

HOUSE BILL NO. 351

INTRODUCED BY C. SPRUNGER, E. BYRNE, F. SMITH, D. LOGE, M. YAKAWICH, S. FITZPATRICK, D. BAUM, B. CARTER, J. DARLING

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE POINT OF TAXATION FOR GASOLINE AND SPECIAL FUELS TAXES TO THE FIRST LICENSED DISTRIBUTOR WHO OWNS THE GASOLINE OR SPECIAL FUEL AS IT IS WITHDRAWN FROM A TERMINAL OR REFINERY IN THIS STATE OR IMPORTED INTO THIS STATE; REVISING DEFINITIONS; AMENDING SECTIONS 15-70-401, 15-70-402, 15-70-403, 15-70-404, AND 15-70-441, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-70-401, MCA, is amended to read:

"15-70-401. Definitions. As used in this part, the following definitions apply:

(1) "Agricultural use" means use of gasoline or special fuel by a person who earns income while engaging in the business of farming or ranching and who files farm or income reports for tax purposes as required by the United States internal revenue service.

(2) "Aviation fuel" means gasoline or any other liquid fuel by whatever name the liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

(3) (a) "Biodiesel" means a fuel produced from monoalkyl esters of long-chain fatty acids derived from vegetable oils, renewable lipids, animal fats, or any combination of those ingredients. The fuel must meet the requirements of ASTM D6751, also known as the Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, as adopted by the American society for testing and materials.

(b) Biodiesel is also known as "B-100".

(4) "Bulk delivery" means placing gasoline or special fuel not intended for resale in storage or containers. The term does not mean gasoline or special fuel delivered into the supply tank of a motor vehicle.

1 (5) "Cardrol" or "keylock" means a unique device intended to allow access to a fuel dealer's
 2 unattended pump or dispensing unit for the purpose of delivery of gasoline or special fuel to an authorized user
 3 of the unique device.

4 (6) "Department" means the department of transportation.

5 (7) (a) "Distributed" means the withdrawal of gasoline or special fuel from a refinery or terminal
 6 storage, other than by pipeline, by a licensed distributor for sale or use in this state, ~~including~~.

7 (b) Gasoline or special fuel imported into this state, other than gasoline or special fuel placed in
 8 storage at a refinery or pipeline terminal, is considered to be distributed after it has arrived in and is brought to
 9 rest in this state.

10 (c) The term does not include:

11 (i) gasoline or special fuel refined, produced, manufactured, or compounded in this state and
 12 placed in refinery or terminal storage tanks in this state;

13 (ii) gasoline or special fuel transferred from a refinery or pipeline terminal in this state and placed
 14 in tanks at the refinery or terminal; or

15 (iii) gasoline or special fuel imported into this state and placed in storage at a refinery or pipeline
 16 terminal.

17 ~~(b) Gasoline or special fuel imported into this state, other than gasoline or special fuel placed in~~
 18 ~~storage at a refinery or pipeline terminal, is considered to be distributed after it has arrived in and is brought to~~
 19 ~~rest in this state.~~

20 (8) (a) "Distributor" means:

21 (i) a person who engages in the business in this state of producing, refining, manufacturing, or
 22 compounding gasoline or special fuel for sale, use, or distribution;

23 (ii) an importer who imports gasoline or special fuel for sale, use, or distribution;

24 (iii) a person who engages in the wholesale distribution of gasoline or special fuel in this state and
 25 chooses to become licensed to assume the Montana state gasoline tax or special fuel tax liability;

26 (iv) an exporter; or

27 ~~(v) a dealer licensed as of January 1, 1969, except a dealer at an established airport; or~~

28 ~~(vi)~~(v) a person in ~~Montana~~ this state who blends ethanol with gasoline.

1 (b) The term does not include a special biodiesel fuel producer who produces biodiesel from waste
2 vegetable oil feedstock in this state for the operation of motor vehicles owned or controlled by the person on the
3 public roads and highways of the state.

4 (9) "Ethanol" means nominally anhydrous ethyl alcohol that has been denatured as specified in 27
5 CFR, parts 20 and 21, and that meets the standards for ethanol adopted pursuant to 82-15-103.

6 (10) "Ethanol-blended gasoline" means gasoline blended with ethanol. The percentage of ethanol in
7 the blend is identified by the letter "E" followed by the percentage number. A blend that is 10% denatured
8 ethanol and 90% gasoline would be reflected as E-10. A blend that is 85% denatured ethanol and 15% gasoline
9 would be reflected as E-85.

