

SENATE BILL NO. 238

1/23 Introduced
1/24 Referred to Taxation
2/19 Hearing
3/08 Tabled in Committee

1 Senate BILL NO. 238
 2 INTRODUCED BY LANE Yellowtail Mazuch
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE
 4 Bengton, Fuller Mohr
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING TAX INCENTIVE
 6 PAYMENTS FOR ALCOHOL PRODUCED IN MONTANA AND EXPORTED FROM
 7 MONTANA TO BE BLENDED WITH GASOLINE FOR SALE AS GASOHOL;
 8 CHANGING FROM 1986 TO 1987 THE EFFECTIVE DATE FOR A DECREASE
 9 IN THE TAX INCENTIVE; AMENDING SECTIONS 15-70-201,
 10 15-70-522, AND 15-70-523, MCA; AND PROVIDING AN EFFECTIVE
 11 DATE."
 12

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

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

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

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

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

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

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 18 withdrawn from such tanks, refinery, or terminal storage for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

25 (b) Gasoline imported into this state, other than that



1 gasoline placed in storage at refineries or pipeline
2 terminals, shall be deemed to be "distributed" after it has
3 arrived in and is brought to rest in this state.

4 (6) "Distributor" means:

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

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

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

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

15 (7) "Export", as used in part 5, means to receive into
16 any person's possession or custody first after its arrival
17 and coming to a rest at a destination outside the state any
18 alcohol or gasohol shipped or transported out of this state
19 from point of origin inside this state other than in the
20 fuel supply tank of a motor vehicle.

21 ~~(7)(8)~~ (8) "Gasohol" means all products commonly or
22 commercially known or sold as gasohol, ~~produced-and-sold-in~~
23 ~~Montana~~ for the purpose of effectively and efficiently
24 operating internal combustion engines, consisting of not
25 less than 10% anhydrous ethanol produced in Montana from

1 Montana agricultural products.

2 ~~(8)(9)~~ (9) "Gasoline" includes all products commonly or
3 commercially known or sold as gasolines, including
4 casinghead gasoline, natural gasoline, aviation gasoline,
5 and all flammable liquids composed of a mixture of selected
6 hydrocarbons expressly manufactured and blended for the
7 purpose of effectively and efficiently operating internal
8 combustion engines. Gasoline does not include special fuels
9 as defined in 15-70-301(6).

10 ~~(9)(10)~~ (10) "Import" shall include and mean to receive into
11 any person's possession or custody first after its arrival
12 and coming to rest at destination within the state of any
13 gasoline shipped or transported into this state from point
14 of origin without this state other than in the fuel supply
15 tank of a motor vehicle.

16 ~~(10)(11)~~ (11) "Motor vehicle" means all vehicles operated or
17 propelled upon the public highways or streets of this state
18 in whole or in part by the combustion of gasoline or
19 gasohol.

20 ~~(11)(12)~~ (12) "Person" means any person, firm, association,
21 joint-stock company, syndicate, or corporation.

22 ~~(12)(13)~~ (13) "Use" shall include and mean the operation of
23 motor vehicles upon the public roads or highways of the
24 state or of any political subdivision thereof."

25 Section 2. Section 15-70-522, MCA, is amended to read:

1 "15-70-522. Tax incentive for production of alcohol.
 2 (1) There is a tax incentive payable to alcohol distributors
 3 for distilling alcohol ~~to be~~ that was blended with gasoline
 4 for sale as gasohol, provided the alcohol ~~is~~ was distilled
 5 in Montana from Montana agricultural products. Payment shall
 6 be made by the department of revenue out of the amount
 7 collected under 15-70-204.

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

- 11 (a) beginning July 1, 1983, 70 cents per gallon;
 12 (b) beginning April 1, 1985, 50 cents per gallon;
 13 (c) beginning April 1, ~~1986~~ 1987, 30 cents per gallon;
 14 and

15 (d) beginning April 1, 1989, and thereafter, there is
 16 no tax incentive.

17 (3) (a) The incentive schedule provided for in
 18 subsection (2) shall be modified in response to market
 19 conditions as follows:

20 (a)(i) If for any 2 consecutive calendar quarters
 21 ending on or before September 30, 1984, the gallons of
 22 gasohol sold or that have received the benefit of the tax
 23 incentive comprise 8% or more but less than 11% of the total
 24 gallons of nonaviation gasoline and gasohol sold, the tax
 25 incentive for alcohol shall be 50 cents per gallon,

1 effective beginning the second calendar quarter after the 2
 2 consecutive calendar quarters during which the gallons of
 3 gasohol sold comprised 8% or more but less than 11% of the
 4 total gallons of nonaviation gasoline and gasohol sold.

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

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

24 (d)(iv) Each quarter, the department shall compute the
 25 share of the total nonaviation gasoline and gasohol market

1 that is represented by gasohol, according to the information
 2 contained in gasoline distributors' returns and the
 3 applications for payment of the tax incentive. Alcohol or
 4 gasohol that is exported from Montana and entitled to the
 5 tax incentive payment must be included in the department's
 6 computations as set forth in [section 4].

7 (b) The total incentive payments may not exceed
 8 \$2,500,000 in any 12-month period beginning April 1."

9 Section 3. Section 15-70-523, MCA, is amended to read:

10 "15-70-523. Application for payment of tax incentive.

11 (1) The claimant shall apply for payment of tax incentive by
 12 signed statement, on a form furnished by the department,
 13 accompanied by the original production records and invoices
 14 or copies thereof issued to the gasohol dealer or alcohol
 15 purchaser at the time of sale and delivery, showing total
 16 gallons of alcohol sold and date of blending.

17 (2) Application for the payment of the tax incentives
 18 must be filed with the department not later than the 25th
 19 day of the calendar month following the month for which the
 20 claim is being made.

21 (3) The payment of the tax incentives shall be reduced
 22 by the amount of tax provided for in 15-70-204(3) that is
 23 due on alcohol to be blended for gasohol if the alcohol is
 24 sold in Montana to any person who is not a distributor as
 25 defined in 15-70-201.

1 NEW SECTION. Section 4. Tax incentive for exported
 2 alcohol. (1) Alcohol that is exported from Montana to be
 3 blended with gasoline for sale as gasohol is entitled to a
 4 tax incentive payable to the alcohol distributor under
 5 15-70-522 if the alcohol is distilled in Montana from
 6 Montana agricultural products. The department shall make
 7 payment from the proceeds of the tax collected under
 8 15-70-204.

9 (2) Alcohol that qualifies for the tax incentive
 10 payment under subsection (1) is subject to and included in
 11 the calculations of the tax incentive schedule provided for
 12 in 15-70-522. One gallon of alcohol that is qualified for
 13 the tax incentive payment under subsection (1) is equal to
 14 10 gallons of gasohol for the purposes of those
 15 calculations.

16 NEW SECTION. Section 5. Extension of authority. Any
 17 existing authority of the department of revenue to make
 18 rules on the subject of the provisions of this act is
 19 extended to the provisions of this act.

20 NEW SECTION. Section 6. Codification instruction.
 21 Section 4 is intended to be codified as an integral part of
 22 Title 15, chapter 70, part 5, and the provisions of Title
 23 15, chapter 70, apply to section 4.

24 NEW SECTION. Section 7. Effective date. This act is
 25 effective July 1, 1985.

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