BILL NO. 205 1 INTRODUCED BY 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 5 84-1855, R.C.M. 1947; REQUIRING ALL SEPARATE STORAGE TANKS 6 MAINTAINED FOR GASOLINE USED FOR HIGHWAY AND OFF-HIGHWAY USE 7 TO BE LOCATED ON THE PREMISES OF THE CLAIGANT OF A GASOLINE 8 LICENSE TAX REFUND; AND STRIKING UNMECESSARY LANGUAGE."

9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
Section 1. Section 84-1855, R.C.M. 1947, is amended to

12 read as follows:

13 "84-1855. Refund of gasoline license tar - procedure. (1) Any person who shall purchase and use any gasoline, on 14 which the Montana gasoline license tax has been paidy for 15 operating or propelling stationary gasoline engines, 16 tractors used off the public highways and streets, 17 motorboats, or for cleaning or dyeing, or for any commercial 18 use other than propelling vehicles upon any of the public 19 highways or streets of this state, shall be allowed a refund 20 of the amount of tax paid directly or indirectly on the 21 22 gasoline so used. Provided, that such such refund or 23 drawback should may in no instance exceed the tax paid or to be paidy to the state of Montana, fy and no refund shall may 24 be allowed of that portion of the tax per gallon upon 25

1 aviation gasoline allocated to the board of aeronautics by 2 $\frac{1}{2} = 501_{y} - R \cdot C \cdot R \cdot - 1947$]. Any distributor paying the 3 gasoline license tax to this state erroneously shall be 4 allowed a credit or refund of the amount of tax so paid.

5 (2) The application for refund shall be a signed 6 statement on a form furnished by the department, accompanied by the original invoice or invoices issued to the claimant 7 8 at the time of purchase and delivery, showing the total 9 amount of gasoline purchased, the total amount of gasoline on which a refund is claimed, and the amount of the tax 10 11 claimed for refund. Such further information pertaining to 12 such claim shall be furnished as required by the department, 13 provided that gallons of gasoline used off the roadways. where not verifiable by records of actual use, may be 14 15 estimated by the applicant according to the following 16 schedule:

(a) on the first one thousand (1,000) gallons of
gasoline purchased, or any part thereof, forty-five por cent
(45%) of gasoline purchased.
(b) on the next one thousand (1,000) gallons of
gasoline purchased, or any part thereof, sixty-por cent
(c) on the next one thousand (1,000) gallons of

24 gasoline purchased, or any part thereof, sixty-five per cent 25 (65%) of gasoline purchased...

-2-

INTRODUCED BILL

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(d) on any gasoline purchased in excess of three
 thousand (3,000) gallons, seventy per cent (70%) of gasoline
 purchased.

4 If any invoice is either lost or destroyed, the 5 purchaser may support his claim for refund by submitting an 6 affidavit relating the circumstances of such loss or 7 destruction and by producing such other evidence as may be 8 required by the department.

9 (3) Any applicant who does not elect to estimate the 10 off-highway use of gasoline according to the schedule in 11 subsection (2) shall maintain records as provided for in 12 this subsection.

13 (a) Highway-and-off-highway-use-of-gasoline-from common storage. Gasoline purchased and delivered into bulk 14 15 storage for use in motor vehicles on public roads and nonhighway use must be fully accounted for by detail 16 17 detailed withdrawal records to accurately show the manner in 18 which used. Gasoline on hand, determined by actual measurement, shall be deducted from a claim and shall be 19 20 reported as an opening inventory on the next claim. Credit for the inventory is allowed on the next claim if filed 21 22 within fourteen---(14) souths from the filing date of the 23 claim which established the inventory.

