

SECOND REGULAR SESSION

SENATE BILL NO. 604

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROHRBACH.

Pre-filed December 16, 1997, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2409.011

AN ACT

To repeal sections 142.230 and 142.584, RSMo 1994, relating to motor fuel tax refunds, and to enact in lieu thereof two new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 142.230 and 142.584, RSMo 1994, are repealed and two new sections enacted in lieu thereof, to be known as sections 142.230 and 142.584, to read as follows:

142.230. 1. All motor fuels distributed or sold in this state by any person shall be presumed to have been sold for use in propelling motor vehicles upon the public highways of this state.

2. Any person who shall buy and use motor fuel for any purpose whatever, except in the operation of motor vehicles upon the highways of this state, who shall have paid the license tax required by section 142.020 to be paid, either directly or indirectly through the amount of such tax being included in the price of the fuel, shall be reimbursed and repaid the amount of the tax, upon presenting a claim for the amount of the tax paid to the director of revenue.

3. The claim to the director of revenue shall be in the form of [an affidavit] **a declaration**, stating the purpose for which the fuel was used, and shall be supported by [the original] **a sales slip or invoice covering the purchase of the fuel. The [term "original sales slip or invoice", as used in this subsection, shall mean the top copy and not any duplicate original or carbon copy of the invoice or sales slip. The original] sales slip or invoice must [bear the following legend: "This is customer's invoice", or some similar legend, and shall in addition] contain the following information:**

(1) Date of sale;

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- (2) Name and address of purchaser, which must be the name of the claimant;
- (3) Name and address of seller;
- (4) Number of gallons purchased and price per gallon;
- (5) Missouri motor fuel tax, as a separate item.

4. If an [original] **invoice or sales slip** is lost or destroyed, a statement containing all of the information prescribed in subsection 3 of this section shall accompany the claim for refund, and such statement shall also set forth the date of delivery, the serial number of the invoice, number of gallons of motor fuel purchased, and the name of the distributor from whom purchased; and if the director of revenue finds that the claim is otherwise regular, he may allow such claim for refund.

5. The forms upon which claims are to be made shall be prescribed by the director of revenue, and he shall keep the clerks of the county commissions and the comptroller of the city of St. Louis supplied with quantities of such forms.

6. No claim for refund of motor fuel tax under this section shall be allowed unless the supporting [original] invoice or sales slip is marked paid by the seller [and indicates on its face that the purchaser at the time of purchase declared to the seller of such motor fuel his intention to use the motor fuel purchased for purposes other than the propelling of motor vehicles upon the public highways of this state, and declared his intention to claim a refund of the tax paid as part of the purchase price of the fuel. As evidence of this declaration of intention, the seller of the fuel, at the time of the sale, shall indicate, by stamp or otherwise, on the face of the original invoice or sales slip, a certification that such declaration of intention was made. The certification shall be in substantially the following form:

"The undersigned, as agent for, the seller, hereby certified that the purchaser of the motor fuel invoiced, which this statement is stamped on, written on, or otherwise attached to, at the time of purchase expressly declared his intention to use such motor fuel for a purpose other than propelling motor vehicles upon the public highways of this state, and declared his intention to file a claim for refund of the tax included in the purchase price.

.....
Agent for Seller"].

7. All applications for refunds under this section, except for applications for refunds for taxes paid on fuel specifically compounded for use in reciprocating aircraft engines, shall be filed with the director of revenue within one year of the date of purchase, as shown on the [original] invoice or sales slip. Upon the receipt and approval of such [affidavit] **declaration** and invoice or sales slip, the director of revenue shall cause the amount of the tax that such claimant paid to be refunded by a requisition upon the commissioner of administration, supported by the claim, for a warrant upon the state treasurer, payable to the claimant. The warrant shall be paid by the treasurer out of any funds appropriated by the general assembly for such purpose.

