



## Ohio Revised Code

### Section 5735.01 Motor fuel tax definitions.

Effective: September 17, 2014

Legislation: House Bill 492 - 130th General Assembly

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As used in this chapter:

- (A) "Motor vehicles" includes all vehicles, vessels, watercraft, engines, machines, or mechanical contrivances which are powered by internal combustion engines or motors.
- (B) "Motor fuel" means gasoline, diesel fuel, K-1 kerosene, or any other liquid motor fuel, including, but not limited to, liquid petroleum gas or liquid natural gas, but excluding substances prepackaged and sold in containers of five gallons or less.
- (C) "K-1 kerosene" means fuel that conforms to the chemical and physical standards for kerosene no. 1-K as set forth in the American society for testing and materials (ASTM) designated D-3699 "standard for specification for kerosene," as that standard may be modified from time to time. For purposes of inspection and testing, laboratory analysis shall be conducted using methods recognized by the ASTM designation D-3699.
- (D) "Diesel fuel" means any liquid fuel capable of use in discrete form or as a blend component in the operation of engines of the diesel type, including transmix when mixed with diesel fuel.
- (E) "Gasoline" means any of the following:
- (1) All products, commonly or commercially known or sold as gasoline;
  - (2) Any blend stocks or additives, including alcohol, that are sold for blending with gasoline, other than products typically sold in containers of five gallons or less;
  - (3) Transmix when mixed with gasoline, unless certified, as required by the tax commissioner, for withdrawal from terminals for reprocessing at refineries;



(4) Alcohol that is offered for sale or sold for use as, or commonly and commercially used as, a fuel for internal combustion engines.

Gasoline does not include diesel fuel, commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed, sold, or used exclusively for purposes other than as a motor fuel for a motor vehicle or vessel. The blending of any of the products listed in the preceding sentence, regardless of name or characteristics, is conclusively presumed to have been done to produce gasoline, unless the product obtained by the blending is entirely incapable for use as fuel to operate a motor vehicle. An additive, blend stock, or alcohol is presumed to be sold for blending unless a certification is obtained as required by the tax commissioner.

(F) "Public highways" means lands and lots over which the public, either as user or owner, generally has a right to pass, even though the same are closed temporarily by the authorities for the purpose of construction, reconstruction, maintenance, or repair.

(G) "Waters within the boundaries of this state" means all streams, lakes, ponds, marshes, water courses, and all other bodies of surface water, natural or artificial, which are situated wholly or partially within this state or within its jurisdiction, except private impounded bodies of water.

(H) "Person" includes individuals, partnerships, firms, associations, corporations, receivers, trustees in bankruptcy, estates, joint-stock companies, joint ventures, the state and its political subdivisions, and any combination of persons of any form.

(I)(1) "Motor fuel dealer" means any person who satisfies any of the following:

(a) The person imports from another state or foreign country or acquires motor fuel by any means into a terminal in this state;

(b) The person imports motor fuel from another state or foreign country in bulk lot vehicles for subsequent sale and distribution in this state from bulk lot vehicles;

(c) The person refines motor fuel in this state;



(d) The person acquires motor fuel from a motor fuel dealer for subsequent sale and distribution by that person in this state from bulk lot vehicles;

(e) The person possesses an unrevoked permissive motor fuel dealer's license.

(2) Any person who obtains dyed diesel fuel for use other than the operation of motor vehicles upon the public highways or upon waters within the boundaries of this state, but later uses that motor fuel for the operation of motor vehicles upon the public highways or upon waters within the boundaries of this state, is deemed a motor fuel dealer as regards any unpaid motor fuel taxes levied on the motor fuel so used.

(J) As used in sections 5735.05, 5735.25, 5735.29, and 5735.30 of the Revised Code only:

(1) With respect to gasoline, "received" or "receipt" shall be construed as follows:

(a) Gasoline produced at a refinery in this state or delivered to a terminal in this state is deemed received when it is disbursed through a loading rack at that refinery or terminal;

(b) Except as provided in division (J)(1)(a) of this section, gasoline imported into this state or purchased or otherwise acquired in this state by any person is deemed received within this state by that person when the gasoline is withdrawn from the container in which it was transported;

(c) Gasoline delivered or disbursed by any means from a terminal directly to another terminal is not deemed received.

