LC 0605/01

enate BILL NO. 114 1 TNTROCHCEC BY 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO BEVISE THE PROCEDURE 5 FOR CALCULATING THE REFOND OF THE GASCLINE LICENSE TAX: 6 AMENDING SECTION 84-1855, R.C.M. 1947."

7

8 BF IT FNACTED BY THE LEGISLATORS OF THE STATE CF MCNTANA:
9 Section 1. Section 84-1855, R.C.M. 1947, is amended to
10 read as follows:

11 #84-1855. Refund of gasoline license tax -- procedure. 12 (1) Any person who shall purchase and use any cascline, cn 13 which the Montana gasoline license tax has been paid, for 14 operating or propelling stationary gasoline engines, 15 tractors used off the public highways and streets, 16 actorbcats, or for cleaning or dyeing, or for any conmercial 17 use other than propelling vehicles upon any of the public 18 highways or streets of this state, shall be allowed a refund 19 of the amount of tax paid directly or indirectly on the 20 gasoline so used. Provided, that such refund or drawback should may in no instance exceed the tax paid or to be paid, 21 22 to the state of Montanaf, and no refund shall be allowed of 23 that portion of the tax per gallon upon aviation gasoline 24 allocated to the board of aeronautics by section 1-501. 25 B.C.M. 1947--

Any distributor paying the gasoline license tax to this
 state erronecusly shall be allowed a credit or refund of the
 abount of tax so paid.

4 (2) The application for refund shall be a signed 5 statement on a form furnished by the department, accompanied б by the original invoice or invoices issued to the claimant 7 at the time of purchase and delivery, showing the total θ amount of gasoline purchased, the total amount of gascline 9 on which a refund is claimed, and the amount of the tax claimed for refund. Such further information pertaining to 10 such claim shall be fornished as required by the 11 12 department.

13 (3) provided that <u>Shen the</u> gallons of gasoline used 14 off the roadways, where <u>are not verifiable by records of</u> 15 actual use, may be estimated by the applicant the <u>applicant</u> 16 <u>shall_estimate_the_gallons_used</u> according to the following 17 schedule:

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

(b) on the next one thousand (1,000) gallons of
gasoline purchased, or any part thereof, sixty per cent
(60%) of gasoline purchased.

(c) on the next one thousand (1,000) gallons ofgasoline purchased, or any part thereof, sixty-five per cent

SB, 114

INTRODUCED BILL

1 (65%) of gasoline purchased.

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

5 If any invoice is either lost or destroyed, the 6 purchaser may support his claim for refund by submitting an 7 affidavit relating the circumstances of such loss or 8 destruction and by producing such other evidence as may be 9 required by the department.

10 (3)(4) Any applicant who does not elect to estimate
11 the off-highway use of gasoline according to the schedule in
12 subsection (2) (3) shall maintain records as provided for in
13 this subsection.

14 (a) Bighway and cff-highway use of gasoline from 15 common storage. Gasoline purchased and delivered into bulk 16 storage for use in motor vehicles on public roads and 17 ncnhighway use must be fully accounted for by detail 18 withdrawal records to accurately show the manner in which 19 used. Gasoline on hand, determined by actual measurement, 20 shall be deducted from a claim and shall be reported as an 21 opening inventory on the next claim. Credit for the 22 inventory is allowed on the next claim if filed within 23 fourteen (14) acnths from the filing date of the claim which 24 established the inventory.

25 (b) Highway and cff-highway use of gasoline from

1 separate storage. If separate storage tanks are paintained 2 on the applicant's premises for highway use and off-highway 3 use, the bulk purchase invoices shall be so marked by the 4 dealer at the time of delivery. No further record is 5 required, provided that no gasoline is withdrawn from the 6 off-highway tank for licensed vehicles. Withdrawal of 7 gasoline from the off-highway tank for licensed vehicles 8 will invalidate this method of determining refundable 9 gallonage.

