



March 29, 2013

**ENGROSSED
SENATE BILL No. 479**

DIGEST OF SB 479 (Updated March 26, 2013 1:29 pm - DI 92)

Citations Affected: IC 6-2.5; IC 6-6; IC 6-8.1; noncode.

Synopsis: Sales and use taxes. Specifies that using a location owned by a common carrier acting in its capacity as a common carrier is not considered using or maintaining a location in Indiana for purposes of determining whether a retail merchant is engaged in business in Indiana. Provides that for purposes of the Indiana sales and use tax law, a "retail merchant engaged in business in Indiana" includes any retail merchant who: (1) makes retail transactions in which a person acquires personal property or taxable services for use, storage, or consumption in Indiana; and (2) enters into an arrangement with any person, other than a common carrier, to facilitate the retail merchant's delivery of property to customers in Indiana by allowing customers to pick up property sold by the retail merchant at a place of business maintained by the person in Indiana. Specifies that a retail merchant may be required by the state to collect and remit sales or use taxes if any person conducts activities in Indiana on behalf of the retail merchant that are significantly associated with the retail merchant's ability to establish and maintain a market in Indiana. Provides that a retail merchant is presumed to be engaged in business in Indiana if an
(Continued next page)

Effective: July 1, 2013; January 1, 2014; July 1, 2014.

**Walker, Charbonneau, Skinner,
Boots**

(HOUSE SPONSORS — DERMODY, GOODIN)

January 14, 2013, read first time and referred to Committee on Tax and Fiscal Policy.
February 12, 2013, amended, reported favorably — Do Pass.
February 14, 2013, read second time, ordered engrossed.
February 15, 2013, engrossed.
February 18, 2013, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 26, 2013, read first time and referred to Committee on Ways and Means.
March 28, 2013, amended, reported — Do Pass.

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Digest Continued

affiliate of the retail merchant has substantial nexus in Indiana and certain additional conditions are satisfied. Provides that a retail merchant is presumed to be engaged in business in Indiana if the retail merchant enters into an agreement with one or more residents of Indiana under which the resident directly or indirectly refers potential customers to the retail merchant, if the cumulative gross receipts from the sales by the retail merchant to customers in Indiana who are referred to the retail merchant by all residents is greater than \$10,000 during the preceding 12 months. Permits the presumptions to be rebutted. Specifies that the use tax nexus provisions apply to transactions that occur after June 30, 2013. Provides a new collection procedure for imposing and collecting state gross retail and use tax on the sale of gasoline based on gallons sold and a rolling four week average retail price per gallon. Specifies that the collection point is moved to the first purchaser of gasoline from a refiner, a terminal operator, or supplier. Requires the department of state revenue to monthly determine a use tax rate per gallon using the 7% gross retail and use tax rate. Requires all reports of gasoline use tax to be filed electronically and the taxes remitted using the department's online tax system. Changes from 25% to 15% the amount the retail price of gasoline must change before a new use tax rate may be set at a time other than at the time of the monthly rate setting. Provides that if the department changes the use tax rate determined for a month because the statewide average retail price per gallon of gasoline has increased by more than 15%, the new rate may not take effect earlier than 10 days after publication of the new rate. Requires the department to publish a tax notice on its Internet web site. Requires the notice to specify the source of the data used to determine the gasoline use tax rate and the statewide average retail price per gallon of gasoline. Provides that certain licensing information may be published by the department. Establishes a truck stop owner's license.

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March 29, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 479

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-2.5-2-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) An excise tax,
3 known as the state gross retail tax, is imposed on retail transactions
4 made in Indiana.

5 (b) The person who acquires property in a retail transaction is liable
6 for the tax on the transaction and, except as otherwise provided in this
7 chapter, shall pay the tax to the retail merchant as a separate added
8 amount to the consideration in the transaction. ~~The A~~ retail merchant
9 **engaged in business in Indiana (as defined in IC 6-2.5-3-1(c)) or a**
10 **retail merchant who has permission from the department to collect**
11 **the tax** shall collect the tax as agent for the state.

12 SECTION 2. IC 6-2.5-3-1 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. For purposes of this
14 chapter:

15 (a) "Use" means the exercise of any right or power of ownership
16 over tangible personal property.

17 (b) "Storage" means the keeping or retention of tangible personal

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1 property in Indiana for any purpose except the subsequent use of that
2 property solely outside Indiana.

3 (c) "A retail merchant engaged in business in Indiana" includes any
4 retail merchant who makes retail transactions in which a person
5 acquires personal property or services for use, storage, or consumption
6 in Indiana and who:

7 (1) **uses or** maintains an office, place of distribution, sales
8 location, sample location, warehouse, storage place, or other place
9 of business which is located in Indiana, ~~and which the retail~~
10 ~~merchant maintains, occupies, or uses, either permanently or~~
11 ~~temporarily, either directly or indirectly, and either by the retail~~
12 ~~merchant or through a representative, agent, or subsidiary,~~
13 **whether owned by the person or any other person, other than**
14 **a common carrier acting in its capacity as a common carrier.**

15 (2) maintains a representative, agent, salesman, canvasser, or
16 solicitor who, while operating in Indiana under the authority of
17 and on behalf of the retail merchant or a subsidiary **or an affiliate**
18 of the retail merchant, sells, delivers, installs, repairs, assembles,
19 sets up, accepts returns of, bills, invoices, or takes orders for sales
20 of tangible personal property or services to be used, stored, or
21 consumed in Indiana;

22 **(3) enters into an arrangement with any person, other than a**
23 **common carrier, to facilitate the retail merchant's delivery of**
24 **property to customers in Indiana by allowing the retail**
25 **merchant's customers to pick up property sold by the retail**
26 **merchant at an office, distribution facility, warehouse, storage**
27 **place, or similar place of business maintained by the person**
28 **in Indiana;**

29 ~~(3)~~ **(4)** is otherwise required to register as a retail merchant under
30 IC 6-2.5-8-1; or

31 ~~(4)~~ **(5)** may be required by the state to collect tax under this article
32 to the extent allowed under the Constitution of the United States
33 and federal law.

34 **(d) Notwithstanding any other law, a person may be required by**
35 **the state to collect and remit gross retail tax or use tax as a retail**
36 **merchant engaged in business in Indiana under subsection (c) if the**
37 **activities conducted by any person in Indiana on behalf of a retail**
38 **merchant are significantly associated with the retail merchant's**
39 **ability to establish and maintain a market in Indiana.**

40 ~~(d)~~ **(e)** Notwithstanding any other provision of this section, tangible
41 or intangible property that is:

42 (1) owned or leased by a person that has contracted with a

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1 commercial printer for printing; and
 2 (2) located at the premises of the commercial printer;
 3 shall not be considered to be, or to create, an office, a place of
 4 distribution, a sales location, a sample location, a warehouse, a storage
 5 place, or other place of business maintained, occupied, or used in any
 6 way by the person. A commercial printer with which a person has
 7 contracted for printing shall not be considered to be in any way a
 8 representative, an agent, a salesman, a canvasser, or a solicitor for the
 9 person.

10 **(f) A retail merchant is presumed to be engaged in business in**
 11 **Indiana if an affiliate of the retail merchant has substantial nexus**
 12 **in Indiana and:**

13 **(1) the retail merchant sells a line of products similar to a line**
 14 **of products sold by the affiliate, and the retail merchant does**
 15 **so under a business name that is the same as or is similar to**
 16 **the affiliate's business name;**

17 **(2) the affiliate uses its Indiana employees or its Indiana**
 18 **facilities to advertise, promote, or facilitate sales by the retail**
 19 **merchant to customers; or**

20 **(3) the affiliate uses trademarks, service marks, or trade**
 21 **names in Indiana that are the same as or substantially similar**
 22 **to those used by the retail merchant.**

23 **(g) The presumption under subsection (f) may be rebutted by**
 24 **demonstrating that the affiliate's activities in Indiana are not**
 25 **significantly associated with the retail merchant's ability to**
 26 **establish or maintain a market in Indiana for the retail merchant's**
 27 **sales.**

28 **(h) A retail merchant is presumed to be engaged in business in**
 29 **Indiana if the retail merchant enters into an agreement with one**
 30 **(1) or more residents of Indiana under which the resident, for a**
 31 **commission or other consideration, directly or indirectly refers**
 32 **potential customers, whether by a link on an Internet web site, an**
 33 **in-person oral presentation, or otherwise, to the retail merchant,**
 34 **if the cumulative gross receipts from the sales by the retail**
 35 **merchant to customers in Indiana who are referred to the retail**
 36 **merchant by all residents with this type of an agreement with the**
 37 **retail merchant are greater than ten thousand dollars (\$10,000)**
 38 **during the preceding twelve (12) months.**

39 **(i) The presumption under subsection (h) may be rebutted by**
 40 **submitting proof that the residents with whom the retail merchant**
 41 **has an agreement did not engage in any activity within Indiana**
 42 **that was significantly associated with the retail merchant's ability**



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1 to establish or maintain the retail merchant's market in Indiana
2 during the preceding twelve (12) months. This proof may consist of
3 sworn written statements that:

- 4 (1) are from all the Indiana residents with whom the retail
5 merchant has an agreement described in subsection (h);
- 6 (2) are provided and obtained in good faith; and
- 7 (3) state that the Indiana residents did not engage in any
8 solicitation in Indiana on behalf of the retail merchant during
9 the preceding twelve (12) months.

- 10 (j) For purposes of this section, "affiliate" means any:
 - 11 (1) person that is a member of the same controlled group of
12 corporations (as defined in 26 U.S.C. 1563(a)) as the retail
13 merchant; or
 - 14 (2) other entity that, notwithstanding its form of organization,
15 bears the same ownership relationship to the retail merchant
16 as a corporation that is a member of the same controlled
17 group of corporations (as defined in 26 U.S.C. 1563(a)).

