

**As Introduced**

**135th General Assembly**

**Regular Session**

**2023-2024**

**S. B. No. 48**

**Senator Huffman, S.**

**Cosponsors: Senators Reynolds, Schaffer, Romanchuk, Lang, Roegner**

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**A BILL**

To amend section 5735.05 of the Revised Code to  
reduce the tax rate on certain motor fuel. 1  
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**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 5735.05 of the Revised Code be  
amended to read as follows: 3  
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**Sec. 5735.05.** (A) There is hereby levied a motor fuel  
excise tax on each motor fuel dealer, measured by gross gallons,  
upon the receipt of motor fuel within this state. 5  
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The tax is levied at the ~~rates~~rate prescribed by  
~~divisions~~division (E) ~~and (F)~~ of this section. 8  
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The revenue derived from twenty-eight cents per gallon of  
such tax rates shall be distributed under divisions (A), (B),  
(C), and (D) of section 5735.051 of the Revised Code to fund the  
following purposes in the following amounts: 10  
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(1) Seventeen twenty-eighths of the revenue shall be used  
solely to provide revenue for maintaining the state highway  
system; to widen existing surfaces on such highways; to  
resurface such highways; to pay that portion of the construction 14  
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cost of a highway project which a county, township, or municipal 18  
corporation normally would be required to pay, but which the 19  
director of transportation, pursuant to division (B) of section 20  
5531.08 of the Revised Code, determines instead will be paid 21  
from moneys in the highway operating fund; to enable the 22  
counties of the state properly to plan, maintain, and repair 23  
their roads and to pay principal, interest, and charges on bonds 24  
and other obligations issued pursuant to Chapter 133. of the 25  
Revised Code or incurred pursuant to section 5531.09 of the 26  
Revised Code for highway improvements; to enable the municipal 27  
corporations to plan, construct, reconstruct, repave, widen, 28  
maintain, repair, clear, and clean public highways, roads, and 29  
streets, and to pay the principal, interest, and charges on 30  
bonds and other obligations issued pursuant to Chapter 133. of 31  
the Revised Code or incurred pursuant to section 5531.09 of the 32  
Revised Code for highway improvements; to enable the Ohio 33  
turnpike and infrastructure commission to construct, 34  
reconstruct, maintain, and repair turnpike projects; to maintain 35  
and repair bridges and viaducts; to purchase, erect, and 36  
maintain street and traffic signs and markers; to purchase, 37  
erect, and maintain traffic lights and signals; to pay the costs 38  
apportioned to the public under sections 4907.47 and 4907.471 of 39  
the Revised Code and to supplement revenue already available for 40  
such purposes; to pay the costs incurred by the public utilities 41  
commission in administering sections 4907.47 to 4907.476 of the 42  
Revised Code; to distribute equitably among those persons using 43  
the privilege of driving motor vehicles upon such highways and 44  
streets the cost of maintaining and repairing them; to pay the 45  
interest, principal, and charges on highway capital improvements 46  
bonds and other obligations issued pursuant to Section 2m of 47  
Article VIII, Ohio Constitution, and section 151.06 of the 48  
Revised Code; to pay the interest, principal, and charges on 49

highway obligations issued pursuant to Section 2i of Article 50  
VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the 51  
Revised Code; to pay the interest, principal, and charges on 52  
major new state infrastructure bonds and other obligations of 53  
the state issued pursuant to Section 13 of Article VIII, Ohio 54  
Constitution, and section 5531.10 of the Revised Code; to 55  
provide revenue for the purposes of sections 1547.71 to 1547.77 56  
of the Revised Code; and to pay the expenses of the department 57  
of taxation incident to the administration of the motor fuel 58  
laws. 59

(2) Two twenty-eighths of the revenue shall be used solely 60  
to pay the expenses of administering and enforcing the state law 61  
relating to the registration and operation of motor vehicles; to 62  
supply the state's share of the cost of planning, constructing, 63  
widening, and reconstructing the state highways; to supply the 64  
state's share of the cost of eliminating railway grade crossings 65  
upon such highways; to pay that portion of the construction cost 66  
of a highway project that a county, township, or municipal 67  
corporation normally would be required to pay, but that the 68  
director of transportation, pursuant to division (B) of section 69  
5531.08 of the Revised Code, determines instead will be paid 70  
from moneys in the highway operating fund; to enable counties 71  
and townships to properly plan, construct, widen, reconstruct, 72  
and maintain their public highways, roads, and streets; to 73  
enable counties to pay principal, interest, and charges on bonds 74  
and other obligations issued pursuant to Chapter 133. of the 75  
Revised Code or incurred pursuant to section 5531.09 of the 76  
Revised Code for highway improvements; to enable municipal 77  
corporations to plan, construct, reconstruct, repave, widen, 78  
maintain, repair, clear, and clean public highways, roads, and 79  
streets; to enable municipal corporations to pay the principal, 80

