

SENATE BILL NO. 31

INTRODUCED BY B. STORY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

1

2

3

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAX INCENTIVE LAWS RELATING TO THE

6 PRODUCTION OF ALCOHOL; CLARIFYING THE MEANING OF "START CONSTRUCTION OR

7 REMODELING" OF A PRODUCTION FACILITY; PROVIDING FOR VERIFICATION OF CONSTRUCTION

8 COMPLETION OF A PRODUCTION FACILITY BY AN INDEPENDENT THIRD PARTY; CLARIFYING THAT

9 THERE MAY NOT BE MORE THAN ONE WRITTEN PLAN SUBMITTED CONCURRENTLY FOR THE SAME

10 PRODUCTION FACILITY LOCATION; AMENDING SECTIONS 15-70-503 AND 15-70-522, MCA; AND

11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12

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

14

15 **Section 1.** Section 15-70-503, MCA, is amended to read:

16 **"15-70-503. Definitions.** As used in this part, the definitions in 15-70-201 and the following definitions

17 apply:

18 (1) "Alcohol distributor" means any person who, for the purpose of making gasohol, engages in the

19 business of producing alcohol for sale, use, or distribution.

20 (2) "Department" means the department of transportation.

21 (3) "Export" means to transport out of Montana from any point of origin within Montana by any means

22 other than in the fuel supply tank of a motor vehicle.

23 (4) "Gasohol dealer" means any person who blends alcohol with gasoline to produce gasohol for sale,

24 use, or distribution in this state.

25 (5) "Start construction or remodeling" means the onsite development, construction, alteration, repair,

26 or remodeling of a facility to produce alcohol."

27

28 **Section 2.** Section 15-70-522, MCA, is amended to read:

29 **"15-70-522. Tax incentive for production of alcohol -- written plan required -- reservation of**

30 **incentives -- rules.** (1) (a) If the alcohol was produced in Montana from Montana agricultural products, including

1 Montana wood or wood products, or if the alcohol was produced from non-Montana agricultural products when
2 Montana products are not available, there is a tax incentive payable to alcohol distributors for distilling alcohol
3 that:

4 (i) is to be blended with gasoline for sale as gasohol in Montana;

5 (ii) was exported from Montana to be blended with gasoline for sale as gasohol; or

6 (iii) is to be used in the production of ethyl butyl ether for use in reformulated gasoline.

7 (b) Payment must be made by the department out of the amount collected under 15-70-204.

8 (2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of alcohol distilled
9 in accordance with subsection (1) is 30 cents a gallon for each gallon that is 100% produced from Montana
10 products, with the amount of the tax incentive for each gallon reduced proportionately, based upon the amount
11 of agricultural or wood products not produced in Montana that is used in the production of the alcohol. Beginning
12 July 1, 2010, there is no tax incentive.

13 (3) Regardless of the alcohol tax incentive provided in subsection (2), the total payments made for the
14 incentive under this part may not exceed \$6 million in any consecutive 12-month period.

15 (4) An alcohol distributor may not receive tax incentive payments under subsection (2) that exceed \$3
16 million in any consecutive 12-month period.

17 (5) An alcohol distributor may not receive tax incentive payments under subsection (2) unless the
18 distributor has provided a written business plan to the department of transportation at least 24 months before
19 the distributor's anticipated collection of the tax incentives and has complied with the schedule provided for in
20 subsection (6). The plan must contain the following information:

21 (a) the source or sources of financing for the acquisition of the plant, land, and equipment used for the
22 production of alcohol for use in gasohol;

23 (b) the anticipated source of agricultural products used in the production of alcohol for use in gasohol;
24 and

25 (c) the anticipated time, quantity, and duration of production of alcohol for use in gasohol.

26 (6) An applicant that has provided the department with a written business plan shall meet the following
27 schedule to be able to receive alcohol tax incentive payments:

28 (a) start ~~building~~ construction or remodeling within 24 months of the date on which the department
29 received the business plan;

30 (b) complete 50% of construction or remodeling of a production facility, as verified by an independent

1 third party selected by the department and paid for by the applicant, within 36 months of the date on which the
2 business plan was received; and

3 (c) complete 100% of construction or remodeling of a production facility and be in production of alcohol
4 for use in gasohol for distribution within 48 months of the date on which the business plan was received.

5 (7) If the applicant does not adhere to the schedule in subsection (6), the applicant loses its priority for
6 receiving incentive payments.

7 (8) After the department has verified production, the department shall begin payments of the alcohol
8 tax incentives based on actual production according to the terms of subsection (2).

9 ~~The (a) Except a provided in subsection (9)(b), the~~ department shall reserve, in the order that written
10 plans required under subsection (5) are received by the department, alcohol tax incentives based on the
11 anticipated time, quantity, and duration of production.

12 (b) There may not be more than one written plan, as required under subsection (5), concurrently in effect
13 for the same production facility location.

14 (10) A new tax incentive payment may not be made if the total tax incentive established in subsection
15 (3) has been reserved or paid. If an alcohol tax incentive has been reduced or canceled, the amount by which
16 the tax incentive has been reduced or canceled is available for reservation as provided in subsection (9).

17 (11) The department shall prescribe rules necessary to carry out the provisions of this section."
18

19 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

20 - END -