18 SECTION 3. IC 6-2.5-3.5 IS ADDED TO THE INDIANA CODE
19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2014]:

21 **Chapter 3.5. Collection of Use Tax on Gasoline**

22 **Sec. 1.** As used in this chapter, "distributor" means a person
23 who is the first purchaser of gasoline from a refiner, a terminal
24 operator, or supplier, regardless of the location of the purchase.

25 **Sec. 2.** As used in this chapter, "E85" has the meaning set forth
26 in IC 6-6-1.1-103.

27 **Sec. 3.** As used in this chapter, "federal gasoline tax" means the
28 excise tax imposed on gasoline under Section 4081 of the Internal
29 Revenue Code.

30 **Sec. 4.** As used in this chapter, "gasoline" has the meaning set
31 forth in IC 6-6-1.1-103(g).

32 **Sec. 5.** As used in this chapter, "Indiana gasoline tax" means the
33 tax imposed under IC 6-6-1.1.

34 **Sec. 6.** As used in this chapter, "metered pump" means a
35 stationary pump that is capable of metering the amount of gasoline
36 or special fuel dispensed from it and that is capable of
37 simultaneously calculating and displaying the price of the gasoline
38 or special fuel dispensed.

39 **Sec. 7.** As used in this chapter, "price per unit before the
40 addition of state and federal taxes" means an amount that equals
41 the remainder of:

- 42 (1) the total price per unit; minus

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(2) the gasoline use tax, Indiana gasoline, and federal gasoline taxes that are part of the total price per unit.

Sec. 8. As used in this chapter, "purchase or shipment" means a sale or delivery of gasoline, but does not include:

- (1) an exchange transaction between refiners, terminal operators, or a refiner and terminal operator; or
- (2) a delivery by pipeline, ship, or barge to a refiner or terminal operator.

Sec. 9. As used in this chapter, "qualified distributor" means a distributor who:

- (1) is a licensed distributor under IC 6-6-1.1; and
- (2) holds an unrevoked permit issued under section 17 of this chapter.

Sec. 10. As used in this chapter, "refiner" means a person who manufactures or produces gasoline by any process involving substantially more than the blending of gasoline.

Sec. 11. As used in this chapter, "terminal operator" means a person that:

- (1) stores gasoline in tanks and equipment used in receiving and storing gasoline from interstate or intrastate pipelines pending wholesale bulk reshipment; or
- (2) stores gasoline at a boat terminal transfer that is a dock or tank, or equipment contiguous to a dock or tank, including equipment used in the unloading of gasoline from a ship or barge and used in transferring the gasoline to a tank pending wholesale bulk reshipment.

Sec. 12. As used in this chapter, "total price per unit" means the price per unit at which gasoline is actually sold, including the gasoline use, Indiana gasoline, and federal gasoline taxes that are part of the sales price.

Sec. 13. As used in this chapter, "unit" means the unit of measure, such as a gallon or a liter, by which gasoline is sold.

Sec. 14. As used in this chapter, "use tax rate" means a rate per gallon of gasoline determined by the department under section 15 of this chapter and used to calculate the use tax due on the retail sale of gasoline under section 16 of this chapter, notwithstanding the collection procedures set forth in this chapter.

Sec. 15. (a) Before the twentieth day of each month, the department shall determine and provide a notice of the gasoline use tax rate to be used during the following month and the source of the data used to determine the gasoline use tax rate and the statewide average retail price per gallon of gasoline. The notice

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1 shall be published on the department's Internet web site in a
2 departmental notice.

3 (b) In determining the gasoline use tax rate under this section,
4 the department shall use:

5 (1) the statewide average retail price per gallon of gasoline
6 (based on the retail price per gallon of gasoline during the
7 previous four (4) weeks), excluding the Indiana and federal
8 gasoline taxes, the Indiana gasoline use tax, and the Indiana
9 gross retail tax (if any); multiplied by

10 (2) seven percent (7%).

11 To determine the statewide average retail price, the department
12 shall use a data service that updates the most recent retail price of
13 gasoline. The gasoline use tax rate per gallon of gasoline
14 determined by the department under this section shall be rounded
15 to the nearest one-tenth of one cent (\$0.001).

16 Sec. 16. A qualified distributor, a refiner, or a terminal operator
17 that sells gasoline for delivery to a retail merchant located in
18 Indiana shall remit the gasoline use tax to the department for each
19 gallon of gasoline sold. The person shall remit that amount
20 regardless of the amount of gasoline use tax that the person has
21 actually collected under this chapter. However, the person is
22 entitled to deduct and retain the amounts prescribed in
23 IC 6-2.5-6-10 and IC 6-2.5-6-11.

24 Sec. 17. (a) A distributor, refiner, or terminal operator desiring
25 to receive gasoline within Indiana without paying the gasoline use
26 tax must hold an uncanceled permit issued by the department to
27 collect payments of gasoline use tax from purchasers and recipients
28 of gasoline.

29 (b) To obtain a permit, a distributor, refiner, or terminal
30 operator must file with the department a sworn application
31 containing information that the department reasonably requires.

32 (c) The department may refuse to issue a permit to a distributor,
33 refiner, or terminal operator if:

34 (1) the application is filed by a distributor, refiner, or
35 terminal operator whose permit has previously been canceled
36 for cause;

37 (2) the application is not filed in good faith, as determined by
38 the department;

39 (3) the application is filed by a person as a subterfuge for the
40 real person in interest whose permit has previously been
41 canceled for cause; or

42 (4) the distributor, refiner, or terminal operator has

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- 1 **outstanding tax liability with the department for which a tax**
 2 **warrant has been issued.**
- 3 **(d) A permit may not be issued unless the application is**
 4 **accompanied by an audited and current financial statement and a**
 5 **license fee of one hundred dollars (\$100).**
- 6 **(e) A permit issued under this section is not assignable and is**
 7 **valid only for the distributor, refiner, or terminal operator in**
 8 **whose name it is issued. If there is a change in name or ownership,**
 9 **the distributor, refiner, or terminal operator must apply for a new**
 10 **permit.**
- 11 **(f) The department may revoke a permit for good cause.**
- 12 **(g) Before being denied a permit under subsection (c) or before**
 13 **having a permit revoked under subsection (f), a distributor,**
 14 **refiner, or terminal operator is entitled to a hearing after five (5)**
 15 **business days written notice. At the hearing, the distributor,**
 16 **refiner, or terminal operator may appear in person or by counsel**
 17 **and present testimony.**
- 18 **(h) The department shall keep a record of all qualified**
 19 **distributors, refiners, and terminal operators.**
- 20 **(i) The department may publish a list of qualified distributors**
 21 **on the department's Internet web site. The list must be limited to**
 22 **the following information:**
- 23 **(1) The name of each qualified distributor.**
- 24 **(2) The complete address of each qualified distributor.**
- 25 **(3) The telephone number of each qualified distributor.**
- 26 **(j) The information contained in a list published under**
 27 **subsection (i) is not confidential under IC 6-8.1-7-1.**
- 28 **Sec. 18. (a) The department may require a distributor, refiner,**
 29 **or terminal operator to file, concurrently with the filing of an**
 30 **application for a permit, a bond:**
- 31 **(1) in an amount of at least two thousand dollars (\$2,000) and**
 32 **not more than a three (3) month gasoline use tax liability for**
 33 **the distributor, as estimated by the department;**
- 34 **(2) in cash or with a surety company approved by the**
 35 **department;**
- 36 **(3) upon which the distributor is the principal obligor and the**
 37 **state is the obligee; and**
- 38 **(4) conditioned upon the prompt filing of true electronic**
 39 **reports and payment of all gasoline use taxes collected by the**
 40 **distributor, together with any penalties and interest, and upon**
 41 **faithful compliance with this chapter.**
- 42 **The department shall determine the amount of the distributor's**

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- 1 bond, if any.
- 2 (b) If after a hearing (after at least five (5) days written notice)
- 3 the department determines that the amount of a distributor's bond
- 4 is insufficient, the distributor shall upon written demand of the
- 5 department file a new bond.
- 6 (c) The department may require a distributor to file a new bond
- 7 with a satisfactory surety in the same form and amount if:
- 8 (1) liability upon the old bond is discharged or reduced by
- 9 judgment rendered, payment made, or otherwise; or
- 10 (2) in the opinion of the department, any surety on the old
- 11 bond becomes unsatisfactory.
- 12 (d) If a new bond obtained under subsection (b) or (c) is
- 13 unsatisfactory, the department shall cancel the permit of the
- 14 distributor. If the new bond is satisfactorily furnished, the
- 15 department shall release in writing the surety on the old bond from
- 16 any liability accruing after the effective date of the new bond.
- 17 (e) Sixty (60) days after making a written request for release to
- 18 the department, the surety of a bond furnished by a distributor is
- 19 released from any liability to the state accruing on the bond. The
- 20 release does not affect any liability accruing before expiration of
- 21 the sixty (60) day period. The department shall promptly notify the
- 22 distributor furnishing the bond that the surety has requested
- 23 release. Unless the distributor obtains a new bond that meets the
- 24 requirements of this section and files the new bond with the
- 25 department within the sixty (60) day period, the department shall
- 26 cancel the distributor's permit.
- 27 (f) The department may require a distributor to furnish audited
- 28 annual financial statements to determine if any change is required
- 29 in the amount of the distributor's bond.
- 30 Sec. 19. (a) Except as provided in section 22 of this chapter, at
- 31 the time of purchase or shipment of gasoline from a refiner or
- 32 terminal operator to a distributor that is not a qualified
- 33 distributor, the refiner or terminal operator shall collect and the
- 34 distributor shall pay to the refiner or terminal operator the
- 35 gasoline use tax in an amount determined under subsection (d).
- 36 (b) At the time of purchase or shipment of gasoline from a
- 37 qualified distributor to a retail merchant, the qualified distributor
- 38 shall collect and the retail merchant shall pay to the qualified
- 39 distributor the gasoline use tax in an amount determined under
- 40 subsection (d).
- 41 (c) If gasoline is delivered to a retail merchant for resale and the
- 42 gasoline use tax in the amount determined under subsection (d) has

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1 not been paid on the gasoline, the refiner, terminal operator, or
 2 qualified distributor making the delivery shall pay to the
 3 department the gasoline use tax in an amount determined under
 4 subsection (d). For purposes of this chapter, a bulk plant is
 5 considered to be a retail merchant, except when the bulk plant is
 6 also a qualified distributor.