10 (11) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of
11 a motor vehicle, gasoline or special fuel received from a refinery or pipeline terminal within Montana.

12 (12) "Exporter" means a person who transports, other than in the fuel supply tank of a motor
13 vehicle, gasoline or special fuel received from a refinery or pipeline terminal in Montana to a destination outside
14 Montana for sale, use, or consumption outside Montana.

15 (13) (a) "Gasoline" includes:

16 (i) all petroleum products commonly or commercially known or sold as gasolines, including
17 casinghead gasoline, natural gasoline, aviation fuel, and all flammable liquids composed of a mixture of
18 selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently
19 operating internal combustion engines; and

20 (ii) any other type of additive when the additive is mixed or blended into gasoline, regardless of the
21 additive's classifications or uses.

22 (b) "Gasoline" does not include special fuels as defined in this section.

23 (14) "Import" means to first receive gasoline or special fuel into possession or custody after its
24 arrival and coming to rest at a destination within the state or to first receive any gasoline or special fuel shipped
25 or transported into this state from a point of origin outside this state other than in the fuel supply tank of a motor
26 vehicle.

27 (15) "Importer" means a person who transports or arranges for the transportation of gasoline or
28 special fuel into Montana for sale, use, or distribution.

1 (16) "Improperly imported fuel" means gasoline or special fuel that is:

2 (a) consigned to a Montana destination and imported into the state without the distributor first
3 having obtained a Montana distributor license as required in 15-70-402; or

4 (b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title
5 15, chapter 70.

6 (17) "Motor vehicle" means all vehicles that are operated on the public roads and highways of this
7 state and that are operated in whole or in part by the combustion of gasoline or special fuel.

8 (18) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or
9 corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both,
10 as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied
11 to joint-stock companies and corporations, the officers.

12 (19) "Public roads and highways of this state" means all streets, roads, highways, and related
13 structures:

14 (a) built and maintained with appropriated funds of the United States, the state of Montana, or any
15 political subdivision of the state;

16 (b) dedicated to public use;

17 (c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

18 (d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or
19 any political subdivision of the state.

20 (20) "Special biodiesel fuel producer" means a person who produces less than 2,500 gallons
21 annually of biodiesel fuel from waste vegetable oil feedstock for the operation of motor vehicles owned or
22 controlled by the person on the public roads and highways of the state.

23 (21) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel
24 or any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except
25 liquid petroleum gas, when actually sold for use in motor vehicles operating on the public roads and highways
26 of this state. The term "special fuel" includes biodiesel and additives of all types when the additive is mixed or
27 blended into special fuel, regardless of the additive's classifications or uses.

28 (22) (a) "Special fuel user" means a person who consumes special fuel for the operation of motor

1 vehicles owned or controlled by the person on the public roads and highways of this state.

2 (b) The term does not include:

3 (i) the U.S. government, a state, a county, an incorporated city or town, or a school district of this
4 state; or

5 (ii) a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock for
6 the operation of motor vehicles owned or controlled by the person on the public roads and highways of this
7 state.

8 (23) "Use" means the operation of a motor vehicle on the public roads and highways of this state or
9 of any political subdivision of this state.

10 (24) "Waste vegetable oil" means used cooking oil gathered from restaurants or commercial food
11 processors."

12

13 **Section 2.** Section 15-70-402, MCA, is amended to read:

14 **"15-70-402. License and security of distributors -- denial or disciplinary action.** (1) (a) Prior to
15 doing business, each gasoline or special fuel distributor, including an exporter and importer, as those terms are
16 defined in 15-70-401, shall file:

17 (i) an application for a license with the department, on forms prescribed and furnished by the
18 department, setting forth the information that may be requested by the department; and

19 (ii) security with the department in an amount to be determined by the department.

20 (b) (i) Except as provided in subsection (1)(b)(ii), the required amount of security may not exceed
21 twice the estimated amount of gasoline or special fuel taxes the distributor will pay to this state each month.

22 (ii) The minimum required security for a distributor who imports or exports fuel is \$25,000.

23 (c) ~~Upon~~On approval of the application, the department shall issue to the distributor a
24 nonassignable license that is in force until surrendered, canceled, or revoked.

25 (2) The department may deny the issuance of a distributor license or take disciplinary action
26 against the distributor if it determines that the applicant or distributor:

27 (a) has violated any provision of this chapter or any rule of the department relating to gasoline or
28 special fuel, or both;

1 (b) fails to provide the security required by the department;

2 (c) has had a distributor license revoked or denied by the department or another jurisdiction within
3 a 3-year period;

4 (d) is not in compliance with motor fuels laws in other jurisdictions; or

5 (e) fails to pay the gasoline or special fuel tax.

