

HOUSE BILL NO. 81

INTRODUCED BY W. CURDY

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING GASOLINE TAX LAWS RELATED TO AVIATION FUEL; ELIMINATING REFUNDS BASED ON PURCHASE OF AVIATION FUEL; REVISING ALLOCATIONS FROM THE AIRCRAFT REGISTRATION ACCOUNT; AMENDING SECTIONS 15-70-425, 15-70-432, 67-1-301, AND 67-3-205, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 15-70-425, MCA, is amended to read:

**"15-70-425. Refund or credit authorized.** (1) A person who purchases and uses any gasoline or special fuel on which the Montana gasoline or special fuel tax has been paid for denaturing ethanol to be used in ethanol-blended gasoline, operating stationary gasoline or special fuel engines used off the public roads and highways of this state, or for any commercial use other than operating vehicles on any of the public roads and highways of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline or special fuel used if the person has records, as provided in 15-70-426, to prove nontaxable use. The refund may not exceed the tax paid or to be paid to the state. ~~Except as provided in subsection (6), a~~ A refund is not allowed for the tax per gallon on aviation fuel allocated to the department of transportation as provided in 67-1-301.

(2) (a) The United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state is entitled to a refund of the taxes paid on special fuel regardless of the use of the special fuel.

(b) (i) A nonpublic school may use dyed special fuel in buses that are owned by the nonpublic school if the buses are used for the transportation of pupils solely for nonsectarian school-related purposes.

(ii) For the purposes of this subsection (2)(b), nonpublic schools are those schools that have been accredited pursuant to 20-7-102.

(3) A distributor who pays the gasoline or special fuel tax to this state erroneously is allowed a credit or refund of the amount of tax paid.

(4) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline or



1 special fuel with a tax liability of \$200 or greater for which the distributor has not received consideration from or  
 2 on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor shall have  
 3 declared the accounts of the purchaser worthless not more than once during a 3-year period and claimed those  
 4 accounts as bad debts for federal or state income tax purposes.

5 (b) If a credit has been granted under subsection (4)(a), any amount collected on the accounts declared  
 6 worthless must be reported to the department and the tax due must be prorated on the collected amount and  
 7 must be paid to the department.

8 (c) The department may require a distributor to submit periodic reports listing accounts that are  
 9 delinquent for 90 days or more.

10 (5) A person who purchases and exports for sale, use, or consumption outside Montana any gasoline  
 11 or special fuel on which the Montana gasoline or special fuel tax has been paid is entitled to a credit or refund  
 12 of the amount of tax paid unless the person is not licensed and is not paying the tax to the state where fuel is  
 13 destined. Upon completion of the reports required under 15-70-416, the department shall authorize the credit or  
 14 refund.

15 ~~(6) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund of 2~~  
 16 ~~cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline tax has been paid.~~  
 17 ~~The refund must be paid from the account established in 67-1-301(3)(a)(ii)."~~

18  
 19 **Section 2.** Section 15-70-432, MCA, is amended to read:

20 **"15-70-432. Application for refund or credit -- filing -- correction by department.** (1) (a) Except as  
 21 provided in subsection (1)(b), the application for a refund must be a signed statement on a form furnished by the  
 22 department. Except for a claim for a credit for taxes paid on unpaid accounts or special fuel taxes paid by the  
 23 United States government, the state of Montana, any other state, or any county, incorporated city, town, or school  
 24 district of this state or except for a claim for a refund filed electronically, the form must be accompanied by the  
 25 original bulk delivery invoice or invoices issued to the claimant at the time of each purchase and delivery and  
 26 must show the total amount of gasoline or special fuel purchased ~~or aviation fuel purchased by a certified~~  
 27 ~~scheduled passenger air carrier~~, the total amount of gasoline or special fuel on which a refund is claimed, and  
 28 the amount of the tax claimed for refund. A claim for a credit for taxes paid on accounts for which the distributor  
 29 did not receive compensation must be accompanied by documents or copies of documents showing that the  
 30 accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any further

1 information pertaining to a claim must be furnished as required by the department.

2 (b) A claim for a refund that is filed electronically in the manner specified by the department does not  
3 require a signature or the original invoices.

4 (c) A claim for a refund that is filed electronically does not relieve the taxpayer of maintaining records  
5 on which the claim for a refund is based.

6 (2) A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery, as  
7 defined in 15-70-401, is not valid for refund purposes.