7 (d) The amount of tax that must be paid under this section
 8 equals:

9 (1) the gasoline use tax rate per gallon of gasoline, as
 10 determined by the department under section 15 of this
 11 chapter; multiplied by

12 (2) the number of invoiced gallons purchased or shipped.

13 (e) A purchaser or receiver of gasoline that purchases the
 14 gasoline at retail from a metered pump and makes a payment
 15 under this chapter is not subject to any liability to the state for the
 16 amount of the payment.

17 **Sec. 20. (a)** Each refiner or terminal operator and each qualified
 18 distributor that is required to remit gasoline use tax under this
 19 chapter shall remit the tax due to the department semimonthly,
 20 through the department's online tax filing system, according to the
 21 following schedule:

22 (1) On or before the tenth day of each month for gasoline sold
 23 after the fifteenth day and before the end of the preceding
 24 month.

25 (2) On or before the twenty-fifth day of each month for
 26 gasoline sold after the end of the preceding month and before
 27 the sixteenth day of the month in which the gasoline was sold.

28 (b) Before the end of each month, each refiner or terminal
 29 operator and each qualified distributor shall file an electronic
 30 report covering the taxes owed and the gallons of gasoline sold or
 31 shipped during the preceding month. The report must include the
 32 following:

33 (1) The number of gallons of gasoline sold or shipped during
 34 the preceding month, identifying each purchaser or receiver
 35 as required by the department.

36 (2) The amount of tax paid by each purchaser or recipient.

37 (3) Any other information reasonably required by the
 38 department, including statistics to meet federal requirements.

39 (c) The gasoline use tax collected under this chapter shall be
 40 deposited in the same manner as state gross retail and use taxes are
 41 required to be deposited under IC 6-2.5-10-1.

42 **Sec. 21. (a)** Except as provided in subsection (b), a distributor

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1 that pays the gasoline use tax under this chapter shall separately
2 state the amount of tax paid on the invoice the distributor issues to
3 its purchaser or recipient. The purchaser or recipient shall pay to
4 the distributor an amount equal to the gasoline use tax paid.

5 (b) A distributor that:

- 6 (1) pays the gasoline use tax under this chapter;
- 7 (2) is a retail merchant; and
- 8 (3) sells gasoline that is exempt from the gasoline use tax, as
9 evidenced by a purchaser's exemption certificate issued by the
10 department;

11 may not require the exempt purchaser to pay the gasoline use taxes
12 paid on the gasoline sold to the exempt purchaser. A distributor
13 that has paid gasoline use taxes and has not been reimbursed
14 because the gasoline is sold to an exempt purchaser may file a
15 claim for a refund if the amount of unreimbursed gasoline use
16 taxes exceeds five hundred dollars (\$500). A claim for a refund
17 must be on the form approved by the department and must include
18 all supporting documentation reasonably required by the
19 department. If a distributor files a completed refund claim form
20 that includes all supporting documentation, the department shall
21 authorize the auditor of state to issue a warrant for the refund.

22 Sec. 22. (a) If a purchase or shipment of gasoline is made to a
23 distributor (other than a qualified distributor) outside Indiana for
24 shipment into and subsequent sale or use by the distributor within
25 Indiana, the distributor shall make the payment required by
26 section 19 of this chapter directly to the department. The
27 distributor shall pay the tax and submit the electronic report
28 according to the schedule set forth in section 20 of this chapter.

29 (b) If a purchase or shipment is made within Indiana for
30 shipment and subsequent sale outside Indiana, the purchase or
31 shipment is exempt from the gasoline use tax payment
32 requirements of section 19 of this chapter. In such a case, if the
33 gasoline use tax has already been paid on the purchase or
34 shipment, the distributor (including a qualified distributor) may
35 claim a credit for that gasoline use tax against the amount required
36 to be remitted if the distributor provides evidence that the
37 shipment and subsequent sale were outside Indiana.

38 (c) A distributor importing gasoline into Indiana must obtain a
39 permit from the department under section 17 of this chapter.

40 Sec. 23. (a) A refiner, terminal operator, or distributor
41 (including a qualified distributor) that fails to remit the tax or file
42 the returns or reports required by this chapter is subject to the

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penalties set forth in IC 6-8.1-10.

(b) A distributor that fails to file the reports required by this chapter is subject to the penalties set forth in IC 6-8.1-10.

Sec. 24. A retail merchant shall display on the metered pump the total price per unit of the gasoline. A retail merchant may not advertise the gasoline at a price that is different than the price that the retail merchant is required to display on the metered pump.

Sec. 25. If a sale of gasoline is exempt from the gasoline use tax, the person who pays the tax to the retail merchant may file a claim for refund with the department. The person must file the claim on the form, in the manner, and with the supporting documentation, prescribed by the department. If a person properly files a claim for refund, the department shall refund to the person the gasoline use tax collected with respect to the exempt transaction.

Sec. 26. (a) The gasoline use tax collected under this chapter is considered equivalent to the state gross retail tax that would be collected by a retail merchant in a retail sale and replaces the obligation of the retail merchant to collect the state gross retail tax on the sale of gasoline.

(b) The exemptions set forth in IC 6-2.5-5 apply to the gasoline use tax imposed by this chapter.

SECTION 4. IC 6-2.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) A person is a retail merchant making a retail transaction when ~~he~~ **the person** engages in selling at retail.

(b) A person is engaged in selling at retail when, in the ordinary course of ~~his~~ **the person's** regularly conducted trade or business, ~~he~~ **the person:**

(1) acquires tangible personal property for the purpose of resale; and

(2) transfers that property to another person for consideration.

(c) For purposes of determining what constitutes selling at retail, it does not matter whether:

(1) the property is transferred in the same form as when it was acquired;

(2) the property is transferred alone or in conjunction with other property or services; or

(3) the property is transferred conditionally or otherwise.

(d) Notwithstanding subsection (b), a person is not selling at retail if ~~he~~ **the person** is making a wholesale sale as described in section 2 of this chapter. **However, in the case of sales of gasoline (as defined in IC 6-6-1.1-103), a person shall collect the gasoline use tax as**

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provided in IC 6-2.5-3.5.

(e) The gross retail income received from selling at retail is only taxable under this article to the extent that the income represents:

- (1) the price of the property transferred, without the rendition of any service; and
- (2) except as provided in subsection (g), any bona fide charges which are made for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other service performed in respect to the property transferred before its transfer and which are separately stated on the transferor's records.

For purposes of this subsection, a transfer is considered to have occurred after delivery of the property to the purchaser.

(f) Notwithstanding subsection (e):

- (1) in the case of retail sales of ~~gasoline (as defined in IC 6-6-1.1-103)~~ and special fuel (as defined in IC 6-6-2.5-22), the gross retail income received from selling at retail is the total sales price of the ~~gasoline or~~ special fuel minus the part of that price attributable to tax imposed under ~~IC 6-6-1.1~~, IC 6-6-2.5 or Section 4041(a) or Section 4081 of the Internal Revenue Code; and
- (2) in the case of retail sales of cigarettes (as defined in IC 6-7-1-2), the gross retail income received from selling at retail is the total sales price of the cigarettes including the tax imposed under IC 6-7-1.

(g) Gross retail income does not include income that represents charges for serving or delivering food and food ingredients furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant. However, the exclusion under this subsection only applies if the charges for the serving or delivery are stated separately from the price of the food and food ingredients when the purchaser pays the charges.

SECTION 5. IC 6-2.5-6-10, AS AMENDED BY P.L.146-2008, SECTION 313, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) In order to compensate retail merchants **and those required to remit gasoline use tax** for collecting and timely remitting the state gross retail tax, **and** the state use tax, **and the gasoline use tax**, every retail merchant, except a retail merchant referred to in subsection (c) **or a person required to remit the gasoline use tax**, is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5, **IC 6-2.5-3.5**, or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) The allowance equals a percentage of the retail merchant's state

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1 gross retail and use tax **or the person's gasoline use tax** liability
2 accrued during a calendar year, specified as follows:

3 (1) Seventy-three hundredths percent (0.73%), if the retail
4 merchant's state gross retail and use tax **or gasoline use tax**
5 liability accrued during the state fiscal year ending on June 30 of
6 the immediately preceding calendar year did not exceed sixty
7 thousand dollars (\$60,000).

8 (2) Fifty-three hundredths percent (0.53%), if the retail merchant's
9 state gross retail and use tax **or gasoline use tax** liability accrued
10 during the state fiscal year ending on June 30 of the immediately
11 preceding calendar year:

12 (A) was greater than sixty thousand dollars (\$60,000); and

13 (B) did not exceed six hundred thousand dollars (\$600,000).

14 (3) Twenty-six hundredths percent (0.26%), if the retail
15 merchant's state gross retail and use tax liability **or gasoline use**
16 **tax** accrued during the state fiscal year ending on June 30 of the
17 immediately preceding calendar year was greater than six hundred
18 thousand dollars (\$600,000).

19 (c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not
20 entitled to the allowance provided by this section. **A retail merchant**
21 **is not entitled to the allowance provided by this section with**
22 **respect to gasoline use taxes imposed by IC 6-2.5-3.5.**

23 SECTION 6. IC 6-2.5-7-1, AS AMENDED BY P.L.1-2007,
24 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2014]: Sec. 1. (a) The definitions in this section apply
26 throughout this chapter.

27 (b) "Kerosene" has the same meaning as the definition contained in
28 IC 16-44-2-2.

