HOUSE BILL No. 2488

By Committee on Taxation

AN ACT concerning the motor-fuel tax law; relating to definitions, special fuels; amending K.S.A. 2017 Supp. 79-3401 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2017 Supp. 79-3401 is hereby amended to read as follows: 79-3401. This act, and amendments thereto, shall be known and may be cited as the "motor-fuel tax law," and as so constituted is hereinafter referred to as "this act." The following words, terms and phrases, when used in this act, shall have the meanings ascribed to them in this section, except in those instances clearly indicating a different meaning:

(a) "Aviation fuel" means motor fuels for use as fuel for aircraft;

(b) "Agricultural ethyl alcohol" means a motor-vehicle fuel component with a purity of at least 99%, exclusive of any added denaturants, denatured in conformity with one of the methods approved by the United States department of the treasury, bureau of alcohol, tobacco and firearms, and distilled in the United States of America from grain produced in the United States of America;

(c) "Bulk plant" means a motor fuels storage facility, other than a terminal, that is primarily used to redistribute motor fuels;

(d) "Dealer" means any person engaged in the retail sale of motor-vehicle fuels or special fuels;

(e) "Director" means the director of taxation, a duly authorized deputy, agent or representative;

(f) "Distributor" means any person, who:

(1) Imports or causes to be imported from any other state or territory of the United States motor-vehicle fuels or special fuels for such person's own use in the state of Kansas, or for sale and delivery therein, after the same shall have come to rest or storage therein, whether or not in the original package, receptacle or container; or

(2) Imports or causes to be imported, from a foreign country, motor-vehicle fuels or special fuels for such person's own use in the state of Kansas, or for sale and delivery therein, after the same shall have come to rest or storage, whether or not in the original package, receptacle or container;
(3) purchases or receives motor-vehicle fuels or special fuels in the
original package, receptacle or container in the state of Kansas for such
person's own use therein, or for sale and delivery therein, from any person
who has imported the same from any other state or territory of the United
States, or any other nation, in case such motor-vehicle fuels or special
fuels have not, prior to such purchase or receipt, come to rest or storage in
the state of Kansas; or

(4) received and, in any manner, uses, sells or delivers motor-vehicle
fuels or special fuels in the state of Kansas on which the tax provided for
in this act has not been previously paid;

(g) "exporter" means any person who exports or causes to be
exported motor vehicle fuels or special fuels from Kansas to any other
state or territory of the United States or to a foreign country, for such
person's own use or for sale or delivery therein, whether or not in the
original package, receptacle or container;

(h) "importer" means any person who imports or causes to be
imported motor-vehicle fuels or special fuels from any other state or
territory of the United States or from a foreign country, for such person's
own use in the state of Kansas or for sale or delivery therein, whether or
not in the original package, receptacle or container;

(i) "liquid fuels" or "motor fuels" means any inflammable liquid by
whatever name such liquid shall be known or sold, which is used, or
practically or commercially usable, either alone or when mixed or
combined in an internal-combustion engine for the generation of power;

(j) "manufacturer" or "refiner" means any person who or which
produces, refines, prepares, blends, distills, manufactures or compounds
motor-vehicle fuels or special fuels in the state of Kansas for such person's
own use therein, or for sale or delivery therein. The term "manufacturer"
shall not include any person who or which mechanically separates liquids
from natural gas at production facilities or gathering system pipelines on
the lease. No person who produces, refines, prepares, blends, distills,
manufactures, or compounds motor-vehicle fuels or special fuels shall be
required to render a distributor's (manufacturer's) report as to any
particular lot or lots of motor-vehicle fuels or special fuels until such
motor-vehicle fuels or special fuels have been loaded at a refinery or other
place of production into tank cars, or placed in any tank at such refinery or
other place of production from which any withdrawals are made direct into
tanks, tank wagons or other types of transportation equipment, containers
or facilities;

(k) "motor vehicle" means a motor vehicle as defined by K.S.A. 8-
126, and amendments thereto, and which is required to be registered
pursuant to K.S.A. 8-126 et seq., and amendments thereto;

(l) "motor-vehicle fuels" means gasoline, casinghead gasoline, natural
gasoline, drip gasoline, aviation gasoline, gasohol, gasoline-oxygenate
blend and any other spark-ignition motor fuel as defined by the 1995
United States department of commerce, national institute of standards and
technology handbook 130 issued December of 1994, and as may
subsequently be defined in rules and regulations which the director may
adopt pursuant to K.S.A. 79-3419, and amendments thereto;
(m) "oil inspector" means the director of taxation, a duly authorized
deputy, agent or representative;
(n) "person" means every natural person, association, partnership,
limited partnership, limited liability company or corporation. When used
in any statute, prescribing and imposing a fine or imprisonment, or both,
the term "person" as applied to firms and associations means the partners
or members thereof and, as applied to corporations, the corporation and the
officers thereof;
(o) "public highways" means and includes every way or place, of
whatever nature, generally open to the use of the public as a matter of
right, for the purposes of vehicular travel and notwithstanding that the
same shall have been temporarily closed for the purpose of construction,
reconstruction or repair;
(p) "received" means motor-vehicle fuel or special fuel produced,
refined, prepared, distilled, manufactured, blended or compounded at any
refinery or other place, in the state of Kansas by any person, or imported
into this state from any other state, territory, or foreign country by pipeline
or connecting pipeline at a pipeline terminal or pipeline tank farm for
storage, shall be deemed to be "received" by such person thereat when the
same shall have been loaded at such refinery, pipeline terminal, pipeline
tank farm or other place, into tank cars, tank trucks or other container, or
placed in any tank from which any withdrawals are made direct into tank
cars, tank trucks or other types of transportation equipment, containers or
facilities;
(q) "retailer" means a person that engages in the business of selling or
distributing motor fuels to the end user;
(r) "school bus" means every bus, as defined by K.S.A. 8-1406, and
amendments thereto, which is: (1) Privately owned and contracted for,
leased or hired by a school district or nonpublic school for the
transportation of pupils, students or school personnel to or from school or
to or from school-related functions or activities; or (2) owned and operated
by a school district or nonpublic school which is registered under the
provisions of K.S.A. 8-126 et seq., and amendments thereto, used for the
transportation of pupils, students or school personnel to or from school or
to or from school-related functions or activities;
(s) "special fuels" means all combustible liquids suitable for the
generation of power for the propulsion of motor vehicles including, but not
limited to, diesel fuel, alcohol and such fuels not defined under the motor-
vehicle fuels definition, hereinafter referred to as motor-vehicle fuel;
(t) "terminal" means a fuel storage and distribution facility that is
supplied by motor vehicle, pipeline or marine vessel, and from which
motor fuels may be removed at a rack. "Terminal" does not include any
facility at which motor fuel blend stocks and additives are used in the
manufacture of products other than motor fuels and from which no motor
fuels are removed;
(u) "terminal operator" means the person who by ownership or
contractual agreement is charged with the responsibility for, or physical
control over, and operation of a terminal;
(v) "transporter" means a person who has been issued a liquid-fuels
carrier's license pursuant to K.S.A. 55-506 et seq., and amendments
thereto; and
(w) "E85 fuels" means an alternative fuel that is a blend of denatured
ethanol and hydrocarbon that typically contains 85% ethanol by volume,
but at a minimum must contain 70% ethanol by volume, and complies with
ASTM specification D5798-99.
Sec. 2. K.S.A. 2017 Supp. 79-3401 is hereby repealed.
Sec. 3. This act shall take effect and be in force from and after its
publication in the statute book.