10 (c) An applicant who maintains a storage tank on his 11 premises for off-highway use only must submit the original 12 invoice_issued_at_the_time_cf_purchase_and_delivery_and 13 records substantiating the purchase of gasoline for licensed 14 vehicles from another source and the siles traveled by these 15 licensed vehicles. An applicant baving such records may 16 claim a refund for the entire amount of gasoline stored on 17 his premises for nonhighway use. Withdrawal of gasoline from the off-highway tank for licensed vehicles will invalidate 18 19 this method of determining the number of gallons subject to 20 refund. 21 (d) Use of gasoline from restricted use storage. 22 Special storage facilities in the woods, or in farm fields,

23 or for other uses for certain periods, must be identified 24 and explained. If such storage is used entirely for 25 off-highway purposes and is not used in licensed vehicles.

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-4-

no records will be required other than purchase invoices
showing the delivery into such storage.

3 (d) (e) Gasoline purchased for other than bulk storage.
4 Fuel purchased in small containers for nonhighway use must
5 be identified on the purchase invoice and no further record
6 is required.

7 (e) <u>(f)</u> Resellers. Service stations, bulk dealers and
8 marinas must prepare a separate and complete invoice for
9 each withdrawal cf gascline for own use upon which a refund
10 is to be claimed.

11 (f) (g) Proof of highway use. When no highway use of
 gasoline is deducted from the claim, the applicant must
 13 substantiate purchases of gasoline and miles traveled for
 14 licensed motor vehicles upon request of the department.

15 (g) (h) Any person who operates a licensed motor vehicle on and off the public reads for commercial purposes 17 may claim refund of the state license tax on the gasoline 18 used to operate the vehicle on roads or property in private 19 cunership, if such person has maintained the following 20 records:

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

(ii) total gallens of gaseline used in each wehicle to
include both refund and nonrefund use;

25 (iii) purchase invoices supporting all gasoline

- 5-

handled through bulk storage, as well as all fuels furchased
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 consumption rate into the
number of highway miles operated.

7 (4) (5) All applications for refunds shall be filed 8 with the department of revenue within fourteen (14) months after the date on which the gasoline was purchased as shown 9 10 by invoices or after the date on which the tar was erroneously paid. Provided, however, that a distributor may 11 12 file a claim for refund of taxes erroneously paid within three (3) years after the date of such erroneous rayment. 13 The department shall have one hundred twenty (120) days 14 15 after receiving the claim to approve or reject it. If 16 approved, the department shall issue a credit in lieu of 17 refund for the amount of the claim, if the claimant is a 18 distributor. For all other persons, a warrant shall be drawn 19 upon the state treasurer for the amount of the claim.

20 (5)(6) Should the department of revenue find that the 21 statement contains errors which are not fraudulently 22 inserted, it may correct the statement and approve it as 23 corrected, or the department may require the claimant to 24 file an amended statement. If the state department of 25 revenue determines that any claim has been fraudulently

-6-

1 presented or is supported by invoice cr invoices 2 fraudulently made or altered or that any statement in the 3 claim or affidavit is willfully false and made for the 4 purpose of misleading, the department may reject such claim 5 in full. If a claim is rejected, the department may suspend 6 claimant's right to refund for a period not to exceed one 7 (1) year.

8 (6) (7) Any person, other than a licensed distributor, 9 shall obtain a license from the state department of revenue 10 prior to selling gasoline on which a refund may be claimed. The application for license shall contain the applicant's 11 name, address, place or places of business in the state of 12 13 Montana, and other information which may be required by the 14 department. Licenses issued shall bear a license number and 15 the date of issuance. The department shall keep a record of 16 all licenses issued, canceled, or suspended. A 17 nontransferable license shall be issued for three (3) years upon payment of a fee of three dollars (\$3). Licenses Bust 18 be renewed and the fee paid every three (3) years from date 19 20 of issuance.