(b) Highway-and-off-highway-use-of-gaseline-from
 separate storage tanks are maintained

for highway use and off-highway use, the bulk purchase 1 invoices shall be so marked by the dealer at the time of 2 7 delivery. All such storage tanks shall be located on the claimant's premises. No further record is required, provided τ. that no gasoline is withdrawn from the off-highway tank for 5 licensed vehicles. Withdrawal of gasoline from the 6 7 off-highway tank for licensed vehicles will invalidate this method of determining refundable gallonage. 8

9 (c) Use-of-gasoline from restricted use-storage.
10 Special storage facilities in the woods, or in farm fields,
11 or for other uses for certain periods, must be identified
12 and explained. If such storage is used entirely for
13 off-highway purposes and is not used in licensed vehicles,
14 no records will be required other than purchase invoices
15 showing the delivery into such storage.

(d) Gasoline purchased for other than bulk storage.
17 Fuel purchased in small containers for nonhighway use must
18 be identified on the purchase invoice and no further record
19 is required.

(e) Resellers. Service stations, bulk dealers, and
narinas must prepare a separate and complete invoice for
each withdrawal of gasoline for own use upon which a refund
is to be claimed.

24 (f) Proof of highway use of
 25 gasoline is deducted from the claim, the applicant must

substantiate purchases of gasoline and miles traveled for
 licensed motor vehicles upon request of the department.

3 (g) Any person who operates a licensed motor vehicle
4 on and off the public roads for commercial purposes may
5 claim refund of the state license tax on the gasoline used
6 to operate the vehicle on roads or property in private
7 ownership_T if such person has maintained the following
8 records:

9 (i) the total number of highway miles operated by each
10 licensed motor vehicle, including private passenger cars;

(ii) total gallons of gasoline used in each vehicle to
include both refund and sonrefund use;

(iii) purchase invoices supporting all gasoline handled through bulk storage, as well as all fuels purchased at service stations or received from other sources. Highway use for each vehicle may be determined by actual neasurement, or may be computed by dividing the average miles per gallon highway operation-consumption-rate into the number of highway miles operated.

20 (4) All applications for refunds shall be filed with 21 the department of revenue within fourteen-(14) months after 22 the date on which the gasoline was purchased as shown by 23 invoices or after the date on which the tax was erroneously 24 paid. Provided, however, that a distributor may file a claim 25 for refund of taxes erroneously paid within three (3) years

-5-

1 after the date of such erroneous payment. The department 2 shall have one bundred-twonty-(120) days after receiving the 3 claim to approve or reject it. If approved, the department 4 shall issue a credit in lieu of refund for the amount of the 5 claimy if the claimant is a distributor. For all other 6 persons, a warrant shall be drawn upon the state treasurer 7 for the amount of the claim.

8 (5) Should the department of revenue find that the 9 statement contains errors which are not fraudulently inserted, it may correct the statement and approve it as 10 11 corrected, or the department may require the claimant to 12 file an amended statement. If the state department of 13 revenue determines that any claim has been fraudulently presented or is supported by invoice or invoices 14 fraudulently made or altered or that any statement in the 15 16 claim or affidavit is willfully false and made for the 17 purpose of misleading, the department may reflect such claim 18 in full. If a claim is rejected, the department may suspend 19 claimant's right to refund for a period not to exceed one 20 -{1+ year.

(6) Any person, other than a licensed distributor,
shall obtain a license from the state department of revenue
prior to selling gasoline on which a refund may be claimed.
The application for license shall contain the applicant's
name, address, place or places of business in the state of

-6-

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Montana, and other information which may be required by the 1 2 department. Licenses issued shall bear a license number and the date of issuance. The department shall keep a record of 3 4 all licenses issued, canceled, or suspended. A 5 nontransferable license shall be issued for three-{3} years 6 upon payment of a fee of three-dellars (\$3). Licenses must 7 be renewed and the fee paid every three {3} years from date of issuance. 8

9 Any person failing to comply with this subsection shall 10 be subject to a fine of not less than twenty-five dollars 11 (\$25) or more than two-hundred-dollars (\$200) or 12 imprisonment in the county jail for a period not less than 13 ten (10) days or more than simty (60) days, or both fine and 14 imprisonment."

