or marine delivery
7 within a bulk transfer/terminal system including, but not limited
8 to, all of the following:

9 (A) A marine vessel movement of motor fuel from a refinery or
10 terminal to a terminal;

11 (B) Pipeline movements of motor fuel from a refinery or
12 terminal to a terminal;

13 (C) Book transfer of motor fuel within a terminal between
14 licensed suppliers prior to completion of removal across the rack;
15 and

16 (D) Two-party exchange between licensed suppliers or between
17 licensed suppliers and permissive suppliers.

18 (15) "Bulk user" means a person who maintains storage
19 facilities for motor fuel and uses part or all of the stored motor
20 fuel to operate a motor vehicle, watercraft or aircraft.

21 (16) "Bulk transfer/terminal system" means the motor fuel
22 distribution system consisting of refineries, pipelines, marine
23 vessels and terminals. Motor fuel in a refinery, a pipeline, a
24 terminal or a marine vessel transporting motor fuel to a refinery

1 or terminal is in the bulk transfer/terminal system. Motor fuel in
2 a motor fuel storage facility including, but not limited to, a bulk
3 plant that is not part of a refinery or terminal, in the motor fuel
4 supply tank of any engine or motor vehicle, in a marine vessel
5 transporting motor fuel to a motor fuel storage facility that is
6 not in the bulk transfer/terminal system or in any tank car, rail
7 car, trailer, truck or other equipment suitable for ground
8 transportation is not in the bulk transfer/terminal system.

9 (17) "Carrier" means ~~any~~ an operator of a pipeline or marine
10 vessel engaged in the business of transporting motor fuel above the
11 terminal rack.

12 (18) "Code" means the Code of West Virginia of 1931, as
13 amended.

14 (19) "Commercial watercraft" means a watercraft employed in
15 the business of commercial fishing, transporting persons or
16 property for compensation or hire or any other trade or business.

17 (20) "Commissioner" or "Tax Commissioner" means the West
18 Virginia State Tax Commissioner or his or her delegate.

19 (21) "Compressed natural gas" means natural gas that has been
20 compressed and dispensed into motor fuel storage containers and is
21 advertised as, offered for sale as, suitable for use as or used as
22 an engine motor fuel.

23 (22) "Corporate or partnership officer" means an officer or
24 director of a corporation, partner of a partnership, or member of

1 a limited liability company, who as an officer, director, partner
2 or member is under a duty to perform on behalf of the corporation,
3 partnership, or limited liability company the tax collection,
4 accounting or remitting obligations.

5 (23) "Dead storage" is the amount of motor fuel that cannot be
6 pumped out of a motor fuel storage tank because the motor fuel is
7 below the mouth of the draw pipe. The amount of motor fuel in dead
8 storage is two hundred gallons for a tank with a capacity of less
9 than ten thousand gallons and four hundred gallons for a tank with
10 a capacity of ten thousand gallons or more.

11 (24) "Denaturants" means and includes gasoline, natural
12 gasoline, gasoline components or toxic or noxious materials added
13 to motor fuel grade ethanol to make it unsuitable for beverage use
14 but not unsuitable for automotive use.

15 (25) "Designated inspection site" means ~~any~~ a state highway
16 inspection station, weigh station, agricultural inspection station,
17 mobile station or other location designated by the commissioner to
18 be used as a motor fuel inspection site.

19 (26) "Destination state" means the state, territory or foreign
20 country to which motor fuel is directed for delivery into a storage
21 facility, a receptacle, a container or a type of transportation
22 equipment for the purpose of resale or use. The term ~~shall~~ does
23 not include a tribal reservation of ~~any~~ a recognized Native
24 American tribe.

1 (27) "Diesel fuel" means ~~any~~ a liquid that is advertised as,
2 offered for sale as, sold for use as, suitable for use as or used
3 as a motor fuel in a diesel-powered highway vehicle or watercraft.
4 The term includes #1 fuel oil, #2 fuel oil, undyed diesel fuel and
5 kerosene but ~~shall~~ does not include gasoline or aviation fuel.

6 (28) "Distributor" means a person who acquires motor fuel from
7 a licensed supplier, permissive supplier or from another licensed
8 distributor for subsequent sale or use.

9 (29) "Diversion" means transporting motor fuel outside a
10 reasonably direct route from the source to the destination state.

11 (30) "Division" or "State Tax Division" means the Tax Division
12 of the West Virginia Department of Revenue.

