

SENATE BILL NO. 73

INTRODUCED BY E. SMITH, FARRELL, TVEIT, CODY

IN THE SENATE

JANUARY 8, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON HIGHWAYS & TRANSPORTATION.

FEBRUARY 7, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 9, 1987 PRINTING REPORT.

FEBRUARY 11, 1987 SECOND READING, DO PASS.

FEBRUARY 12, 1987 ENGROSSING REPORT.

FEBRUARY 13, 1987 THIRD READING, PASSED.
AYES, 50; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 18, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & LABOR.

MARCH 4, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 6, 1987 SECOND READING, CONCURRED IN.

MARCH 7, 1987 THIRD READING, CONCURRED IN.
AYES, 88; NOES, 1.

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. 23
 2 INTRODUCED BY E. Smith Farrell Forest Cody
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING USES OF A
 5 CARDTROL, KEYLOCK, OR SIMILAR DEVICE FOR DELIVERY OF SPECIAL
 6 FUELS FROM UNATTENDED PUMPS; AMENDING SECTIONS 15-70-201 AND
 7 15-70-301, MCA; AND PROVIDING AN EFFECTIVE DATE."
 8

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

10 Section 1. Section 15-70-301, MCA, is amended to read:
 11 "15-70-301. Definitions. As used in this part, the
 12 following definitions shall apply:

13 (1) "Bond" means:

14 (a) a bond duly executed by a special fuel dealer or
 15 special fuel user as principal with a corporate surety
 16 qualified under the laws of Montana, which bond shall be
 17 payable to the state of Montana, conditioned upon faithful
 18 performance of all requirements of this part, including the
 19 payment of all taxes, penalties, and other obligations of
 20 such special fuel dealer or special fuel user arising out of
 21 this part; or

22 (b) a deposit with the department by the special fuel
 23 dealer or special fuel user, under such terms and conditions
 24 as the department of revenue may prescribe, of certificates
 25 of deposit or irrevocable letters of credit issued by a bank

1 and insured by the federal deposit insurance corporation.

2 (2) "Cardtrol" or "keylock" means any unique device
 3 intended to allow access to a special fuel dealer's
 4 unattended pump or dispensing unit for the purpose of
 5 delivery of special fuel to an authorized user of the unique
 6 device.

7 ~~(2)~~(3) "Department" means the department of revenue.

8 ~~(3)~~(4) "Motor vehicle" means any vehicle which is
 9 self-propelled upon the highways.

10 ~~(4)~~(5) "Person" means and includes any person, firm,
 11 association, joint-stock company, syndicate, partnership, or
 12 corporation; whenever used in any clause prescribing and
 13 imposing a fine or imprisonment, or both, as applied to a
 14 firm, association, syndicate, or partnership, means and
 15 includes the partners or members thereof and, as applied to
 16 joint-stock companies and corporations, the officers
 17 thereof.

18 ~~(5)~~(6) "Public roads and highways of this state" shall
 19 mean all streets, roads, highways, and related structures as
 20 have been or shall be built and maintained with appropriated
 21 funds of the United States and which have been or shall be
 22 built and maintained with funds of the state of Montana or
 23 any political subdivision thereof or which have been or
 24 shall be dedicated to public use or have been acquired by
 25 eminent domain or have been acquired by adverse use by the

1 public, jurisdiction having been assumed by the state or any
2 political subdivision thereof.

3 ~~(6)~~(7) "Special fuel" means those combustible gases
4 and liquids commonly referred to as diesel fuel or any other
5 volatile liquid of less than 46 degrees A.P.I. (American
6 petroleum institute) gravity test, except liquid petroleum
7 gas, when actually sold for use in motor vehicles propelled
8 upon the public highways or streets within the state of
9 Montana. The term includes compressed natural gas.

10 ~~(7)~~(8) "Special fuel dealer" means any person in the
11 business of handling special fuel who delivers any part
12 thereof into the fuel supply tank or tanks of a motor
13 vehicle not then owned or controlled by him or any person
14 who sells special fuel at a location unattended by the
15 dealer through an unattended pump by use of a cardtrol,
16 keylock, or similar device or who provides any facility,
17 with or without attended services, from which more than one
18 special fuel user obtains special fuel for use in the fuel
19 supply tank of a motor vehicle not then controlled by such
20 dealer. For this purpose the term "fuel supply tank or
21 tanks" does not include cargo tanks even though fuel is
22 withdrawn directly therefrom for propulsion of the vehicle.

