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**AB-2663 Use fuel tax: dimethyl ether: fuel blend.** (2019-2020)

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**Assembly Bill No. 2663**

**CHAPTER 117**

An act to amend Sections 13400, 13440, and 13531 of the Business and Professions Code, and to amend Section 8651.7 of, and to add Sections 8651.4 and 8651.9 to, the Revenue and Taxation Code, relating to motor vehicle fuel.

[ Approved by Governor September 24, 2020. Filed with Secretary of State September 24, 2020. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2663, Eduardo Garcia. Use fuel tax: dimethyl ether: fuel blend.

(1) Existing law requires the Department of Food and Agriculture to establish specifications for automotive spark-ignition engine fuels, as prescribed. Existing law requires the antiknock index for gasoline and gasoline-oxygenate blends to not be less than 87. Existing law makes a violation of the provisions relating to weights and measures, including fuels and lubricants, a crime.

This bill would define "dimethyl ether-propane fuel blend" and require dimethyl ether-propane fuel blends for use as motor vehicle fuel to meet the latest specifications set forth by the ASTM International, and, if no specifications exist, the bill would require the Secretary of Food and Agriculture to establish interim specifications by regulation. The bill would additionally require the antiknock index for dimethyl ether-propane fuels blends to not be less than 87. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

(2) Existing law requires, with certain specified exceptions, every person offering for sale or selling any motor fuel to the public from any place of business to display, as prescribed, on the premises the total prices of the three major grades of motor vehicle fuel offered for sale.

This bill would exempt a dimethyl ether-propane fuel blend, as defined, from these requirements.

(3) The Use Fuel Tax Law imposes a state excise tax at specified rates, generally \$0.18 per gallon, on the use of fuel, as defined. The Use Fuel Tax imposes a state excise tax upon liquefied petroleum gas at the rate of \$0.06 per gallon. The Use Fuel Tax Law provides that the owner or operator, except an interstate user, of a vehicle propelled by a system using liquefied petroleum gas, liquid natural gas, or compressed natural gas may pay the fuel tax for the use of those fuels by paying an annual flat rate fuel tax according to a prescribed schedule. Existing law makes a violation of the Use Fuel Tax Law a crime.

This bill would, on or after July 1, 2021, set the state excise tax under the Use Fuel Tax Law upon a dimethyl ether-liquefied petroleum gas fuel blend and upon dimethyl ether at the rate of \$0.06 for each gallon used. Commencing July 1, 2021, the bill would add dimethyl ether and a dimethyl ether-liquefied petroleum gas fuel blend to the categories of fuels for which an owner or operator may pay an annual flat rate fuel tax in lieu of the per gallon fuel tax. The bill would exempt from excise taxes under the Use Fuel Tax Law the use of dimethyl ether and a dimethyl ether-liquefied petroleum gas fuel blend in a vehicle during any period of time for which the owner or operator of the vehicle has instead paid the applicable annual flat rate fuel tax. The bill would also provide that to the extent that an owner or operator has provided written representation to a fuel seller that the owner or operator

has prepaid the annual flat rate fuel tax for dimethyl ether or for a dimethyl ether-liquefied petroleum gas fuel blend, the owner or operator shall be solely responsible for paying the applicable fuel taxes under the Use Fuel Tax Law, and the fuel seller shall not be liable for collecting and remitting those taxes. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 13400 of the Business and Professions Code is amended to read:

**13400.** For purposes of this chapter, the following terms mean the following:

(a) "Advertising medium" includes banner, sign, placard, poster, streamer, and card.

(b) "Alternative fuels" means:

(1) "Biodiesel," a fuel comprised of mono-alkyl esters of long chain fatty acids derived from plant or animal matter that meets the requirements of the ASTM International Standard Specification D6751 "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels."

(2) "Biodiesel blend," a fuel comprised of biodiesel mixed with diesel fuel that meets the requirements of ASTM International Standard Specification D7467.

(3) "Dimethyl ether," an organic compound meant for combustion in compression-ignition engines that meets the requirements of dimethyl ether prescribed in this chapter.

