

CHAPTER NO. 599

HOUSE BILL NO. 727

INTRODUCED BY COONEY

IN THE HOUSE

February 10, 1979	Introduced and referred to Committee on Taxation.
March 12, 1979	Committee recommend bill do pass as amended. Report adopted.
March 14, 1979	Printed and placed on members' desks.
March 15, 1979	Second reading, do pass.
March 16, 1979	Considered correctly engrossed.
March 17, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

March 19, 1979	Introduced and referred to Committee on Taxation.
March 31, 1979	Committee recommend bill be concurred in as amended. Report adopted.
April 2, 1979	Second reading, concurred in.
April 4, 1979	Third reading, concurred in as amended.

IN THE HOUSE

April 5, 1979	Returned from second house. Concurred in as amended.
April 6, 1979	Second reading, amendments adopted.
April 7, 1979	Third reading, amendments adopted. Sent to enrolling. Reported correctly enrolled.

1 House BILL NO. 727
 2 INTRODUCED BY Crowley
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE SPECIAL
 5 FUEL USER'S PERMIT PROVISIONS; PROVIDING FOR QUARTERLY
 6 FILING OF SPECIAL FUEL TAX RETURNS; AND AMENDING SECTIONS
 7 15-70-302 THROUGH 15-70-307, 15-70-325, AND 15-70-327, MCA."
 8

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

10 Section 1. Section 15-70-302, MCA, is amended to read:

11 "15-70-302. Special fuel dealer's ~~and special fuel~~
 12 ~~user's~~ licenses and special fuel ~~vehicle~~ user's permits
 13 required -- exceptions. (1) It shall be unlawful for any
 14 person to act as a special fuel dealer in this state unless
 15 such person is the holder of an uncanceled fuel dealer's
 16 license issued to him by the department.

17 (2) Every special fuel user shall obtain from the
 18 department, prior to the use of such special fuel for the
 19 propulsion of a motor vehicle or vehicles in this state, a
 20 special fuel user's ~~license and a special fuel vehicle~~
 21 ~~permit for~~ and shall at all times display a reproduced copy
 22 of the permit in each such vehicle or vehicles operated by
 23 him upon the highways as herein defined, ~~which permit shall~~
 24 ~~at all times be carried in the vehicle for which it was~~
 25 ~~issued and~~ which shall be exhibited for inspection on

1 request of any checking station officer, Montana highway
 2 patrol officer, authorized employee of the department, or
 3 any other law enforcement officer.

4 (3) A special fuel user's ~~license or permit~~ is not
 5 required of any person whose sole use of special fuel is for
 6 the propulsion of a privately operated passenger automobile
 7 provided the person purchases special fuel, tax paid, from a
 8 licensed special fuel dealer in this state. For purposes of
 9 this exemption, a privately operated passenger vehicle does
 10 not include a motor vehicle used for the transportation of
 11 persons for hire or for compensation or designed, used, or
 12 maintained primarily for transportation of property.

13 (4) Any out-of-state user who operates a special fuel
 14 vehicle solely for recreation or for religious, charitable,
 15 educational, or other eleemosynary purposes shall secure a
 16 special fuel user's courtesy vehicle permit. The permit
 17 shall not be transferable and shall be valid for 90 days.
 18 Permits will be issued at no cost to the user by the
 19 department, scale house personnel, and gross vehicle weight
 20 patrol crews. The department may require the user who has
 21 fuel capacity in excess of 30 gallons to file a report and
 22 pay the tax on fuel used in Montana on which the tax has not
 23 been paid."

24 Section 2. Section 15-70-303, MCA, is amended to read:

25 "15-70-303. Application for license or permit. (1)

1 Application for a special fuel dealer's license or a
 2 special fuel user's ~~license~~ ~~or a special fuel vehicle~~
 3 permit shall be made to the department unless otherwise
 4 provided herein.

5 (2) The application shall be filed upon a form
 6 prepared and furnished by the department. The application
 7 shall contain such information as the department deems
 8 necessary."

9 Section 3. Section 15-70-304, MCA, is amended to read:

10 "15-70-304. Bonding, release of surety, and additional
 11 bond. (1) Except as herein provided, no special fuel
 12 dealer's license or special fuel user's ~~license~~ permit shall
 13 be issued to any person or continued in force unless such
 14 person has furnished bond, as defined in 15-70-301 and in
 15 such form as the department may require, to secure its
 16 compliance with this part and the payment of any and all
 17 taxes, interest, and penalties due and to become due
 18 hereunder. Upon application, the department may waive the
 19 bond requirement of any resident special fuel user who
 20 establishes to the reasonable satisfaction of the department
 21 that the tax as herein provided is not delinquent or that
 22 interest or penalties are not accrued under the provisions
 23 of this part.

24 (2) The total amount of the bond or bonds required of
 25 any special fuel dealer or special fuel user shall be

1 equivalent to twice his estimated ~~monthly~~ quarterly tax
 2 payments as hereinafter provided, determined in such manner
 3 as the department may deem proper; provided, however, that
 4 the total amount of the bond or bonds shall never be less
 5 than \$5,000 for any special fuel user awarded a contract in
 6 accordance with 15-70-321 or less than \$500 for any other
 7 special fuel user and not less than \$1,000 for a special
 8 fuel dealer.

