

HOUSE BILL No. 2344

By Committee on Local Government

2-12

AN ACT relating to the taxation of motor vehicle fuels; providing for local option; amending K.S.A. 79-3424 and K.S.A. 2002 Supp. 12-194 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) This section and sections 2 through 4, and amendments thereto, shall be known and may be cited as the local option motor fuels tax act.

(b) The powers conferred by this act are for public uses and purposes for which public money may be expended.

New Sec. 2. As used in sections 1 through 4, and amendments thereto:

(a) "Governing body" means the governing body of a city or the board of county commissioners of a county.

(b) "Municipality" means any city or county.

(c) The words and phrases defined in article 34 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, shall have the same meanings respectively ascribed to them herein, unless a different meaning is ascribed or in those instances clearly indicating a different meaning.

New Sec. 3. (a) Any municipality may impose a motor vehicle fuels tax. A tax per gallon or fraction thereof, may be imposed not to exceed \$.03 per gallon on the use, sale or delivery of all motor vehicle fuels, special fuels or LP-gas which are used, sold or delivered in such municipality for any purpose whatsoever.

(b) (1) No city shall impose a motor vehicle fuels tax under the provisions of this act without the governing body of such city having first submitted such proposition to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor. The governing body of any city may submit the question of imposing a motor vehicle fuels tax and the governing body shall be required to submit the question upon submission of a petition signed by electors of such city equal in number to not less than 10% of the electors of such city.

(2) The board of county commissioners of any county may submit the question of imposing a countywide motor vehicle fuels tax to the electors

1 at an election called and held thereon, and any such board shall be re-
2 quired to submit the question upon submission of a petition signed by
3 electors of such county equal in number to not less than 10% of the
4 electors of such county who voted at the last preceding general election
5 for the office of secretary of state, or upon receiving resolutions request-
6 ing such an election passed by not less than $\frac{2}{3}$ of the membership of the
7 governing body of each of one or more cities within such county which
8 contains a population of not less than 25% of the entire population of the
9 county, or upon receiving resolutions requesting such an election passed
10 by $\frac{2}{3}$ of the membership of the governing body of each of one or more
11 taxing subdivisions within such county which levy not less than 25% of
12 the property taxes levied by all taxing subdivisions within the county.

13 (c) Any city or county proposing to adopt a motor vehicles fuels tax
14 shall give notice of its intention to submit such proposition for approval
15 by the electors in the manner required by K.S.A. 10-120, and amend-
16 ments thereto. The notices shall state the time of the election and the
17 rate and effective date of the proposed tax. If a majority of the electors
18 voting thereon at such election fail to approve the proposition, such prop-
19 osition may be resubmitted under the conditions and in the manner pro-
20 vided in this act for submission of the proposition. If a majority of the
21 electors voting thereon at such election shall approve the levying of such
22 tax, the governing body of any such city or county shall provide by ordi-
23 nance or resolution, as the case may be, for the levy of the tax. Any repeal
24 of such tax or any reduction or increase in the rate thereof, within the
25 limits prescribed by subsection (a), shall be accomplished in the manner
26 provided herein for the adoption and approval of such tax except that the
27 repeal of any such city motor vehicle fuels tax may be accomplished by
28 the adoption of an ordinance so providing.

29 (d) The sufficiency of the number of signers of any petition filed
30 under this section shall be determined by the county election officer.
31 Every election held under this act shall be conducted by the county elec-
32 tion officer.

33 (e) The governing body of the city or county proposing to levy any
34 motor vehicle fuels tax shall specify the purpose or purposes for which
35 the revenue would be used, and a statement generally describing such
36 purpose or purposes shall be included as a part of the ballot proposition.

37 New Sec. 4. (a) Except as otherwise provided in this section, any
38 municipality imposing a motor vehicle fuels tax is prohibited from ad-
39 ministering such tax locally, but shall utilize the services of the state de-
40 partment of revenue to administer and enforce such tax. All laws and
41 rules and regulations of the state department of revenue relating to the
42 motor-fuel tax law shall apply to such local motor vehicle fuels tax insofar
43 as the same may be made applicable.

1 (b) The secretary of revenue is authorized to administer and enforce
2 a municipality's motor vehicle fuels tax and to adopt such rules and reg-
3 ulations necessary for the efficient and effective administration, enforce-
4 ment and collection thereof.

5 (c) All revenue received by any municipality from a motor vehicle
6 fuels tax shall be retained by such municipality. The department of rev-
7 enue shall remit such revenue at least quarterly to the municipality im-
8 posing such motor vehicle fuels tax.

9 Sec. 5. K.S.A. 2002 Supp. 12-194 is hereby amended to read as fol-
10 lows: 12-194. No city or county shall levy or impose an excise tax or a tax
11 in the nature of an excise, other than a retailers' sales tax and a compen-
12 sating use tax, upon the sale or transfer of personal or real property, or
13 the use thereof, or the rendering of a service, but the provisions of this
14 section shall not be construed as prohibiting any city from (a) contracting
15 with a utility for a fixed charge based upon a percentage of gross receipts
16 derived from the service permitted by grant, right, privilege or franchise
17 to such utility; (b) imposing an occupation tax or license fee for the priv-
18 ilege of engaging in any business, trade, occupation or profession, or ren-
19 dering or furnishing any service, but the determination of any such license
20 fee shall not be based upon any amount the licensee has received from
21 the sale or transfer of personal or real property, or for the rendering or
22 furnishing of a service, or on the income of the licensee; (c) levying any
23 occupation tax or license fee imposed by such city prior to the effective
24 date of this act; ~~or~~ (d) levying a tax for the purpose of financing a trans-
25 portation development district, created under K.S.A. 2002 Supp. 12-
26 17,130 through 12-17,139, and amendments thereto; *or (e) imposing a*
27 *motor vehicle fuels tax as provided under sections 1 through 4, and*
28 *amendments thereto.* No license fee described in subsection (b) of this
29 section shall be imposed upon any utility contracting with and subject to
30 a charge, described in subsection (a) of this section, by such city.

31 Sec. 6. K.S.A. 79-3424 is hereby amended to read as follows: 79-
32 3424. *Except as provided under sections 1 through 4, and amendments*
33 *thereto,* the business of using, manufacturing or selling of motor-vehicle
34 fuels or special fuels shall not be subject to any excise, license, privilege
35 or occupation tax other than the one herein imposed, whether such tax
36 be imposed by the state of Kansas or by any municipal corporation or
37 other political subdivision of this state; and *except as provided under*
38 *sections 1 through 4, and amendments thereto,* no municipal corporation,
39 or other political subdivision of this state, shall levy or collect any tax
40 upon, or measured by, the sale, receipt, distribution or use of motor-
41 vehicle fuel or special fuel, or any excise, license, privilege, or occupa-
42 tional tax upon the business of manufacturing, using, selling or delivering
43 motor-vehicle fuels or special fuels.

1 Sec. 7. K.S.A. 79-3424 and K.S.A. 2002 Supp. 12-194 are hereby
2 repealed.

3 Sec. 8. This act shall take effect and be in force from and after its
4 publication in the statute book.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43