(4) "Dimethyl ether-propane fuel blend," a motor vehicle fuel consisting primarily of liquefied petroleum gas meeting the requirements of ASTM International Standard Specification D1835 mixed with dimethyl ether meeting the requirements of ASTM International Standard Specification D7901.

(5) "Electricity," electrical energy transferred to or stored onboard an electric vehicle primarily for the purpose of propulsion.

(6) "Ethanol," denatured motor fuel ethanol meeting the requirements of ASTM International Standard Specification D4806.

(7) "Ethanol fuel blend," a motor vehicle fuel consisting primarily of ethanol mixed with gasoline meeting the standards prescribed for ethanol fuel blends by this chapter.

(8) "Hydrogen," a fuel consisting of high purity hydrogen intended for consumption in a motor vehicle with an internal combustion engine or fuel cell that meets the standards for hydrogen prescribed by this chapter.

(9) "Methanol fuel blend," a motor vehicle fuel consisting primarily of methanol mixed with gasoline meeting the standards prescribed by this chapter.

(10) "Natural gas," a gaseous mixture of hydrocarbon compounds consisting of primarily methane in the form of a compressed gas or a cryogenic liquid intended for use as a motor vehicle fuel.

(11) "Propane," a liquefied petroleum gas intended for use as a motor vehicle fuel and meeting the standards prescribed by this chapter.

(12) Any other fuel intended for use as a motor vehicle fuel that the secretary determines is an alternative fuel that has a standard specification from a standards development organization accredited by the American National Standards Institute (ANSI), or an interim standard specification pursuant to Section 13446.

(c) "Automotive spark-ignition engine fuel" means a product used for the generation of power in a spark-ignition internal combustion engine.

(d) "Compression-ignition engine fuel" means a product used for the generation of power in a compression-ignition internal combustion engine.

- (e) "Developmental engine fuel" means an engine fuel that does not meet standards established by this chapter but has characteristics that may lead to an improved fuel standard or the development of an alternative fuel standard.
- (f) "Diesel fuel" means any hydrocarbon oil meant for combustion in compression-ignition engines offered for sale that meets the standards for diesel fuel prescribed by this chapter.
- (g) "Engine fuel" means any gasoline, diesel, or alternative fuel used for the generation of power in an internal combustion engine or fuel cell in a motor vehicle, or electrical power delivered conductively or inductively to an electric motor in electric or plug-in hybrid vehicles. "Motor vehicle fuel" means "engine fuel" when that term is used in this chapter.
- (h) "Fuel oil" means any product offered for sale that is burned in a furnace or boiler for the generation of heat and meets the standards prescribed for fuel oil by this chapter.
- (i) "Gasoline" means a volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in a spark-ignition internal combustion engine.
- (j) "Gasoline-oxygenate blend" means a fuel consisting primarily of gasoline along with a substantial amount of one or more oxygenates that meets ASTM International Standard D4814.
- (k) "Kerosene" means a fuel offered for sale that meets the standards for kerosene prescribed in this chapter.
- (l) "Lubricant" means a lubricating oil or other substance that reduces friction and wear between moving parts within an engine and other motor vehicle components.
- (m) "Lubricating oil" means motor oil, engine lubricant, engine oil, lubricating axle oil, gear oil, or manual transmission fluid.
- (n) "Manufacturer" means manufacturer, refiner, producer, or importer.
- (o) "Motor oil" means an oil that reduces friction and wear between the moving parts within an internal combustion engine and also serves as a coolant. For purposes of this chapter, motor oil also means engine oil.
- (p) "Motor vehicle fuel" means an engine fuel intended for consumption in, including, but not limited to, an internal combustion engine, fuel cell, or electric motor to produce power to self-propel a vehicle designed for transporting persons or property on a public street or highway.
- (q) "Octane number" or "antiknock index number," when used in this chapter, means that number assigned to a spark-ignition engine fuel that designates the antiknock quality. The "octane number" or "antiknock index number" shall be determined according to the ASTM International method or methods designated in the latest ASTM International Standard Specification D4814.
- (r) "Oxygenate" means an oxygen-containing ashless organic compound, such as an alcohol or ether, that can be used as a fuel or fuel supplement.
- (s) "Renewable diesel fuel" means a diesel fuel derived from nonpetroleum renewable resources. Renewable diesel fuel does not include biodiesel, as defined in paragraph (1) of subdivision (b).
- (t) "Sell" or any of its variants means attempt to sell, offer for sale or assist in the sale of, permit to be sold or offered for sale or delivery, offer for delivery, trade, barter, or expose for sale.
- (u) "Standard test" means a test conducted in accordance with the latest published standard adopted by ASTM International.

