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:

Section 1. The tax law is amended by adding a new article 21-B to 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.

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

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

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

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

§ 531. Creation of highway use tax for covered vehicles. 1. There is hereby created a highway use tax for covered vehicles for the privilege of operating a covered vehicle upon the public highways of this state and for the purpose of recompensing the state for the public expenditures incurred by reason of the operations of such covered vehicle on such public highways. The tax shall be levied upon the owner of a covered vehicle for miles driven on public highways.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The special obligation reserve and payment account shall consist (i) of all moneys required to be deposited in the dedicated highway and bridge trust fund pursuant to the provisions of sections two hundred five, two hundred eighty-nine-e, three hundred one-j, five hundred fifteen**, five hundred thirty-six** and eleven hundred sixty-seven of the tax law, section four hundred one and article twelve-d of the vehicle and traffic law, and section thirty-one of chapter fifty-six of the laws of nineteen hundred ninety-three, (ii) all fees, fines or penalties collected by the commissioner of transportation and the commissioner of motor vehicles pursuant to section fifty-two, section three hundred twenty-six, section eighty-eight of the highway law, subdivision fifteen of section three hundred eighty-five of the vehicle and traffic law, section two of part U1 of chapter sixty-two of the laws of two thousand three, subdivision (d) of section three hundred four-a, paragraph one of subdivision (a) and subdivision (d) of section three hundred five, subdivision six-a of section four hundred fifteen and subdivision (g) of section twenty-one hundred twenty-five of the vehicle and traffic law, section fifteen of this chapter, excepting moneys deposited with the state on account of betterments performed pursuant to subdivision twenty-seven or subdivision thirty-five of section ten of the highway law, and section one hundred forty-five of the transportation law, (iii) any moneys collected by the department of transportation for services provided pursuant to agreements entered into in accordance with section ninety-nine-r of the general municipal law, and (iv) any other moneys collected therefor or credited or transferred thereto from any other fund, account or source.

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

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

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

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

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