

HOUSE BILL NO. 550

INTRODUCED BY A. REDFIELD

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ABILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT PRIVATELY OWNED ROADS OR ROADS THAT HAVE BEEN ABANDONED OR VACATED MAY NOT BE CONSIDERED PUBLIC ROADS IN THE CONSIDERATION OF GAS TAX ALLOCATIONS; AND AMENDING SECTION 15-70-401, MCA."

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

**Section 1.** Section 15-70-401, MCA, is amended to read:

**"15-70-401. Definitions.** As used in this part, the following definitions apply:

(1) "Agricultural use" means use of gasoline or special fuel by a person who earns income while engaging in the business of farming or ranching and who files farm or income reports for tax purposes as required by the United States internal revenue service.

(2) "Aviation fuel" means gasoline or any other liquid fuel by whatever name the liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

(3) (a) "Biodiesel" means a fuel produced from monoalkyl esters of long-chain fatty acids derived from vegetable oils, renewable lipids, animal fats, or any combination of those ingredients. The fuel must meet the requirements of ASTM D6751, also known as the Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels, as adopted by the American society for testing and materials.

(b) Biodiesel is also known as "B-100".

(4) "Bulk delivery" means placing gasoline or special fuel not intended for resale in storage or containers. The term does not mean gasoline or special fuel delivered into the supply tank of a motor vehicle.

(5) "Cardtrol" or "keylock" means a unique device intended to allow access to a fuel dealer's unattended pump or dispensing unit for the purpose of delivery of gasoline or special fuel to an authorized user of the unique device.

(6) "Department" means the department of transportation.

(7) (a) "Distributed" means the withdrawal of gasoline or special fuel from a refinery or terminal storage,



1 other than by pipeline, by a licensed distributor for sale or use in this state, including:

2 (i) gasoline or special fuel refined, produced, manufactured, or compounded in this state and placed in  
3 storage tanks in this state;

4 (ii) gasoline or special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks  
5 at the refinery or terminal; or

6 (iii) gasoline or special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

7 (b) Gasoline or special fuel imported into this state, other than gasoline or special fuel placed in storage  
8 at a refinery or pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this  
9 state.

10 (8) (a) "Distributor" means:

11 (i) a person who engages in the business in this state of producing, refining, manufacturing, or  
12 compounding gasoline or special fuel for sale, use, or distribution;

13 (ii) an importer who imports gasoline or special fuel for sale, use, or distribution;

14 (iii) a person who engages in the wholesale distribution of gasoline or special fuel in this state and  
15 chooses to become licensed to assume the Montana state gasoline tax or special fuel tax liability;

16 (iv) an exporter;

17 (v) a dealer licensed as of January 1, 1969, except a dealer at an established airport; or

18 (vi) a person in Montana who blends ethanol with gasoline.

19 (b) The term does not include a special biodiesel fuel producer who produces biodiesel from waste  
20 vegetable oil feedstock in this state for the operation of motor vehicles owned or controlled by the person on the  
21 public roads and highways of the state.

22 (9) "Ethanol" means nominally anhydrous ethyl alcohol that has been denatured as specified in 27 CFR,  
23 parts 20 and 21, and that meets the standards for ethanol adopted pursuant to 82-15-103.

24 (10) "Ethanol-blended gasoline" means gasoline blended with ethanol. The percentage of ethanol in the  
25 blend is identified by the letter "E" followed by the percentage number. A blend that is 10% denatured ethanol  
26 and 90% gasoline would be reflected as E-10. A blend that is 85% denatured ethanol and 15% gasoline would  
27 be reflected as E-85.

28 (11) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a  
29 motor vehicle, gasoline or special fuel received from a refinery or pipeline terminal within Montana.

30 (12) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle,

1 gasoline or special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana  
2 for sale, use, or consumption outside Montana.

3 (13) (a) "Gasoline" includes:

4 (i) all petroleum products commonly or commercially known or sold as gasolines, including casinghead  
5 gasoline, natural gasoline, aviation fuel, and all flammable liquids composed of a mixture of selected  
6 hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal  
7 combustion engines; and

8 (ii) any other type of additive when the additive is mixed or blended into gasoline, regardless of the  
9 additive's classifications or uses.

10 (b) "Gasoline" does not include special fuels as defined in this section.

11 (14) "Import" means to first receive gasoline or special fuel into possession or custody after its arrival and  
12 coming to rest at a destination within the state or to first receive any gasoline or special fuel shipped or  
13 transported into this state from a point of origin outside this state other than in the fuel supply tank of a motor  
14 vehicle.

15 (15) "Importer" means a person who transports or arranges for the transportation of gasoline or special  
16 fuel into Montana for sale, use, or distribution.

17 (16) "Improperly imported fuel" means gasoline or special fuel that is:

18 (a) consigned to a Montana destination and imported into the state without the distributor first having  
19 obtained a Montana distributor license as required in 15-70-402; or

20 (b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15,  
21 chapter 70.

22 (17) "Motor vehicle" means all vehicles that are operated on the public roads and highways of this state  
23 and that are operated in whole or in part by the combustion of gasoline or special fuel.

24 (18) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or  
25 corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both,  
26 as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied  
27 to joint-stock companies and corporations, the officers.

28 (19) (a) "Public roads and highways of this state" means all streets, roads, highways, and related  
29 structures:

30 ~~(a)~~(i) built and maintained with appropriated funds of the United States, the state of Montana, or any

1 political subdivision of the state;

2 ~~(b)(ii) dedicated to public use as determined by an authorized governmental entity with written approval~~  
 3 ~~of the landowner or landowners~~ AND ACCEPTED BY A GOVERNING BODY;

4 ~~(e)(iii)~~ acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

5 ~~(d)(iv)~~ acquired by adverse use by the public as determined by a court of competent jurisdiction, with  
 6 jurisdiction having been assumed by the state or any political subdivision of the state.

7 (b) The term does not include:

8 (i) privately owned roads or trails that do not satisfy at least one of the criteria in subsection (19)(a); or

9 (ii) roads that have been abandoned or vacated by the state or any political subdivision of the state as  
 10 provided by law.

11 (20) "Special biodiesel fuel producer" means a person who produces less than 2,500 gallons annually  
 12 of biodiesel fuel from waste vegetable oil feedstock for the operation of motor vehicles owned or controlled by  
 13 the person on the public roads and highways of the state.

14 (21) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel or any  
 15 other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid  
 16 petroleum gas, when actually sold for use in motor vehicles operating on the public roads and highways of this  
 17 state. The term "special fuel" includes biodiesel and additives of all types when the additive is mixed or blended  
 18 into special fuel, regardless of the additive's classifications or uses.

19 (22) (a) "Special fuel user" means a person who consumes special fuel for the operation of motor vehicles  
 20 owned or controlled by the person on the public roads and highways of this state.

21 (b) The term does not include:

22 (i) the U.S. government, a state, a county, an incorporated city or town, or a school district of this state;

23 or

24 (ii) a special biodiesel fuel producer who produces biodiesel from waste vegetable oil feedstock for the  
 25 operation of motor vehicles owned or controlled by the person on the public roads and highways of this state.

26 (23) "Use" means the operation of a motor vehicle on the public roads and highways of this state or of  
 27 any political subdivision of this state.

28 (24) "Waste vegetable oil" means used cooking oil gathered from restaurants or commercial food  
 29 processors."

30 - END -