

SENATE BILL No. 379

By Committee on Ways and Means

2-11

1 AN ACT concerning taxation; relating to the liquefied petroleum motor-
2 fuel law; rates of taxation; amending K.S.A. 79-3492 and K.S.A. 2013
3 Supp. 79-3495 and 79-34,141 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 79-3492 is hereby amended to read as follows: 79-
7 3492. (a) Except as otherwise provided in this act, a tax per gallon, or
8 fraction thereof, at the rate computed as prescribed in K.S.A. 79-34,141,
9 and amendments thereto, is hereby imposed on the LP-gas user or LP-gas
10 dealer who places such LP-gas fuel into the fuel supply tank or tanks of
11 any motor vehicle while such vehicle is within this state except that in
12 those instances in which LP-gas is withdrawn from the cargo tank of a
13 motor vehicle for the operation thereof upon the public highways of the
14 state, the tax shall be imposed upon and measured only by that volume of
15 LP-gas so withdrawn and used multiplied by the tax rate per gallon
16 provided in this act.

17 (b) *The conversion formula to be used to convert compressed natural*
18 *gas and liquefied natural gas per gallon for the tax imposed pursuant to*
19 *K.S.A. 79-34,141, and amendments thereto, shall be as follows:*

20 (1) *For purposes of converting the energy equivalent of compressed*
21 *natural gas ~~measured in cubic feet~~ to a gasoline gallon energy equivalent,*
22 *126.67 cubic feet or 5.66 pounds of compressed natural gas shall equal*
23 *one gasoline gallon; or*

24 (2) *for purposes of converting the energy equivalent of liquefied*
25 *natural gas ~~measured in pounds~~ to a diesel gallon energy equivalent, 6.06*
26 *pounds of liquefied natural gas shall equal one diesel gallon.*

27 Sec. 2. K.S.A. 2013 Supp. 79-3495 is hereby amended to read as
28 follows: 79-3495. (a) Each LP-gas user or LP-gas dealer subject to the
29 provisions of this act must, on or before the 25th day of each calendar
30 month, file with the director a report, certified to be true and correct, on a
31 form prescribed and furnished by the director, showing the total number of
32 gallons of LP-gas placed into fuel supply tank or tanks of any motor
33 vehicle while such vehicle is within this state during the preceding
34 calendar month, including the number of gallons on hand at the beginning
35 and end of each month, the number of gallons received from any and all
36 sources supported by detailed schedules of receipts, purchases and

1 withdrawals for sale or use, and such other information as the director may
2 require. Each LP-gas user or LP-gas dealer at the time of filing each
3 monthly report must pay to the director the full amount of tax due for the
4 preceding calendar month at the rate provided for in this act.

5 (b) Any tax imposed under the provisions of this act not paid on or
6 before the 25th of the month succeeding the calendar month in which the
7 LP-gas was used shall be deemed delinquent and shall bear interest at the
8 rate per month, or fraction thereof prescribed by subsection (a) of K.S.A.
9 79-2968, and amendments thereto, from such due date until paid, and in
10 addition thereto there is hereby imposed upon all amounts of such tax
11 remaining due and unpaid after such due date a penalty in the amount of
12 5% thereof, and such penalty shall be by the director added to and
13 collected as a part of such tax. If the LP-gas user or LP-gas dealer
14 furnishes evidence to the director that the delinquency was due to causes
15 beyond such user's or dealer's reasonable control, and if in the opinion of
16 the director the delinquency was not the result of willful negligence of the
17 LP-gas user or LP-gas dealer the penalty or interest or both may be waived
18 or reduced by the director.

19 (c) The director, if satisfied that the enforcement of the act is not
20 adversely affected, may exempt any LP-gas user or LP-gas dealer from the
21 monthly reporting and payment requirements of this act and require in lieu
22 thereof annual payment of the tax due hereunder and annual reporting on
23 forms provided by the director.

24 (d) Whenever the secretary or the secretary's designee determines that
25 the failure of the taxpayer to comply with the provisions of subsection (b)
26 was due to reasonable causes, the secretary or the secretary's designee may
27 waive or reduce any of the penalties and may reduce the interest rate to the
28 underpayment rate prescribed and determined for the applicable period
29 under section 6621 of the federal internal revenue code as in effect on
30 January 1, 1994, upon making a record of the reasons therefor.