(2) With respect to motor fuel other than gasoline, "received" or "receipt" means distributed or sold for use or used to generate power for the operation of motor vehicles upon the public highways or upon waters within the boundaries of this state. All diesel fuel that is not dyed diesel fuel, regardless of its use, shall be considered as used to generate power for the operation of motor vehicles upon the public highways or upon waters within the boundaries of this state when the fuel is sold or distributed to a person other than a licensed motor fuel dealer or to a person licensed under section 5735.026 of the Revised Code.



(K) Motor fuel used for the operation of licensed motor vehicles employed in the maintenance, construction, or repair of public highways is deemed to be used for the operation of motor vehicles upon the public highways.

(L) "Licensed motor fuel dealer" means any dealer possessing an unrevoked motor fuel dealer's license issued by the tax commissioner as provided in section 5735.02 of the Revised Code.

(M) "Licensed retail dealer" means any retail dealer possessing an unrevoked retail dealer's license issued by the tax commissioner as provided in section 5735.022 of the Revised Code.

(N) "Cents per gallon rate" means the amount computed by the tax commissioner under section 5735.011 of the Revised Code that is used to determine that portion of the tax levied by section 5735.05 of the Revised Code that is computed in the manner prescribed by division (B)(2) of section 5735.06 of the Revised Code and that is applicable for the period that begins on the first day of July following the date on which the commissioner makes the computation.

(O) "Retail dealer" means any person that sells or distributes motor fuel at a retail service station located in this state.

(P) "Retail service station" means a location from which motor fuel is sold to the general public and is dispensed or pumped directly into motor vehicle fuel tanks for consumption.

(Q) "Transit bus" means a motor vehicle that is operated for public transit or paratransit service on a regular and continuing basis within the state by or for a county, a municipal corporation, a county transit board pursuant to sections 306.01 to 306.13 of the Revised Code, a regional transit authority pursuant to sections 306.30 to 306.54 of the Revised Code, or a regional transit commission pursuant to sections 306.80 to 306.90 of the Revised Code. Public transit or paratransit service may include fixed route, demand-responsive, or subscription bus service transportation, but does not include shared-ride taxi service, carpools, vanpools, jitney service, school bus transportation, or charter or sightseeing services.

(R) "Export" means motor fuel delivered outside this state. Motor fuel delivered outside this state by or for the seller constitutes an export by the seller. Motor fuel delivered outside this state by or



for the purchaser constitutes an export by the purchaser.

(S) "Import" means motor fuel delivered into this state from outside this state. Motor fuel delivered into this state from outside this state by or for the seller constitutes an import by the seller. Motor fuel delivered into this state from outside this state by or for the purchaser constitutes an import by the purchaser.

(T) "Terminal" means a motor fuel storage or distribution facility that is supplied by pipeline or marine vessel.

(U) "Consumer" means a buyer of motor fuel for purposes other than resale in any form.

(V) "Bulk lot vehicle" means railroad tank cars, transport tank trucks and tank wagons with a capacity of at least 1,400 gallons.

(W) "Licensed permissive motor fuel dealer" means any person possessing an unrevoked permissive motor fuel dealer's license issued by the tax commissioner under section 5735.021 of the Revised Code.

(X) "Licensed terminal operator" means any person possessing an unrevoked terminal operator's license issued by the tax commissioner under section 5735.026 of the Revised Code.

(Y) "Licensed exporter" means any person possessing an unrevoked exporter's license issued by the tax commissioner under section 5735.026 of the Revised Code.

(Z) "Dyed diesel fuel" means any diesel fuel dyed pursuant to regulations issued by the internal revenue service or a rule promulgated by the tax commissioner.

(AA) "Gross gallons" means U.S. gallons without temperature or barometric adjustments.

(BB) "Net gallons" means U.S. gallons with a temperature adjustment to sixty degrees fahrenheit.

(CC) "Transporter" means either of the following:



(1) A railroad company, street, suburban, or interurban railroad company, a pipeline company, or water transportation company that transports motor fuel, either in interstate or intrastate commerce, to points in this state;

(2) A person that transports motor fuel by any manner to a point in this state.

(DD) "Exporter" means either of the following:

(1) A person that is licensed to collect and remit motor fuel taxes in a specified state of destination;

(2) A person that is statutorily prohibited from obtaining a license to collect and remit motor fuel taxes in a specified state of destination, and is licensed to sell or distribute tax-paid motor fuel in the specified state of destination.

(EE) "Report" means a report or return required to be filed under this chapter and may be used interchangeably with, and for all purposes has the same meaning as, "return."