



General Assembly

Amendment

June 11 Special Session, 2008

LCO No. 6782

SB0100006782SR0

Offered by:

SEN. MCKINNEY, 28th Dist.

To: Senate Bill No. 1000

File No.

Cal. No.

"AN ACT CONCERNING ADJUSTMENTS TO CERTAIN PETROLEUM PRODUCTS TAXES, PETROLEUM FRANCHISE AGREEMENTS, GASOLINE DISCOUNTS FOR CONSUMERS, HOME HEATING OIL AND PROPANE GAS CONTRACT DEPOSITS AND THE FUEL OIL CONSERVATION ACCOUNT."

1 Strike sections 1 and 2 in their entirety and insert the following in
2 lieu thereof:

3 "Section 1. Section 12-458h of the 2008 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective from passage*):

6 (a) (1) The Commissioner of Revenue Services shall, on or before
7 June 15, 2008, and on or before the fifteenth day of June thereafter,
8 calculate, in accordance with subsection (b) of this section, the
9 applicable tax rate per gallon of diesel fuel on the sale or use of such
10 fuel during the twelve-month period beginning on the next succeeding
11 July first, and shall notify each distributor, the chairpersons and
12 ranking members of the joint standing committee of the General

13 Assembly having cognizance of matters relating to finance, revenue
14 and bonding, and the Secretary of the Office of Policy and
15 Management of such applicable tax rate.

16 (2) The commissioner shall, on or before June 15, 2008, and on or
17 before the fifteenth day of June thereafter, determine the average
18 wholesale price per gallon of diesel fuel in this state during the twelve-
19 month period ending on the next preceding March thirty-first by using
20 wholesale price information for diesel fuel published by the Oil Price
21 Information Service. Such wholesale price information for
22 "Hartford/Rocky Hill" and "New Haven" shall be averaged by the
23 commissioner. If either the first or last day of such twelve-month
24 period falls on a Sunday or a legal holiday, as defined in section 1-4,
25 the next succeeding day which is not a Sunday or legal holiday shall be
26 substituted for such first or last day, as the case may be.

27 (b) (1) The applicable tax rate per gallon of diesel fuel shall be the
28 sum of (A) twenty-six cents, and (B) the product calculated in
29 accordance with subdivision (2) of this subsection. The sum shall be
30 rounded to the nearest one-tenth of a cent.

31 (2) The commissioner shall multiply (A) the lesser of two dollars
32 and forty-eight and eight-tenths cents or the average wholesale price
33 per gallon of diesel fuel, as determined in accordance with subdivision
34 (2) of subsection (a) of this section, by (B) the tax rate specified in
35 subdivision (1) of subsection (b) of section 12-587 of the 2008
36 supplement to the general statutes, as amended by this act. The tax
37 rate so specified shall be the tax rate in effect for the twelve-month
38 period beginning on the next succeeding July first.

39 (c) For purposes of subdivision (1) of subsection (a) of section 12-459
40 of the 2008 supplement to the general statutes, the tax provided for by
41 section 12-458 of the 2008 supplement to the general statutes shall, if
42 determined by the commissioner to be eligible for refund, be refunded
43 at the tax rate per gallon specified in subparagraph (A) of subdivision
44 (1) of subsection (b) of this section.

45 Sec. 2. Section 12-587 of the 2008 supplement to the general statutes
46 is repealed and the following is substituted in lieu thereof (*Effective July*
47 *1, 2008*):

48 (a) As used in this chapter: (1) "Company" includes a corporation,
49 partnership, limited partnership, limited liability company, limited
50 liability partnership, association, individual or any fiduciary thereof;
51 (2) "quarterly period" means a period of three calendar months
52 commencing on the first day of January, April, July or October and
53 ending on the last day of March, June, September or December,
54 respectively; (3) "gross earnings" means all consideration received
55 from the first sale within this state of a petroleum product; (4)
56 "petroleum products" means those products which contain or are
57 made from petroleum or a petroleum derivative; (5) "first sale of
58 petroleum products within this state" means the initial sale of a
59 petroleum product delivered to a location in this state; (6) "export" or
60 "exportation" means the conveyance of petroleum products from
61 within this state to a location outside this state for the purpose of sale
62 or use outside this state; and (7) "sale for exportation" means a sale of
63 petroleum products to a purchaser which itself exports such products.