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Approved by Committee on Taxation BILL NO. 205 1 INTRODUCED BY . 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 5 84-1855, R.C.M. 1947; REQUIRING ALL SEPARATE STORAGE TANKS 6 MAINTAINED FOR GASOLINE USED FOR BIGHNAY AND OFF-HIGHNAY USE 7 TO BE LOCATED ON THE PREMISES OF THE CLAIMANT OF A GASOLINE 8 LICENSE TAX REFUND; AND STRIKING UNMECESSARY LANGUAGE." 9

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA:
Section 1. Section 84-1855, R.C.M. 1947, is amended to
read as follows:

"84-1855. Refund of gasoline license tar - procedure. 13 (1) Any person who shall purchase and use any gasoline, on 14 15 which the Bontana gasoline license tax has been paid- for operating or propelling stationary gasoline engines. 16 tractors used off the public highways and streets, 17 motorboats, or for cleaning or dyeing, or for any commercial 18 use other than propelling vehicles upon any of the public 19 highways or streets of this state, shall be allowed a refund 20 21 of the amount of tax paid directly or indirectly on the 22 gasoline so used. Provided, that such Such refund or drawback should may in no instance exceed the tax paid or to 23 be paid, to the state of Montana, [, and no refund shall gay 24 be allowed of that portion of the tax per gallon upon 25

aviation gasoline allocated to the board of aeronautics by
 section 1-501, R.C.E. 1947]. Any distributor paying the
 gasoline license tax to this state erroneously shall be
 allowed a credit or refund of the amount of tax so paid.

5 (2) The application for refund shall be a signed 6 statement on a form furnished by the department. accompanied 7 by the original invoice or invoices issued to the claimant at the time of purchase and delivery, showing the total 8 9 amount of gasoline purchased, the total amount of gasoline 10 on which a refund is claimed, and the amount of the tax 11 claimed for refund. Such further information pertaining to 12 such claim shall be furnished as required by the department. 13 provided that gallons of gasoline used off the roadways. 14 where not verifiable by records of actual use, may be 15 estimated by the applicant according to the following 16 schedule:

17 (a) on the first one "thousand --{1,000} gallons of
18 gasoline purchased, or any part thereof, forty-five per cont
19 -{45%} of gasoline purchased...

(b) on the next one thousand (1,000) gallons of
gasoline purchased, or any part thereof, sixty per cont
460%) of gasoline purchased.

(c) on the next one -thousand --- {1,000} gallons of
 gasoline purchased, or any part thereof, sixty-five per cent
 (c) of gasoline purchased.

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SECOND READING

1 (d) on any gasoline purchased in ercess of three 2 thousand (3,000) gallons, seventy per-cent (70%) of gasoline 3 purchased.

If any invoice is either lost or destroyed, the purchaser may support his claim for refund by submitting an affidavit relating the circumstances of such loss or destruction and by producing such other evidence as may be required by the department.

9 (3) Any applicant who does not elect to estimate the 10 off-highway use of gasoline according to the schedule im 11 subsection (2) shall maintain records as provided for in 12 this subsection.

13 (a) Highway-and-off-highway-upo of qasoline-from 14 common storage, Gasoline purchased and delivered into bulk 15 storage for use in motor vehicles on public roads and 16 noshighway use must be fully accounted for by detail 17 detailed withdrawal records to accurately show the manner in 18 which used. Gasoline on hand, determined by actual 19 neasurement, shall be deducted from a claim and shall be reported as an opening inventory on the next claim. Credit 20 21 for the inventory is allowed on the next claim if filed 22 23 claim which established the inventory.

(b) Highway and off-highway use of gasoline from
 separate storage tanks are maintained

1 for highway use and off-highway use, the bulk purchase invoices shall be so marked by the dealer at the time of 2 delivery. All such storage tanks shall be located on the 3 claimant's premises. No further record is required, provided ۵. that no gasoline is withdrawn from the off-highway tank for 5 licensed vehicles. Withdrawal of gasoline from the 6 7 off-highway tank for licensed wehicles will invalidate this R method of determining refundable gallonage.