<u>(8)</u> Any person failing to comply with this subsection
shall be subject to a fine of not less than twenty-five
dollars (\$25) or more than two bundred dollars (\$200) or
imprisonment in the county jail for a period not less than
ten (10) days or more than sixty (60) days, or both fine and

1 imprisonment.ⁿ

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-8-

-7-

STATE OF MONTANA

REQUEST NO. 571-77

FISCAL NOTE

Form BD-15

In compliance with a written request received <u>February 16</u>, 19 <u>77</u>, there is hereby submitted a Fiscal Note for <u>Senate Bill 114</u> pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

This bill is an act to revise the procedure for calculating the refund of the gasoline license tax.

ASSUMPTION

This bill has no fiscal impact. The bill clarifies another method of computing the refund for gasoline used off the highways.

PREPARED BY DEPARTMENT OF REVENUE

Kuchand L. From

BUDGET DIRECTOR Office of Budget and Program Planning Date: <u>2-21-27</u>

45th Legislature

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SB 0114/02

Approved by Committee on Agrigulture Livestock & Irrigation

3
A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE PROCEDURE
5 POR CALCULATING THE REFUND OF THE GASOLINE LICENSE TAX;
6 AMENDING SECTION 84-1855, B.C.H. 1947."

SENATE BILL NO. 114

INTRODUCED BY DOVER, E. SHITH, KOLSTAD

8 BE IT ENACTED BY THE LEGISLATORE OF THE STATE OF BOHTANA:
 9 Section 1. Section 84-1855, B.C.M. 1947, is amended to
 10 read as follows:

*84-1855. Refund of gasoline license tax -- procedure. 11 (1) Any person who shall purchase and use any qasoline, on 12 which the Montana gasoline license tay has been paid, for 13 operating or propelling stationary gasoline engines, 14 tractors used off the public highways and streets, 15 motorboats, or for cleaning or dyeing, or for any commercial 16 use other than propelling vehicles upon any of the public 17 highways or streets of this state, shall be allowed a refund 18 of the amount of tax paid directly or indirectly on the 19 gasoline so used. Provided, that such refund or drawback 20 should may in no instance exceed the tax paid or to be paid, 21 to the state of Montanaf, and no refund shall be allowed of 22 that portion of the tax per gallon upon aviation gasoline 23 allocated to the board of aeronautics by section 1-501, 24 B.C.H. 1947]. 25

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
 statement on a form furnished by the department, accompanied

by the original invoice or invoices issued to the claimant the time of purchase and delivery, showing the total amount of gasoline purchased, the total amount of gasoline on which a refund is claimed, and the amount of the tax claimed for refund. Such further information pertaining to such claim shall be furnished as required by the departmenty_

13 (3) provided that then the gallons of gasoline used
14 off the roadways, where are not verifiable by records of
15 actual use, say be estimated by the applicant the applicant
16 shall estimate the gallons used according to the following
17 schedule:

18 (a) on the first one thousand (1,000) gallons of
19 gasoline purchased, or any part thereof, forty-five per cent
20 (45%) of gasoline purchased.

(b) on the next one thousand (1,000) gallens of
gasoline purchased, or any part thereof, sixty per cent
(60%) of gasoline purchased.

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

-2-

SECOND READING

SE 0114/02

1 (65%) of gasoline purchased.

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

5 If any invoice is either lost or destroyed, the 6 purchaser may support his claim for refund by submitting an 7 affidavit relating the circumstances of such loss or 8 destruction and by producing such other evidence as may be 9 required by the department.

10 (3) (4) Any applicant who does not elect to estimate
11 the off-highway use of gasoline according to the schedule in
12 subsection (2) (3) shall maintain records as provided for in
13 this subsection.

14 (a) Highway and off-highway use of gasoline from common storage. Gasoline purchased and delivered into bulk 15 storage for use in motor vehicles on public roads and 16 17 nonhighway use must be fully accounted for by detail withdrawal records to accurately show the manner in which 18 used. Gasoline on hand, determined by actual measurement, 19 20 shall be deducted from a claim and shall be reported as an 21 opening inventory on the next claim. Credit for the 22 inventory is allowed on the next claim if filed within fourteen (14) months from the filing date of the claim which 23 24 established the inventory.

