

SENATE BILL NO. 43
INTRODUCED BY FARRELL

IN THE SENATE

JANUARY 6, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON HIGHWAYS & TRANSPORTATION.

JANUARY 20, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 21, 1987 PRINTING REPORT.

JANUARY 22, 1987 SECOND READING, DO PASS.

JANUARY 23, 1987 ENGROSSING REPORT.

JANUARY 24, 1987 THIRD READING, PASSED.
AYES, 46; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 4, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON HIGHWAYS & TRANSPORTATION.

MARCH 2, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 4, 1987 SECOND READING, CONCURRED IN.

MARCH 5, 1987 THIRD READING, CONCURRED IN.
AYES, 98; NOES, 0.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 18, 1987 RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 19, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 SENATE BILL NO. 43
 2 INTRODUCED BY FARRELL
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING WHEN A \$500
 5 BOND IS REQUIRED FOR SPECIAL FUEL USERS; AND AMENDING
 6 SECTION 15-70-304, MCA."
 7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. 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 permit shall be
 13 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. Upon application, the department shall waive
 24 the bond requirement of any public contractor licensed under
 25 Title 15, chapter 50, who has posted a performance bond

1 conditioned on payment of all lawful taxes with the
 2 contracting entity.
 3 (2) The total amount of the bond or bonds required of
 4 any special fuel dealer shall be equivalent to twice his
 5 estimated monthly tax payments and the total amount of the
 6 bond or bonds required of any special fuel user shall be
 7 equivalent to twice his estimated quarterly tax payments as
 8 hereinafter provided, determined in such manner as the
 9 department may deem proper; provided, however, that the
 10 total amount of the bond or bonds shall never be less than:
 11 (a) \$5,000 for any special fuel user awarded a
 12 contract in accordance with 15-70-321; or less than
 13 (b) \$500 for any other special fuel user who:
 14 (i) possesses fuel used in Montana on which the tax
 15 has not been paid;
 16 (ii) requests a special fuel user's permit to be
 17 reissued after being canceled for cause; or
 18 (iii) fails to file timely reports and pay tax due as
 19 required by 15-70-325 and 15-70-327; and not less than
 20 (c) \$1,000 for a special fuel dealer.
 21 (3) Any surety on a bond furnished by a special fuel
 22 dealer or special fuel user as provided herein shall be
 23 released and discharged from any and all liability to the
 24 state accruing on such bond after the expiration of 30 days
 25 from the date upon which such surety shall have lodged with

1 the department a written request to be released and
 2 discharged, but this provision shall not operate to relieve,
 3 release, or discharge the surety from any liability already
 4 accrued or which shall accrue before the expiration of the
 5 30-day period. The department shall, promptly upon receiving
 6 any such request, notify the special fuel dealer or special
 7 fuel user who furnished the bond, and unless the special
 8 fuel dealer or special fuel user shall, on or before the
 9 expiration of the 30-day period, file a new bond in
 10 accordance with the requirements of this section or make a
 11 deposit in lieu thereof as provided in 15-70-301(1), the
 12 department forthwith shall cancel the special fuel dealer's
 13 license or special fuel user's permit.

14 (4) The department may require a special fuel dealer
 15 or special fuel user to give a new or additional surety bond
 16 or to deposit additional securities of the character
 17 specified in 15-70-301(1) if, in its opinion, the security
 18 of the surety bond theretofore filed by such special fuel
 19 dealer or special fuel user or the market value of the
 20 properties deposited as security by such special fuel dealer
 21 or special fuel user shall become impaired or inadequate,
 22 and upon failure of the special fuel dealer or special fuel
 23 user to give such new additional surety bond or to deposit
 24 additional securities within 30 days after being requested
 25 so to do by the department, said department forthwith shall

1 cancel his license."

2 NEW SECTION. Section 2. Extension of authority. Any
 3 existing authority of the department of revenue to make
 4 rules on the subject of the provisions of this act is
 5 extended to the provisions of this act.

-End-

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

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Title 15, chapter 50, who has posted a performance bond conditioned on payment of all lawful taxes with the contracting entity.

(2) The total amount of the bond or bonds required of any special fuel dealer shall be equivalent to twice his estimated monthly tax payments and the total amount of the bond or bonds required of any special fuel user shall be equivalent to twice his estimated quarterly tax payments as hereinafter provided, determined in such manner as the department may deem proper; provided, however, that the total amount of the bond or bonds shall never be less than:

(a) \$5,000 for any special fuel user awarded a contract in accordance with 15-70-321; ~~or less than~~

(b) \$500 for any other special fuel user who:

~~(i) possesses fuel used in Montana on which the tax has not been paid;~~

~~(ii) requests a special fuel user's permit to be reissued after being canceled for cause; or~~

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(c) \$1,000 for a special fuel dealer.

(3) Any surety on a bond furnished by a special fuel dealer or special fuel user as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of 30 days

1 from the date upon which such surety shall have lodged with
 2 the department a written request to be released and
 3 discharged, but this provision shall not operate to relieve,
 4 release, or discharge the surety from any liability already
 5 accrued or which shall accrue before the expiration of the
 6 30-day period. The department shall, promptly upon receiving
 7 any such request, notify the special fuel dealer or special
 8 fuel user who furnished the bond, and unless the special
 9 fuel dealer or special fuel user shall, on or before the
 10 expiration of the 30-day period, file a new bond in
 11 accordance with the requirements of this section or make a
 12 deposit in lieu thereof as provided in 15-70-301(1), the
 13 department forthwith shall cancel the special fuel dealer's
 14 license or special fuel user's permit.

15 (4) The department may require a special fuel dealer
 16 or special fuel user to give a new or additional surety bond
 17 or to deposit additional securities of the character
 18 specified in 15-70-301(1) if, in its opinion, the security
 19 of the surety bond theretofore filed by such special fuel
 20 dealer or special fuel user or the market value of the
 21 properties deposited as security by such special fuel dealer
 22 or special fuel user shall become impaired or inadequate,
 23 and upon failure of the special fuel dealer or special fuel
 24 user to give such new additional surety bond or to deposit
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1 so to do by the department, said department forthwith shall
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3 NEW SECTION. Section 2. Extension of authority. Any
 4 existing authority of the department of revenue to make
 5 rules on the subject of the provisions of this act is
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16 ~~has not been paid;~~

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18 ~~reissued after being canceled for cause; or~~

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(b) \$500 for any other special fuel user who: ~~(i) possesses fuel used in Montana on which the tax has not been paid;~~

(I) POSSESSES SPECIAL FUEL IN BULK STORAGE IN THIS STATE ON WHICH THE TAX HAS NOT BEEN PAID;

(ii)(I)(II) requests a special fuel user's permit to be reissued after being canceled for cause; or

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-End-

Mr. Speaker: We, the committee on HIGHWAYS & TRANSPORTATION

report SENATE BILL 43

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. JOHN HARP

Chairman

CLARIFY WHEN \$500 BOND IS REQUIRED FOR SPECIAL FUEL USERS

Be Amended as Follows:

1. Page 2, following line 16.

Insert: "(i) possesses special fuel in bulk storage in this state on which the tax has not been paid;"

Renumber: subsequent subsections