City of Chicago

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Office of the City Clerk

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Meeting Date:	4/13/2016
Sponsor(s):	Villegas (36)
Type:	Ordinance
Title:	Amendment of Municipal Code Title 3 by adding new Chapter 3-52 entitled "Chicago Vehicle Fuel Tax Ordinance"
Committee(s) Assignment:	Committee on Budget and Government Operations

Ordinance
Amending the Vehicle Fuel Tax to Preserve and Develop Transportation Infrastructure

WHEREAS, taxpayers in the City of Chicago pay certain motor fuel taxes to the city; and

WHEREAS, the safety and health of Chicago taxpayers, residents, and visitors depend upon the construction and maintenance of roads, highways, bridges, alleys and other public ways; and

WHEREAS, the city in the past has utilized revenue from the Vehicle Fuel Tax for purposes other than transportation infrastructure; and

WHEREAS, certain roads, highways, bridges, alleys and other public ways utilized for transportation are in need of repair, upkeep, and maintenance; and

WHEREAS, the cost of motor fuel has decreased to a historically low level; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO that Chapter 3-52 of the Municipal Code is hereby amended by added the underscored text and deleting the struck-through text as follows:

CHAPTER 3-52
VEHICLE FUEL TAX

3-52-010 Title – Definitions.

A. This chapter shall be known and cited as the "Chicago Vehicle Fuel Tax Ordinance", and the tax imposed herein shall be known and cited as the "Chicago Vehicle Fuel Tax".

B. Whenever used in this chapter, the following words and phrases shall have the following meanings:

1. "City" means the City of Chicago.

2. "Department" means the department of finance of the city.

3. [Reserved]

4. "Distributor" or "vehicle fuel distributor" means any person who produces, refines, blends, compounds or manufactures vehicle fuel in the city; or transports or has transported vehicle fuel to any location in the city, or receives in the city vehicle fuel, on which the Chicago Vehicle Fuel Tax has not been paid; or sells vehicle fuel to a retail dealer for resale in the city. "Distributor" shall not include any person who transports vehicle fuel into the city or receives vehicle fuel in the city for his own use and consumption, and not for sale or resale.

5. "Person" means any individual, firm, trust, estate, partnership, association, corporation, joint venture, joint stock company, receiver, trustee, conservator, legal representative, or other legally recognized entity.

6. "Retail dealer" or "retail vehicle fuel dealer" means any person who is engaged in the business of selling vehicle fuel in the city to a purchaser for the purchaser's use or consumption, and not for resale in any form.

7. "Sale", "resale", or "purchase" means any transfer of ownership or title or both, any exchange or any barter, whether conditional or otherwise, in any manner or by any means whatsoever for consideration.

8. "Sale at retail" means any sale to a person for that person's use or consumption and not for resale to another.

9. "Use" means the exercise of any right to or power over vehicle fuel incident to the ownership thereof, including but not limited to, the receipt of vehicle fuel by any person into a fuel supply tank of a vehicle.

10. "Vehicle" means any machine or device in, upon or by which any person or property is or may be transported or drawn upon a rail, street, road highway or otherwise upon land, in or upon water, or through the air. "Vehicle" includes without limitation automobiles, trucks, buses, trains, motorcycles, boats, airplanes and helicopters.

11. "Vehicle fuel" means any volatile and inflammable liquid or gas produced, blended or compounded for the purpose of or which is suitable for operating a vehicle, or which is used in propelling a vehicle. "Vehicle fuel" includes without limitation gasoline, gasohol, diesel oil, motor benzol, motor benzene, propane gas fuel, kerosene and "special fuel" as defined in the Illinois Motor Fuel Tax Law, as amended.

3-52-020 Tax imposed.

A tax is hereby imposed upon the privilege of purchasing or using, in the City of Chicago, vehicle fuel purchased in a sale at retail. The tax shall be at a rate of $0.05 per gallon of vehicle fuel until May 1, 2016, at which point the tax shall be at a rate of $0.12 per gallon. Effective July 1, 2016, the proceeds of the incremental increase effective on May 1, 2016 shall be dedicated strictly and solely to pay expenses incurred on the construction, repair, upkeep, and maintenance of roads, highways, bridges, alleys, crossings, tracks and other public ways associated with transportation infrastructure, and for fiscal year 2017 and every year thereafter, the total amount appropriated and the total amount expended and obligated by the city for such expenses shall be no less than the greater of the amount so appropriated for fiscal year 2016 or the amount so expended and obligated in fiscal year 2016, plus the amount gained through said incremental increase. The ultimate incidence of and liability for payment of the tax shall be upon the purchaser or user of the vehicle fuel, and nothing in this chapter shall be construed to impose a tax upon the occupation of selling or distributing vehicle fuel. It shall be a violation of this chapter for any distributor or retail dealer to fail to add this tax to the retail price of vehicle fuel or to absorb the tax. The tax shall be in addition to any and all other taxes.

3-52-030 Payment on retail purchase.

"Use in the city" shall be deemed to occur only at the place in the city where the vehicle fuel is transferred into the vehicle by which it is to be consumed. To the extent that a person has paid the tax imposed herein on the retail purchase of vehicle fuel, he shall be exempt from the payment of and liability for said tax on the use of such fuel.

3-52-040 Collection and remittance.

A. Except as provided in Section 3-52-060 of this chapter, the Chicago Vehicle Fuel Tax shall be collected by each vehicle fuel distributor who sells such fuel to a retail vehicle fuel dealer doing business in the city. Any distributor who shall pay the tax to the city shall collect the tax from any retail dealer to whom the distributor sells vehicle fuel. The retail dealer shall in turn then collect the tax from the purchaser of the vehicle fuel. Any distributor who sells vehicle fuel directly to a purchaser or user, for delivery in Chicago, and not for resale, shall collect the tax from the purchaser or user.