13 (31) "Dyed diesel fuel" means diesel fuel that meets the
14 dyeing and marking requirements of section 4082, Title 26, United
15 States Code, regardless of how the diesel fuel was dyed.

16 (32) "End seller" means the person who sells motor fuel to the
17 ultimate user of the motor fuel.

18 (33) "Export" means to obtain motor fuel in West Virginia for
19 sale or other distribution in another state, territory or foreign
20 country.

21 (34) "Exporter" means a person that exports motor fuel from
22 this state. The seller is the exporter of motor fuel delivered
23 out-of-state by or for the seller and the purchaser is the exporter
24 of motor fuel delivered out-of-state by or for the purchaser.

1 (35) "Fuel" means motor fuel.

2 (36) "Fuel alcohol" means methanol or motor fuel grade
3 ethanol.

4 (37) "Fuel grade ethanol" means the ASTM standard in effect on
5 the effective date of this article as the D-4806 specification for
6 denatured motor fuel grade ethanol for blending with gasoline.

7 (38) "Fuel supply tank" means ~~any~~ a receptacle on a motor
8 vehicle from which motor fuel is supplied for the propulsion of the
9 motor vehicle.

10 (39) "Gallon" means a unit of liquid measure as customarily
11 used in the United States containing two hundred thirty-one cubic
12 inches by volume.

13 (40) "Gasohol" means a blended motor fuel composed of gasoline
14 and motor fuel alcohol.

15 (41) "Gasoline" means ~~any~~ a product commonly or commercially
16 known as gasoline, regardless of classification, that is advertised
17 as, offered for sale as, sold for use as, suitable for use as or
18 used as motor fuel in an internal combustion engine, including
19 gasohol, but does not include special fuel as defined in this
20 section.

21 (42) "Gasoline blend stocks" includes any petroleum product
22 component of gasoline, such as naphtha, reformate, or toluene,
23 listed in Treas. Reg. §48.4081-1(c) (3) that can be blended for use
24 in a motor fuel. ~~However,~~ The term does not include any substance

1 that will be ultimately used for consumer nonmotor fuel use and is
2 sold or removed in drum quantities of fifty-five gallons or less at
3 the time of the removal or sale.

4 (43) "Gross gallons" means the total measured product,
5 exclusive of ~~any~~ temperature or pressure adjustments,
6 considerations or deductions in U.S. gallons.

7 (44) "Governmental entity" means this state or any political
8 subdivision thereof or the United States or its commissioners,
9 agencies and instrumentalities.

10 (45) "Heating oil" means any combustible liquid including, but
11 not limited to, #1 fuel oil, #2 dyed fuel oil and kerosene that is
12 burned in a boiler, furnace or stove for heating or for industrial
13 processing purposes.

14 (46) "Highway" means every way or place of whatever nature
15 open to the use of the public for purposes of vehicular travel in
16 this state including the streets and alleys in towns and cities.

17 (47) "Highway vehicle" means ~~any~~ a self-propelled vehicle,
18 trailer or semitrailer that is designed or used for transporting
19 persons or property over the public highway and includes all
20 vehicles subject to registration under article three, chapter
21 seventeen-a of this code.

22 (48) "Import" means to bring motor fuel into this state by
23 motor vehicle, marine vessel, pipeline or any other means.
24 ~~However,~~ Import does not include bringing motor fuel into this

1 state in the motor fuel supply tank of a motor vehicle if the motor
2 fuel is used to power that motor vehicle.

3 (49) "Importer" means a person that imports motor fuel into
4 this state. The seller is the importer for motor fuel delivered
5 into this state from outside of this state by or for the seller and
6 the purchaser is the importer for motor fuel delivered into this
7 state from outside of this state by or for the purchaser.

8 (50) "Import verification number" means the number assigned by
9 the commissioner ~~with respect~~ to a single transport vehicle
10 delivery into this state from another state upon request for an
11 assigned number by an importer or the transporter carrying taxable
12 motor fuel into this state for the account of an importer.

13 (51) "In this state" means the area within the borders of West
14 Virginia including all territory within the borders of West
15 Virginia that is owned by the United States of America.

16 (52) "Invoiced gallons" means the gallons actually billed on
17 an invoice for payment.

18 (53) "Licensee" means ~~any~~ person licensed by the commissioner
19 pursuant to section ten of this article.

20 (54) "Liquid" means ~~any~~ a substance that is liquid above its
21 freezing point.

22 (55) "Liquefied natural gas" means natural gas that has been
23 liquefied at -126.1 degrees centigrade and stored in insulated
24 cryogenic tanks for use as an engine motor fuel.

