

_____ BILL NO. _____

1
2 INTRODUCED BY _____
3 (Primary Sponsor)

4 BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

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6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REPORTS TO THE REVENUE AND TRANSPORTATION
7 INTERIM COMMITTEE; AND AMENDING SECTIONS 15-1-230, 15-24-3211, 15-32-703, 15-70-369, AND
8 61-10-154, MCA."

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

11
12 **Section 1.** Section 15-1-230, MCA, is amended to read:

13 **"15-1-230. (Temporary) Report on income tax credit to committee.** The department shall report to
14 the revenue and transportation interim committee ~~at least once each year~~ biennially the number and type of
15 taxpayers claiming the credit under 15-30-2328, the total amount of the credit claimed, the total amount of the
16 credit recaptured, and the department's cost associated with administering the credit. (Terminates December 31,
17 2019--secs. 2 through 8, Ch. 317, L. 2013.)"

18
19 **Section 2.** Section 15-24-3211, MCA, is amended to read:

20 **"15-24-3211. Report to interim committee.** ~~By September 15, 2014, the~~ The department shall ~~provide~~
21 a report to the revenue and transportation interim committee biennially on the use of property tax ~~abatement~~
22 abatements under 15-24-3202 and 15-24-3203. The committee shall, based on information contained in the
23 report, make recommendations to the next legislature on the continuation or structure of the abatement."

24
25 **Section 3.** Section 15-32-703, MCA, is amended to read:

26 **"15-32-703. Biodiesel blending and storage tax credit -- recapture -- report to interim committee.**
27 (1) An individual, corporation, partnership, or small business corporation, as defined in 15-30-3301, may receive
28 a credit against taxes imposed by Title 15, chapter 30 or 31, for the costs of investments in depreciable property
29 used for storing or blending biodiesel with petroleum diesel for sale.
30 (2) Subject to subsection (4), a special fuel distributor or an owner or operator of a motor fuel outlet

1 qualifying for a credit under this section is entitled to claim a credit, as provided in subsection (3), for the costs
2 described in subsection (1) incurred in the 2 tax years before the taxpayer begins blending biodiesel fuel for sale
3 or in any tax year in which the taxpayer is blending biodiesel fuel for sale.

4 (3) (a) The total amount of the credits for all years that may be claimed by a distributor under this section
5 is 15% of the costs described in subsection (1), up to a total of \$52,500.

6 (b) The total amount of the credits for all years that may be claimed by an owner or operator of a motor
7 fuel outlet under this section is 15% of the costs described in subsection (1), up to a total of \$7,500.

8 (4) The following requirements must also be met for a taxpayer to be entitled to a tax credit under this
9 section:

10 (a) The investment must be for depreciable property used primarily to blend petroleum diesel with
11 biodiesel made entirely from Montana-produced feedstocks.

12 (b) Sales of biodiesel must be at least 2% of the taxpayer's total diesel sales by the end of the third year
13 following the initial tax year in which the credit is initially claimed.

14 (c) (i) The taxpayer claiming a credit must be a person who as an owner, including a contract purchaser
15 or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business that blends
16 biodiesel.

17 (ii) If more than one person has an interest in a business with qualifying property, they may allocate all
18 or any part of the investment cost among themselves and their successors or assigns.

19 (d) The business must be owned or leased during the tax year by the taxpayer claiming the credit, except
20 as otherwise provided in subsection (4)(c), and, except for the 2 tax-year period claimed in subsection (2), must
21 have been blending biodiesel during the tax year for which the credit is claimed.

22 (5) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the
23 investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

24 (6) A tax credit allowable under this section that is not completely used by the taxpayer in the tax year
25 in which the credit is initially claimed may be carried forward for credit against the taxpayer's tax liability for any
26 succeeding tax year until the total amount of the credit has been deducted from tax liability. However, a credit may
27 not be carried forward to any tax year in which the facility is not blending biodiesel or storing biodiesel for blending
28 or beyond the 7th tax year after the tax year for which the credit was initially claimed. If a facility for which a credit
29 is claimed ceases blending of biodiesel with petroleum diesel for sale for a period of 12 continuous months within
30 5 years after the initial claiming of a credit under this section or within 5 years after a year in which the credit was

1 carried forward or if the taxpayer claiming the credit fails to satisfy the conditions of subsection (4)(b), the total
2 credit is subject to recapture. The person claiming the credit is liable for the total amount of the credit in the event
3 of recapture.

4 (7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax
5 credits allowed under this section.

6 (8) If the taxpayer is a shareholder of an electing small business corporation, the credit must be
7 computed using the shareholder's pro rata share of the corporation's cost of investing in the biodiesel blending
8 facility. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise
9 provided by law.

10 (9) As used in this section, "biodiesel" has the meaning provided in 15-70-301.

11 (10) The department shall report to the revenue and transportation interim committee ~~at least once each~~
12 year biennially regarding the number and type of taxpayers claiming the credit under this section, the total amount
13 of the credit claimed, and the department's cost associated with administering the credit."