8. Any person who makes any false **[affidavit] declaration** in any claim or invoice filed with the director of revenue, or who shall knowingly file with the director of revenue any **[affidavit] declaration** or invoice containing any false statement, or collects or causes to be paid to him a refund without being entitled to such a refund, shall forfeit the full amount of the claim and shall be prohibited the recovery of any claim for refund upon motor fuel purchased within one year after such violation.

142.584. 1. All special fuels distributed or sold in this state by any person shall be presumed to have been sold for use in propelling motor vehicles upon the public highways of this state.

2. Any person who shall have sold special fuel to any purchaser for use as specified in subdivision (4), (5), or (6) of section 142.404 without charging the license tax, or any person who shall buy and use special fuel for any purpose whatever except in the operation of motor vehicles upon the highways of this state, and who shall have paid the license tax required by this law to be paid, either directly or indirectly through the amount of such tax being included in the price of the fuel, shall be reimbursed and repaid the amount of the license tax less any sales tax previously collected, or if not previously collected, any state tax due under chapter 144, RSMo, and sections 43(a) and 47(a), article IV, Constitution of Missouri, upon presenting a claim therefor to the director of revenue.

3. The claim to the director of revenue shall be in the form of **[an affidavit] a declaration**, stating the purpose for which the fuel was used, and shall be supported by the **[original] sales slip or invoice** covering the purchase of the fuel. The **[term "original sales slip or invoice"**, as used herein, shall mean the top copy and not any duplicate original or carbon copy of the invoice or sales slip. The **[original] sales slip or invoice** shall contain the following information:

- (1) Date of sale;
- (2) Name and address of purchaser;
- (3) Name and address of seller;
- (4) Number of gallons purchased and base price per gallon;
- (5) Number of gallons purchased and charged Missouri special fuel tax, as a separate item;
- (6) Number of gallons purchased and charged sales tax, if applicable, as a separate item.

4. If an **[original] invoice or sales slip** is lost or destroyed, a statement to that effect shall accompany the claim for refund, and such statement shall in addition to the requirements of subsection 3 of this section also set forth the serial number of the invoice, and if the director of revenue finds that the claim is otherwise regular, he may allow such claim for such refund.

5. The forms upon which claims are to be made shall be prescribed by the director of revenue, and he shall keep the clerks of the counties of this state and the comptroller of the city of St. Louis supplied with quantities of such forms.

6. No claim for refund of special fuel tax under this section shall be allowed unless the

supporting [original] invoice or sales slip is marked paid by the seller [and indicates on its face that the purchaser at the time of purchase declared to the seller of such special fuel his intention to use the special fuel thus purchased for purposes other than the propelling of motor vehicles upon the public highways of this state. As evidence of this declaration of intention, the purchaser of the fuel, at the time of the sale, shall indicate on the face of the original invoice or sales slip, a certification that such declaration of intention was made. The certification shall be in substantially the following form:

"The undersigned, as agent for, the purchaser, hereby certifies that it is his intention to use such special fuel for a purpose other than propelling motor vehicles upon the public highways of this state.

..... Agent for Purchaser."].

7. All applications for refunds under this section shall be filed with the director of revenue within one year of the date of purchase, as shown on the [original] invoice or sales slip. Upon the receipt of such [affidavit] **declaration** and invoice or sales slip, the director of revenue, upon approving the same, shall cause the refund to be made by a requisition upon the commissioner of administration, supported by the claim, for a warrant upon the state treasurer, payable to such claimant. If the warrant is not issued within ninety days of the date of filing a proper application for refund, the claim shall bear interest at the rate determined by section 32.065, RSMo, from the date such warrant should have been issued until the date the warrant is issued. Warrants shall be paid by the treasurer out of any funds appropriated by the general assembly for such purpose.

8. Any person who makes any false [affidavit] **declaration** in any claim or invoice filed with the director of revenue, or who shall knowingly file with the director of revenue any [affidavit] **declaration** or invoice containing any false statement, or collects or causes to be paid to him a refund without being entitled thereto, shall forfeit double the full amount of the claim, shall be prohibited the recovery of any claim for refund upon special fuel purchased within one year after such violation and shall be guilty of a misdemeanor and punishable as prescribed by law.

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