

CHAPTER NO. 627.

SENATE BILL NO. 459

INTRODUCED BY TURNAGE, McCALLUM

IN THE SENATE

February 12, 1979	Introduced and referred to Committee on Taxation.
February 13, 1979	Fiscal note requested.
February 19, 1979	Fiscal note returned.
	Committee recommend bill do pass. Report adopted.
February 20, 1979	Printed and placed on members' desks.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 27, 1979	Introduced and referred to Committee on Taxation.
April 13, 1979	Committee recommend bill be concurred in. Report adopted.
April 16, 1979	Second reading, concurred in. Third reading, concurred in.

IN THE SENATE

April 17, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 *State* BILL NO. *459*  
 2 INTRODUCED BY *Turnage* *McCallum*  
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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAW  
 5 RELATING TO THE GASOLINE TAX REFUND; PROVIDING THAT NO  
 6 REFUND IS ALLOWED FOR MOTORBOAT USE; PROVIDING THAT ONLY  
 7 AGRICULTURAL USERS MAY APPLY FOR A REFUND ON THE BASIS OF  
 8 ESTIMATED OFF-HIGHWAY USE; REVISING THE METHOD OF  
 9 RECORDKEEPING REQUIRED TO CLAIM A REFUND; AMENDING SECTIONS  
 10 15-70-201 AND 15-70-221 THROUGH 15-70-226, MCA."

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

12 Section 1. Section 15-70-201, MCA, is amended to read:  
 13 "15-70-201. Definitions. As used in this part, unless  
 14 the context requires otherwise, the following definitions  
 15 shall apply:

16 (1) "Agricultural use" means use of gasoline by a  
 17 person whose major endeavor and primary source of earned  
 18 income is from the business of farming or ranching.

19 ~~(2)~~ (2) "Aviation dealer" means any person in this  
 20 state engaged in the business of selling aviation gasoline,  
 21 either from a wholesale or retail outlet, on which the  
 22 license tax has been paid to a licensed distributor as  
 23 herein provided for.

24 ~~(3)~~ (3) "Aviation gasoline" means gasoline or any other

1 liquid fuel by whatsoever name such liquid fuel may be known  
 2 or sold, compounded for use in and sold for use in aircraft,  
 3 including but not limited to any and all such gasoline or  
 4 liquid fuel meeting or exceeding the minimum specifications  
 5 prescribed by the United States for use by its military  
 6 forces in aircraft.

7 ~~(4) "Bulk delivery" means placing gasoline in storage~~  
 8 ~~or containers. The term does not mean gasoline delivered~~  
 9 ~~into the supply tank of a motor vehicle.~~

10 ~~(5)~~ (a) Gasoline refined, produced, manufactured,  
 11 or compounded in this state and placed in tanks thereat or  
 12 gasoline transferred from a refinery or pipeline terminal in  
 13 this state and placed in tanks thereat or gasoline imported  
 14 into this state and placed in storage at refineries or  
 15 pipeline terminals shall be deemed to be "distributed", for  
 16 the purpose of this part, at the time the gasoline is  
 17 withdrawn from such tanks, refinery, or terminal storage for  
 18 sale or use in this state or for the transportation to  
 19 destinations in this state other than by pipeline to another  
 20 refinery or pipeline terminal in this state. When withdrawn  
 21 from such tanks, refinery, or terminal, such gasoline may be  
 22 distributed only by a person who is the holder of a valid  
 23 distributor's license.

24 (b) Gasoline imported into this state, other than that  
 25 gasoline placed in storage at refineries or pipeline

1 terminals, shall be deemed to be "distributed" after it has  
2 arrived in and is brought to rest in this state.

3 †4†(6) "Distributor" means:

4 (a) any person who engages in the business in this  
5 state of producing, refining, manufacturing, or compounding  
6 gasoline for sale, use, or distribution;

7 (b) any person who imports gasoline for sale, use, or  
8 distribution;

9 (c) any dealer licensed as of January 1, 1969, except  
10 a dealer at an established airport.

