

STATE OF NEW YORK

9375

IN SENATE

May 14, 2024

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, the vehicle and traffic law and the state finance law, in relation to a highway use tax for fuel-efficient vehicles; and to repeal certain provisions of the state finance law relating to the dedicated highway and bridge trust fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The tax law is amended by adding a new article 21-B to
2 read as follows:

ARTICLE 21-B

HIGHWAY USE TAX FOR FUEL-EFFICIENT VEHICLES

Section 530. Definitions.

531. Creation of highway use tax for covered vehicles.

532. Collection of tax.

533. Data privacy.

534. Reimbursements for gas tax.

535. Penalties, interest, and tax fraud acts.

536. Disposition of revenues.

537. Annual report.

§ 530. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Covered vehicle" shall mean a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, that receives at least thirty miles per gallon or miles per gallon equivalent.

2. "Global positioning system" or "GPS" shall mean a location tracking technology that uses navigational satellites to determine a user's location and velocity in real time and is capable of collecting, storing, and transmitting geographical data.

3. "Miles per gallon" shall refer to the measure of distance that a covered vehicle running on gasoline or diesel fuel can travel per gallon of such fuel as rated by the environmental protection agency.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD14194-02-4

1 4. "Miles per gallon gasoline equivalent" shall refer to the measure
2 of distance that a covered vehicle running on non-liquid fuels can travel
3 per unit of energy as rated by the environmental protection agency.

4 5. "Motor fuel" shall mean the same as defined in subdivision two of
5 section two hundred eighty-two of this chapter.

6 6. "On-board unit" shall mean an electronic device installed in a
7 covered vehicle that records traffic and driving data and can connect to
8 roadside and satellite navigation systems.

9 7. "Public highway" shall mean any public highway, street, avenue,
10 road, public place, public driveway, or any other public way in this
11 state.

12 § 531. Creation of highway use tax for covered vehicles. 1. There is
13 hereby created a highway use tax for covered vehicles for the privilege
14 of operating a covered vehicle upon the public highways of this state
15 and for the purpose of recompensing the state for the public expendi-
16 tures incurred by reason of the operations of such covered vehicle on
17 such public highways. The tax shall be levied upon the owner of a
18 covered vehicle for miles driven on public highways.

19 2. The amount of highway use tax owed shall be equal to the number of
20 vehicle miles traveled, as reported by the on-board unit, times a tax
21 rate of 1.9 cents per mile.

22 § 532. Collection of tax. The highway use tax for covered vehicles
23 shall be collected as follows:

24 1. An on-board unit shall be installed in every covered vehicle at the
25 point of such vehicle's registration, reregistration, or renewal pursu-
26 ant to section four hundred one of the vehicle and traffic law. The
27 on-board unit shall transmit to the department the number of vehicle
28 miles traveled on public highways on a regular basis for the purposes of
29 calculating the amount of highway use tax owed by the owner of the
30 covered vehicle.

31 2. Owners of a covered vehicle under this article shall be required to
32 file a return for the highway use tax no less than four times throughout
33 the year, on or before the last day of the calendar month following each
34 of the calendar quarters: January through March, April through June,
35 July through September, and October through December, provided, however,
36 that owners may file such returns on a more frequent basis through the
37 creation of a prepaid account or any other method prescribed by the
38 commissioner.

39 § 533. Data privacy. The commissioner shall promulgate regulations to
40 ensure the privacy and integrity of all data collected from covered
41 vehicles and vehicle owners under this article, provided that:

42 1. The on-board units, as defined in this article, shall be programmed
43 to track mileage on public highways in this state using a GPS system or
44 other comparable technology, but shall not report exact location coordi-
45 nates, times of travel, trip data, or any other geographic information
46 about the use of a covered vehicle to the department. Such on-board
47 units shall report mileage as an aggregate number for a given time peri-
48 od as prescribed by the commissioner.

49 2. The department shall be subject to the requirements of article
50 six-A of the public officers law when implementing any and all
51 provisions of this article.