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15 **Section 4.** Section 15-70-369, MCA, is amended to read:

16 **"15-70-369. Refund for taxes paid on biodiesel by distributor or retailer -- statement -- payment**
17 **-- appropriation -- records -- report to interim committee.** (1) A licensed distributor who pays the special fuel
18 tax under 15-70-343 on biodiesel, as defined in 15-70-301, may claim a refund equal to 2 cents a gallon on
19 biodiesel sold during the previous calendar quarter if the biodiesel is produced entirely from biodiesel ingredients
20 produced in Montana.

21 (2) The owner or operator of a retail motor fuel outlet may claim a refund equal to 1 cent a gallon on
22 biodiesel on which the special fuel tax has been paid and that is purchased from a licensed distributor if the
23 biodiesel is produced entirely from biodiesel ingredients produced in Montana.

24 (3) (a) To receive the refund allowed under subsection (1) or (2), the licensed distributor or the owner
25 or operator of a motor fuel outlet shall file a statement within 30 days after the end of each calendar quarter on
26 a form provided by the department.

27 (b) The statement provided by a licensed distributor must set forth information required by the
28 department, including the gallons of biodiesel sold and the source of ingredients used to produce biodiesel.

29 (c) The statement provided by the owner or operator of a retail motor fuel outlet must set forth information
30 required by the department, including the gallons of biodiesel purchased.

1 (4) The payment of the refund allowed by this section must be made by the department within 90 days
2 after the claim for a refund is filed by the licensed distributor or the owner or operator of a retail motor fuel outlet.
3 Tax refund payments under this section are statutorily appropriated, as provided in 17-7-502, from the state
4 general fund.

5 (5) The records of each licensed distributor or owner or operator of a retail motor fuel outlet must be kept
6 for a period of not more than 3 years and must include receipts, invoices, and other information as the department
7 may require.

8 (6) The department or its authorized representative may examine the books, papers, or records of any
9 licensed distributor or owner or operator of a retail motor fuel outlet.

10 (7) The department shall report to the revenue and transportation interim committee ~~at least once each~~
11 ~~year~~ biennially the number and type of taxpayers claiming the refund under this section, the total amount of the
12 refund claimed, and the department's cost associated with administering the refund."
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14 **Section 5.** Section 61-10-154, MCA, is amended to read:

15 **"61-10-154. Department of transportation to adopt motor carrier safety standards -- enforcement**
16 **-- designation of peace officers -- duties -- violations.** (1) As used in this section, the terms "for-hire motor
17 carrier", "private motor carrier", "gross vehicle weight rating", and "gross combination weight rating" have the
18 same meaning as provided in 49 CFR 390.5.

19 (2) The department of transportation shall adopt, by rule, standards for safety of operations of:

20 (a) any for-hire motor carrier or any private motor carrier;

21 (b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight
22 rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater,
23 of 10,001 pounds or more;

24 (c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight
25 rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater,
26 of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;

27 (d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver,
28 and that is not used to transport passengers for compensation;

29 (e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver,
30 for compensation; or

1 (f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the
2 vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part
3 172.

4 (3) Standards of safety adopted under this section must substantially comply, within allowed tolerance
5 guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as
6 applied to motor carriers and vehicles transporting passengers or property in commerce.

7 (4) The department of transportation shall work with the highway patrol in the enforcement of safety
8 standards adopted pursuant to this section. The highway patrol and the department of transportation shall
9 cooperate to ensure minimum duplication and maximum coordination of enforcement efforts.

10 (5) In order to enforce compliance with safety standards adopted pursuant to this section, the department
11 of transportation shall designate employees as peace officers. The designated employees must be employed in
12 the administration of the motor carrier services functions of the department of transportation. Each employee
13 designated as a peace officer may:

14 (a) issue citations and make arrests in connection with violations of safety standards adopted under this
15 section;

16 (b) issue summons;

17 (c) accept bail;

18 (d) serve warrants for arrest;

19 (e) make reasonable inspections of cargo carried by commercial motor vehicles;

20 (f) enforce the provisions of Title 49 of the United States Code and regulations that have been adopted
21 under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

22 (g) require production of documents relating to the cargo, driver, routing, or ownership of commercial
23 motor vehicles.

24 (6) In addition to other enforcement duties assigned under 61-10-141 and this section, an employee of
25 the department of transportation who is appointed as a peace officer pursuant to 61-12-201 or this section has:

26 (a) the same authority to enforce provisions of the motor carriers law as that granted to the public service
27 commission under 69-12-203;

28 (b) the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for
29 shipment of agricultural seeds, as defined in 80-5-120, that have been sold or are intended for sale in Montana
30 and to forward the copies to the department of agriculture within 24 hours of the date that the bill of lading was

1 obtained; and

2 (c) the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of
3 any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance
4 with Title 15, chapter 70, part 3.

5 (7) A violation of the standards adopted pursuant to this section is punishable as provided in 61-9-512,
6 and the court, upon conviction, as defined in 61-5-213, shall forward a record of conviction to the department
7 within 5 days in accordance with 61-11-101.

8 (8) The department of transportation shall report to the revenue and transportation interim committee
9 ~~at least once each year~~ biennially on its enforcement of the provisions of Title 15, chapter 70, part 3, pursuant
10 to the authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special
11 revenue fund."

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