9 (3) Any surety on a bond furnished by a special fuel
 10 dealer or special fuel user as provided herein shall be
 11 released and discharged from any and all liability to the
 12 state accruing on such bond after the expiration of 30 days
 13 from the date upon which such surety shall have lodged with
 14 the department a written request to be released and
 15 discharged, but this provision shall not operate to relieve,
 16 release, or discharge the surety from any liability already
 17 accrued or which shall accrue before the expiration of the
 18 30-day period. The department shall, promptly upon receiving
 19 any such request, notify the special fuel dealer or special
 20 fuel user who furnished the bond, and unless the special
 21 fuel dealer or special fuel user shall, on or before the
 22 expiration of the 30-day period, file a new bond in
 23 accordance with the requirements of this section or make a
 24 deposit in lieu thereof as provided in 15-70-301(1), the
 25 department forthwith shall cancel the special fuel dealer's

1 ~~license or special fuel user's license permit.~~

2 (4) The department may require a special fuel dealer
3 or special fuel user to give a new or additional surety bond
4 or to deposit additional securities of the character
5 specified in 15-70-301(1) if, in its opinion, the security
6 of the surety bond theretofore filed by such special fuel
7 dealer or special fuel user or the market value of the
8 properties deposited as security by such special fuel dealer
9 or special fuel user shall become impaired or inadequate,
10 and upon failure of the special fuel dealer or special fuel
11 user to give such new additional surety bond or to deposit
12 additional securities within 30 days after being requested
13 so to do by the department, said department forthwith shall
14 cancel his license."

15 Section 4. Section 15-70-305, MCA, is amended to read:

16 "15-70-305. Issuance of license or permit -- grounds
17 for refusal -- hearing. (1) Upon receipt of the application
18 and bond in proper form, the department shall issue to the
19 applicant a license or permit to act as a special fuel
20 dealer or special fuel user ~~--or--a--special--fuel--vehicle~~
21 ~~permit~~; provided, however, the department may refuse to
22 issue a special fuel dealer's license or a special fuel
23 user's ~~license--or--a--special--fuel--vehicle~~ permit to any
24 person:

25 (a) who formerly held either ~~--type--of~~ a license or

1 permit which, prior to the time of filing application, has
2 been revoked for cause;

3 (b) who is not the real party in interest and where
4 the license or permit of the real party in interest has been
5 revoked for cause prior to the time of filing such
6 application; or

7 (c) upon other sufficient cause being shown.

8 (2) Before such refusal, the department shall grant
9 the applicant a hearing and shall grant him at least 10
10 days' written notice of the time and place thereof.

11 (3) Each special fuel dealer's license or special
12 fuel user's ~~license--and--special--fuel--vehicle~~ permit shall
13 be valid until suspended or revoked for cause or otherwise
14 canceled.

15 (4) No special fuel dealer's license or special fuel
16 user's ~~license--or--special--fuel--vehicle~~ permit shall be
17 transferable."

18 Section 5. Section 15-70-306, MCA, is amended to read:

19 "15-70-306. Revocation, suspension, and cancellation.

20 (1) The department may revoke the license or permit of any
21 special fuel dealer or special fuel user or any special fuel
22 vehicle permit for reasonable cause. Before revoking such
23 license or permit, the department shall notify the licensee
24 or permittee of its intention so to do, by either certified
25 or registered mail addressed to his last known address shown

1 in the files of the department, requiring him to appear
 2 before the department on a day and hour specified in such
 3 notice not more than 30 days or less than 10 days from date
 4 of such notice and show cause, if any he has, why the
 5 license or the permit or each of them should not be revoked;
 6 provided, however, that at any time prior to and pending
 7 such hearing, the department may in the exercise of
 8 reasonable discretion suspend such license or permit.

9 (2) Upon revocation by the department of any such
 10 license or permit, the holder thereof shall immediately
 11 surrender the same to the department for cancellation."

12 Section 6. Section 15-70-307, MCA, is amended to read:

13 "15-70-307. Surrender of permit upon vehicle use
 14 discontinuance. ~~(1) The holder of any permit having~~
 15 ~~permanently discontinued the use of any vehicle for which~~
 16 ~~the permit was issued, for whatever reason, shall~~
 17 ~~immediately surrender the same to the department for~~
 18 ~~cancellation.~~

19 ~~(2) The department shall cancel any license to act as~~
 20 ~~a special fuel dealer or a any special fuel user or any~~
 21 ~~special fuel vehicle permit immediately upon surrender~~
 22 ~~thereof by the holder."~~

23 Section 7. Section 15-70-325, MCA, is amended to read:

24 "15-70-325. Returns. (1) For the purpose of
 25 determining the amount of his liability for the tax herein

1 imposed, each special fuel dealer and each special fuel user
 2 shall file with the department, on forms prescribed by said
 3 department, a ~~monthly~~ quarterly tax return.

4 (2) Upon annual application, the department shall
 5 waive the filing of a ~~monthly~~ quarterly tax return of any
 6 special fuel user who establishes that such user's annual
 7 tax liability is or will be \$100 or less.

8 (3) Such user shall make an annual report and return
 9 to the department on forms prescribed by said department, on
 10 or before January 25 of each year. Should the department
 11 determine that a user filing annual returns as herein
 12 provided is delinquent in making reports and payments, it
 13 shall require such person to file ~~monthly~~ quarterly returns
 14 as herein provided. Such return, annual or ~~monthly~~
 15 quarterly, shall contain a declaration by the person making
 16 the same to the effect that the statements contained are
 17 true and are made under penalties of perjury, which
 18 declarations shall have the same force and effect as
 19 verification. The return shall show such information as the
 20 department may reasonably require for the proper
 21 administration and enforcement of this part.

22 (4) If a special fuel dealer or user is also a
 23 wholesale distributor of special fuel at a location where
 24 special fuel is delivered into the supply tank of a motor
 25 vehicle and if separate storage is provided thereat from

1 which special fuel is delivered or placed into fuel supply
2 tanks of motor vehicles, the ~~monthly~~ quarterly return to the
3 department need not include inventory control data covering
4 bulk storage from which wholesale distribution of special
5 fuel is made.

6 (5) The special fuel dealer or special fuel user shall
7 file the return on or before the 25th day of the next
8 succeeding calendar month following the ~~monthly~~ quarterly
9 period to which it relates; provided, however, that for good
10 cause the department may grant a taxpayer a reasonable
11 extension of time for filing but not to exceed 30 days."