6 (3) Disciplinary action against a distributor may result in revocation of the license or issuance of a
7 probationary license. At its discretion, the department may issue a probationary license to a distributor who
8 repeatedly fails to report in the manner prescribed. The probationary license must be issued for a specified time
9 period and may require the distributor to attend motor fuel tax training conducted by the department. If a
10 distributor issued a probationary license fails to provide accurate reports by the end of the time period specified
11 by the probationary license, the department may revoke the distributor license.

12 (4) If an application for a distributor license is denied or revoked or if the distributor is under
13 disciplinary action, the applicant or distributor has the right to appeal the department's decision pursuant to Title
14 2, chapter 4, part 6.

15 (5) Only a licensed distributor may withdraw gasoline or special fuel from a refinery or terminal.

16 (6) Failure to obtain a distributor license as required in this section subjects the distributor to the
17 provisions of 15-70-419 allowing for the seizure, confiscation, and possible forfeiture of the fuel.

18 (7) As used in this section, "security" means:

19 (a) a bond executed by a distributor as principal with a corporate surety qualified under the laws of
20 Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of this
21 part, including the payment of all taxes and penalties;

22 (b) a deposit made by the distributor with the department, under the conditions that the department
23 may prescribe; or

24 (c) certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal
25 deposit insurance corporation.

26 (8) The owner of a commercial motor vehicle that is engaged in transporting gasoline or special
27 fuel for a distributor is not subject to the provisions of this section.

28 (9) A distributor who blends biodiesel must be licensed with the department. If the distributor

1 cannot be licensed, the distributor is required to buy biodiesel fuel on which the special fuel tax has been paid.

2 (10) A distributor who blends ethanol with gasoline must be licensed by the department. If the
3 distributor cannot be licensed, the distributor is required to buy ethanol-blended gasoline on which the gasoline
4 tax has been paid."

5

6 **Section 3.** Section 15-70-403, MCA, is amended to read:

7 **"15-70-403. Gasoline, special fuel, and aviation fuel tax -- incidence -- rates.** (1) The incidence of
8 the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state. Each
9 distributor shall pay to the department of transportation a tax in an amount equal to:

10 (a) 33 cents for each gallon of gasoline distributed by the distributor within the state and on which
11 the gasoline tax has not been paid by any other distributor;

12 (b) 29.75 cents for each gallon of special fuel distributed by the distributor within the state and on
13 which the special fuel tax has not been paid by any other distributor; and

14 (c) 5 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply
15 center, which is allocated to the department as provided by 67-1-301.

16 (2) The gasoline tax provided for in subsection (1)(a) must be deposited as follows:

17 (a) the revenue from 22 cents of the tax less the allocations provided for in 60-3-201(1)(a) through
18 (1)(d) to the highway restricted account provided for in 15-70-126;

19 (b) the revenue from 4 cents of the tax less the allocations provided for in 60-3-201(1)(a) through
20 (1)(d) to the highway patrol administration state special revenue account established in 44-1-110; and

21 (c) the remaining revenue from the tax less the allocations provided for in 60-3-201(1)(a) through
22 (1)(d) to the local government road construction and maintenance restricted account provided for in 15-70-128.

23 (3) The special fuel tax provided for in subsection (1)(b) must be deposited as follows:

24 (a) the revenue from 24.6 cents of the tax to the highway restricted account provided for in 15-70-
25 126;

26 (b) the revenue from 4 cents of the tax to the highway patrol administration state special revenue
27 account established in 44-1-110; and

28 (c) the remaining revenue from the tax to the local government road construction and maintenance

1 restricted account provided for in 15-70-128.

2 (4) (a) Except as provided in subsection (4)(b), when gasoline, special fuel, or aviation fuel is
3 withdrawn from a refinery or pipeline terminal in this state, the gasoline, special fuel, or aviation fuel is
4 considered to be distributed by the distributor who is the owner of the gasoline, special fuel, or aviation fuel
5 prior to the time of withdrawal.

6 (b) If gasoline, special fuel, or aviation fuel is withdrawn for shipment or delivery to a licensed
7 distributor, it is considered to be distributed by the first licensed distributor to take possession of the gasoline,
8 special fuel, or aviation fuel as shown by the bill of lading issued by the terminal or refinery.