64 (b) (1) Except as otherwise provided in subdivision (2) of this
65 subsection, any company which is engaged in the refining or
66 distribution, or both, of petroleum products and which distributes
67 such products in this state shall pay a quarterly tax on its gross
68 earnings derived from the first sale of petroleum products within this
69 state. Each company shall on or before the last day of the month next
70 succeeding each quarterly period render to the commissioner a return
71 on forms prescribed or furnished by the commissioner and signed by
72 the person performing the duties of treasurer or an authorized agent or
73 officer, including the amount of gross earnings derived from the first
74 sale of petroleum products within this state for the quarterly period
75 and such other facts as the commissioner may require for the purpose
76 of making any computation required by this chapter. Except as
77 otherwise provided in subdivision (3) of this subsection, the rate of tax
78 shall be (A) five per cent with respect to calendar quarters prior to July

79 1, 2005; (B) five and eight-tenths per cent with respect to calendar
80 quarters commencing on or after July 1, 2005, and prior to July 1, 2006;
81 (C) six and three-tenths per cent with respect to calendar quarters
82 commencing on or after July 1, 2006, and prior to July 1, 2007; and (D)
83 seven per cent with respect to calendar quarters commencing on or
84 after July 1, 2007;], and prior to July 1, 2008; (E) seven and one-half per
85 cent with respect to calendar quarters commencing on or after July 1,
86 2008, and prior to July 1, 2013; and (F) eight and one-tenth per cent
87 with respect to calendar quarters commencing on or after July 1, 2013.]

88 (2) Gross earnings derived from the first sale of the following
89 petroleum products within this state shall be exempt from tax: (A) Any
90 petroleum products sold for exportation from this state for sale or use
91 outside this state; (B) the product designated by the American Society
92 for Testing and Materials as "Specification for Heating Oil D396-69",
93 commonly known as number 2 heating oil, to be used exclusively for
94 heating purposes or to be used in a commercial fishing vessel, which
95 vessel qualifies for an exemption pursuant to section 12-412 of the 2008
96 supplement to the general statutes, as amended by section 34 of public
97 act 08-150; (C) kerosene, commonly known as number 1 oil, to be used
98 exclusively for heating purposes, provided delivery is of both number
99 1 and number 2 oil, and via a truck with a metered delivery ticket to a
100 residential dwelling or to a centrally metered system serving a group
101 of residential dwellings; (D) the product identified as propane gas, to
102 be used exclusively for heating purposes; (E) bunker fuel oil,
103 intermediate fuel, marine diesel oil and marine gas oil to be used in
104 any vessel having a displacement exceeding four thousand dead
105 weight tons; (F) for any first sale occurring prior to July 1, 2008,
106 propane gas to be used as a fuel for a motor vehicle; (G) for any first
107 sale occurring on or after July 1, 2002, grade number 6 fuel oil, as
108 defined in regulations adopted pursuant to section 16a-22c, to be used
109 exclusively by a company which, in accordance with census data
110 contained in the Standard Industrial Classification Manual, United
111 States Office of Management and Budget, 1987 edition, is included in
112 code classifications 2000 to 3999, inclusive, or in Sector 31, 32 or 33 in

113 the North American Industrial Classification System United States
114 Manual, United States Office of Management and Budget, 1997 edition;
115 (H) for any first sale occurring on or after July 1, 2002, number 2
116 heating oil to be used exclusively in a vessel primarily engaged in
117 interstate commerce, which vessel qualifies for an exemption under
118 section 12-412 of the 2008 supplement to the general statutes, as
119 amended by section 34 of public act 08-150; (I) for any first sale
120 occurring on or after July 1, 2000, paraffin or microcrystalline waxes;
121 (J) for any first sale occurring prior to July 1, 2008, petroleum products
122 to be used as a fuel for a fuel cell, as defined in subdivision (113) of
123 section 12-412 of the 2008 supplement to the general statutes; (K) a
124 commercial heating oil blend containing not less than ten per cent of
125 alternative fuels derived from agricultural produce, food waste, waste
126 vegetable oil or municipal solid waste, including, but not limited to,
127 biodiesel or low sulfur dyed diesel fuel; or (L) for any first sale
128 occurring on or after July 1, 2007, diesel fuel other than diesel fuel to be
129 used in an electric generating facility to generate electricity.

130 (3) The rate of tax on gross earnings derived from the first sale of
131 grade number 6 fuel oil, as defined in regulations adopted pursuant to
132 section 16a-22c, to be used exclusively by a company which, in
133 accordance with census data contained in the Standard Industrial
134 Classification Manual, United States Office of Management and
135 Budget, 1987 edition, is included in code classifications 2000 to 3999,
136 inclusive, or in Sector 31, 32 or 33 in the North American Industrial
137 Classification System United States Manual, United States Office of
138 Management and Budget, 1997 edition, or number 2 heating oil used
139 exclusively in a vessel primarily engaged in interstate commerce,
140 which vessel qualifies for an exemption under section 12-412 of the
141 2008 supplement to the general statutes, as amended by section 34 of
142 public act 08-150, shall be: (A) Four per cent with respect to calendar
143 quarters commencing on or after July 1, 1998, and prior to July 1, 1999;
144 (B) three per cent with respect to calendar quarters commencing on or
145 after July 1, 1999, and prior to July 1, 2000; (C) two per cent with
146 respect to calendar quarters commencing on or after July 1, 2000, and

147 prior to July 1, 2001; and (D) one per cent with respect to calendar
148 quarters commencing on or after July 1, 2001, and prior to July 1, 2002.