23 ~~(8)~~(9) "Special fuel user" means any person other than
24 a county, incorporated city or town, or school district of
25 this state who consumes in this state special fuel for the

1 propulsion of motor vehicles owned or controlled by him upon
2 the highways of this state.

3 ~~(9)~~(10) "Use" means either the receipt, delivery, or
4 placing of special fuels by a special fuel dealer into the
5 fuel supply tank or tanks of any motor vehicle not owned or
6 controlled by him while such vehicle is within this state or
7 the consumption by a special fuel user of special fuels in
8 propulsion of a motor vehicle on the highways of this
9 state."

10 NEW SECTION. Section 2. Affidavit required of
11 cardtrol or keylock purchaser -- inspection by department.
12 (1) A person who uses a cardtrol, keylock, or similar device
13 to obtain delivery of special fuel tax free from an
14 unattended pump or dispensing unit shall sign and furnish to
15 the special fuel dealer an affidavit, on a form prescribed
16 and furnished by the department, stating the type of
17 equipment in which the special fuel will be placed and
18 stating that no special fuel will be placed into the supply
19 tank of a motor vehicle to be operated on the public roads
20 and highways of this state.

21 (2) The special fuel dealer shall keep all such
22 affidavits and make them available for inspection by the
23 department.

24 NEW SECTION. Section 3. Displaying notice on cardtrol
25 or keylock pumps. A special fuel dealer shall display, in a

1 prominent location on each unattended pump or dispensing
 2 unit from which special fuel may be obtained by use of a
 3 cardtrol, keylock, or similar device, a notice to be
 4 furnished by the department and in language prescribed by
 5 the department of the penalties provided for violation of
 6 this part.

7 Section 4. Section 15-70-201, MCA, is amended to read:

8 "15-70-201. Definitions. As used in this part, unless
 9 the context requires otherwise, the following definitions
 10 apply:

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

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

19 (3) "Aviation gasoline" means gasoline or any other
 20 liquid fuel by whatsoever name such liquid fuel may be known
 21 or sold, compounded for use in and sold for use in aircraft,
 22 including but not limited to any and all such gasoline or
 23 liquid fuel meeting or exceeding the minimum specifications
 24 prescribed by the United States for use by its military
 25 forces in aircraft.

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

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

18 (b) Gasoline imported into this state, other than that
 19 gasoline placed in storage at refineries or pipeline
 20 terminals, shall be deemed to be "distributed" after it has
 21 arrived in and is brought to rest in this state.

22 (6) "Distributor" means:

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

1 (b) any person who imports gasoline for sale, use, or
2 distribution;

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

6 (d) any dealer licensed as of January 1, 1969, except
7 a dealer at an established airport;

8 (e) any person in Montana who blends alcohol with
9 gasoline.

10 (7) "Export" means export as defined in 15-70-503.

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

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

25 (10) "Import" shall include and mean to receive into

1 any person's possession or custody first after its arrival
2 and coming to rest at destination within the state of any
3 gasoline shipped or transported into this state from point
4 of origin without this state other than in the fuel supply
5 tank of a motor vehicle.

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

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

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

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

18 NEW SECTION. Section 6. Codification instruction.
19 Sections 2 and 3 are intended to be codified as an integral
20 part of Title 15, chapter 70, part 3, and the provisions of
21 Title 15, chapter 70, part 3, apply to sections 2 and 3.

22 NEW SECTION. Section 7. Effective date. Section 5 and
23 this section are effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB073, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act regulating uses of a cardtroll, keylock, or similar device for delivery of special fuels from unattended pumps; amending sections 15-70-201 and 15-70-301, MCA; and providing an effective date.

