

SENATE BILL NO. 389

INTRODUCED BY JERGESON, JENKINS, DEMARS, GRINDE, BACHINI

IN THE SENATE

FEBRUARY 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
FEBRUARY 17, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 18, 1989	PRINTING REPORT.
FEBRUARY 20, 1989	SECOND READING, DO PASS.
	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 21, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
	FIRST READING.
MARCH 15, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 27, 1989	PASSED CONSIDERATION FOR THE DAY.
MARCH 28, 1989	SECOND READING, CONCURRED IN.
MARCH 29, 1989	THIRD READING, CONCURRED IN. AYES, 92; NOES, 4.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 1, 1989

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 4, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *389*
 2 INTRODUCED BY *Jorgensen* *DeMoss* *Granol*
 3 *Backen*

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON WHOSE
 5 USE OF SPECIAL FUEL IS PREDOMINANTLY FOR AGRICULTURAL AND
 6 NONHIGHWAY USE BUT WHO OWNS OR OPERATES ONE OR MORE
 7 PASSENGER CARS OR PICKUPS TO ELECT TO APPLY FOR A SPECIAL
 8 FUEL TAX-PREPAID AUTHORIZATION IN LIEU OF A SPECIAL FUEL
 9 USER'S PERMIT; AND AMENDING SECTIONS 15-70-301 THROUGH
 10 15-70-306, MCA."

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

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

14 "15-70-301. Definitions. As used in this part, the
 15 following definitions ~~shall~~ apply:

16 (1) "Authorization" means an uncanceled special fuel
 17 tax prepaid authorization issued by the department.

18 (2) "Bond" means:

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

1 out of this part; or

2 (b) a deposit with the department by the special fuel
 3 dealer or special fuel user, under ~~such~~ terms and conditions
 4 as the department of revenue may prescribe, of certificates
 5 of deposit or irrevocable letters of credit issued by a bank
 6 and insured by the federal deposit insurance corporation.

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

12 (4) "Department" means the department of revenue.

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

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

23 (7) "Public roads and highways of this state" means
 24 all streets, roads, highways, and related structures ~~as have~~
 25 ~~been--or--shall--be;~~

1 (a) built and maintained with appropriated funds of the
2 United States, ~~and which have been or shall be built and~~
3 ~~maintained with funds of~~ the state of Montana, or any
4 political subdivision thereof ~~or which have been or shall be~~
5 of the state;

6 (b) dedicated to public use ~~or have been;~~

7 (c) acquired by eminent domain; ~~or have been~~

8 (d) acquired by adverse use by the public, jurisdiction
9 having been assumed by the state or any political
10 subdivision thereof of the state.

11 †7†(8) "Special fuel" means those combustible gases and
12 liquids commonly referred to as diesel fuel or any other
13 volatile liquid of less than 46 degrees A.P.I. (American
14 petroleum institute) gravity test, except liquid petroleum
15 gas, when actually sold for use in motor vehicles propelled
16 upon the public roads and highways ~~or streets~~ within the
17 state of Montana. The term includes compressed natural gas.

18 †8†(9) (a) "Special fuel dealer" means:

19 (i) any person in the business of handling special fuel
20 who delivers any part ~~thereof of the fuel~~ into the fuel
21 supply tank or tanks of a motor vehicle not then owned or
22 controlled by him ~~or;~~

23 (ii) any person who sells special fuel at a location
24 unattended by the dealer through an unattended pump by use
25 of a cardtrol, keylock, or similar device; or

1 (iii) any person who provides any facility, with or
2 without attended services, from which more than one special
3 fuel user obtains special fuel for use in the fuel supply
4 tank of a motor vehicle not then controlled by such the
5 dealer.

6 (b) For ~~this purpose~~ purposes of subsection (9)(a), the
7 term "fuel supply tank or tanks" does not include cargo
8 tanks, even though fuel is withdrawn directly ~~therefrom from~~
9 cargo tanks for propulsion of the vehicle.

10 †9†(10) "Special fuel user" means any person other than
11 a county, incorporated city or town, or school district of
12 this state who consumes in this state special fuel for the
13 propulsion of motor vehicles owned or controlled by him upon
14 the highways of this state.

15 †10†(11) "Use" means either:

16 (a) the receipt, delivery, or placing of special fuels
17 by a special fuel dealer into the fuel supply tank or tanks
18 of any motor vehicle not owned or controlled by him while
19 such the vehicle is within this state; or

20 (b) the consumption by a special fuel user of special
21 fuels in propulsion of a motor vehicle on the highways of
22 this state."