**SEC. 2.** Section 13440 of the Business and Professions Code is amended to read:

**13440.** (a) The department shall establish specifications for automotive spark-ignition engine fuels. The department shall adopt by reference the latest standards established by a recognized consensus organization or standards writing organization such as ASTM International or SAE International, for automotive spark-ignition engine fuel, except that no specification shall be less stringent than required by any California state law.

(b) Any gasoline-oxygenate blend containing methanol shall also contain an alcohol cosolvent (butanol or higher molecular weight alcohol) in an amount equal to or greater than the volume percentage of methanol except those blends previously granted a waiver by the United States Environmental Protection Agency.

(c) The antiknock index as defined in Section 13400 for gasoline, gasoline oxygenated blends, and dimethyl ether-propane fuel blends shall not be less than 87.

(d) Gasoline and gasoline-oxygenate blends shall meet the latest specifications set forth in ASTM International Standard Specification D4814.

(e) Notwithstanding any other provision of this section, gasoline sold for use in Inyo or Mono County, or the portion of Kern County lying east of the Los Angeles County Aqueduct, shall comply with the latest specification set forth in ASTM International Standard Specification D4814 relating to volatility class standards for the season during which the gasoline is sold for either the interior region or the southeast region of California.

(f) Ethanol fuel blends shall meet the latest specifications set forth in ASTM International Standard Specification D5798.

(g) Methanol fuel blends shall meet the latest specifications set forth in ASTM International Standard Specification D5797.

(h) Liquefied petroleum gas for use as a motor vehicle fuel shall meet the latest specifications set forth in ASTM International Standard Specification D1835.

(i) Dimethyl ether-propane fuel blends for use as motor vehicle fuel shall meet the latest specifications set forth by the ASTM International. If no ASTM International specifications exist, the secretary shall establish interim specifications by regulation.

(j) Natural gas for use as a motor vehicle fuel shall meet the latest specification set forth by the ASTM International or SAE International.

**SEC. 3.** Section 13531 of the Business and Professions Code is amended to read:

**13531.** (a) (1) Every person offering for sale or selling any motor vehicle fuel to the public from any place of business shall display on the premises an advertising medium that complies with the requirements of this article and that advertises the total prices of the three major grades of motor vehicle fuel offered for sale.

(2) The advertising medium shall be clearly visible from the street or highway adjacent to the premises. When the place of business is situated at an intersection, the advertising medium shall be clearly visible from each street of the intersection.

(3) For purposes of this subdivision, motor vehicle fuel does not include propane or dimethyl ether-propane fuel blend.

(4) For purposes of this subdivision, electricity and natural gas sold as a motor vehicle fuel shall meet only the requirements adopted pursuant to Sections 13404 and 13404.5.

(b) The governing body of any city, county, or city and county may, by ordinance, exempt specified geographic areas from the provisions of this section if, pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code, the areas are designated on the local general plan as scenic corridors or historic preservation areas.

(c) (1) Except as provided in paragraph (2), any person who violates the provisions of subdivision (a) is guilty of an infraction and, upon conviction, is punishable by a fine not to exceed five hundred dollars (\$500).

(2) Any person who violates the provisions of subdivision (a) and who has been previously convicted two or more times of a violation of subdivision (a) is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding one thousand dollars (\$1,000), or by both.