ASSUMPTIONS:

N/A

FISCAL IMPACT:

This proposal would enable the Department of Revenue to collect an indeterminable amount of special fuel tax revenue from users of cardtrols, keylocks, and similar devices who are currently escaping taxation. Its implementation would entail no significant additional costs or expenditures.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

David L. Hunter DATE 1/15/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Ed Smith DATE 1-15-87

ED SMITH, PRIMARY SPONSOR

Fiscal Note for SB073, as introduced.

SB-73

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

SENATE BILL NO. 73

INTRODUCED BY E. SMITH, FARRELL, TVEIT, CODY

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING USES OF A
CARDTROL, KEYLOCK, OR SIMILAR DEVICE FOR DELIVERY OF SPECIAL
FUELS FROM UNATTENDED PUMPS; AMENDING SECTIONS 15-70-201 AND
15-70-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

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following definitions shall apply:

(1) "Bond" means:

(a) a bond duly executed by a special fuel dealer or
special fuel user as principal with a corporate surety
qualified under the laws of Montana, which bond shall be
payable to the state of Montana, conditioned upon faithful
performance of all requirements of this part, including the
payment of all taxes, penalties, and other obligations of
such special fuel dealer or special fuel user arising out of
this part; or

(b) a deposit with the department by the special fuel
dealer or special fuel user, under such terms and conditions
as the department of revenue may prescribe, of certificates
of deposit or irrevocable letters of credit issued by a bank

and insured by the federal deposit insurance corporation.

(2) "Cardtrol" or "keylock" means any unique device
intended to allow access to a special fuel dealer's
unattended pump or dispensing unit for the purpose of
delivery of special fuel to an authorized user of the unique
device.

(3) "Department" means the department of revenue.

(4) "Motor vehicle" means any vehicle which is
self-propelled upon the highways.

(5) "Person" means and includes any person, firm,
association, joint-stock company, syndicate, partnership, or
corporation; whenever used in any clause prescribing and
imposing a fine or imprisonment, or both, as applied to a
firm, association, syndicate, or partnership, means and
includes the partners or members thereof and, as applied to
joint-stock companies and corporations, the officers
thereof.

(6) "Public roads and highways of this state" shall
mean all streets, roads, highways, and related structures as
have been or shall be built and maintained with appropriated
funds of the United States and which have been or shall be
built and maintained with funds of the state of Montana or
any political subdivision thereof or which have been or
shall be dedicated to public use or have been acquired by
eminent domain or have been acquired by adverse use by the

1 public, jurisdiction having been assumed by the state or any
2 political subdivision thereof.

3 {6}(7) "Special fuel" means those combustible gases
4 and liquids commonly referred to as diesel fuel or any other
5 volatile liquid of less than 46 degrees A.P.I. (American
6 petroleum institute) gravity test, except liquid petroleum
7 gas, when actually sold for use in motor vehicles propelled
8 upon the public highways or streets within the state of
9 Montana. The term includes compressed natural gas.

10 {7}(8) "Special fuel dealer" means any person in the
11 business of handling special fuel who delivers any part
12 thereof into the fuel supply tank or tanks of a motor
13 vehicle not then owned or controlled by him or any person
14 who sells special fuel at a location unattended by the
15 dealer through an unattended pump by use of a cardtrol,
16 keylock, or similar device or who provides any facility,
17 with or without attended services, from which more than one
18 special fuel user obtains special fuel for use in the fuel
19 supply tank of a motor vehicle not then controlled by such
20 dealer. For this purpose the term "fuel supply tank or
21 tanks" does not include cargo tanks even though fuel is
22 withdrawn directly therefrom for propulsion of the vehicle.

23 {8}(9) "Special fuel user" means any person other than
24 a county, incorporated city or town, or school district of
25 this state who consumes in this state special fuel for the

1 propulsion of motor vehicles owned or controlled by him upon
2 the highways of this state.

3 {9}(10) "Use" means either the receipt, delivery, or
4 placing of special fuels by a special fuel dealer into the
5 fuel supply tank or tanks of any motor vehicle not owned or
6 controlled by him while such vehicle is within this state or
7 the consumption by a special fuel user of special fuels in
8 propulsion of a motor vehicle on the highways of this
9 state."

