

## **IC 6-6-1.1**

### Chapter 1.1. Gasoline Tax

#### **IC 6-6-1.1-101**

##### **Short title**

Sec. 101. This chapter shall be known and may be cited as the "Gasoline Tax Law."

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.4.*

#### **IC 6-6-1.1-102**

##### **Application of definitions and rules of construction**

Sec. 102. The definitions and rules of construction contained in sections 103 and 104 of this chapter apply throughout this chapter unless the context clearly requires otherwise.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-103**

##### **Definitions**

Sec. 103. As used in this chapter:

- (a) "Administrator" means the administrative head of the department of state revenue or the administrator's designee.
- (b) "Dealer" means a person, except a distributor, engaged in the business of selling gasoline in Indiana.
- (c) "Department" means the department of state revenue.
- (d) "Distributor" means a person who first receives gasoline in Indiana. However, "distributor" does not include the United States or any of its agencies unless their inclusion is permitted under the Constitution and laws of the United States.
- (e) "Licensed distributor" means a person holding a valid distributor's license issued by the administrator.
- (f) "Marine facility" means a marina or boat livery.
- (g) "Gasoline" means:
  - (1) all products commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classifications or uses; and
  - (2) any liquid, which when subjected to distillation of gasoline, naphtha, kerosene, and similar petroleum products with American Society for Testing Materials Designation D-86, shows not less than ten percent (10%) distilled (recovered) below three hundred forty-seven degrees Fahrenheit (347 degrees F) or one hundred seventy-five degrees Centigrade (175 degrees C), and not less than ninety-five percent (95%) distilled (recovered) below four hundred sixty-four degrees Fahrenheit (464 degrees F) or two hundred forty degrees Centigrade (240 degrees C).

However, the term "gasoline" does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit (60 degrees F) or sixteen degrees Centigrade (16 degrees C), and a pressure of fourteen and seven-tenths

(14.7) pounds per square inch absolute, or denatured, wood, or ethyl alcohol, ether, turpentine, or acetates, unless such product is used as an additive in the manufacture, compounding, or blending of a liquid within subdivision (2) or is otherwise blended with a liquid described in subdivision (2) (including ethanol used in E85), in which event only the quantity so used is considered gasoline. In addition, "gasoline" does not include those liquids which meet the specifications of subdivision (2) but which are especially designated for use other than as a fuel for internal combustion engines.

(h) "Motor vehicle" means a vehicle, except a vehicle operated on rails, which is propelled by an internal combustion engine or motor and is designed to permit its mobile use on public highways.

(i) "Person" means a natural person, partnership, firm, association, corporation, limited liability company, representative appointed by a court, or the state or its political subdivisions.

(j) "Public highway" means the entire width between boundary lines of every publicly maintained way in Indiana including streets and alleys in cities and towns when any part of the way is open to public use for vehicle travel.

(k) "Taxable marine facility" means a marine facility located on an Indiana lake.

(l) "Taxicab" means a motor vehicle which is:

- (1) designed to carry not more than seven (7) individuals, including the driver;
- (2) held out to the public for hire at a fare regulated by municipal ordinance and based upon length of trips or time consumed;
- (3) not operated over a definite route; and
- (4) a part of a commercial enterprise in the business of providing taxicab service.

(m) "Terminal" means a marine or pipeline gasoline facility.

(n) "Metered pump" means a stationary pump having a meter that is capable of measuring the amount of gasoline dispensed through it.

(o) "Billed gallons" means the gallons indicated on an invoice for payment to a supplier.

(p) "Export" for gasoline and fuels taxed in the same manner as gasoline under the origin state's statutes means the sale for export and delivery out of a state by or for the seller that is:

- (1) an export by the seller in the origin state; and
- (2) an import by the seller in the destination state.

(q) "Import" for gasoline and fuels taxed in the same manner as gasoline under the origin state's statutes means the purchase for export and transportation out of a state by or for the purchaser that is:

- (1) an export by the purchaser in the origin state; and
- (2) an import by the purchaser in the destination state.

- (r) "Rack" means a dock, platform, or open bay:
- (1) located at a refinery or terminal; and
  - (2) having a system of metered pipes and hoses to load fuel into a tank wagon or tank transport.
- (s) "E85" means a fuel blend nominally consisting of eighty-five percent (85%) ethanol and fifteen percent (15%) gasoline (as described in subsection (g)(2)) that meets American Society for Testing and Materials standard specification 5798-99 for fuel ethanol for automotive spark-ignition engines (Ed75Ed85).

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.5; P.L.97-1987, SEC.1; P.L.69-1991, SEC.1; P.L.8-1993, SEC.96; P.L.122-2006, SEC.18.*

#### **IC 6-6-1.1-104**

##### **Rules of construction**

Sec. 104. (a) Whenever a masculine gender pronoun is used in this chapter, it refers to the masculine, feminine, or neuter, whichever is appropriate.

(b) The singular form of any noun as used in this chapter includes the plural, and the plural includes the singular, where appropriate.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-105**

##### **Citation to prior law**

Sec. 105. If a provision of the prior motor fuel or marine fuel tax laws (IC 6-6-1 and IC 6-6-1.5) has been replaced in the same form or in a restated form, by a provision of this chapter, then a citation to the provision of the prior law shall be construed as a citation to the corresponding provision of this chapter.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-201**

##### **Rate and burden of tax**

Sec. 201. A license tax of eighteen cents (\$0.18) per gallon is imposed on the use of all gasoline used in Indiana, except as otherwise provided by this chapter. The distributor shall initially pay the tax on the billed gallonage of all gasoline the distributor receives in this state, less any deductions authorized by this chapter. The distributor shall then add the per gallon amount of tax to the selling price of each gallon of gasoline sold in this state and collected from the purchaser so that the ultimate consumer bears the burden of the tax.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.6; Acts 1980, P.L.10, SEC.6; P.L.59-1985, SEC.9; P.L.68-1988, SEC.1; P.L.69-1991, SEC.2; P.L.192-2002(ss), SEC.132.*

#### **IC 6-6-1.1-201.5**

##### **Repealed**

*(Repealed by P.L.59-1985, SEC.37.)*

**IC 6-6-1.1-202**

**Time considered received; in-state gasoline; withdrawal from refinery or terminal**

Sec. 202. (a) For purposes of this chapter, gasoline is considered received when it is withdrawn from an in-state refinery or terminal for sale or use in this state or for transfer to a destination in this state, unless the destination is another in-state refinery or terminal.

(b) Gasoline is received by the owner of the gasoline when it is withdrawn from the refinery or terminal. However, if the gasoline is withdrawn for delivery or transportation to or for the account of the holder of a distributor license, then the gasoline is received by the distributor to whom or for whose account it is delivered or transported.

(c) Only when gasoline is withdrawn for delivery or transportation to a person who sells and distributes by tank car, tank truck, or transport is that person a distributor as defined by section 103(d) of this chapter.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979, P.L.71, SEC.2; Acts 1980, P.L.51, SEC.7.*

**IC 6-6-1.1-203**

**Time considered received; imported gasoline; storage**

Sec. 203. Gasoline is received by the owner at the time it is unloaded in this state if it is imported into this state and placed in storage at a place other than a refinery or terminal.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.8.*

**IC 6-6-1.1-204**

**Time considered received; imported gasoline; use directly from transport**

Sec. 204. If the gasoline referred to in section 203 of this chapter is used in this state directly from the transportation equipment by which it is transported, then it is received when it is brought into this state and by the person who uses it in this state.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.9.*

**IC 6-6-1.1-205**

**Time considered received; imported gasoline; transport by licensed distributor**

Sec. 205. Gasoline shipped or brought into this state by a licensed distributor which is sold and delivered in this state directly to someone other than a licensed distributor is considered received by the distributor shipping or bringing the fuel into this state.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.10.*

**IC 6-6-1.1-206****Time considered received; in-state gasoline produced or blended**

Sec. 206. Gasoline produced, compounded, or blended in this state at a place other than a refinery or terminal is considered received at the time and by the owner of the gasoline when it is produced, compounded, or blended.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.11.*

**IC 6-6-1.1-207****Time considered received; in-state gasoline not covered by IC 6-6-1.1-202 through IC 6-6-1.1-206**

Sec. 207. Gasoline acquired in this state by any person not covered by sections 202 through 206 of this chapter is considered received at the time of acquisition by the person acquiring it, unless the person from whom the gasoline is acquired has paid or incurred liability for, or is exempt under section 301 of this chapter from, the tax imposed on the gasoline.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.12.*

**IC 6-6-1.1-208****Imported gasoline; motor vehicle fuel supply tanks; exemption**

Sec. 208. Any person who brings gasoline into this state in the fuel supply tank directly connected to the motor of the motor vehicle is not liable for the tax imposed under this chapter.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.13.*

**IC 6-6-1.1-209****Inventory tax; imposition; computation; listed tax**

Sec. 209. (a) Persons having title to gasoline in storage and held for sale on the effective date of an increase in the license tax rate imposed under section 201 of this chapter are subject to an inventory tax based upon the gallonage in storage as of the close of the business day preceding the effective date of the increased license tax rate.

