

REFERENCE TITLE: use fuel taxes; adjustment

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

## **HB 2493**

Introduced by  
Representatives Bowers: Shope

### AN ACT

AMENDING SECTIONS 28-2356, 28-5601 AND 28-5603, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5605, ARIZONA REVISED STATUTES, AS ADDED BY LAWS 2001, CHAPTER 287, SECTION 13; REPEALING SECTION 28-5605, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2015, CHAPTER 244, SECTION 29; AMENDING SECTIONS 28-5606, 28-5610, 28-5612, 28-5613, 28-5614 AND 28-5615, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5617, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5619 AND 28-5620, ARIZONA REVISED STATUTES; REPEALING SECTION 28-5623, ARIZONA REVISED STATUTES; AMENDING SECTIONS 28-5626, 28-5638 AND 28-5731, ARIZONA REVISED STATUTES; RELATING TO MOTOR FUEL TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 28-2356, Arizona Revised Statutes, is amended to  
3 read:  
4 28-2356. Transfer of license plates to another vehicle; credit;  
5 refund  
6 A. Except as otherwise provided in this chapter, the owner of a  
7 vehicle for which the department provided license plates pursuant to section  
8 28-2351 shall retain those license plates when the owner transfers the  
9 vehicle to another person.  
10 B. The owner may apply for a refund or a credit of the unexpired  
11 portion of the fees and taxes as prescribed in this section if both of the  
12 following apply:  
13 1. The owner makes proper application to the director or to an  
14 authorized third party ~~pursuant to chapter 13 of this title.~~  
15 2. The owner agrees to allow the department to deduct a twelve dollar  
16 processing fee from the amount of the refund or credit.  
17 C. If the owner applies for a credit as prescribed in this section,  
18 the department may assign the license plates retained pursuant to subsection  
19 A of this section to another vehicle that belongs to the owner if all of the  
20 following apply:  
21 1. The other vehicle is of the same vehicle type.  
22 2. The owner is applying the available credit for the fees and taxes  
23 to one other vehicle the owner owns or acquires.  
24 3. If the available credit exceeds the amount required to pay the fees  
25 and taxes, the department ~~shall issue~~ ISSUES a refund for the remaining  
26 amount of credit as prescribed in this section. The department shall not  
27 charge an additional twelve dollar fee pursuant to subsection B of this  
28 section for issuing a refund under this paragraph.  
29 4. If the vehicle license tax, gross weight fees, commercial  
30 registration fees, special plate fees and motor carrier fees are more than  
31 the similar fees and taxes required to register the vehicle to which the  
32 license plates were previously assigned, the owner pays any additional fees  
33 and taxes required after subtracting any credit allowed under this section.  
34 D. If the other vehicle is not of the same vehicle type as the vehicle  
35 for which the license plates were provided by the department pursuant to  
36 section 28-2351, the owner shall either surrender the license plates to the  
37 department or an authorized third party or submit an affidavit of license  
38 plate destruction as prescribed by the director. On surrender of the license  
39 plates or submission of an affidavit of license plate destruction, the  
40 department shall provide new license plates of the proper vehicle type to the  
41 owner and credit the owner with an amount equal to the unexpended portion of  
42 the fees and taxes originally paid by the owner for registration and license  
43 plates toward fees and taxes charged for the registration and license plates  
44 of the appropriate new vehicle type.

1 E. The owner of a registered vehicle who transfers license plates to  
2 another vehicle or who claims a refund pursuant to this section is entitled  
3 to a credit or a refund for the unexpired portion of the fees and taxes paid  
4 as required by law in accordance with the following conditions:

5 1. The fees and taxes are prorated on a monthly basis beginning on the  
6 first day of the registration month following the date of acquisition of the  
7 vehicle.

8 2. The credit or refund shall be an amount computed as follows:

9 (a) If the vehicle is registered on an annual basis, one-twelfth for  
10 each full month of the registration period not yet expired.

11 (b) If the vehicle is registered on a biennial basis pursuant to  
12 section 28-2159, one-twenty-fourth for each full month of the registration  
13 period not yet expired.

14 (c) If the vehicle is permanently registered, one-twenty-fourth for  
15 each full month after acquisition of the vehicle to the twenty-fourth month  
16 after the date of initial permanent registration of the vehicle.

17 3. THE DEPARTMENT DEDUCTS FROM THE REFUND OR CREDIT THE COMPUTED  
18 AMOUNT THAT IS PRESCRIBED BY SECTION 28-5606, SUBSECTION D FROM THE USE FUEL  
19 TAX ADJUSTMENT THAT IS ASSOCIATED WITH EACH FULL MONTH OF THE REGISTRATION  
20 PERIOD NOT YET EXPIRED.

21 F. If the owner of a registered vehicle transfers the vehicle to  
22 another person but does not transfer the license plates to another vehicle,  
23 surrender the license plates to the department or an authorized third party  
24 or submit an affidavit of license plate destruction within thirty days of the  
25 transfer as required by section 28-2058, the unexpired portion of the fees  
26 and taxes shall ~~decrement~~ DECREASE pursuant to subsection ~~D~~ E of this  
27 section until the owner either surrenders the license plates to the  
28 department or an authorized third party or submits an affidavit of license  
29 plate destruction.