31 (e) It shall be unlawful for any LP-gas user or LP-gas dealer to use *or*
32 *sell* any LP-gas within this state unless such LP-gas user or LP-gas dealer
33 is a holder of an uncanceled, unsuspended or unrevoked license issued by
34 the director, *unless such user has remitted the tax to a licensed LP-gas*
35 *dealer*. To procure such license every applicant shall file with the director
36 an application upon oath and in such form as the director may prescribe,
37 setting forth the name and addresses, the kind of business, and the
38 designation of the exact locations or places of business where LP-gas is
39 delivered or placed into the fuel supply tank or tanks of a motor vehicle,
40 and such other information as the director may require. Such application
41 must also contain, as a condition to the issuance of the license, an
42 agreement by the applicant to comply with the provisions and
43 requirements of this act and the rules and regulations promulgated by the

1 director. If the applicant is a partnership or association, the application
2 shall set forth the name and address of each partner or person constituting
3 the partnership, or association, and if a corporation, the names and
4 addresses of the principal officers thereof, and any other information
5 prescribed by the director for the purposes of identification. The
6 application shall be signed and verified by oath or affirmation by the
7 owner, if a natural person, and in case of partnership or association, by a
8 partner or member thereof, and in case of a corporation, by an executive
9 officer thereof or some person specifically authorized by the corporation to
10 sign the application, to which shall be attached written evidence of such
11 person's authority. Any valid LP-gas user's or LP-gas dealer's license in
12 effect on the effective date of this act shall remain in full force and effect
13 and no new application need be made under this act.

14 (f) In the event that any application for a license to use LP-gas as an
15 LP-gas user or LP-gas dealer in this state shall be filed by any person
16 whose license shall at any time theretofore have been canceled for cause,
17 or in case the director shall be of the opinion that such application is not
18 filed in good faith, or that such application is filed by some person as a
19 subterfuge for the real person in interest whose license or registration shall
20 theretofore have been canceled for cause, then and in any of such events,
21 the director may refuse to issue to such person a license in this state.
22 Notice of such refusal shall be mailed to the applicant. Any applicant
23 aggrieved by the order of the director refusing to issue a license may
24 request a hearing of the director on such application by filing with the
25 director a written request therefor. Upon such filing the director shall
26 conduct a hearing in accordance with the provisions of the Kansas
27 administrative procedure act. If the director finds upon such hearing that
28 applicant is entitled to a license, the director shall order its issuance, but if
29 the director finds that such applicant is not entitled to a license, such
30 director shall enter an order refusing issuance.

31 (g) Upon the filing of the application for a license, a filing fee of \$5
32 shall be paid to the director. All such fees collected by the director shall be
33 remitted to the state treasurer in accordance with the provisions of K.S.A.
34 75-4215, and amendments thereto. Upon receipt of each such remittance,
35 the state treasurer shall deposit the entire amount in the state treasury to
36 the credit of the state general fund. The application in proper form having
37 been accepted for filing, the bond hereafter provided for having been
38 accepted and approved by the director and the other conditions and
39 requirements of this act having been complied with, the director shall issue
40 to such applicant a license and such license shall be in force so long as the
41 holder thereof has in force a bond as required by this act deposited with
42 the director, or until such license is suspended, surrendered, or revoked for
43 cause by the director. The license issued by the director shall not be

1 assignable and shall be valid only for the LP-gas user or LP-gas dealer in
2 whose name issued, and shall be displayed conspicuously by the LP-gas
3 user or LP-gas dealer at the user's or dealer's principal place of business as
4 set forth in the application.

5 (h) In the event a person qualifies for both a user's and dealer's
6 license, only one license shall be required. A copy of such user's or dealer's
7 license shall be required for each place of business of the licensee where
8 LP-gas is sold or dispensed. No charge shall be made for additional copies
9 of such user's or dealer's license when such copies are required for
10 multiple business locations.

11 Sec. 3. K.S.A. 2013 Supp. 79-34,141 is hereby amended to read as
12 follows: 79-34,141. The tax imposed under this act shall be not less than:

13 (1) On motor-vehicle fuels other than E85 fuels, \$.24 per gallon, or
14 fraction thereof;

15 (2) on special fuels, \$.26 per gallon, or fraction thereof;

16 (3) on LP-gas, *other than compressed natural gas and liquefied*
17 *natural gas*, \$.23 per gallon, or fraction thereof; ~~and~~

18 (4) on E85 fuels, \$.17 per gallon, or fraction thereof;

19 (5) *on compressed natural gas, \$.24 per gallon, or fraction thereof;*
20 *and*

21 (6) *on liquefied natural gas, \$.26 per gallon, or fraction thereof.*

22 Sec. 4. K.S.A. 79-3492 and K.S.A. 2013 Supp. 79-3495 and 79-
23 34,141 are hereby repealed.

24 Sec. 5. This act shall take effect and be in force from and after its
25 publication in the statute book.