11 †5†(7) "Gasoline" includes all products commonly or  
12 commercially known or sold as gasolines, including  
13 casinghead gasoline, natural gasoline, aviation gasoline,  
14 and all flammable liquids composed of a mixture of selected  
15 hydrocarbons expressly manufactured and blended for the  
16 purpose of effectively and efficiently operating internal  
17 combustion engines. Gasoline does not include special fuels  
18 as defined in 15-70-301(6).

19 †6†(8) "Import" shall include and mean to receive into  
20 any person's possession or custody first after its arrival  
21 and coming to rest at destination within the state of any  
22 gasoline shipped or transported into this state from point  
23 of origin without this state other than in the fuel supply  
24 tank of a motor vehicle.

25 †7†(9) "Motor vehicle" means all vehicles operated or

1 propelled upon the public highways or streets of this state  
2 in whole or in part by the combustion of gasoline.

3 †8†(10) "Person" means any person, firm, association,  
4 joint-stock company, syndicate, or corporation.

5 †9†(11) "Use" shall include and mean the operation of  
6 motor vehicles upon the public roads or highways of the  
7 state or of any political subdivision thereof."

8 Section 2. Section 15-70-221, MCA, is amended to read:

9 "15-70-221. Refund authorized. (1) Any person who  
10 shall purchase and use any gasoline on which the Montana  
11 gasoline license tax has been paid for operating or  
12 propelling stationary gasoline engines, tractors used off  
13 the public highways and streets, motorboats, ~~or-for-cleaning~~  
14 ~~or-dyeing~~ or for any commercial use other than propelling  
15 vehicles upon any of the public highways or streets of this  
16 state shall be allowed a refund of the amount of tax paid  
17 directly or indirectly on the gasoline so used. Such refund  
18 or drawback should in no instance exceed the tax paid or  
19 be paid to the state and no refund shall be allowed of that  
20 portion of the tax per gallon upon aviation gasoline  
21 allocated to the department of community affairs by  
22 67-1-301.

23 (2) Any distributor paying the gasoline license tax to  
24 this state erroneously shall be allowed a credit or refund  
25 of the amount of tax so paid."

1 Section 3. Section 15-70-222, MCA, is amended to read:

2 "15-70-222. Required records. (1) Gasoline purchased  
3 and delivered into bulk storage for use in motor vehicles on  
4 public roads and nonhighway use must be fully accounted for  
5 by detailed withdrawal records to accurately show the manner  
6 in which used. Gasoline on hand, determined by actual  
7 measurement, shall be deducted from a claim and shall be  
8 reported as an opening inventory on the next claim. Credit  
9 for the inventory is allowed on the next claim if filed  
10 within 14 months from the filing date of the claim which  
11 established the inventory.

12 (2) If separate storage tanks are maintained for  
13 highway use and off-highway use on claimant's premises for  
14 use in licensed vehicles and in unlicensed equipment, the  
15 bulk purchase delivery invoices shall be so marked by the  
16 dealer at the time of delivery. No further record is  
17 required, provided ~~that no gasoline is withdrawn from the~~  
18 ~~off-highway tank for licensed vehicles~~ refunds are claimed  
19 only on the number of gallons delivered into the unlicensed  
20 equipment tank. Withdrawal of gasoline from the off-highway  
21 unlicensed vehicle tank for licensed vehicles will  
22 invalidate this method of determining refundable gallonage.

23 (3) Special storage facilities ~~in the woods or in farm~~  
24 ~~fields or for other uses~~ used for certain periods must be  
25 identified and explained. If such storage is used entirely

1 for off-highway purposes and is not used in licensed  
2 vehicles, no records will be required other than purchase  
3 invoices showing the delivery into such storage.

