

CHAPTER 51.4

LOCAL MOTOR FUEL TAX

(ADOPTED, Ordinance 2016-08, February 16, 2016)

1. DEFINITIONS. Whenever used herein, unless context otherwise requires, the following words, terms or phrases shall have the meaning ascribed to them in this section:

(a) Bulk user- any person who purchases motor fuel for storage in bulk storage facilities located within the City, which facilities are owned, leased, or controlled by the person for subsequent dispensing into the supply tanks of internal combustion engines operated by the person.

(b) Diesel Fuel-any product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark. Such fuel shall not include dyed diesel fuel as defined in 35 ILCS 505/4d and any successor statute.

(c) Gallon-in addition to its ordinary meaning, its equivalent in a capacity of measurement of substance in a gaseous state.

(d) Motor fuel-all volatile and inflammable liquid produced, blended, or compounded for the purpose of, or which are suitable or practicable for, operating motor vehicles.

(e) Motor fuel retailer- any person as defined herein, engaged in the business of selling motor fuel at retail, and not for resale within the City of Decatur.

(f) Motor fuel tax- the tax imposed under this Chapter.

(g) Motor vehicles-motor vehicles as defined by the Illinois Vehicle Code and watercraft propelled by an internal combustion engine.

(h) Person-any individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, or any city, town, county or other political subdivision.

(i) Retail gasoline dealer-any person who engages in the business of selling motor fuel in the City to a purchaser for use or consumption, and not for resale in any form.

(j) Sale, resale or selling-any transfer of ownership or possession, or both, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever for valuable consideration.

2. IMPOSITION OF TAX.

(a) There is levied and imposed upon the privilege of using or consuming motor fuel that is purchased at retail or bulk within the corporate limits of the City, a motor vehicle fuel tax, irrespective of the unit of measure in which it is actually sold, at a the rate of five cents (\$0.05) per gallon for non-diesel fuel from and after April 1, 2016.

(b) There is levied and imposed upon the privilege of using or consuming motor fuel that is purchased at retail or bulk within the corporate limits of the City, a motor vehicle fuel tax, irrespective of the unit of measure in which it is actually sold, at a rate of one cent (\$0.01) per gallon for diesel fuel from and after April 1, 2016.

(c) The tax herein levied shall be paid in addition to any and all other taxes and charges. The tax herein imposed is not based on the selling or purchase price or gross receipts from the sale or purchase of motor fuel.

(d) The ultimate incident of and liability for payment of the tax is to be borne by the purchaser of motor fuel. Nothing in this Chapter shall be construed to impose a tax upon the occupation of persons engaged in the sale of motor fuel.

(e) Each motor fuel retailer is required to collect the tax from the purchaser and remit it as set forth in this Chapter.

3. COLLECTION BY RETAIL GASOLINE DEALERS.

(a) All retail gasoline dealers shall jointly and severally have the duty to collect, and shall collect and account for the tax imposed in Section 2 of this Chapter from each purchaser at the time that the consideration for such purchase is paid.

(b) Each retail gasoline dealer collecting and accounting for such tax shall be the trustee for and on account of the City of Decatur.

4. REQUIRED RETURNS AND REMITTANCE OF TAX.

(a) All retail gasoline dealers shall pay to the City all taxes collected pursuant to this Chapter.

(b) All retail gasoline dealers shall file a sworn monthly return with the Finance Department of the City no later than the twentieth day of the calendar month next succeeding the month for which the return is made, a sum of money equal to the amount of motor fuel tax owing for the preceding month, accompanied by a sworn monthly return in a format prescribed by the

Finance Director containing such information as the Finance Director may reasonably require including, but not limited to all receipts from taxable purchases of motor fuel and the tax collected for such.

(c) Every bulk user shall file a sworn monthly return with the Finance Department no later than the twentieth day of the calendar month next succeeding the month for which the return is made, a sum of money equal to the amount of motor fuel tax owing for the preceding month, accompanied by a sworn monthly return in a format prescribed by the Finance Director containing such information as the Finance Director may reasonably require.

(d) Any person filing a timely return pursuant to this Section may retain One and Three quarters (1.75) percent of the tax they collect to be remitted with that return. This retention is allowed for the purpose of compensating for the costs incurred in complying with the duties and obligations set forth under this Chapter. If the return is not timely filed, no retention shall be allowed.

5. **IMPROPER COLLECTION.** If any retail gasoline dealer collects an amount upon a sale not subject to the tax imposed in this Chapter but which amount is purported to be the collection of such tax, or if a retail gasoline dealer collects an amount upon a sale greater than the amount of the tax so imposed thereon and does not for any reason refund the same to the purchaser who paid the same before filing the return for the period in which such occurred, such retail gasoline dealer shall account for and pay over those amounts to the City along with the tax properly collected.

6. **RECORDKEEPING AND INSPECTION OF RECORDS.**

(a) Each motor fuel retailer has a duty to maintain complete and accurate books, records, and accounts showing the gross receipts for the sale of motor fuel and the motor fuel taxes collected from purchasers and books, records and accounts related to such.

(b) Each bulk user has a duty to maintain complete and accurate books, records and accounts showing the amount of motor fuel purchased.

(c) The books, records, and accounts under this Section must be available in the City for examination and for audit by the City. Any examination by the City may be made only after reasonable notice and may be made only during customary business hours.

7. **REGISTRATION.** Each motor fuel retailer doing business in the City and each bulk user purchasing motor fuel for storage in bulk storage facilities in the City is required to register with the Finance Department on or before the later of (i) March 20, 2016 or (ii) twenty (20) days after commencing business as a motor fuel retailer or becoming a bulk user. The registration shall be in the form and manner as prescribed by the Finance Director.

8. USE OF MOTOR FUEL TAX. The revenue produced by the tax imposed in this Chapter shall be restricted in use to the construction and maintenance of municipal streets and extensions, sidewalk repairs and maintenance, curbing, grade separations and approaches and engineering services related to those above listed items.

9. PROMULGATION OF RULES. The Finance Director shall cause the provisions of this Chapter to be enforced and administered and in order to do so is authorized to promulgate and publish such rules and regulations and make such ruling and decisions not in conflict with this Chapter which he deems necessary to administer and enforce the provisions of this Chapter.

10. ENFORCEMENT. Payment and collection of the motor fuel tax may be enforced by action in any court or tribunal of competent jurisdiction and failure to collect, account for and pay over said tax shall be cause for revocation of any City license for such motor fuel retailer's location or such motor fuel retailer thereof in addition to any other penalty provided in this Chapter.

11. PENALTY.

(a) If for any reason any tax is not paid when due, a penalty at the rate of ten (10) percent per thirty (30) day period, or portion thereof, from the day of delinquency shall be added thereto and paid.

(b) In addition to the penalty as set forth in Section 10 (a) or elsewhere by law or ordinance, any motor fuel retailer operating without a certificate of registration or failing or omitting to pay said tax when due, or failing or omitting to collect, or to account for, or to pay over said tax, or failing to comply with said rules, regulations and rulings shall be fined not less than Two Hundred Fifty (\$250) Dollars nor more than Five Hundred (\$500) Dollars.

12. TERMINATION. This tax shall be in existence for no more than ten (10) years from the date of enactment and shall expire at the end of said ten year period without the necessity of further action by City Council or unless further affirmative action is taken by City Council to extend.