If any retail vehicle fuel dealer receives vehicle fuel upon which the Chicago Vehicle Fuel Tax has not been collected by the distributor, the retail dealer shall remit such tax directly to the department by the last day of the month following the month in which he received such vehicle fuel, and shall collect such tax from his purchasers.

If any purchaser or user receives vehicle fuel upon which the Chicago Vehicle Fuel Tax has not been collected by the distributor or retail dealer, such purchaser or user shall pay the tax directly to the city by the last day of the month following the month in which such purchaser or user made the taxable purchase or use of the vehicle fuel.

Any tax remittance required to be made directly to the city shall be made to the department and shall be accompanied by a remittance form prescribed by the department. Any retail dealer, purchaser or user who is required to remit tax directly to the city on a frequently recurring basis shall register with the department on forms prescribed by the department.

Any person who collects the Chicago Vehicle Fuel Tax shall do as a trustee for and on account of the City of Chicago.

B. Notwithstanding any other provision of this chapter for all periods beginning on or after January 1, 2000, (1) all tax returns shall be filed with the department on an annual basis on or before August 15 of each year in accordance with Sections 3-4-186 and 3-4-189 of this Code, (2) all tax payments and remittances shall be made in accordance with either Section 3-4-187(payment of actual tax liabilities) or Section 3-4-188 (payment of estimated taxes), and (3) the provisions of Sections 3-4-186, 3-4-187, 3-4-188 and 3-4-189 shall control over and contrary provisions in this chapter regarding the subjects covered by those sections.

3-52-050 Registration – Return – Filing.

A. Every vehicle fuel distributor shall register with the department within 30 days after the commencement of such business. Every distributor shall file each month with the department a remittance return, containing a report of his sales of vehicle fuel to retail dealers or users in the city occurring in the prior month. The return shall be in a form prescribed and furnished by the department. Each such return shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. Payment shall be made to the department. The remittance

and return shall be due on or before the last day of the month following the month for which the return and remittance is made.

B. Notwithstanding any other provision of this chapter, for all periods beginning on or after January 1, 2000, (1) all tax returns shall be filed with the department on an annual basis on or before August 15 of each year in accordance with Sections 3-4-186 and 3-4-189 of this Code, (2) all tax payments and remittances shall be made in accordance with either Section 3-4-187(payment of actual tax liabilities) or Section 3-4-188 (payment of estimated taxes), and (3) the provisions of Sections 3-4-186, 3-4-187, 3-4-188 and 3-4-189 shall control over any contrary provisions in this chapter regarding the subjects covered by those sections.

3-52-060 Reserved.

3-52-070 Reserved.

3-52-090 Recordkeeping.

Every distributor and every retail dealer required to collect and remit the tax imposed herein shall keep accurate and complete books and records of his business of selling vehicle fuel, including the maintenance of all invoices and other source documents. Every purchaser or user required to register with the city because of such purchaser's or user's frequently recurring direct tax liability shall keep accurate and complete books and records of his purchases and uses of vehicle fuel in the city, including the maintenance of all invoices and other source documents. All books and records required by this chapter shall be kept in the English language and shall be subject to inspection by the comptroller or his duly authorized agents or employees, at all times during business hours of the day.

3-52-100 Sales and uses presumed taxable – Burden of proof.

It shall be presumed that all sales and uses of vehicle fuel in the city are subject to tax under this chapter until the contrary is established. The burden of proving that a sale or use is not taxable hereunder shall be upon the distributor, retail dealer, purchaser or user so claiming.

3-52-110 Exemptions.

The tax imposed by this chapter shall not apply to the following sales or uses of vehicle fuel:

(a) Sale by a distributor to another distributor holding a valid registration certificate;

(b) Sale by a distributor to a distributor or retailer of vehicle fuel whose place of business is outside the city;

(c) Sale or use for purposes other than for propulsion or operation of a vehicle;

(d) Sale to or use by any "transportation agency", as defined in the Regional Transportation Authority Act, as amended, which is operated by, receiving a grant from or has a service agreement with the Regional Transportation Authority or any of its service boards;

(e) Sale or use to the extent the tax imposed by this chapter would violate the Illinois or United States Constitution;

(f) Sale to or use by the federal government or any state or local governmental body;

(g) Sale to or use by any air common carrier, certified by the carrier to be used for consumption, shipment or storage in the conduct of its business as an air common carrier, for a flight destined for a destination outside the United States.

3-52-120 Supplementary provisions.

Whenever not inconsistent with the provisions of this chapter or whenever this chapter is silent, the provisions of the Uniform Revenue Procedures Ordinance, Chapter 3-4 of the Municipal Code of Chicago, as amended, shall apply and supplement this chapter.

3-52-140 Severability.

If any provision of this chapter or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid application or provision, and to this end each such invalid provision or invalid application of this chapter is severable, unless otherwise provided by this chapter. In particular, but without limitation, each provision creating an exception to or an exemption or exclusion from the imposition of the tax is severable. It is hereby declared to be the legislative intent of the city council that this chapter would have been adopted had any such unconstitutional or otherwise invalid provision or application not been included.

3-52-150 Deposit of revenues.

All revenues received by the city pursuant to this chapter shall, in the first instance, be deposited into a special purpose fund dedicated solely to those purposes identified in section 020 of this chapter until such time as the requirements of section 20 of this chapter are met, at which point the remaining revenues received by the city pursuant to this chapter shall be deposited in the corporate fund.

Gilbert Villegas
Alderman, 36th Ward

Type: Ordinance

Title: Amending the Chicago Vehicle Fuel Tax Ordinance to dedicate certain funds to transportation infrastructure