12 Section 8. Section 15-70-327, MCA, is amended to read:

13 "15-70-327. Payment — deductions. The ~~monthly~~
14 quarterly tax return shall be accompanied by remittance
15 covering the tax due hereunder on account of the use as
16 defined in 15-70-301 of special fuels during the preceding
17 ~~month~~ quarter. A licensed special fuel dealer is allowed a
18 deduction equal to 1% of the first 6 cents per gallon of the
19 taxes paid by the dealer under 15-70-321 as an allowance for
20 shrinkage, spillage, and evaporation of special fuels and
21 other losses beyond the dealer's control."

-End-

Approved by Committee
on Taxation

HOUSE BILL NO. 727
INTRODUCED BY COONEY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE SPECIAL FUEL USER'S PERMIT PROVISIONS; PROVIDING FOR QUARTERLY FILING OF SPECIAL FUEL TAX RETURNS; AND AMENDING SECTIONS 15-70-302 THROUGH 15-70-307, 15-70-325, AND 15-70-327, MCA."

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

Section 1. Section 15-70-302, MCA, is amended to read:

"15-70-302. Special fuel dealer's ~~and--special-fuel~~ user's licenses and special fuel ~~vehicle~~ user's permits required -- exceptions. (1) It shall be unlawful for any person to act as a special fuel dealer in this state unless such person is the holder of an uncanceled fuel dealer's license issued to him by the department.

(2) Every special fuel user shall obtain ANNUALLY from the department, prior to the use of such special fuel for the propulsion of a motor vehicle or vehicles in this state, a special fuel user's ~~license-and-a-special-fuel-vehicle~~ permit ~~for and shall at all times display THE ORIGINAL OR a reproduced copy of the permit in~~ each such vehicle or vehicles operated by him upon the highways as herein defined; ~~which--permit-shall-at-all-times-be-carried-in-the vehicle-for-which-it-was-issued-and which~~ shall be exhibited

for inspection on request of any checking station officer, Montana highway patrol officer, authorized employee of the department, or any other law enforcement officer. THE SPECIAL FUEL USER SHALL BE RESPONSIBLE FOR REPRODUCING CLEAR AND LEGIBLE COPIES OF THE PERMIT.

(3) A special fuel user's ~~license-or~~ permit is not required of any person whose sole use of special fuel is for the propulsion of a privately operated passenger automobile provided the person purchases special fuel, tax paid, from a licensed special fuel dealer in this state. For purposes of this exemption, a privately operated passenger vehicle does not include a motor vehicle used for the transportation of persons for hire or for compensation or designed, used, or maintained primarily for transportation of property.

(4) Any out-of-state user who operates a special fuel vehicle solely for recreation or for religious, charitable, educational, or other eleemosynary purposes shall secure a special fuel user's courtesy vehicle permit. The permit shall not be transferable and shall be valid for 90 days. Permits will be issued at no cost to the user by the department, scale house personnel, and gross vehicle weight patrol crews. The department may require the user who has fuel capacity in excess of 30 gallons to file a report and pay the tax on fuel used in Montana on which the tax has not been paid."

1 Section 2. Section 15-70-303, MCA, is amended to read:

2 "15-70-303. Application for license or permit. (1)
3 Application for a special fuel dealer's license or a
4 special fuel user's license--or--a--special--fuel--vehicle
5 permit shall be made to the department unless otherwise
6 provided herein.

7 (2) The application shall be filed upon a form
8 prepared and furnished by the department. The application
9 shall contain such information as the department deems
10 necessary."

11 Section 3. Section 15-70-304, MCA, is amended to read:

12 "15-70-304. Bonding, release of surety, and additional
13 bond. (1) Except as herein provided, no special fuel
14 dealer's license or special fuel user's license permit shall
15 be issued to any person or continued in force unless such
16 person has furnished bond, as defined in 15-70-301 and in
17 such form as the department may require, to secure its
18 compliance with this part and the payment of any and all
19 taxes, interest, and penalties due and to become due
20 hereunder. Upon application, the department may waive the
21 bond requirement of any resident special fuel user who
22 establishes to the reasonable satisfaction of the department
23 that the tax as herein provided is not delinquent or that
24 interest or penalties are not accrued under the provisions
25 of this part.

1 (2) The total amount of the bond or bonds required of
2 any special fuel dealer or ~~SHALL BE EQUIVALENT TO TWICE HIS~~
3 ~~ESTIMATED MONTHLY TAX PAYMENTS AND THE TOTAL AMOUNT OF THE~~
4 ~~BOND OR BONDS REQUIRED OF ANY~~ special fuel user shall be
5 equivalent to twice his estimated ~~monthly~~ ~~quarterly~~ tax
6 payments as hereinafter provided, determined in such manner
7 as the department may deem proper; provided, however, that
8 the total amount of the bond or bonds shall never be less
9 than \$5,000 for any special fuel user awarded a contract in
10 accordance with 15-70-321 or less than \$500 for any other
11 special fuel user and not less than \$1,000 for a special
12 fuel dealer.

13 (3) Any surety on a bond furnished by a special fuel
14 dealer or special fuel user as provided herein shall be
15 released and discharged from any and all liability to the
16 state accruing on such bond after the expiration of 30 days
17 from the date upon which such surety shall have lodged with
18 the department a written request to be released and
19 discharged, but this provision shall not operate to relieve,
20 release, or discharge the surety from any liability already
21 accrued or which shall accrue before the expiration of the
22 30-day period. The department shall, promptly upon receiving
23 any such request, notify the special fuel dealer or special
24 fuel user who furnished the bond, and unless the special
25 fuel dealer or special fuel user shall, on or before the

1 expiration of the 30-day period, file a new bond in
 2 accordance with the requirements of this section or make a
 3 deposit in lieu thereof as provided in 15-70-301(1), the
 4 department forthwith shall cancel the special fuel dealer's
 5 license or special fuel user's license permit.

