

AMENDED IN ASSEMBLY SEPTEMBER 5, 2001

CALIFORNIA LEGISLATURE—2001–02 SECOND EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 86

Introduced by Assembly Member Florez

July 23, 2001

An act to amend ~~Section 60022~~ *Sections 60022 and 60023* of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 86, as amended, Florez. Diesel fuel tax.

The Diesel Fuel Tax Law, with respect to diesel fuel, as defined, imposes a tax at specified rates, upon the removal, entry, sale, delivery, and use of each gallon of diesel fuel, as defined.

This bill would revise the definition of diesel fuel for those purposes to exempt the water portion of a diesel fuel and water emulsion, as specified. The bill would also revise the definition of diesel fuel to eliminate references to the manner of use of the diesel fuel. *This bill would also make related revisions to the definition of blended diesel fuel for purposes of the Diesel Fuel Tax Law.*

This bill would incorporate additional changes in Section 60022 of the Revenue and Taxation Code proposed by AB 309, to be operative only if AB 309 and this bill are both enacted and become effective, as specified, and this bill is enacted last.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60022 of the Revenue and Taxation
2 Code is amended to read:

3 60022. (a) “Diesel fuel” means any liquid that is commonly
4 or commercially known or sold as a fuel that is suitable for use in
5 a diesel-powered highway vehicle. A liquid meets this
6 requirement if, without further processing or blending, the liquid
7 has practical and commercial fitness for use in the engine of a
8 diesel-powered highway vehicle. However, a liquid does not
9 possess this practical and commercial fitness solely by reason of
10 its possible or rare use as a fuel in the engine of a diesel-powered
11 highway vehicle.

12 (b) “Diesel fuel” does not include kerosene.

13 (c) “Diesel fuel” does not include the water in a diesel fuel and
14 water emulsion of two immiscible liquids of diesel fuel and water,
15 which emulsion contains an additive that causes the water droplets
16 to remain suspended within the diesel fuel, provided the diesel fuel
17 emulsion meets standards set by the California Air Resources
18 Board.

19 SEC. 2. *Section 60022 of the Revenue and Taxation Code is*
20 *amended to read:*

21 60022. (a) “Diesel fuel” means any liquid that is commonly
22 or commercially known or sold as a fuel that is suitable for use in
23 a diesel-powered highway vehicle. A liquid meets this
24 requirement if, without further processing or blending, the liquid
25 has practical and commercial fitness for use in the engine of a
26 diesel-powered highway vehicle.

27 ~~However—vehicle. However,~~ a liquid does not possess this
28 practical and commercial fitness solely by reason of its possible or
29 rare use as a fuel in the engine of a diesel-powered highway
30 vehicle. ~~“Diesel vehicle.~~

31 (b) “Diesel fuel” does not include kerosene.

32 ~~“Diesel fuel” includes any combustible liquid, by whatever~~
33 ~~name the liquid may be known or sold, when the liquid is used in~~
34 ~~an internal combustion engine for the generation of power to~~
35 ~~operate a motor vehicle licensed to operate on the highway, except~~
36 ~~fuel that is subject to the tax imposed in Part 2 (commencing with~~
37 ~~Section 7301) or Part 3 (commencing with Section 8601).~~



1 gasoline, kerosene, liquefied petroleum gas, natural gas in liquid
2 or gaseous form, or alcohol.

3 (c) “Diesel fuel” does not include the water in a diesel fuel and
4 water emulsion of two immiscible liquids of diesel fuel and water,
5 which emulsion contains an additive that causes the water droplets
6 to remain suspended within the diesel fuel, provided the diesel fuel
7 emulsion meets standards set by the California Air Resources
8 Board.

9 SEC. 3. Section 60023 of the Revenue and Taxation Code, as
10 amended by Chapter 1053 of the Statutes of 2000, is amended to
11 read:

12 60023. (a) “Blended diesel fuel” means any mixture of
13 diesel fuel with respect to which tax has been imposed and any
14 other liquid (such as kerosene) on which tax has not been imposed
15 (other than diesel fuel dyed in accordance with United States
16 Environmental Protection Agency or Internal Revenue Service
17 rules). Blended diesel fuel also means any conversion of a liquid
18 into diesel fuel. “Conversion of a liquid into diesel fuel” occurs
19 when any liquid that is not included in the definition of diesel fuel
20 and that is outside the bulk transfer/terminal system is sold as
21 diesel fuel, delivered as diesel fuel, or represented to be diesel fuel.

22 (b) “Blended diesel fuel” does not include a diesel fuel and
23 water emulsion of two immiscible liquids of diesel fuel and water,
24 which emulsion contains an additive package that causes the water
25 droplets to remain suspended within the diesel fuel, provided that
26 the diesel fuel emulsion meets the standards set by the California
27 Air Resources Board.

28 SEC. 4. Section 2 of this bill incorporates amendments to
29 Section 60022 of the Revenue and Taxation Code proposed by
30 both this bill and AB 309. It shall only become operative if (1) both
31 bills are enacted and become effective on or before January 1,
32 2002, (2) each bill amends Section 60022 of the Revenue and
33 Taxation Code, and (3) this bill is enacted after AB 309, in which
34 case Section 1 of this bill shall not become operative.

35 SEC. 5. This act provides for a tax levy within the meaning of
36 Article IV of the Constitution and shall go into immediate effect.

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