(b) Persons subject to the tax imposed under this section shall:

- (1) take an inventory to determine the gallonage in storage for purposes of determining the inventory tax;
- (2) report that gallonage on forms provided by the administrator; and
- (3) pay the tax due within thirty (30) days of the prescribed inventory date.

(c) The amount of the inventory tax is equal to the inventory tax rate times the gallonage in storage as determined under subsection (a). The inventory tax rate is equal to the difference of the increased license tax rate minus the previous license tax rate.

(d) The inventory tax shall be considered a listed tax for the purposes of IC 6-8.1.

*As added by P.L.59-1985, SEC.10.*

### **IC 6-6-1.1-301**

#### **Exemptions**

Sec. 301. The following transactions are exempt from the gasoline tax:

- (1) Gasoline exported from Indiana to another state, territory, or foreign country.
- (2) Gasoline sold to the United States or an agency or instrumentality thereof.
- (3) Gasoline sold to a post exchange or other concessionaire on a federal reservation within Indiana; however, the post exchange or concessionaire shall collect, report, and pay to the administrator any tax permitted by federal law on gasoline sold.
- (4) Gasoline used by a licensed distributor for any purpose other than the generation of power for the propulsion of motor vehicles upon the public highways.
- (5) Gasoline received by a licensed distributor and thereafter lost or destroyed, except by evaporation, shrinkage, or unknown cause, while the distributor is still the owner.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979, P.L.71, SEC.3; Acts 1980, P.L.51, SEC.14.*

### **IC 6-6-1.1-302**

#### **Application for exemption permit; persons eligible**

Sec. 302. The following persons may apply to the administrator for an exemption permit:

- (1) A person who operates an airport where he sells gasoline for the exclusive purpose of propelling aircraft engines or motors.
- (2) A person engaged at an airport in the business of selling gasoline for exclusive use in aircraft engines or motors.
- (3) A person who operates a marine facility, except a taxable marine facility, and who sells gasoline at that facility for the exclusive purpose of propelling motorboat engines.

Such a person may apply for an exemption permit whether or not he is a licensed distributor.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.15.*

### **IC 6-6-1.1-303**

#### **Application for exemption permit; form; fee**

Sec. 303. (a) A person must apply for an exemption permit on the form prescribed by the administrator. A fifteen dollar (\$15) permit fee must be paid before an exemption permit may be issued.

- (b) An exemption permit is conditioned on the following terms:
- (1) The permit holder shall sell all gasoline purchased tax free under the exemption permit for the exclusive purpose of propelling the engines or motors of aircraft or motorboats.
  - (2) The permit holder shall keep for a period of three (3) years, complete records of all gasoline purchased, acquired, stored,

used, or disposed of by him.

(3) The permit holder shall provide the administrator with such reports of gasoline purchased, acquired, used, or disposed of as the administrator may require.

(4) The permit holder shall permit the administrator or his authorized agent to examine during regular business hours any of the records of the applicant pertaining to the acquisition, use, and distribution of gasoline and any of the equipment of the applicant used for the receipt, storage, or use of gasoline.

(5) The permit holder shall not purchase gasoline tax free for use in motor vehicles.

(6) The permit holder shall not sell any gasoline acquired tax free under the exemption permit unless it is sold tax free and delivered directly into the fuel supply tank of an aircraft or motorboat.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.16; P.L.97-1987, SEC.2.*

#### **IC 6-6-1.1-304**

##### **Application for exemption permit; investigation**

Sec. 304. The administrator may make any investigation he considers necessary when reviewing an application for an exemption permit.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-305**

##### **Exemption permit holders; issuance of certificate to distributors**

Sec. 305. A person who holds an exemption permit may issue an executed exemption certificate to a licensed distributor. The licensed distributor may then sell gasoline to that person free of the tax imposed by this chapter.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-401**

##### **License to distributor; requirement**

Sec. 401. A person desiring to receive gasoline within Indiana without paying gasoline tax to his supplier must hold an uncanceled license issued by the administrator to do business as a distributor. For purposes of this section and section 415 of this chapter, "supplier" means a distributor or person who sells gasoline.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979, P.L.71, SEC.4; Acts 1980, P.L.51, SEC.17.*

#### **IC 6-6-1.1-402**

##### **License to distributor; application; contents**

Sec. 402. To obtain a license, every person desiring to operate as a distributor must, before commencing operations as a distributor, file with the administrator a sworn application containing the following information:

(1) The name under which the distributor will transact business

in Indiana.

(2) The location, including street address, of the applicant's principal place of business.

(3) The name and complete residence address of the owner or the names and addresses of the partners, if the applicant is a partnership, the names and addresses of the managers and members, if the applicant is a limited liability company, or the names and addresses of the principal officers, if the applicant is a corporation or association.

(4) Any other information the administrator reasonably requires.

*As added by Acts 1979, P.L.79, SEC.1. Amended by P.L.97-1987, SEC.3; P.L.8-1993, SEC.97.*

#### **IC 6-6-1.1-403**

##### **License to distributor; denial; grounds; hearing**

Sec. 403. (a) The administrator may refuse to issue a license to do business as a distributor in Indiana if:

(1) the application is filed by a person whose license has previously been cancelled for cause;

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

(3) the application is filed by some person as a subterfuge for the real person in interest whose license has previously been cancelled for cause;

(4) the applicant has an outstanding listed tax liability; or

(5) the applicant has not complied with a filing requirement of the department.

(b) Before being denied a license as a distributor, the applicant is entitled to a hearing with five (5) days written notice. At the hearing the applicant may appear in person or by counsel and present testimony.

*As added by Acts 1979, P.L.79, SEC.1. Amended by P.L.96-1989, SEC.1.*

#### **IC 6-6-1.1-404**

##### **License to distributor; foreign corporations**

Sec. 404. No license may be issued to a foreign corporation unless it is properly qualified to do business in Indiana.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-405**

##### **License to distributor; financial statement; fee**

Sec. 405. No license may be issued unless the application is accompanied by a current financial statement and a license fee of one hundred dollars (\$100). The applicant shall pay the license fee to the administrator.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-405.5**

### **Investigations to enforce chapter**

Sec. 405.5. The administrator may make any investigation the administrator considers reasonably necessary for the enforcement of this chapter.

*As added by P.L.69-1991, SEC.3.*

### **IC 6-6-1.1-406**

#### **License to distributor; bond, letter of credit, or cash deposit**

Sec. 406. (a) Concurrently with the filing of an application for a distributor's license, the department may require an applicant to file with the administrator a surety bond, a letter of credit, or a cash deposit:

- (1) in an amount of not less than two thousand dollars (\$2,000) nor more than a three (3) month tax liability for the applicant as estimated by the administrator; and
- (2) conditioned upon the prompt filing of true reports and payment of all gasoline taxes levied by the state, together with any penalties and interest, and upon faithful compliance with the provisions of this chapter.