9 (c) Use-ef-gasoline from restricted use storage,
10 Special storage facilities in the woods, or in farm fields,
11 or for other uses for certain periods, must be identified
12 and explained. If such storage is used entirely for
13 off-highway purposes and is not used in licensed vehicles,
14 no records will be required other than purchase invoices
15 showing the delivery into such storage.

(d) Cosolino purchased for other than bulk storage.
Fuel purchased in small containers for nonhighway use must
be identified on the purchase invoice and no further record
is required.
(e) Recollers. Service stations, bulk dealers, and

21 marinas must prepare a separate and complete invoice for
22 each withdrawal of gasoline for own use upon which a refund
23 is to be claimed.

(f) Proof of highway use of
 gasoline is deducted from the claim, the applicant must

substantiate purchases of gasoline and miles traveled for
 licensed motor vehicles upon request of the department.

3 (g) Any person who operates a licensed motor vehicle 4 on and off the public roads for connercial purposes may 5 claim refund of the state license tax on the gasoline used 6 to operate the vehicle on roads or property in private 7 ownershipy if such person has maintained the following 8 records:

9 (i) the total number of highway miles operated by each
10 licensed motor vehicle, including private passenger cars;

(ii) total gallons of gasoline used in each vehicle to
include both refund and nonrefund use;

(iii) purchase invoices supporting all gasoline handled through bulk storage, as well as all fuels purchased at service stations or received from other sources. Highway lo use for each vehicle may be determined by actual measurement, or may be computed by dividing the average miles per gallon highway operation consumption rate into the number of highway miles operated.

20 (4) All applications for refunds shall be filed with 21 the department of revenue within fourteen (14) months after 22 the date on which the gasoline was purchased as shown by 23 invoices or after the date on which the tax was erroneously 24 paid. Provided, however, that a distributor may file a claim 25 for refund of taxes erroneously paid within three (3) years 1 after the date of such erroneous payment. The department 2 shall have ene hundred twenty (120) days after receiving the 3 claim to approve or reject it. If approved, the department 4 shall issue a credit in lieu of refund for the amount of the 5 claim, if the claimant is a distributor. For all other 6 persons, a warrant shall be drawn upon the state treasurer 7 for the amount of the claim.

8 (5) Should the department of revenue find that the 9 statement contains errors which are not fraudulently 10 inserted. it may correct the statement and approve it as corrected, or the department may require the claimant to 11 12 file an amended statement. If the state department of 13 revenue determines that any claim has been fraudulently presented or is supported by invoice or invoices 14 15 fraudulently made or altered or that any statement in the 16 claim or affidavit is willfully false and made for the purpose of misleading, the department may reject such claim 17 18 in full. If a claim is rejected, the department may suspend 19 claimant's right to refund for a period not to exceed one 41+ year. 20

(6) hay person, other than a licensed distributor,
shall obtain a license from the state department of revenue
prior to selling gasoline on which a refund may be claimed.
The application for license shall contain the applicant's
name, address, place or places of business in the state of

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1 Montana, and other information which may be required by the 2 department. Licenses issued shall bear a license number and 3 the date of issuance. The department shall keep a record of 4 all licenses issued, canceled, or suspended. A 5 nontransferable license shall be issued for three-(3) years 6 upon payment of a fee of three-dellars (\$3). Licenses must 7 be renewed and the fee paid every three-{3} years from date 8 of issuance.