6 (4) The department may require a special fuel dealer
 7 or special fuel user to give a new or additional surety bond
 8 or to deposit additional securities of the character
 9 specified in 15-70-301(1) if, in its opinion, the security
 10 of the surety bond theretofore filed by such special fuel
 11 dealer or special fuel user or the market value of the
 12 properties deposited as security by such special fuel dealer
 13 or special fuel user shall become impaired or inadequate,
 14 and upon failure of the special fuel dealer or special fuel
 15 user to give such new additional surety bond or to deposit
 16 additional securities within 30 days after being requested
 17 so to do by the department, said department forthwith shall
 18 cancel his license."

19 Section 4. Section 15-70-305, MCA, is amended to read:

20 "15-70-305. Issuance of license or permit -- grounds
 21 for refusal -- hearing. (1) Upon receipt of the application
 22 and bond in proper form, the department shall issue to the
 23 applicant a license or permit to act as a special fuel
 24 dealer or special fuel user ~~or a special fuel vehicle~~
 25 permit; provided, however, the department may refuse to

1 issue a special fuel dealer's license or a special fuel
 2 user's ~~license or a special fuel vehicle~~ permit to any
 3 person:

4 (a) who formerly held ~~either type of a~~ license or
 5 permit which, prior to the time of filing application, has
 6 been revoked for cause;

7 (b) who is not the real party in interest and where
 8 the license or permit of the real party in interest has been
 9 revoked for cause prior to the time of filing such
 10 application; or

11 (c) upon other sufficient cause being shown.

12 (2) Before such refusal, the department shall grant
 13 the applicant a hearing and shall grant him at least 10
 14 days' written notice of the time and place thereof.

15 (3) Each special fuel dealer's license or special
 16 fuel user's ~~license and special fuel vehicle~~ permit shall
 17 be valid until suspended or revoked for cause or otherwise
 18 canceled.

19 (4) No special fuel dealer's license or special fuel
 20 user's ~~license or special fuel vehicle~~ permit shall be
 21 transferable."

22 Section 5. Section 15-70-306, MCA, is amended to read:

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24 (1) The department may revoke the license or permit of any
 25 special fuel dealer or special fuel user or any special fuel

1 vehicle permit for reasonable cause. Before revoking such
 2 license or permit, the department shall notify the licensee
 3 or permittee of its intention so to do, by either certified
 4 or registered mail addressed to his last known address shown
 5 in the files of the department, requiring him to appear
 6 before the department on a day and hour specified in such
 7 notice not more than 30 days or less than 10 days from date
 8 of such notice and show cause, if any he has, why the
 9 license or the permit or each of them should not be revoked;
 10 provided, however, that at any time prior to and pending
 11 such hearing, the department may in the exercise of
 12 reasonable discretion suspend such license or permit.

13 (2) Upon revocation by the department of any such
 14 license or permit, the holder thereof shall immediately
 15 surrender the same to the department for cancellation."

16 Section 6. Section 15-70-307, MCA, is amended to read:

17 "15-70-307. Surrender of permit upon vehicle use
 18 discontinuance. ~~{1}--The--holder--of--any--permit--having~~
 19 ~~permanently--discontinued--the--use--of--any--vehicle--for--which~~
 20 ~~the--permit--was--issued,--for--whatever--reason,--shall~~
 21 ~~immediately--surrender--the--same--to--the--department--for~~
 22 ~~cancellation.~~

23 ~~{2}--The--department--shall--cancel--any--license--to--act--as~~
 24 ~~a--special--fuel--dealer--or--a--any--special--fuel--user--or--any~~
 25 ~~special--fuel--vehicle--permit--immediately--upon--surrender~~

1 thereof by the holder."

2 Section 7. Section 15-70-325, MCA, is amended to read:

3 "15-70-325. Returns. (1) For the purpose of
 4 determining the amount of his liability for the tax herein
 5 imposed, each special fuel dealer ~~SHALL FILE WITH THE~~
 6 ~~DEPARTMENT A MONTHLY TAX RETURN~~ and each special fuel user
 7 shall file with the department, on forms prescribed by said
 8 department, a ~~monthly~~ quarterly tax return.

9 (2) Upon annual application, the department shall
 10 waive the filing of a ~~monthly~~ quarterly tax return of any
 11 special fuel user who establishes that such user's annual
 12 tax liability is or will be \$100 or less.

13 (3) Such user shall make an annual report and return
 14 to the department on forms prescribed by said department, on
 15 or before January 25 of each year. Should the department
 16 determine that a user filing annual returns as herein
 17 provided is delinquent in making reports and payments, it
 18 shall require such person to file ~~monthly~~ quarterly returns
 19 as herein provided. Such return, annual or ~~monthly~~
 20 quarterly, shall contain a declaration by the person making
 21 the same to the effect that the statements contained are
 22 true and are made under penalties of perjury, which
 23 declarations shall have the same force and effect as a
 24 verification. The return shall show such information as the
 25 department may reasonably require for the proper

1 administration and enforcement of this part.

2 (4) If a special fuel dealer or user is also a
3 wholesale distributor of special fuel at a location where
4 special fuel is delivered into the supply tank of a motor
5 vehicle and if separate storage is provided thereat from
6 which special fuel is delivered or placed into fuel supply
7 tanks of motor vehicles, the ~~monthly~~ ~~quarterly~~ return to the
8 department need not include inventory control data covering
9 bulk storage from which wholesale distribution of special
10 fuel is made.

11 (5) The special fuel dealer or special fuel user shall
12 file the return on or before the 25th day of the next
13 succeeding calendar month following the ~~monthly~~ ~~quarterly~~
14 period to which it relates; provided, however, that for good
15 cause the department may grant a taxpayer a reasonable
16 extension of time for filing but not to exceed 30 days."