4 ~~(4) Fuel purchased in small containers for nonhighway~~  
5 ~~use must be identified on the purchase invoice and no~~  
6 ~~further record is required.~~

7 ~~(5)~~<sup>(4)</sup> Service stations, bulk dealers, and marinas  
8 must prepare a separate and complete invoice for each  
9 withdrawal of gasoline for own use upon which a refund is to  
10 be claimed.

11 ~~(6)~~<sup>(5)</sup> When no highway use of gasoline is deducted  
12 from the claim, the applicant must substantiate purchases of  
13 gasoline and miles traveled for licensed motor vehicles upon  
14 request of the department of revenue.

15 ~~(7)~~<sup>(6)</sup> Any person who operates a licensed motor  
16 vehicle on and off the public roads 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 ownership if such person has maintained the following  
20 records:

21 (a) the total number of highway miles operated by each  
22 ~~licensed motor vehicle, including private passenger cars~~  
23 traveled on and off public roads by each licensed vehicle;

24 (b) total gallons of gasoline used in each vehicle, to  
25 include both refund and nonrefund use;



1 (c) purchase invoices supporting all gasoline handled  
2 through bulk storage, as well as all fuels purchased at  
3 service stations or received from other sources."

4 Section 4. Section 15-70-223, MCA, is amended to read:

5 "15-70-223. ~~Estimated~~ Estimate ~~allowed~~ for  
6 agricultural use. (1) ~~Gallons--of--gasoline--used--off--the~~  
7 ~~roadways, where not verifiable by records of actual use, may~~  
8 ~~be estimated by the applicant according to the following~~  
9 ~~schedule:~~

10 ~~(a) on the first 1,000 gallons of gasoline purchased~~  
11 ~~or any part thereof, 45% of gasoline purchased;~~

12 ~~(b) on the next 1,000 gallons of gasoline purchased or~~  
13 ~~any part thereof, 60% of gasoline purchased;~~

14 ~~(c) on the next 1,000 gallons of gasoline purchased or~~  
15 ~~any part thereof, 65% of gasoline purchased;~~

16 ~~(d) on any gasoline purchased in excess of 3,000~~  
17 ~~gallons, 70% of gasoline purchased. An applicant whose use~~  
18 ~~qualifies as agricultural use may apply for a refund of 60%~~  
19 ~~of the applicable tax on the gallons of gasoline as~~  
20 ~~indicated by bulk delivery invoices as an estimate of~~  
21 ~~off-roadway use.~~

22 (2) If any invoice is either lost or destroyed, the  
23 purchaser may support his claim for refund by submitting an  
24 affidavit relating the circumstances of such loss or  
25 destruction and by producing such other evidence as may be

1 required by the department of revenue.

2 (3) ~~Any applicant who does not elect to estimate the~~  
3 ~~off-highway use of gasoline according to the schedule in~~  
4 ~~subsection (1) shall maintain records as provided for in~~  
5 ~~15-70-222. An applicant whose use does not qualify as~~  
6 ~~agricultural use may not estimate and must maintain records~~  
7 ~~as required by 15-70-222.~~

8 Section 5. Section 15-70-224, MCA, is amended to read:

9 "15-70-224. Determination of highway use. Highway use  
10 for each vehicle may be is determined by actual measurement  
11 or may be computed by dividing the average miles per gallon  
12 highway operation consumption rate into the number of  
13 highway miles operated dividing the average miles per gallon  
14 rate into the number of miles traveled on public roads."

15 Section 6. Section 15-70-225, MCA, is amended to read:

16 "15-70-225. Application for refund -- filing --  
17 correction by department. (1) The application for refund  
18 shall be a signed statement, on a form furnished by the  
19 department of revenue, accompanied by the original bulk  
20 delivery invoice or invoices issued to the claimant at the  
21 time of each purchase and delivery, showing the total amount  
22 of gasoline purchased, the total amount of gasoline on which  
23 a refund is claimed, and the amount of the tax claimed for  
24 refund. Such further information pertaining to such claim  
25 shall be furnished as required by the department.

