

HOUSE BILL No. 2577

By Representative Rhiley

2-6

1 AN ACT relating to the taxation of motor vehicle fuels; providing for a
2 county option; amending K.S.A. 79-3424 and K.S.A. 2019 Supp. 12-
3 194 and repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. Sections 1 through 3, and amendments thereto, shall
7 be known and may be cited as the county option motor fuels tax act.

8 New Sec. 2. (a) Any county may impose a county motor vehicle fuels
9 tax after approval of a majority of the electors as provided in subsection
10 (c). A tax per gallon or fraction thereof, may be imposed not to exceed the
11 rate established in subsection (d) on the use, sale or delivery of all motor
12 vehicle fuels, special fuels or LP-gas that are used, sold or delivered in
13 such county for any purpose whatsoever.

14 (b) The board of county commissioners of any county may submit the
15 question of imposing a countywide motor vehicle fuels tax to the electors.

16 (c) (1) The board shall be required to submit the question upon:

17 (A) Submission of a petition signed by electors of such county equal
18 in number to not less than 10% of the electors of the county who voted at
19 the last preceding general election for the office of secretary of state;

20 (B) receiving resolutions requesting such an election passed by not
21 less than $\frac{2}{3}$ of the membership of the governing body of each of one or
22 more cities within such county that contains a population of not less than
23 25% of the entire population of the county; or

24 (C) receiving resolutions requesting such an election passed by $\frac{2}{3}$ of
25 the membership of the governing body of each of one or more taxing
26 subdivisions within such county that levy not less than 25% of the
27 property taxes levied by all taxing subdivisions within the county.

28 (2) The petition or resolution shall establish the rate as provided in
29 subsection (d).

30 (d) (1) A tax per gallon or fraction thereof may be imposed on motor
31 vehicle fuels as set by the board of county commissioners at a rate of not
32 to exceed 6 cents per gallon with the proceeds to be used for road and
33 bridge purposes only to be distributed as follows:

34 (A) In counties with the township road system, $\frac{1}{3}$ to the county, $\frac{1}{3}$ to
35 the cities in an amount proportionate to each city's population and $\frac{1}{3}$ to the
36 townships in an amount proportionate to each township's road miles;

1 (B) in counties that do not have the township road system, $\frac{1}{2}$ to the
2 county and $\frac{1}{2}$ to the cities in an amount proportionate to each city's
3 population.

4 (2) The board of county commissioners shall set the rate by resolution
5 when a petition or resolution is submitted requesting the imposition of a
6 motor fuels tax.

7 (e) Any county proposing to adopt a motor vehicles fuels tax shall
8 give notice of its intention to submit such proposition for approval by the
9 electors in the manner required by K.S.A. 10-120, and amendments
10 thereto. The notices shall state the time of the election and the rate and
11 effective date of the proposed tax. If a majority of the electors voting at the
12 election fail to approve the proposition, the proposition may be
13 resubmitted under the conditions and in the manner provided in this act for
14 submission of the proposition. If a majority of the electors voting thereon
15 at the election shall approve the levying of the tax, the board of county
16 commissioners shall provide by resolution for the levy of the tax. A copy
17 of the resolution shall be forwarded to the secretary of revenue.

18 (f) Any repeal of such tax or any reduction or increase in the rate
19 thereof, within the limits prescribed by subsection (a), shall be
20 accomplished by the passage of a resolution by the board of county
21 commissioners.

22 (g) The sufficiency of the number of signers of any petition filed
23 under this section shall be determined by the county election officer. Every
24 election held under this act shall be conducted by the county election
25 officer.

26 (h) The board of county commissioners proposing to levy any motor
27 vehicle fuels tax shall specify the purpose or purposes for which the
28 revenue would be used, and a statement generally describing the purpose
29 or purposes shall be included as a part of the ballot proposition.

30 New Sec. 3. The department of revenue shall administer and enforce
31 the county option motor fuels tax act. All laws and rules and regulations of
32 the department of revenue relating to the motor-fuel tax law shall apply to
33 the county motor vehicle fuels tax insofar as the same may be made
34 applicable.