17 Section 8. Section 15-70-327, MCA, is amended to read:

18 "15-70-327. Payment -- deductions. The ~~monthly~~
19 ~~quarterly~~ tax return shall be accompanied by remittance
20 covering the tax due hereunder on account of the use as
21 defined in 15-70-301 of special fuels during the preceding
22 ~~month~~ ~~quarter~~ PERIOD. A licensed special fuel dealer is
23 allowed a deduction equal to 1% of the first 6 cents per
24 gallon of the taxes paid by the dealer under 15-70-321 as an
25 allowance for shrinkage, spillage, and evaporation of

1 special fuels and other losses beyond the dealer's control."

-End-

1 HOUSE BILL NO. 727

2 INTRODUCED BY COONEY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE SPECIAL
5 FUEL USER'S PERMIT PROVISIONS; PROVIDING FOR QUARTERLY
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16 license issued to him by the department.

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18 the department, prior to the use of such special fuel for
19 the propulsion of a motor vehicle or vehicles in this state,
20 a special fuel user's ~~license-and-a-special-fuel-vehicle~~
21 ~~permit for and shall at all times display THE ORIGINAL OR a~~
22 reproduced copy of the permit in each such vehicle or
23 vehicles operated by him upon the highways as herein
24 defined--~~which--permit-shall-at-all-times-be-carried-in-the~~
25 ~~vehicle-for-which-it-was-issued-and~~ which shall be exhibited

1 for inspection on request of any checking station officer,
2 Montana highway patrol officer, authorized employee of the
3 department, or any other law enforcement officer. THE
4 SPECIAL FUEL USER SHALL BE RESPONSIBLE FOR REPRODUCING CLEAR
5 AND LEGIBLE COPIES OF THE PERMIT.

6 (3) A special fuel user's ~~license-or~~ permit is not
7 required of any person whose sole use of special fuel is for
8 the propulsion of a privately operated passenger automobile
9 provided the person purchases special fuel, tax paid, from a
10 licensed special fuel dealer in this state. For purposes of
11 this exemption, a privately operated passenger vehicle does
12 not include a motor vehicle used for the transportation of
13 persons for hire or for compensation or designed, used, or
14 maintained primarily for transportation of property.

15 (4) Any out-of-state user who operates a special fuel
16 vehicle solely for recreation or for religious, charitable,
17 educational, or other eleemosynary purposes shall secure a
18 special fuel user's courtesy vehicle permit. The permit
19 shall not be transferable and shall be valid for 90 days.
20 Permits will be issued at no cost to the user by the
21 department, scale house personnel, and gross vehicle weight
22 patrol crews. The department may require the user who has
23 fuel capacity in excess of 30 gallons to file a report and
24 pay the tax on fuel used in Montana on which the tax has not
25 been paid."

1 Section 2. Section 15-70-303, MCA, is amended to read:

2 "15-70-303. Application for license or permit. (1)
3 Application for a special fuel dealer's license or a
4 special fuel user's license ~~or a special fuel vehicle~~
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16 person has furnished bond, as defined in 15-70-301 and in
17 such form as the department may require, to secure its
18 compliance with this part and the payment of any and all
19 taxes, interest, and penalties due and to become due
20 hereunder. Upon application, the department may waive the
21 bond requirement of any resident special fuel user who
22 establishes to the reasonable satisfaction of the department
23 that the tax as herein provided is not delinquent or that
24 interest or penalties are not accrued under the provisions
25 of this part.

1 (2) The total amount of the bond or bonds required of
2 any special fuel dealer or ~~SHALL BE EQUIVALENT TO TWICE HIS~~
3 ~~ESTIMATED MONTHLY TAX PAYMENTS AND THE TOTAL AMOUNT OF THE~~
4 ~~BOND OR BONDS REQUIRED OF ANY~~ special fuel user shall be
5 equivalent to twice his estimated monthly ~~quarterly~~ tax
6 payments as hereinafter provided, determined in such manner
7 as the department may deem proper; provided, however, that
8 the total amount of the bond or bonds shall never be less
9 than \$5,000 for any special fuel user awarded a contract in
10 accordance with 15-70-321 or less than \$500 for any other
11 special fuel user and not less than \$1,000 for a special
12 fuel dealer.

13 (3) Any surety on a bond furnished by a special fuel
14 dealer or special fuel user as provided herein shall be
15 released and discharged from any and all liability to the
16 state accruing on such bond after the expiration of 30 days
17 from the date upon which such surety shall have lodged with
18 the department a written request to be released and
19 discharged, but this provision shall not operate to relieve,
20 release, or discharge the surety from any liability already
21 accrued or which shall accrue before the expiration of the
22 30-day period. The department shall, promptly upon receiving
23 any such request, notify the special fuel dealer or special
24 fuel user who furnished the bond, and unless the special
25 fuel dealer or special fuel user shall, on or before the

1 expiration of the 30-day period, file a new bond in
 2 accordance with the requirements of this section or make a
 3 deposit in lieu thereof as provided in 15-70-301(1), the
 4 department forthwith shall cancel the special fuel dealer's
 5 ~~license~~ or special fuel user's ~~license permit~~.

6 (4) The department may require a special fuel dealer
 7 or special fuel user to give a new or additional surety bond
 8 or to deposit additional securities of the character
 9 specified in 15-70-301(1) if, in its opinion, the security
 10 of the surety bond theretofore filed by such special fuel
 11 dealer or special fuel user or the market value of the
 12 properties deposited as security by such special fuel dealer
 13 or special fuel user shall become impaired or inadequate,
 14 and upon failure of the special fuel dealer or special fuel
 15 user to give such new additional surety bond or to deposit
 16 additional securities within 30 days after being requested
 17 so to do by the department, said department forthwith shall
 18 cancel his license."