(b) The administrator shall determine the amount of the distributor's bond, cash deposit, or letter of credit. If the applicant files a bond or a letter of credit, the bond or letter of credit must:

- (1) be with a surety company or financial institution approved by the administrator;
- (2) name the applicant as the principal and the state as the obligee; and
- (3) be on forms prescribed by the department.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.18; P.L.77-1985, SEC.1; P.L.97-1987, SEC.4; P.L.96-1989, SEC.2; P.L.69-1991, SEC.4.*

### **IC 6-6-1.1-407**

#### **Bond or letter of credit of distributor unsatisfactory; reduction of cash deposit**

Sec. 407. (a) The administrator may require a distributor to file a new bond or new letter of credit, with a satisfactory surety or financial institution in the same form and amount if:

- (1) liability upon the old bond or letter of credit is discharged or reduced by judgment rendered, payment made, or otherwise; or
- (2) in the opinion of the administrator any surety on the old bond or financial institution on the old letter of credit becomes unsatisfactory.

If the new bond or new letter of credit is unsatisfactory, the administrator shall cancel the license of the distributor. If the new bond or new letter of credit is satisfactorily furnished, the administrator shall release in writing the surety on the old bond or financial institution on the old letter of credit from any liability accruing after the effective date of the new bond or new letter of credit.

(b) If a distributor has a cash deposit with the administrator and the deposit is reduced by a judgment rendered, payment made, or otherwise, the administrator may require the distributor to make a new deposit equal to the amount of the reduction.

*As added by Acts 1979, P.L.79, SEC.1. Amended by P.L.97-1987, SEC.5.*

#### **IC 6-6-1.1-408**

##### **Amount of bond, letter of credit, or cash deposit insufficient; new requirements; hearing; cancellation of certificate**

Sec. 408. (a) If the administrator reasonably determines that the amount of the existing bond, letter of credit, or cash deposit is insufficient to insure payment to the state of the tax and any penalty and interest for which the distributor is or may become liable, then the distributor shall upon written demand of the administrator file a new bond or letter of credit, or increase the cash deposit. The administrator shall give the distributor at least fifteen (15) days to secure the new bond or letter of credit or make the increased cash deposit.

(b) The new bond, letter of credit, or cash deposit must meet the requirements set forth in section 406 of this chapter.

(c) If the new bond, letter of credit, or cash deposit required under this section is unsatisfactory, the administrator shall cancel the distributor's license certificate.

*As added by Acts 1979, P.L.79, SEC.1. Amended by P.L.77-1985, SEC.2; P.L.97-1987, SEC.6; P.L.69-1991, SEC.5.*

#### **IC 6-6-1.1-409**

##### **Release of surety of distributor's bond or institution issuing letter of credit; retaining cash deposit; notice; cancellation of license**

Sec. 409. (a) Sixty (60) days after making a written request for release to the administrator, the surety of a bond furnished by a distributor is released from any liability to the state accruing on the bond after the sixty (60) day period. The release does not affect any liability accruing before the expiration of the sixty (60) day period.

(b) One hundred eighty (180) days after making a written request for release to the administrator, the financial institution issuing the letter of credit for a distributor is released from any liability accruing on the letter of credit.

(c) The administrator shall promptly notify the distributor furnishing the bond or letter of credit that a release has been requested, and unless the distributor obtains a new bond or letter of credit which meets the requirements of section 406 of this chapter and files with the administrator:

- (1) the new bond within the sixty (60) day period; or
- (2) the new letter of credit within the one hundred eighty (180) day period;

the administrator shall cancel the distributor's license.

(d) Sixty (60) days after making a written request for release to the administrator, the cash deposit provided by a distributor is

cancelled as security for any obligation accruing after the expiration of the sixty (60) day period. However, the administrator may retain all or part of the cash deposit for up to three (3) years and one (1) day as security for any obligations accruing before the effective date of the cancellation. Any part of the deposit that is not retained by the administrator shall be released to the distributor. Before the expiration of the sixty (60) day period, the distributor must provide the administrator with a bond or letter of credit that satisfies section 406 of this chapter, or the administrator shall cancel the distributor's license.

*As added by Acts 1979, P.L.79, SEC.1. Amended by P.L.97-1987, SEC.7.*

#### **IC 6-6-1.1-410**

##### **Financial statements; increased bond, letter of credit, or cash deposit amounts**

Sec. 410. The administrator may in his reasonable discretion require a distributor to furnish current certified, audited financial statements. If the administrator determines that a distributor's financial condition warrants an increase in the distributor's bond, letter of credit, or cash deposit, the administrator may require the distributor to furnish an increased bond, letter of credit, or cash deposit.

*As added by Acts 1979, P.L.79, SEC.1. Amended by P.L.97-1987, SEC.8.*

#### **IC 6-6-1.1-411**

##### **Temporary license; investigation; conditions and requirements**

Sec. 411. The administrator may make any investigation he considers necessary once an application has been properly filed, the license fee paid, and the bonding requirements met. If all conditions and requirements of this chapter have been met, the administrator shall issue to the applicant a temporary license to transact business as a distributor in Indiana. The temporary license is valid for one (1) year.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-412**

##### **Permanent license; minimum gallonage**

Sec. 412. If an Indiana based distributor distributes at least five hundred thousand (500,000) gallons of gasoline during the year that the temporary license is in effect and complies with all the other provisions of this chapter, the administrator shall issue a permanent license to the distributor without charge. The permanent license is effective unless canceled under this chapter.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.19.*

#### **IC 6-6-1.1-413**

##### **No permanent license; insufficient gallonage**

Sec. 413. If an Indiana based distributor does not distribute at least five hundred thousand (500,000) gallons of gasoline during the year that the temporary license is in effect, the administrator may not issue a permanent license to that distributor.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.20.*

#### **IC 6-6-1.1-414**

##### **License nonassignable; new license required**

Sec. 414. A license issued under this chapter is not assignable and is valid only for the distributor in whose name it is issued. If there is a change in name or ownership, the distributor shall apply for a new license.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-415**

##### **Cancellation of distributor's license; grounds; notice; hearing**

Sec. 415. (a) The administrator may, after fifteen (15) days written notice, cancel a distributor's license if the distributor:

- (1) files a false monthly report of the information required by this chapter;
- (2) fails or refuses to file the monthly report required by this chapter;
- (3) fails or refuses to pay the full amount of the tax imposed by this chapter on the expiration of the fifteen (15) day notice period provided by this subsection;
- (4) is an Indiana distributor and fails to distribute five hundred thousand (500,000) gallons or more of gasoline during a twelve (12) month period;
- (5) fails to file a surety bond, letter of credit, or cash deposit as required by section 406 of this chapter;
- (6) fails to honor a subpoena issued by the department under IC 6-8.1-3-12;
- (7) knowingly breaks the seal on a pump sealed under section 1008 or 1110 of this chapter; or
- (8) fails or refuses to comply with IC 6-8.1-5-4 or section 1314 of this chapter.

(b) The distributor may appear at the time and place given in the notice to show cause why the distributor's license should not be canceled. Notice of the hearing and of the cancellation must be sent by registered or certified mail to the distributor's last known address appearing in the administrator's files. A distributor whose license is canceled may not sell gasoline in Indiana without paying the tax imposed under this chapter to the supplier (as defined in section 401 of this chapter).

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979, P.L.71, SEC.5; Acts 1980, P.L.51, SEC.21; P.L.97-1987, SEC.9; P.L.96-1989, SEC.3; P.L.69-1991, SEC.6.*

#### **IC 6-6-1.1-416**

**Cancellation of license on distributor's request; requisites**

Sec. 416. A distributor may make a written request to the administrator to cancel his license, and the administrator may cancel the license effective sixty (60) days from receipt of the request if prior to cancellation the distributor has paid all tax, penalty, and interest accruing under this chapter.