1       ~~(2) A bulk delivery invoice issued by a dealer for a~~  
 2 ~~sale that does not qualify as a bulk delivery under~~  
 3 ~~15-70-201 is not valid for refund purposes.~~

4       ~~(2)(3)~~ All applications for refunds shall be filed  
 5 with the department within 14 months after the date on which  
 6 the gasoline was purchased as shown by invoices or after the  
 7 date on which the tax was erroneously paid. A distributor  
 8 may file a claim for refund of taxes erroneously paid within  
 9 3 years after the date of such erroneous payment.

10       ~~(3)(4)~~ Should the department find that the statement  
 11 contains errors which are not fraudulently inserted, it may  
 12 correct the statement and approve it as corrected or the  
 13 department may require the claimant to file an amended  
 14 statement."

15       Section 7. Section 15-70-226, MCA, is amended to read:

16       "15-70-226. Approval or rejection of claim. (1) The  
 17 department shall have 120 days after receiving the claim to  
 18 approve or reject it. If approved, the department of revenue  
 19 shall issue a credit in lieu of refund for the amount of the  
 20 claim if the claimant is a distributor; for all other  
 21 persons, a warrant shall be drawn upon the state treasurer  
 22 for the amount of the claim.

23       (2) If the department determines that any claim has  
 24 been fraudulently presented or is supported by invoice or  
 25 invoices fraudulently made or altered or that any statement

1       in the claim or affidavit is willfully false and made for  
 2 the purpose of misleading, the department may shall reject  
 3 such claim in full. If a claim is rejected, the department  
 4 may suspend claimant's right to refund for a period not to  
 5 exceed 1 year."

-End-

SB 459

STATE OF MONTANA

REQUEST NO. 334-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 13, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 459 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 proposed bill revises the law relating to the gasoline tax refund; providing that no refund is allowed for motorboat use; providing that only agricultural users may apply for a refund on the basis of estimated off-highway use; revising the method of recordkeeping required to claim a refund.

ASSUMPTIONS

- 1) The proposed legislation provides that no refund shall be allowed for motorboat use. This change will not result in any significant increase in gasoline license tax revenues.
- 2) The legislation provides that only agricultural users may apply for a refund on the basis of estimated off-highway use. This change should have minimal fiscal impact.
- 3) Any other changes in the legislation will not have a significant effect on revenues.

FISCAL IMPACT

It is anticipated that the proposed law would have a minimal effect upon gasoline license tax receipts.

(Prepared by the Department of Revenue)

*Richard L. Strayger*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/17/79

1  
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*Turnage* *Mulvaney*  
 3

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 20 state engaged in the business of selling aviation gasoline,  
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 22 license tax has been paid to a licensed distributor as  
 23 herein provided for.

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 8 ~~of containers. The term does not mean gasoline delivered~~  
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 16 the purpose of this part, at the time the gasoline is  
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 18 sale or use in this state or for the transportation to  
 19 destinations in this state other than by pipeline to another  
 20 refinery or pipeline terminal in this state. When withdrawn  
 21 from such tanks, refinery, or terminal, such gasoline may be  
 22 distributed only by a person who is the holder of a valid  
 23 distributor's license.

24 (b) Gasoline imported into this state, other than that  
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1 terminals, shall be deemed to be "distributed" after it has  
2 arrived in and is brought to rest in this state.

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21 and coming to rest at destination within the state of any  
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23 of origin without this state other than in the fuel supply  
24 tank of a motor vehicle.

25 ~~(7)~~(9) "Motor vehicle" means all vehicles operated or

1 propelled upon the public highways or streets of this state  
2 in whole or in part by the combustion of gasoline.

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4 joint-stock company, syndicate, or corporation.

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7 state or of any political subdivision thereof."

