Senate Bill 475 Interested Party Testimony
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Senate General Government Committee

Chair Roegner, Vice Chair Gavarone, Ranking Member Blackshear, and members of the Senate General Government Committee:

Thank you for the opportunity to provide testimony on Senate Bill 475 which would temporarily reduce state excise tax on gasoline and diesel fuel. My name is Tony Ehler, and I am an attorney with the Vorys law firm and legal counsel to the Ohio Energy and Convenience Association, a proud affiliate of the Ohio Council of Retail Merchants. I am testifying today on behalf of the association, whose members include fuel distributors and convenience retailers serving Ohio families, businesses, farmers, and communities.

We recognize the General Assembly's desire to provide relief quickly during this period of historically high fuel prices. We too, as industry feel these pressures and bear many of these costs throughout the supply chain. Our goal is to be a resource to this body and assist with providing practical information regarding the implementation of a state fuel excise tax holiday. The following comments focus on a few issues that have presented concerns from our members.

Remove the itemized receipt requirement
Fuel taxes are embedded in pump prices rather than handled as separate line items by many members' point-of-sale systems. Producing the required receipts stipulated in Senate Bill 475 would involve vendor coordination, programming, and testing that members indicate could take weeks.

Members estimate that, on average, approximately three out of four customers do not request or take a receipt. Although the bill requires an itemized receipt only upon request, stations would still have to reconfigure their systems to provide one. The mandate would therefore impose costs across affected stations for a disclosure most customers are unlikely to receive, while existing station fuel-tax stickers affixed to gas pumps already provide transparency.

The introduced bill gives businesses seven days before the receipt changes apply. That remains insufficient for members dependent on outside technology vendors. We appreciate the proposed $125 payment per qualifying station, but it does not resolve the technology or timing challenges. We respectfully request removal of the receipt mandate and continued use of existing fuel-tax disclosure methods.

Simplify the floor credit and floor tax through inventory attestations
Members have expressed significant concerns about the administrative complexity of tracking differently taxed fuel through deliveries and retail sales. A simpler approach would use retailer attestations of inventory at the beginning and end of the holiday.

At the start of the holiday, each retail station would attest to the gallons of gasoline and diesel on hand for which the regular state motor fuel tax has already been factored into its cost. The retailer would receive a credit for the difference between the regular tax and the reduced holiday rate on those gallons. The legislation should require payment of that credit within 30 days after submission of a complete inventory attestation and credit request. At the end of the holiday, each retailer would attest to the gallons of gasoline and diesel remaining in inventory that were acquired at the reduced tax rate and pay the applicable excise tax owed on those gallons. This would replace ongoing tracking of when individual gallons are sold with a defined inventory reconciliation at each end of the holiday.

In addition to the attestation provisions for retail dealers at the beginning of the temporary reduction period, Senate Bill 475 should provide for immediate motor fuel tax credits that licensed motor fuel dealers can take on fuel purchased by them prior to the beginning of the temporary reduction period which they still own after that period commences. These dealers could take the tax credit immediately and move the lower cost fuel to the pump more quickly where it can be sold and the driving public can receive the price reduction benefit. This also would remove some of the administrative burden on the Department of Taxation associated with processing repayment requests for licensed motor fuel dealers. The credit would be taken on the monthly licensed motor fuel tax returns.

The Department of Taxation should provide a simple, standardized attestation form, accept electronic tank-monitoring, and ordinary business records, and establish clear rules for deliveries in transit, commingled inventory, and ordinary measurements variances. These attestations should be covered by the good-faith safe harbor discussed below.

Senate Bill 475 also should direct the Ohio Department of Taxation to coordinate the changing fuel tax rates with the International Fuel Tax Administration (IFTA) and its IFTA Fuel Tax Holiday System. This will help ensure that the fuel purchased by trucking companies (and the fuel tax imbedded in those prices) is redistributed accurately from the states where the fuel was purchased to the states here the fuel is used at then current fuel tax rates.

Provide objective pass-through standards and an explicit good faith safe harbor
This concern is particularly important under the as-introduced bill. Senate Bill 475 expressly prohibits sales without passing through the full tax benefit, allows violations to be considered in licensing determinations, and authorizes referral to the Attorney General for enforcement as a deceptive act or practice.

These consequences make clear standards essential. Fuel acquisition costs vary by supplier, location, delivery, and hedged, contract, or rack purchases. A pump-price movement alone cannot reliably establish whether a business has passed through a tax reduction. We request an explicit statutory safe harbor for dealers that follow prescribed compliance methods and make reasonable, documented efforts to comply. That protection should apply to both licensing determinations and Attorney General enforcement under the new pass-through provision. Compliance methods should account for inventory turnover and changing acquisition costs while protecting confidential purchasing information. The legislation should also protect good-faith dealers from penalties for inadvertent reporting, reconciliation, or technology-related errors, with notice and a reasonable opportunity to correct deficiencies. These protections would not excuse taxes owed, fraud, or intentional misconduct.

Chair Roegner and members of the committee, thank you for considering these concerns. OECA stands ready to work with the committee and legislative leaders to ensure that the bill provides relief through a practical and clearly defined process. I would be happy to answer any questions.