23 Section 2. Section 15-70-302, MCA, is amended to read:

24 "15-70-302. Special fuel dealer's licenses and special
25 fuel user's permits required -- exceptions. (1) It ~~shall--be~~

1 is unlawful for any person to act as a special fuel dealer
2 in this state unless ~~such~~ the person is the holder of an
3 uncanceled fuel dealer's license issued to him by the
4 department.

5 (2) Every special fuel user shall obtain annually from
6 the department, prior to the use of ~~such~~ special fuel for
7 the propulsion of a motor vehicle or vehicles in this state,
8 a special fuel user's permit ~~and, except~~. Except as provided
9 in subsection (5), a special fuel user shall at all times
10 display the original or a reproduced copy of the permit in
11 each ~~such~~ vehicle ~~or--vehicles~~ operated by him upon the
12 public roads and highways as--herein--defined--which. The
13 permit or copy shall be exhibited for inspection on request
14 of any checking station officer, Montana highway patrol
15 officer, authorized employee of the department, or any other
16 law enforcement officer. The special fuel user ~~shall--be~~ is
17 responsible for reproducing clear and legible copies of the
18 permit.

19 (3) A special fuel user's permit is not required of any
20 person whose sole use of special fuel is for the propulsion
21 of a privately operated passenger automobile, provided the
22 person purchases special fuel, tax paid, from a licensed
23 special fuel dealer in this state. For purposes of this
24 exemption, a privately operated passenger vehicle does not
25 include a motor vehicle used for the transportation of

1 persons for hire or for compensation or designed, used, or
2 maintained primarily for transportation of property.

3 (4) Any out-of-state user who operates a special fuel
4 vehicle solely for recreation or for religious, charitable,
5 educational, or other eleemosynary purposes shall secure a
6 special fuel user's courtesy vehicle permit. The permit
7 ~~shall~~ is not be transferable and ~~shall--be~~ is valid for 90
8 days. Permits will be issued at no cost to the user by the
9 department, scale house personnel, and gross vehicle weight
10 patrol crews. The department may require the user who has
11 fuel capacity in excess of 30 gallons to file a report and
12 pay the tax on fuel used in Montana on which the tax has not
13 been paid.

14 (5) A special fuel user need not display the original
15 or reproduced copy of the special fuel user's permit as
16 required by subsection (2) if:

17 (a) the motor vehicle operated by him is a vehicle that
18 is part of a motor vehicle fleet based in Montana that is
19 proportionally registered under the provisions of 61-3-711
20 through 61-3-733;

21 (b) he obtains a registration card issued by the
22 department of highways indicating the special fuel user's
23 permit number; and

24 (c) the registration card indicating the special fuel
25 user's permit number is carried in the vehicle and is

1 available for inspection.

2 (6) A person whose use of special fuel is predominantly
3 for agricultural and nonhighway use but who owns or operates
4 one or more passenger cars or light trucks may obtain
5 annually from the department an authorization as provided in
6 [section 7]."

7 **Section 3.** Section 15-70-303, MCA, is amended to read:

8 **"15-70-303. Application for license, or permit, or**
9 **authorization.** (1) Application for a special fuel dealer's
10 **license, or a special fuel user's permit, or authorization**
11 **shall be made to the department unless otherwise provided**
12 **herein in this part.**

13 (2) The application shall be filed upon a form prepared
14 and furnished by the department. The application ~~shall~~ must
15 contain ~~such~~ information as the department ~~deems~~ considers
16 necessary."

17 **Section 4.** Section 15-70-304, MCA, is amended to read:

18 **"15-70-304. Bonding, release of surety, and additional**
19 **bond.** (1) Except as ~~herein~~ provided in this section, no a
20 special fuel dealer's license or special fuel user's permit
21 ~~shall~~ may not be issued to any person or continued in force
22 unless ~~such~~ the person has furnished bond, as defined in
23 15-70-301 and in ~~such a~~ form as the department may require,
24 to secure its compliance with this part and the payment of
25 any and all taxes, interest, and penalties due and to become

1 ~~due hereunder under this part.~~ The department shall waive
2 the bond requirement of any special fuel user not subject to
3 subsection (2)(a) or (2)(b). Upon application, the
4 department shall waive the bond requirement of any public
5 contractor licensed under Title 15, chapter 50, who has
6 posted a performance bond conditioned on payment of all
7 lawful taxes with the contracting entity.

