

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 353 be amended to read as follows:

- 1 Page 12, between lines 24 and 25, begin a new paragraph and insert:
- 2 "SECTION 21. IC 6-6-2.5-28 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 28. (a) A license tax of
- 4 sixteen cents (\$0.16) per gallon is imposed on all special fuel sold or
- 5 used in producing or generating power for propelling motor vehicles
- 6 except fuel used under section 30(a)(8) or 30.5 of this chapter. The tax
- 7 shall be paid at those times, in the manner, and by those persons
- 8 specified in this section and section 35 of this chapter.
- 9 (b) The department shall consider it a rebuttable presumption that all
- 10 undyed or unmarked special fuel, or both, received in Indiana is to be
- 11 sold for use in propelling motor vehicles.
- 12 (c) Except as provided in subsection (d), the tax imposed on special
- 13 fuel by subsection (a) shall be measured by invoiced gallons of
- 14 nonexempt special fuel received by a licensed supplier in Indiana for
- 15 sale or resale in Indiana or with respect to special fuel subject to a tax
- 16 precollection agreement under section 35(d) of this chapter, such
- 17 special fuel removed by a licensed supplier from a terminal outside of
- 18 Indiana for sale for export or for export to Indiana and in any case shall
- 19 generally be determined in the same manner as the tax imposed by
- 20 Section 4081 of the Internal Revenue Code and Code of Federal
- 21 Regulations.
- 22 (d) The tax imposed by subsection (a) on special fuel imported into
- 23 Indiana, other than into a terminal, is imposed at the time the product
- 24 is entered into Indiana and shall be measured by invoiced gallons
- 25 received at a terminal or at a bulk plant.

1 (e) In computing the tax, all special fuel in process of transfer from
 2 tank steamers at boat terminal transfers and held in storage pending
 3 wholesale bulk distribution by land transportation, or in tanks and
 4 equipment used in receiving and storing special fuel from interstate
 5 pipelines pending wholesale bulk reshipment, shall not be subject to
 6 tax.

7 (f) The department shall consider it a rebuttable presumption that
 8 special fuel consumed in a motor vehicle plated for general highway
 9 use is subject to the tax imposed under this chapter. A person claiming
 10 exempt use of special fuel in such a vehicle must maintain adequate
 11 records as required by the department to document the vehicle's taxable
 12 and exempt use.

13 (g) A person that engages in blending fuel for taxable sale or use in
 14 Indiana is primarily liable for the collection and remittance of the tax
 15 imposed under subsection (a). The person shall remit the tax due in
 16 conjunction with the filing of a monthly report in the form prescribed
 17 by the department.

18 (h) A person that receives special fuel that has been blended for
 19 taxable sale or use in Indiana is secondarily liable to the state for the tax
 20 imposed under subsection (a).

21 (i) A person may not use special fuel on an Indiana public highway
 22 if the special fuel contains a sulfur content that exceeds five
 23 one-hundredths of one percent (0.05%). A person who knowingly:

- 24 (1) violates; or
- 25 (2) aids or abets another person to violate;

26 this subsection commits a Class A infraction. However, the violation is
 27 a Class A misdemeanor if the person has committed one (1) prior
 28 unrelated violation of this subsection, and a Class D felony if the person
 29 has committed more than one (1) unrelated violation of this subsection.

30 SECTION 22. IC 6-6-2.5-30.5 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2006]: **Sec. 30.5. (a) Except as provided in**
 33 **subsection (b), special fuel is exempt from the special fuel tax if:**

- 34 **(1) the special fuel has a nominal biodiesel content of at least**
 35 **twenty percent (20%);**
- 36 **(2) the special fuel is used only for a personal, noncommercial**
 37 **use and is not for resale;**
- 38 **(3) the biodiesel content of the special fuel is produced by the**
 39 **individual using the special fuel; and**
- 40 **(4) the individual obtains an exemption certificate under**
 41 **subsection (c) before using the special fuel.**

42 **(b) The maximum number of gallons of special fuel for which an**
 43 **individual may claim the exemption under this section in a year is**
 44 **equal to:**

- 45 **(1) two thousand (2,000); divided by**
- 46 **(2) the average percentage volume of biodiesel in each gallon**
 47 **used by the individual.**

1 (c) The department shall issue an exemption certificate to an
2 individual who produces evidence of nontaxability under
3 subsection (a)(1), (a)(2), and (a)(3). A certificate issued under this
4 subsection is valid as long as the individual is using special fuel that
5 is exempt under this section. An individual holding a certificate
6 issued under this subsection shall notify the department:

7 (1) of any address change by the individual; and

8 (2) when the individual ceases use of special fuel that is exempt
9 under this section.

10 (d) An individual who is issued an exemption certificate under
11 this section is required to submit to the department a report, in a
12 form prescribed by the department, on January 20 of each year.
13 The report must include:

14 (1) the number of gallons in the immediately preceding year;
15 and

16 (2) the average percentage volume of biodiesel in each gallon;
17 to which the exemption was applied in the previous calendar year
18 ending on the immediately preceding December 31.

19 (e) An individual who is issued an exemption certificate under
20 this section is not subject to the reporting requirements under
21 section 35 of this chapter."

22 Renumber all SECTIONS consecutively.

(Reference is to ESB 353 as printed February 24, 2006.)

Representative Micon