



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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Volume 133 Issue 39  
October 23, 2020

## Usage of Motor Vehicle Revenue

Article XII, Section 5a of the Ohio Constitution limits how money – derived from fees, excises, or license taxes relating to (1) the registration, operation, or use of vehicles on public highways, or (2) fuels used to propel those vehicles – may be used. Specifically, these funds may *only* be used for specified highway-related purposes. This Members Brief provides an overview of the type of money that Article XII, Section 5a restricts and how that money may be used.

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### Article XII, Section 5a monetary restrictions and usage

Article XII, Section 5a (“Section 5a”), added to the Ohio Constitution in 1947 by initiative petition, limits the use of state-imposed motor vehicle license and fuel taxes.<sup>1</sup> Prior to the amendment, money generated from motor vehicle fuel taxes, though originally intended for the construction, maintenance, and repair of roads, was occasionally diverted for other uses, such as schools.<sup>2</sup> Section 5a reflects the will of the state’s citizens to have **money obtained from taxes, fees, and licenses relating to motor vehicles spent exclusively for road projects, highway improvement, traffic law enforcement, and other similar costs.**<sup>3</sup>

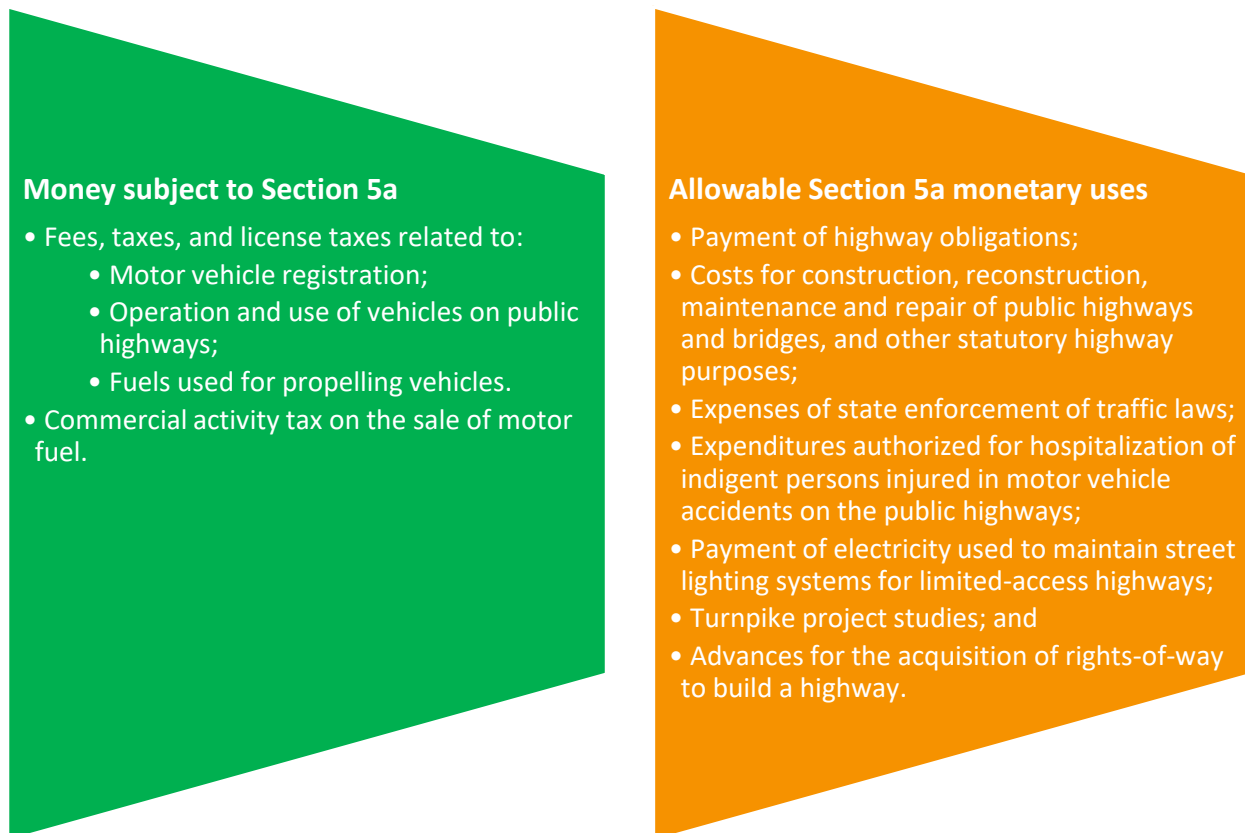
The following figure illustrates the types of motor vehicle taxes that are subject to Section 5a and some of the purposes for which proceeds may be spent.