8 Section 2. Section 15-70-221, MCA, is amended to read:

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14 ~~or dyeing~~ or for any commercial use other than propelling  
15 vehicles upon any of the public highways or streets of this  
16 state shall be allowed a refund of the amount of tax paid  
17 directly or indirectly on the gasoline so used. Such refund  
18 or drawback should in no instance exceed the tax paid or to  
19 be paid to the state and no refund shall be allowed of that  
20 portion of the tax per gallon upon aviation gasoline  
21 allocated to the department of community affairs by  
22 67-1-301.

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24 this state erroneously shall be allowed a credit or refund  
25 of the amount of tax so paid."

1 Section 3. Section 15-70-222, MCA, is amended to read:  
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 6 in which used. Gasoline on hand, determined by actual  
 7 measurement, shall be deducted from a claim and shall be  
 8 reported as an opening inventory on the next claim. ~~Credit~~  
 9 ~~for the inventory is allowed on the next claim if filed~~  
 10 ~~within 14 months from the filing date of the claim which~~  
 11 ~~established the inventory.~~  
 12 (2) If separate storage tanks are maintained for  
 13 ~~highway use and off-highway use on claimant's premises for~~  
 14 ~~use in licensed vehicles and in unlicensed equipment,~~ the  
 15 bulk purchase delivery invoices shall be so marked by the  
 16 dealer at the time of delivery. No further record is  
 17 required, ~~provided that no gasoline is withdrawn from the~~  
 18 ~~off-highway tank for licensed vehicles~~ refunds are claimed  
 19 only on the number of gallons delivered into the unlicensed  
 20 equipment tank. Withdrawal of gasoline from the ~~off-highway~~  
 21 ~~unlicensed vehicle~~ tank for licensed vehicles will  
 22 invalidate this method of determining refundable gallonage.  
 23 (3) Special storage facilities ~~in the woods or in farm~~  
 24 ~~fields or for other uses~~ used for certain periods must be  
 25 identified and explained. If such storage is used entirely

1 for off-highway purposes and is not used in licensed  
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 8 must prepare a separate and complete invoice for each  
 9 withdrawal of gasoline for own use upon which a refund is to  
 10 be claimed.  
 11 ~~(6)(5)~~ When no highway use of gasoline is deducted  
 12 from the claim, the applicant must substantiate purchases of  
 13 gasoline and miles traveled for licensed motor vehicles upon  
 14 request of the department of revenue.  
 15 ~~(7)(6)~~ Any person who operates a licensed motor  
 16 vehicle on and off the public roads 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 ownership if such person has maintained the following  
 20 records:  
 21 (a) the total number of highway miles ~~operated by each~~  
 22 ~~licensed motor vehicle, including private passenger cars~~  
 23 traveled on and off public roads by each licensed vehicle;  
 24 (b) total gallons of gasoline used in each vehicle, ~~to~~  
 25 ~~include both refund and nonrefund use;~~

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(c) purchase invoices supporting all gasoline handled through bulk storage, as well as all fuels purchased at service stations or received from other sources."

Section 4. Section 15-70-223, MCA, is amended to read:

"15-70-223. Estimated Estimate allowed for agricultural use. (1) ~~Gallons of gasoline used off the roadways where not verifiable by records of actual use may be estimated by the applicant according to the following schedule:~~

~~(a) on the first 1,000 gallons of gasoline purchased or any part thereof, 45% of gasoline purchased;~~

~~(b) on the next 1,000 gallons of gasoline purchased or any part thereof, 60% of gasoline purchased;~~

~~(c) on the next 1,000 gallons of gasoline purchased or any part thereof, 65% of gasoline purchased;~~

~~(d) on any gasoline purchased in excess of 3,000 gallons, 70% of gasoline purchased. An applicant whose use qualifies as agricultural use may apply for a refund of 60% of the applicable tax on the gallons of gasoline as indicated by bulk delivery invoices as an estimate of off-roadway use.~~

(2) 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 of revenue.