9 Any person failing to comply with this subsection shall 10 be subject to a fine of not less than tweaty-five-dollars 11 -{\$25} or more than two-bundsed-dollars -{\$200} or 12 imprisonment in the county jail for a period not less than 13 ten -{10} days or more than simty -{60} days, or both fine and 14 imprisonment.*

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BILL NO. 205 1 INTRODUCED BY _-2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ABEND SECTION 5 84-1855, R.C.M. 1947; REQUIRING ALL SEPARATE STORAGE TANKS 6 MAINTAINED FOR GASOLINE USED FOR HIGHWAY AND OFF-HIGHWAY USE 7 TO BE LOCATED ON THE PREMISES OF THE CLAIMANT OF A GASOLINE 8 LICENSE TAX REFUND; AND STRIKING UNDECESSARY LANGUAGE."

9

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

Section 1. Section 84-1855, R.C.H. 1947, is amended to
 read as follows:

13 "84-1855. Befund of gasoline license tax -- procedure. (1) Any person who shall purchase and use any qasoline, on 14 which the Montana gasoline license tax has been paid, for 15 operating or propelling stationary gasoline engines, 16 tractors used off the public highways and streets, 17 18 motorboats, or for cleaning or dyeing, or for any commercial use other than propelling vehicles upon any of the public 19 highways or streets of this state, shall be allowed a refund 20 21 of the amount of tax paid directly or indirectly on the 22 gasoline so used. Provided, that such refund or drawback should may in no instance exceed the tax paid or to 23 be paid, to the state of Montana, [, and no refund shall may 24 be allowed of that portion of the tax per gallon upon 25

THIRD READING

aviation gasoline allocated to the board of aeronautics by
 section 1-501, R.C.S. 1947]. Any distributor paying the
 gasoline license tax to this state erroneously shall be
 allowed a credit or refund of the amount of tax so paid.

(2) The application for refund shall be a signed 5 6 statement on a form furnished by the department, accompanied 7 by the original invoice or invoices issued to the claimant 8 at the time of purchase, and delivery, showing the total 9 amount of gasoline purchased, the total amount of gasoline on which a refund is claimed, and the amount of the tax 10 11 claimed for refund. Such further information pertaining to 12 such claim shall be furnished as required by the department, 13 provided that gallons of gasoline used off the roadways. 14 where not verifiable by records of actual use, may be 15 estimated by the applicant according to the following 16 schedule:

17 (a) on the first one thousand (1,000) gallons of
18 gasoline purchased, or any part thereof, forty-five per cent
19 (45%) of gasoline purchased.

20 (b) on the next $\frac{1}{000}$ thereof, $\frac{1}{000}$ gallons of 21 gasoline purchased, or any part thereof, $\frac{1}{000}$ of $\frac{1}{000}$ of $\frac{1}{000}$ of $\frac{1}{000}$

23 (c) on the next one-thousand-(1,000) gallons of
24 gasoline purchased, or any part thereof, sisty-five per sent
25 (65%) of gasoline purchased-:

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1 (d) on any gasoline purchased in excess of three 2 thousand (3,000) gallons, seventy-per cent (70%) of gasoline 3 purchased.

4 If any invoice is either lost or destroyed, the 5 purchaser may support his claim for refund by submitting an 6 affidavit relating the circumstances of such loss or 7 destruction and by producing such other evidence as may be 8 required by the department.

9 (3) Any applicant who does not elect to estimate the
10 off-highway use of gasoline according to the schedule in
11 subsection (2) shall maintain records as provided for in
12 this subsection.

13 (a) Highway---and---off-bighway--uco--of---ganolino--from 14 compon-storago. Gasoline purchased and delivered into bulk 15 storage for use in motor vehicles on public roads and 16 nonhighway use nust be fully accounted for by detail 17 detailed withdrawal records to accurately show the manner in 18 which used. Gasoline on hand, determined by actual 19 measurement, shall be deducted from a claim and shall be 20 reported as an opening inventory on the next claim. Credit 21 for the inventory is allowed on the next claim if filed 22 23 claim which established the inventory.

