

## 1 SENATE BILL NO. 367

2 INTRODUCED BY B. DEPRATU, MOHL, DOHERTY, GILLAN, HALLIGAN, KITZENBERG, LEWIS, MOOD,  
3 SLITER, SPRAGUE, WANZENRIED

4  
5 A BILL FOR AN ACT ENTITLED: "~~AN ACT PROVIDING THAT FINANCIAL INSTITUTIONS OR COMPANIES~~  
6 ~~ISSUING CREDIT CARDS MAY NOT CHARGE OR ASSESS A FEE TO~~ WHEN A CONSUMER USES A CREDIT  
7 CARD TO PURCHASE FUEL, A FEE MAY NOT BE CHARGED TO OR ASSESSED ON RETAILERS FOR THAT  
8 PORTION OF A CREDIT TRANSACTION THAT IS ATTRIBUTABLE TO THE STATE TAX ON GASOLINE OR  
9 SPECIAL FUEL OR THE PETROLEUM STORAGE TANK CLEANUP FEE; AMENDING SECTIONS 15-70-204,  
10 15-70-321, 15-70-343, AND 75-11-314, MCA; AND PROVIDING ~~AN IMMEDIATE~~ A DELAYED EFFECTIVE  
11 DATE AND AN APPLICABILITY DATE."

12

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

14

15 **Section 1.** Section 15-70-204, MCA, is amended to read:

16 **"15-70-204. (Temporary) Gasoline license tax -- rate.** (1) Every distributor shall pay to the  
17 department a license tax for the privilege of engaging in and carrying on business in this state in an amount  
18 equal to:

19 (a) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply  
20 center, which is allocated to the department as provided by 67-1-301; and

21 (b) 27 cents, ~~beginning July 1, 1994,~~ for each gallon of all other gasoline distributed by the  
22 distributor within the state and upon which the gasoline license tax has not been paid by any other  
23 distributor.

24 (2) When a consumer uses a credit card to purchase gasoline subject to the provisions of  
25 subsection (1)(b), the financial institution or company issuing the credit card may not charge or assess a  
26 fee to MAY NOT BE CHARGED TO OR ASSESSED ON retailers on that portion of the transaction attributable to the  
27 license tax provided for in subsection (1)(b).

28 ~~(2)(3)~~ Gasoline exported may not be included in the measure of the distributor's license tax unless  
29 the distributor is not licensed and is not paying the tax to the state the fuel is destined for.

30 ~~(3)(4)~~ Alcohol that is blended or is to be blended with gasoline to be sold as gasohol is subject to

1 a tax per gallon equal to the license tax imposed on nonaviation gasoline distributors under subsection (1).  
 2 (Terminates on occurrence of contingency--sec. 17, Ch. 642, L. 1993.)

3 **15-70-204. (Effective on occurrence of contingency) Gasoline license tax -- rate.** (1) Every  
 4 distributor shall pay to the department a license tax for the privilege of engaging in and carrying on  
 5 business in this state in an amount equal to:

6 (a) 3 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply  
 7 center, which is allocated to the department as provided by 67-1-301; and

8 (b) 27 cents for each gallon of all other gasoline distributed by the distributor within the state and  
 9 upon which the gasoline license tax has not been paid by any other distributor.

10 (2) When a consumer uses a credit card to purchase gasoline subject to the provisions of  
 11 subsection (1)(b), the financial institution or company issuing the credit card may not charge or assess a  
 12 fee to ~~MAY NOT BE CHARGED TO OR ASSESSED ON~~ retailers on that portion of the transaction attributable to the  
 13 license tax provided for in subsection (1)(b).

14 ~~(2)(3)~~ Gasoline exported may not be included in the measure of the distributor's license tax unless  
 15 the distributor is not licensed and is not paying the tax to the state the fuel is destined for.

16 ~~(3)(4)~~ Alcohol that is blended or is to be blended with gasoline to be sold as gasohol is subject to  
 17 a tax per gallon equal to the license tax imposed on nonaviation gasoline distributors under subsection (1)."

18

19 **Section 2.** Section 15-70-321, MCA, is amended to read:

20 **"15-70-321. Tax on special fuel and volatile liquids.** (1) The department shall, under the provisions  
 21 of rules issued by it, collect or cause to be collected from the owners or operators of motor vehicles a tax,  
 22 as provided in subsection (2):

23 (a) for each gallon of undyed special fuel or other volatile liquid, except liquid petroleum gas, of  
 24 less than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used to  
 25 produce motor power to operate motor vehicles upon the public roads and highways of this state;

26 (b) for each gallon of special fuel or other volatile liquid, except liquid petroleum gas, of less than  
 27 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used in motor vehicles,  
 28 motorized equipment, and the internal combustion of any engines, including stationary engines, used in  
 29 connection with any work performed under any contracts pertaining to the construction, reconstruction,  
 30 or improvement of any highway or street and their appurtenances awarded by any public agencies,

1 including federal, state, county, municipal, or other political subdivisions; and

2 (c) for each gallon of dyed special fuel delivered into the fuel supply tank of a diesel-powered  
3 highway vehicle, regardless of weight, operating upon the public roads and highways of this state.

