

HOUSE BILL NO. 60

INTRODUCED BY W. CURDY

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PENALTY AND INTEREST PROVISIONS FOR GASOLINE AND SPECIAL FUEL TAXES; AMENDING PROVISIONS RELATED TO THE WAIVER OF PENALTIES; AND AMENDING SECTIONS 15-70-210 AND 15-70-352, MCA."

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

Section 1. Section 15-70-210, MCA, is amended to read:

"15-70-210. Tax penalty for delinquency. (1) ~~Any~~ Except for tax due under the agreement adopted under 15-70-121, any license tax not paid within the time provided in 15-70-113(3) and 15-70-205 is delinquent; a. A penalty of 10% must be added to the tax, and the tax bears interest at the rate of 1% a month, prorated daily, from the date of delinquency until paid. ~~Upon a showing of good cause by the distributor, the department may waive any penalty.~~

~~(2) If a distributor or other person subject to the payment of the license tax willfully fails, neglects, or refuses to make any statement required by this part or willfully fails to make payment of the license tax within the time provided, the department may revoke any license issued under this part.~~

~~(3) The department shall set forth the information that it requires in the statement and determine the amount of the license tax due from the distributor and shall add a penalty of \$100 or 10% of the amount due, whichever is greater, together with interest at the rate of 1% a month, prorated daily, from the date that the statements should have been made and the license tax should have been paid.~~

~~(2)~~ A EXCEPT AS PROVIDED IN SUBSECTION (3), A statement filed after the date required in 15-70-205 is subject to a \$100 penalty.

~~(3) The department may waive a penalty for good cause shown by the distributor. Good cause includes the following:~~

~~(a) an inability to file and pay because of an act of God, a natural disaster, or an emergency declared by the governor or by the president of the United States;~~

~~(b) an inability to file and pay because of seizure of property by a foreign government or court of law;~~



1 ~~_____ (c) an inability to file and pay because the distributor's assets are impounded or frozen because of bank~~
 2 ~~failure;~~

3 ~~_____ (d) an inability to file and pay because the distributor or other person required to pay the tax has a serious~~
 4 ~~medical emergency; and~~

5 ~~_____ (e) a first-time late filing offense within a 3-year period of timely filings.~~

6 (3) (A) THE DEPARTMENT SHALL WAIVE THE PENALTY IF THE LATE FILING IS THE FIRST OFFENSE WITHIN A 3-YEAR
 7 PERIOD OF TIMELY FILINGS.

8 (B) THE DEPARTMENT MAY WAIVE THE PENALTY IF THE DIRECTOR OR THE DIRECTOR'S DESIGNEE DETERMINES
 9 THE LATE FILING OR PAYMENT TO BE BEYOND THE DISTRIBUTOR'S CONTROL.

10 (4) If a distributor or other person required to pay the license tax willfully fails, neglects, or refuses to file
 11 any statement required by this part or willfully fails to pay the license tax within the time provided, the department
 12 may revoke any license issued under this part.

13 (4)(5) The Except as provided in subsection (3), the department shall proceed to collect the a delinquent
 14 license tax, with penalties and interest. At the request of the department, the attorney general shall commence
 15 and prosecute to final determination in any court of competent jurisdiction an action to collect the license tax."

16

17 **Section 2.** Section 15-70-352, MCA, is amended to read:

18 **"15-70-352. Penalties for delinquency.** (1) ~~Any~~ Except for tax due under the agreement adopted under
 19 15-70-121, any license tax not paid within the time provided in 15-70-113(3) and 15-70-344 is delinquent, a. A
 20 penalty of 10% is must be added to the tax, and the tax bears interest at the rate of 1% per month, prorated daily,
 21 on the tax due for each calendar month from the date of delinquency until paid. ~~Upon a showing of good cause~~
 22 by the distributor, the department may waive the penalty.

23 ~~(2) If a distributor or other person subject to the payment of the license tax willfully fails, neglects, or~~
 24 ~~refuses to make any statement required by this part or willfully fails to make payment of the license tax within the~~
 25 ~~time provided, the department may revoke any license issued under this part.~~

26 ~~(3) The department shall set forth the information it requires in the statement and determine the amount~~
 27 ~~of the license tax due from the distributor and shall add a penalty of \$100 or 10% of the amount due, whichever~~
 28 ~~is greater, together with an interest rate of 1% a month, prorated daily, from the date the statements should have~~
 29 ~~been made and the license tax should have been paid.~~

30 (2) A EXCEPT AS PROVIDED IN SUBSECTION (3), A statement filed after the date required in 15-70-344 is

1 subject to a \$100 penalty.

2 ~~(3) The department may waive a penalty for good cause shown by the distributor. Good cause includes~~
3 ~~the following:~~

4 ~~—— (a) an inability to file and pay because of an act of God, a natural disaster, or an emergency declared by~~
5 ~~the governor or by the president of the United States;~~

6 ~~—— (b) an inability to file and pay because of seizure of property by a foreign government or court of law;~~

7 ~~—— (c) an inability to file and pay because the distributor's assets are impounded or frozen because of bank~~
8 ~~failure;~~

9 ~~—— (d) an inability to file and pay because the distributor or other person required to pay the tax has a serious~~
10 ~~medical emergency; and~~

11 ~~—— (e) a first-time late filing offense within a 3-year period of timely filings.~~

12 (3) (A) THE DEPARTMENT SHALL WAIVE THE PENALTY IF THE LATE FILING IS THE FIRST OFFENSE WITHIN A 3-YEAR
13 PERIOD OF TIMELY FILINGS.

14 (B) THE DEPARTMENT MAY WAIVE THE PENALTY IF THE DIRECTOR OR THE DIRECTOR'S DESIGNEE DETERMINES
15 THE LATE FILING OR PAYMENT TO BE BEYOND THE DISTRIBUTOR'S CONTROL.

16 (4) If a distributor or other person required to pay the license tax willfully fails, neglects, or refuses to file
17 any statement required by this part or willfully fails to pay the license tax within the time provided, the department
18 may revoke any license issued under this part.

19 ~~(4)(5) The~~ Except as provided in subsection (3), the department shall proceed to collect the a delinquent
20 license tax, with penalties and interest. At the request of the department, the attorney general shall commence
21 and prosecute to final determination in any court of competent jurisdiction an action to collect the license tax."

22
23 COORDINATION SECTION. SECTION 3. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 99 AND
24 [THIS ACT] ARE PASSED AND APPROVED, THEN SECTION 15-70-352(4) IN [THIS ACT] MUST READ AS FOLLOWS:

25 "(4) IF A DISTRIBUTOR OR OTHER PERSON REQUIRED TO PAY THE TAX WILLFULLY FAILS, NEGLECTS, OR REFUSES
26 TO FILE ANY STATEMENT REQUIRED BY THIS PART OR WILLFULLY FAILS TO PAY THE TAX WITHIN THE TIME PROVIDED, THE
27 DEPARTMENT MAY REVOKE ANY LICENSE ISSUED UNDER THIS PART."

28 - END -