

As Amended by House Committee

Session of 2018

HOUSE BILL No. 2488

By Committee on Taxation

1-17

1 AN ACT concerning the motor-fuel tax law; relating to definitions, special
2 fuels; amending K.S.A. 2017 Supp. 79-3401 and repealing the existing
3 section.
4

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

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

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

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

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

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

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

26 (f) "distributor" means any person, who:

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

32 (2) imports or causes to be imported, from a foreign country, motor-
33 vehicle fuels or special fuels for such person's own use in the state of
34 Kansas, or for sale and delivery therein, after the same shall have come to
35 rest or storage, whether or not in the original package, receptacle or
36 container;

1 (3) purchases or receives motor-vehicle fuels or special fuels in the
2 original package, receptacle or container in the state of Kansas for such
3 person's own use therein, or for sale and delivery therein, from any person
4 who has imported the same from any other state or territory of the United
5 States, or any other nation, in case such motor-vehicle fuels or special
6 fuels have not, prior to such purchase or receipt, come to rest or storage in
7 the state of Kansas; or

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

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

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

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

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

40 (k) "motor vehicle" means a motor vehicle as defined by K.S.A. 8-
41 126, and amendments thereto, and which is required to be registered
42 pursuant to K.S.A. 8-126 et seq., and amendments thereto;

43 (l) "motor-vehicle fuels" means gasoline, casinghead gasoline, natural

1 gasoline, drip gasoline, aviation gasoline, gasohol, gasoline-oxygenate
2 blend, **alcohol when blended or mixed with gasoline or other**
3 **inflammable liquids burned in motor vehicles** and any other spark-
4 ignition motor fuel as defined by the 1995 United States department of
5 commerce, national institute of standards and technology handbook 130
6 issued December of 1994, and as may subsequently be defined in rules and
7 regulations which the director may adopt pursuant to K.S.A. 79-3419, and
8 amendments thereto;

9 (m) "oil inspector" means the director of taxation, a duly authorized
10 deputy, agent or representative;

11 (n) "person" means every natural person, association, partnership,
12 limited partnership, limited liability company or corporation. When used
13 in any statute, prescribing and imposing a fine or imprisonment, or both,
14 the term "person" as applied to firms and associations means the partners
15 or members thereof and, as applied to corporations, the corporation and the
16 officers thereof;

17 (o) "public highways" means and includes every way or place, of
18 whatever nature, generally open to the use of the public as a matter of
19 right, for the purposes of vehicular travel and notwithstanding that the
20 same shall have been temporarily closed for the purpose of construction,
21 reconstruction or repair;

22 (p) "received" means motor-vehicle fuel or special fuel produced,
23 refined, prepared, distilled, manufactured, blended or compounded at any
24 refinery or other place, in the state of Kansas by any person, or imported
25 into this state from any other state, territory, or foreign country by pipeline
26 or connecting pipeline at a pipeline terminal or pipeline tank farm for
27 storage, shall be deemed to be "received" by such person thereat when the
28 same shall have been loaded at such refinery, pipeline terminal, pipeline
29 tank farm or other place, into tank cars, tank trucks or other container, or
30 placed in any tank from which any withdrawals are made direct into tank
31 cars, tank trucks or other types of transportation equipment, containers or
32 facilities;

33 (q) "retailer" means a person that engages in the business of selling or
34 distributing motor fuels to the end user;

35 (r) "school bus" means every bus, as defined by K.S.A. 8-1406, and
36 amendments thereto, which is: (1) Privately owned and contracted for,
37 leased or hired by a school district or nonpublic school for the
38 transportation of pupils, students or school personnel to or from school or
39 to or from school-related functions or activities; or (2) owned and operated
40 by a school district or nonpublic school which is registered under the
41 provisions of K.S.A. 8-126 et seq., and amendments thereto, used for the
42 transportation of pupils, students or school personnel to or from school or
43 to or from school-related functions or activities;

1 (s) "special fuels" means all combustible liquids suitable for the
2 generation of power for the propulsion of motor vehicles including, but not
3 limited to, diesel fuel, ~~alcohol~~ and such fuels not defined under the motor-
4 vehicle fuels definition, hereinafter referred to as motor-vehicle fuel;

5 (t) "terminal" means a fuel storage and distribution facility that is
6 supplied by motor vehicle, pipeline or marine vessel, and from which
7 motor fuels may be removed at a rack. "Terminal" does not include any
8 facility at which motor fuel blend stocks and additives are used in the
9 manufacture of products other than motor fuels and from which no motor
10 fuels are removed;

11 (u) "terminal operator" means the person who by ownership or
12 contractual agreement is charged with the responsibility for, or physical
13 control over, and operation of a terminal;

14 (v) "transporter" means a person who has been issued a liquid-fuels
15 carrier's license pursuant to K.S.A. 55-506 et seq., and amendments
16 thereto; and

17 (w) "E85 fuels" means an alternative fuel that is a blend of denatured
18 ethanol and hydrocarbon that typically contains 85% ethanol by volume,
19 but at a minimum must contain 70% ethanol by volume, and complies with
20 ASTM specification D5798-99.

21 Sec. 2. K.S.A. 2017 Supp. 79-3401 is hereby repealed.

22 Sec. 3. This act shall take effect and be in force from and after its
23 publication in the statute book.