25 (b) Highway and off-highway use of gasoline from

-3-

SB 114

separate storage. If separate storage tanks are maintained 1 2 on the applicant's premises for highway use and off-highway use, the bulk purchase invoices shall be so marked by the 3 dealer at the time of delivery. No further record is a required, provided that no qasoline is withdrawn from the 5 off-highway tank for licensed vehicles. Withdrawal of 6 7 gasoline from the off-highway tank for licensed vehicles will invalidate this method of determining refundable R 9 gallonage.

10 (c)---AR-applicast-who-saintaing-a-storage-task--ep-_bis 11 PEOBIBOG -- for -- off-bighway-use-only-aust-submit-the-original 12 invoice-issued at the time of purchase and delivery and 13 records substantiating-the-perchase-of-gaseling-for-ligensed 14 Tohiolog-from-another-source-and-the-miles-traveled-by-these 15 liconsed wehicless - in - applicant - having such records say 16 elais a refund for the estire aseant of gaseline - stored - on 17 bio premises for combighuar-use. Withdrawal-of gasoling from 18 the off highway tapk for licensed tohigles will intelled 19 this-mothed-of-determining-the-number-of-gallong_subject-te 20 refend, 21 (C) (I) IP THE APPLICANT MAINTAINS & SEPARATE 22 ON-PREMISES TANK SOLELY POR OFF-HIGHWAY USE AND UTILIZES 23 OTHER SOURCES OF GASOLINE FOR HIGHNAY USE, THE FOLLOWING 24 BECORDS SHALL ACCOMPANY ANY APPLICATION FOR BEFUND: 25 (A) ORIGINAL INVOICES AND BETAIL SALES SLIPS ISSUED AT

-4-

SB 0114/02

1 TIME OF PURCHASE AND DELIVERY: AND (B) THE NUMBER OF HILES TRAVELED ON-BIGHNAY BY 2 3 LICENSED_VEHICLES. 4 (II) UTILIZATION OF ANY GASCLINE FROM THE ON-PREMISES TANK FOR ON-HIGHWAY USE SHALL INVALIDATE USE OF THIS REFUND 5 PROCEDURE. 6 7 (d) Use of gasoline from restricted use storage. Special storage facilities in the woods, or in farm fields, я 9 or for other uses for certain periods, aust be identified and explained. If such storage is used entirely for 10 11 off-highway purposes and is not used in licensed vehicles. no records will be required other than purchase invoices 12 13 showing the delivery into such storage. 14 -44+ (e) Gasoline purchased for other than bulk storage.

15 Fuel purchased in small containers for nonhighway use must 16 be identified on the purchase invoice and no further record 17 is required.

18 (0)(f) Besellers. Service stations, bulk dealers and
19 marinas must prepare a separate and complete invoice for
20 each withdrawal of gasoline for cwn use upon which a refund
21 is to be claimed.

22 (f) (g) Proof of highway use. When no highway use of 23 gasoline is deducted from the claim, the applicant must 24 substantiate purchases of gasoline and miles traveled for 25 licensed motor vehicles upon request of the department.

-5-

SB 114

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

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

9 (ii) total gallens of gasoline used in each wehicle to
10 include both refund and nonrefund use:

11 (iii) purchase invoices supporting all gasoline 12 handled through bulk storage, as well as all fuels purchased 13 at service stations or received from other sources. Highway 14 use for each vehicle may be determined by actual 15 measurement, or may be computed by dividing the average 16 miles per gallon highway operation consumption rate into the 17 number of highway miles operated.