8 (2) The total amount of the bond or bonds required of
9 any special fuel dealer shall be equivalent to twice his
10 estimated monthly tax payments and the total amount of the
11 bond or bonds required of any special fuel user shall be
12 equivalent to twice his estimated quarterly tax payments as
13 ~~hereinafter provided in this part, determined in such manner~~
14 ~~as the department may--deem~~ considers proper; provided,
15 however, that the total amount of the bond or bonds ~~shall~~
16 ~~never may not~~ be less than:

17 (a) \$5,000 for any special fuel user awarded a contract
18 in accordance with 15-70-321;

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

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

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

24 (iii) fails to file timely reports and pay tax due as
25 required by 15-70-325 and 15-70-327; and

(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 in this section shall be released and discharged from any and all liability to the state accruing on such the bond after the expiration of 30 days from the date upon which such the surety shall-have has lodged with the department a written request to be released and discharged, but this provision shall may not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the 30-day period. The department shall, promptly upon receiving any-such a release request, notify the special fuel dealer or special fuel user who furnished the bond, and unless the special fuel dealer or special fuel user shall, on or before the expiration of the 30-day period, file files a new bond in accordance with the requirements of this section or make makes a deposit in lieu thereof of a bond as provided in 15-70-301(1)(2), the department forthwith shall cancel the special fuel dealer's license or special fuel user's permit.

(4) The department may require a special fuel dealer or special fuel user to give a new or additional surety bond or to deposit additional securities of the character specified in 15-70-301(1)(2) if, in its opinion, the security of the surety bond theretofore previously filed by such the special

fuel dealer or special fuel user or the market value of the properties deposited as security by such the special fuel dealer or special fuel user shall become impaired or inadequate, and upon failure of the special fuel dealer or special fuel user to give such a new additional surety bond or to deposit additional securities within 30 days after being requested so to do by the department, said the department forthwith shall cancel his license."

Section 5. Section 15-70-305, MCA, is amended to read:

"15-70-305. Issuance of license, or permit, or authorization -- grounds for refusal -- hearing. (1) Upon Except as provided in subsection (3), upon receipt of the application and bond in proper form, the department shall issue to the applicant a license or permit to act as a special fuel dealer or special fuel user; provided, however, the department may refuse to issue a special fuel dealer's license or a special fuel user's permit to any person:

(a) who formerly held a license or permit which, prior to the time of filing application, has been revoked for cause;

(b) who is not the real party in interest and where the license or permit of the real party in interest has been revoked for cause prior to the time of filing such application; or

(c) upon other sufficient cause being shown. Each

special fuel dealer's license or special fuel user's permit is valid until suspended or revoked for cause or otherwise canceled.

(2) Except as provided in subsection (3), upon receipt of the application in proper form, the department shall issue to the applicant an authorization. A holder of an authorization is not required to furnish bond as provided under 15-70-304. The authorization must be issued annually and is valid from the date of its issuance through December 31 of the calendar year, unless a motor vehicle for which the tax is prepaid is sold, or until suspended or revoked for cause or otherwise canceled.

(3) The department may refuse to issue a special fuel dealer's license, special fuel user's permit, or authorization to any person:

(a) who formerly held a license, permit, or authorization that, prior to the time of filing application, has been revoked for cause;

(b) who is not the real party in interest and the license, permit, or authorization of the real party in interest has been revoked for cause prior to the time of filing the application; or

(c) upon other sufficient cause being shown.

{2}(4) Before such refusal to issue a license, permit, or authorization, the department shall grant the applicant a

hearing and shall grant him at least 10 days' written notice of the time and place thereof of hearing.

~~{3}--Each--special-fuel-dealer's-license-or-special-fuel user's-permit-shall-be-valid-until-suspended-or-revoked--for cause-or-otherwise-canceled:~~

~~{4}(5) No A special fuel dealer's license, or special fuel user's permit shall--be, or authorization is not transferable."~~

Section 6. Section 15-70-306, MCA, is amended to read:

"15-70-306. Revocation, suspension, and cancellation.

