

SENATE BILL NO. 373

INTRODUCED BY J. KEANE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING ENFORCEMENT AUTHORITY OF MONTANA DEPARTMENT OF TRANSPORTATION PEACE OFFICERS TO INCLUDE THE ENFORCEMENT OF VEHICLE TITLE, REGISTRATION, AND LICENSE REQUIREMENTS FOR EMPLOYED NONRESIDENTS' MOTOR VEHICLES; AND AMENDING SECTIONS 15-70-233, 15-70-357, AND 61-12-206, MCA."

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

Section 1. Section 15-70-233, MCA, is amended to read:

"15-70-233. Improperly imported fuel -- seizure. (1) As used in this section, the following definitions apply:

- (a) "conveyance" means a tank car, vehicle, or vessel that is used to transport fuel;
- (b) "department" means the department of transportation; and
- (c) "peace officer" means an employee of the department of transportation designated or appointed as a peace officer under 61-10-154 or 61-12-201.

(2) Pursuant to 61-12-206~~(5)~~(6), a peace officer may:

- (a) stop and search a conveyance in the state if the peace officer has reasonable cause to believe that the conveyance is being used to carry improperly imported fuel and is intentionally avoiding fuel tax responsibilities; and
- (b) seize without a warrant imported fuel for which the distributor or transporter has not obtained a valid Montana gasoline or special fuel distributor license as required in 15-70-202 and 15-70-341.

(3) The peace officer shall obtain authorization from the director of the department of transportation or the director's designee before seizing fuel.

(4) Upon seizing the fuel that the peace officer believes to be improperly imported, the peace officer may:

- (a) direct the rerouting or transfer of the fuel to a location designated by the department. The department shall reimburse the carrier for transportation costs from the point of seizure to the location designated by the department.
- (b) unload the fuel; and



1 (c) take three samples of the fuel from the cargo tank for examination.

2 (5) Within 48 hours after seizure of the improperly imported fuel, the department shall issue a notice of
3 right to file claim for the return of interest or title to the fuel. The notice must be issued to:

4 (a) the original owner of the fuel;

5 (b) the owner of the transportation company that conveyed the fuel; and

6 (c) any other interested party.

7 (6) The parties listed in subsections (5)(a) through (5)(c) may file a claim for the return of interest or title
8 to the fuel within 30 days after the date of seizure. If a claim is filed for interest or title to the seized fuel, the
9 department shall:

10 (a) provide the opportunity for a hearing;

11 (b) if requested, conduct the hearing within 5 days after receiving the claim;

12 (c) make a final determination of the party to take interest or title to the fuel within 2 working days after
13 the hearing; and

14 (d) mail notice of the department's determination to interested parties.

15 (7) (a) The department may determine that the seized fuel be forfeited by the original owner and may:

16 (i) sell the fuel to the licensed Montana distributor predetermined through a bidding process established
17 in department administrative rule; or

18 (ii) use the forfeited fuel for a public purpose determined by the department.

19 (b) The department shall issue a certificate of sale to the licensed distributor who purchases the seized
20 fuel.

21 (c) The net proceeds from the sale of the fuel must be deposited in the general fund, less:

22 (i) the applicable taxes, fees, and penalties, which the department shall deposit in a highway revenue
23 account in the state special revenue fund, as required in 15-70-101; and

24 (ii) the administrative costs incurred in conjunction with the seizure and disposal of the improperly
25 imported fuel.

26 (8) If the department determines that the original owner of the fuel may reclaim interest or title to the fuel,
27 the department may:

28 (a) return to the owner money, less tax and penalty, equal to the wholesale value of the fuel on the day
29 of the seizure; or

30 (b) return the fuel.

1 (9) A person forfeits the interest, right, and title to improperly imported fuel if the person:

2 (a) fails to file a claim for the seized fuel within the time allowed in subsection (5); or

3 (b) is determined to be guilty of violating fuel tax laws.

4 (10) A person whose fuel is seized under this section is not relieved of any penalties imposed for illegal
5 fuel importation in Title 15, chapter 70."

6

7 **Section 2.** Section 15-70-357, MCA, is amended to read:

8 **"15-70-357. Improperly imported fuel -- seizure.** (1) As used in this section, the following definitions
9 apply:

10 (a) "Conveyance" means a tank car, vehicle, or vessel that is used to transport fuel.

11 (b) "Department" means the department of transportation.

