

HOUSE No. 2809

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the timing of reimbursement for federal manufacturers excise tax..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 93 of the Massachusetts General Laws is hereby amended by
2 adding the following section: —

3 § 44. Timing of Reimbursement for Federal Excise Tax on Petroleum Products
4 —

5 (a) When a contract calls for one party to reimburse the other party for the federal
6 manufacturer's excise tax levied by Part III of Subchapter A of Chapter 32 of the United States
7 Internal Revenue Code, whether as a separate item or as part of the price, the party required to
8 make the reimbursement may tender payment for the taxes 1 business day before the time that
9 the other party is required to remit the taxes to the United States Internal Revenue Service.

10 (b) If a party elects to exercise the option provided in subsection (a) of this section, the
11 other party may demand security for the payment of the taxes in proportion to the amount such
12 taxes represent compared to the security demanded on the contract as a whole. The other party,
13 however, may not change the other payment terms of the contract without a valid business reason

14 except to require the payment of such taxes under the option to be made by electronic transfer of
15 funds.

16 (c) The party exercising the option set out in subsection (a) of this section shall notify the
17 other party in writing of the intent to exercise such payment option and the effective date of the
18 exercise which shall be no earlier than 30 days after the notice of intent is received or the
19 beginning of the next federal tax quarter, whichever is later.

20 (d) This section shall apply to all contracts in effect on [effective date], which have no
21 expiration date and are continuing contracts and to all other contracts entered into or renewed
22 after [effective date]. Any contract in force and effect on [effective date], which, by its own
23 terms will terminate on a date subsequent thereto, shall be governed by the law as it existed prior
24 to [effective date].

25 (e) The option set out in subsection (a) of this section shall not be construed to impair the
26 obligations arising under any contract executed prior to [effective date]. Should the option set out
27 in subsection (a) of this section be exercised, it shall not relieve such party of the obligation to
28 make the reimbursement as provided for in the contract but shall affect only the timing of when
29 that reimbursement must be tendered.