



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

Draft

Date Amended	04/30/07	Bill No:	<u>SB 494</u>
Tax:	Motor Vehicle Fuel Diesel Fuel Use Fuel	Author:	Kehoe and Perata
Related Bills:	AB 99 (Feuer)		

This analysis only addresses the provisions that impact the Board.

BILL SUMMARY

Among other things, beginning January 1, 2014, and by January 1 of each even-numbered year thereafter, this bill would require the Department of Finance (DOF), in consultation with the Board, the State Air Resources Board (CARB), the State Energy Resources Conservation and Development Commission (Energy Commission), and the California Transportation Commission (CTC), to determine if a decline in petroleum fuel tax revenue has occurred as a result of using clean alternative fuels, as specified.

ANALYSIS

CURRENT LAW

Under the **Motor Vehicle Fuel Tax Law** (Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code), the state imposes an excise tax of \$0.18 per gallon on the import of motor vehicle fuel and the removal of motor vehicle fuel at the terminal rack level. Motor vehicle fuel includes gasoline, gasohol (blended alcohol fuels with more than 15 percent gasoline), or any other blend of gasoline and blending agent.

Under the **Diesel Fuel Tax Law** (Part 31 (commencing with Section 60001) of Division 2 of the Revenue and Taxation Code), the state imposes an excise tax of \$0.18 per gallon on the removal at the terminal rack level or import of undyed diesel fuel. Diesel fuel includes any fuel that has practical and commercial fitness for use in the engine of a diesel-powered highway vehicle without further processing or blending, including biodiesel. Biodiesel is a fuel made fully or partially from vegetable oils or animal fats.

Under the **Use Fuel Tax Law** (Part 3 (commencing with Section 8601) of Division 2 of the Revenue and Taxation Code) the state imposes an excise tax at a rate of \$0.18 per gallon on the sale or use of any combustible gas or liquid (such as kerosene) of a kind used to propel a motor vehicle on the highways of this state that is not taxed as motor vehicle fuel or diesel fuel. The state also imposes an excise tax on the following use fuels: liquefied petroleum gas at a rate of \$0.06 per gallon; compressed natural gas at a rate of \$0.07 per 100 cubic feet; liquid natural gas at a rate of \$0.06 per gallon; ethanol at a rate of \$0.09 per gallon; and methanol at a rate of \$0.09 per gallon.

The revenues generated from these excise taxes are deposited in the Transportation Tax Fund.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

The following table provides the type of fuel and current tax rate:

Type of Fuel	Tax Rate
Motor Vehicle Fuel – includes gasoline, gasohol, or any other blend of gasoline and blending agents (includes ethanol and gasoline blends with more than 15 percent gasoline)	\$0.18 - rate per gallon
Diesel Fuel – includes biodiesel and any other fuel suitable for use in a diesel powered vehicle (includes diesel, biodiesel, and ethanol blends)	\$0.18 - rate per gallon
Fuel Subject to Use Fuel Tax – includes any combustible gas or liquid (such as kerosene) used for the generation of power to propel a motor vehicle on the highways in this state	\$0.18 – rate per gallon
Alcohol Fuels – includes ethanol, methanol, and other blended alcohol fuels with less than 15 percent gasoline	\$0.09 - rate per gallon
Compressed Natural Gas	\$0.06 - rate per 100 cubic feet
Liquid Natural Gas	\$0.07 - rate per gallon
Liquefied Petroleum Gas	\$0.06 - rate per gallon

PROPOSED LAW

This bill would add Article 8 (commencing with Section 43900) to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code to enact the Clean Alternative Fuel and Clean Vehicle Act of 2007. Among other things, beginning January 1, 2014, and by January 1 of each even-numbered year thereafter, Section 43903 would require the DOF, in consultation with the Board, CARB, Energy Commission, and CTC to determine if a decline in petroleum fuel tax revenue has occurred as a direct result of using clean alternative fuels, and to submit recommendations to the Legislative Analyst and to the budget, fiscal, and policy committees of the Legislature, on alternatives to compensate for any decline in revenue.

IN GENERAL

In 2000, in response to the public's concerns about price volatility, supply shortages, and the frequency of refinery outages, the Legislature passed Assembly Bill 2076 (Ch. 936, Shelley, Stats. 2000). The bill directed the Energy Commission and CARB to develop and adopt recommendations to the Governor and the Legislature on a California strategy to reduce petroleum dependence. The statute requires the strategy to include goals for reducing the rate of growth in the demand for petroleum fuels.

In 2003, the Energy Commission and CARB issued their report to the Legislature, "Reducing California's Petroleum Dependence," and recommended that the state adopt a goal of 20 percent non-petroleum fuel use by the year 2020 and 30 percent by the year 2030.