~~(3) Any applicant who does not elect to estimate the off-highway use of gasoline according to the schedule in subsection (1) shall maintain records as provided for in 15-70-222. An applicant whose use does not qualify as agricultural use may not estimate and must maintain records as required by 15-70-222.~~

Section 5. Section 15-70-224, MCA, is amended to read:

"15-70-224. Determination of highway use. Highway use for each vehicle may be ~~is~~ 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 dividing the average miles per gallon rate into the number of miles traveled on public roads."

Section 6. Section 15-70-225, MCA, is amended to read:

"15-70-225. Application for refund -- filing -- correction by department. (1) The application for refund shall be a signed statement, on a form furnished by the department of revenue, accompanied by the original bulk delivery invoice or invoices issued to the claimant at the time of each 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 department.

1 (2) A bulk delivery invoice issued by a dealer for a  
 2 sale that does not qualify as a bulk delivery under  
 3 15-70-201 is not valid for refund purposes.

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SB 459

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INTRODUCED BY TURNAGE, MCCALLUM

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††(2) "Aviation dealer" means any person in this state engaged in the business of selling aviation gasoline, either from a wholesale or retail outlet, on which the license tax has been paid to a licensed distributor as herein provided for.

††(3) "Aviation gasoline" means gasoline or any other

liquid fuel by whatsoever name such liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all such gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

(4) "Bulk delivery" means placing gasoline in storage or containers. The term does not mean gasoline delivered into the supply tank of a motor vehicle.

††(5) (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks thereat or gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks thereat or gasoline imported into this state and placed in storage at refineries or pipeline terminals shall be deemed to be "distributed", for the purpose of this part, at the time the gasoline is withdrawn from such tanks, refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such tanks, refinery, or terminal, such gasoline may be distributed only by a person who is the holder of a valid distributor's license.

(b) Gasoline imported into this state, other than that gasoline placed in storage at refineries or pipeline

1 terminals, shall be deemed to be "distributed" after it has  
2 arrived in and is brought to rest in this state.

3 ~~††(6)~~ "Distributor" means:

4 (a) any person who engages in the business in this  
5 state of producing, refining, manufacturing, or compounding  
6 gasoline for sale, use, or distribution;

7 (b) any person who imports gasoline for sale, use, or  
8 distribution;

9 (c) any dealer licensed as of January 1, 1969, except  
10 a dealer at an established airport.

11 ~~††(7)~~ "Gasoline" includes all products commonly or  
12 commercially known or sold as gasolines, including  
13 casinghead gasoline, natural gasoline, aviation gasoline,  
14 and all flammable liquids composed of a mixture of selected  
15 hydrocarbons expressly manufactured and blended for the  
16 purpose of effectively and efficiently operating internal  
17 combustion engines. Gasoline does not include special fuels  
18 as defined in 15-70-301(6).

19 ~~††(8)~~ "Import" shall include and mean to receive into  
20 any person's possession or custody first after its arrival  
21 and coming to rest at destination within the state of any  
22 gasoline shipped or transported into this state from point  
23 of origin without this state other than in the fuel supply  
24 tank of a motor vehicle.

25 ~~††(9)~~ "Motor vehicle" means all vehicles operated or

1 propelled upon the public highways or streets of this state  
2 in whole or in part by the combustion of gasoline.

3 ~~††(10)~~ "Person" means any person, firm, association,  
4 joint-stock company, syndicate, or corporation.

5 ~~††(11)~~ "Use" shall include and mean the operation of  
6 motor vehicles upon the public roads or highways of the  
7 state or of any political subdivision thereof."