(1) The department may revoke the license, or permit, or authorization of any special fuel dealer or special fuel user or any special fuel vehicle permit for reasonable cause. Before revoking such a license, or permit, or authorization, the department shall notify the licensee or permittee of its intention so-to-do, by either certified or registered mail addressed to his last-known address shown in the files of the department, requiring him to appear before the department on a day and hour specified in such the notice, not more than 30 days or less than 10 days from date of such notice, and show cause, if any he-has, why the license, or-the permit, or each-of-them authorization should not be revoked; provided, however, that at any time prior to and pending such the hearing, the department may in the exercise of reasonable discretion suspend such the license,

1 or permit, or authorization.

2 (2) Upon revocation by the department of any such
3 license, or permit, or authorization, the holder thereof
4 shall immediately surrender the same license, permit, or
5 authorization to the department for cancellation."

6 NEW SECTION. Section 7. Authorization for certain uses
7 -- disposition of proceeds -- penalties. (1) (a) A person
8 who purchases, tax-free, special fuel in bulk and whose use
9 of special fuel is predominantly for agricultural and
10 nonhighway use but who owns or operates one or more
11 passenger cars or pickups, each having a licensed gross
12 vehicle weight of 10,000 pounds or less and powered by
13 special fuel, may elect to apply to the department, as
14 provided in 15-70-303, for an authorization. The
15 authorization requires the holder to prepay an annual tax on
16 the special fuel placed in bulk storage and used, in part,
17 in the holder's special fuel-powered vehicles, rather than
18 apply for a special fuel user's permit.

19 (b) If a holder elects to obtain an authorization, he
20 shall prepay the tax at the rate of \$108 for each passenger
21 car or pickup within the weight limit specified in
22 subsection (1)(a). The tax must be paid on a calendar-year
23 basis and must be prorated from the date of authorization
24 for each vehicle. A person whose purchases of special fuel
25 are predominantly for highway or nonagricultural use does

1 not qualify for the special fuel tax.

2 (c) Whenever the holder of an authorization ceases to
3 farm within this state, he shall notify the department
4 within 15 days after discontinuance. The holder shall
5 surrender to the department the authorization issued to him
6 by the department. The department shall refund the portion
7 of the prepaid tax attributable to the remaining portion of
8 the calendar year.

9 (2) All taxes collected must be remitted to the
10 department or deposited directly in the state special
11 revenue fund for use by the department of highways.

12 (3) A person violating any provision of subsection (1)
13 is guilty of a misdemeanor and upon conviction is punishable
14 by a fine of not less than \$100 or more than \$2,000 or by
15 imprisonment for not less than 30 days or more than 6 months
16 or by both fine and imprisonment. The fine and imprisonment
17 provided in this subsection are in addition to any other
18 penalty imposed by any other provision in this chapter.

19 NEW SECTION. Section 8. Extension of authority. Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

23 NEW SECTION. Section 9. Codification instruction.
24 [Section 7] is intended to be codified as an integral part
25 of Title 15, chapter 70, part 3, and the provisions of Title

LC 138B/01

1 15, chapter 70, part 3, apply to [section 7].

2 NEW SECTION. Section 10. Saving clause. [This act]
3 does not affect rights and duties that matured, penalties
4 that were incurred, or proceedings that were begun before
5 [the effective date of this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB389, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing a person whose use of special fuel is predominantly for agricultural and non-highway use but who owns or operates one or more passenger cars or pickups to elect to apply for a special fuel tax-prepaid authorization in lieu of a special fuel user's permit.

ASSUMPTIONS:

1. Currently, there are 96 reporting special fuel users with bulk storage whose use is predominantly for agricultural and non-highway use. These 96 users reported 106 total passenger cars and pickups. Total current revenue collections from these users is not available. (Department of Revenue)
2. Currently, there are at a minimum 18,000 special fuel light vehicles registered in the state. (Department of Justice, Motor Vehicle Division).
3. It is assumed approximately 100 new authorization having a total of 110 vehicles would be added annually. (Department of Revenue)
4. Under the proposed legislation, individuals applying for the special fuel pre-paid authorization would pay a tax of \$108 per vehicle.
5. The effective date of the proposal is October 1, 1989.
6. The fiscal impact in FY90 would be 25% of a full year due to the proration provision in the bill.
7. Additional administrative expenses under the proposed legislation would be as follows:

Computer Development Costs: Computer programming and testing FY89 + FY90 = \$2,080 per year.
Computer generating and compiling charges = \$1,995 for FY90.
Documentation and administrative costs = \$624 for FY90.
On-going Annual Costs: Disk space, on-line processing and batch processing = \$180.

