

FIRST REGULAR SESSION

HOUSE BILL NO. 1409

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MAYHEW.

2979H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 142.803, 142.822, 226.150, 226.200, and 226.220, RSMo, and to enact in lieu thereof six new sections relating to transportation funding.

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

Section A. Sections 142.803, 142.822, 226.150, 226.200, and 226.220, RSMo, are
2 repealed and six new sections enacted in lieu thereof, to be known as sections 142.803,
3 142.822, 226.150, 226.200, 226.220, and 226.221, to read as follows:

142.803. 1. A tax is levied and imposed on all motor fuel used or consumed in this
2 state as follows:

3 (1) Motor fuel, seventeen cents per gallon;

4 (2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with
5 a power potential equivalent of motor fuel. In the event alternative fuel, which is not
6 commonly sold or measured by the gallon, is used in motor vehicles on the highways of this
7 state, the director is authorized to assess and collect a tax upon such alternative fuel measured
8 by the nearest power potential equivalent to that of one gallon of regular grade gasoline. The
9 determination by the director of the power potential equivalent of such alternative fuel shall
10 be prima facie correct;

11 (3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per
12 gallon as levied and imposed by section 155.080 to be collected as required under this
13 chapter;

14 (4) Compressed natural gas fuel, five cents per gasoline gallon equivalent until
15 December 31, 2019, eleven cents per gasoline gallon equivalent from January 1, 2020, until
16 December 31, 2024, and then seventeen cents per gasoline gallon equivalent thereafter. The

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 gasoline gallon equivalent and method of sale for compressed natural gas shall be as
18 published by the National Institute of Standards and Technology in Handbooks 44 and 130,
19 and supplements thereto or revisions thereof. In the absence of such standard or agreement,
20 the gasoline gallon equivalent and method of sale for compressed natural gas shall be equal to
21 five and sixty-six-hundredths pounds of compressed natural gas. All applicable provisions
22 contained in this chapter governing administration, collections, and enforcement of the state
23 motor fuel tax shall apply to the tax imposed on compressed natural gas, including but not
24 limited to licensing, reporting, penalties, and interest;

25 (5) Liquefied natural gas fuel, five cents per diesel gallon equivalent until December
26 31, 2019, eleven cents per diesel gallon equivalent from January 1, 2020, until December 31,
27 2024, and then seventeen cents per diesel gallon equivalent thereafter. The diesel gallon
28 equivalent and method of sale for liquefied natural gas shall be as published by the National
29 Institute of Standards and Technology in Handbooks 44 and 130, and supplements thereto or
30 revisions thereof. In the absence of such standard or agreement, the diesel gallon equivalent
31 and method of sale for liquefied natural gas shall be equal to six and six-hundredths pounds of
32 liquefied natural gas. All applicable provisions contained in this chapter governing
33 administration, collections, and enforcement of the state motor fuel tax shall apply to the tax
34 imposed on liquefied natural gas, including but not limited to licensing, reporting, penalties,
35 and interest;

36 (6) Propane gas fuel, five cents per gallon until December 31, 2019, eleven cents per
37 gallon from January 1, 2020, until December 31, 2024, and then seventeen cents per gallon
38 thereafter. All applicable provisions contained in this chapter governing administration,
39 collection, and enforcement of the state motor fuel tax shall apply to the tax imposed on
40 propane gas including, but not limited to, licensing, reporting, penalties, and interest;

41 (7) If a natural gas, compressed natural gas, liquefied natural gas, electric, or propane
42 connection is used for fueling motor vehicles and for another use, such as heating, the tax
43 imposed by this section shall apply to the entire amount of natural gas, compressed natural
44 gas, liquefied natural gas, electricity, or propane used unless an approved separate metering
45 and accounting system is in place.

46 2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to
47 be precollected as described in this chapter, for the facility and convenience of the consumer.
48 The levy and assessment on other persons as specified in this chapter shall be as agents of this
49 state for the precollection of the tax.