(d) Notwithstanding Section 13590, the district attorney of each county, or pursuant to Section 41803.5 of the Government Code, the city attorney of any general law city or chartered city within each county, or the county sealer, shall, upon complaint or upon their own motion, enforce the provisions of this section and, in addition, may bring an action for injunctive relief in accordance with Section 13611.

**SEC. 4.** Section 8651.4 is added to the Revenue and Taxation Code, to read:

**8651.4.** (a) Notwithstanding the provisions of Section 8651, on or after July 1, 2021, the excise tax imposed upon a dimethyl ether-liquefied petroleum gas fuel blend shall be at the rate of six cents (\$0.06) for each gallon used.

(b) (1) All references in this code to Section 8651 shall be deemed, with respect to the rate imposed upon a dimethyl ether-liquefied petroleum gas fuel blend on or after July 1, 2021, to also refer to this section.

(2) (A) Neither the tax imposed by this section nor the tax imposed by Section 8651 shall apply to the use of dimethyl ether-liquefied petroleum gas fuel blend in a vehicle during any period of time for which the owner or operator of the vehicle has paid the annual flat rate fuel tax as provided in Section 8651.7.

(B) To the extent that an owner or operator has provided written representation to a fuel seller that the owner or operator has prepaid the annual flat rate fuel tax as provided in Section 8651.7, the owner or operator shall be solely responsible for

the taxes due under this part, and the fuel seller shall not be liable for collecting and remitting those taxes.

**SEC. 5.** Section 8651.7 of the Revenue and Taxation Code is amended to read:

**8651.7.** (a) The owner or operator, except an interstate user, of a vehicle propelled by a system using liquefied petroleum gas, dimethyl ether-liquefied petroleum gas fuel blend, liquid natural gas, compressed natural gas, or dimethyl ether may pay the fuel tax for the use of those fuels by paying an annual flat rate fuel tax according to the following schedule:

Unladen weight	Fee
All passenger cars and other vehicles 4,000 lbs. or less .....	\$ 36
More than 4,000 lbs. but less than 8,001 lbs. ....	72
More than 8,000 lbs. but less than 12,001 lbs. ....	120
12,001 lbs. or more .....	168

(b) The annual flat rate fuel tax described in subdivision (a) shall be an annual tax. The annual period shall be that period from the end of the month in which the tax was paid to the end of the month prior in the following calendar year. When an owner or operator elects to pay the annual flat rate fuel tax on more than one vehicle, the owner or operator may request that the department prorate the tax due on a vehicle added during the annual period, so that all vehicles have the same annual period. In the year a vehicle is added, the annual flat rate fuel tax for that vehicle shall be calculated by dividing the fee set forth in subdivision (a) by 12 and multiplying the resulting amount by the number of months remaining before the beginning of the next annual period.

(c) The department shall adopt an identification procedure for vehicles with respect to which the annual flat rate tax described in subdivision (a) of this section has been paid.

(d) Subdivision (a) shall not apply to dimethyl ether-liquefied petroleum gas fuel blend or dimethyl ether until July 1, 2021.

**SEC. 6.** Section 8651.9 is added to the Revenue and Taxation Code, to read:

**8651.9.** (a) Notwithstanding the provisions of Sections 8651, 8651.5, and 8651.6, on or after July 1, 2021, the excise tax imposed upon dimethyl ether shall be at the rate of six cents (\$0.06) for each gallon of dimethyl ether used.

(b) (1) All references in this code to Section 8651 shall, with respect to the rate imposed upon dimethyl ether on or after July 1, 2021, also refer to this section.

(2) (A) Neither the tax imposed by this section nor the tax imposed by Section 8651 shall apply to the use of dimethyl ether used in a vehicle during any period of time for which the owner or operator of the vehicle has paid the annual flat rate fuel tax as provided in Section 8651.7.

(B) To the extent that an owner or operator has provided written representation to a fuel seller that the owner or operator has prepaid the annual flat rate fuel tax as provided in Section 8651.7, the owner or operator shall be solely responsible for the taxes due under this part and the fuel seller shall not be liable for collecting and remitting those taxes.

**SEC. 7.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.