30 G. Except as provided in subsection C of this section, an owner of a  
31 registered vehicle who transfers the vehicle to another person and either  
32 surrenders the license plates to the department or an authorized third party  
33 or submits an affidavit of license plate destruction may apply to the  
34 department for a refund of the unexpired portion of the fees and taxes paid  
35 if the owner does not claim a credit pursuant to this section and the  
36 refundable amount calculated pursuant to subsection D of this section exceeds  
37 the twelve dollar fee prescribed in subsection B of this section. If the  
38 department determines that the owner is entitled to a refund, the department  
39 shall send the refund by first class mail to the address provided by the  
40 owner claiming the refund or, if no address is provided, to the latest  
41 address listed on the department's records for the owner claiming the refund.

42 H. An owner who transfers license plates to another vehicle pursuant  
43 to this section is subject to the same penalties for the use of the license  
44 plates on another vehicle or for improper use of the license plates as the

1 owner would have been subject to for use of the license plates on the vehicle  
2 to which the plates were previously assigned.

3 I. The owner of a vehicle registered in this state is not entitled to  
4 a credit or a refund pursuant to this section if the vehicle is registered in  
5 another state unless the owner is applying the credit pursuant to this  
6 section to another vehicle the owner owns or acquires for registration in  
7 this state.

8 J. The director shall adopt rules necessary to administer this  
9 section.

10 Sec. 2. Section 28-5601, Arizona Revised Statutes, is amended to read:

11 28-5601. Definitions

12 In this article and articles 2 and 5 of this chapter, unless the  
13 context otherwise requires:

14 1. "Blending":

15 (a) Means the mixing of one or more products, regardless of the  
16 original character of the product blended, if the product obtained by the  
17 blending is capable of use or otherwise sold for use in the generation of  
18 power for the propulsion of a motor vehicle, aircraft or watercraft.

19 (b) Does not include blending that occurs in the process of refining  
20 by the original refiner of crude petroleum or the blending of products known  
21 as lubricating oil and greases.

22 2. "Bulk end user" means a person who receives into the person's own  
23 storage facilities in transport truck lots motor fuel for the person's own  
24 consumption.

25 3. "Bulk plant" means a motor fuel storage and distribution facility  
26 that is not a terminal and from which motor fuel may be removed at a rack.

27 4. "Bulk transfer" means any transfer of motor fuel from one location  
28 to another by pipeline tender or marine delivery within the bulk transfer  
29 terminal system.

30 5. "Bulk transfer terminal system" means the motor fuel distribution  
31 system consisting of refineries, pipelines, marine vessels and terminals.  
32 Motor fuel in a refinery, pipeline, vessel or terminal is in the bulk  
33 transfer terminal system. Motor fuel in the fuel supply tank of any engine,  
34 or in any tank car, rail car, trailer, truck or other equipment suitable for  
35 ground transportation, is not in the bulk transfer terminal system.

36 6. "Consumer" means the end purchaser of motor vehicle fuel for use on  
37 the highways in this state, the end purchaser of motor vehicle fuel for use  
38 in watercraft on waterways of this state or the end purchaser of aviation  
39 fuel for use in aircraft.

40 7. "Destination state" means the state, territory or foreign country  
41 to which motor fuel is directed for delivery into a storage facility, a  
42 receptacle, a container or a type of transportation equipment for the purpose  
43 of resale or use.

44 8. "Distributor" means a person who acquires motor fuel from a  
45 supplier or another distributor for subsequent sale or use and who may blend

1 or import into or export from this state motor fuel in the original package  
2 or container or otherwise but excluding a person who imports motor fuel in  
3 the fuel tank of a motor vehicle or aircraft.

4 9. "Dyed diesel fuel" means diesel fuel that is dyed pursuant to  
5 United States internal revenue service regulations or requirements, including  
6 any invisible marker requirements.

7 10. "Fuel tank" means a receptacle on a motor vehicle, watercraft or  
8 aircraft from which fuel is supplied for the propulsion of the motor vehicle,  
9 watercraft or aircraft, excluding a cargo tank but including a separate  
10 compartment of a cargo tank used as a fuel tank and an auxiliary tank or  
11 receptacle of any kind from which fuel is supplied for the propulsion of the  
12 motor vehicle, watercraft or aircraft, whether or not the tank or receptacle  
13 is directly connected to the fuel supply line of the motor vehicle,  
14 watercraft or aircraft.

15 11. "Highway" means any way or place in this state of whatever nature  
16 that is maintained by public monies and that is open to the use of the public  
17 for purposes of vehicular travel, including a highway under construction.

18 12. "In this state" means any way or place within the exterior limits  
19 of the state of Arizona that is maintained by public monies, including any  
20 such way or place that is owned by or ceded to the United States of America.

21 13. "Indian reservation" means all lands that are within the limits of  
22 areas set aside by the United States for the exclusive use and occupancy of  
23 Indian tribes by treaty, law or executive order and that are currently  
24 recognized as Indian reservations by the United States department of the  
25 interior.

26 14. "Indian tribe" means any organized nation, tribe, band or community  
27 recognized as an Indian tribe by the United States department of the  
28 interior.

29 15. "Interstate user" means a person registering a use class motor  
30 vehicle under chapter 7, article 7 or 8 of this title or section 28-2321 or  
31 28-2324.

32 16. "Invoiced gallons" means the gallons actually billed on an invoice  
33 in payment to a supplier.

