

HOUSE BILL NO. 346

INTRODUCED BY D. SALOMON

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE USE OF DYED SPECIAL FUEL IN A MOTOR VEHICLE THAT IS DESIGNED OR SPECIALLY MODIFIED FOR PRIMARY USE AS A FARM OR RANCH VEHICLE AND USED PRIMARILY IN OFF-HIGHWAY FARMING OR RANCHING OPERATIONS; AND AMENDING SECTIONS 15-70-302, 15-70-311, 15-70-317, AND 15-70-330, MCA."

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

Section 1. Section 15-70-302, MCA, is amended to read:

"15-70-302. Special fuel user's permits required -- exceptions. (1) (a) A special fuel user shall obtain a special fuel user's permit annually from the department prior to the use of special fuel:

(i) by a special fuel user awarded a contract or subcontract in accordance with 15-70-321; or

(ii) in a vehicle permitted pursuant to an agreement adopted pursuant to 15-70-121.

(b) Except as provided in subsection (3), a special fuel user that is required to obtain a permit under subsection (1)(a) shall at all times display the original or a reproduced copy of the permit in each special fuel vehicle operated by the special fuel user upon the public roads and highways. The permit or copy must be exhibited for inspection on request of any motor carrier services division employee, Montana highway patrol officer, authorized employee of the department, or any other law enforcement officer. The special fuel user is responsible for reproducing clear and legible copies of the permit.

(2) Any out-of-state user who operates a special fuel vehicle solely for recreation or for religious, charitable, educational, or other eleemosynary purposes shall secure a special fuel user's courtesy vehicle permit. The permit is not transferable and is valid for 90 days. Permits must be issued at no cost to the user by the department motor carrier services enforcement officers and motor carrier services patrol officers. The department may require a user who has fuel capacity in excess of 30 gallons to file a report and pay the tax on fuel used in Montana on which the tax has not been paid.

(3) A special fuel user need not display the original or reproduced copy of the special fuel user's permit, as required by subsection (1), if the special fuel user is registered and licensed pursuant to the International Fuel Tax Agreement, as authorized by 15-70-121, and the vehicle displays a license or decal issued pursuant to the

1 agreement.

2 (4) Except as provided in 15-70-317, a special fuel user who obtains a permit under subsection (1) may
3 use only fuel on which state fuel tax has been paid."

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5 **Section 2.** Section 15-70-311, MCA, is amended to read:

6 **"15-70-311. Special fuel user's temporary trip permits -- nonresident agricultural harvesting**
7 **equipment special fuel permit -- special fuel user's agricultural product temporary trip permit.** (1) Any
8 person operating a special fuel-powered vehicle over 26,000 pounds gross vehicle weight or registered gross
9 vehicle weight upon the public roads and highways of this state who is not operating the vehicle under
10 15-70-330(3) and who fails or neglects to carry in the vehicle a valid special fuel vehicle permit, as provided by
11 15-70-302, is required to purchase a special fuel user's temporary trip permit. The permits must be issued by
12 motor carrier services division employees, Montana highway patrol officers, and other enforcing agents that the
13 department may prescribe by order or rule.

14 (2) Any nonresident upon entering the state with agricultural harvesting equipment that is over 26,000
15 pounds gross vehicle weight or registered gross vehicle weight and that is powered by special fuel and operating
16 upon the public roads and highways of this state who is not operating the equipment under 15-70-330(3) and who
17 fails or neglects to carry in or on equipment a valid special fuel vehicle permit, as provided by 15-70-302, is
18 required to purchase a nonresident agricultural harvesting equipment special fuel permit. The permit must be
19 issued by motor carrier services division employees, Montana highway patrol officers, and other enforcing agents
20 that the department may prescribe by order or rule.