interest, and charges on bonds and other obligations issued 81  
pursuant to Chapter 133. of the Revised Code or incurred 82  
pursuant to section 5531.09 of the Revised Code for highway 83  
improvements; to maintain and repair bridges and viaducts; to 84  
purchase, erect, and maintain street and traffic signs and 85  
markers; to purchase, erect, and maintain traffic lights and 86  
signals; to pay the costs apportioned to the public under 87  
section 4907.47 of the Revised Code; to provide revenue for the 88  
purposes of sections 1547.71 to 1547.77 of the Revised Code and 89  
to supplement revenue already available for such purposes; to 90  
pay the expenses of the department of taxation incident to the 91  
administration of the motor fuel laws and to supplement revenue 92  
already available for such purposes; to pay the interest, 93  
principal, and charges on bonds and other obligations issued 94  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 95  
sections 5528.10 and 5528.11 of the Revised Code; and to pay the 96  
interest, principal, and charges on highway obligations issued 97  
pursuant to Section 2i of Article VIII, Ohio Constitution, and 98  
sections 5528.30 and 5528.31 of the Revised Code. 99

(3) Eight twenty-eighths of the revenue shall be used 100  
solely to supply the state's share of the cost of constructing, 101  
widening, maintaining, and reconstructing the state highways; to 102  
maintain and repair bridges and viaducts; to purchase, erect, 103  
and maintain street and traffic signs and markers; to purchase, 104  
erect, and maintain traffic lights and signals; to pay the 105  
expense of administering and enforcing the state law relative to 106  
the registration and operation of motor vehicles; to make road 107  
improvements associated with retaining or attracting business 108  
for this state; to pay that portion of the construction cost of 109  
a highway project that a county, township, or municipal 110  
corporation normally would be required to pay, but that the 111

director of transportation, pursuant to division (B) of section 112  
5531.08 of the Revised Code, determines instead will be paid 113  
from moneys in the highway operating fund; to provide revenue 114  
for the purposes of sections 1547.71 to 1547.77 of the Revised 115  
Code and to supplement revenue already available for such 116  
purposes; to pay the expenses of the department of taxation 117  
incident to the administration of the motor fuel laws and to 118  
supplement revenue already available for such purposes; to pay 119  
the interest, principal, and charges on highway obligations 120  
issued pursuant to Section 2i of Article VIII, Ohio 121  
Constitution, and sections 5528.30 and 5528.31 of the Revised 122  
Code; to enable counties and townships to properly plan, 123  
construct, widen, reconstruct, and maintain their public 124  
highways, roads, and streets; to enable counties to pay 125  
principal, interest, and charges on bonds and other obligations 126  
issued pursuant to Chapter 133. of the Revised Code or incurred 127  
pursuant to section 5531.09 of the Revised Code for highway 128  
improvements; to enable municipal corporations to plan, 129  
construct, reconstruct, repave, widen, maintain, repair, clear, 130  
and clean public highways, roads, and streets; to enable 131  
municipal corporations to pay the principal, interest, and 132  
charges on bonds and other obligations issued pursuant to 133  
Chapter 133. of the Revised Code or incurred pursuant to section 134  
5531.09 of the Revised Code for highway improvements; and to pay 135  
the costs apportioned to the public under section 4907.47 of the 136  
Revised Code. 137

(4) One twenty-eighth of the revenue shall be used solely 138  
to pay the state's share of the cost of constructing and 139  
reconstructing highways and eliminating railway grade crossings 140  
on the major thoroughfares of the state highway system and urban 141  
extensions thereof; to pay that portion of the construction cost 142

of a highway project that a county, township, or municipal 143  
corporation normally would be required to pay, but that the 144  
director of transportation, pursuant to division (B) of section 145  
5531.08 of the Revised Code, determines instead will be paid 146  
from moneys in the highway operating fund; to pay the interest, 147  
principal, and charges on bonds and other obligations issued 148  
pursuant to Section 2g of Article VIII, Ohio Constitution, and 149  
sections 5528.10 and 5528.11 of the Revised Code; to pay the 150  
interest, principal, and charges on highway obligations issued 151  
pursuant to Section 2i of Article VIII, Ohio Constitution, and 152  
sections 5528.30 and 5528.31 of the Revised Code; to provide 153  
revenues for the purposes of sections 1547.71 to 1547.77 of the 154  
Revised Code; and to pay the expenses of the department of 155  
taxation incident to the administration of the motor fuel laws. 156

