

HOUSE BILL NO. 311

1/22 Introduced
1/22 Referred to Taxation
1/23 Fiscal Note Requested
1/29 Hearing
2/01 Fiscal Note Received
Died in Committee

HOUSE BILL NO. 311

INTRODUCED BY *Fredrick Land, Sorrell, Lynn, Manuel, Zebach, Bill Hand, Dink, Doyle, Galt, Kincaid, HARP*

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE TAX INCENTIVE FOR THE PRODUCTION OF ALCOHOL AS A COMPONENT OF GASOHOL; TO ALLOW THE TAX INCENTIVE FOR ALCOHOL PRODUCED FOR USE IN GASOHOL WHETHER USED IN THE STATE OR EXPORTED; AMENDING SECTIONS 15-70-201, 15-70-503, AND 15-70-522, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-70-201, MCA, is amended to read:

"15-70-201. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

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

(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or pipeline terminals shall be deemed to be "distributed", for the purpose of this part, at the time the gasoline is withdrawn from such tanks, refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to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 When withdrawn from such tanks, refinery, or terminal, such gasoline may be distributed only by a person who is the holder of a valid distributor's license.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 terminals, shall be deemed to be "distributed" after it has



1 arrived in and is brought to rest in this state.

2 (6) "Distributor" means:

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

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

8 (c) any person who engages in the wholesale
9 distribution of gasoline in this state and chooses to become
10 licensed to assume the Montana state gasoline tax liability;

11 (d) any dealer licensed as of January 1, 1969, except
12 a dealer at an established airport.

13 (7) "Gasohol" means all products commonly or
14 commercially known or sold as gasohol, produced and sold in
15 Montana for the purpose of effectively and efficiently
16 operating internal combustion engines, consisting of not
17 less than 10% anhydrous ethanol produced in Montana from
18 Montana agricultural products.

19 (8) "Gasoline" includes all products commonly or
20 commercially known or sold as gasolines, including
21 casinghead gasoline, natural gasoline, aviation gasoline,
22 and all flammable liquids composed of a mixture of selected
23 hydrocarbons expressly manufactured and blended for the
24 purpose of effectively and efficiently operating internal
25 combustion engines. Gasoline does not include special fuels

1 as defined in 15-70-301(6).

2 (9) "Import" shall include and mean to receive into
3 any person's possession or custody first after its arrival
4 and coming to rest at destination within the state of any
5 gasoline shipped or transported into this state from point
6 of origin without this state other than in the fuel supply
7 tank of a motor vehicle.

8 (10) "Motor vehicle" means all vehicles operated or
9 propelled upon the public highways or streets of this state
10 in whole or in part by the combustion of gasoline.

11 (11) "Person" means any person, firm, association,
12 joint-stock company, syndicate, or corporation.

13 (12) "Use" shall include and mean the operation of
14 motor vehicles upon the public roads or highways of the
15 state or of any political subdivision thereof."

16 Section 2. Section 15-70-503, MCA, is amended to read:

17 "15-70-503. Definitions. As used in this part, the
18 definitions in 15-70-201 and the following definitions
19 apply:

20 (1) "Alcohol distributor" means any person who, for
21 the purpose of making gasohol:

22 (a) engages in the business of producing alcohol for
23 sale, use, or distribution ~~in this state~~; or

24 (b) imports alcohol for sale, use, or distribution ~~in~~
25 ~~this state~~.

1 (2) "Department" means the department of revenue.

2 (3) "Gasohol dealer" means any person who blends
3 alcohol with gasoline to produce gasohol for sale, use, or
4 distribution ~~in this state.~~"

5 Section 3. Section 15-70-522, MCA, is amended to read:

6 "15-70-522. Tax incentive for production of alcohol.

7 (1) There is a tax incentive payable to alcohol distributors
8 for distilling alcohol to be blended with gasoline for sale
9 as gasohol, provided the alcohol is distilled in Montana
10 from Montana agricultural products. Payment shall be made by
11 the department of revenue out of the amount collected under
12 15-70-204.

13 (2) Except as provided in subsection (3), the tax
14 incentive on each gallon of alcohol distilled in accordance
15 with subsection (1) is:

16 (a) beginning July 1, 1983, 70 cents per gallon;

17 (b) beginning April 1, ~~1985~~ 1987, 50 cents per gallon;

18 (c) beginning April 1, ~~1986~~ 1989, 30 cents per gallon;

19 and

20 (d) beginning April 1, ~~1989~~ 1991, and thereafter,
21 there is no tax incentive.