*As added by Acts 1979, P.L.79, SEC.1.*

**IC 6-6-1.1-417**

**Cancellation of distributor's license for inactiveness; notice**

Sec. 417. If the administrator determines that a distributor has not received, used, or sold gasoline for a period of six (6) months, and is no longer engaged as a distributor, the administrator may cancel the license by giving sixty (60) days' notice mailed to that person's last known address appearing in the administrator's files.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.22.*

**IC 6-6-1.1-418**

**Listing of licensed distributors; index of applications and bonds**

Sec. 418. The administrator shall keep a file and alphabetical index of all applications and bonds, and shall keep a record of all licensed distributors. The administrator shall furnish to each licensed distributor, before August 16 of each year, a complete list of all licensed distributors as of the preceding July 1. The administrator shall also furnish to each licensed distributor monthly supplements showing any changes in the list.

*As added by Acts 1979, P.L.79, SEC.1.*

**IC 6-6-1.1-501**

**Monthly reports to determine tax liability; itemized contents**

Sec. 501. To determine his tax liability under this chapter, each distributor shall file a sworn report with the administrator by the twentieth day of each calendar month. The administrator may require the following information to be included in the report:

- (1) An itemized statement of the number of invoiced gallons of gasoline received by the distributor within Indiana during the preceding calendar month, as determined under sections 202 through 207 of this chapter. The administrator may require that the statement include the date, place, and quantity of each receipt of gasoline, the point of origin, the method by which and the name of the person from whom the gasoline was received, and any other information which the administrator requires.
- (2) An itemized statement showing the deductions provided by sections 701 through 705 of this chapter, together with such details to support each deduction as the administrator may require.
- (3) An itemized statement showing the gallons of gasoline sold to a marine facility for which the distributor does not receive an exemption certificate authorized by section 305 of this chapter.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979, P.L.71, SEC.6; Acts 1980, P.L.51, SEC.23.*

**IC 6-6-1.1-502**

**Monthly payment of tax due; computation**

Sec. 502. (a) Except as provided in subsection (b), at the time of filing each monthly report, each distributor shall pay to the administrator the full amount of tax due under this chapter for the preceding calendar month, computed as follows:

- (1) Enter the total number of invoiced gallons of gasoline received during the preceding calendar month.
- (2) Subtract the number of gallons for which deductions are provided by sections 701 through 705 of this chapter from the number of gallons entered under subdivision (1).
- (3) Subtract the number of gallons reported under section 501(3) of this chapter.
- (4) Multiply the number of invoiced gallons remaining after making the computation in subdivisions (2) and (3) by the tax rate prescribed by section 201 of this chapter to compute that part of the gasoline tax to be deposited in the highway, road, and street fund under section 802(2) of this chapter or in the motor fuel tax fund under section 802(3) of this chapter.
- (5) Multiply the number of gallons subtracted under subdivision (3) by the tax rate prescribed by section 201 of this chapter to compute that part of the gasoline tax to be deposited in the fish and wildlife fund under section 802(1) of this chapter.

(b) If the department determines that a distributor's:

- (1) estimated monthly gasoline tax liability for the current year;
- or
- (2) average monthly gasoline tax liability for the preceding year;

exceeds five thousand dollars (\$5,000), the distributor shall pay the monthly gasoline taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.24; Acts 1980, P.L.10, SEC.8; Acts 1981, P.L.93, SEC.1; P.L.59-1985, SEC.11; P.L.92-1987, SEC.5; P.L.63-1988, SEC.12; P.L.28-1997, SEC.22; P.L.211-2007, SEC.35.*

**IC 6-6-1.1-503**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-504**

**Purchaser other than licensed distributor; same reports; payment of tax**

Sec. 504. Every person other than a licensed distributor who

purchases or otherwise acquires taxable gasoline and unknowingly fails to pay the gasoline tax to either a licensed Indiana distributor or Indiana dealer shall make the same reports and payment required of distributors under this chapter. However, the person is not entitled to any deductions or credits.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.25.*

**IC 6-6-1.1-505**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-506**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-507**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-508**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-509**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-510**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-511**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-512**

**Discontinuance, sale, or transfer of distributor's business; notice to administrator**

Sec. 512. If a distributor intends to discontinue, sell, or transfer his business, he must give written notice to the administrator at least ten (10) days prior to his ceasing business. The notice shall give the date of discontinuance or the date of sale or transfer and the name and address of the purchaser or transferee.

*As added by Acts 1979, P.L.79, SEC.1.*

**IC 6-6-1.1-513**

**Discontinuance, sale, or transfer of distributor's business; accrued tax liabilities due and payable**

Sec. 513. Notwithstanding any other provision of this chapter, any

tax, penalty, and interest which have accrued under this chapter are due and payable at the time a distributor discontinues, sells, or transfers his business. The distributor shall file a report and pay any tax, penalty, and interest within ten (10) days after the discontinuance, sale, or transfer.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-514**

##### **Sale or transfer of distributor's business; liability of purchaser or transferee for any accrued unpaid tax, penalty, and interest**

Sec. 514. If a distributor fails to give notice to the administrator as required by section 512 of this chapter, the purchaser or transferee of his business is liable to the state for all unpaid tax, penalty, and interest accrued under this chapter against the distributor through the date of sale or transfer. However, the purchaser's or transferee's liability is limited to the value of the property and business acquired from the distributor.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-515**

##### **Reports; electronic filing**

Sec. 515. The administrator may require that all reports required to be filed under section 209, 501, 502, 504, or 606 of this chapter must be filed in an electronic format prescribed by the administrator.

*As added by P.L.176-2006, SEC.3.*

#### **IC 6-6-1.1-601**

##### **Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

#### **IC 6-6-1.1-602**

##### **Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

#### **IC 6-6-1.1-603**

##### **Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

#### **IC 6-6-1.1-604**

##### **Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

#### **IC 6-6-1.1-605**

##### **Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

#### **IC 6-6-1.1-606**

##### **Monthly reports of all deliveries of gasoline in and from Indiana; forms; contents**

Sec. 606. (a) Every person, including persons engaged in for-hire

interstate or intrastate commerce, who:

- (1) transports gasoline by any manner from a point outside Indiana to a point in Indiana; and
- (2) is not a licensed distributor;

shall report to the administrator on forms prescribed by the department all deliveries of gasoline from a point outside Indiana to a point in Indiana.

(b) The reports required by subsection (a) must cover monthly periods and must show the following:

- (1) The name and address of the person to whom deliveries of gasoline have actually been made.
- (2) The name and address of the originally named consignee, if gasoline has been delivered to a person other than the originally named consignee.
- (3) The point of origin, point of delivery, date of delivery, number and initials of each tank car, and the number of gallons contained in each car, if the gasoline has been shipped by rail.
- (4) The number of gallons contained in the boat, barge, or vessel, if the gasoline has been shipped by water.
- (5) The number of gallons contained in each tank truck, if the gasoline has been shipped by motor truck.
- (6) The manner in which the gasoline has been delivered if the delivery is not covered by clauses (1) through (5).
- (7) Additional information relating to gasoline shipments as the administrator reasonably may require.

(c) Every person, including persons engaged in for-hire interstate or intrastate commerce who:

- (1) transports gasoline from a point in Indiana to a point outside Indiana; and
- (2) is not a licensed distributor in Indiana;

shall report to the administrator on forms prescribed by the department all gasoline transported from a point inside Indiana to a point outside Indiana.

(d) The report required by subsection (c) must be made under oath on a form prescribed by the administrator, must cover monthly periods, and must show the following:

- (1) The name and address of the person to whom deliveries of gasoline have actually been made.
- (2) The name and address of the originally named consignee, if gasoline has been delivered to a person other than the originally named consignee.
- (3) The point of origin, point of delivery, date of delivery, number and initials of each tank car, and the number of gallons contained in each car if the gasoline has been shipped by rail.
- (4) The name and number of gallons contained in the boat, barge, or vessel if the gasoline has been shipped by water.
- (5) The registration number and number of gallons contained in each tank truck if the gasoline has been shipped by motor truck.
- (6) The manner in which the gasoline has been delivered if the delivery is not covered by clauses (1) through (5).