50 3. In addition to any tax collected under subdivision (1) of subsection 1 of this
51 section, the following tax is levied and imposed on all motor fuel used or consumed in this
52 state, subject to the exemption on tax liability set forth in section 142.822: from October 1,
53 2021, to June 30, 2022, two and a half cents per gallon; from July 1, 2022, to June 30, 2023,

54 five cents per gallon; from July 1, 2023, to June 30, 2024, seven and a half cents per gallon;
55 from July 1, 2024, to June 30, 2025, ten cents per gallon; and on and after July 1, 2025,
56 twelve and a half cents per gallon.

57 **4. The proceeds from any tax collected under subsection 3 of this section shall be**
58 **deposited into a special trust fund, to be known as the "Motor Fuel Tax Fund of 2021".**
59 **Any moneys in the fund not claimed and refunded to the taxpayer under section 142.822**
60 **within the time period specified under subsection 2 of such section shall remain in the**
61 **fund and be subject to appropriation by the general assembly for road and bridge**
62 **projects for state-owned infrastructure.**

142.822. 1. Motor fuel used for purposes of propelling motor vehicles on highways
2 shall be exempt from the fuel tax collected under subsection 3 of section 142.803, and an
3 exemption and refund may be claimed by the taxpayer if the tax has been paid and no refund
4 has been previously issued, provided that the taxpayer applies for the exemption and refund
5 as specified in this section. The exemption and refund shall be issued on a fiscal year basis to
6 each person who pays the fuel tax collected under subsection 3 of section 142.803 and who
7 claims an exemption and refund in accordance with this section, and shall apply so that the
8 fuel taxpayer has no liability for the tax collected in that fiscal year under subsection 3 of
9 section 142.803. **Any refund issued under this section shall be paid from moneys in the**
10 **motor fuel tax fund of 2021 established under subsection 4 of section 142.803.**

11 2. To claim an exemption and refund in accordance with this section, a person shall
12 present to the director a statement containing a written verification that the claim is made
13 under penalty of perjury and that states the total fuel tax paid in the applicable fiscal year for
14 each vehicle for which the exemption and refund is claimed. The claim shall not be
15 transferred or assigned, and shall be filed on or after July first, but not later than September
16 thirtieth, following the fiscal year for which the exemption and refund is claimed. The claim
17 statement may be submitted electronically, and shall at a minimum include the following
18 information:

19 (1) Vehicle identification number of the motor vehicle into which the motor fuel was
20 delivered;

21 (2) Date of sale;

22 (3) Name and address of purchaser;

23 (4) Name and address of seller;

24 (5) Number of gallons purchased; and

25 (6) Number of gallons purchased and charged Missouri fuel tax, as a separate item.

26 3. Every person shall maintain and keep records supporting the claim statement filed
27 with the department of revenue for a period of three years to substantiate all claims for
28 exemption and refund of the motor fuel tax, together with invoices, original sales receipts

29 marked paid by the seller, bills of lading, and other pertinent records and paper as may be
30 required by the director for reasonable administration of this chapter.

31 4. The director may make any investigation necessary before issuing an exemption
32 and refund under this section, and may investigate an exemption and refund under this section
33 after it has been issued and within the time frame for making adjustments to the tax pursuant
34 to this chapter.

35 5. If an exemption and refund is not issued within forty-five days of an accurate and
36 complete filing, as required by this chapter, the director shall pay interest at the rate provided
37 in section 32.065 accruing after the expiration of the forty-five-day period until the date the
38 exemption and refund is issued.

39 6. The exemption and refund specified in this section shall be available only with
40 regard to motor fuel delivered into a motor vehicle with a gross weight, as defined in section
41 301.010, of twenty-six thousand pounds or less.

42 7. The director shall promulgate rules as necessary to implement the provisions of
43 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is
44 created under the authority delegated in this section shall become effective only if it complies
45 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
46 This section and chapter 536 are nonseverable and if any of the powers vested with the
47 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
48 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
49 rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be invalid
50 and void.

