

1 HOUSE BILL NO. 75

2 INTRODUCED BY J. SCHILLINGER

3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REPORTING REQUIREMENTS FOR MOTOR FUEL
6 TAX REFUNDS; ALLOWING THE USE OF ELECTRONIC TRANSACTION REPORTS FOR REFUND
7 CLAIMS; AMENDING SECTIONS 15-70-426, 15-70-430, AND 15-70-432, MCA; AND PROVIDING AN
8 IMMEDIATE EFFECTIVE DATE."

9

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

11

12 **Section 1.** Section 15-70-426, MCA, is amended to read:

13 **"15-70-426. Required records.** (1) Except as provided in subsection (6), gasoline or special fuel
14 purchased and delivered into bulk storage for use in motor vehicles on public roads and nonhighway use must
15 be fully accounted for by detailed withdrawal records to accurately show the manner in which it was used.
16 Gasoline or special fuel on hand, determined by actual measurement, must be deducted from a claim and must
17 be reported as an opening inventory on the next claim.

18 (2) Service stations, bulk dealers, and marinas shall prepare a ~~separate and~~ complete invoice
19 identifying the type of fuel for each withdrawal of gasoline or special fuel for which a refund is to be claimed.

20 (3) Special storage facilities used for certain periods must be identified and explained. If gasoline
21 or special fuel withdrawn from special storage is used entirely for off-highway purposes and is not used in
22 licensed vehicles, no records will be required other than purchase invoices showing the delivery into special
23 storage.

24 (4) When no highway use of gasoline or special fuel is deducted from the claim, the applicant shall
25 substantiate purchases of gasoline or special fuel and miles traveled for licensed motor vehicles on request of
26 the department of transportation.

27 (5) Any person who operates a licensed motor vehicle on and off the public roads for commercial
28 purposes may claim refund of the state tax on the gasoline or special fuel used to operate the vehicle on roads

1 or property in private ownership if the person has maintained the following records:

2 (a) the total number of miles traveled on and off public roads by each licensed vehicle;

3 (b) the total number of gallons of gasoline or special fuel used in each vehicle; and

4 (c) purchase invoices supporting all gasoline or special fuel handled through bulk storage.

5 (6) The United States government, the state of Montana, any other state, or any county,
6 incorporated city, town, or school district of this state is not required to keep dispersal records in order to claim
7 a refund of special fuel taxes.

8 (7) An exporter or any other person who transports gasoline or special fuel out of Montana for
9 sale, use, or consumption outside Montana shall maintain detailed and current records of withdrawal,
10 transportation, ownership, and delivery of the gasoline or special fuel to destinations outside Montana as
11 required by the department."

12

13 **Section 2.** Section 15-70-430, MCA, is amended to read:

14 **"15-70-430. Estimate allowed for agricultural use -- seller's signed statement acceptable on**
15 **keylock or cardtrol purchases.** (1) (a) An applicant whose use qualifies as agricultural use may apply for a
16 refund of the applicable tax on the gallons of gasoline or special fuel as indicated by bulk delivery invoices or by
17 evidence of keylock, ~~or cardtrol,~~ electronic transaction report, or retail purchases as an estimate of off-highway
18 use.

19 ~~(b) An applicant whose use qualifies as agricultural use may apply for a refund of the applicable tax~~
20 ~~on the gallons of gasoline or special fuel as indicated by evidence of retail purchases as an estimate of off-~~
21 ~~highway use.~~

22 ~~(e)(b)~~ To ensure that the applicant's use qualifies as agricultural use, the department of transportation
23 may request state or federal income tax information from the applicant or the department of revenue to
24 determine the ratio of the applicant's gross earned farm income to total gross earned income, excluding
25 unearned income, provided that the department of transportation gives notice to the applicant.

26 (2) (a) For purposes of application for a refund under subsection (1)(a), the department shall
27 accept, as evidence of keylock or cardtrol purchases, a statement of the sale of gasoline or special fuel with
28 applicable Montana tax that identifies the purchaser and specifically identifies the transaction as a keylock or

1 cardtrol purchase.