(7) Additional information relating to gasoline shipments as the administrator reasonably may require.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.30; P.L.69-1991, SEC.7.*

#### **IC 6-6-1.1-606.5**

#### **Registration and licensure of persons transporting gasoline in and from Indiana; persons qualified to accept delivery of gasoline; transporter emblems; language of invoices or manifests; legitimate diversion**

Sec. 606.5. (a) Every person included within the terms of section 606(a) and 606(c) of this chapter shall register with the administrator before engaging in those activities. The administrator shall issue a transportation license to a person who registers with the administrator under this section.

(b) Every person included within the terms of section 606(a) of this chapter who transports gasoline in a vehicle on the highways in Indiana for purposes other than use and consumption by that person may not make a delivery of that gasoline to any person in Indiana other than a licensed distributor except:

(1) when the tax imposed by this chapter on the receipt of the transported gasoline was charged and collected by the parties; and

(2) under the circumstances described in section 205 of this chapter.

(c) Every person included within the terms of section 606(c) of this chapter who transports gasoline in a vehicle upon the highways of Indiana for purposes other than use and consumption by that person may not, on the journey carrying that gasoline to points outside Indiana, make delivery of that fuel to any person in Indiana.

(d) Every transporter of gasoline included within the terms of section 606(a) and 606(c) of this chapter who transports gasoline upon the highways of Indiana for purposes other than use and consumption by that person shall at the time of registration and on an annual basis list with the administrator a description of all vehicles, including the vehicles' license numbers, to be used on the highways of Indiana in transporting gasoline from:

(1) points outside Indiana to points inside Indiana; and

(2) points inside Indiana to points outside Indiana.

(e) The description that subsection (d) requires shall contain the information that is reasonably required by the administrator including the carrying capacity of the vehicle. When the vehicle is a tractor-trailer type, the trailer is the vehicle to be described. When additional vehicles are placed in service or when a vehicle previously listed is retired from service during the year, the administrator shall be notified within ten (10) days of the change so that the listing of the vehicles may be kept accurate.

(f) A distributor's or an Indiana transportation license is required for a person or the person's agent acting in the person's behalf to operate a vehicle for the purpose of delivering gasoline within the

boundaries of Indiana when the vehicle has a total tank capacity of at least eight hundred fifty (850) gallons.

(g) The operator of a vehicle to which this section applies shall at all times when engaged in the transporting of gasoline on the highways have with the vehicle an invoice or manifest showing the origin, quantity, nature, and destination of the gasoline that is being transported.

(h) The department shall provide for relief if a shipment of gasoline is legitimately diverted from the represented destination state after the shipping paper has been issued by a terminal operator or if a terminal operator failed to cause proper information to be printed on the shipping paper. Provisions for relief under this subsection:

(1) must require that the shipper or its agent provide notification to the department before a diversion or correction if an intended diversion or correction is to occur; and

(2) must be consistent with the refund provisions of this chapter.

*As added by P.L.69-1991, SEC.8. Amended by P.L.129-2001, SEC.10; P.L.182-2009(ss), SEC.234.*

#### **IC 6-6-1.1-606.6**

##### **Penalties; improper delivery of gasoline**

Sec. 606.6. (a) Except as provided in subsection (c), every person included within the terms of section 606(a) of this chapter who transports gasoline in a vehicle on the highways of Indiana in a vehicle having a total tank capacity of less than eight hundred fifty (850) gallons is liable to the state for a penalty equal to the rate provided in section 201 of this chapter on all gasoline transported into Indiana and delivered to any person other than a licensed distributor.

(b) Except as provided in subsection (c), every person included within the terms of section 606(c) of this chapter who transports gasoline in a vehicle on the highways of Indiana is liable to the state for a penalty equal to the rate provided in section 201 of this chapter on all gasoline:

(1) received by the person for transportation to a point outside Indiana;

(2) not in fact transported to a point outside Indiana; and

(3) in fact delivered to a person other than a licensed distributor inside Indiana.

(c) The following are excluded when computing any liability under this section:

(1) All deliveries of gasoline when the tax imposed by law was charged or collected by the parties under the circumstances described in this section.

(2) Deliveries of gasoline used in computing the tax under section 301 of this chapter.

*As added by P.L.69-1991, SEC.9.*

**IC 6-6-1.1-607****Monthly accounting of all gasoline delivered to or withdrawn from refinery or terminal; lessor report of leased storage space**

Sec. 607. (a) Every person owning or operating a refinery or terminal in Indiana shall, on forms prescribed by the administrator, make a monthly accounting to the administrator of all gasoline withdrawn from a refinery or terminal, and all gasoline delivered to and withdrawn from any terminal, whether or not the fuel is owned by the owner or operator.

(b) Every person owning or operating a refinery or terminal in Indiana who leases storage space in that refinery or terminal for gasoline to another person shall on forms prescribed by the administrator make a monthly accounting to the administrator with respect to the leased storage space. The report shall show the following:

- (1) The name of the lessee.
- (2) The volume of storage space that is leased.
- (3) The volume of gasoline existing in that storage space at the beginning and end of the month.
- (4) The monthly throughput which is:
  - (A) the total volume of gasoline put into the storage space during the month; and
  - (B) the total volume of gasoline removed from the storage space during the month.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.31; P.L.69-1991, SEC.10.*

**IC 6-6-1.1-608****Waiver of reports required by IC 6-6-1.1-606 and IC 6-6-1.1-607; time limitations**

Sec. 608. The reports required by sections 606 and 607 of this chapter are for information purposes only and the administrator may waive their filing if they are unnecessary for the proper administration of this chapter. Persons required to file reports under this chapter shall file them with the administrator within the time period established by section 501 of this chapter for filing distributors' reports of gasoline received.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.32.*

**IC 6-6-1.1-701****Deduction for exempted gasoline**

Sec. 701. A licensed distributor who receives gasoline that qualifies for an exemption under section 301 of this chapter is entitled to a deduction for that gasoline after furnishing such proof as the administrator may require. The deduction must be claimed on the report covering the month of export, loss, destruction, or sale.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.33.*

#### **IC 6-6-1.1-702**

##### **Sale or exchange agreement; deduction**

Sec. 702. A licensed distributor who receives gasoline in Indiana and then delivers it to or for the account of another licensed distributor in Indiana under a sale or exchange agreement is entitled to a deduction for that gasoline. The deduction must be claimed on the report covering the month of delivery.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.34.*

#### **IC 6-6-1.1-703**

##### **Sale of tax exempt gasoline; deduction**

Sec. 703. A licensed distributor who sells tax exempt gasoline described in section 302 of this chapter is entitled to a deduction for that gasoline. The deduction must be claimed on the report covering the month of sale.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.35.*

#### **IC 6-6-1.1-704**

##### **Refund or deduction**

Sec. 704. A licensed distributor who pays any gasoline tax in error, or who is entitled to a refund or credit under this chapter, may, upon authorization by the administrator, take a deduction in lieu of a refund on subsequent monthly reports for the amount of gasoline on which the tax was paid.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.36.*

#### **IC 6-6-1.1-705**

##### **Deduction for evaporation, shrinkage, losses, and tax related expenses**

Sec. 705. (a) If a monthly report is filed and the amount due is remitted at or before the time required by this chapter, a distributor is entitled to a deduction equal to one and six-tenths percent (1.6%) of the remainder of:

- (1) the number of invoiced gallons of gasoline he received in Indiana during the preceding calendar month; minus
- (2) the deductions claimed by the distributor under sections 701 through 704 of this chapter.

This deduction is a flat allowance to cover evaporation, shrinkage, losses (except losses covered by section 301(5) of this chapter), and the distributor's expenses in collecting and timely remitting the tax imposed by this chapter.