35 Sec. 4. K.S.A. 2019 Supp. 12-194 is hereby amended to read as
36 follows: 12-194. (a) Subject to the provisions of subsections ~~(b)~~ (c) and ~~(e)~~
37 (d), no city or county shall levy or impose an excise tax or a tax in the
38 nature of an excise, other than a retailers' sales tax and a compensating use
39 tax, but the provisions of this section shall not be construed as prohibiting
40 any city from:

41 (1) Contracting with a utility for a fixed charge based upon a
42 percentage of gross receipts derived from the service permitted by grant,
43 right, privilege or franchise to such utility;

1 (2) imposing an occupation tax or license fee for the privilege of
2 engaging in any business, trade, occupation or profession, or rendering or
3 furnishing any service, but the determination of any such license fee shall
4 not be based upon any amount the licensee has received from the sale or
5 transfer of personal or real property, or for the rendering or furnishing of a
6 service, or on the income of the licensee;

7 (3) levying any occupation tax or license fee imposed by such city
8 prior to the effective date of this act;

9 (4) retaining any development excise tax as levied or imposed by
10 such city in existence on January 1, 2006; or

11 (5) levying an excise tax on tickets for admissions to concerts,
12 theatrical performances, sports contests or other similar performances
13 which take place on property owned by a city or county.

14 (b) *The provisions of this section shall not be construed as*
15 *prohibiting any county from imposing a motor vehicle fuels tax as*
16 *provided in sections 1 through 3, and amendments thereto.*

17 (c) No license fee described in subsection (a)(2) shall be imposed
18 upon any utility contracting with and subject to a charge, described in
19 subsection (a)(1), by such city.

20 ~~(e)~~(d) (1) On or after July 1, 2006, no city that has levied or imposed
21 any tax described in subsection (a)(4) shall increase the rate of such tax
22 without the governing body of such city having first submitted a
23 proposition to increase the rate of such development excise tax to and
24 having received the approval of a majority of the electors of the city voting
25 thereon at an election called and held therefor.

26 (2) Any city proposing to increase the rate of a development excise
27 tax shall give notice of its intention to submit such proposition for
28 approval by the electors by publishing notice of such election in a
29 newspaper of general circulation in the city, once each week for two
30 consecutive weeks. The first publication shall be not less than 21 days
31 prior to the election. The notices shall state the time of the election and the
32 rate and effective date of the proposed tax rate increase. If a majority of
33 the electors voting thereon at such election fail to approve the proposition,
34 such proposition may be resubmitted under the conditions and in the
35 manner provided in this act for submission of the proposition. If a majority
36 of the electors voting thereon at such election shall approve the increase of
37 such tax rate, the governing body of any such city shall provide by
38 ordinance for the increase of the tax rate.

39 (3) Every election held under this act shall be conducted by the
40 county election officer.

41 (4) The governing body of the city proposing to increase such a
42 development excise tax shall specify the purpose or purposes for which the
43 revenue would be used, and a statement generally describing such purpose

1 or purposes shall be included as a part of the ballot proposition.

2 Sec. 5. K.S.A. 79-3424 is hereby amended to read as follows: 79-
3 3424. *Except as provided under sections 1 through 3, and amendments*
4 *thereto*, the business of using, manufacturing or selling of motor-vehicle
5 fuels or special fuels shall not be subject to any excise, license, privilege or
6 occupation tax other than the one herein imposed, whether such tax be
7 imposed by the state of Kansas or by any municipal corporation or other
8 political subdivision of this state; and, *except as provided under sections 1*
9 *through 3, and amendments thereto*, no municipal corporation, or other
10 political subdivision of this state, shall levy or collect any tax upon, or
11 measured by, the sale, receipt, importation, distribution or use of motor-
12 vehicle fuel or special fuel, or any excise, license, privilege, or
13 occupational tax upon the business of manufacturing, using, selling or
14 delivering motor-vehicle fuels or special fuels.

15 Sec. 6. K.S.A. 79-3424 and K.S.A. 2019 Supp. 12-194 are hereby
16 repealed.

17 Sec. 7. This act shall take effect and be in force from and after its
18 publication in the statute book.