9 (5) Imported gasoline, special fuel, or aviation fuel, except for gasoline, special fuel, or aviation fuel
10 placed in storage at a refinery or pipeline terminal, is considered to be distributed after it arrives and is brought
11 to rest in this state by the person who is the owner of the gasoline, special fuel, or aviation fuel at the time the
12 gasoline, special fuel, or aviation fuel is unloaded from its shipping vessel. If the owner is not licensed as a
13 Montana distributor and if the gasoline, special fuel, or aviation fuel is shipped or delivered in this state by a
14 person who is licensed as a distributor, then the gasoline, special fuel, or aviation fuel is considered to be
15 distributed by the licensed distributor.

16 (6) For the purposes of the tax provided for in this section, gasoline, special fuel, and aviation fuel
17 may not be exchanged tax-free between licensed distributors more than one time.

18 ~~(4)(7)~~ Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold
19 for export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

20 ~~(5)(8)~~ Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at
21 a refinery or terminal for off-highway use.

22 ~~(6)(9)~~ When no Montana fuel tax has been paid by a distributor or any other person, the department
23 shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public
24 roads and highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and
25 subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special
26 fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I.
27 (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on
28 the public roads and highways of this state.

1 ~~(7)~~(10) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a
2 vehicle that is equipped with a feed delivery box if:

- 3 (a) the feed delivery box is permanently affixed to the vehicle;
- 4 (b) the vehicle is used exclusively for the feeding of livestock; and
- 5 (c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000
6 pounds.

7 ~~(8)~~(11) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees
8 A.P.I. (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the
9 internal combustion of any engines, including stationary engines, and used in connection with any work
10 performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or
11 street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or
12 other political subdivisions, must be fuel on which Montana fuel tax has been paid.

13 ~~(9)~~(12) Material used for construction, reconstruction, or improvement in connection with work
14 performed under a contract as provided in subsection ~~(8)~~(11) must be produced using fuel on which Montana
15 fuel tax has been paid."

16

17 **Section 4.** Section 15-70-404, MCA, is amended to read:

18 **"15-70-404. Computation.** (1) The tax imposed on the distributor under 15-70-403(1) may be
19 rounded to the nearest whole dollar amount.

20 (2) The tax imposed under 15-70-403~~(6)~~(9) on owners or operators of the motor vehicles operating
21 on the public roads and highways of this state must be computed, with respect to gasoline or special fuel for
22 which the tax has not been paid in this state and that has been consumed by the purchaser, by multiplying the
23 corresponding tax rate per gallon as provided in 15-70-403(1) by the number of gallons of gasoline or special
24 fuel consumed by the person in the operation of motor vehicles on the public roads and highways of this state."

25

26 **Section 5.** Section 15-70-441, MCA, is amended to read:

27 **"15-70-441. Dyed special fuel restrictions -- penalties.** (1) (a) A person may not use untaxed dyed
28 special fuel in violation of 15-70-403~~(8)~~ or ~~(9)~~(11) or (12) or to operate a motor vehicle on the public roads and

1 highways of this state unless:

2 (i) the motor vehicle has a gross vehicle weight of greater than 12,000 pounds, exclusive of any
3 towed units, is equipped with a feed delivery box that is permanently affixed to the vehicle, and is used solely
4 for the feeding of livestock; or

5 (ii) the use is permitted pursuant to rules adopted under subsection (1)(c).

6 (b) (i) The purposeful or knowing use of untaxed dyed special fuel in a motor vehicle operating on
7 the public roads and highways of this state in violation of ~~15-70-403(8) or (9)~~(11) or (12) or this subsection (1) is
8 subject to the civil penalty imposed under subsection (1)(b)(ii). Each use is a separate offense. The civil penalty
9 may be in addition to criminal penalties imposed under 15-70-443.

10 (ii) The department shall, after giving notice and holding a hearing, if requested, impose a civil
11 penalty not to exceed \$1,000 for the first offense and \$5,000 for the second offense for using dyed special fuel
12 in violation of the provisions of this section. A subsequent offense is subject to criminal penalties imposed under
13 15-70-443.

14 (c) The department shall adopt and enforce reasonable rules for the movement of off-highway
15 vehicles traveling from one location to another on the public roads and highways of this state when using dyed
16 special fuel or nontaxed fuel.

17 (2) The operator of the vehicle is liable for the tax imposed in 15-70-403. If the operator refuses or
18 fails to pay the tax, in whole or in part, the seller of the dyed special fuel is jointly and severally liable for the tax
19 imposed under 15-70-403 and for the penalties described in this section if the seller knows or has reason to
20 know that the fuel will be used for a taxable purpose."

21

22 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2026.

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