

SENATE BILL NO. 414

INTRODUCED BY G. PEASE

BY REQUEST OF THE SENATE HIGHWAYS AND TRANSPORTATION STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN EXTENDED SCHEDULE FOR APPLICANTS TO COMPLY WITH THE INCENTIVE PROGRAM FOR PRODUCTION OF GASOHOL; AMENDING SECTION 15-70-522, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of alcohol -- written plan required -- reservation of incentives -- rules. (1) (a) If the alcohol was produced in Montana from Montana agricultural products, including Montana wood or wood products, or if the alcohol was produced from non-Montana agricultural products when Montana products are not available, there is a tax incentive payable to alcohol distributors for distilling alcohol that:

- (i) was blended with gasoline for sale as gasohol in Montana;
 - (ii) was exported from Montana and has been blended with gasoline for sale as gasohol; or
 - (iii) was used in the production of ethyl butyl ether for use in reformulated gasoline.
- (b) Payment must be made by the department out of the amount collected under 15-70-204.

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

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

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

(5) An alcohol distributor may not receive tax incentive payments under subsection (2) unless the distributor has provided a written business plan to the department of transportation at least 24 months before the

distributor's anticipated collection of the tax incentives and has complied with the schedule provided for in subsection (6). The plan must contain the following information:

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

(b) the anticipated source of agricultural products used in the production of gasohol; and

(c) the anticipated time, quantity, and duration of production of gasohol.

~~(6) (a) Except as provided in subsection (6)(b), the~~ An applicant that has provided the department with a written business plan shall meet the following schedule to be able to receive alcohol tax incentive payments:

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

(b) complete 50% of construction or remodeling of a production facility within 36 months of the date on which the business plan was received; and

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

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

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

(9) The department shall reserve, in the order that written plans required under subsection (5) are received by the department, alcohol tax incentives based on the anticipated time, quantity, and duration of production. Payment of the alcohol tax incentives must be based on actual production:

~~——(b) No later than 1 year after the written plan is received under subsection (5), the department shall determine whether an alcohol distributor is complying with the written plan. The department may reduce or cancel the reservation of the tax incentive provided in this subsection (6) if the department determines that the alcohol distributor has not materially complied with the written plan.~~

~~——(7)(10)~~ A new tax incentive payment may not be made if the total tax incentive established in subsection (3) has been reserved or paid. If an alcohol tax incentive has been reduced or canceled, the amount by which the tax incentive has been reduced or canceled is available for reservation as provided in subsection (6)(a) (9).

~~(8)(11)~~ The department shall prescribe rules necessary to carry out the provisions of this section."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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