(b) If a monthly report is filed or the amount due is remitted later than the time required under this chapter, the distributor shall pay to the administrator all of the gasoline tax the distributor received from the sale of gasoline covered by the late report, reduced by payments made under IC 6-8.1-8-1.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980,*

*P.L.51, SEC.37; P.L.77-1985, SEC.3; P.L.59-1985, SEC.12; P.L.92-1987, SEC.6.*

**IC 6-6-1.1-801**

**Tax collected by distributor as state money in trust; liability; use restricted to authorized purposes**

Sec. 801. Until a distributor pays the license tax on gasoline he receives, the tax money he collects on the sale of gasoline is state money. A distributor who collects such license tax money shall hold it in trust for the state and for payment to the department as provided in this chapter. In the case of a corporate or partnership distributor, every officer, employee, or member of the employer who in that capacity is under a duty to collect the tax, is personally liable for the tax, penalty, and interest. Taxes collected on gasoline, except those collected at a taxable marine facility, shall be used only for highway purposes and for payment of any part of the cost of traffic policing and traffic safety incurred by the state or any of its political subdivisions, as may be authorized by law.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979, P.L.71, SEC.10; Acts 1980, P.L.51, SEC.38.*

**IC 6-6-1.1-801.5**

**Tax receipts; transfer to auditor; distribution**

Sec. 801.5. (a) The administrator shall transfer one-ninth (1/9) of the taxes that are collected under this chapter to the state highway road construction and improvement fund.

(b) The administrator shall transfer one-eighteenth (1/18) of the taxes that are collected under this chapter to the state highway fund.

(c) The administrator shall transfer one-eighteenth (1/18) of the taxes that are collected under this chapter to the auditor of state for distribution to counties, cities, and towns. The auditor of state shall distribute the amounts transferred under this subsection to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1. Money distributed under this subsection may be used only for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

(d) After the transfers required by subsections (a) through (c), the administrator shall transfer the next twenty-five million dollars (\$25,000,000) of the taxes that are collected under this chapter and received during a period beginning July 1 of a year and ending June 30 of the immediately succeeding year to the auditor of state for distribution in the following manner:

(1) thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the local road and street account under IC 8-14-2 and in the same proportion among the counties, cities, and towns as funds are distributed under IC 8-14-2-4;

- (2) thirty percent (30%) to each of the counties, cities, and towns eligible to receive a distribution from the motor vehicle highway account under IC 8-14-1 and in the same proportion among the counties, cities, and towns as funds are distributed from the motor vehicle highway account under IC 8-14-1; and
- (3) forty percent (40%) to the Indiana department of transportation.

(e) The auditor of state shall hold all amounts of collections received under subsection (d) from the administrator that are made during a particular month and shall distribute all of those amounts pursuant to subsection (d) on the fifth day of the immediately succeeding month.

(f) All amounts distributed under subsection (d) may only be used for purposes that money distributed from the motor vehicle highway account may be expended under IC 8-14-1.

*As added by Acts 1981, P.L.88, SEC.6. Amended by P.L.68-1988, SEC.2; P.L.18-1990, SEC.21; P.L.192-2002(ss), SEC.133.*

#### **IC 6-6-1.1-802**

##### **Deposit of tax receipts**

Sec. 802. The administrator shall, after the transfer specified in section 801.5 of this chapter, deposit the remainder of the revenues collected under this chapter in the following manner:

- (1) The taxes collected with respect to gasoline delivered to a taxable marine facility shall be deposited in the fish and wildlife fund established by IC 14-22-3-2.
- (2) Twenty-five percent (25%) of the taxes collected under this chapter, except the taxes referred to in subdivision (1), shall be deposited in the highway, road and street fund established under IC 8-14-2-2.1.
- (3) The remainder of the revenues collected under this chapter shall be deposited in the motor fuel tax fund of the motor vehicle highway account.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.39; Acts 1980, P.L.10, SEC.9; Acts 1981, P.L.93, SEC.2; Acts 1981, P.L.88, SEC.7; P.L.1-1995, SEC.50.*

#### **IC 6-6-1.1-803**

##### **Refunds and costs; payment**

Sec. 803. All receipts of the motor fuel tax fund are available for payment of refunds authorized by this chapter and payment of the costs of administering and enforcing of this chapter.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-804**

##### **Repealed**

*(Repealed by Acts 1979, P.L.71, SEC.19.)*

#### **IC 6-6-1.1-805**

##### **Motor fuel tax fund; transfer of residue balance to highway**

**account**

Sec. 805. Any balance remaining in the motor fuel tax fund after making the payments required by section 803 of this chapter shall be transferred to the motor vehicle highway account for distribution as provided by law.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979, P.L.71, SEC.11.*

**IC 6-6-1.1-806**

**Repealed**

*(Repealed by Acts 1981, P.L.93, SEC.11.)*

**IC 6-6-1.1-901**

**Refund to purchaser for gasoline lost or destroyed; limitations; requisites; distributor excepted**

Sec. 901. A person, except a distributor, who has purchased gasoline in Indiana and has paid the tax imposed on it by this chapter is entitled to a refund (without interest) of the amount of tax paid on gasoline in excess of one hundred (100) gallons which is lost or destroyed, except by evaporation, shrinkage, or unknown cause, while he owns it. To obtain the refund, the person:

- (1) must, within five (5) days after the loss or destruction is discovered, notify the administrator in writing of the amount of gasoline lost or destroyed; and
- (2) must, within sixty (60) days after notice is given, file with the administrator an affidavit that is sworn to by the person having custody of the gasoline at the time of loss or destruction and that sets forth in full the circumstances and amount of the loss or destruction and any other information the administrator may require.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.40; Acts 1981, P.L.93, SEC.3.*

**IC 6-6-1.1-902**

**Refund to local transit system; requisites; interest**

Sec. 902. (a) A local transit system is entitled to a refund of tax paid on gasoline used:

- (1) for transporting persons for compensation by means of a motor vehicle or trackless trolley; or
  - (2) in a maintenance or an administrative vehicle that is used by the local transit system to support the transit service.
- (b) The claim for refund must contain the following:
- (1) A quarterly operating statement.
  - (2) A current balance sheet.
  - (3) A schedule of all salaries in excess of ten thousand dollars (\$10,000) per annum paid to any officer or employee.

(c) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by IC 6-6-1.1-904.1, the department shall pay interest at the rate established by IC 6-8.1-9 computed from the date of filing of the

refund application until a date determined by the administrator that does not precede by more than thirty (30) days the date on which the refund is made.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.41; Acts 1981, P.L.93, SEC.4; P.L.1-1991, SEC.57; P.L.85-1995, SEC.11.*

#### **IC 6-6-1.1-902.5**

##### **Refund to rural transit system; claim; interest**

Sec. 902.5. (a) A rural transit system is entitled to a refund of tax paid on gasoline used for transporting persons for compensation by means of a motor vehicle or trackless trolley. However, the transporting must be done:

(1) within a service area that is not larger than the rural transit system service area and the counties contiguous to that rural transit system service area; and

(2) under a written contract between the rural transit system and the county providers within the service area that meets the requirements prescribed by the department.

(b) The claim for refund must contain the following:

(1) A quarterly operating statement.

(2) A current balance sheet.

(3) A schedule of all salaries that exceed ten thousand dollars (\$10,000) per year paid to any officer or employee.

(c) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by section 904.1 of this chapter, the department shall pay interest at the rate established by IC 6-8.1-10-1(c) computed from the date of filing of the refund application until a date determined by the administrator that does not precede by more than thirty (30) days the date on which the refund is made.

*As added by P.L.45-1994, SEC.1. Amended by P.L.2-1995, SEC.34.*

#### **IC 6-6-1.1-903**

##### **Refund for tax paid on gasoline purchased or used for designated purposes; interest**

Sec. 903. (a) A person is entitled to a refund of gasoline tax paid on gasoline purchased or used for the following purposes:

(1) Operating stationary gas engines.

(2) Operating equipment mounted on motor vehicles, whether or not operated by the engine propelling the motor vehicle.

(3) Operating a tractor used for agricultural purposes.

(3.1) Operating implements of agriculture (as defined in IC 9-13-2-77).

(4) Operating motorboats or aircraft.

(5) Cleaning or dyeing.

(6) Other commercial use, except propelling motor vehicles operated in whole or in part on an Indiana public highway.

(7) Operating a taxicab (as defined in section 103 of this chapter).