18 +4+ (5) All applications for refunds shall be filed 19 with the department of revenue within fourteen (14) months after the date on which the gasoline was purchased as shown 20 by invoices or after the date on which the tax was 21 22 erroneously paid. Provided, however, that a distributor may file a claim for refund of taxes erroneously paid within 23 24 three (3) years after the date of such erroneous rayment. 25 The department shall have one hundred twenty (120) days

-6-

SB 0114/02

SB 114

after receiving the claim to approve or reject it. If
 approved, the department shall issue a credit in lieu of
 refund for the amount of the claim, if the claimant is a
 distributor. For all other persons, a warrant shall be drawn
 upon the state treasurer for the amount of the claim.

-46+(6) Should the department of revenue find that the 6 7 statement contains errors which are not fraudulently 8 inserted, it may correct the statement and approve it as 9 corrected, or the department may require the claimant to file an amended statement. If the state department of 10 11 revenue determines that any claim has been fraudulently 12 presented or is supported by invoice or invoices 13 fraudulently made or altered or that any statement in the 14 claim or affidavit is willfully false and made for the purpose of misleading, the department may reject such claim 15 16 in full. If a claim is rejected, the department may suspend 17 claimant's right to refund for a period not to exceed one 18 (1) year.

19 (6) (7) Any person, other than a licensed distributor, 20 shall obtain a license from the state department of revenue 21 prior to selling gasoline on which a refund may be claimed. 22 The application for license shall contain the applicant's 23 name, address, place or places of business in the state of 24 Hontana, and other information which may be required by the 25 department. Licenses issued shall bear a license number and

-7-

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the date of issuance. The department shall keep a record of
all licenses issued, canceled, or suspended. A
nontransferable license shall be issued for three (3) years
upon payment of a fee of three dollars (\$3). Licenses must
be renewed and the fee paid every three (3) years from date
of issuance.

7 (8) Any person failing to comply with this subsection 8 shall be subject to a fine of not less than twenty-five 9 dellars (\$25) or more than two hundred dollars (\$200) or 10 imprisonment in the county jail for a period not less than 11 ten (10) days or more than sixty (60) days, or both fine and 12 imprisonment."

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-8-

SB 0114/02

1	SENATE BILL NO. 114	1	
2	INTRODUCED BY DOVER, E. SHITH, KOLSTAD	2	s
3		3	a
4	A BILL FOR AN ACT ENTITIZD: "AN ACT TO REVISE THE PROCEDURE	4	
5	FOR CALCULATING THE REFUED OF THE GASOLINE LICENSE TAT;	5	5
6	ABENDING SECTION 84-1855, B.C.M. 1947."	6	b
7		7	a
8	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HOBTANA:	8	a
9	Section 1. Section 84-1855, R.C.M. 1947, is amended to	9	0
10	read as follows:	10	с
11	"84-1855. Refund of gasoline license tax procedure.	11	s
12	(1) Any person who shall purchase and use any gasoline, on	12	đ
13	which the Montana gasoline license tax has been paid, for	13	
14	operating or propelling stationary gasoline engines,	14	0
15	tractors used off the public highways and streets,	15	a
16	motorboats, or for cleaning or dyeing, or for any commercial	16	<u>s</u>
17	use other than propelling vehicles upon any of the public	17	s
18	highways or streets of this state, shall be allowed a refund	18	
19	of the amount of tax paid directly or indirectly on the	19	g
20	gasoline so used. Provided, that such refund or drawback	20	(
21	should may in no instance exceed the tax paid cr to be paid,	21	
22	to the state of Hontanaf, and no refund shall be allowed of	22	g
23	that portion of the tax per gallon upon aviation gasoline	23	(
24	allocated to the board of aeronautics by section 1-501,	24	
25	B.C.M. 1947].	25	9

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.