2 (b) For purposes of application for a refund under subsection ~~(1)(b)~~ (1)(a), the department shall
3 accept, as evidence of retail purchases, a receipt for the sale of gasoline or special fuel with applicable
4 Montana tax that identifies the purchaser, the physical address of the dealer, the type of fuel purchased, and
5 the number of gallons purchased. Only retail purchases within 50 miles of the agricultural operation of the
6 applicant are eligible for a refund.

7 (3) An applicant may apply for a refund of the applicable tax on gallons of gasoline or special fuel
8 according to the applicant's ratio of gross earned farm income to total gross earned income, excluding
9 unearned income, as follows:

10 (a) if the ratio is 50% or more, the applicant may apply for a refund of 60% of the gasoline or
11 special fuel tax;

12 (b) if the ratio is between 40% and 49%, the applicant may apply for a refund of 50% of the
13 gasoline or special fuel tax;

14 (c) if the ratio is between 30% and 39%, the applicant may apply for a refund of 40% of the
15 gasoline or special fuel tax; and

16 (d) if the ratio is less than 30%, the applicant is not eligible for a refund of the gasoline or special
17 fuel tax under this section.

18 (4) If the applicant's ratio in any of the 3 previous years on record is higher than the present year,
19 the highest ratio must be used to calculate the eligible refund.

20 (5) If any invoice or evidence is either lost or destroyed, the purchaser may support the
21 purchaser's claim for refund by submitting an affidavit relating the circumstances of the loss or destruction and
22 by producing other evidence that may be required by the department of transportation.

23 (6) An applicant whose use does not qualify as agricultural use may not estimate and shall
24 maintain records as required by 15-70-426."
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26 **Section 3.** Section 15-70-432, MCA, is amended to read:

27 **"15-70-432. Application for refund or credit -- filing -- correction by department.** (1) (a) Except as
28 provided in subsection (1)(b), the application for a refund must be a signed statement on a form furnished by

1 the department. Except for a claim for a credit for taxes paid on unpaid accounts or special fuel taxes paid by
 2 the United States government, the state of Montana, any other state, or any county, incorporated city, town, or
 3 school district of this state or except for a claim for a refund filed electronically, the form must be accompanied
 4 by the original bulk delivery invoice or ~~invoices~~ electronic transaction report issued to the claimant ~~at the time of~~
 5 ~~each purchase and delivery~~ and must show the total amount of gasoline or special fuel purchased, the total
 6 amount of gasoline or special fuel on which a refund is claimed, and the amount of the tax claimed for refund. A
 7 claim for a credit for taxes paid on accounts for which the distributor did not receive compensation must be
 8 accompanied by documents or copies of documents showing that the accounts were worthless and claimed as
 9 bad debts on the distributor's federal income tax return. Any further information pertaining to a claim must be
 10 furnished as required by the department.

11 (b) A claim for a refund that is filed electronically in the manner specified by the department does
 12 not require a signature or the original invoices.

13 (c) A claim for a refund that is filed electronically does not relieve the taxpayer of maintaining
 14 records on which the claim for a refund is based.

15 (2) ~~A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery, as~~
 16 ~~defined in 15-70-401, A bulk delivery invoice, receipt, keylock or cardrol statement, or electronic transaction~~
 17 ~~report that does not identify the dealer, dealer's location, purchaser, date of purchase, type of fuel, number of~~
 18 ~~gallons purchased, or evidence of payment of Montana gasoline or a special fuel tax is not valid for refund~~
 19 purposes.

20 (3) All applications for refunds must be filed with the department within 36 months after the date on
 21 which the gasoline or special fuel was purchased as shown by invoices or after the date on which the tax was
 22 erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid
 23 by the distributor on unpaid accounts within 3 years after the date of payment.

24 (4) If the department finds that the statement contains errors that are not fraudulently inserted, it
 25 may correct the statement and approve it as corrected or the department may require the claimant to file an
 26 amended statement."

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28 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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