21 (3) Any person operating a special fuel-powered vehicle over 26,000 pounds gross vehicle weight or
22 registered gross vehicle weight upon the public roads and highways of this state who is not operating the vehicle
23 under 15-70-330(3) but who is using the vehicle for the movement of that person's agricultural products, as
24 defined in 80-11-101, and who fails or neglects to carry in the vehicle a valid special fuel vehicle permit, as
25 provided by 15-70-302, is required to purchase a special fuel user's agricultural product temporary trip permit.
26 The permit is not valid for contract custom haulers. The permit is valid for a radius of 70 miles from a point
27 specified on the permit. The permit must be issued by motor carrier services division employees, Montana
28 highway patrol officers, and other enforcing agents that the department may prescribe by order or rule. A permit
29 application may be submitted electronically, and the permit may be subsequently issued when the appropriate
30 fee required in 15-70-312(3) is received by the permit issuer. Any costs associated with the electronic application

1 process may be added to the total cost of the permit."

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3 **Section 3.** Section 15-70-317, MCA, is amended to read:

4 **"15-70-317. Use of dyed special fuel allowed for certain projects and operations -- temporary**
5 **permit -- tax and penalty imposed for unauthorized use -- grounds for refusal -- rules.** (1) (a) A special fuel
6 user who obtains a special fuel user's permit under 15-70-302 may use dyed special fuel as provided in this
7 section.

8 (b) A special fuel user may use dyed special fuel as provided in 15-70-330(3).

9 (2) (a) A special fuel user may use dyed special fuel when used in nonlicensed motorized equipment,
10 off-highway vehicles, or internal combustion engines, including stationary engines, that are used in connection
11 with any work performed under a contract or subcontract for a private, nonhighway construction project. The
12 special fuel user may use dyed special fuel supplied by the owner or operator of the project or may purchase
13 dyed special fuel.

14 (b) The special fuel user authorized to use dyed special fuel under subsection (2)(a) shall notify the
15 department that:

16 (i) the special fuel user intends to use dyed special fuel in performance of a contract or subcontract
17 specified in subsection (2)(a);

18 (ii) the special fuel user intends to use at least 75,000 gallons annually in the performance of the contract
19 or subcontract as evidenced in the contract, subcontract, or other documentation;

20 (iii) dyed special fuel will not be used in motor vehicles, off-highway vehicles, equipment, or internal
21 combustion engines that are not directly used in the performance of the contract or subcontract.

22 (3) (a) When the department certifies that the use of dyed special fuel will be used as provided in ~~this~~
23 ~~section~~ subsection (2), the department may issue a temporary permit to use dyed special fuel in off-highway
24 vehicles and internal combustion engines, including stationary engines, for the duration of the contract or
25 subcontract. The department may extend the duration of the temporary permit upon request of the special fuel
26 user and the extension of the project.

27 (b) A special fuel user that is issued a temporary permit under this ~~section~~ subsection (3) shall make the
28 original or a reproduced copy of the permit available for inspection on request of any motor carrier services
29 division employee, Montana highway patrol officer, authorized employee of the department, or any other law
30 enforcement officer. The special fuel user is responsible for reproducing clear and legible copies of the permit.

1 (4) ~~The~~ A special fuel user issued a temporary permit under subsection (3) shall, within 30 days of the
2 completion of the contract, report the following on a form provided by the department:

3 (a) the number of gallons of dyed special fuel used on the project;

4 (b) the amount of fuel, if any, provided by the owner or operator of the project to the special fuel user;

5 (c) the amount of dyed special fuel purchased, if any, by the special fuel user for use on the project; and

6 (d) all dyed special fuel reported in a return filed in accordance with the requirements of 15-70-325.

7 (5) If the department determines that ~~the~~ a special fuel user reporting pursuant to subsection (4)
8 purposely overstated the number of gallons to be used on the project, the department may revoke the permit
9 issued under ~~this section~~ subsection (3).