34 17. "Light class motor vehicle" means a motor vehicle that uses use  
35 fuel on the highways in this state but excludes a road tractor, truck  
36 tractor, truck or passenger carrying vehicle having a declared gross vehicle  
37 weight of more than twenty-six thousand pounds or having more than two axles.

38 18. "Motor fuel" means motor vehicle fuel, use fuel and aviation fuel.

39 19. "Motor vehicle" means a self-propelled vehicle required to be  
40 licensed or subject to licensing for operation on a highway.

41 20. "Permissive supplier" means an out-of-state supplier that elects,  
42 but is not required, to have a supplier's license pursuant to this article.

43 21. "Person" means an individual, firm, partnership, joint venture,  
44 association, corporation, estate, trust, business trust, receiver or  
45 syndicate, this state, any county, city, town, district or other subdivision

1 of this state, an Indian tribe, or any other group or combination acting as a  
2 unit.

3 22. "Position holder":

4 (a) Means the person who holds the inventory position in motor fuel in  
5 a terminal, as reflected on the records of the terminal operator. For the  
6 purposes of this subdivision, "a person who holds the inventory position in  
7 motor fuel" means a person who has a contract with the terminal operator for  
8 the use of storage facilities and terminaling services for fuel at the  
9 terminal.

10 (b) Includes a terminal operator who owns fuel in the terminal.

11 23. "Public monies" means those monies that are received by this state  
12 and that are derived all or in part from tax revenues or other funding  
13 sources.

14 24. "Qualified terminal" means a terminal that is designated as a  
15 qualified terminal pursuant to the United States internal revenue code,  
16 regulation and practices and that has been assigned a terminal control number  
17 by the United States internal revenue service.

18 25. "Rack" means a mechanism for delivering motor fuel from a refinery,  
19 a terminal or a bulk plant into a railroad tank car, a transport truck or  
20 other means of transfer that is outside the bulk transfer terminal system.

21 26. "Refiner" means any person who owns, operates or otherwise controls  
22 a refinery within the United States.

23 27. "Refinery" means a facility that is used to produce motor fuel from  
24 crude oil, unfinished oils, natural gas liquids, transmix or other  
25 hydrocarbons or by blending and from which motor fuel may be removed by  
26 pipeline, by vessel or at a rack.

27 28. "Road tractor" means a motor vehicle that is designed and used for  
28 drawing other vehicles and that is not constructed to carry either a load  
29 independently or any part of the weight of a vehicle or load so drawn.

30 29. "Sell" includes a transfer of title or possession, exchange or  
31 barter in any manner or by any means.

32 30. "Supplier":

33 (a) Means a person who is registered pursuant to section 4101 of the  
34 United States internal revenue code for transactions in motor fuels in the  
35 bulk transfer terminal distribution system and who is one of the following:

36 (i) The position holder in a terminal or refinery in this state.

37 (ii) A person who imports motor fuel into this state from a foreign  
38 country.

39 (iii) A person who acquires motor fuel from a terminal or refinery in  
40 this state from a position holder pursuant to a two party exchange.

41 (iv) The position holder in a terminal or refinery outside this state  
42 with respect to motor fuel that that person imports into this state on the  
43 account of that person.

44 (b) Includes a permissive supplier unless specifically provided  
45 otherwise. Supplier does not include a terminal operator merely because the

1 terminal operator handles motor fuel consigned to the terminal operator  
2 within a terminal.

3 31. "Terminal" means a storage and distribution facility for motor  
4 fuel, which is supplied by pipeline or marine vessel, that is registered as a  
5 qualified terminal by the United States internal revenue service and from  
6 which motor fuel may be removed at a rack.

7 32. "Terminal bulk transfer" includes the following:

8 (a) A marine barge movement of motor fuel from a refinery or terminal  
9 to a terminal.

10 (b) Pipeline movements of motor fuel from a refinery or terminal to a  
11 terminal.

12 33. "Terminal operator" means any person who owns, operates or  
13 otherwise controls a terminal and who does not use a substantial portion of  
14 the motor fuel that is transferred through or stored in the terminal for the  
15 person's own use or consumption or in the manufacture of products other than  
16 motor fuel. A terminal operator may own the motor fuel that is transferred  
17 through or stored in the terminal.

18 34. "Transmix" means the buffer or interface between two different  
19 products in a pipeline shipment or a mix of two different products within a  
20 refinery or terminal that results in an off-grade mixture that is not usable  
21 or salable as motor fuel.

22 35. "Two party exchange" means a transaction:

23 (a) In which motor fuel is transferred from one licensed supplier or  
24 licensed permissive supplier to another licensed supplier or licensed  
25 permissive supplier.

26 (b) That includes a transfer from the person that holds the original  
27 inventory position for motor fuel in the terminal as reflected on the records  
28 of the terminal operator.

29 (c) That is simultaneous with removal from the terminal by the  
30 receiving exchange party.

31 (d) In which the terminal operator in the terminal operator's books  
32 and records treats the receiving exchange party as the supplier that removes  
33 the product across a terminal rack for purposes of reporting the events to  
34 the department.

35 36. "Use" includes the placing of fuel into any receptacle on a motor  
36 vehicle from which fuel is supplied for the propulsion of the vehicle unless  
37 the operator of the vehicle establishes to the satisfaction of the director  
38 that the fuel was consumed for a purpose other than to propel a motor vehicle  
39 on a highway in this state and, with respect to fuel brought into this state  
40 in any such receptacle on a use class motor vehicle, the consumption of the  
41 fuel in this state. A person who places fuel in a receptacle on a use class  
42 motor vehicle of another is not deemed to have used the fuel.