19 Section 4. Section 15-70-305, MCA, is amended to read:

20 "15-70-305. Issuance of license or permit -- grounds
 21 for refusal -- hearing. (1) Upon receipt of the application
 22 and bond in proper form, the department shall issue to the
 23 applicant a license ~~or permit~~ to act as a special fuel
 24 dealer or special fuel user ~~--or--a--special--fuel--vehicle~~
 25 permit; provided, however, the department may refuse to

1 issue a special fuel dealer's license ~~or~~ a special fuel
 2 user's ~~license-or-a-special--fuel--vehicle~~ permit to any
 3 person:

4 (a) who formerly held either ~~--type--of~~ a license or
 5 permit which, prior to the time of filing application, has
 6 been revoked for cause;

7 (b) who is not the real party in interest and where
 8 the license or permit of the real party in interest has been
 9 revoked for cause prior to the time of filing such
 10 application; or

11 (c) upon other sufficient cause being shown.

12 (2) Before such refusal, the department shall grant
 13 the applicant a hearing and shall grant him at least 10
 14 days' written notice of the time and place thereof.

15 (3) Each special fuel dealer's license ~~or~~ special
 16 fuel user's ~~license-and-special--fuel--vehicle~~ permit shall
 17 be valid until suspended or revoked for cause or otherwise
 18 canceled.

19 (4) No special fuel dealer's license ~~or~~ special fuel
 20 user's ~~license--or--special--fuel--vehicle~~ permit shall be
 21 transferable."

22 Section 5. Section 15-70-306, MCA, is amended to read:

23 "15-70-306. Revocation, suspension, and cancellation.

24 (1) The department may revoke the license ~~or permit~~ of any
 25 special fuel dealer or special fuel user or any special fuel

1 vehicle permit for reasonable cause. Before revoking such
 2 license or permit, the department shall notify the licensee
 3 or permittee of its intention so to do, by either certified
 4 or registered mail addressed to his last known address shown
 5 in the files of the department, requiring him to appear
 6 before the department on a day and hour specified in such
 7 notice not more than 30 days or less than 10 days from date
 8 of such notice and show cause, if any he has, why the
 9 license or the permit or each of them should not be revoked;
 10 provided, however, that at any time prior to and pending
 11 such hearing, the department may in the exercise of
 12 reasonable discretion suspend such license or permit.

13 (2) Upon revocation by the department of any such
 14 license or permit, the holder thereof shall immediately
 15 surrender the same to the department for cancellation."

16 Section 6. Section 15-70-307, MCA, is amended to read:

17 "15-70-307. Surrender of permit upon vehicle use
 18 discontinuance. ~~{1}--The--holder--of--any--permit--having~~
 19 ~~permanently--discontinued--the--use--of--any--vehicle--for--which~~
 20 ~~the--permit--was--issued,--for--whatever--reason,--shall~~
 21 ~~immediately--surrender--the--same--to--the--department--for~~
 22 ~~cancellation.~~

23 {2}--The department shall cancel any license to act as
 24 a special fuel dealer or a ~~any~~ special fuel user or ~~any~~
 25 special-fuel-vehicle permit immediately upon surrender

1 thereof by the holder."

2 Section 7. Section 15-70-325, MCA, is amended to read:

3 "15-70-325. Returns. (1) For the purpose of
 4 determining the amount of his liability for the tax herein
 5 imposed, each special fuel dealer ~~SHALL FILE WITH THE~~
 6 ~~DEPARTMENT A MONTHLY TAX RETURN~~ and each special fuel user
 7 shall file with the department, on forms prescribed by said
 8 department, a monthly ~~quarterly~~ tax return.

9 (2) Upon annual application, the department shall
 10 waive the filing of a monthly ~~quarterly~~ tax return of any
 11 special fuel user who establishes that such user's annual
 12 tax liability is or will be \$100 or less.

13 (3) Such user shall make an annual report and return
 14 to the department on forms prescribed by said department, on
 15 or before January 25 of each year. Should the department
 16 determine that a user filing annual returns as herein
 17 provided is delinquent in making reports and payments, it
 18 shall require such person to file monthly ~~quarterly~~ returns
 19 as herein provided. Such returns, annual or monthly
 20 ~~quarterly~~, shall contain a declaration by the person making
 21 the same to the effect that the statements contained are
 22 true and are made under penalties of perjury, which
 23 declarations shall have the same force and effect as a
 24 verification. The return shall show such information as the
 25 department may reasonably require for the proper

1 administration and enforcement of this part.

1 special fuels and other losses beyond the dealer's control."

2 (4) If a special fuel dealer or user is also a
3 wholesale distributor of special fuel at a location where
4 special fuel is delivered into the supply tank of a motor
5 vehicle and if separate storage is provided thereat from
6 which special fuel is delivered or placed into fuel supply
7 tanks of motor vehicles, the ~~monthly~~ ~~quarterly~~ return to the
8 department need not include inventory control data covering
9 bulk storage from which wholesale distribution of special
10 fuel is made.

-End-

11 (5) The special fuel dealer or special fuel user shall
12 file the return on or before the 25th day of the next
13 succeeding calendar month following the ~~monthly~~ ~~quarterly~~
14 period to which it relates; provided, however, that for good
15 cause the department may grant a taxpayer a reasonable
16 extension of time for filing but not to exceed 30 days."

17 Section 8. Section 15-70-327, MCA, is amended to read:
18 "15-70-327. Payment -- deductions. The ~~monthly~~
19 ~~quarterly~~ tax return shall be accompanied by remittance
20 covering the tax due hereunder on account of the use as
21 defined in 15-70-301 of special fuels during the preceding
22 month ~~quarter~~ PERIOD. A licensed special fuel dealer is
23 allowed a deduction equal to 1% of the first 6 cents per
24 gallon of the taxes paid by the dealer under 15-70-321 as an
25 allowance for shrinkage, spillage, and evaporation of

1 HOUSE BILL NO. 727
2 INTRODUCED BY COONEY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE SPECIAL
5 FUEL USER'S PERMIT PROVISIONS; PROVIDING FOR QUARTERLY
6 FILING OF SPECIAL FUEL TAX RETURNS; AND AMENDING SECTIONS
7 15-70-302 THROUGH 15-70-307, 15-70-325, AND 15-70-327, MCA;
8 AND PROVIDING AN EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 15-70-302, MCA, is amended to read:

12 "15-70-302. Special fuel dealer's ~~and special fuel~~
13 ~~user's~~ licenses and special fuel ~~vehicle user's~~ permits
14 required -- exceptions. (1) It shall be unlawful for any
15 person to act as a special fuel dealer in this state unless
16 such person is the holder of an uncanceled fuel dealer's
17 license issued to him by the department.