1 (56) "Motor carrier" means ~~any~~ a vehicle used, designated or
2 maintained for the transportation of persons or property and having
3 two axles and a gross vehicle weight exceeding twenty-six thousand
4 pounds or having three or more axles regardless of weight or is
5 used in combination when the weight of the combination exceeds
6 twenty-six thousand pounds or registered gross vehicle weight and
7 any aircraft, barge or other watercraft or railroad locomotive
8 transporting passengers or freight in or through this state:
9 *Provided*, That the gross vehicle weight rating of the vehicles
10 being towed is in excess of ten thousand pounds. The term motor
11 carrier does not include any type of recreational vehicle.

12 (57) "Motor fuel" means gasoline, blended fuel, aviation fuel
13 and ~~any~~ special fuel but does not include heating fuel used
14 exclusively for heating a private dwelling.

15 (58) "Motor fuel transporter" means a person who transports
16 motor fuel outside the bulk transfer/terminal system by means of a
17 transport vehicle, a railroad tank car or a marine vessel.

18 (59) "Motor vehicle" means automobiles, motor carriers, motor
19 trucks, motorcycles and all other vehicles or equipment, engines or
20 machines which are operated or propelled by combustion of motor
21 fuel.

22 (60) "Net gallons" means the amount of motor fuel measured in
23 gallons when adjusted to a temperature of sixty degrees fahrenheit
24 and a pressure of fourteen and seven-tenths pounds pressure per

1 square inch.

2 (61) "Permissive supplier" is a person who may not be subject
3 to the taxing jurisdiction of this state but who meets ~~both~~ of the
4 following requirements:

5 (A) Is registered under section 4101 of the Internal Revenue
6 Code for transactions in motor fuel in the bulk transfer/terminal
7 system; and

8 (B) Is a position holder in motor fuel only located in another
9 state or a person who receives motor fuel only in another state
10 pursuant to a two-party exchange. ~~Provided, That~~ A person is
11 classified as a supplier if it has or maintains, occupies or uses,
12 within this state, directly or by a subsidiary, an office,
13 distribution house, sales house, warehouse, or other place of
14 business, or ~~any~~ an agent (by whatever name ~~called~~) operating
15 within this state under the authority of the supplier or its
16 subsidiary.

17 (62) "Person" means ~~any~~ an individual; firm; cooperative;
18 association; corporation; limited liability corporation; estate;
19 guardian; executor; administrator; trust; business trust;
20 syndicate; partnership; limited partnership; copartnership;
21 organization; limited liability partnership; joint venture;
22 receiver; trustee in bankruptcy; club, society or other group or
23 combination acting as a unit; ~~or~~ a public body including, but not
24 limited to, this state, any other state and any agency,

1 commissioner, institution, political subdivision or instrumentality
2 of this state or any other state; and ~~also any~~ an officer, employee
3 or member ~~of any~~ of the foregoing who, as an officer, employee or
4 member, ~~is under~~ has a duty to perform or is responsible for the
5 performance of an act prescribed by the provisions of this article.

6 (63) "Position holder" means the person who holds the
7 inventory position in motor fuel in a terminal as reflected on the
8 records of the terminal operator. A person holds the inventory
9 position in motor fuel when that person has a contract with the
10 terminal operator for the use of storage facilities and terminaling
11 services for motor fuel at the terminal. The term includes a
12 terminal operator who owns motor fuel in the terminal.

13 (64) "Principal" means:

14 (A) If a partnership, all ~~its~~ partners;

15 (B) If a corporation, all ~~its~~ officers, directors and
16 controlling direct or indirect owners;

17 (C) If a limited liability company, all ~~its~~ members; or

18 (D) An individual.

19 (65) "Rack" means a mechanism for delivering motor fuel from
20 a refinery, terminal, marine vessel or bulk plant into a transport
21 vehicle, railroad tank car or other means of transfer that is
22 outside the bulk transfer/terminal system.

23 (66) "Railroad locomotive" means any diesel-powered equipment
24 or machinery that rides on railroad rails and includes a switching

1 engine.

2 (67) "Receive" means ~~any~~ an acquisition of ownership or
3 possession of motor fuel.

4 (68) "Refiner" means ~~any~~ a person who owns, operates or
5 otherwise controls a refinery.

6 (69) "Refinery" means a facility for the manufacture or
7 reprocessing of finished or unfinished petroleum products usable as
8 motor fuel and from which motor fuel may be removed by pipeline or
9 marine vessel or at a rack.