FISCAL IMPACT:

	Current	FY90		Current	FY91	
	Law	Law	Difference	Law	Law	Difference
<u>Revenue Impact:</u>						
Fuel Authorization Tax	\$ -0-	\$ 2,862	\$ 2,862	\$ -0-	\$23,328	\$23,328
<u>Fund Information:</u>						
Special Revenue Account						
Highway Account	\$ -0-	\$11,448	\$11,448	\$ -0-	\$23,328	\$23,328
<u>Expenditure Impact:</u>						
(Funding - Highway Account)						
Personal Services	\$ -0-	\$ 2,704	\$ 2,704	\$ -0-	\$ -0-	\$ -0-
Operating Expenses	-0-	2,175	2,175	-0-	180	180
Total	\$ -0-	\$ 4,879	\$ 4,879	\$ -0-	\$ 180	\$ 180



DATE 2/18/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE 2/20/89

GREG JERGESON, PRIMARY SPONSOR

Fiscal Note for SB389, as introduced

SB 389

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

1 *Senate* BILL NO. *389*
2 INTRODUCED BY *Jorgean J. DeMaio GRIMOL*
3 *DeMaio*
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON WHOSE
5 USE OF SPECIAL FUEL IS PREDOMINANTLY FOR AGRICULTURAL AND
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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15 following definitions shall apply:

16 (1) "Authorization" means an uncanceled special fuel
17 tax prepaid authorization issued by the department.

18 (2) "Bond" means:

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

1 out of this part; or

2 (b) a deposit with the department by the special fuel
3 dealer or special fuel user, under such terms and conditions
4 as the department of revenue may prescribe, of certificates
5 of deposit or irrevocable letters of credit issued by a bank
6 and insured by the federal deposit insurance corporation.

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

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14 self-propelled upon the highways.

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16 association, joint-stock company, syndicate, partnership, or
17 corporation; whenever used in any clause prescribing and
18 imposing a fine or imprisonment, or both, as applied to a
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20 includes the partners or members thereof and, as applied to
21 joint-stock companies and corporations, the officers
22 thereof.

23 (7) "Public roads and highways of this state" means
24 all streets, roads, highways, and related structures ~~as-have~~
25 ~~been-or-shall-be;~~

(a) 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~~ of the state;

(b) dedicated to public use ~~or have been;~~

(c) acquired by eminent domain; ~~or have been~~

(d) acquired by adverse use by the public, jurisdiction having been assumed by the state or any political subdivision thereof of the state.

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

{8}(9) (a) "Special fuel dealer" means:

(i) any person in the business of handling special fuel who delivers any part thereof of the fuel into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him ~~or;~~

(ii) any person who sells special fuel at a location unattended by the dealer through an unattended pump by use of a cardtrol, keylock, or similar device; ~~or~~

(iii) any person who provides any facility, with or without attended services, from which more than one special fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then controlled by ~~such the~~ dealer.

(b) For this purpose ~~purposes of~~ subsection (9)(a), the term "fuel supply tank or tanks" does not include cargo tanks, even though fuel is withdrawn directly therefrom ~~from~~ cargo tanks for propulsion of the vehicle.

{9}(10) "Special fuel user" means any person other than a county, incorporated city or town, or school district of this state who consumes in this state special fuel for the propulsion of motor vehicles owned or controlled by him upon the highways of this state.

{10}(11) "Use" means either:

(a) the receipt, delivery, or placing of special fuels by a special fuel dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him while ~~such the~~ vehicle is within this state; ~~or~~

(b) the consumption by a special fuel user of special fuels in propulsion of a motor vehicle on the highways of this state."

Section 2. Section 15-70-302, MCA, is amended to read:

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 10 display the original or a reproduced copy of the permit in
 11 each ~~such~~ vehicle ~~or--vehicles~~ operated by him upon the
 12 public roads and highways as--herein--defined--which. The
 13 permit or copy shall be exhibited for inspection on request
 14 of any checking station officer, Montana highway patrol
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 7 ~~shall~~ is not be transferable and ~~shall--be~~ is valid for 90
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 9 department, scale house personnel, and gross vehicle weight
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 11 fuel capacity in excess of 30 gallons to file a report and
 12 pay the tax on fuel used in Montana on which the tax has not
 13 been paid.