18 (2) Every special fuel user shall obtain ANNUALLY from
19 the department, prior to the use of such special fuel for
20 the propulsion of a motor vehicle or vehicles in this state,
21 a special fuel user's ~~license and a special fuel vehicle~~
22 permit for and shall at all times display THE ORIGINAL OR a
23 reproduced copy of the permit in each such vehicle or
24 vehicles operated by him upon the highways as herein
25 defined, ~~which permit shall at all times be carried in the~~

1 ~~vehicle for which it was issued and which~~ shall be exhibited
2 for inspection on request of any checking station officer,
3 Montana highway patrol officer, authorized employee of the
4 department, or any other law enforcement officer. ~~THE~~
5 SPECIAL FUEL USER SHALL BE RESPONSIBLE FOR REPRODUCING CLEAR
6 AND LEGIBLE COPIES OF THE PERMIT.

7 (3) A special fuel user's ~~license or~~ permit is not
8 required of any person whose sole use of special fuel is for
9 the propulsion of a privately operated passenger automobile
10 provided the person purchases special fuel, tax paid, from a
11 licensed special fuel dealer in this state. For purposes of
12 this exemption, a privately operated passenger vehicle does
13 not include a motor vehicle used for the transportation of
14 persons for hire or for compensation or designed, used, or
15 maintained primarily for transportation of property.

16 (4) Any out-of-state user who operates a special fuel
17 vehicle solely for recreation or for religious, charitable,
18 educational, or other eleemosynary purposes shall secure a
19 special fuel user's courtesy vehicle permit. The permit
20 shall not be transferable and shall be valid for 90 days.
21 Permits will be issued at no cost to the user by the
22 department, scale house personnel, and gross vehicle weight
23 patrol crews. The department may require the user who has
24 fuel capacity in excess of 30 gallons to file a report and
25 pay the tax on fuel used in Montana on which the tax has not

1 been paid."

2 Section 2. Section 15-70-303, MCA, is amended to read:

3 "15-70-303. Application for license or permit. (1)
4 Application for a special fuel dealer's license or a
5 special fuel user's license--or--a--special-fuel-vehicle
6 permit shall be made to the department unless otherwise
7 provided herein.

8 (2) The application shall be filed upon a form
9 prepared and furnished by the department. The application
10 shall contain such information as the department deems
11 necessary."

12 Section 3. Section 15-70-304, MCA, is amended to read:

13 "15-70-304. Bonding, release of surety, and additional
14 bond. (1) Except as herein provided, no special fuel
15 dealer's license or special fuel user's license permit shall
16 be issued to any person or continued in force unless such
17 person has furnished bond, as defined in 15-70-301 and in
18 such form as the department may require, to secure its
19 compliance with this part and the payment of any and all
20 taxes, interest, and penalties due and to become due
21 hereunder. Upon application, the department may waive the
22 bond requirement of any resident special fuel user who
23 establishes to the reasonable satisfaction of the department
24 that the tax as herein provided is not delinquent or that
25 interest or penalties are not accrued under the provisions

1 of this part.

2 (2) The total amount of the bond or bonds required of
3 any special fuel dealer or SHALL BE EQUIVALENT TO TWICE HIS
4 ESTIMATED MONTHLY TAX PAYMENTS AND THE TOTAL AMOUNT OF THE
5 BOND OR BONDS REQUIRED OF ANY special fuel user shall be
6 equivalent to twice his estimated ~~monthly~~ quarterly tax
7 payments as hereinafter provided, determined in such manner
8 as the department may deem proper; provided, however, that
9 the total amount of the bond or bonds shall never be less
10 than \$5,000 for any special fuel user awarded a contract in
11 accordance with 15-70-321 or less than \$500 for any other
12 special fuel user and not less than \$1,000 for a special
13 fuel dealer.

14 (3) Any surety on a bond furnished by a special fuel
15 dealer or special fuel user as provided herein shall be
16 released and discharged from any and all liability to the
17 state accruing on such bond after the expiration of 30 days
18 from the date upon which such surety shall have lodged with
19 the department a written request to be released and
20 discharged, but this provision shall not operate to relieve,
21 release, or discharge the surety from any liability already
22 accrued or which shall accrue before the expiration of the
23 30-day period. The department shall, promptly upon receiving
24 any such request, notify the special fuel dealer or special
25 fuel user who furnished the bond, and unless the special

1 fuel dealer or special fuel user shall, on or before the
2 expiration of the 30-day period, file a new bond in
3 accordance with the requirements of this section or make a
4 deposit in lieu thereof as provided in 15-70-301(1), the
5 department forthwith shall cancel the special fuel dealer's
6 license or special fuel user's license permit.

7 (4) The department may require a special fuel dealer
8 or special fuel user to give a new or additional surety bond
9 or to deposit additional securities of the character
10 specified in 15-70-301(1) if, in its opinion, the security
11 of the surety bond theretofore filed by such special fuel
12 dealer or special fuel user or the market value of the
13 properties deposited as security by such special fuel dealer
14 or special fuel user shall become impaired or inadequate,
15 and upon failure of the special fuel dealer or special fuel
16 user to give such new additional surety bond or to deposit
17 additional securities within 30 days after being requested
18 so to do by the department, said department forthwith shall
19 cancel his license."