10 NEW SECTION. Section 2. Affidavit-----required-----of
11 cardtrol-or-keylock-purchaser----inspection--by--department-
12 {1}-A-person-who-uses-a-cardtrol,-keylock,-or-similar-device
13 to--obtain--delivery--of--special--fuel--tax--free--from--an
14 unattended-pump-or-dispensing-unit-shall-sign-and-furnish-to
15 the-special-fuel-dealer-an-affidavit,-on-a--form--prescribed
16 and--furnished--by--the--department,--stating--the--type--of
17 equipment-in-which-the--special--fuel--will--be--placed--and
18 stating--that-no-special-fuel-will-be-placed-into-the-supply
19 tank-of-a-motor-vehicle-to-be-operated-on-the--public--roads
20 and-highways-of-this-state-

21 {2}-The--special--fuel--dealer--shall--keep--all--such
22 affidavits-and-make-them-available--for--inspection--by--the
23 department- IMPOSITION OF TAX ON CARDTROL-TYPE PURCHASE. A
24 SPECIAL FUEL DEALER SHALL, ON THE DATE OF THE TRANSACTION,
25 CHARGE THE SPECIAL FUEL TAX TO A PERSON WHO USES A CARDTROL,

1 KEYLOCK, OR SIMILAR DEVICE TO OBTAIN DELIVERY OF SPECIAL
2 FUEL.

3 NEW SECTION. Section 3. Displaying notice on cardrol
4 or keylock pumps. A special fuel dealer shall display, in a
5 prominent location on each unattended pump or dispensing
6 unit from which special fuel may be obtained by use of a
7 cardrol, keylock, or similar device, a notice to be
8 furnished by the department and in language prescribed by
9 the department of the penalties provided for violation of
10 this part.

11 Section 4. Section 15-70-201, MCA, is amended to read:
12 "15-70-201. Definitions. As used in this part, unless
13 the context requires otherwise, the following definitions
14 apply:

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

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

23 (3) "Aviation gasoline" means gasoline or any other
24 liquid fuel by whatsoever name such liquid fuel may be known
25 or sold, compounded for use in and sold for use in aircraft,

1 including but not limited to any and all such gasoline or
2 liquid fuel meeting or exceeding the minimum specifications
3 prescribed by the United States for use by its military
4 forces in aircraft.

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

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

22 (b) Gasoline imported into this state, other than that
23 gasoline placed in storage at refineries or pipeline
24 terminals, shall be deemed to be "distributed" after it has
25 arrived in and is brought to rest in this state.

1 (6) "Distributor" means:

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

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

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

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

12 (e) any person in Montana who blends alcohol with
13 gasoline.

14 (7) "Export" means export as defined in 15-70-503.

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

21 (9) "Gasoline" includes all products commonly or
22 commercially known or sold as gasolines, including
23 casinghead gasoline, natural gasoline, aviation gasoline,
24 and all flammable liquids composed of a mixture of selected
25 hydrocarbons expressly manufactured and blended for the

1 purpose of effectively and efficiently operating internal
2 combustion engines. Gasoline does not include special fuels
3 as defined in ~~15-70-301(6)~~ 15-70-301.

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5 any person's possession or custody first after its arrival
6 and coming to rest at destination within the state of any
7 gasoline shipped or transported into this state from point
8 of origin without this state other than in the fuel supply
9 tank of a motor vehicle.

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

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

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

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

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24 part of Title 15, chapter 70, part 3, and the provisions of
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SB 0073/02

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2 INTRODUCED BY E. SMITH, FARRELL, TVEIT, CODY

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22 built and maintained with funds of the state of Montana or
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3 NEW SECTION. Section 3. Displaying notice on cardtrol
4 or keylock pumps. A special fuel dealer shall display, in a
5 prominent location on each unattended pump or dispensing
6 unit from which special fuel may be obtained by use of a
7 cardtrol, keylock, or similar device, a notice to be
8 furnished by the department and in language prescribed by
9 the department of the penalties provided for violation of
10 this part.

11 Section 4. Section 15-70-201, MCA, is amended to read:

12 "15-70-201. Definitions. As used in this part, unless
13 the context requires otherwise, the following definitions
14 apply:

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

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

23 (3) "Aviation gasoline" means gasoline or any other
24 liquid fuel by whatsoever name such liquid fuel may be known
25 or sold, compounded for use in and sold for use in aircraft,

1 including but not limited to any and all such gasoline or
2 liquid fuel meeting or exceeding the minimum specifications
3 prescribed by the United States for use by its military
4 forces in aircraft.