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 (b) Righway-and-off-bighway-wss-of-gassline-from

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 separate storage

 and storage
 If separate storage tanks are maintained

for highway use and off-highway use, the bulk purchase 1 invoices shall be so marked by the dealer at the time of 2 3 delivery. All such storage tanks shall be located on the ħ. claimant's premises. No further record is required, provided that no gasoline is withdrawn from the off-highway tank for 5 licensed vehicles. Withdrawal of gasoline from the 6 off-highway tank for licensed vehicles will invalidate this 7 A method of determining refundable gallopage.

9 (c) Use of gaseline from restricted use storage. 10 Special storage facilities in the woods, or in farm fields, 11 or for other uses for certain periods, must be identified 12 and explained. If such storage is used entirely for 13 off-highway purposes and is not used in licensed vehicles, 14 no records will be required other than purchase invoices 15 showing the delivery into such storage.

16 (d) Gaseline purchased for other than bulk storage.
17 Fuel purchased in small containers for nonhighway use must
18 be identified on the purchase invoice and no further record
19 is required.

(e) Resellers. Service stations, bulk dealers, and
narinas must prepare a separate and complete invoice for
each withdrawal of gasoline for own use upon which a refund
is to be claimed.

(f) Proof-of-highway-wee, When no highway use of
 gasoline is deducted from the claim, the applicant must

substantiate purchases of gasoline and miles traveled for
 licensed motor vehicles upon request of the department.

3 (g) any person who operates a licensed motor vehicle on and off the public roads for commercial purposes may claim refund of the state license tax on the gasoline used to operate the vehicle on roads or property in private ownershipy if such person has maintained the following records:

9 (i) the total number of highway miles operated by each
10 licensed motor vehicle, including private passenger cars;

(ii) total gallons of gasoline used in each vehicle to
include both refund and monrefund use;

(iii) purchase invoices supporting all gasoline handled through bulk storage, as well as all fuels purchased at service stations or received from other sources. Highway use for each vehicle may be determined by actual measurement, or may be computed by dividing the average miles per gallon highway operation consemption rate into the number of highway miles operated.

20 (4) All applications for refunds shall be filed with 21 the department of revenue within fearteen-(14) months after 22 the date on which the gasoline was purchased as shown by 23 invoices or after the date on which the tax was erroneously 24 paid. Provided, however, that a distributor may file a claim 25 for refund of taxes erroneously paid within three-(3) years 1 after the date of such erroneous payment. The department 2 shall have one-hundred twonty (120) days after receiving the 3 claim to approve or reject it. If approved, the department 4 shall issue a credit in lieu of refund for the amount of the 5 claim, if the claimant is a distributor. For all other 6 persons, a warrant shall be drawn upon the state treasurer 7 for the amount of the claim.

(5) Should the department of revenue find that the A 9 statement contains errors which are not fraudulently inserted, it may correct the statement and approve it as 10 11 corrected, or the department may require the claimant to 12 file an amended statement. If the state department of revenue determines that any claim has been fraudulently 13 14 presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the 15 claim or affidavit is willfully false and made for the 16 17 purpose of misleading, the department may reject such claim 18 in full. If a claim is rejected, the department may suspend claimant's right to refund for a period not to enceed one 19 20 -{1} year.

(6) Iny person, other than a licensed distributor,
shall obtain a license from the state department of revenue
prior to selling gasoline on which a refund may be claimed.
The application for license shall contain the applicant's
name, address, place or places of business in the state of

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Montana, and other information which may be required by the 1 2 department. Licenses issued shall bear a license number and 3 the date of issuance. The department shall keep a record of all licenses issued, canceled, or 4 suspended. ۱. 5 nontransferable license shall be issued for three-{3} years 6 upon payment of a fee of three-dellars-(\$3). Licenses must 7 be renewed and the fee paid every three (3) years from date 8 of issuance.

9 Any person failing to comply with this subsection shall 10 be subject to a fine of not less than treaty-fire-dollars 11 (\$25) or more than two-hundrod-dollars (\$200) or 12 imprisonment in the county jail for a period not less than 13 ten-(10) days or more than simty-(60) days, or both fine and 14 imprisonment."

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