In 2005, AB 1007 (Ch. 371, Pavley, Stats. 2005), required the Energy Commission, in partnership with the CARB, and in consultation with the State Water Resources Control Board, and the Department of Food and Agriculture to develop and adopt a state plan to increase the use of alternative transportation fuels no later than June 30, 2007 (www.energy.ca.gov/AB1007/). The plan must set goals for 2012, 2017, and 2022 for increased alternative fuel use in the state that accomplishes all of the following: 1) standards on transportation fuels and vehicles; 2) policy mechanisms to ensure that vehicles capable of operating on these fuels use them to the maximum extent feasible; 3) policy mechanisms to ensure that alternative fuel fueling stations are available; and 4) mechanisms to encourage vehicles that use alternative fuel.

BACKGROUND

Last year's AB 1012 (Nation), which is very similar to this bill, was vetoed by the Governor. In his veto message, Governor Schwarzenegger stated:

“Assembly Bill 1012 mandates that 50% of all cars and trucks sold in California to be powered by alternative fuels. I strongly support the goal to increase California's use of alternative transportation fuels, however this bill is counterproductive to several major initiatives already underway and will cost California more than \$1.2 billion in transportation funding.

Last year I signed Assembly Bill 1007, which requires development of a comprehensive plan with specific benchmarks on how to achieve the goal of increasing the use of alternative fuels in California. This process is underway and this bill ignores this planning and prejudices the outcome.

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Most importantly, Department of Finance estimates that this bill will cost the state at least \$1.2 billion per year in critical transportation funds. Gasoline taxes fund our states highways, local streets and roads and our transit system. Alternative transportation fuels are taxed at one half the rate of gasoline and diesel. As we incorporate more of these fuels into our transportation system we need to plan for and mitigate the impact on funding to support our transportation system.”

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by Clean Power Campaign. According to the author, “This bill builds upon the alternative fuels report mandated by AB 1007, which is due to be released on June 30th of this year. This bill supports the AB 1007 Report by ensuring that there is sufficient time for a market to develop that can fully utilize the increased production of alternative fuels called for in other state initiatives.”
2. **The Board's Fuel Taxes Division collects and maintains data on gasoline, diesel, and use fuel taxes.** For gasoline and diesel fuel, including biodiesel, the Board collects data on total taxable gallons and total taxes due and payable on those gallons. For fuels subject to the use fuel tax (ethanol, methanol, compressed natural gas, liquefied natural gas, and liquefied petroleum gas) the Board has data available on total taxable gallons and total taxes due and payable on those gallons.

In addition, the Board publishes in its annual report taxable distributions of gasoline, diesel fuel, and alternative fuels (fuels subject to use fuel tax) in gallons, including revenues attributable to those distributions. The Board also publishes information on taxable gallons of gasoline and diesel fuel on its website: www.boe.ca.gov/sptaxprog/spftrpts.htm.

- 3. The Board does not capture data on blended petroleum with nonpetroleum fuel which are considered “clean alternative fuels” under the provisions of this bill.** This bill defines “clean alternative fuel” to be: a) nonpetroleum fuel, including electricity, hydrogen, natural gas, or other fuel derived from renewable resources if that fuel meets certain requirements; or b) petroleum blended fuel with more than 50 percent nonpetroleum constituents derived from renewable resources, if that fuel meets certain requirements. For gasoline blends, the fuel must maintain or improve upon the emissions reductions and air quality benefits of the California Phase 2 Reformulated Gasoline Program as of January 1, 1999. For diesel blends, the fuel must maintain or improve upon the emissions reductions and air quality benefits of the CARB diesel fuel regulations (California’s current ultra-low sulfur diesel fuel).

Currently, there are no tax breaks or incentives for blended gasoline with ethanol or methanol and blended diesel with biodiesel, ethanol, or methanol. These blended fuels are taxed as either gasoline or diesel at \$0.18 per gallon, with the exception of ethanol and methanol blends containing less than 15 percent gasoline, which are taxed at \$0.09 per gallon. The \$0.09 rate per gallon applies to 100 percent ethanol (E100) and methanol (M100), which are alcohol fuels. The \$0.09 rate per gallon also applies to blends of 85 percent ethanol and 15 percent gasoline (E85) and to blends of 85 percent methanol and 15 percent gasoline (M85). There is no similar provision in law for blending alcohol and diesel. The diesel blend, regardless of concentration is considered diesel fuel when sold for use in a diesel powered highway vehicle.

Because there are no differential tax rates for these blended fuels, the Board categorizes and tracks them as either gasoline or diesel. Thus, the Board does not have data on petroleum blended fuel with more than 50 percent nonpetroleum fuel which might be considered a clean alternative fuel under the provisions of this bill.

The clean alternative fuels that the Board collects data on would be biodiesel, compressed natural gas, liquid natural gas, and ethanol and methanol blends with less than 15 percent gasoline.

- 4. Related Legislation.** AB 99 (Feuer) is very similar to this bill except it would require the California Department of Transportation to also assist with a report. The bill recently failed passage in Assembly Transportation Committee.

COST ESTIMATE

It is assumed that the Board would provide the DOF information that is currently captured from returns. Based on that assumption, there is no impact to the Board's administrative costs.

REVENUE ESTIMATE

This bill would not impact the state's revenues.

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