

HOUSE BILL NO. 608

INTRODUCED BY W. CURDY

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A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE TAX ON AVIATION FUEL; PROVIDING FOR THE DISTRIBUTION OF THE INCREASED TAX; AND AMENDING SECTIONS 15-70-403 AND 67-1-301, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

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

Section 1. Section 15-70-403, MCA, is amended to read:

"15-70-403. Gasoline and special fuel tax -- incidence -- rates. (1) The incidence of the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state. Each distributor shall pay to the department of transportation a tax in an amount equal to:

(a) 27 cents for each gallon of gasoline distributed by the distributor within the state and upon which the gasoline tax has not been paid by any other distributor;

(b) 27 3/4 cents for each gallon of special fuel distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor; and

(c) 46 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center, which is allocated to the department as provided by 67-1-301.

(2) Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold for export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

(3) Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a refinery or terminal for off-highway use.

(4) When no Montana fuel tax has been paid by a distributor or any other person, the department shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public roads and highways of this state.

1 (5) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that
2 is equipped with a feed delivery box if:

3 (a) the feed delivery box is permanently affixed to the vehicle;

4 (b) the vehicle is used exclusively for the feeding of livestock; and

5 (c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

6 (6) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I.
7 (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal
8 combustion of any engines, including stationary engines, and used in connection with any work performed under
9 any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its
10 appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political
11 subdivisions, must be undyed fuel on which Montana fuel tax has been paid.

12 (7) Material used for construction, reconstruction, or improvement in connection with work performed
13 under a contract as provided in subsection (6) must be produced using fuel on which Montana fuel tax has been
14 paid."

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16 **Section 2.** Section 15-70-403, MCA, is amended to read:

17 **"15-70-403. Gasoline and special fuel tax -- incidence -- rates.** (1) The incidence of the fuel tax is on
18 the distributor for the privilege of engaging in and carrying on business in this state. Each distributor shall pay to
19 the department of transportation a tax in an amount equal to:

20 (a) 27 cents for each gallon of gasoline distributed by the distributor within the state and upon which the
21 gasoline tax has not been paid by any other distributor;

22 (b) 27 3/4 cents for each gallon of special fuel distributed by the distributor within the state and on which
23 the special fuel tax has not been paid by any other distributor; and

24 (c) 47 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center,
25 which is allocated to the department as provided by 67-1-301.

26 (2) Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold for
27 export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

28 (3) Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a
29 refinery or terminal for off-highway use.

30 (4) When no Montana fuel tax has been paid by a distributor or any other person, the department shall

1 collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and
 2 highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and subsection
 3 (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined
 4 in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American
 5 petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public
 6 roads and highways of this state.

7 (5) The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that
 8 is equipped with a feed delivery box if:

9 (a) the feed delivery box is permanently affixed to the vehicle;

10 (b) the vehicle is used exclusively for the feeding of livestock; and

11 (c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

12 (6) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I.
 13 (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal
 14 combustion of any engines, including stationary engines, and used in connection with any work performed under
 15 any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its
 16 appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political
 17 subdivisions, must be undyed fuel on which Montana fuel tax has been paid.

18 (7) Material used for construction, reconstruction, or improvement in connection with work performed
 19 under a contract as provided in subsection (6) must be produced using fuel on which Montana fuel tax has been
 20 paid."

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

23 **"67-1-301. Money -- receipt and disbursement.** (1) All costs and expenses of administering this title,
 24 including the salaries of employees of the department engaged in functions pertaining to aeronautics, the
 25 expenses of members of the board, and all other disbursements necessary to carry out the purposes of this title,
 26 must be paid out of the following revenue:

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

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

30 (2) All money collected under subsection (1) must be deposited in the state treasury to the credit of the

1 department.

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

4 (i) in the state special revenue fund to the credit of the department, an amount equal to the proceeds of
5 2 cents a gallon collected under 15-70-403(1)(c) for the sole purpose of carrying out its functions pertaining to
6 aeronautics; and

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

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

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

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

24 (5) Of the amount of aviation fuel tax collected from the scheduled passenger air carriers certified under
25 14 CFR, part 121 or 135, 25% must be deposited in an account separate from the account established in
26 subsection (3)(a)(ii) to be used only for pavement preservation grants, with the approval of the board, on airports
27 served by these air carriers."
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29 **Section 4.** Section 67-1-301, MCA, is amended to read:

30 "**67-1-301. Money -- receipt and disbursement.** (1) All costs and expenses of administering this title,

1 including the salaries of employees of the department engaged in functions pertaining to aeronautics, the
2 expenses of members of the board, and all other disbursements necessary to carry out the purposes of this title,
3 must be paid out of the following revenue:

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

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

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

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

11 (i) in the state special revenue fund to the credit of the department, an amount equal to the proceeds of
12 2 cents a gallon collected under 15-70-403(1)(c) for the sole purpose of carrying out its functions pertaining to
13 aeronautics; and

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

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

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

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

1 (5) Of the amount of aviation fuel tax collected from the scheduled passenger air carriers certified under
2 14 CFR, part 121 or 135, 25% must be deposited in an account separate from the account established in
3 subsection (3)(a)(ii) to be used only for pavement preservation grants, with the approval of the board, on airports
4 served by these air carriers."

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6 **NEW SECTION. Section 5. Effective dates.** (1) Except as provided in subsection (2), [this act] is
7 effective October 1, 2017.

8 (2) [Sections 2 and 4] are effective October 1, 2018.

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10 **NEW SECTION. Section 6. Termination.** [Sections 1 and 3] terminate September 30, 2018.

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