43 37. "Use class motor vehicle" means a motor vehicle that uses use fuel  
44 on a highway in this state and that is a road tractor, truck tractor, truck

1 or passenger carrying vehicle having a declared gross vehicle weight of more  
2 than twenty-six thousand pounds or having more than two axles.

3 38. "Use fuel" includes all gases and liquids used or suitable for use  
4 to propel motor vehicles, except fuels that are subject to the motor vehicle  
5 fuel tax imposed by this article.

6 39. "User" includes a person who, within the meaning of the term use as  
7 defined in this section, uses fuel in a use class motor vehicle.

8 ~~40. "Vendor" includes a person who sells use fuel in this state and who  
9 places the fuel or causes the fuel to be placed into any receptacle on a  
10 motor vehicle from which receptacle fuel is supplied for the propulsion,  
11 including a service station dealer, a broker and a user who sells use fuel to  
12 others.~~

13 Sec. 3. Section 28-5603, Arizona Revised Statutes, is amended to read:

14 28-5603. Motor fuel testing

15 ~~A.~~ The director may take samples of any liquid believed to be motor  
16 fuel and may make or cause to be made an analysis of the liquid.

17 ~~B. The chemistry department or other qualified department of the  
18 university of Arizona shall:~~

19 ~~1. Analyze samples on request of the director.~~

20 ~~2. Promptly furnish to the director a full report of the analysis  
21 without cost.~~

22 Sec. 4. Repeal

23 A. Section ~~28-5605~~, Arizona Revised Statutes, as added by Laws 2001,  
24 chapter 287, section 13 is repealed.

25 B. Section 28-5605, Arizona Revised Statutes, as amended by Laws 2015,  
26 chapter 244, section 29 is repealed.

27 Sec. 5. Section 28-5606, Arizona Revised Statutes, is amended to read:

28 28-5606. Imposition of motor fuel taxes; use fuel tax  
29 adjustment

30 A. In addition to all other taxes provided by law, a **MOTOR VEHICLE**  
31 **FUEL** tax of eighteen cents per gallon is imposed on motor vehicle fuel  
32 possessed, used or consumed in this state.

33 B. To partially compensate this state for the use of its highways:

34 ~~1. A use fuel tax is imposed on use fuel used in the propulsion of a  
35 light class motor vehicle on a highway in this state at the same rate per  
36 gallon as the motor vehicle fuel tax prescribed in subsection A of this  
37 section, except that there is no use fuel tax on alternative fuels.~~

38 ~~2.~~ 1. A use fuel tax is imposed on use fuel used in the propulsion of  
39 a use class motor vehicle **OR A LIGHT CLASS MOTOR VEHICLE** on a highway in this  
40 state at the rate of twenty-six cents for each gallon, except that there is  
41 no use fuel tax on alternative fuels ~~and use class vehicles that are exempt  
42 pursuant to section 28-5432 from the weight fee prescribed in section 28-5433  
43 are subject to the use fuel tax imposed by paragraph 1 of this subsection.~~

44 ~~3.~~ 2. Through December 31, 2024, a use fuel tax is imposed on use  
45 fuel used in the propulsion of a motor vehicle transporting forest products

1 in compliance with the requirements of section 41-1516 on a highway in this  
2 state at the rate of nine cents for each gallon, except that there is no use  
3 fuel tax on alternative fuels.

4 C. THE OWNER OF A LIGHT CLASS MOTOR VEHICLE THAT IS PROPELLED BY USE  
5 FUEL OR OF A USE CLASS MOTOR VEHICLE THAT IS PROPELLED BY USE FUEL AND THAT  
6 IS EXEMPT PURSUANT TO SECTION 28-5432 FROM THE WEIGHT FEE PRESCRIBED IN  
7 SECTION 28-5433 IS ELIGIBLE AT THE TIME OF VEHICLE REGISTRATION TO COLLECT A  
8 USE FUEL TAX ADJUSTMENT OF SEVENTY DOLLARS PER REGISTRATION YEAR.

9 D. IF AN OWNER OF A VEHICLE DESCRIBED IN SUBSECTION C OF THIS SECTION  
10 REQUESTS A REFUND AS PRESCRIBED IN SECTION 28-2356, THE DEPARTMENT SHALL  
11 DEDUCT FROM THE REFUND THE COMPUTED AMOUNT AS FOLLOWS:

12 1. IF THE VEHICLE IS REGISTERED FOR A ONE YEAR REGISTRATION PERIOD  
13 PURSUANT TO SECTION 28-2159, ONE-TWELFTH FOR EACH FULL MONTH OF THE  
14 REGISTRATION PERIOD NOT YET EXPIRED.

15 2. IF THE VEHICLE IS REGISTERED FOR A TWO YEAR REGISTRATION PERIOD  
16 PURSUANT TO SECTION 28-2159, ONE-TWENTY-FOURTH FOR EACH FULL MONTH OF THE  
17 REGISTRATION PERIOD NOT YET EXPIRED.

18 3. IF THE VEHICLE IS REGISTERED FOR A FIVE YEAR REGISTRATION PERIOD  
19 PURSUANT TO SECTION 28-2159, ONE-SIXTIETH FOR EACH FULL MONTH OF THE  
20 REGISTRATION PERIOD NOT YET EXPIRED.