(b) If a refund is not issued within ninety (90) days of filing of the verified statement and all supplemental information required by IC 6-6-1.1-904.1, the department shall pay interest at the rate established by IC 6-8.1-9 computed from the date of filing of the verified statement and all supplemental information required by the department until a date determined by the administrator that does not precede by more than thirty (30) days the date on which the refund is made.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979, P.L.71, SEC.12; Acts 1980, P.L.51, SEC.42; Acts 1981, P.L.93, SEC.5; P.L.97-1987, SEC.10; P.L.2-1991, SEC.40; P.L.1-1991, SEC.58; P.L.210-2005, SEC.2.*

#### **IC 6-6-1.1-904**

##### **Repealed**

*(Repealed by P.L.1-1991, SEC.59.)*

#### **IC 6-6-1.1-904.1**

##### **Refund; required procedures**

Sec. 904.1. (a) To claim a refund under section 902, 902.5, or 903, of this chapter, a person must present to the administrator a statement that contains a written verification that it is made under penalties of perjury and that sets forth the total amount of gasoline purchased and used for purposes other than propelling a motor vehicle on an Indiana public highway. The statement must be filed by April 15 of the year succeeding three (3) years after the date the gasoline was purchased, and it must be accompanied by the original invoice or a certified copy of the original invoice. Such a copy must be certified by the supplier on forms prescribed by the administrator. In addition, the original invoice or certified copy must show either:

- (1) that payment for the purchase has been made and the amount of tax paid on the purchase; or
- (2) that the gasoline was charged to a credit card approved by the administrator under procedures designed to assure the state will not be liable for the credit card charges if the claimant does not pay for the purchases.

(b) The administrator may make any investigations the administrator considers necessary before refunding the gasoline taxes to the consumer.

*As added by P.L.1-1991, SEC.60. Amended by P.L.45-1994, SEC.2.*

#### **IC 6-6-1.1-905**

##### **Repealed**

*(Repealed by P.L.96-1989, SEC.25.)*

#### **IC 6-6-1.1-906**

##### **Refunds or credits; rules and regulations**

Sec. 906. The department shall adopt necessary rules and regulations consistent with this chapter for the filing of refund or credit claims and for the granting of refunds or credits.

*As added by Acts 1979, P.L.79, SEC.1. Amended by P.L.1-2010, SEC.35.*

#### **IC 6-6-1.1-907**

##### **Refund or deduction; payment of tax in error; warrant; payment; requisites**

Sec. 907. (a) If the administrator determines that a licensed distributor has paid gasoline tax in error or is entitled to a refund or deduction, the administrator may issue a warrant in favor of that person. The treasurer of state shall accept the warrant and make payment out of the revolving fund established in section 909 of this chapter.

(b) No refund shall be made under this section unless the written claim describes the reason the refund should be allowed. The claim must be sworn to by the claimant and filed with the administrator, on forms prescribed by the administrator, within three (3) years after the end of the calendar year containing the taxable period in which the tax was erroneously collected.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.44; P.L.97-1987, SEC.11.*

#### **IC 6-6-1.1-908**

##### **Deduction in lieu of warrant for payment of refund**

Sec. 908. In lieu of issuing the warrant prescribed by section 907(a) of this chapter, the administrator may elect to permit the deduction authorized by section 704 of this chapter.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-909**

##### **Gasoline tax refund account**

Sec. 909. The administrator shall establish a revolving fund known as the gasoline tax refund account. The amount in the fund may not exceed seventy-five thousand dollars (\$75,000), and the administrator shall maintain the fund in a public depository designated by the state board of finance. The administrator shall draw checks against the fund for each approved refund. As the checks are returned paid by the depository, the administrator shall issue a warrant on the motor fuel tax fund in the amount of the checks returned paid, for the purpose of maintaining the depository balance at the authorized amount.

*As added by Acts 1979, P.L.79, SEC.1.*

#### **IC 6-6-1.1-910**

##### **Class action for refund of tax; prerequisites**

Sec. 910. A class action for the refund of a tax subject to this chapter may not be maintained in any court, including the Indiana tax court, on behalf of any person who has not complied with the requirements of sections 901 through 908 of this chapter before the certification of a class. A refund of taxes to a member of a class in a class action is subject to the time limits set forth in sections 901

through 908 of this chapter based on the time the class member filed the required claim for refund with the department.

*As added by P.L.60-1990, SEC.1.*

**IC 6-6-1.1-1001**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1002**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1003**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1004**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1005**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1006**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1007**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1008**

**Sealing pumps; impoundment of vehicles or tanks; report of meter readings**

Sec. 1008. (a) If any of the conditions specified in subsection (b) occur, the administrator may seal a gasoline pump, gasohol pump, aviation gasoline pump, or marina gasoline pump; impound any vehicle or tank that does not have a sealable pump; and post a sign that states that no transactions involving gasoline or gasohol, or both, can be made at the person's location.

(b) The administrator may take the actions specified in subsection

(a) if:

- (1) a licensed distributor becomes delinquent in the payment of any amount due under this chapter;
- (2) there is evidence that the revenue of a licensed distributor is in jeopardy;
- (3) a distributor is operating without the license required by this chapter;
- (4) a licensed distributor is operating without the bond, letter of

credit, or cash deposit required by this chapter; or  
(5) a person has received gasoline in this state and the gasoline tax has not been remitted to the state as required by section 504 of this chapter.

- (c) The pumps may be sealed and the sign posted until:
- (1) all reports are filed and the fees, taxes, fines, and penalties imposed by this chapter are paid;
  - (2) the interest and penalties imposed by IC 6-8.1-10-1 and IC 6-8.1-10-2.1 are paid in full;
  - (3) the license required by this chapter is obtained; and
  - (4) the bond, letter of credit, or cash deposit required by this chapter is provided.

(d) The administrator may require any person operating under this chapter to report meter readings that show the amount of fuel dispensed or used from a metered pump.

(e) The administrator may authorize the state police department to impound any vehicle or tank under subsection (a) on behalf of the department of state revenue.

*As added by P.L.97-1987, SEC.12. Amended by P.L.1-1991, SEC.61.*

#### **IC 6-6-1.1-1009**

##### **Cumulative remedies**

Sec. 1009. The remedies provided to the department by this chapter are cumulative, and the election to use a remedy may not be construed to exclude the use of any other remedy.

*As added by P.L.97-1987, SEC.13.*

#### **IC 6-6-1.1-1101**

##### **Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

#### **IC 6-6-1.1-1102**

##### **Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

#### **IC 6-6-1.1-1103**

##### **Requests of another state for information**

Sec. 1103. Upon request from an official who enforces the gasoline laws of another state, the administrator shall furnish the official with any information he has relating to the receipt, sale, use, transportation, or shipment of gasoline by any person.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.48.*

#### **IC 6-6-1.1-1104**

##### **Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

#### **IC 6-6-1.1-1105**

##### **Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1106**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1107**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1108**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1109**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1110**

**Gallonge totalizers; sealing; installation; evidence**

Sec. 1110. (a) The administrator may seal gallonge totalizers of metered pumps operated by or on behalf of a dealer or licensed distributor.

(b) If the administrator determines that a metered pump operated by or on behalf of a dealer or licensed distributor is without an effectively sealable gallonge totalizer, the dealer or licensed distributor shall at the administrator's request:

(1) adapt the pump to the administrator's specifications so that it may be effectively sealed; or

(2) replace, in whole or in part, the pump with an effectively sealable gallonge totalizer, as determined by the administrator.

(c) A dealer's or licensed distributor's failure to comply with subsection (a) or (b) is considered evidence that the revenue of the dealer or licensed distributor is in jeopardy.