52 § 534. Reimbursements for gas tax. The commissioner shall create a
53 system by which the owner of a covered vehicle may, electronically or
54 otherwise, submit a record of payment for motor fuel in this state. Such
55 commissioner shall then determine the portion of such payment attribut-
56 able to the fuel taxes described in this chapter which are levied upon

1 the purchase of such motor fuel and shall apply such portion as a credit
2 against the amount of highway use tax owed, provided, however, that if
3 the amount of the credit shall exceed the amount of tax owed, no refund
4 shall be issued thereof.

5 § 535. Penalties, interest, and tax fraud acts. 1. Any person failing
6 to file a return or to pay any tax within the time required by or pursu-
7 ant to this article shall be subject to the penalties prescribed in
8 section five hundred twelve of this chapter, excepting, however, such
9 failures which are due to reasonable cause and not willful neglect as
10 determined by the commissioner and described in such section.

11 2. Any person committing a tax fraud act shall be subject to the
12 penalties prescribed in sections eighteen hundred one, eighteen hundred
13 two, eighteen hundred three, eighteen hundred four, eighteen hundred
14 five, eighteen hundred six and eighteen hundred seven of this chapter.
15 "Tax fraud act" as used in this subdivision shall include any inten-
16 tional frustration of the provisions of this article including, but not
17 limited to, tampering with, replacing, or disconnecting an on-board unit
18 with the intent to defraud.

19 § 536. Disposition of revenues. All taxes, interest, penalties, and
20 fees collected or received pursuant to this article shall be deposited
21 daily in one account with such responsible banks, banking houses, or
22 trust companies as may be designated by the comptroller, and to the
23 credit of the comptroller on account of the dedicated highway and bridge
24 trust fund established pursuant to section eighty-nine-b of the state
25 finance law. Such an account may be established in one or more of such
26 depositories and such deposits shall be kept separate and apart from all
27 other moneys in the possession of the comptroller. The comptroller shall
28 require adequate security from all such depositories.

29 § 537. Annual report. No later than one year after the effective date
30 of this section, and each year thereafter, the commissioner shall deliv-
31 er an annual report to the legislature containing:

32 1. Recommended changes, if any, to the tax rate established in subdi-
33 vision two of section five hundred thirty-one of this article;

34 2. Recommended changes, if any, to the miles per gallon or miles per
35 gallon equivalent threshold for covered vehicles to which this article
36 applies;

37 3. The total number of covered vehicles in this state which are
38 subject to the provisions of this article;

39 4. The total amount of mileage recorded and reported for purposes of
40 this article on public highways in this state; and

41 5. The total amount of annual revenues collected under this article.

42 § 2. Subparagraph (a) of paragraph 1 of subdivision (c) of section 301
43 of the vehicle and traffic law, as amended by chapter 444 of the laws of
44 2016, is amended to read as follows:

45 (a) A safety inspection shall be made with respect to the brakes;
46 steering mechanism; wheel alignment; lights, including but not limited
47 to the lights which are designed and placed on a vehicle for the purpose
48 of illuminating the vehicle's license plates; odometer; tire pressure;
49 seat safety belts; shoulder harness safety belts; any window which is
50 composed of, covered by or treated with any material which has a light
51 transmittance of less than seventy percent pursuant to section three
52 hundred seventy-five of this title, an on-board unit for covered vehi-
53 cles, as such terms are defined in section five hundred thirty of the
54 tax law, and such other mechanisms and equipment as shall be determined
55 by the commissioner to be necessary for proper and safe operations. Such
56 inspection shall also be made with respect to vehicle identification

1 number. Upon inspection, the mileage appearing on the odometer shall be
2 recorded upon the inspection sticker. For covered vehicles, as defined
3 in section five hundred thirty of the tax law, both the mileage appear-
4 ing on the odometer and the mileage recorded by an on-board unit shall
5 be recorded and transmitted to the commissioner, in a manner and form
6 prescribed by the commissioner.

7 § 3. Section 375 of the vehicle and traffic law is amended by adding a
8 new subdivision 55 to read as follows:

9 55. Every covered motor vehicle subject to the provisions of article
10 twenty-one-B of the tax law registered in this state shall be equipped
11 with an on-board unit, as defined in section five hundred thirty of the
12 tax law. Such on-board unit shall be programmed to track mileage on
13 public highways in this state using a GPS system or other comparable
14 technology, but shall not report exact location coordinates, times of
15 travel, trip data, or any other geographic information about the use of
16 a covered vehicle to the tax department.