29 (c) "Gasoline" has the same meaning as the definition contained in
30 IC 6-6-1.1-103.

31 (d) (c) "Special fuel" has the same meaning as the definition
32 contained in IC 6-6-2.5-22.

33 (e) "E85" has the meaning set forth in IC 6-6-1.1-103.

34 (f) (d) "Unit" means the unit of measure, such as a gallon or a liter,
35 by which gasoline or special fuel is sold.

36 (g) (e) "Metered pump" means a stationary pump which is capable
37 of metering the amount of gasoline or special fuel dispensed from it
38 and which is capable of simultaneously calculating and displaying the
39 price of the gasoline or special fuel dispensed.

40 (h) "Indiana gasoline tax" means the tax imposed under IC 6-6-1.1-

41 (i) (f) "Indiana special fuel tax" means the tax imposed under
42 IC 6-6-2.5.

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1 (j) "Federal gasoline tax" means the excise tax imposed under
2 Section 4081 of the Internal Revenue Code.

3 (k) (g) "Federal special fuel tax" means the excise tax imposed
4 under Section 4041 or Section 4081 of the Internal Revenue Code.

5 (l) (h) "Price per unit before the addition of state and federal taxes"
6 means an amount which equals the remainder of:

7 (1) the total price per unit; minus

8 (2) the state gross retail, Indiana gasoline or special fuel, and
9 federal gasoline or special fuel taxes which are part of the total
10 price per unit.

11 (m) (i) "Total price per unit" means the price per unit at which
12 gasoline or special fuel is actually sold, including the state gross retail,
13 Indiana gasoline or special fuel, and federal gasoline or special fuel
14 taxes which are part of the sales price.

15 (n) "Distributor" means a person who is the first purchaser of
16 gasoline from a refiner, a terminal operator, or supplier, regardless of
17 the location of the purchase.

18 (o) "Prepayment rate" means a rate per gallon of gasoline
19 determined by the department under section 14 of this chapter for use
20 in calculating prepayment amounts of gross retail tax under section 9
21 of this chapter.

22 (p) "Purchase or shipment" means a sale or delivery of gasoline, but
23 does not include:

24 (1) an exchange transaction between refiners, terminal operators,
25 or a refiner and terminal operator; or

26 (2) a delivery by pipeline, ship, or barge to a refiner or terminal
27 operator.

28 (q) "Qualified distributor" means a distributor who:

29 (1) is a licensed distributor under IC 6-6-1.1; and

30 (2) holds an unrevoked permit issued under section 7 of this
31 chapter.

32 (r) "Refiner" means a person who manufactures or produces
33 gasoline by any process involving substantially more than the blending
34 of gasoline.

35 (s) "Terminal operator" means a person that:

36 (1) stores gasoline in tanks and equipment used in receiving and
37 storing gasoline from interstate or intrastate pipelines pending
38 wholesale bulk reshipment; or

39 (2) stores gasoline at a boat terminal transfer that is a dock or
40 tank, or equipment contiguous to a dock or tank, including
41 equipment used in the unloading of gasoline from a ship or barge
42 and used in transferring the gasoline to a tank pending wholesale

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bulk reshipment.
SECTION 7. IC 6-2.5-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. Except as provided in section 2.5 of this chapter, a retail merchant who uses a metered pump to dispense ~~gasoline or~~ special fuel shall display on the pump the total price per unit of the ~~gasoline or~~ special fuel. Subject to the provisions of section 2.5 of this chapter, a retail merchant may not advertise the ~~gasoline or~~ special fuel at a price that is different than the price that ~~he~~ **the retail merchant** is required to display on the metered pump.

SECTION 8. IC 6-2.5-7-3, AS AMENDED BY P.L.146-2008, SECTION 314, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) ~~With respect to the sale of gasoline which is dispensed from a metered pump; a retail merchant shall collect, for each unit of gasoline sold; state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:~~

- (1) ~~the price per unit before the addition of state and federal taxes; multiplied by~~
- (2) ~~seven percent (7%).~~

~~The retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.~~

(b) ~~With respect to the sale of special fuel or kerosene which is dispensed from a metered pump, unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special fuel or kerosene sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:~~

- (1) ~~the price per unit before the addition of state and federal taxes; multiplied by~~
- (2) ~~seven percent (7%).~~

~~Unless the exemption certificate is provided, the retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.~~

SECTION 9. IC 6-2.5-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) If a sale of ~~gasoline or~~ special fuel is exempt from the state gross retail tax, the person who pays the tax to the retail merchant may file a claim for refund with the department. The person must file the claim on the form, in the manner, and with the supporting documentation, prescribed by the department. If a person properly files a claim for refund, the

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1 department shall refund to ~~him~~ **the person** the state gross retail tax
2 collected with respect to the exempt transaction.

3 (b) Notwithstanding the other provisions of this section, the
4 department may prescribe simplified procedures to make adjustments
5 for exempt transactions.

6 SECTION 10. IC 6-2.5-7-5, AS AMENDED BY P.L.98-2012,
7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2014]: Sec. 5. (a) Each retail merchant who dispenses
9 gasoline or special fuel from a metered pump shall, in the manner
10 prescribed in IC 6-2.5-6, report to the department the following
11 information:

12 (1) ~~The total number of gallons of gasoline sold from a metered~~
13 ~~pump during the period covered by the report.~~

14 (2) ~~The total amount of money received from the sale of gasoline~~
15 ~~described in subdivision (1) during the period covered by the~~
16 ~~report.~~

17 (3) ~~That portion of the amount described in subdivision (2) which~~
18 ~~represents state and federal taxes imposed under this article,~~
19 ~~IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.~~

20 (4) (1) ~~The total number of gallons of special fuel sold from a~~
21 ~~metered pump during the period covered by the report.~~

22 (5) (2) ~~The total amount of money received from the sale of~~
23 ~~special fuel during the period covered by the report.~~

24 (6) (3) ~~That portion of the amount described in subdivision (5) (2)~~
25 ~~that represents state and federal taxes imposed under this article,~~
26 ~~IC 6-6-2.5, or Section 4041 or Section 4081 of the Internal~~
27 ~~Revenue Code.~~

28 (7) ~~The total number of gallons of E85 sold from a metered pump~~
29 ~~during the period covered by the report.~~

30 (b) Concurrently with filing the report, the retail merchant shall
31 remit the state gross retail tax in an amount which equals six and
32 fifty-four hundredths percent (6.54%) of the gross receipts, including
33 state gross retail taxes but excluding Indiana and federal ~~gasoline and~~
34 ~~special fuel taxes~~, received by the retail merchant from the sale of the
35 ~~gasoline and~~ special fuel that is covered by the report and on which the
36 retail merchant was required to collect state gross retail tax. The retail
37 merchant shall remit that amount regardless of the amount of state
38 gross retail tax which the merchant has actually collected under this
39 chapter. However, the retail merchant is entitled to deduct and retain
40 the amounts prescribed in IC 6-2.5-6-10, and IC 6-2.5-6-11.

41 SECTION 11. IC 6-2.5-7-7 IS REPEALED [EFFECTIVE JULY 1,
42 2014]. Sec. 7. (a) ~~A distributor desiring to receive gasoline within~~

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1 Indiana without prepaying gross retail tax must hold an uncanceled
2 permit issued by the department to collect prepayments of gross retail
3 tax from retail merchants:

4 (b) To obtain a permit, a distributor must file with the department
5 a sworn application containing information that the department
6 reasonably requires:

7 (c) The department may refuse to issue a permit to a distributor if:

8 (1) the application is filed by a distributor whose permit has
9 previously been cancelled for cause;

10 (2) the application is not filed in good faith, as determined by the
11 department; or

12 (3) the application is filed by some person as a subterfuge for the
13 real person in interest whose permit has previously been cancelled
14 for cause.

15 (d) A permit may not be issued unless the application is
16 accompanied by an audited and current financial statement and a
17 license fee of one hundred dollars (\$100):

18 (e) A permit issued under this section is not assignable and is valid
19 only for the distributor in whose name it is issued. If there is a change
20 in name or ownership, the distributor must apply for a new permit.

21 (f) The department may revoke a distributor's permit for good cause:

22 (g) Before being denied a permit under subsection (c) or before
23 having a permit revoked under subsection (f); a distributor is entitled
24 to a hearing after five (5) days written notice. At the hearing the
25 distributor may appear in person or by counsel and present testimony:

26 (h) The department shall keep a record of all qualified distributors:

27 SECTION 12. IC 6-2.5-7-8 IS REPEALED [EFFECTIVE JULY 1,
28 2014]. Sec. 8: (a) The department may require a distributor to file;
29 concurrently with the filing of an application for a permit, a bond:

30 (1) in an amount of not less than two thousand dollars (\$2,000)
31 nor more than a three (3) month prepayment tax liability for the
32 distributor, as estimated by the department;

33 (2) in cash or with a surety company approved by the department;
34 (3) upon which the distributor is the principal obligor and the
35 state is the obligee; and

36 (4) conditioned upon the prompt filing of true reports and
37 payment of all prepayment of gross retail taxes collected by the
38 distributor, together with any penalties and interest, and upon
39 faithful compliance with this chapter.

40 The department shall determine the amount of the distributor's bond;
41 if any:

42 (b) If after a hearing (after at least five (5) days written notice) the

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1 department determines that the amount of a distributor's bond is
 2 insufficient, the distributor shall upon written demand of the
 3 department file a new bond:

4 (c) The department may require a distributor to file a new bond with
 5 a satisfactory surety in the same form and amount if:

6 (1) liability upon the old bond is discharged or reduced by
 7 judgment rendered; payment made; or otherwise; or

8 (2) in the opinion of the department any surety on the old bond
 9 becomes unsatisfactory.

10 (d) If a new bond obtained under subsection (b) or (c) is
 11 unsatisfactory, the department shall cancel the permit of the distributor.
 12 If the new bond is satisfactorily furnished, the department shall release
 13 in writing the surety on the old bond from any liability accruing after
 14 the effective date of the new bond.