8 Section 2. Section 15-70-221, MCA, is amended to read:

9 "15-70-221. Refund authorized. (1) Any person who  
10 shall purchase and use any gasoline on which the Montana  
11 gasoline license tax has been paid for operating or  
12 propelling stationary gasoline engines, tractors used off  
13 the public highways and streets, ~~motorboats-or-for-steering~~  
14 ~~or-dyeing~~ or for any commercial use other than propelling  
15 vehicles upon any of the public highways or streets of this  
16 state shall be allowed a refund of the amount of tax paid  
17 directly or indirectly on the gasoline so used. Such refund  
18 or drawback should in no instance exceed the tax paid or to  
19 be paid to the state and no refund shall be allowed of that  
20 portion of the tax per gallon upon aviation gasoline  
21 allocated to the department of community affairs by  
22 67-1-301.

23 (2) Any distributor paying the gasoline license tax to  
24 this state erroneously shall be allowed a credit or refund  
25 of the amount of tax so paid."



1 Section 3. Section 15-70-222, MCA, is amended to read:

2 "15-70-222. Required records. (1) Gasoline purchased  
3 and delivered into bulk storage for use in motor vehicles on  
4 public roads and nonhighway use must be fully accounted for  
5 by detailed withdrawal records to accurately show the manner  
6 in which used. Gasoline on hand, determined by actual  
7 measurement, shall be deducted from a claim and shall be  
8 reported as an opening inventory on the next claim. Credit  
9 ~~for the inventory is allowed on the next claim if filed~~  
10 ~~within 14 months from the filing date of the claim which~~  
11 ~~established the inventory.~~

12 (2) If separate storage tanks are maintained for  
13 ~~highway use and off-highway use on claimant's premises for~~  
14 ~~use in licensed vehicles and in unlicensed equipment,~~ the  
15 bulk purchase delivery invoices shall be so marked by the  
16 dealer at the time of delivery. No further record is  
17 required, ~~provided that no gasoline is withdrawn from the~~  
18 ~~off-highway tank for licensed vehicles~~ refunds are claimed  
19 only on the number of gallons delivered into the unlicensed  
20 equipment tank. Withdrawal of gasoline from the off-highway  
21 unlicensed vehicle tank for licensed vehicles will  
22 invalidate this method of determining refundable gallonage.

23 (3) Special storage facilities ~~in the woods or in farm~~  
24 ~~fields or for other uses~~ used for certain periods must be  
25 identified and explained. If such storage is used entirely

1 for off-highway purposes and is not used in licensed  
2 vehicles, no records will be required other than purchase  
3 invoices showing the delivery into such storage.

4 ~~{4} Fuel purchased in small containers for nonhighway~~  
5 ~~use must be identified on the purchase invoice and no~~  
6 ~~further record is required.~~

7 ~~{5}~~ (4) Service stations, bulk dealers, and marinas  
8 must prepare a separate and complete invoice for each  
9 withdrawal of gasoline for own use upon which a refund is to  
10 be claimed.

11 ~~{6}~~ (5) When no highway use of gasoline is deducted  
12 from the claim, the applicant must substantiate purchases of  
13 gasoline and miles traveled for licensed motor vehicles upon  
14 request of the department of revenue.

15 ~~{7}~~ (6) Any person who operates a licensed motor  
16 vehicle on and off the public roads 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 ownership if such person has maintained the following  
20 records:

21 (a) the total number of highway miles operated ~~by each~~  
22 ~~licensed motor vehicle including private passenger cars~~  
23 traveled on and off public roads by each licensed vehicle;

24 (b) total gallons of gasoline used in each vehicle ~~to~~  
25 ~~include both refund and nonrefund use;~~

1 (c) purchase invoices supporting all gasoline handled  
2 through bulk storage, as well as all fuels purchased at  
3 service stations or received from other sources."