<sup>1</sup> *State/Village of Put-In-Bay v. Mathys*, 2019 Ohio App. LEXIS 168, 2019-Ohio-162, 131 N.E.3d 343 (6<sup>th</sup> Dist.): Section 5a does not apply to taxes imposed by a municipal corporation.

<sup>2</sup> *Beaver Excavating Co. v. Testa*, 134 Ohio St.3d 565, 570, 2012-Ohio-5776, 983 N.E.2d 1317, 1323.

<sup>3</sup> *Beaver* at 570, citing Ohio Secretary of State, Proposal Submitted by Initiative Petition, Certified Ballot Language, November 4, 1947.

## Figure: Section 5a limitations<sup>4</sup>



The Ohio Supreme Court has determined that certified abstract fees (a record of a person's moving violation convictions, accident reports, etc.) and financial responsibility reinstatement fees (for failure to maintain financial responsibility) do not fall under Section 5a's purview. As such, Section 5a does not limit how money from those fees may be spent.<sup>5</sup>

### Other allowable Section 5a monetary uses

As illustrated in the figure, money that falls under Section 5a's purview may only be spent in specific ways. For instance, the restricted funds cannot be used for county liability insurance costs.<sup>6</sup> And, both Section 5a and the Revised Code restrict the use of money generated by the

<sup>4</sup> *Beaver* at 565 (commercial activity tax (CAT); subsequently, motor fuel receipts were exempt from the CAT, and the General Assembly enacted the motor fuel supplier tax, the revenue from which is spent on transportation purposes). *State ex rel. Walter v. Vogel*, 169 Ohio St. 368, 159 N.E.2d 892 (1959) (payment of electricity). *Kauer v. Defenbacher*, 153 Ohio St. 268, 91 N.E.2d 512 (1950) (turnpike study). *State ex rel. Preston v. Ferguson*, 170 Ohio St. 450, 166 N.E.2d 365 (1960) (land acquisition).

<sup>5</sup> *Ohio Trucking Ass'n v. Charles*, 134 Ohio St.3d 502, 2012-Ohio-5679, 983 N.E.2d 1262 and *Fowler v. Ohio Dep't of Pub. Safety*, 2017 Ohio App. LEXIS 3163, 2017-Ohio-7038, 95 N.E.3d 766 (10<sup>th</sup> Dist.).

<sup>6</sup> *Knox County Bd. of Comm'rs v. Knox County Eng'r*, 109 Ohio St.3d 353, 2006-Ohio-2576, 847 N.E.2d 1206.

motor fuel tax. The tax applies to sales of gasoline (38.5¢/gallon), compressed natural gas (20¢/gallon), diesel (47¢/gallon), and all other fuel types (47¢/gallon). This money may be used for services such as highway construction and traffic enforcement, as well as for the following:

- The Ohio Turnpike and Infrastructure Commission to construct, reconstruct, maintain, and repair turnpike projects;
- Purchase, erection, and maintenance of street and traffic signs, markers, lights, and signals;
- Payment of the costs incurred by the Public Utilities Commission in administering certain railroad-related functions;
- Payment of the expenses of the Department of Taxation for administering motor fuel laws; and
- Road improvements associated with retaining or attracting business.<sup>7</sup>

**In sum, money that falls under Section 5a's purview may only be used for certain purposes.** Thus, a bill that, for instance, appropriates a portion of the money – generated from motor vehicle registration fees – for health care services, would be unconstitutional.

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<sup>7</sup> R.C. 5735.05(A).