SENATE BILL No. 379

By Committee on Ways and Means

2-11

AN ACT concerning taxation; relating to the liquefied petroleum motor-fuel law; rates of taxation; amending K.S.A. 79-3492 and K.S.A. 2013 Supp. 79-3495 and 79-34,141 and repealing the existing sections.

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

Section 1. K.S.A. 79-3492 is hereby amended to read as follows: 79-3492. (a) Except as otherwise provided in this act, a tax per gallon, or fraction thereof, at the rate computed as prescribed in K.S.A. 79-34,141, and amendments thereto, is hereby imposed on the LP-gas user or LP-gas dealer who places such LP-gas fuel into the fuel supply tank or tanks of any motor vehicle while such vehicle is within this state except that in those instances in which LP-gas is withdrawn from the cargo tank of a motor vehicle for the operation thereof upon the public highways of the state, the tax shall be imposed upon and measured only by that volume of LP-gas so withdrawn and used multiplied by the tax rate per gallon provided in this act.

(b) The conversion formula to be used to convert compressed natural gas and liquefied natural gas per gallon for the tax imposed pursuant to K.S.A. 79-34,141, and amendments thereto, shall be as follows:

(1) For purposes of converting the energy equivalent of compressed natural gas measured in cubic feet to a gasoline gallon energy equivalent, 126.67 cubic feet or 5.66 pounds of compressed natural gas shall equal one gasoline gallon; or

(2) for purposes of converting the energy equivalent of liquefied natural gas measured in pounds to a diesel gallon energy equivalent, 6.06 pounds of liquefied natural gas shall equal one diesel gallon.

Sec. 2. K.S.A. 2013 Supp. 79-3495 is hereby amended to read as follows: 79-3495. (a) Each LP-gas user or LP-gas dealer subject to the provisions of this act must, on or before the 25th day of each calendar month, file with the director a report, certified to be true and correct, on a form prescribed and furnished by the director, showing the total number of gallons of LP-gas placed into fuel supply tank or tanks of any motor vehicle while such vehicle is within this state during the preceding calendar month, including the number of gallons on hand at the beginning and end of each month, the number of gallons received from any and all sources supported by detailed schedules of receipts, purchases and
withdrawals for sale or use, and such other information as the director may
require. Each LP-gas user or LP-gas dealer at the time of filing each
monthly report must pay to the director the full amount of tax due for the
preceding calendar month at the rate provided for in this act.

(b) Any tax imposed under the provisions of this act not paid on or
before the 25th of the month succeeding the calendar month in which the
LP-gas was used shall be deemed delinquent and shall bear interest at the
rate per month, or fraction thereof prescribed by subsection (a) of K.S.A.
79-2968, and amendments thereto, from such due date until paid, and in
addition thereto there is hereby imposed upon all amounts of such tax
remaining due and unpaid after such due date a penalty in the amount of
5% thereof, and such penalty shall be by the director added to and
collected as a part of such tax. If the LP-gas user or LP-gas dealer
furnishes evidence to the director that the delinquency was due to causes
beyond such user's or dealer's reasonable control, and if in the opinion of
the director the delinquency was not the result of willful negligence of the
LP-gas user or LP-gas dealer the penalty or interest or both may be waived
or reduced by the director.

(c) The director, if satisfied that the enforcement of the act is not
adversely affected, may exempt any LP-gas user or LP-gas dealer from the
monthly reporting and payment requirements of this act and require in lieu
thereof annual payment of the tax due hereunder and annual reporting on
forms provided by the director.

(d) Whenever the secretary or the secretary's designee determines that
the failure of the taxpayer to comply with the provisions of subsection (b)
was due to reasonable causes, the secretary or the secretary's designee may
waive or reduce any of the penalties and may reduce the interest rate to the
underpayment rate prescribed and determined for the applicable period
under section 6621 of the federal internal revenue code as in effect on
January 1, 1994, upon making a record of the reasons therefor.