149 (4) Any company subject to tax under this subsection that receives
150 in excess of two dollars and ninety-seven cents per gallon from the first
151 sale of petroleum products within this state shall be deemed to have
152 received two dollars and ninety-seven cents per gallon.

153 (c) (1) Any company which imports or causes to be imported into
154 this state petroleum products for sale, use or consumption in this state,
155 other than a company subject to and having paid the tax on such
156 company's gross earnings from first sales of petroleum products
157 within this state, which earnings include gross earnings attributable to
158 such imported or caused to be imported petroleum products, in
159 accordance with subsection (b) of this section, shall pay a quarterly tax
160 on the consideration given or contracted to be given for such
161 petroleum product if the consideration given or contracted to be given
162 for all such deliveries during the quarterly period for which such tax is
163 to be paid exceeds three thousand dollars. Except as otherwise
164 provided in subdivision (3) of this subsection, the rate of tax shall be
165 (A) five per cent with respect to calendar quarters commencing prior to
166 July 1, 2005; (B) five and eight-tenths per cent with respect to calendar
167 quarters commencing on or after July 1, 2005, and prior to July 1, 2006;
168 (C) six and three-tenths per cent with respect to calendar quarters
169 commencing on or after July 1, 2006, and prior to July 1, 2007; and (D)
170 seven per cent with respect to calendar quarters commencing on or
171 after July 1, 2007,], and prior to July 1, 2008; (E) seven and one-half per
172 cent with respect to calendar quarters commencing on or after July 1,
173 2008, and prior to July 1, 2013; and (F) eight and one-tenth per cent
174 with respect to calendar quarters commencing on or after July 1, 2013.]
175 Fuel in the fuel supply tanks of a motor vehicle, which fuel tanks are
176 directly connected to the engine, shall not be considered a delivery for
177 the purposes of this subsection.

178 (2) Consideration given or contracted to be given for petroleum
179 products, gross earnings from the first sale of which are exempt from

180 tax under subdivision (2) of subsection (b) of this section, shall be
181 exempt from tax.

182 (3) The rate of tax on consideration given or contracted to be given
183 for grade number 6 fuel oil, as defined in regulations adopted
184 pursuant to section 16a-22c, to be used exclusively by a company
185 which, in accordance with census data contained in the Standard
186 Industrial Classification Manual, United States Office of Management
187 and Budget, 1987 edition, is included in code classifications 2000 to
188 3999, inclusive, or in Sector 31, 32 or 33 in the North American
189 Industrial Classification System United States Manual, United States
190 Office of Management and Budget, 1997 edition, or number 2 heating
191 oil used exclusively in a vessel primarily engaged in interstate
192 commerce, which vessel qualifies for an exemption under section 12-
193 412 of the 2008 supplement to the general statutes, as amended by
194 section 34 of public act 08-150, shall be: (A) Four per cent with respect
195 to calendar quarters commencing on or after July 1, 1998, and prior to
196 July 1, 1999; (B) three per cent with respect to calendar quarters
197 commencing on or after July 1, 1999, and prior to July 1, 2000; (C) two
198 per cent with respect to calendar quarters commencing on or after July
199 1, 2000, and prior to July 1, 2001; and (D) one per cent with respect to
200 calendar quarters commencing on or after July 1, 2001, and prior to
201 July 1, 2002.

202 (4) Any company subject to tax under this subsection that gives
203 consideration or contracts to give consideration in excess of two
204 dollars and ninety-seven cents per gallon from the first sale of
205 imported or caused to be imported petroleum products shall be
206 deemed to have given consideration or contracted to give
207 consideration of two dollars and ninety-seven cents per gallon.

208 (d) The amount of tax reported to be due on such return shall be
209 due and payable on or before the last day of the month next
210 succeeding the quarterly period. The tax imposed under the provisions
211 of this chapter shall be in addition to any other tax imposed by this
212 state on such company.

213 (e) For the purposes of this chapter, the gross earnings of any
214 producer or refiner of petroleum products operating a service station
215 along the highways or interstate highways within the state pursuant to
216 a contract with the Department of Transportation or operating a
217 service station which is used as a training or test marketing center
218 under the provisions of subsection (b) of section 14-344d, shall be
219 calculated by multiplying the volume of petroleum products delivered
220 by any producer or refiner to any such station by such producer's or
221 refiner's dealer tank wagon price or dealer wholesale price in the area
222 of the service station."