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

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

22 (b) Gasoline imported into this state, other than that
23 gasoline placed in storage at refineries or pipeline
24 terminals, shall be deemed to be "distributed" after it has
25 arrived in and is brought to rest in this state.

1 (6) "Distributor" means:

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

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

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

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

12 (e) any person in Montana who blends alcohol with
13 gasoline.

14 (7) "Export" means export as defined in 15-70-503.

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

21 (9) "Gasoline" includes all products commonly or
22 commercially known or sold as gasolines, including
23 casinghead gasoline, natural gasoline, aviation gasoline,
24 and all flammable liquids composed of a mixture of selected
25 hydrocarbons expressly manufactured and blended for the

1 purpose of effectively and efficiently operating internal
2 combustion engines. Gasoline does not include special fuels
3 as defined in ~~15-70-301(6)~~ 15-70-301.

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

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

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

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

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

22 NEW SECTION. Section 6. Codification instruction.
23 Sections 2 and 3 are intended to be codified as an integral
24 part of Title 15, chapter 70, part 3, and the provisions of
25 Title 15, chapter 70, part 3, apply to sections 2 and 3.

SB 0073/02

1 NEW SECTION. Section 7. Effective date. Section 5 and
2 this section are effective on passage and approval.

-End-

SENATE BILL NO. 73

INTRODUCED BY E. SMITH, FARRELL, TVEIT, CODY

A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING USES OF A CARDTROL, KEYLOCK, OR SIMILAR DEVICE FOR DELIVERY OF SPECIAL FUELS FROM UNATTENDED PUMPS; AMENDING SECTIONS 15-70-201 AND 15-70-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-70-301, MCA, is amended to read:

"15-70-301. Definitions. As used in this part, the following definitions shall apply:

(1) "Bond" means:

(a) a bond duly executed by a special fuel dealer or special fuel user as principal with a corporate surety qualified under the laws of Montana, which bond shall be payable to the state of Montana, conditioned upon faithful performance of all requirements of this part, including the payment of all taxes, penalties, and other obligations of such special fuel dealer or special fuel user arising out of this part; or

(b) a deposit with the department by the special fuel dealer or special fuel user, under such terms and conditions as the department of revenue may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank

and insured by the federal deposit insurance corporation.

(2) "Cardtrol" or "keylock" means any unique device intended to allow access to a special fuel dealer's unattended pump or dispensing unit for the purpose of delivery of special fuel to an authorized user of the unique device.

(3) "Department" means the department of revenue.

(4) "Motor vehicle" means any vehicle which is self-propelled upon the highways.

(5) "Person" means and includes any person, firm, association, joint-stock company, syndicate, partnership, or corporation; whenever used in any clause prescribing and imposing a fine or imprisonment, or both, as applied to a firm, association, syndicate, or partnership, means and includes the partners or members thereof and, as applied to joint-stock companies and corporations, the officers thereof.

(6) "Public roads and highways of this state" shall mean all streets, roads, highways, and related structures as have been or shall be built and maintained with appropriated funds of the United States and which have been or shall be built and maintained with funds of the state of Montana or any political subdivision thereof or which have been or shall be dedicated to public use or have been acquired by eminent domain or have been acquired by adverse use by the



1 public, jurisdiction having been assumed by the state or any
2 political subdivision thereof.

3 ~~(6)~~(7) "Special fuel" means those combustible gases
4 and liquids commonly referred to as diesel fuel or any other
5 volatile liquid of less than 46 degrees A.P.I. (American
6 petroleum institute) gravity test, except liquid petroleum
7 gas, when actually sold for use in motor vehicles propelled
8 upon the public highways or streets within the state of
9 Montana. The term includes compressed natural gas.