15 (e) Sixty (60) days after making a written request for release to the
 16 department, the surety of a bond furnished by a distributor is released
 17 from any liability to the state accruing on the bond. The release does
 18 not affect any liability accruing before expiration of the sixty (60) day
 19 period. The department shall promptly notify the distributor furnishing
 20 the bond that the surety has requested release. Unless the distributor
 21 obtains a new bond that meets the requirements of this section and files
 22 the new bond with the department within the sixty (60) day period, the
 23 department shall cancel the distributor's permit.

24 (f) The department may require a distributor to furnish audited
 25 annual financial statements to determine if any change is required in
 26 the amount of the distributor's bond.

27 SECTION 13. IC 6-2.5-7-9 IS REPEALED [EFFECTIVE JULY 1,
 28 2014]. Sec. 9: (a) Except as provided in section 13 of this chapter, at
 29 the time of purchase or shipment of gasoline from a refiner or terminal
 30 operator, a distributor who is not a qualified distributor shall prepay to
 31 the refiner or terminal operator the state gross retail tax in an amount
 32 determined under subsection (d):

33 (b) At the time of purchase or shipment of gasoline from a qualified
 34 distributor, a retail merchant shall prepay to the qualified distributor
 35 the state gross retail tax in an amount determined under subsection (d):

36 (c) If gasoline is delivered to a retail outlet for resale and the gross
 37 retail tax in the amount determined under subsection (d) has not been
 38 prepaid on the gasoline, the refiner, terminal operator, or qualified
 39 distributor making the delivery shall prepay to the department the gross
 40 retail tax in an amount determined under subsection (d). A bulk plant
 41 is not considered to be a retail outlet.

42 (d) The amount of tax that must be prepaid under this section



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equals:

- (1) the prepayment rate per gallon of gasoline; multiplied by
- (2) the number of invoiced gallons purchased or shipped.

(e) A purchaser or receiver of gasoline that makes a prepayment under this chapter is not subject to any liability to the state for the amount of the prepayment.

SECTION 14. IC 6-2.5-7-10 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 10: (a) Each refiner or terminal operator and each qualified distributor that has received a prepayment of the state gross retail tax under this chapter shall remit the tax received to the department semimonthly, through the department's online tax filing system, according to the following schedule:

- (1) On or before the tenth day of each month for prepayments received after the fifteenth day and before the end of the preceding month:
- (2) On or before the twenty-fifth day of each month for prepayments received after the end of the preceding month and before the sixteenth day of the month in which the prepayments are made.

(b) Before the end of each month, each refiner or terminal operator and each qualified distributor shall file a report covering the prepaid taxes received and the gallons of gasoline sold or shipped during the preceding month. The report must include the following:

- (1) The number of gallons of gasoline sold or shipped during the preceding month, identifying each purchaser or receiver as required by the department.
- (2) The amount of tax prepaid by each purchaser or receiver.
- (3) Any other information reasonably required by the department.

SECTION 15. IC 6-2.5-7-11 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 11: Each distributor that prepays the state gross retail tax under this chapter shall file a monthly report with the department. The report shall be filed no later than the last day of the month following the month that the report covers. The report must include the following:

- (1) The number of gallons of gasoline purchased or received by the distributor from each refiner, terminal operator, or another distributor.
- (2) The amount of state gross retail tax prepaid to each refiner, terminal operator, or distributor.
- (3) The number of gallons of gasoline sold to each distributor, retail merchant, exempt purchaser, or other person and the amount of state gross retail tax collected from each distributor, retail merchant, or other person identifying the location of each

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1 distributor; retail merchant; exempt purchaser; or other person; as
2 required by the department.

3 (4) Any other information reasonably required by the department.

4 SECTION 16. IC 6-2.5-7-12 IS REPEALED [EFFECTIVE JULY
5 1, 2014]. Sec. 12: (a) Except as provided in subsection (b); a distributor
6 that prepays the state gross retail tax under this chapter shall separately
7 state the amount of tax prepaid on the invoice the distributor issues to
8 its purchaser or recipient. The purchaser or recipient shall pay to the
9 distributor an amount equal to the prepaid tax.

10 (b) A distributor that:

11 (1) prepays the state gross retail tax under this chapter;

12 (2) is a retail merchant; and

13 (3) sells gasoline that is exempt from the gross retail tax; as
14 evidenced by a purchaser's exemption certificate issued by the
15 department;

16 may not require the exempt purchaser to pay the gross retail taxes
17 prepaid in the gasoline sold to the exempt purchaser. A distributor that
18 has prepaid gross retail taxes and has not been reimbursed because the
19 gasoline is sold to an exempt purchaser may file a claim for a refund;
20 if the amount of unreimbursed prepaid gross retail taxes exceeds five
21 hundred dollars (\$500). A claim for a refund must be on the form
22 approved by the department and include all supporting documentation
23 reasonably required by the department. If a distributor files a completed
24 refund claim form that includes all supporting documentation; the
25 department shall authorize the auditor of state to issue a warrant for the
26 refund.

27 SECTION 17. IC 6-2.5-7-13 IS REPEALED [EFFECTIVE JULY
28 1, 2014]. Sec. 13: (a) If a purchase or shipment of gasoline is made to
29 a distributor (other than a qualified distributor) outside Indiana for
30 shipment into and subsequent sale or use by the distributor within
31 Indiana; the distributor shall make the prepayment required by section
32 9 of this chapter directly to the department. The distributor shall pay
33 the tax and submit the report according to the schedule set forth in
34 section 10 of this chapter.

35 (b) If a purchase or shipment is made within Indiana for shipment
36 and subsequent sale outside Indiana; the purchase or shipment is
37 exempt from the prepayment requirements of section 9 of this chapter.

38 SECTION 18. IC 6-2.5-7-14 IS REPEALED [EFFECTIVE JULY
39 1, 2014]. Sec. 14: (a) Before June 10 and December 10 of each year;
40 the department shall determine and provide to:

41 (1) each refiner and terminal operator and each qualified
42 distributor known to the department to be required to collect

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1 prepayments of the state gross retail tax under this chapter; and
 2 (2) any other person that makes a request;
 3 a notice of the prepayment rate to be used during the following six (6)
 4 month period: The department, after approval by the office of
 5 management and budget, may determine a new prepayment rate if the
 6 department finds that the statewide average retail price per gallon of
 7 gasoline, excluding the Indiana and federal gasoline taxes and the
 8 Indiana gross retail tax, has changed by at least twenty-five percent
 9 (25%) since the most recent determination.

10 (b) In determining the prepayment rate under this section, the
 11 department shall use the most recent retail price of gasoline available
 12 to the department.

13 (c) The prepayment rate per gallon of gasoline determined by the
 14 department under this section is the amount per gallon of gasoline
 15 determined under STEP FOUR of the following formula:

16 STEP ONE: Determine the statewide average retail price per
 17 gallon of gasoline, excluding the Indiana and federal gasoline
 18 taxes and the Indiana gross retail tax.

19 STEP TWO: Determine the product of the following:

- 20 (A) The STEP ONE amount.
- 21 (B) The Indiana gross retail tax rate.
- 22 (C) Eighty percent (80%).

23 STEP THREE: Determine the lesser of:

- 24 (A) the STEP TWO result; or
- 25 (B) the product of:
 - 26 (i) the prepayment rate in effect on the day immediately
 - 27 preceding the day on which the prepayment rate is
 - 28 redetermined under this section; multiplied by
 - 29 (ii) one hundred twenty-five percent (125%).

30 STEP FOUR: Round the STEP THREE result to the nearest
 31 one-tenth of one cent (\$0.001).

32 SECTION 19. IC 6-2.5-7-15 IS REPEALED [EFFECTIVE JULY
 33 1, 2014]. Sec. 15: (a) A refiner, terminal operator, or distributor
 34 (including a qualified distributor) that fails to remit the tax or file the
 35 returns or reports required by this chapter is subject to the penalties set
 36 forth in IC 6-8.1-10.

37 (b) A distributor that fails to file the reports required by section 11
 38 of this chapter is subject to the penalties set forth in IC 6-8.1-10.

39 SECTION 20. IC 6-6-2.5-26.5 IS ADDED TO THE INDIANA
 40 CODE AS A NEW SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2013]: Sec. 26.5. As used in this chapter,
 42 "truck stop" means a place of business designed for providing

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1 **service to trucks and truck drivers, including selling fuel to truck**
 2 **drivers and providing support facilities for truck drivers.**

3 SECTION 21. IC 6-6-2.5-41 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 41. (a) Each supplier
 5 engaged in business in Indiana as a supplier shall first obtain a
 6 supplier's license. The fee for a supplier's license shall be five hundred
 7 dollars (\$500).

8 (b) Any person who desires to collect the tax imposed by this
 9 chapter as a supplier and who meets the definition of a permissive
 10 supplier may obtain a permissive supplier's license. Application for or
 11 possession of a permissive supplier's license shall not in itself subject
 12 the applicant or licensee to the jurisdiction of Indiana for any other
 13 purpose than administration and enforcement of this chapter. The fee
 14 for a permissive supplier's license is fifty dollars (\$50).

15 (c) Each terminal operator other than a supplier licensed under
 16 subsection (a) engaged in business in Indiana as a terminal operator
 17 shall first obtain a terminal operator's license for each terminal site.
 18 The fee for a terminal operator's license is three hundred dollars
 19 (\$300).

20 (d) Each exporter engaged in business in Indiana as an exporter
 21 shall first obtain an exporter's license. However, in order to obtain a
 22 license to export special fuel from Indiana to another specified state, a
 23 person shall be licensed either to collect and remit special fuel taxes or
 24 be licensed to deal in tax free special fuel in that other specified state
 25 of destination. The fee for an exporter's license is two hundred dollars
 26 (\$200).