4 (2) The tax imposed in subsection (1) is 27 3/4 cents per gallon.

5 (3) When a consumer uses a credit card to purchase special fuel subject to the provisions of this  
6 section, the financial institution or company issuing the credit card may not charge or assess a fee to  
7 NOT BE CHARGED TO OR ASSESSED ON retailers on that portion of the transaction attributable to the tax  
8 provided for in this section."

9

10 **Section 3.** Section 15-70-343, MCA, is amended to read:

11 **"15-70-343. Special fuel license tax -- rate.** (1) (a) Each distributor shall pay to the department  
12 of transportation a license tax for the privilege of engaging in and carrying on business in this state. The  
13 license tax is in the amount imposed under 15-70-321 for each gallon of special fuel that is distributed by  
14 the distributor within the state and upon which the special fuel license tax has not been paid by any other  
15 distributor.

16 (b) When a consumer uses a credit card to purchase special fuel subject to the provisions of this  
17 subsection (1), the financial institution or company issuing the credit card may not charge or assess a fee  
18 to MAY NOT BE CHARGED TO OR ASSESSED ON retailers on that portion of the transaction attributable to the tax  
19 provided for in this subsection (1).

20 (2) Special fuel may not be included in the measure of the distributor's license tax if it is:

21 (a) dyed by injector at a refinery or terminal for off-highway use; or

22 (b) sold for export, unless the distributor is not licensed and is not paying the tax to the state  
23 where the fuel is destined."

24

25 **Section 4.** Section 75-11-314, MCA, is amended to read:

26 **"75-11-314. Petroleum storage tank cleanup fee -- collection -- penalties -- warrant for distraint**  
27 **-- statute of limitations.** (1) Except as provided in subsection (4), each distributor shall pay to the  
28 department of transportation a petroleum storage tank cleanup fee for each gallon of gasoline, aviation  
29 gasoline, special fuel, or heating oil distributed by the distributor within the state and upon which the fee  
30 has not been paid by any other distributor. The fee must equal:

1 ~~\_\_\_\_\_ (a) 1 cent for each gallon of gasoline distributed from July 1, 1989, through June 30, 1991;~~

2 ~~(b)(a) 0.75 cent for each gallon of gasoline distributed after July 1, 1991;~~

3 ~~(c)(b) 0.75 cent for each gallon of aviation gasoline distributed after July 1, 1993;~~

4 ~~(d)(c) 0.75 cent for each gallon of special fuel distributed after July 1, 1993; and~~

5 ~~(e)(d) 0.75 cent for each gallon of heating oil distributed after July 1, 1993.~~

6 (2) Gasoline, aviation gasoline, special fuel, and heating oil exported or sold for export out of the  
7 state must be included in the measure of a distributor's fee.

8 (3) Alcohol that is blended with gasoline to be sold as gasohol is subject to the fee provided in  
9 subsection (1).

10 (4) A fee may not be imposed or collected beginning on the first day of the first month in the first  
11 calendar quarter after the unobligated balance in the fund equals or exceeds \$8 million. Whenever the  
12 unobligated fund balance, less claims anticipated for board approval within the next 90 days, is less than  
13 \$4 million, the department of transportation shall, within 30 days, notify distributors by mail that the fee  
14 is reinstated beginning on the first day of the first month that begins no less than 30 days after the date  
15 of the notice. Once reinstated, the fee must be imposed and collected until the unobligated fund balance  
16 again equals or exceeds \$8 million.

17 (5) The department of transportation shall collect the fee in the same manner as the basic gasoline  
18 license tax under Title 15, chapter 70, part 2. The provisions of 15-70-103, 15-70-111, 15-70-202,  
19 15-70-205, 15-70-206, 15-70-208 through 15-70-212, 15-70-221(2), and 15-70-232 apply to the fee.  
20 The provisions of 15-70-204, 15-70-207, 15-70-221(1), and 15-70-222 through 15-70-224 do not apply  
21 to the fee.

22 (6) When a consumer uses a credit card to purchase gasoline or special fuel subject to the  
23 provisions of this section, the financial institution or company issuing the credit card may not charge or  
24 assess a fee to MAY NOT BE CHARGED TO OR ASSESSED ON retailers on that portion of the transaction  
25 attributable to the fee provided for in this section."

26

27 NEW SECTION. Section 5. Saving clause. [This act] does not affect rights and duties that  
28 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
29 act].

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1            NEW SECTION. **Section 6. Effective date.** [This act] is effective ~~on passage and approval~~ JANUARY  
2 1, 2002.

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4            NEW SECTION. **Section 7. Applicability.** [This act] applies to financial institutions or companies  
5 issuing cards that enter into or renew agreements with retailers after [the effective date of this act].

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