10 (70) "Removal" means a physical transfer other than by
11 evaporation, loss, or destruction. A physical transfer to a
12 transport vehicle or other means of conveyance outside the bulk
13 transfer/terminal system is complete upon delivery into the means
14 of conveyance.

15 (71) "Retailer" means a person who sells motor fuel at retail
16 or dispenses motor fuel at a retail location.

17 (72) "Special fuel" means ~~any~~ a gas or liquid, other than
18 gasoline, used or suitable for use as motor fuel in an internal
19 combustion engine or motor to propel any form of vehicle, machine,
20 or mechanical contrivance and includes products commonly known as
21 natural or casing-head gasoline, diesel fuel, dyed diesel fuel,
22 biodiesel fuel, transmix and all forms of motor fuel commonly or
23 commercially known or sold as butane, propane, liquefied natural
24 gas, liquefied petroleum gas, compressed natural gas product or a

1 combination of liquefied petroleum gas and a compressed natural gas
2 product. "Special fuel" does not include any petroleum product or
3 chemical compound such as alcohol, industrial solvent, heavy
4 furnace oil or lubricant unless blended in or sold for use as motor
5 fuel in an internal combustion engine.

6 (73) "State" or "this state" means the State of West Virginia.

7 (74) "Supplier" means a person that is:

8 (A) Subject to the general taxing jurisdiction of this state;

9 (B) Registered under Section 4101 of the Internal Revenue Code
10 for transactions in motor fuel in the bulk transfer/terminal
11 distribution system; and

12 (C) One of the following:

13 (i) A position holder in motor fuel in a terminal or refinery
14 in this state and may concurrently also be a position holder in
15 motor fuel in another state; or

16 (ii) A person who receives motor fuel in this state pursuant
17 to a two-party exchange.

18 A terminal operator ~~shall not be considered~~ is not a supplier
19 based solely on the fact that the terminal operator handles motor
20 fuel consigned to it within a terminal.

21 (75) "Tax" or "this tax" is the motor fuel excise tax imposed
22 by this article and includes within its meaning interest and
23 additions to tax and penalties unless the context requires a more
24 limited meaning.

1 (76) "Taxpayer" means ~~any~~ a person required to file a return
2 for the tax imposed by this article or ~~any~~ a person liable for
3 payment of the tax imposed by this article.

4 (77) "Terminal" means a motor fuel storage and distribution
5 facility to which a terminal control number has been assigned by
6 the Internal Revenue Service, to which motor fuel is supplied by
7 pipeline or marine vessel and from which motor fuel may be removed
8 at a rack.

9 (78) "Terminal operator" means a person who owns, operates or
10 otherwise controls a terminal.

11 (79) "Transmix" means:

12 (A) The buffer or interface between two different products in
13 a pipeline shipment; or

14 (B) A mix of two different products within a refinery or
15 terminal that results in an off-grade mixture.

16 (80) "Transport vehicle" means a vehicle designed or used to
17 carry motor fuel over the highway and includes a straight truck, a
18 straight truck/trailer combination and a semitrailer combination
19 rig.

20 (81) "Trustee" means a person who is licensed as a supplier or
21 a permissive supplier and receives tax payments from and on behalf
22 of another pursuant to section twenty-four of this article.

23 (82) "Two-party exchange" means a transaction in which motor
24 fuel is transferred from one licensed supplier or permissive

1 supplier to another licensed supplier or permissive supplier
2 pursuant to an exchange agreement; and

3 (A) Includes a transfer from the person who holds the
4 inventory position in taxable motor fuel in the terminal as
5 reflected on the records of the terminal operator;

6 (B) Is completed prior to removal of the product from the
7 terminal by the receiving exchange partner; and

8 (C) Is recorded on the terminal operator's books and records
9 with the receiving exchange partner as the supplier that removes
10 the motor fuel across the terminal rack for purposes of reporting
11 the transaction to this state.

12 (83) "Use" means the actual consumption or receipt of motor
13 fuel by ~~any~~ a person into a motor vehicle, aircraft or watercraft.

14 (84) "Watercraft" means any vehicle used on waterways.