17 § 4. Paragraph (a) of subdivision 3 of section 89-b of the state
18 finance law, as amended by section 4 of chapter 368 of the laws of 2019,
19 is amended to read as follows:

20 (a) The special obligation reserve and payment account shall consist
21 (i) of all moneys required to be deposited in the dedicated highway and
22 bridge trust fund pursuant to the provisions of sections two hundred
23 five, two hundred eighty-nine-e, three hundred one-j, five hundred
24 fifteen, five hundred thirty-six and eleven hundred sixty-seven of the
25 tax law, section four hundred one and article twelve-d of the vehicle
26 and traffic law, and section thirty-one of chapter fifty-six of the laws
27 of nineteen hundred ninety-three, (ii) all fees, fines or penalties
28 collected by the commissioner of transportation and the commissioner of
29 motor vehicles pursuant to section fifty-two, section three hundred
30 twenty-six, section eighty-eight of the highway law, subdivision fifteen
31 of section three hundred eighty-five of the vehicle and traffic law,
32 section two of part U1 of chapter sixty-two of the laws of two thousand
33 three, subdivision (d) of section three hundred four-a, paragraph one of
34 subdivision (a) and subdivision (d) of section three hundred five,
35 subdivision six-a of section four hundred fifteen and subdivision (g) of
36 section twenty-one hundred twenty-five of the vehicle and traffic law,
37 section fifteen of this chapter, excepting moneys deposited with the
38 state on account of betterments performed pursuant to subdivision twen-
39 ty-seven or subdivision thirty-five of section ten of the highway law,
40 and section one hundred forty-five of the transportation law, (iii) any
41 moneys collected by the department of transportation for services
42 provided pursuant to agreements entered into in accordance with section
43 ninety-nine-r of the general municipal law, and (iv) any other moneys
44 collected therefor or credited or transferred thereto from any other
45 fund, account or source.

46 § 5. Paragraph (a) of subdivision 3 of section 89-b of the state
47 finance law, as amended by section 5 of chapter 368 of the laws of 2019,
48 is amended to read as follows:

49 (a) The special obligation reserve and payment account shall consist
50 (i) of all moneys required to be deposited in the dedicated highway and
51 bridge trust fund pursuant to the provisions of sections two hundred
52 eighty-nine-e, three hundred one-j, five hundred fifteen, five hundred
53 thirty-six and eleven hundred sixty-seven of the tax law, section four
54 hundred one and article twelve-d of the vehicle and traffic law, and
55 section thirty-one of chapter fifty-six of the laws of nineteen hundred
56 ninety-three, (ii) all fees, fines or penalties collected by the commis-

1 sioner of transportation and the commissioner of motor vehicles pursuant
2 to section fifty-two, section three hundred twenty-six, section eighty-
3 eight of the highway law, subdivision fifteen of section three hundred
4 eighty-five of the vehicle and traffic law, section fifteen of this
5 chapter, excepting moneys deposited with the state on account of better-
6 ments performed pursuant to subdivision twenty-seven or subdivision
7 thirty-five of section ten of the highway law, and section one hundred
8 forty-five of the transportation law, (iii) any moneys collected by the
9 department of transportation for services provided pursuant to agree-
10 ments entered into in accordance with section ninety-nine-r of the
11 general municipal law, and (iv) any other moneys collected therefor or
12 credited or transferred thereto from any other fund, account or source.

13 § 6. Paragraph (a) of subdivision 3 of section 89-b of the state
14 finance law, as amended by section 8 of part UU of chapter 59 of the
15 laws of 2018, is REPEALED.

16 § 7. This act shall take effect on the ninetieth day after it shall
17 have become a law and shall apply to all covered vehicles registered or
18 reregistered on or after such effective date; provided, however, that
19 the amendments to paragraph (a) of subdivision 3 of section 89-b of the
20 state finance law, made by section four of this act, shall be subject to
21 the expiration and reversion of such paragraph pursuant to section 6 of
22 chapter 368 of the laws of 2019, as amended, when upon such date the
23 provisions of section five of this act shall take effect. Effective
24 immediately, the addition, amendment and/or repeal of any rule or regu-
25 lation necessary for the implementation of this act on its effective
26 date are authorized to be made and completed on or before such effective
27 date.