226.150. The commission is hereby directed to comply with the provisions of any act
2 of Congress providing for the distribution and expenditure of funds of the United States
3 appropriated by Congress for highway **system construction, maintenance, or operation**, and
4 to comply with any of the rules or conditions made by the Bureau of Public Roads of the
5 Department of Agriculture, or other branch of the United States government, acting under the
6 provisions of federal law in order to secure to the state of Missouri funds allotted to this state
7 by the United States government for highway **system construction, maintenance, or**
8 **operation**. ~~[The commission is authorized to pay the state's proportion of the cost of roads~~
9 ~~constructed with federal and state funds out of the state road fund.]~~ Any money due to the
10 state of Missouri from the United States, under the provisions of such acts of Congress,
11 relating to highway **system construction, maintenance, or operation**, shall be received by
12 the state treasury and deposited in ~~[a separate fund, and paid out by the state treasurer on~~
13 ~~requisitions drawn by an officer of the state highways and transportation commission on a~~
14 ~~warrant of the state auditor. Said funds being the funds of the federal government allotted to~~
15 ~~the state of Missouri, no appropriation of the general assembly for the expenditure of such~~

16 ~~funds shall be necessary]~~ **the federal road fund established in section 226.221.** The
17 commission is authorized to accept, receive and utilize any road machinery, trucks or supplies
18 donated, loaned or sold to the state by the federal government, and to pay the necessary
19 transportation and other expenses of securing the same. The commission may also sell any
20 unnecessary or surplus tools or equipment and receive payment therefor and all money
21 received on account of such sales, if any, shall be immediately paid into the state treasury to
22 the credit of the ~~[state]~~ **federal** road fund; provided, however, that no such unnecessary or
23 surplus tools or equipment shall be sold directly or indirectly by the commission to any
24 employees of the transportation department except when such sales are made at public sale
25 open to the general public.

226.200. 1. There is hereby created a "State Highways and Transportation
2 Department Fund" into which shall be paid or transferred all state revenue derived from
3 highway users as an incident to their use or right to use the highways of the state, including all
4 state license fees and taxes upon motor vehicles, trailers, and motor vehicle fuels, and upon,
5 with respect to, or on the privilege of the manufacture, receipt, storage, distribution, sale or
6 use thereof (excepting the sales tax on motor vehicles and trailers, and all property taxes)];
7 ~~and all other revenue received or held for expenditure by or under the department of~~
8 ~~transportation or the state highways and transportation commission, except:~~

- 9 ~~(1) Money arising from the sale of bonds;~~
10 ~~(2) Money received from the United States government; or~~
11 ~~(3) Money received for some particular use or uses other than for the payment of~~
12 ~~principal and interest on outstanding state road bonds].~~

13 2. Subject to the limitations of subsection 3 of this section, from said fund shall be
14 paid or credited the cost:

- 15 (1) Of collection of all said state revenue derived from highway users as an incident
16 to their use or right to use the highways of the state;
17 (2) Of maintaining the state highways and transportation commission;
18 (3) Of maintaining the state transportation department;
19 (4) Of any workers' compensation for state transportation department employees;
20 (5) Of the share of the transportation department in any retirement program for state
21 employees, only as may be provided by law; and
22 (6) Of administering and enforcing any state motor vehicle laws or traffic regulations.

23 3. Beginning in fiscal year 2004, the total amount of appropriations from the state
24 highways and transportation department fund for all state offices and departments, except for
25 the highway patrol, and actual costs incurred by the office of administration for or on behalf
26 of the highway patrol and employees of the department of transportation, shall not exceed the
27 total amount appropriated for such offices and departments from said fund for fiscal year

28 2001. Appropriations to the highway patrol from the state highways and transportation
29 department fund shall be made in accordance with Article IV, Section 30(b) of the Missouri
30 Constitution. Appropriations allocated from the state highways and transportation
31 department fund to the highway patrol shall only be used by the highway patrol to
32 administer and enforce state motor vehicle laws or traffic regulations. Beginning July 1,
33 2007, any activities or functions conducted by the highway patrol not related to enforcing or
34 administering state motor vehicle laws or traffic regulations shall not be funded by the state
35 highways and transportation department fund, but shall be funded from general revenue or
36 any other applicable source. Any current funding from the highways and transportation
37 department fund used for activities not related to enforcing state motor vehicle laws or traffic
38 regulations shall expire on June 30, 2007. The state auditor shall annually audit and examine
39 the appropriations made to the highway patrol to determine whether such appropriations are
40 actually being used for administering and enforcing state motor vehicle laws and traffic
41 regulations pursuant to the constitution. The state auditor shall submit its annual findings to
42 the general assembly by January fifteenth of each year.