15 **§11-14C-9. Exemptions from tax; claiming refunds of tax.**

16 (a) *Per se exemptions from flat rate component of tax.* --
17 Sales of motor fuel to the following, or as otherwise stated in
18 this subsection, are exempt per se from the flat rate of the tax
19 levied by section five of this article and the flat rate may not be
20 paid at the rack:

21 (1) All motor fuel exported from this state to any other state
22 or nation: *Provided*, That the supplier collects and remits to the
23 destination state or nation the appropriate amount of tax due on
24 the motor fuel transported to that state or nation: *Provided*,

1 *however*, That this exemption does not apply to ~~any~~ motor fuel which
 2 is transported and delivered outside this state in the motor fuel
 3 supply tank of a highway vehicle;

4 (2) Sales of aviation fuel;

5 (3) Sales of dyed special fuel; ~~and~~

6 (4) Sales of propane; and

7 (5) Sales of heating fuel for use in heating private
 8 dwellings.

9 (b) *Per se exemptions from variable component of tax.* -- Sales
 10 of motor fuel to the following are exempt per se from the variable
 11 component of the tax levied by section five of this article and the
 12 variable component may not be paid at the rack:

13 (1) ~~All~~ Motor fuel exported from this state to any other state
 14 or nation: *Provided*, That the supplier collects and remits to the
 15 destination state or nation the appropriate amount of tax due on
 16 the motor fuel transported to that state or nation: *Provided*,
 17 *however*, That this exemption does not apply to ~~any~~ motor fuel which
 18 is transported and delivered outside this state in the motor fuel
 19 supply tank of a highway vehicle; and

20 (2) All heating fuel to be used to heat private dwellings.

21 (c) *Refundable exemptions from flat rate component of tax.* --
 22 ~~Any~~ A person having a right or claim to any of the following
 23 exemptions from the flat rate component of the tax levied by
 24 section five of this article shall first pay the tax levied by this

1 article and then apply to the Tax Commissioner for a refund:

2 (1) The United States or ~~any~~ agency thereof: *Provided*, That
3 if the United States government, or ~~any~~ agency or instrumentality
4 thereof, does not pay the seller the tax imposed by section five of
5 this article on ~~any~~ a purchase of motor fuel, the person selling
6 tax previously paid motor fuel to the United States government, or
7 its agencies or instrumentalities, may ~~then~~ claim a refund of the
8 flat rate component of tax imposed by said section on those sales;

9 (2) ~~Any~~ A county government or unit or agency thereof;

10 (3) ~~Any~~ A municipal government or any agency thereof;

11 (4) ~~Any~~ A county ~~boards~~ board of education;

12 (5) ~~Any~~ An urban mass transportation authority created
13 pursuant to the provisions of article twenty-seven, chapter eight
14 of this code;

15 (6) ~~Any~~ A municipal, county, state or federal civil defense or
16 emergency service program pursuant to a government contract for use
17 in conjunction therewith or to ~~any~~ a person on whom is imposed a
18 requirement to maintain an inventory of motor fuel for the purpose
19 of the program: *Provided*, That motor fueling facilities used for
20 these purposes are not capable of fueling motor vehicles and the
21 person in charge of the program has in his or her possession a
22 letter of authority from the Tax Commissioner certifying his or her
23 right to the exemption. ~~*Provided, however, That*~~ In order for this
24 exemption to apply, motor fuel sold under this subdivision and

1 subdivisions (1) through (5), inclusive, of this subsection shall
2 be used in vehicles or equipment owned and operated by the
3 respective government entity or government agency or authority;

4 (7) All invoiced gallons of motor fuel purchased by a licensed
5 exporter and subsequently exported from this state to any other
6 state or nation: *Provided*, That the exporter has paid the
7 applicable motor fuel tax to the destination state or nation prior
8 to claiming this refund or the exporter has reported to the
9 destination state or nation that the motor fuel was sold in a
10 transaction not subject to tax in that state or nation. ~~*Provided*,~~
11 ~~*however*,~~ That A refund may not be granted on ~~any~~ motor fuel which
12 is transported and delivered outside this state in the motor fuel
13 supply tank of a highway vehicle;

14 (8) All gallons of motor fuel used and consumed in stationary
15 off-highway turbine engines;

16 (9) All gallons of special fuel used for heating ~~any~~ a public
17 or private dwelling, building or other premises;

18 (10) All gallons of special fuel used for boilers;

19 (11) All gallons of motor fuel used as a dry cleaning solvent
20 or commercial or industrial solvent;

21 (12) All gallons of motor fuel used as lubricants, ingredients
22 or components of ~~any~~ a manufactured product or compound;

23 (13) All gallons of motor fuel sold for use or used as a motor
24 fuel for commercial watercraft;

1 (14) All gallons of special fuel sold for use or consumed in
2 railroad diesel locomotives;