21 ~~C.~~ E. The motor vehicle fuel and use fuel taxes imposed pursuant to  
22 this section and the aviation fuel taxes imposed pursuant to section 28-8344  
23 are conclusively presumed to be direct taxes on the consumer or user but  
24 shall be collected and remitted to the department by suppliers for the  
25 purpose of convenience and facility only. Motor vehicle fuel, use fuel and  
26 aviation fuel taxes that are collected and paid to the department by a  
27 supplier are considered to be advance payments, shall be added to the price  
28 of motor vehicle fuel, use fuel or aviation fuel and shall be recovered from  
29 the consumer or user.

30 ~~D.~~ F. Motor vehicle fuel and use fuel taxes imposed pursuant to this  
31 section on the use of motor vehicle fuel and use fuel and the aviation fuel  
32 taxes imposed pursuant to section 28-8344 on the use of aviation fuel, other  
33 than by bulk transfer, arise at the time the motor vehicle, use or aviation  
34 fuel either:

35 1. Is imported into this state and is measured by invoiced gallons  
36 received outside this state at a refinery, terminal or bulk plant for  
37 delivery to a destination in this state.

38 2. Is removed, as measured by invoiced gallons, from the bulk transfer  
39 terminal system or from a qualified terminal in this state.

40 3. Is removed, as measured by invoiced gallons, from the bulk transfer  
41 terminal system or from a qualified terminal or refinery outside this state  
42 for delivery to a destination in this state as represented on the shipping  
43 papers if a supplier imports the motor vehicle, use or aviation fuel for the  
44 account of the supplier or the supplier has made a tax precollection election  
45 pursuant to section 28-5636.

1           ~~E.~~ G. If motor fuel is removed from the bulk transfer terminal system  
2 or from a qualified terminal or is imported into this state, the original  
3 removal, transfer or importation of the motor fuel is subject to the  
4 collection of the tax. If this motor fuel is transported to another  
5 qualified terminal or reenters the bulk transfer terminal system, the  
6 subsequent sale of the motor fuel on which tax has been collected is not  
7 subject to collection of an additional tax if proper documentation is  
8 retained to support the transaction.

9           Sec. 6. Section 28-5610, Arizona Revised Statutes, is amended to read:

10           28-5610. Exemptions

11           A. The following are exempt from motor vehicle fuel and use fuel taxes  
12 imposed by section 28-5606 and aviation fuel taxes imposed by section  
13 28-8344:

14           1. Motor fuel for which proof of export is available in the form of a  
15 terminal-issued destination state shipping paper or bill of lading and that  
16 is either:

17           (a) Exported by a supplier who is licensed in the destination state.

18           (b) Sold by a supplier to a distributor for immediate export.

19           2. Motor fuel that was acquired by a distributor, as to which the tax  
20 imposed by this article or section 28-8344 has previously been paid or  
21 accrued and that was subsequently exported by transport truck by or on behalf  
22 of the distributor in a diversion across state boundaries properly reported  
23 to the department. If diverted by a distributor, the distributor shall  
24 perfect the exemption by filing a refund application with the department  
25 within six months after the diversion.

26           3. Motor vehicle fuel or use fuel that is sold within an Indian  
27 reservation to an enrolled member of the Indian tribe who is living on the  
28 Indian reservation established for the benefit of that Indian tribe and that  
29 is used by the enrolled member for the enrolled member's own benefit. This  
30 exemption does not apply to sales within an Indian reservation by an Indian  
31 or Indian tribe to non-Indian consumers or to Indian consumers who are not  
32 members of the Indian tribe for which the Indian reservation was established  
33 or to use fuel used to operate motor vehicles for a commercial purpose  
34 outside of the reservation on highways in this state. For the purposes of  
35 this paragraph, "Indian" means an individual who is registered on the tribal  
36 rolls of the Indian tribe for whose benefit the Indian reservation was  
37 created.

38           4. Motor vehicle fuel or use fuel used solely and exclusively as fuel  
39 to operate a motor vehicle on highways in this state if the motor vehicle is  
40 leased to or owned by and is being operated for the sole benefit of an Indian  
41 tribe for governmental purposes only.

42           5. Motor fuel that is moving in interstate or foreign commerce and  
43 that is not destined or diverted to a point in this state.

44           6. Motor vehicle or aviation fuel that is sold to the United States or  
45 an instrumentality or agency of the United States.

1           7. Taxable use fuel that has been accidentally contaminated so as to  
2 be unusable as highway fuel as proved by proper documentation.

3           8. Dyed diesel fuel, including fuel used by either of the following:

4           (a) A farm tractor or implement of husbandry designed primarily for or  
5 used in agricultural operations and only incidentally operated or moved on a  
6 highway.

7           (b) A road roller or vehicle that is all of the following:

8           (i) Designed and used primarily for grading, paving, earthmoving or  
9 other construction work on a highway.

10          (ii) Not designed or used primarily for transportation of persons or  
11 property.

12          (iii) Incidentally operated or moved over the highway.

13          ~~B. A use class vehicle shall pay the use fuel tax for light class  
14 motor vehicles prescribed by section 28-5606, subsection B, paragraph 1 if  
15 the vehicle is a truck and satisfies all of the following:~~

16           ~~1. Is at least twenty-five years old.~~

17           ~~2. Has been issued a historic vehicle license plate pursuant to  
18 section 28-2484.~~

19           ~~3. Is not used as a commercial vehicle.~~

20          ~~C.~~ B. Notwithstanding subsection A, paragraph 8 of this section, the  
21 following are not exempt from use fuel taxes imposed by section 28-5606:

22           1. A vehicle that was originally designed for the transportation of  
23 persons or property and to which machinery is attached or on which machinery  
24 or other property may be transported.