27 (e) Each person who is not licensed as a supplier shall obtain a
 28 transporter's license before transporting special fuel by whatever
 29 manner from a point outside Indiana to a point inside Indiana, or from
 30 a point inside Indiana to a point outside Indiana, regardless of whether
 31 the person is engaged for hire in interstate commerce or for hire in
 32 intrastate commerce. The registration fee for a transporter's license is
 33 fifty dollars (\$50).

34 (f) Each person who wishes to cause special fuel to be delivered into
 35 Indiana on the person's own behalf, for the person's own account, or for
 36 resale to an Indiana purchaser, from another state in a fuel transport
 37 vehicle having a capacity of more than five thousand four hundred
 38 (5,400) gallons, or in a pipeline or barge shipment into storage facilities
 39 other than a qualified terminal, shall first make an application for and
 40 obtain an importer's license. The fee for an importer's license is two
 41 hundred dollars (\$200). This subsection does not apply to a person who
 42 imports special fuel that is exempt because the special fuel has been

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1 dyed or marked, or both, in accordance with section 31 of this chapter.
 2 This subsection does not apply to a person who imports nonexempt
 3 special fuels meeting the following conditions:

4 (1) The special fuel is subject to one (1) or more tax precollection
 5 agreements with suppliers as provided in section 35 of this
 6 chapter.

7 (2) The special fuel tax precollection by the supplier is expressly
 8 evidenced on the terminal-issued shipping paper as specifically
 9 provided in section 62(e)(2) of this chapter.

10 (g) A person desiring to import special fuel to an Indiana destination
 11 who does not enter into an agreement to prepay Indiana special fuel tax
 12 to a supplier or permissive supplier under section 35 of this chapter on
 13 the imports must do the following:

14 (1) Obtain a valid license under subsection (f).

15 (2) Obtain an import verification number from the department not
 16 earlier than twenty-four (24) hours before entering the state with
 17 each import, if importing in a vehicle with a capacity of more than
 18 five thousand four hundred (5,400) gallons.

19 (3) Display a proper import verification number on the shipping
 20 document, if importing in a vehicle with a capacity of more than
 21 five thousand four hundred (5,400) gallons.

22 (h) The department may require a person that wants to blend special
 23 fuel to first obtain a license from the department. The department may
 24 establish reasonable requirements for the proper enforcement of this
 25 subsection, including the following:

26 (1) Guidelines under which a person may be required to obtain a
 27 license.

28 (2) A requirement that a licensee file reports in the form and
 29 manner required by the department.

30 (3) A requirement that a licensee meet the bonding requirements
 31 specified by the department.

32 (i) The department may require a person that:

33 (1) is subject to the special fuel tax under this chapter;

34 (2) qualifies for a federal diesel fuel tax exemption under Section
 35 4082 of the Internal Revenue Code; and

36 (3) is purchasing red dyed low sulfur diesel fuel;

37 to register with the department as a dyed fuel user. The department may
 38 establish reasonable requirements for the proper enforcement of this
 39 subsection, including guidelines under which a person may be required
 40 to register and the form and manner of reports a registrant is required
 41 to file.

42 (j) **A person who owns a truck stop in Indiana must obtain from**

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1 **the department a truck stop owner's license in the manner**
 2 **prescribed by the department. A truck stop owner's license must**
 3 **be renewed every two (2) years.**

4 SECTION 22. IC 6-8.1-7-1, AS AMENDED BY P.L. 182-2009(ss),
 5 SECTION 254, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) This subsection does not
 7 apply to the disclosure of information concerning a conviction on a tax
 8 evasion charge. Unless in accordance with a judicial order or as
 9 otherwise provided in this chapter, the department, its employees,
 10 former employees, counsel, agents, or any other person may not divulge
 11 the amount of tax paid by any taxpayer, terms of a settlement
 12 agreement executed between a taxpayer and the department,
 13 investigation records, investigation reports, or any other information
 14 disclosed by the reports filed under the provisions of the law relating
 15 to any of the listed taxes, including required information derived from
 16 a federal return, except to:

- 17 (1) members and employees of the department;
- 18 (2) the governor;
- 19 (3) the attorney general or any other legal representative of the
 20 state in any action in respect to the amount of tax due under the
 21 provisions of the law relating to any of the listed taxes; or
- 22 (4) any authorized officers of the United States;

23 when it is agreed that the information is to be confidential and to be
 24 used solely for official purposes.

25 (b) The information described in subsection (a) may be revealed
 26 upon the receipt of a certified request of any designated officer of the
 27 state tax department of any other state, district, territory, or possession
 28 of the United States when:

- 29 (1) the state, district, territory, or possession permits the exchange
 30 of like information with the taxing officials of the state; and
- 31 (2) it is agreed that the information is to be confidential and to be
 32 used solely for tax collection purposes.

33 (c) The information described in subsection (a) relating to a person
 34 on public welfare or a person who has made application for public
 35 welfare may be revealed to the director of the division of family
 36 resources, and to any director of a county office of the division of
 37 family resources located in Indiana, upon receipt of a written request
 38 from either director for the information. The information shall be
 39 treated as confidential by the directors. In addition, the information
 40 described in subsection (a) relating to a person who has been
 41 designated as an absent parent by the state Title IV-D agency shall be
 42 made available to the state Title IV-D agency upon request. The



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1 information shall be subject to the information safeguarding provisions
2 of the state and federal Title IV-D programs.

3 (d) The name, address, Social Security number, and place of
4 employment relating to any individual who is delinquent in paying
5 educational loans owed to a postsecondary educational institution may
6 be revealed to that institution if it provides proof to the department that
7 the individual is delinquent in paying for educational loans. This
8 information shall be provided free of charge to approved postsecondary
9 educational institutions (as defined by IC 21-7-13-6(a)). The
10 department shall establish fees that all other institutions must pay to the
11 department to obtain information under this subsection. However, these
12 fees may not exceed the department's administrative costs in providing
13 the information to the institution.

14 (e) The information described in subsection (a) relating to reports
15 submitted under IC 6-6-1.1-502 concerning the number of gallons of
16 gasoline sold by a distributor and IC 6-6-2.5 concerning the number of
17 gallons of special fuel sold by a supplier and the number of gallons of
18 special fuel exported by a licensed exporter or imported by a licensed
19 transporter may be released by the commissioner upon receipt of a
20 written request for the information.

21 (f) The information described in subsection (a) may be revealed
22 upon the receipt of a written request from the administrative head of a
23 state agency of Indiana when:

24 (1) the state agency shows an official need for the information;
25 and

26 (2) the administrative head of the state agency agrees that any
27 information released will be kept confidential and will be used
28 solely for official purposes.

29 (g) The information described in subsection (a) may be revealed
30 upon the receipt of a written request from the chief law enforcement
31 officer of a state or local law enforcement agency in Indiana when it is
32 agreed that the information is to be confidential and to be used solely
33 for official purposes.

34 (h) The name and address of retail merchants, including township,
35 as specified in IC 6-2.5-8-1(j) may be released solely for tax collection
36 purposes to township assessors and county assessors.

37 (i) The department shall notify the appropriate innkeepers' tax
38 board, bureau, or commission that a taxpayer is delinquent in remitting
39 innkeepers' taxes under IC 6-9.

40 (j) All information relating to the delinquency or evasion of the
41 motor vehicle excise tax may be disclosed to the bureau of motor
42 vehicles in Indiana and may be disclosed to another state, if the

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1 information is disclosed for the purpose of the enforcement and
2 collection of the taxes imposed by IC 6-6-5.

3 (k) All information relating to the delinquency or evasion of
4 commercial vehicle excise taxes payable to the bureau of motor
5 vehicles in Indiana may be disclosed to the bureau and may be
6 disclosed to another state, if the information is disclosed for the
7 purpose of the enforcement and collection of the taxes imposed by
8 IC 6-6-5.5.

9 (l) All information relating to the delinquency or evasion of
10 commercial vehicle excise taxes payable under the International
11 Registration Plan may be disclosed to another state, if the information
12 is disclosed for the purpose of the enforcement and collection of the
13 taxes imposed by IC 6-6-5.5.

14 (m) All information relating to the delinquency or evasion of the
15 excise taxes imposed on recreational vehicles and truck campers that
16 are payable to the bureau of motor vehicles in Indiana may be disclosed
17 to the bureau and may be disclosed to another state if the information
18 is disclosed for the purpose of the enforcement and collection of the
19 taxes imposed by IC 6-6-5.1.

- 20 (n) This section does not apply to:
 - 21 (1) the beer excise tax, including brand and packaged type
 - 22 (IC 7.1-4-2);
 - 23 (2) the liquor excise tax (IC 7.1-4-3);
 - 24 (3) the wine excise tax (IC 7.1-4-4);
 - 25 (4) the hard cider excise tax (IC 7.1-4-4.5);
 - 26 (5) the malt excise tax (IC 7.1-4-5);
 - 27 (6) the motor vehicle excise tax (IC 6-6-5);
 - 28 (7) the commercial vehicle excise tax (IC 6-6-5.5); and
 - 29 (8) the fees under IC 13-23.

30 (o) The name and business address of retail merchants within each
31 county that sell tobacco products may be released to the division of
32 mental health and addiction and the alcohol and tobacco commission
33 solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

34 **(p) The names and business addresses of persons issued licenses**
35 **by the department under IC 6-6 and IC 6-7 may be released for the**
36 **purpose of reporting the status of the license.**

37 SECTION 23. [EFFECTIVE JULY 1, 2013] (a) **IC 6-2.5-3-1, as**
38 **amended by this act, applies only to the collection of use tax on**
39 **remote sales occurring after June 30, 2013. A remote sale shall be**
40 **considered as having occurred after June 30, 2013, to the extent**
41 **that:**

- 42 (1) the agreement of the parties to the transaction was entered

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- 1 into after June 30, 2013;
- 2 (2) payment for the property furnished in the transaction is
- 3 made after June 30, 2013; or
- 4 (3) delivery to the purchaser of the property furnished in the
- 5 transaction occurs after June 30, 2013.