4 (2) The application for refund shall be a signed 5 statement on a form furnished by the department, accompanied 6 by the original invoice or invoices issued to the claimant 7 at the time of purchase and delivery, showing the total 8 amount of gasoline purchased, the total amount of gasoline 9 on which a refund is claimed, and the amount of the tax 10 claimed for refund. Such further information pertaining to 11 such claim shall be furnished as required by the 12 department₇₂

13 <u>(3) provided that When the gallons of gasoline used</u>
14 off the roadways, where are not verifiable by records of
15 actual use, say be estimated by the applicant the applicant
16 shall estimate the gallons used according to the following
17 schedule:

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gasoline purchased, or any part thereof, forty-five per cent
(45%) of gasoline purchased.

(b) on the next one thousand (1,000) gallens of
gasoline purchased, or any part thereof, sixty per cent
(60%) of gasoline purchased.

24 (c) on the next one thousand (1,000) gallons of 25 gasoline purchased, or any part thereof, sixty-five per cent

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THIRD READING
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1 (65%) of gasoline purchased.

2 (d) on any gasoline purchased in excess of three
3 thousand (3,000) gallons, seventy per cent (70%) of gasoline
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5 If any invoice is either lost or destroyed, the 6 purchaser may support his claim for refund by submitting an 7 affidavit relating the circumstances of such loss or 8 destruction and by producing such other evidence as may be 9 required by the department.

10 (3)(4) Any applicant who does not elect to estimate
11 the off-highway use of gasoline according to the schedule in
12 subsection (2) (3) shall maintain records as provided for in
13 this subsection.

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(b) Highway and off-highway use of gasoline from

-3-

SB 114

1 separate storage. If separate storage tanks are maintained 2 on the applicant's premises for highway use and off-highway 3 use, the bulk purchase invoices shall be so marked by the 4 dealer at the time of delivery. No further record is 5 required, provided that no gasoline is withdrawn from the off-highway tank for licensed vehicles. Withdrawal of 6 7 gasoline from the off-highway tank for licensed vehicles will invalidate this method of determining refundable 8 9 gallonage.

10 - (c) - An - applicant - who - maintains - a - atomseg - tenk - - on - bis 11 pressee--fer-off-bighver-use-calt-sust-subply-the-erigipel 12 13 socorde-substanticting-the-perchase-of-gaseline-for-livensed 14 Tobiolos-from-esother-gourge-and-the-siles-traveled by these 15 licensed tohigless is applicant having each regerds say 16 gleis-e-referd for the-catire-aseast-of-ceselise--stored--ex 17 his-presided for monbighest-use. Withdraval of caseline from 18 the off-highway task for licensed robiolog will invalidate 19 this-sethed-of-determining-the-subber-of-gallons-subject--te 20 refund. 21 (C) (I) IF THE APPLICANT MAINTAINS & SEPARATE 22 ON-PREMISES TANK SOLELY FOR OFF-HIGHWAY OSE AND UTILIZES 23 OTHER SOURCES OF GASOLINE FOR BIGEWAY USE, THE FOLLOWING 24 RECORDS SHALL ACCOMPANY ANY APPLICATION FOR REFUND:

25 (A) OBIGIPAL INVOICES AND RETAIL SALES SLIPS ISSUED AT

-8-

1 TIME OF PUBCHASE AND DELIVIBY: AND

2 (B) THE NUMBER OF HILES TRAVELED ON-BIGHNAL BY 3 LICENSED VEHICLES.

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-5-

SB 114

(s) (b) Any person who operates a licensed motor
vehicle on and off the public roads for commercial purposes
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8 licensed motor vehicle, including private passenger cars:

9 (ii) total gallons of gasoline used in each vehicle to
10 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 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.

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SB 0114/02

-6-

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upon payment of a fee of three dollars (\$3). Licenses must
be renewed and the fee paid every three (3) years from date
of issuance.

7 (8) Any person failing to comply with this subsection 8 shall be subject to a fine of not less than twenty-five 9 dollars (\$25) or more than two hundred dollars (\$200) or 10 imprisonment in the county jail for a period not less than 11 ten (10) days or more than sixty (60) days, or both fine and 12 imprisonment."

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SB 0114/02

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