43 4. The provisions of subsection 3 of this section shall not apply to appropriations
44 from the state highways and transportation department fund to the highways and
45 transportation commission and the state transportation department or to appropriations to
46 the office of administration for department of transportation employee fringe benefits and
47 OASDHI payments, or to appropriations to the department of revenue for motor vehicle fuel
48 tax refunds under chapter 142 or to appropriations to the department of revenue for refunds or
49 overpayments or erroneous payments from the state highways and transportation department
50 fund.

51 5. All interest earned upon the state highways and transportation department fund
52 shall be deposited in and to the credit of such fund.

53 6. Any balance remaining in said fund after payment of said costs shall be transferred
54 to the state road fund.

55 7. Notwithstanding the provisions of subsection 2 of this section to the contrary, any
56 funds raised as a result of increased taxation pursuant to sections 142.025 and 142.372 after
57 April 1, 1992, shall not be used for administrative purposes or administrative expenses of the
58 transportation department.

226.220. 1. There is hereby created and set up the "State Road Fund" which shall
2 receive all moneys and credits from

3 (1) The sale of state road bonds;

4 (2) ~~[(The United States government and intended for highway purposes;~~

5 (3)] The state road bond and interest sinking fund as provided in section 226.210; and

6 ~~[(4)]~~ **(3)** Any other source ~~[if they are]~~ **required under Section 30(b), Article IV, of**
7 **the Constitution of Missouri to be** held for expenditure by or under the department of
8 transportation or the state highways and transportation commission ~~[and if they are not~~
9 ~~required by section 226.200 to be transferred to the state highway department fund].~~

10 2. The costs and expenses withdrawn from the state treasury

11 (1) For locating, relocating, establishing, acquiring, reimbursing for, constructing,
12 improving and maintaining state highways in the systems specified in Article IV, Section 30
13 (b), of the Constitution **of Missouri;**

14 (2) For acquiring materials, equipment and buildings; and

15 (3) For other purposes and contingencies relating and appertaining to the construction
16 and maintenance of said highways;

17

18 Shall be paid from the state road fund upon warrants drawn by the state auditor, based upon
19 bills of particulars and vouchers preapproved and certified for payment by the commissioner
20 of administration and by the state highways and transportation commission acting through
21 such of their employees as may be designated by them.

22 3. No payments or transfers shall ever be made from the state road fund except for an
23 expenditure made

24 (1) Under the supervision and direction of the state highways and transportation
25 commission; and

26 (2) For a purpose set out in Subparagraph (1), (2), (3), (4), or (5) of **Subsection 1 of**
27 **Section 30(b), Article IV, of the Constitution of Missouri.**

226.221. 1. There is hereby created and set up the "Federal Road Fund", which
2 **shall receive all moneys and credits from:**

3 **(1) The United States government and intended for highway purposes; and**

4 **(2) All other revenue intended for highway purposes and received or held for**
5 **expenditure by or under the department of transportation or the state highways and**
6 **transportation commission, except:**

7 **(a) Moneys and credits from the sale of state road bonds;**

8 **(b) The state road bond and interest sinking fund as provided in section 226.210;**
9 **and**

10 **(c) State revenue derived from highway users as an incident to their use or right**
11 **to use the highways of the state as provided in Section 30(b), Article IV, of the**
12 **Constitution of Missouri.**

13 **2. The state treasurer shall be custodian of the fund. No money shall be**
14 **withdrawn from the fund except by warrant drawn in accordance with an**
15 **appropriation made by the general assembly. In accordance with sections 30.170 and**

16 **30.180, the state treasurer may approve disbursements. The fund shall be a dedicated**
17 **fund and money in the fund shall be used solely by the department of transportation for**
18 **highway purposes.**

19 **3. Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
20 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
21 **general revenue fund.**

22 **4. The state treasurer shall invest moneys in the fund in the same manner as**
23 **other funds are invested. Any interest and moneys earned on such investments shall be**
24 **credited to the fund.**

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