6 However, a transaction shall be considered as having occurred
 7 before July 1, 2013, to the extent that the agreement of the parties
 8 to the transaction was entered into before July 1, 2013, and
 9 payment for the property furnished in the transaction is made
 10 before July 1, 2013, notwithstanding the delivery of the property
 11 after June 30, 2013.

12 (b) This SECTION expires January 1, 2015.

13 SECTION 24. [EFFECTIVE JANUARY 1, 2014] (a) Before June
 14 30, 2014, and for purposes of IC 6-2.5-3.5, as added by this act, the
 15 department of state revenue shall publish the gasoline use tax rate
 16 prescribed by IC 6-2.5-3.5, as added by this act, that will apply to
 17 the sales of gasoline occurring in July 2014.

18 (b) Each retail merchant covered by IC 6-2.5-7 shall take an
 19 inventory of the gasoline in storage on the commencement of
 20 business on July 1, 2014. A retail merchant shall remit to the
 21 department of state revenue the product of:

- 22 (1) the number of gallons in storage on July 1, 2014;
- 23 multiplied by
- 24 (2) the gasoline use tax rate in effect on July 1, 2014.

25 A retail merchant shall remit the amount due on or before the due
 26 date of the retail merchant's ST-103MP for the July 2014 tax
 27 period.

28 (c) This SECTION expires July 1, 2015.

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COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 479, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 11, delete "month." and insert "**month and the source of the data used to determine the gasoline use tax rate and the statewide average retail price per gallon of gasoline.**".

Page 3, line 12, delete "the Indiana Register," and insert "**a departmental notice,**".

Page 3, line 18, delete "gasoline," and insert "**gasoline (based on the retail price per gallon of gasoline during the previous four (4) weeks),**".

Page 3, line 20, after "retail tax" delete ";" and insert "**(if any);**".

Page 3, line 25, delete "no less often than monthly." and insert ".".

Page 3, line 35, delete "until" and insert "**earlier than**".

Page 3, delete line 36.

Page 3, line 37, delete "follows by at least".

Page 3, line 37, after "days" insert "**after**".

Page 6, line 15, after "of gasoline" delete ";" and insert "**, as determined by the department under section 15 of this chapter;**".

Page 6, line 18, after "that" insert "**purchases the gasoline at retail from a metered pump and**".

and when so amended that said bill do pass.

(Reference is to SB 479 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 11, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 479, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective dates in SECTIONS 1 through 17 with "[EFFECTIVE JULY 1, 2014]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

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"SECTION 1. IC 6-2.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana.

(b) The person who acquires property in a retail transaction is liable for the tax on the transaction and, except as otherwise provided in this chapter, shall pay the tax to the retail merchant as a separate added amount to the consideration in the transaction. ~~The A~~ **retail merchant engaged in business in Indiana (as defined in IC 6-2.5-3-1(c)) or a retail merchant who has permission from the department to collect the tax** shall collect the tax as agent for the state.

SECTION 2. IC 6-2.5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. For purposes of this chapter:

(a) "Use" means the exercise of any right or power of ownership over tangible personal property.

(b) "Storage" means the keeping or retention of tangible personal property in Indiana for any purpose except the subsequent use of that property solely outside Indiana.

(c) "A retail merchant engaged in business in Indiana" includes any retail merchant who makes retail transactions in which a person acquires personal property or services for use, storage, or consumption in Indiana and who:

(1) **uses or** maintains an office, place of distribution, sales location, sample location, warehouse, storage place, or other place of business which is located in Indiana, ~~and which the retail merchant maintains, occupies, or uses, either permanently or temporarily, either directly or indirectly, and either by the retail merchant or through a representative, agent, or subsidiary;~~ **whether owned by the person or any other person, other than a common carrier acting in its capacity as a common carrier.**

(2) maintains a representative, agent, salesman, canvasser, or solicitor who, while operating in Indiana under the authority of and on behalf of the retail merchant or a subsidiary **or an affiliate** of the retail merchant, sells, delivers, installs, repairs, assembles, sets up, accepts returns of, bills, invoices, or takes orders for sales of tangible personal property or services to be used, stored, or consumed in Indiana;

(3) **enters into an arrangement with any person, other than a common carrier, to facilitate the retail merchant's delivery of property to customers in Indiana by allowing the retail merchant's customers to pick up property sold by the retail**

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merchant at an office, distribution facility, warehouse, storage place, or similar place of business maintained by the person in Indiana;

~~(3)~~ **(4)** is otherwise required to register as a retail merchant under IC 6-2.5-8-1; or

~~(4)~~ **(5)** may be required by the state to collect tax under this article to the extent allowed under the Constitution of the United States and federal law.

(d) Notwithstanding any other law, a person may be required by the state to collect and remit gross retail tax or use tax as a retail merchant engaged in business in Indiana under subsection (c) if the activities conducted by any person in Indiana on behalf of a retail merchant are significantly associated with the retail merchant's ability to establish and maintain a market in Indiana.

~~(d)~~ **(e)** Notwithstanding any other provision of this section, tangible or intangible property that is:

(1) owned or leased by a person that has contracted with a commercial printer for printing; and

(2) located at the premises of the commercial printer;

shall not be considered to be, or to create, an office, a place of distribution, a sales location, a sample location, a warehouse, a storage place, or other place of business maintained, occupied, or used in any way by the person. A commercial printer with which a person has contracted for printing shall not be considered to be in any way a representative, an agent, a salesman, a canvasser, or a solicitor for the person.

(f) A retail merchant is presumed to be engaged in business in Indiana if an affiliate of the retail merchant has substantial nexus in Indiana and:

(1) the retail merchant sells a line of products similar to a line of products sold by the affiliate, and the retail merchant does so under a business name that is the same as or is similar to the affiliate's business name;

(2) the affiliate uses its Indiana employees or its Indiana facilities to advertise, promote, or facilitate sales by the retail merchant to customers; or

(3) the affiliate uses trademarks, service marks, or trade names in Indiana that are the same as or substantially similar to those used by the retail merchant.

(g) The presumption under subsection (f) may be rebutted by demonstrating that the affiliate's activities in Indiana are not significantly associated with the retail merchant's ability to

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establish or maintain a market in Indiana for the retail merchant's sales.

(h) A retail merchant is presumed to be engaged in business in Indiana if the retail merchant enters into an agreement with one (1) or more residents of Indiana under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an Internet web site, an in-person oral presentation, or otherwise, to the retail merchant, if the cumulative gross receipts from the sales by the retail merchant to customers in Indiana who are referred to the retail merchant by all residents with this type of an agreement with the retail merchant are greater than ten thousand dollars (\$10,000) during the preceding twelve (12) months.

(i) The presumption under subsection (h) may be rebutted by submitting proof that the residents with whom the retail merchant has an agreement did not engage in any activity within Indiana that was significantly associated with the retail merchant's ability to establish or maintain the retail merchant's market in Indiana during the preceding twelve (12) months. This proof may consist of sworn written statements that:

- (1) are from all the Indiana residents with whom the retail merchant has an agreement described in subsection (h);
- (2) are provided and obtained in good faith; and
- (3) state that the Indiana residents did not engage in any solicitation in Indiana on behalf of the retail merchant during the preceding twelve (12) months.

(j) For purposes of this section, "affiliate" means any:

- (1) person that is a member of the same controlled group of corporations (as defined in 26 U.S.C. 1563(a)) as the retail merchant; or
- (2) other entity that, notwithstanding its form of organization, bears the same ownership relationship to the retail merchant as a corporation that is a member of the same controlled group of corporations (as defined in 26 U.S.C. 1563(a)).

Page 1, line 11, after "imposed" insert "on gasoline".

Page 3, line 5, delete "to:".

Page 3, delete lines 6 through 9.

Page 3, run in lines 5 through 10.

Page 3, line 14, after "site" delete ", published".

Page 3, line 14, delete "notice, and provided" and insert "notice.".

Page 3, delete lines 15 through 17.

Page 3, delete lines 31 through 39.



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Page 4, line 6, after "distributor" insert ", **refiner, or terminal operator**".

Page 4, line 7, after "Indiana" insert "**without paying the gasoline use tax**".

Page 4, line 10, after "distributor" insert ", **refiner, or terminal operator**".

Page 4, line 13, after "distributor" insert ", **refiner, or terminal operator**".

Page 4, line 15, after "distributor" insert ", **refiner, or terminal operator**".

Page 4, line 18, delete "or".

Page 4, line 21, delete "." and insert "; **or**".

Page 4, between lines 21 and 22, begin a new line block indented and insert:

"(4) the distributor, refiner, or terminal operator has outstanding tax liability with the department for which a tax warrant has been issued."

Page 4, line 26, after "distributor" insert ", **refiner, or terminal operator**".

Page 4, line 27, after "distributor" insert ", **refiner, or terminal operator**".

Page 4, line 29, delete "distributor's".

Page 4, line 32, after "distributor" insert ", **refiner, or terminal operator**".

Page 4, line 33, after "(5)" insert "**business**".

Page 4, line 34, after "distributor" insert ", **refiner, or terminal operator**".

Page 4, line 37, delete "distributors." and insert "**distributors, refiners, and terminal operators.**".

Page 4, between lines 37 and 38, begin a new paragraph and insert:
"(i) The department may publish a list of qualified distributors on the department's Internet web site. The list must be limited to the following information:

(1) The name of each qualified distributor.

(2) The complete address of each qualified distributor.

(3) The telephone number of each qualified distributor.

(j) The information contained in a list published under subsection (i) is not confidential under IC 6-8.1-7-1."

Page 4, line 38, after "distributor" insert ", **refiner, or terminal operator**".

Page 5, line 39, delete "23" and insert "22".

Page 6, line 8, delete "outlet" and insert "**merchant**".