25           2. A dump truck.

26           3. A truck mounted transit mixer.

27           4. A truck or trailer mounted crane.

28           5. A truck or trailer mounted shovel.

29          ~~D.~~ C. Except as provided in subsection ~~E~~ D of this section, a person  
30 who claims an exemption pursuant to this section shall perfect the exemption  
31 by claiming a refund pursuant to section 28-5612.

32          ~~E.~~ D. Subject to sections 28-5645 through 28-5649, dyed diesel fuel  
33 is exempt from use fuel taxes at the time of sale.

34          Sec. 7. Section 28-5612, Arizona Revised Statutes, is amended to read:  
35          ~~28-5612.~~ Refund procedure; violation

36          A. A person who is seeking a refund and who is not licensed as a  
37 supplier, interstate user, ~~OR~~ restricted distributor ~~or use fuel vendor~~  
38 shall:

39           1. File an application with the director within six months after the  
40 date of sale.

41           2. Submit proof satisfactory to the director of the following:

42           (a) The purpose for which the fuel was used.

43           (b) The tax paid purchase.

44           3. Make an application in a form prescribed by the department that  
45 requests the following information:

- 1 (a) Name and address of the claimant.  
2 (b) Period covered by the claim showing dates.  
3 (c) Location of equipment, if applicable.  
4 (d) Gallons on which a refund is claimed.  
5 (e) Amount of the refund claimed.  
6 (f) Other information required by the director.
- 7 B. The claim shall not be under oath but shall contain or be  
8 accompanied by a written declaration that it is made under penalties of  
9 perjury and, if it is for motor vehicle fuel, that it complies in all  
10 respects with section 28-5611 relating to refunds.
- 11 C. The original invoice or a duplicate that is satisfactory to the  
12 director and that includes the following information shall accompany the  
13 application:
- 14 1. The date of purchase.  
15 2. The seller's name and address.  
16 3. The number of gallons purchased.  
17 4. The type of fuel purchased.  
18 5. The price per gallon of the fuel.  
19 6. Other information required by the director.
- 20 D. If a person files a claim for a refund pursuant to this section for  
21 motor fuel exported, the person shall make satisfactory proof of export to  
22 the director and file the claim within three months after the date of export  
23 in the form and containing the information required by the director. The  
24 original invoice or an acceptable duplicate shall accompany the claim.
- 25 E. The director shall accept only one application for refund of motor  
26 fuel taxes for any one person within a ~~six-month~~ SIX-MONTH period if the  
27 aggregate total of all motor fuel taxes paid and for which a refund is  
28 claimed does not equal at least ten dollars.
- 29 F. If a person who is exempt from use fuel taxes pursuant to section  
30 28-5610 submits a claim for a refund pursuant to this section for use fuel  
31 taxes, the department shall not pay the refund until the department  
32 determines the difference between the amount of the refund and the amount of  
33 the use tax that is imposed under title 42, chapter 5, article 4 on the fuel  
34 exempt from use fuel taxes if owed by the person. If the department  
35 determines that the amount of the refund is greater than the amount owed for  
36 the use tax, the department shall deposit the amount owed for the use tax  
37 pursuant to subsection M of this section and refund the amount of the  
38 difference to the person. If the department OF TRANSPORTATION determines  
39 that the amount of the refund is less than the amount owed for the use tax,  
40 the department OF TRANSPORTATION shall forward any balance due information to  
41 the department of revenue for collection.
- 42 G. Except as provided in subsection F of this section, if the director  
43 does not issue a refund within sixty days after a complete application for  
44 refund is filed as prescribed in this article, the director shall pay  
45 interest at the rate of eleven ~~per-cent~~ PERCENT per year from the date the

1 complete application for refund is filed until the date on which the refund  
2 is made.

3 H. If the director denies a refund, the director shall notify the  
4 claimant that the refund is denied. The director's denial is final unless  
5 the applicant makes a written request for a hearing as prescribed in section  
6 28-5924.

7 I. It is unlawful for a person to knowingly operate a motor vehicle on  
8 the highways or a watercraft on the waterways using motor vehicle fuel or use  
9 fuel that has been sold to a person making a claim pursuant to this section.

10 J. In addition to other penalties prescribed by law, the director  
11 shall not give a person who violates this section a refund on motor fuel  
12 purchased during the six months succeeding the date the director advises the  
13 person by mail of the director's discovery of the violation.

14 K. A person whose right to a refund is suspended may bring an action  
15 in superior court in Maricopa County to set aside the suspension.

16 L. The director may recover excess refunds from the person to whom the  
17 refund was made. The director shall assess the claimant the amount of the  
18 excess refund and interest. The director shall compute interest at one ~~per~~  
19 ~~cent~~ PERCENT per month of the amount of excess refund due beginning on the  
20 date of refund and until the date the assessment is paid.

21 M. The department of transportation shall deposit, pursuant to  
22 sections 35-146 and 35-147, use tax revenues collected pursuant to subsection  
23 F of this section in the state general fund by the end of each month and  
24 notify the department of revenue of the amount of use tax collected each  
25 month.