10 ~~(7)~~(8) "Special fuel dealer" means any person in the
11 business of handling special fuel who delivers any part
12 thereof into the fuel supply tank or tanks of a motor
13 vehicle not then owned or controlled by him or any person
14 who sells special fuel at a location unattended by the
15 dealer through an unattended pump by use of a cardtrol,
16 keylock, or similar device or who provides any facility,
17 with or without attended services, from which more than one
18 special fuel user obtains special fuel for use in the fuel
19 supply tank of a motor vehicle not then controlled by such
20 dealer. For this purpose the term "fuel supply tank or
21 tanks" does not include cargo tanks even though fuel is
22 withdrawn directly therefrom for propulsion of the vehicle.

23 ~~(8)~~(9) "Special fuel user" means any person other than
24 a county, incorporated city or town, or school district of
25 this state who consumes in this state special fuel for the

1 propulsion of motor vehicles owned or controlled by him upon
2 the highways of this state.

3 ~~(9)~~(10) "Use" means either the receipt, delivery, or
4 placing of special fuels by a special fuel dealer into the
5 fuel supply tank or tanks of any motor vehicle not owned or
6 controlled by him while such vehicle is within this state or
7 the consumption by a special fuel user of special fuels in
8 propulsion of a motor vehicle on the highways of this
9 state."

10 NEW SECTION. Section 2. Affidavit-----required-----of
11 cardtrol-or-keylock-purchaser-----inspection--by--department;
12 ~~(1)~~-A-person-who-uses-a-cardtrol,-keylock,-or-similar-device
13 to-obtain-delivery-of-special-fuel-tax-free-from-an
14 unattended-pump-or-dispensing-unit-shall-sign-and-furnish-to
15 the-special-fuel-dealer-an-affidavit,-on-a--form--prescribed
16 and--furnished--by--the--department,-stating--the--type--of
17 equipment-in-which-the--special--fuel--will--be--placed--and
18 stating--that-no-special-fuel-will-be-placed-into-the-supply
19 tank-of-a-motor-vehicle-to-be-operated-on-the--public--roads
20 and-highways-of-this-state;

21 ~~(2)~~-The--special--fuel--dealer--shall--keep--all--such
22 affidavits-and-make-them-available--for--inspection--by--the
23 department; IMPOSITION-OF-TAX-ON-CARDTROL-TYPE-PURCHASE--A
24 SPECIAL-FUEL-DEALER-SHALL,-ON-THE-DATE-OF--THE--TRANSACTION,
25 CHARGE-THE-SPECIAL-FUEL-TAX-TO-A-PERSON-WHO-USES-A-CARDTROL,

1 ~~KEYLOCK, OR SIMILAR DEVICE TO OBTAIN DELIVERY OF SPECIAL~~
 2 ~~PUMP AFFIDAVIT REQUIRED OF CARDTROL OR KEYLOCK PURCHASER --~~
 3 ~~INSPECTION BY DEPARTMENT. (1) A PERSON WHO USES A CARDTROL,~~
 4 ~~KEYLOCK, OR SIMILAR DEVICE TO OBTAIN DELIVERY OF SPECIAL~~
 5 ~~FUEL TAX FREE FROM AN UNATTENDED PUMP OR DISPENSING UNIT~~
 6 ~~SHALL SIGN AND FURNISH TO THE SPECIAL FUEL DEALER AN~~
 7 ~~AFFIDAVIT, ON A FORM PRESCRIBED AND FURNISHED BY THE~~
 8 ~~DEPARTMENT, STATING THE TYPE OF EQUIPMENT IN WHICH THE~~
 9 ~~SPECIAL FUEL WILL BE PLACED AND STATING THAT NO SPECIAL FUEL~~
 10 ~~WILL BE PLACED INTO THE SUPPLY TANK OF A MOTOR VEHICLE TO BE~~
 11 ~~OPERATED ON THE PUBLIC ROADS AND HIGHWAYS OF THIS STATE.~~

12 (2) THE SPECIAL FUEL DEALER SHALL KEEP ALL SUCH
 13 AFFIDAVITS AND MAKE THEM AVAILABLE FOR INSPECTION BY THE
 14 DEPARTMENT.