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Page 6, line 13, delete "A" and insert **"For purposes of this chapter, a"**.

Page 6, line 13, delete "not".

Page 6, line 13, delete "outlet." and insert **"merchant, except when the bulk plant is also a qualified distributor."**

Page 7, line 3, delete "." and insert **", including statistics to meet federal requirements."**

Page 7, delete lines 7 through 24.

Page 7, line 25, delete "22." and insert **"21."**

Page 7, line 40, after "refund" delete ",".

Page 8, line 5, delete "23." and insert **"22."**

Page 8, between lines 20 and 21, begin a new paragraph and insert: **"(c) A distributor importing gasoline into Indiana must obtain a permit from the department under section 17 of this chapter."**

Page 8, line 21, delete "24." and insert **"23."**

Page 8, line 25, delete "section".

Page 8, line 26, delete "21 of".

Page 8, line 27, delete "25." and insert **"24."**

Page 8, line 27, after "on the" insert **"metered"**.

Page 8, line 31, delete "26." and insert **"25."**

Page 8, delete lines 38 through 42.

Page 9, delete lines 1 through 5.

Page 9, line 6, delete "28." and insert **"26."**

Page 10, line 9, reset in roman "Section".

Page 10, line 10, reset in roman "4041(a) or".

Page 11, line 37, after "4041" insert **"or Section 4081"**.

Page 14, line 17, after "4041" insert **"or Section 4081"**.

Page 17, delete lines 38 through 42, begin a new paragraph and insert:

"SECTION 14. IC 6-2.5-7-12 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 12: (a) Except as provided in subsection (b); a distributor that prepays the state gross retail tax under this chapter shall separately state the amount of tax prepaid on the invoice the distributor issues to its purchaser or recipient. The purchaser or recipient shall pay to the distributor an amount equal to the prepaid tax:

(b) A distributor that:

(1) prepays the state gross retail tax under this chapter;

(2) is a retail merchant; and

(3) sells gasoline that is exempt from the gross retail tax, as evidenced by a purchaser's exemption certificate issued by the department;

may not require the exempt purchaser to pay the gross retail taxes

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prepaid in the gasoline sold to the exempt purchaser. A distributor that has prepaid gross retail taxes and has not been reimbursed because the gasoline is sold to an exempt purchaser may file a claim for a refund, if the amount of unreimbursed prepaid gross retail taxes exceeds five hundred dollars (\$500). A claim for a refund must be on the form approved by the department and include all supporting documentation reasonably required by the department. If a distributor files a completed refund claim form that includes all supporting documentation, the department shall authorize the auditor of state to issue a warrant for the refund."

Page 18, delete lines 1 through 19.

Page 19, delete lines 32 through 42, begin a new paragraph and insert:

"SECTION 18. IC 6-6-2.5-26.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 26.5. As used in this chapter, "truck stop" means a place of business designed for providing service to trucks and truck drivers, including selling fuel to truck drivers and providing support facilities for truck drivers.**

SECTION 19. IC 6-6-2.5-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 41. (a)** Each supplier engaged in business in Indiana as a supplier shall first obtain a supplier's license. The fee for a supplier's license shall be five hundred dollars (\$500).

(b) Any person who desires to collect the tax imposed by this chapter as a supplier and who meets the definition of a permissive supplier may obtain a permissive supplier's license. Application for or possession of a permissive supplier's license shall not in itself subject the applicant or licensee to the jurisdiction of Indiana for any other purpose than administration and enforcement of this chapter. The fee for a permissive supplier's license is fifty dollars (\$50).

(c) Each terminal operator other than a supplier licensed under subsection (a) engaged in business in Indiana as a terminal operator shall first obtain a terminal operator's license for each terminal site. The fee for a terminal operator's license is three hundred dollars (\$300).

(d) Each exporter engaged in business in Indiana as an exporter shall first obtain an exporter's license. However, in order to obtain a license to export special fuel from Indiana to another specified state, a person shall be licensed either to collect and remit special fuel taxes or be licensed to deal in tax free special fuel in that other specified state of destination. The fee for an exporter's license is two hundred dollars

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(\$200).

(e) Each person who is not licensed as a supplier shall obtain a transporter's license before transporting special fuel by whatever manner from a point outside Indiana to a point inside Indiana, or from a point inside Indiana to a point outside Indiana, regardless of whether the person is engaged for hire in interstate commerce or for hire in intrastate commerce. The registration fee for a transporter's license is fifty dollars (\$50).

(f) Each person who wishes to cause special fuel to be delivered into Indiana on the person's own behalf, for the person's own account, or for resale to an Indiana purchaser, from another state in a fuel transport vehicle having a capacity of more than five thousand four hundred (5,400) gallons, or in a pipeline or barge shipment into storage facilities other than a qualified terminal, shall first make an application for and obtain an importer's license. The fee for an importer's license is two hundred dollars (\$200). This subsection does not apply to a person who imports special fuel that is exempt because the special fuel has been dyed or marked, or both, in accordance with section 31 of this chapter. This subsection does not apply to a person who imports nonexempt special fuels meeting the following conditions:

- (1) The special fuel is subject to one (1) or more tax precollection agreements with suppliers as provided in section 35 of this chapter.
- (2) The special fuel tax precollection by the supplier is expressly evidenced on the terminal-issued shipping paper as specifically provided in section 62(e)(2) of this chapter.

(g) A person desiring to import special fuel to an Indiana destination who does not enter into an agreement to prepay Indiana special fuel tax to a supplier or permissive supplier under section 35 of this chapter on the imports must do the following:

- (1) Obtain a valid license under subsection (f).
- (2) Obtain an import verification number from the department not earlier than twenty-four (24) hours before entering the state with each import, if importing in a vehicle with a capacity of more than five thousand four hundred (5,400) gallons.
- (3) Display a proper import verification number on the shipping document, if importing in a vehicle with a capacity of more than five thousand four hundred (5,400) gallons.

(h) The department may require a person that wants to blend special fuel to first obtain a license from the department. The department may establish reasonable requirements for the proper enforcement of this subsection, including the following:

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(1) Guidelines under which a person may be required to obtain a license.

(2) A requirement that a licensee file reports in the form and manner required by the department.

(3) A requirement that a licensee meet the bonding requirements specified by the department.

(i) The department may require a person that:

(1) is subject to the special fuel tax under this chapter;

(2) qualifies for a federal diesel fuel tax exemption under Section 4082 of the Internal Revenue Code; and

(3) is purchasing red dyed low sulfur diesel fuel;

to register with the department as a dyed fuel user. The department may establish reasonable requirements for the proper enforcement of this subsection, including guidelines under which a person may be required to register and the form and manner of reports a registrant is required to file.

(j) A person who owns a truck stop in Indiana must obtain from the department a truck stop owner's license in the manner prescribed by the department. A truck stop owner's license must be renewed every two (2) years.

SECTION 20. IC 6-8.1-7-1, AS AMENDED BY P.L.182-2009(ss), SECTION 254, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

(1) members and employees of the department;

(2) the governor;

(3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or

(4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed

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upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

- (1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and
- (2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family resources, and to any director of a county office of the division of family resources located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to a postsecondary educational institution may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved postsecondary educational institutions (as defined by IC 21-7-13-6(a)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

- (1) the state agency shows an official need for the information; and

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(2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The information described in subsection (a) may be revealed upon the receipt of a written request from the chief law enforcement officer of a state or local law enforcement agency in Indiana when it is agreed that the information is to be confidential and to be used solely for official purposes.

(h) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(j) may be released solely for tax collection purposes to township assessors and county assessors.

(i) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(j) All information relating to the delinquency or evasion of the motor vehicle excise tax may be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(m) All information relating to the delinquency or evasion of the excise taxes imposed on recreational vehicles and truck campers that are payable to the bureau of motor vehicles in Indiana may be disclosed to the bureau and may be disclosed to another state if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.1.

(n) This section does not apply to:

- (1) the beer excise tax, including brand and packaged type (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);



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- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

(o) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.2.

(p) The names and business addresses of persons issued licenses by the department under IC 6-6 and IC 6-7 may be released for the purpose of reporting the status of the license.

SECTION 21. [EFFECTIVE JULY 1, 2013] (a) IC 6-2.5-3-1, as amended by this act, applies only to the collection of use tax on remote sales occurring after June 30, 2013. A remote sale shall be considered as having occurred after June 30, 2013, to the extent that:

- (1) the agreement of the parties to the transaction was entered into after June 30, 2013;**
- (2) payment for the property furnished in the transaction is made after June 30, 2013; or**
- (3) delivery to the purchaser of the property furnished in the transaction occurs after June 30, 2013.**

However, a transaction shall be considered as having occurred before July 1, 2013, to the extent that the agreement of the parties to the transaction was entered into before July 1, 2013, and payment for the property furnished in the transaction is made before July 1, 2013, notwithstanding the delivery of the property after June 30, 2013.

(b) This SECTION expires January 1, 2015.

SECTION 22. [EFFECTIVE JANUARY 1, 2014] (a) Before June 30, 2014, and for purposes of IC 6-2.5-3.5, as added by this act, the department of state revenue shall publish the gasoline use tax rate prescribed by IC 6-2.5-3.5, as added by this act, that will apply to the sales of gasoline occurring in July 2014.

(b) Each retail merchant covered by IC 6-2.5-7 shall take an inventory of the gasoline in storage on the commencement of business on July 1, 2014. A retail merchant shall remit to the department of state revenue the product of:

- (1) the number of gallons in storage on July 1, 2014; multiplied by**
- (2) the gasoline use tax rate in effect on July 1, 2014.**

A retail merchant shall remit the amount due on or before the due

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date of the retail merchant's ST-103MP for the July 2014 tax period.

(c) This SECTION expires July 1, 2015."

Page 20, delete lines 1 through 8.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 479 as printed February 13, 2013.)

BROWN T, Chair

Committee Vote: yeas 17, nays 0.

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