26 Sec. 8. Section 28-5613, Arizona Revised Statutes, is amended to read:  
27 28-5613. Licensee refunds; definition

28 A. A licensee who is seeking a refund shall apply pursuant to section  
29 28-5612, except that a licensee shall file an application for refund within  
30 three years after the date of purchase or invoice of the motor fuel for which  
31 a refund is claimed.

32 B. For the purposes of this section, "licensee" includes a supplier,  
33 an interstate user, ~~OR~~ a restricted distributor ~~or a licensed use fuel~~  
34 ~~vendor.~~

35 Sec. 9. Section 28-5614, Arizona Revised Statutes, is amended to read:  
36 28-5614. Refunds; use fuel

37 ~~A. If a vendor pays the use fuel tax rate for use class motor vehicles~~  
38 ~~on use fuel that is actually used in the propulsion of a light class motor~~  
39 ~~vehicle on a highway in this state or that is actually used in the propulsion~~  
40 ~~of a use class motor vehicle that is exempt pursuant to section 28-5432 from~~  
41 ~~the weight fee prescribed in section 28-5433 on a highway in this state and~~  
42 ~~for the purpose of convenience and facility only, the vendor may apply to the~~  
43 ~~department for a refund of the difference between the amount of the use class~~  
44 ~~motor vehicle use fuel tax paid and the amount of the light class motor~~  
45 ~~vehicle use fuel tax on the same number of gallons purchased.~~

1           ~~B.~~ A. If a person who transports forest products on a highway in this  
2 state in compliance with the requirements of section 41-1516 pays the use  
3 fuel tax rate prescribed in section 28-5606, subsection B, paragraph ~~2- 1~~ for  
4 a use class motor vehicle that is eligible for the use fuel tax rate  
5 prescribed in section 28-5606, subsection B, paragraph ~~3- 2~~, the person may  
6 apply to the department for a refund of the difference between the amount of  
7 the use fuel tax paid and the use fuel tax rate prescribed for a motor  
8 vehicle transporting forest products.

9           ~~C.~~ B. The director may prescribe any forms the director deems  
10 necessary to implement this section.

11           ~~D. A vendor may file an application for a refund pursuant to this~~  
12 ~~section either:~~

13           ~~1. On a monthly basis subject to the limitations prescribed in section~~  
14 ~~28-5612.~~

15           ~~2. If the amount of the requested refund is at least seven hundred~~  
16 ~~fifty dollars, except that a vendor shall not file an application for a~~  
17 ~~refund pursuant to this paragraph more frequently than once each week.~~

18           ~~E.~~ C. The director shall:

19           1. Pay the refund from current use fuel tax receipts.

20           2. Deduct the refund from the monthly use fuel tax receipts before the  
21 deposit pursuant to section 28-5730 is made.

22           Sec. 10. Section 28-5615, Arizona Revised Statutes, is amended to  
23 read:

24           ~~28-5615.~~ Presumption of use

25           ~~A.~~ For the proper administration of this article and to prevent  
26 evasion of the use fuel tax, it is presumed, until the contrary is  
27 established by competent proof under rules and procedures the director  
28 adopts, that all use fuel received into any receptacle on a motor vehicle  
29 from which fuel is supplied to propel the vehicle is consumed in propelling  
30 the vehicle on the highways in this state.

31           ~~B. If a vendor's dealings in use fuel primarily involve delivery of~~  
32 ~~use fuel into the fuel tanks of motor vehicles it is presumed, until the~~  
33 ~~contrary is established by competent proof under rules and procedures the~~  
34 ~~director adopts, that the vendor's total use fuel acquisitions have been~~  
35 ~~delivered into the fuel tanks of motor vehicles for the propulsion of the~~  
36 ~~vehicles on the public highways.~~

37           Sec. 11. Repeal

38           Section ~~28-5617~~, Arizona Revised Statutes, is repealed.

39           Sec. 12. Section 28-5619, Arizona Revised Statutes, is amended to  
40 read:

41           ~~28-5619.~~ Records required; violation; classification

42           A. Suppliers and restricted distributors shall maintain and keep  
43 records of motor vehicle fuel or aviation fuel received, acquired, used, sold  
44 and delivered in this state by the supplier or restricted distributor, the  
45 amount of tax paid as part of the purchase price, invoices, bills of lading

1 and other pertinent records and papers required by the director for the  
2 reasonable administration of this article at least until the later of the  
3 following:

4 1. Three years after a report is required to be filed pursuant to this  
5 article.

6 2. Three years after a report is filed.

7 B. Any person, other than a restricted distributor, purchasing motor  
8 vehicle fuel taxable under this article or aviation fuel taxable under  
9 section 28-8344 from a supplier for the purpose of resale shall maintain and  
10 keep for one year a record of motor vehicle fuel or aviation fuel received,  
11 the amount of tax paid to the supplier as part of the purchase price,  
12 delivery tickets, invoices, bills of lading and other records the director  
13 requires.

14 C. Each distributor ~~and vendor~~ shall maintain and keep for three years  
15 the following:

16 1. Records of use fuel received, sold or delivered in this state by  
17 the distributor ~~or vendor~~.

18 2. Invoices, bills of lading and other pertinent records and papers  
19 required by the director for the reasonable administration of this article.

20 D. The director may require distributors to file information as to  
21 sales or deliveries to ~~vendors or~~ users of use fuel at the times and in the  
22 form ~~as~~ the director requires.

