



AN ACT REVISING LAWS RELATED TO THE TAXATION OF FUEL USED FOR PUBLIC CONTRACTS; CLARIFYING THAT FUEL USED FOR PUBLIC CONTRACTS MUST BE FUEL ON WHICH THE FUEL TAX HAS BEEN PAID; PROVIDING PENALTIES FOR USING UNTAXED FUEL FOR PUBLIC CONTRACTS; AMENDING SECTIONS 15-70-403 AND 15-70-441, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE 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) 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:

- (i) 31.5 cents in fiscal years 2018 and 2019;
- (ii) 32 cents in fiscal years 2020 and 2021;
- (iii) 32.5 cents in fiscal year 2022; and
- (iv) 33 cents in fiscal year 2023 and thereafter;

(b) 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:

- (i) 29.25 cents in fiscal years 2018 and 2019;
- (ii) 29.45 cents in fiscal years 2020 and 2021;
- (iii) 29.55 cents in fiscal year 2022; and
- (iv) 29.75 cents in fiscal year 2023 and thereafter; and

(c) 4 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) The gasoline tax provided for in subsection (1)(a) must be deposited as follows:

(a) the revenue from 23 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the bridge and road safety and accountability restricted account provided for in 15-70-127.

(3) The special fuel tax provided for in subsection (1)(b) must be deposited as follows:

(a) the revenue from 23 3/4 cents of the tax to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax to the bridge and road safety and accountability restricted account provided for in 15-70-127.

(4) 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.

(5) 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.

(6) 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.

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

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

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

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

(8) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I.

(American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, and used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions, must be ~~undyed~~ fuel on which Montana fuel tax has been paid.

(9) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (8) must be produced using fuel on which Montana fuel tax has been paid."

Section 2. Section 15-70-441, MCA, is amended to read:

"15-70-441. Dyed special fuel restrictions -- penalties. (1) (a) A person may not use untaxed dyed special fuel in violation of 15-70-403(8) or (9) or to operate a motor vehicle on the public roads and highways of this state unless:

(i) the motor vehicle has a gross vehicle weight of greater than 12,000 pounds, exclusive of any towed units, is equipped with a feed delivery box that is permanently affixed to the vehicle, and is used solely for the feeding of livestock; or

(ii) the use is permitted pursuant to rules adopted under subsection ~~(2)(c)~~ (1)(c).

(b) (i) The purposeful or knowing use of untaxed dyed special fuel in a motor vehicle operating on the public roads and highways of this state in violation of 15-70-403(8) or (9) or this subsection (1) is subject to the civil penalty imposed under subsection (1)(b)(ii). Each use is a separate offense. The civil penalty may be in addition to criminal penalties imposed under 15-70-443.

(ii) The department shall, after giving notice and holding a hearing, if requested, impose a civil penalty not to exceed \$1,000 for the first offense and \$5,000 for the second offense for using dyed special fuel in violation of the provisions of this section. A subsequent offense is subject to criminal penalties imposed under 15-70-443.

(c) The department shall adopt and enforce reasonable rules for the movement of off-highway vehicles traveling from one location to another on the public roads and highways of this state when using dyed special fuel or nontaxed fuel.

(2) The operator of the vehicle is liable for the tax imposed in 15-70-403. If the operator refuses or fails to pay the tax, in whole or in part, the seller of the dyed special fuel is jointly and severally liable for the tax

imposed under 15-70-403 and for the penalties described in this section if the seller knows or has reason to know that the fuel will be used for a taxable purpose."

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0039, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 39

INTRODUCED BY D. FERN

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

AN ACT REVISING LAWS RELATED TO THE TAXATION OF FUEL USED FOR PUBLIC CONTRACTS; CLARIFYING THAT FUEL USED FOR PUBLIC CONTRACTS MUST BE FUEL ON WHICH THE FUEL TAX HAS BEEN PAID; PROVIDING PENALTIES FOR USING UNTAXED FUEL FOR PUBLIC CONTRACTS; AMENDING SECTIONS 15-70-403 AND 15-70-441, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.