22 (3) The incentive schedule provided for in subsection

23 (2) shall be modified in response to market conditions as
24 follows:

25 (a) If for any 2 consecutive calendar quarters ending

1 on or before September 30, 1984, the gallons of gasohol sold
2 comprise 8% or more but less than 11% of the total gallons
3 of nonaviation gasoline and gasohol sold, the tax incentive
4 for alcohol shall be 50 cents per gallon, effective
5 beginning the second calendar quarter after the 2
6 consecutive calendar quarters during which the gallons of
7 gasohol sold comprised 8% or more but less than 11% of the
8 total gallons of nonaviation gasoline and gasohol sold.

9 (b) If for any 2 consecutive calendar quarters ending
10 on or before September 30, 1986, the gallons of gasohol sold
11 comprise 11% or more but less than 18% of the total gallons
12 of nonaviation gasoline and gasohol sold, the tax incentive
13 for alcohol shall be 30 cents per gallon effective beginning
14 the second calendar quarter after the 2 consecutive calendar
15 quarters during which the gallons of gasohol sold comprised
16 11% or more but less than 18% of the total gallons of
17 nonaviation gasoline and gasohol sold.

18 (c) If for any 2 consecutive calendar quarters ending
19 on or before September 30, 1988, the gallons of gasohol sold
20 comprise 18% or more of the total gallons of nonaviation
21 gasoline and gasohol sold, the tax incentive for alcohol
22 shall be eliminated effective beginning the second calendar
23 quarter after the 2 consecutive quarters during which the
24 gallons of gasohol sold comprised 18% or more of the total
25 gallons of nonaviation gasoline and gasohol sold.

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1 (d) Each quarter, the department shall compute the
2 share of the total nonaviation gasoline and gasohol market
3 that is represented by gasohol, according to the information
4 contained in gasoline distributors' returns."

5 NEW SECTION. Section 4. Extension of authority. Any
6 existing authority of the department of revenue to make
7 rules on the subject of the provisions of this act is
8 extended to the provisions of this act.

9 NEW SECTION. Section 5. Effective date. This act is
10 effective July 1, 1985.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 176-85

Form BD-15

In compliance with a written request received January 24, 19 85, there is hereby submitted a Fiscal Note for H.B. 311 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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 OF PROPOSED LEGISLATION:

An act to extend the tax incentive for the production of alcohol as a component of gasohol; to allow the tax incentive for alcohol produced for use in gasohol whether used in the state or exported.

ASSUMPTIONS:

1. Gallons of gasohol produced in FY 1986 and FY 1987 will not exceed the limits specified on page 6, lines 9-25 of the draft bill.
2. 15 cents per gallon of gasohol is collected on every gallon of gasohol sold in state as a gasoline license tax.
3. Based on data from two existing ethanol plants in Montana (A.E. Montana and Alcotech) existing plants are capable of producing 2,800,000 gallons of ethanol annually in Montana. Big Horn Energy Partners has proposed an ethanol plant in Hardin that would produce 10,000,000 gallons of ethanol annually. 5 million gallons are assumed to be produced in the last half of FY 87.
4. All production can be sold.
5. All production is sold in Montana.
6. Production beyond what is sold in state will be sold out of state.
7. Production is prorated over 12 months for both FY 1986 and FY 1987.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 1, 1985

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FISCAL IMPACT:

Expenditures:

	<u>Under</u> <u>Current Law</u>	<u>FY 86</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>FY 87</u> <u>Under</u> <u>Proposed Law</u>	<u>Difference</u>
Alcohol Production Tax Incentives	\$ 840,002	\$ 1,540,000	\$ 699,998	\$ 1,170,000	\$ 3,650,003	\$ 2,480,003

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Department of Highways Special Revenue Fund money is allocated to Montana counties and Montana cities and towns each year for road construction, repair, and maintenance. It is assumed that any changes in the fund could have an impact on county or other local revenue and expenditures.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Bighorn Energy Partners' proposed ethanol plant in Hardin is scheduled to begin production in January, 1987. Production of this magnitude may trigger the cap mechanism in the bill during FY 88.

TECHNICAL NOTES:

It is unclear whether the capping mechanism in the bill applies to sales exported out of state.