15 NEW SECTION. Section 3. Displaying notice on cardtrol
 16 or keylock pumps. A special fuel dealer shall display, in a
 17 prominent location on each unattended pump or dispensing
 18 unit from which special fuel may be obtained by use of a
 19 cardtrol, keylock, or similar device, a notice to be
 20 furnished by the department and in language prescribed by
 21 the department of the penalties provided for violation of
 22 this part.

23 Section 4. Section 15-70-201, MCA, is amended to read:
 24 "15-70-201. Definitions. As used in this part, unless
 25 the context requires otherwise, the following definitions

1 apply:

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

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

10 (3) "Aviation gasoline" means gasoline or any other
 11 liquid fuel by whatsoever name such liquid fuel may be known
 12 or sold, compounded for use in and sold for use in aircraft,
 13 including but not limited to any and all such gasoline or
 14 liquid fuel meeting or exceeding the minimum specifications
 15 prescribed by the United States for use by its military
 16 forces in aircraft.

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

20 (5) (a) Gasoline refined, produced, manufactured, or
 21 compounded in this state and placed in tanks thereat or
 22 gasoline transferred from a refinery or pipeline terminal in
 23 this state and placed in tanks thereat or gasoline imported
 24 into this state and placed in storage at refineries or
 25 pipeline terminals shall be deemed to be "distributed", for

1 the purpose of this part, at the time the gasoline is
 2 withdrawn from such tanks, refinery, or terminal storage for
 3 sale or use in this state or for the transportation to
 4 destinations in this state other than by pipeline to another
 5 refinery or pipeline terminal in this state. When withdrawn
 6 from such tanks, refinery, or terminal, such gasoline may be
 7 distributed only by a person who is the holder of a valid
 8 distributor's license.

9 (b) Gasoline imported into this state, other than that
 10 gasoline placed in storage at refineries or pipeline
 11 terminals, shall be deemed to be "distributed" after it has
 12 arrived in and is brought to rest in this state.

13 (6) "Distributor" means:

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

17 (b) any person who imports gasoline for sale, use, or
 18 distribution;

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

22 (d) any dealer licensed as of January 1, 1969, except
 23 a dealer at an established airport;

24 (e) any person in Montana who blends alcohol with
 25 gasoline.

1 (7) "Export" means export as defined in 15-70-503.

2 (8) "Gasohol" means all products commonly or
 3 commercially known or sold as gasohol, used for the purpose
 4 of effectively and efficiently operating internal combustion
 5 engines, consisting of not less than 10% anhydrous ethanol
 6 produced in Montana from Montana agricultural products,
 7 including Montana wood or wood products.

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

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

22 (11) "Motor vehicle" means all vehicles operated or
 23 propelled upon the public highways or streets of this state
 24 in whole or in part by the combustion of gasoline.

25 (12) "Person" means any person, firm, association,

1 joint-stock company, syndicate, or corporation.

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

5 NEW SECTION. Section 5. 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 6. Codification instruction.
10 Sections 2 and 3 are intended to be codified as an integral
11 part of Title 15, chapter 70, part 3, and the provisions of
12 Title 15, chapter 70, part 3, apply to sections 2 and 3.

13 NEW SECTION. Section 7. Effective date. Section 5 and
14 this section are effective on passage and approval.

-End-

HOUSE

STANDING COMMITTEE REPORT

MARCH 4

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report SENATE BILL NO. 73

do pass

be concurred in

as amended

do not pass

be not concurred in

statement of intent attached

Les Kitseleman

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS

1) Page 4, line 23, through Page 5, line 2

Following: "~~department-~~" on page 4, line 23

Strike: the remainder of line 23, lines 24 and 25 on page 4, and line 1, page 5, in their entirety, and "fuel" on line 2, page 5

Insert: "Affidavit required of cardtrol or keylock purchaser -- inspection by department.

(1) A person who uses a cardtrol, keylock, or similar device to obtain delivery of special fuel tax free from an unattended pump or dispensing unit shall sign and furnish to the special fuel dealer an affidavit, on a form prescribed and furnished by the department, stating the type of equipment in which the special fuel will be placed and stating that no special fuel will be placed into the supply tank of a motor vehicle to be operated on the public roads and highways of this state.

(2) The special fuel dealer shall keep all such affidavits and make them available for inspection by the department"

MSC