*As added by P.L.97-1987, SEC.14.*

**IC 6-6-1.1-1201**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1202**

**Identification markings on transportation equipment**

Sec. 1202. A vehicle which transports gasoline on a public Indiana highway must have the name and address of the person, firm, limited liability company, or corporation transporting the gasoline on both sides of the driver's compartment. The information must appear in letters at least six (6) inches high with a stroke at least three-fourths (3/4) inch wide and in a color contrasting to the background on which the letters are placed. However, a distributor licensed in Indiana is not required to display his name and address on

transportation equipment if the equipment is identified with the trade or product name or insignia generally used in identifying such equipment, and the name or insignia is well-known throughout the area in which the equipment is operated.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.49; P.L.8-1993, SEC.98.*

#### **IC 6-6-1.1-1203**

##### **Separate statement of tax rate on sales or delivery slips, bills, or statements**

Sec. 1203. Distributors and all persons selling gasoline shall state the rate of the tax separately from the price of the gasoline on all sales or delivery slips, bills, and statements which indicate the price of gasoline.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979, P.L.71, SEC.15; Acts 1980, P.L.51, SEC.50.*

#### **IC 6-6-1.1-1204**

##### **Political subdivisions; excise tax prohibited**

Sec. 1204. (a) No city, town, county, township, or other subdivision or municipal corporation of the state may levy or collect:

- (1) an excise tax on or measured by the sale, receipt, distribution, or use of gasoline; or
- (2) an excise, privilege, or occupational tax on the business of manufacturing, selling, or distributing gasoline.

(b) The provisions of subsection (a) may not be construed as to relieve a distributor or dealer from payment of a state tax or state store license.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.51; P.L.192-2002(ss), SEC.134.*

#### **IC 6-6-1.1-1205**

##### **Criminal proceedings; precedence**

Sec. 1205. All criminal proceedings arising under this chapter have precedence in court over all other cases, excepting cases in which the state or public is a moving party.

*As added by Acts 1979, P.L.79, SEC.1. Amended by P.L.291-1985, SEC.8.*

#### **IC 6-6-1.1-1206**

##### **Suit against state to resolve tax dispute; jurisdiction; limitation**

Sec. 1206. A person who claims that any gasoline tax, penalty, or interest was erroneously or illegally collected, or that a refund was wrongfully denied may initiate a suit against the state. The tax court has original jurisdiction of the suit, which must be commenced within three (3) years from:

- (1) the date of payment of the tax, penalty, or interest; or
- (2) the date of final rejection by the administrator of a refund claim.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979,*

*P.L.71, SEC.16; Acts 1980, P.L.51, SEC.52; P.L.291-1985, SEC.9.*

**IC 6-6-1.1-1301**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1302**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1303**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1304**

**Repealed**

*(Repealed by Acts 1980, P.L.61, SEC.15.)*

**IC 6-6-1.1-1305**

**Submission of false information on invoice to support refund or credit; forfeiture**

Sec. 1305. A person who changes the date, name, gallonage, or other information shown on an invoice used to support a refund or a credit claim under section 904.1 of this chapter, or who submits false information on an invoice, forfeits the right to a refund or credit on that invoice. However, the administrator may approve a claim supported by an altered or changed invoice if he finds that the change or alteration was not made to improperly obtain a refund.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1979, P.L.71, SEC.18; P.L.1-1991, SEC.62.*

**IC 6-6-1.1-1306**

**Fraudulent procurement of refund or credit; offense**

Sec. 1306. A person who makes a false statement in connection with a refund or credit application under section 904.1 of this chapter, or who collects or causes to be repaid to a person money to which that person is not entitled commits a Class B infraction.

*As added by Acts 1979, P.L.79, SEC.1. Amended by P.L.1-1991, SEC.63.*

**IC 6-6-1.1-1307**

**Submission of multiple invoices for refund; offense**

Sec. 1307. A person who submits an original invoice and a certified copy of an invoice, or two (2) or more certified copies of an invoice, to the administrator under section 904.1 of this chapter for the same transaction commits a Class B misdemeanor.

*As added by Acts 1979, P.L.79, SEC.1. Amended by P.L.1-1991, SEC.64.*

**IC 6-6-1.1-1308**

**Failure to pay tax collected to administrator; offense**

Sec. 1308. A person who receives or collects money as tax imposed under this chapter on gasoline on which he has not paid the tax, and knowingly fails to pay the money to the administrator as required under this chapter, commits a Class D felony.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.54.*

**IC 6-6-1.1-1309**

**Distributor; violations; offense**

Sec. 1309. Except as otherwise provided by this chapter, a distributor who:

- (1) recklessly fails to file the returns or statements and to pay the taxes as required by this chapter; or
- (2) knowingly fails to keep correct records, books, and accounts required by this chapter;

commits a Class B misdemeanor.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.61, SEC.9.*

**IC 6-6-1.1-1310**

**Use of untaxed gasoline; offense**

Sec. 1310. A person who knowingly uses gasoline on which the tax has not been paid commits a Class B misdemeanor.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.55.*

**IC 6-6-1.1-1311**

**Use or sale in Indiana of tax-exempt gasoline purchased for export; offense; tax liability; export sales excepted**

Sec. 1311. (a) Except as otherwise permitted by this chapter, a person who purchases tax-exempt gasoline for export and uses or sells any of the gasoline in Indiana with the intent to avoid payment of the tax imposed by this chapter commits a Class A misdemeanor. In addition, for purposes of this chapter, such a person is considered the "distributor" with respect to all gasoline so purchased and to have "received" the gasoline as defined in this chapter, and he is liable for the full amount of the tax imposed by this chapter on the gasoline and a penalty equal to fifty percent (50%) of that tax.

(b) Subsection (a) does not apply if the gasoline is sold in Indiana for export, provided the person furnishes proof at the time and in the manner prescribed by the administrator.

*As added by Acts 1979, P.L.79, SEC.1. Amended by Acts 1980, P.L.51, SEC.56.*

**IC 6-6-1.1-1312**

**Reckless violations; offense**

Sec. 1312. A person who recklessly violates a provision of this chapter for which no specific penalty is provided commits a Class B misdemeanor.

*As added by Acts 1979, P.L.79, SEC.1.*

**IC 6-6-1.1-1313**

**Evasion of tax; offense**

Sec. 1313. A person who violates sections 1309 through 1311 of this chapter with intent to evade the tax imposed by this chapter or to defraud the state commits a Class D felony.

*As added by Acts 1979, P.L.79, SEC.1.*

**IC 6-6-1.1-1314**

**Failure to keep books and records; penalty**

Sec. 1314. A person subject to the tax imposed under section 201 of this chapter who fails to keep books and records as required by IC 6-8.1-5 is subject to the penalty under IC 6-8.1-10-4.

*As added by P.L.97-1987, SEC.15.*

**IC 6-6-1.1-1315**

**Failure to file reports; incomplete reports; civil penalty**

Sec. 1315. A person who:

- (1) is subject to the tax imposed by section 201 of this chapter; and
- (2) fails to file a report or files an incomplete report required by section 501 or 606 of this chapter;

is subject to a civil penalty of one hundred dollars (\$100) for each violation, as reasonably determined by the department. As used in this section, an incomplete report includes a report that does not include all schedules required by the administrator.

*As added by P.L.97-1987, SEC.16.*

**IC 6-6-1.1-1316**

**Breaking fuel pump seals; failure to report meter readings; removing post signs; failure to notify; offenses**

Sec. 1316. (a) A person:

- (1) who knowingly breaks a seal on a sealed fuel pump without authorization; or
- (2) who knowingly fails or refuses to report meter readings under section 1008 or section 1110 of this chapter;

commits a Class D felony.

(b) A person who, without authorization:

- (1) removes;
- (2) alters;
- (3) defaces; or
- (4) covers;

a sign posted by the department that states that no transactions involving gasoline, gasohol, aviation gasoline, or marina gasoline may be made at a location commits a Class B misdemeanor. However, the offense is a Class D felony if it is committed with the intent to evade the tax imposed by this chapter or to defraud the state.

(c) A dealer or licensed distributor shall notify the department of:

- (1) a broken fuel pump seal; or

(2) a removed, altered, defaced, or covered sign that has been posted by the department.

(d) A dealer or licensed distributor that fails to notify the department, as required by subsection (c), within two (2) days after:

(1) a fuel pump seal is broken; or

(2) a sign posted by the department has been removed, altered, defaced, or covered;

commits a Class D felony.

*As added by P.L.97-1987, SEC.17.*