3 (15) All gallons of motor fuel purchased in quantities of
4 twenty-five gallons or more for use as a motor fuel for internal
5 combustion engines not operated upon highways of this state;

6 (16) All gallons of motor fuel purchased in quantities of
7 twenty-five gallons or more and used to power a power take-off unit
8 on a motor vehicle. When a motor vehicle with auxiliary equipment
9 uses motor fuel and there is no auxiliary motor for the equipment
10 or separate tank for a motor, the person claiming the refund may
11 present to the Tax Commissioner a statement of his or her claim and
12 is allowed a refund for motor fuel used in operating a power
13 take-off unit on a cement mixer truck or garbage truck equal to
14 twenty-five percent of the tax levied by this article paid on all
15 motor fuel used in such a truck;

16 (17) Motor fuel used by ~~any~~ a person regularly operating ~~any~~
17 a vehicle under a certificate of public convenience and necessity
18 or under a contract carrier permit for transportation of persons
19 when purchased in an amount of twenty-five gallons or more.
20 ~~Provided, That~~ The amount refunded is equal to six cents per
21 gallon: ~~Provided, however,~~ That the gallons of motor fuel have
22 been consumed in the operation of urban and suburban bus lines and
23 the majority of passengers use the bus for traveling a distance not
24 exceeding forty miles, measured one way, on the same day between

1 their places of abode and their places of work, shopping areas or
2 schools; and

3 (18) All gallons of motor fuel that are not otherwise exempt
4 under subdivisions (1) through (6), inclusive, of this subsection
5 and that are purchased and used by ~~any~~ a bona fide volunteer fire
6 department, nonprofit ambulance service or emergency rescue service
7 that has been certified by the municipality or county wherein the
8 bona fide volunteer fire department, nonprofit ambulance service or
9 emergency rescue service is located.

10 (d) *Refundable exemptions from variable rate component of tax.*
11 -- ~~Any of~~ The following persons may claim an exemption from the
12 variable rate component of the tax levied by section five of this
13 article on the purchase and use of motor fuel by first paying the
14 tax levied by this article and then applying to the Tax
15 Commissioner for a refund.

16 (1) The United States or ~~any~~ agency thereof: *Provided*, That
17 if the United States government, or ~~any~~ agency or instrumentality
18 thereof, does not pay the seller the tax imposed by section five of
19 this article on ~~any~~ a purchase of motor fuel, the person selling
20 tax previously paid motor fuel to the United States government or
21 its agencies or instrumentalities, may ~~then~~ claim a refund of the
22 variable rate of tax imposed by said section on those sales.

23 (2) This state and its institutions;

24 (3) ~~Any~~ A county government or unit or agency thereof;

1 (4) ~~Any~~ A municipal government or ~~any~~ agency thereof;

2 (5) ~~Any~~ A county ~~boards~~ board of education;

3 (6) ~~Any~~ An urban mass transportation authority created
4 pursuant to the provisions of article twenty-seven, chapter eight
5 of this code;

6 (7) ~~Any~~ A municipal, county, state or federal civil defense or
7 emergency service program pursuant to a government contract for use
8 in conjunction therewith, or to ~~any~~ a person on whom is imposed a
9 requirement to maintain an inventory of motor fuel for the purpose
10 of the program: *Provided*, That fueling facilities used for these
11 purposes are not capable of fueling motor vehicles and the person
12 in charge of the program has in his or her possession a letter of
13 authority from the Tax Commissioner certifying his or her right to
14 the exemption;

15 (8) ~~Any~~ A bona fide volunteer fire department, nonprofit
16 ambulance service or emergency rescue service that has been
17 certified by the municipality or county wherein the bona fide
18 volunteer fire department, nonprofit ambulance service or emergency
19 rescue service is located; or

20 (9) All Invoiced gallons of motor fuel purchased by a licensed
21 exporter and subsequently exported from this state to any other
22 state or nation: *Provided*, That the exporter has paid the
23 applicable motor fuel tax to the destination state or nation prior
24 to claiming this refund: *Provided, however*, That a refund may not

1 be granted on any motor fuel which is transported and delivered
2 outside this state in the motor fuel supply tank of a highway
3 vehicle.

4 (e) The provision in subdivision (9), subsection (a), section
5 nine, article fifteen of this chapter that exempts as a sale for
6 resale those sales of gasoline and special fuel by a distributor or
7 importer to another distributor does not apply to sales of motor
8 fuel under this article.

NOTE: The purpose of this bill is to exempt heating oil used
for residential purposes from the Motor Fuel Excise Tax.

Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would
be added.