10 (6) (a) A special fuel user that uses dyed special fuel for purposes other than those allowed under
11 15-70-330(3) or this section shall pay the tax imposed under 15-70-321 on the unauthorized use of the special
12 fuel and is subject to penalty and interest imposed under 15-70-330 and to the civil penalties imposed under
13 15-70-372.

14 (b) If a special fuel user uses dyed special fuel for an unauthorized purpose, the department may
15 suspend the temporary permit issued under subsection (3) for a period not exceeding 30 days for the first
16 violation. For a second violation, the department shall revoke the temporary permit. During the period of
17 suspension, the special fuel user is required to use special fuel on which the state special fuel tax has been paid.

18 (7) If the department revokes a temporary permit issued under ~~this section to a special fuel user~~
19 subsection (3), the department may refuse to issue a temporary permit or a special fuel user permit to the special
20 fuel user in the same manner as provided in 15-70-305.

21 (8) A special fuel user that is issued a temporary permit under subsection ~~(4)~~ (3) shall keep the following
22 records:

23 (a) all dyed special fuel receipts for the project;

24 (b) the location of the fixed or mobile facility where the dyed special fuel is stored and withdrawn for the
25 project;

26 (c) the date of any fuel disbursement;

27 (d) the number of gallons withdrawn;

28 (e) the beginning and ending meter readings or other means of determining the quantity of dyed special
29 fuel withdrawn;

30 (f) the identification number, hour meter, or unit number of the off-highway vehicle, equipment, or internal

1 combustion engine in which the dyed special fuel was used; and
 2 (g) the purpose of the withdrawal if the fuel is withdrawn by the special fuel user for any other purpose.
 3 (9) The department may adopt rules for the administration and enforcement of this section."
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5 **Section 4.** Section 15-70-330, MCA, is amended to read:

6 **"15-70-330. Special fuel penalties.** (1) In the case of a special fuel user who refuses or fails to file a
 7 return required by this part within the time prescribed by 15-70-103 and 15-70-325, there is imposed a penalty
 8 of \$25 or a sum equal to 10% of the tax due, whichever is greater, together with interest at the rate of 1% on the
 9 tax due for each calendar month or fraction of a month during which the refusal or failure continues. However,
 10 if any special fuel user establishes to the satisfaction of the department that the failure to file a return within the
 11 time prescribed was due to reasonable cause, the department shall waive the penalty provided by this section.

12 (2) Whenever a special fuel user files a return but fails to pay in whole or in part the tax due under this
 13 part, interest at the rate of 1% a month or fraction of a month from the date on which the tax was due to the date
 14 of payment in full must be added to the amount due and unpaid.

15 (3) (a) A special fuel user may not use dyed special fuel to operate a motor vehicle upon the public roads
 16 and highways of this state unless the use is permitted pursuant to rules adopted under subsection ~~(3)(b)~~ (3)(d).

17 (b) A special fuel user may use dyed special fuel to operate a motor vehicle upon the public roads and
 18 highways of this state if the special fuel user is operating a motor vehicle designed or specially modified for
 19 primary use as a farm or ranch vehicle that is used primarily in off-highway farming or ranching operations. The
 20 vehicle may be driven on the public roads or highways:

21 (i) for repairs or maintenance;
 22 (ii) to pick up supplies or inputs used for agricultural or ranching purposes; or
 23 (iii) if the use of the vehicle upon the public roads or highways is strictly incidental to its use in off-highway
 24 farming or ranching operations, such as crossing from one side of a public road or highway to the other side.

25 (c) The purposeful or knowing use of dyed special fuel in a motor vehicle operating upon the public roads
 26 and highways of this state in violation of this subsection (3) is subject to the civil penalty imposed under
 27 15-70-372(2). Each use is a separate offense.

28 ~~(b)(d)~~ The department shall adopt and enforce reasonable rules for the movement of off-highway
 29 vehicles and vehicles described in subsection (3)(b) traveling from one location to another on public highways,
 30 public roads, or streets when using dyed fuel or nontaxed fuel.