(B) The revenue derived from any portion of the tax rates 157  
that exceeds twenty-eight cents per gallon of motor fuel shall 158  
be distributed under division (E) of section 5735.051 of the 159  
Revised Code to fund the purposes described in divisions (A) and 160  
(D) of this section, as provided in divisions (A) and (B) of 161  
section 5735.27 of the Revised Code. 162

(C) The tax imposed by this section does not apply to the 163  
following transactions: 164

(1) The sale of dyed diesel fuel by a licensed motor fuel 165  
dealer from a location other than a retail service station 166  
provided the licensed motor fuel dealer places on the face of 167  
the delivery document or invoice, or both if both are used, a 168  
conspicuous notice stating that the fuel is dyed and is not for 169  
taxable use, and that taxable use of that fuel is subject to a 170  
penalty. The tax commissioner, by rule, may provide that any 171  
notice conforming to rules or regulations issued by the United 172

States department of the treasury or the Internal Revenue	173
Service is sufficient notice for the purposes of division (C) (1)	174
of this section.	175
(2) The sale of K-1 kerosene to a retail service station,	176
except when placed directly in the fuel supply tank of a motor	177
vehicle. Such sale shall be rebuttably presumed to not be	178
distributed or sold for use or used to generate power for the	179
operation of motor vehicles upon the public highways or upon the	180
waters within the boundaries of this state.	181
(3) The sale of motor fuel by a licensed motor fuel dealer	182
to another licensed motor fuel dealer;	183
(4) The exportation of motor fuel by a licensed motor fuel	184
dealer from this state to any other state or foreign country;	185
(5) The sale of motor fuel to the United States government	186
or any of its agencies, except such tax as is permitted by it,	187
where such sale is evidenced by an exemption certificate, in a	188
form approved by the tax commissioner, executed by the United	189
States government or an agency thereof certifying that the motor	190
fuel therein identified has been purchased for the exclusive use	191
of the United States government or its agency;	192
(6) The sale of motor fuel that is in the process of	193
transportation in foreign or interstate commerce, except insofar	194
as it may be taxable under the Constitution and statutes of the	195
United States, and except as may be agreed upon in writing by	196
the dealer and the commissioner;	197
(7) The sale of motor fuel when sold exclusively for use	198
in the operation of aircraft, where such sale is evidenced by an	199
exemption certificate prescribed by the commissioner and	200
executed by the purchaser certifying that the motor fuel	201

purchased has been purchased for exclusive use in the operation of aircraft;	202 203
(8) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter described in division (DD) (1) of section 5735.01 of the Revised Code;	204 205 206
(9) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter described in division (DD) (2) of section 5735.01 of the Revised Code, provided that the destination state motor fuel tax has been paid or will be accrued and paid by the licensed motor fuel dealer.	207 208 209 210 211
(10) The sale to a consumer of diesel fuel, by a motor fuel dealer for delivery from a bulk lot vehicle, for consumption in operating a vessel when the use of such fuel in a vessel would otherwise qualify for a refund under section 5735.14 of the Revised Code.	212 213 214 215 216
Division (C) (1) of this section does not apply to the sale or distribution of dyed diesel fuel used to operate a motor vehicle on the public highways or upon water within the boundaries of this state by persons permitted under regulations of the United States department of the treasury or of the Internal Revenue Service to so use dyed diesel fuel.	217 218 219 220 221 222
(D) The use of any revenue from the tax levied under this section shall be used for construction, maintenance, and repair of roads and bridges, the operational costs of applicable state agencies, or used to match other revenue for these purposes.	223 224 225 226
(E) <del>Except as otherwise provided by division (F) of this section, the rates</del> <u>The rate</u> of tax imposed by this section on each gallon of motor fuel <del>on and after July 1, 2019,</del> shall be as <del>follows:</del>	227 228 229 230



<del>(1) Thirty eight and one half cents on each gallon of gasoline;</del>	231
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<del>(2) Forty seven cents on each gallon of motor fuel other than gasoline</del> <u>thirty eight and one half cents.</u>	233
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<del>(F) The tax on each gallon equivalent of compressed natural gas shall be:</del>	235
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<del>(1) Ten cents on and after July 1, 2019, and before July 1, 2020;</del>	237
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<del>(2) Twenty cents on and after July 1, 2020, and before July 1, 2021;</del>	239
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<del>(3) Thirty cents on and after July 1, 2021, and before July 1, 2022;</del>	241
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<del>(4) Forty cents on and after July 1, 2022, and before July 1, 2023;</del>	243
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<del>(5) Forty seven cents on and after July 1, 2023.</del>	245
<del>(G) The tax commissioner may adopt rules as necessary to administer this section.</del>	246
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<b>Section 2.</b> That existing section 5735.05 of the Revised Code is hereby repealed.	248
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<b>Section 3.</b> The amendment by this act of section 5735.05 of the Revised Code applies on and after January 1, 2024.	250
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