12 (c) "Peace officer" means an employee of the department of transportation designated or appointed as
13 a peace officer under 61-10-154 or 61-12-201.

14 (2) Pursuant to 61-12-206~~(5)~~(6), a peace officer may:

15 (a) stop and search a conveyance in the state if the peace officer has reasonable cause to believe that
16 the conveyance is being used to carry improperly imported fuel and is intentionally avoiding fuel tax
17 responsibilities; and

18 (b) seize without a warrant imported fuel for which the distributor or transporter has not obtained a valid
19 Montana gasoline or special fuel distributor license as required in 15-70-202 and 15-70-341.

20 (3) The peace officer shall obtain authorization from the director of the department of transportation or
21 the director's designee before seizing fuel.

22 (4) Upon seizing the fuel that the peace officer believes to be improperly imported, the peace officer may:

23 (a) direct the rerouting or transfer of the fuel to a location designated by the department. The department
24 shall reimburse the carrier for transportation costs from the point of seizure to the location designated by the
25 department.

26 (b) unload the fuel; and

27 (c) take three samples of the fuel from the cargo tank for examination.

28 (5) Within 48 hours after seizure of the improperly imported fuel, the department shall issue a notice of
29 right to file claim for the return of interest or title to the fuel. The notice must be issued to:

30 (a) the original owner of the fuel;

- 1 (b) the owner of the transportation company that conveyed the fuel; and
- 2 (c) any other interested party.
- 3 (6) The parties listed in subsections (5)(a) through (5)(c) may file a claim for the return of interest or title
- 4 to the fuel within 30 days after the date of seizure. If a claim is filed for interest or title to the seized fuel, the
- 5 department shall:
- 6 (a) provide the opportunity for a hearing;
- 7 (b) if requested, conduct the hearing within 5 days after receiving the claim;
- 8 (c) make a final determination of the party to take interest or title to the fuel within 2 working days after
- 9 the hearing; and
- 10 (d) mail notice of the department's determination to interested parties.
- 11 (7) (a) The department may determine that the seized fuel be forfeited by the original owner and may:
- 12 (i) sell the fuel to the licensed Montana distributor predetermined through a bidding process established
- 13 in department administrative rule; or
- 14 (ii) use the forfeited fuel for a public purpose determined by the department.
- 15 (b) The department shall issue a certificate of sale to the licensed distributor who purchases the seized
- 16 fuel.
- 17 (c) The net proceeds from the sale of the fuel must be deposited in the general fund, less:
- 18 (i) the applicable taxes, fees, and penalties, which the department shall deposit in a highway revenue
- 19 account in the state special revenue fund, as required in 15-70-101; and
- 20 (ii) the administrative costs incurred in conjunction with the seizure and disposal of the improperly
- 21 imported fuel.
- 22 (8) If the department determines that the original owner of the fuel may reclaim interest or title to the fuel,
- 23 the department may:
- 24 (a) return to the owner money, less tax and penalty, equal to the wholesale value of the fuel on the day
- 25 of the seizure; or
- 26 (b) return the fuel.
- 27 (9) A person forfeits the interest, right, and title to improperly imported fuel if the person:
- 28 (a) fails to file a claim for the seized fuel within the time allowed in subsection (6); or
- 29 (b) is determined to be guilty of violating fuel tax laws.
- 30 (10) A person whose fuel is seized under this section is not relieved of any penalties imposed for illegal

1 fuel importation in Title 15, chapter 70."
2

3 **Section 3.** Section 61-12-206, MCA, is amended to read:

4 **"61-12-206. Offenses for which arrest authorized.** Employees designated or appointed as peace
5 officers under 61-10-154 or 61-12-201 may make arrests for violations of the following statutory provisions:

6 ~~(1)~~ 61-3-302(2)(b)(ii):

7 ~~(1)(2)~~ chapters 3 and 5 of this title, but, except as provided in subsection (1), only if the vehicle involved
8 is subject to 61-10-141;

9 ~~(2)(3)~~ chapter 10 of this title;

10 ~~(3)(4)~~ ~~part 3~~, chapter 4, part 3, of this title;

11 ~~(4)(5)~~ 15-24-201 through 15-24-205;

12 ~~(5)(6)~~ Title 15, chapter 70, parts 2 and 3;

13 ~~(6)(7)~~ 61-10-154 and safety rules adopted under that section;

14 ~~(7)(8)~~ Title 69, chapter 12."
15

- END -