4 Section 4. Section 15-70-223, MCA, is amended to read:

5 "15-70-223. Estimated Estimate allowed for  
6 agricultural use. (1) ~~Gallons of gasoline used off the~~  
7 ~~roadways where not verifiable by records of actual use, may~~  
8 ~~be estimated by the applicant according to the following~~  
9 ~~schedules:~~

10 ~~(a) on the first 1,000 gallons of gasoline purchased~~  
11 ~~or any part thereof, 45% of gasoline purchased;~~

12 ~~(b) on the next 1,000 gallons of gasoline purchased or~~  
13 ~~any part thereof, 60% of gasoline purchased;~~

14 ~~(c) on the next 1,000 gallons of gasoline purchased or~~  
15 ~~any part thereof, 65% of gasoline purchased;~~

16 ~~(d) on any gasoline purchased in excess of 3,000~~  
17 ~~gallons, 70% of gasoline purchased. An applicant whose use~~  
18 qualifies as agricultural use may apply for a refund of 60%  
19 of the applicable tax on the gallons of gasoline as  
20 indicated by bulk delivery invoices as an estimate of  
21 off-roadway use.

22 (2) If any invoice is either lost or destroyed, the  
23 purchaser may support his claim for refund by submitting an  
24 affidavit relating the circumstances of such loss or  
25 destruction and by producing such other evidence as may be

1 required by the department of revenue.

2 (3) ~~Any applicant who does not elect to estimate the~~  
3 ~~off-highway use of gasoline according to the schedule in~~  
4 ~~subsection (1) shall maintain records as provided for in~~  
5 ~~15-70-222. An applicant whose use does not qualify as~~  
6 agricultural use may not estimate and must maintain records  
7 as required by 15-70-222."

8 Section 5. Section 15-70-224, MCA, is amended to read:

9 "15-70-224. Determination of highway use. Highway use  
10 for each vehicle may be is determined by actual measurement  
11 or may be computed by dividing the average miles per gallon  
12 highway operation consumption rate into the number of  
13 highway miles operated dividing the average miles per gallon  
14 rate into the number of miles traveled on public roads."

15 Section 6. Section 15-70-225, MCA, is amended to read:

16 "15-70-225. Application for refund -- filing --  
17 correction by department. (1) The application for refund  
18 shall be a signed statement, on a form furnished by the  
19 department of revenue, accompanied by the original bulk  
20 delivery invoice or invoices issued to the claimant at the  
21 time of each purchase and delivery, showing the total amount  
22 of gasoline purchased, the total amount of gasoline on which  
23 a refund is claimed, and the amount of the tax claimed for  
24 refund. Such further information pertaining to such claim  
25 shall be furnished as required by the department.

1       ~~(2) A bulk delivery invoice issued by a dealer for a~~  
 2       ~~sale that does not qualify as a bulk delivery under~~  
 3       ~~15-70-201 is not valid for refund purposes.~~

4       ~~(2)(3)~~ All applications for refunds shall be filed  
 5       with the department within 14 months after the date on which  
 6       the gasoline was purchased as shown by invoices or after the  
 7       date on which the tax was erroneously paid. A distributor  
 8       may file a claim for refund of taxes erroneously paid within  
 9       3 years after the date of such erroneous payment.

10       ~~(3)(4)~~ Should the department find that the statement  
 11       contains errors which are not fraudulently inserted, it may  
 12       correct the statement and approve it as corrected or the  
 13       department may require the claimant to file an amended  
 14       statement."

15       Section 7. Section 15-70-226, MCA, is amended to read:  
 16       "15-70-226. Approval or rejection of claim. (1) The  
 17       department shall have 120 days after receiving the claim to  
 18       approve or reject it. If approved, the department of revenue  
 19       shall issue a credit in lieu of refund for the amount of the  
 20       claim if the claimant is a distributor; for all other  
 21       persons, a warrant shall be drawn upon the state treasurer  
 22       for the amount of the claim.

23       (2) If the department determines that any claim has  
 24       been fraudulently presented or is supported by invoice or  
 25       invoices fraudulently made or altered or that any statement

1       in the claim or affidavit is willfully false and made for  
 2       the purpose of misleading, the department may shall reject  
 3       such claim in full. If a claim is rejected, the department  
 4       may suspend claimant's right to refund for a period not to  
 5       exceed 1 year."

-End-