23 E. A person who violates this section is guilty of a class 1  
24 misdemeanor.

25 Sec. 13. Section 28-5620, Arizona Revised Statutes, is amended to  
26 read:

27 28-5620. Records and equipment inspections; hearings; costs

28 A. The director or a deputy, employee or agent authorized by the  
29 director may examine during usual business hours records, books, papers,  
30 storage tanks and any other equipment of a person pertaining to motor fuel  
31 imported, received, sold, shipped, delivered or used to either:

32 1. Verify the truth and accuracy of a statement, report, return or  
33 claim.

34 2. Ascertain whether the tax imposed by this article or section  
35 28-8344 has been paid.

36 3. Determine the financial responsibility of the supplier for the  
37 payment of the taxes imposed by this article or section 28-8344.

38 4. Determine the validity of a refund.

39 B. In the enforcement of this article, the director may hold hearings,  
40 take testimony of persons, issue subpoenas for the purpose of taking  
41 testimony, compel attendance of witnesses and conduct investigations the  
42 director deems necessary.

43 C. The director may prescribe forms for required reports or claims for  
44 refund or forms of record to be used by suppliers, distributors, restricted  
45 distributors, ~~vendors~~ or refund claimants.

1 D. Records required by this article may be maintained in this  
2 state. If the records are maintained outside this state and on request of  
3 the director, the records shall be made available at a location in this state  
4 designated by the director. If the records are maintained outside this state  
5 and will not be made available at the location designated by the director,  
6 the director may require the person to whom a records request has been made  
7 to pay in advance costs reimbursable for subsistence and travel expenses for  
8 the director or an agent of the director to conduct the examination of the  
9 records.

10 Sec. 14. Repeal

11 Section 28-5623, Arizona Revised Statutes, is repealed.

12 Sec. 15. Section 28-5626, Arizona Revised Statutes, is amended to  
13 read:

14 28-5626. Suppliers; licenses required

15 A. Except as provided in section 28-5607, a person who acts as a  
16 distributor and who possesses motor fuel on which fuel taxes have not been  
17 accrued or collected by a supplier shall be licensed as a supplier.

18 B. It is unlawful for a person to engage in business in this state as  
19 a supplier, unless the person has a license issued by the director to engage  
20 in that business.

21 ~~C. A person who sells use fuel for delivery directly into a vehicle  
22 fuel tank shall also be licensed as a vendor and shall maintain separate  
23 business records.~~

24 Sec. 16. Section 28-5638, Arizona Revised Statutes, is amended to  
25 read:

26 28-5638. Deferred remittance election eligibility

27 A. Each purchaser that desires to make an election under section  
28 28-5637 shall present evidence to the department that either:

29 1. The applicant was a licensed distributor in good standing before  
30 January 1, 1998.

31 2. The applicant meets the financial responsibility and bonding  
32 requirements imposed by this article. The bond shall conform to the specific  
33 requirements of this section.

34 B. The department may require a purchaser that pays the tax to a  
35 supplier to file with the department a surety bond that is payable to this  
36 state and on which the purchaser is the obligor, or other financial security,  
37 in an amount satisfactory to the department. The department may require that  
38 the bond indemnify the department against uncollectible tax credits claimed  
39 by the supplier under section 28-5639.

40 C. The department may rescind a purchaser's eligibility and election  
41 to defer motor vehicle or aviation fuel tax remittances after a hearing and  
42 on a showing of good cause, including failure to make a timely tax deferred  
43 payment of tax to a supplier under section 28-5637, by sending written notice  
44 to all suppliers or publishing notice of the revocation pursuant to rules.  
45 The department may require further assurance of the financial responsibility

1 of the purchaser, may increase the bond requirement for that purchaser or may  
2 take any other action that the department may require to ensure remittance of  
3 the motor ~~vehicle or aviation~~ fuel tax.

4 Sec. 17. Section 28-5731, Arizona Revised Statutes, is amended to  
5 read:

6 28-5731. Record requirements

7 A. A licensee under this article shall make records as prescribed and  
8 in the manner required by the director as reasonably necessary to  
9 substantiate reports required by this article. A licensee shall retain those  
10 records at least until the later of the following:

11 1. Three years after a report is required to be filed pursuant to  
12 section 28-5732.

13 2. Three years after a report is filed.

14 ~~B. The records shall include receipts pursuant to section 28-5617 for~~  
15 ~~each sale or transfer of use fuel for use in a use class motor vehicle. In~~  
16 ~~addition to the information required by section 28-5617, a licensee shall~~  
17 ~~identify the motor vehicle by license plate number or unit number on the~~  
18 ~~receipt or transaction listing.~~

19 ~~C.~~ B. The director may examine the books, papers, records and  
20 equipment of any person using, dealing in, transporting or storing fuel to  
21 determine whether the use fuel taxes due under article 1 of this chapter are  
22 properly reported and paid.

23 ~~D.~~ C. A person from whom the director has requested records may:

24 1. Make the records available at the office designated by the  
25 director.

26 2. If the place of business where records may be audited is located in  
27 this state, request the director to audit the records at the person's place  
28 of business.

29 ~~E.~~ D. If the person does not make records available at the office  
30 designated by the director and the place of business where records may be  
31 audited is located outside this state, the director may require the person to  
32 pay the department in advance for the cost of reimbursing employee  
33 subsistence and travel expenses.