8 (3) All applications for refunds must be filed with the department within 36 months after the date on which  
9 the gasoline or special fuel was purchased as shown by invoices or after the date on which the tax was  
10 erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid  
11 by the distributor on unpaid accounts within 3 years after the date of payment.

12 (4) If the department finds that the statement contains errors that are not fraudulently inserted, it may  
13 correct the statement and approve it as corrected or the department may require the claimant to file an amended  
14 statement."

15

16 **Section 3.** Section 67-1-301, MCA, is amended to read:

17 **"67-1-301. Money -- receipt and disbursement.** (1) All costs and expenses of administering this title,  
18 including the salaries of employees of the department engaged in functions pertaining to aeronautics, the  
19 expenses of members of the board, and all other disbursements necessary to carry out the purposes of this title,  
20 must be paid out of the following revenue:

21 (a) all gifts and all legislative appropriations to the department for aeronautics; and

22 (b) all money received from any branch or department of the federal government or from other sources  
23 for the purposes of this title or for the furtherance of aeronautics generally in this state.

24 (2) All money collected under subsection (1) must be deposited in the state treasury to the credit of the  
25 department.

26 (3) (a) ~~Except as provided in subsection (5), the~~ The following amounts must be deposited from the  
27 proceeds of the 4-cent-a-gallon tax imposed on aviation fuel by 15-70-403(1)(c):

28 (i) in the state special revenue fund to the credit of the department, an amount equal to the proceeds of  
29 2 cents a gallon collected under 15-70-403(1)(c) for the sole purpose of carrying out its functions pertaining to  
30 aeronautics; and

1 (ii) in a separate account in the state special revenue fund to the credit of the department, an amount  
 2 equal to the proceeds of 2 cents a gallon to provide refunds pursuant to ~~15-70-425(6)~~; to provide grants to  
 3 municipalities for airport development or improvement programs; and to provide navigational aids, safety  
 4 improvements, weather reporting services, and other aeronautical services for airports and landing fields and for  
 5 the state's airways.

6 (b) Money deposited in the account created in 67-1-306 may, with the approval of the board, be used  
 7 only to provide loans to local governments and state agencies for aeronautical purposes, including airport  
 8 improvement. The board shall establish procedures, including the interest rate charged, for providing loans.  
 9 Proceeds of all repayments of loans, including interest, made under this subsection (3)(b) must be deposited in  
 10 the account created in 67-1-306.

11 (c) Money deposited in the separate account established in subsection (3)(a)(ii) may, ~~after refunds are~~  
 12 ~~provided pursuant to 15-70-425(6) and~~ with the approval of the board, be used only to provide grants to  
 13 municipalities for airport development or improvement programs and to provide navigational aids, safety  
 14 improvements, weather reporting services, and other aeronautical services for airports and landing fields and for  
 15 the state's airways. The board shall establish procedures for the awarding of grants.

16 (4) ~~Except as provided in 15-70-425, the~~ The gasoline tax imposed by the laws of this state on aviation  
 17 fuel purchased and used for the operation of airplanes or aircraft may not be refunded.

18 ~~(5) Of the amount of aviation fuel tax collected from the scheduled passenger air carriers certified under~~  
 19 ~~14 CFR, part 121 or 135, 25% must be deposited in an account separate from the account established in~~  
 20 ~~subsection (3)(a)(ii) to be used only for pavement preservation grants, with the approval of the board, on airports~~  
 21 ~~served by these air carriers."~~

22

23 **Section 4.** Section 67-3-205, MCA, is amended to read:

24 **"67-3-205. Aircraft registration account -- source of funds -- allocation.** (1) There is an account in  
 25 the state special revenue fund to which must be credited all money received from fees paid in lieu of tax on  
 26 aircraft, as required in 15-24-304 and this part, and all penalties collected for registration violations, as provided  
 27 in 67-3-202.

28 (2) Money in the account is allocated as follows:

29 (a) ~~90%~~ 30% to the state general fund; and

30 (b) ~~40%~~ 70% to the department for the purpose of administering ~~and enforcing aircraft registration~~

1 department functions pertaining to aeronautical powers and duties as provided in 67-2-101.

2 (3) The allocations required in subsection (2) must be made when received by the department."

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4 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2019.

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6 NEW SECTION. Section 6. Applicability. [This act] applies to aviation fuel taxes paid after June 30,

7 2019.

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