20 Section 4. Section 15-70-305, MCA, is amended to read:
21 "15-70-305. Issuance of license or permit -- grounds
22 for refusal -- hearing. (1) Upon receipt of the application
23 and bond in proper form, the department shall issue to the
24 applicant a license or permit to act as a special fuel
25 dealer or special fuel user--~~or--a--special--fuel--vehicle~~

1 permit; provided, however, the department may refuse to
2 issue a special fuel dealer's license or a special fuel
3 user's ~~license--or--a--special--fuel--vehicle~~ permit to any
4 person:

5 (a) who formerly held ~~either--type--of~~ a license or
6 permit which, prior to the time of filing application, has
7 been revoked for cause;

8 (b) who is not the real party in interest and where
9 the license or permit of the real party in interest has been
10 revoked for cause prior to the time of filing such
11 application; or

12 (c) upon other sufficient cause being shown.

13 (2) Before such refusal, the department shall grant
14 the applicant a hearing and shall grant him at least 10
15 days' written notice of the time and place thereof.

16 (3) Each special fuel dealer's license or special
17 fuel user's ~~license--and--special--fuel--vehicle~~ permit shall
18 be valid until suspended or revoked for cause or otherwise
19 canceled.

20 (4) No special fuel dealer's license or special fuel
21 user's ~~license--or--special--fuel--vehicle~~ permit shall be
22 transferable."

23 Section 5. Section 15-70-306, MCA, is amended to read:
24 "15-70-306. Revocation, suspension, and cancellation.
25 (1) The department may revoke the license or permit of any

1 special fuel dealer or special fuel user or any special fuel
 2 vehicle permit for reasonable cause. Before revoking such
 3 license or permit, the department shall notify the licensee
 4 or permittee of its intention so to do, by either certified
 5 or registered mail addressed to his last known address shown
 6 in the files of the department, requiring him to appear
 7 before the department on a day and hour specified in such
 8 notice not more than 30 days or less than 10 days from date
 9 of such notice and show cause, if any he has, why the
 10 license or the permit or each of them should not be revoked;
 11 provided, however, that at any time prior to and pending
 12 such hearing, the department may in the exercise of
 13 reasonable discretion suspend such license or permit.

14 (2) Upon revocation by the department of any such
 15 license or permit, the holder thereof shall immediately
 16 surrender the same to the department for cancellation."

17 Section 6. Section 15-70-307, MCA, is amended to read:

18 "15-70-307. Surrender of permit upon vehicle use
 19 discontinuance. ~~{1}--The--holder--of--any--permit--having~~
 20 ~~permanently--discontinued--the--use--of--any--vehicle--for--which~~
 21 ~~the--permit--was--issued--for--whatever--reason--shall~~
 22 ~~immediately--surrender--the--same--to--the--department--for~~
 23 ~~cancellation.~~

24 {2}--The department shall cancel any license to act as
 25 a special fuel dealer or a any special fuel user or--any

1 special--fuel--vehicle permit immediately upon surrender
 2 thereof by the holder."

3 Section 7. Section 15-70-325, MCA, is amended to read:

4 "15-70-325. Returns. (1) For the purpose of
 5 determining the amount of his liability for the tax herein
 6 imposed, each special fuel dealer SHALL FILE WITH THE
 7 DEPARTMENT A MONTHLY TAX RETURN and each special fuel user
 8 shall file with the department, on forms prescribed by said
 9 department, a monthly quarterly tax return.

10 (2) Upon annual application, the department shall
 11 waive the filing of a monthly quarterly tax return of any
 12 special fuel user who establishes that such user's annual
 13 tax liability is or will be \$100 or less.

14 (3) Such user shall make an annual report and return
 15 to the department on forms prescribed by said department, on
 16 or before January 25 of each year. Should the department
 17 determine that a user filing annual returns as herein
 18 provided is delinquent in making reports and payments, it
 19 shall require such person to file monthly quarterly returns
 20 as herein provided. Such return, annual or monthly
 21 quarterly, shall contain a declaration by the person making
 22 the same to the effect that the statements contained are
 23 true and are made under penalties of perjury, which
 24 declarations shall have the same force and effect as a
 25 verification. The return shall show such information as the

1 department may reasonably require for the proper
2 administration and enforcement of this part.

3 (4) If a special fuel dealer or user is also a
4 wholesale distributor of special fuel at a location where
5 special fuel is delivered into the supply tank of a motor
6 vehicle and if separate storage is provided thereat from
7 which special fuel is delivered or placed into fuel supply
8 tanks of motor vehicles, the ~~monthly~~ ~~quarterly~~ return to the
9 department need not include inventory control data covering
10 bulk storage from which wholesale distribution of special
11 fuel is made.

12 (5) The special fuel dealer or special fuel user shall
13 file the return on or before the 25th day of the next
14 succeeding calendar month following the ~~monthly~~ ~~quarterly~~
15 period to which it relates; provided, however, that for good
16 cause the department may grant a taxpayer a reasonable
17 extension of time for filing but not to exceed 30 days."

18 Section 8. Section 15-70-327, MCA, is amended to read:
19 "15-70-327. Payment -- deductions. The ~~monthly~~
20 ~~quarterly~~ tax return shall be accompanied by remittance
21 covering the tax due hereunder on account of the use as
22 defined in 15-70-301 of special fuels during the preceding
23 month ~~quarter~~ PERIOD. A licensed special fuel dealer is
24 allowed a deduction equal to 1% of the first 6 cents per
25 gallon of the taxes paid by the dealer under 15-70-321 as an

1 allowance for shrinkage, spillage, and evaporation of
2 special fuels and other losses beyond the dealer's control."

3 SECTION 9. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON
4 JANUARY 1, 1980.

-End-

March 31, 1979

SENATE STANDING COMMITTEE REPORT
(Taxation)

That House Bill No. 727, third reading bill, be amended as follows:

1. Title, line 6.

Following: "RETURNS;"

Insert: "PROVIDING AN EFFECTIVE DATE;"

2. Page 10.

Following: line 1

Insert: "Section 9. Effective date. This act is effective on
January 1, 1980."