(e) It shall be unlawful for any LP-gas user or LP-gas dealer to use or
sell any LP-gas within this state unless such LP-gas user or LP-gas dealer
is a holder of an uncanceled, unsuspended or revoked license issued by
the director, unless such user has remitted the tax to a licensed LP-gas
dealer. To procure such license every applicant shall file with the director
an application upon oath and in such form as the director may prescribe,
setting forth the name and addresses, the kind of business, and the
designation of the exact locations or places of business where LP-gas is
delivered or placed into the fuel supply tank or tanks of a motor vehicle,
and such other information as the director may require. Such application
must also contain, as a condition to the issuance of the license, an
agreement by the applicant to comply with the provisions and
requirements of this act and the rules and regulations promulgated by the
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director. If the applicant is a partnership or association, the application
shall set forth the name and address of each partner or person constituting
the partnership, or association, and if a corporation, the names and
addresses of the principal officers thereof, and any other information
prescribed by the director for the purposes of identification. The
application shall be signed and verified by oath or affirmation by the
owner, if a natural person, and in case of partnership or association, by a
partner or member thereof, and in case of a corporation, by an executive
officer thereof or some person specifically authorized by the corporation to
sign the application, to which shall be attached written evidence of such
person's authority. Any valid LP-gas user's or LP-gas dealer's license in
effect on the effective date of this act shall remain in full force and effect
and no new application need be made under this act.

(f) In the event that any application for a license to use LP-gas as an
LP-gas user or LP-gas dealer in this state shall be filed by any person
whose license shall at any time theretofore have been canceled for cause,
or in case the director shall be of the opinion that such application is not
filed in good faith, or that such application is filed by some person as a
subterfuge for the real person in interest whose license or registration shall
theretofore have been canceled for cause, then and in any of such events,
the director may refuse to issue to such person a license in this state.
Notice of such refusal shall be mailed to the applicant. Any applicant
aggrieved by the order of the director refusing to issue a license may
request a hearing of the director on such application by filing with the
director a written request therefor. Upon such filing the director shall
conduct a hearing in accordance with the provisions of the Kansas
administrative procedure act. If the director finds upon such hearing that
applicant is entitled to a license, the director shall order its issuance, but if
the director finds that such applicant is not entitled to a license, such
director shall enter an order refusing issuance.

(g) Upon the filing of the application for a license, a filing fee of $5
shall be paid to the director. All such fees collected by the director shall be
remitted to the state treasurer in accordance with the provisions of K.S.A.
75-4215, and amendments thereto. Upon receipt of each such remittance,
the state treasurer shall deposit the entire amount in the state treasury to
the credit of the state general fund. The application in proper form having
been accepted for filing, the bond hereafter provided for having been
accepted and approved by the director and the other conditions and
requirements of this act having been complied with, the director shall issue
to such applicant a license and such license shall be in force so long as the
holder thereof has in force a bond as required by this act deposited with
the director, or until such license is suspended, surrendered, or revoked for
cause by the director. The license issued by the director shall not be
assignable and shall be valid only for the LP-gas user or LP-gas dealer in whose name issued, and shall be displayed conspicuously by the LP-gas user or LP-gas dealer at the user's or dealer's principal place of business as set forth in the application.

(h) In the event a person qualifies for both a user's and dealer's license, only one license shall be required. A copy of such user's or dealer's license shall be required for each place of business of the licensee where LP-gas is sold or dispensed. No charge shall be made for additional copies of such user's or dealer's license when such copies are required for multiple business locations.

Sec. 3. K.S.A. 2013 Supp. 79-34,141 is hereby amended to read as follows: 79-34,141. The tax imposed under this act shall be not less than:

(1) On motor-vehicle fuels other than E85 fuels, $.24 per gallon, or fraction thereof;

(2) on special fuels, $.26 per gallon, or fraction thereof;

(3) on LP-gas, other than compressed natural gas and liquefied natural gas, $.23 per gallon, or fraction thereof; and

(4) on E85 fuels, $.17 per gallon, or fraction thereof;

(5) on compressed natural gas, $.24 per gallon, or fraction thereof; and

(6) on liquefied natural gas, $.26 per gallon, or fraction thereof.

Sec. 4. K.S.A. 79-3492 and K.S.A. 2013 Supp. 79-3495 and 79-34,141 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.