

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 93

(Chair, Budget and Taxation Committee)(By Request -  
Departmental - Comptroller)

Budget and Taxation

Ways and Means

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**Motor Fuel Taxes - Special Fuel User - Biodiesel Fuel**

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This departmental bill alters the definition of a special fuel seller and special fuel user to include a person who buys, sells, acquires, receives, or stores more than 4,000 gallons of biodiesel fuel during a calendar year. The bill also clarifies that special fuel includes biodiesel fuel.

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**Fiscal Summary**

**State Effect:** Potential minimal decrease in Transportation Trust Fund (TTF) revenues beginning in FY 2010 due to decreased motor fuel license fees and taxes. Expenditures are not affected.

**Local Effect:** Potential minimal decrease in local highway user revenues beginning in FY 2010. Expenditures are not affected.

**Small Business Effect:** The Comptroller's Office has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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**Analysis**

**Bill Summary:** The bill clarifies that special fuel includes biodiesel fuel. Biodiesel fuel is defined as any fuel or mixture of fuel that is derived in whole or in part from agricultural products or animal fats or the wastes of such products.

The bill specifies that a special fuel user includes a person who buys, produces, acquires, or stores biodiesel fuel on which the motor fuel tax has not been paid and is used in a motor vehicle that is (1) owned or operated by the special fuel user; and (2) registered to operate on a public highway. A “special fuel user” does not include a person who produces, acquires, receives, or stores less than 4,000 gallons of biodiesel fuel to be used in a motor vehicle during a calendar year. A “special fuel seller” does not include a person who produces, acquires, receives, or stores less than 4,000 gallons of biodiesel fuel during a calendar year.

**Current Law:** Special fuel is defined as a product that is usable as fuel in an internal combustion engine and includes clean-burning fuel except electricity. Special fuel does not include gasoline.

Special fuel user is an individual who buys special fuel on which the motor fuel tax has not been paid and uses it in a motor vehicle that is owned or operated by the individual and is registered to operate on a public highway. Special fuel user does not include (1) a person whose only storage for special fuel is the fuel supply tank of a motor vehicle; (2) a volunteer fire or nonprofit volunteer rescue company that is incorporated in the State and buys special fuel from a licensed special fuel seller to operate fire fighting vehicles or equipment; or (3) a person who pays the motor fuel tax on all special fuels to the supplier of the special fuels.

Special fuel users are required to (1) file with the Comptroller a motor fuel tax return; (2) maintain fuel related records for four years that are made available for inspection by the Comptroller; and (3) pay the motor fuel tax. A special fuel user must obtain a Class U license from the Comptroller’s Office before engaging in the business of a special fuel user. A Class U licensee applicant is required to post security with the Comptroller’s Office to ensure payment of the motor fuel tax. The amount of the security is the amount required by the Comptroller but not less than \$1,000.

Special fuel seller is a person who (1) imports any special fuel into the State, other than turbine fuel; (2) sells or delivers, in the State, any special fuel on which the motor fuel tax has not been paid. Special fuel seller does not include (1) a retail service station dealer who pays the motor fuel tax on special fuel to the supplier of the special fuel; or (2) a marina that sells special fuel only to vessels.

Special fuel sellers are (1) required to be licensed with the Comptroller; (2) file with the Comptroller a motor fuel tax return; and (3) maintain fuel-related records for four years that are made available for inspection by the Comptroller. A special fuel seller who delivers special fuel into a tank from which a motor vehicle can be fueled is required to pay the motor fuel tax unless (1) the person who uses or resells the special fuel has an exemption certificate that authorizes the person to acquire special fuel without paying the

motor fuel tax; (2) the fuel is delivered into a storage tank permanently and solely connected to a heating plant, commercial stationary apparatus, stationary vapor burning apparatus (including propane tanks not connected to the vehicle propulsion system on recreational type vehicles), or watercraft; and (3) when the fuel is sold to agencies and instrumentalities of the U.S. government. A special fuel seller is required to post security for the motor fuel tax to ensure payment of the motor fuel tax.

**Background:** According to the National Biodiesel Board there are currently 176 commercial biodiesel plants nationwide including three in Maryland. In addition to these larger-scale plants, biodiesel can also be produced on a much smaller scale due to a relative lack of complexity in biodiesel production.

**State Fiscal Effect:** The Comptroller's Office advises that it currently licenses biodiesel producers and users who act as a special fuel user or special fuel seller. The bill will exempt an individual who produces, acquires, receives, or stores less than 4,000 gallons of biodiesel in the calendar year from being licensed as a special fuel user or special fuel seller and being required to file a motor fuel tax return. The Comptroller's Office expects that about five biodiesel users meet the 4,000 gallon threshold. These users are currently licensed and file motor fuel tax returns. As a result, TTF revenues may decrease minimally beginning in fiscal 2010 due to a decrease in motor fuel taxes and license fees.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller's Office, National Biodiesel Board, Department of Legislative Services

**Fiscal Note History:** First Reader - January 27, 2009  
mlm/hlb Revised - Senate Third Reader - April 1, 2009

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Motor Fuel Taxes – Biodiesel Fuel User License

BILL NUMBER: SB 93

PREPARED BY: Comptroller of Maryland

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.