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 15 or reproduced copy of the special fuel user's permit as
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17 (a) the motor vehicle operated by him is a vehicle that
 18 is part of a motor vehicle fleet based in Montana that is
 19 proportionally registered under the provisions of 61-3-711
 20 through 61-3-733;

21 (b) he obtains a registration card issued by the
 22 department of highways indicating the special fuel user's
 23 permit number; and

24 (c) the registration card indicating the special fuel
 25 user's permit number is carried in the vehicle and is

1 available for inspection.

2 (6) A person whose use of special fuel is predominantly
3 for agricultural and nonhighway use but who owns or operates
4 one or more passenger cars or light trucks may obtain
5 annually from the department an authorization as provided in
6 [section 7]."

7 **Section 3.** Section 15-70-303, MCA, is amended to read:

8 "15-70-303. Application for license, or permit, or
9 authorization. (1) Application for a special fuel dealer's
10 license, or a special fuel user's permit, or authorization
11 shall be made to the department unless otherwise provided
12 herein in this part.

13 (2) The application shall be filed upon a form prepared
14 and furnished by the department. The application shall must
15 contain such information as the department deems considers
16 necessary."

17 **Section 4.** Section 15-70-304, MCA, is amended to read:

18 "15-70-304. Bonding, release of surety, and additional
19 bond. (1) Except as herein provided in this section, no a
20 special fuel dealer's license or special fuel user's permit
21 shall may not be issued to any person or continued in force
22 unless such the person has furnished bond, as defined in
23 15-70-301 and in such a form as the department may require,
24 to secure its compliance with this part and the payment of
25 any and all taxes, interest, and penalties due and to become

1 due hereunder under this part. The department shall waive
2 the bond requirement of any special fuel user not subject to
3 subsection (2)(a) or (2)(b). Upon application, the
4 department shall waive the bond requirement of any public
5 contractor licensed under Title 15, chapter 50, who has
6 posted a performance bond conditioned on payment of all
7 lawful taxes with the contracting entity.

8 (2) The total amount of the bond or bonds required of
9 any special fuel dealer shall be equivalent to twice his
10 estimated monthly tax payments and the total amount of the
11 bond or bonds required of any special fuel user shall be
12 equivalent to twice his estimated quarterly tax payments as
13 hereinafter provided in this part, determined in-such-manner
14 as the department may--deem considers proper; provided,
15 however, that the total amount of the bond or bonds shall
16 never may not be less than:

17 (a) \$5,000 for any special fuel user awarded a contract
18 in accordance with 15-70-321;

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

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

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

24 (iii) fails to file timely reports and pay tax due as
25 required by 15-70-325 and 15-70-327; and

(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 in this section shall be released and discharged from any and all liability to the state accruing on such the bond after the expiration of 30 days from the date upon which such the surety shall have has lodged with the department a written request to be released and discharged, but this provision shall may not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the 30-day period. The department shall, promptly upon receiving any-such a release request, notify the special fuel dealer or special fuel user who furnished the bond, and unless the special fuel dealer or special fuel user shall, on or before the expiration of the 30-day period, file files a new bond in accordance with the requirements of this section or make makes a deposit in lieu thereof of a bond as provided in 15-70-301(1)(2), the department forthwith shall cancel the special fuel dealer's license or special fuel user's permit.

(4) The department may require a special fuel dealer or special fuel user to give a new or additional surety bond or to deposit additional securities of the character specified in 15-70-301(1)(2) if, in its opinion, the security of the surety bond theretofore previously filed by such the special

fuel dealer or special fuel user or the market value of the properties deposited as security by such the special fuel dealer or special fuel user shall become impaired or inadequate, and upon failure of the special fuel dealer or special fuel user to give such a new additional surety bond or to deposit additional securities within 30 days after being requested so to do by the department, said the department forthwith shall cancel his license."

Section 5. Section 15-70-305, MCA, is amended to read:

"15-70-305. Issuance of license, or permit, or authorization -- grounds for refusal -- hearing. (1) Upon Except as provided in subsection (3), upon receipt of the application and bond in proper form, the department shall issue to the applicant a license or permit to act as a special fuel dealer or special fuel user; provided, however, the department may refuse to issue a special fuel dealer's license or a special fuel user's permit to any person:

(a) who formerly held a license or permit which prior to the time of filing application, has been revoked for cause;

(b) who is not the real party in interest and where the license or permit of the real party in interest has been revoked for cause prior to the time of filing such application; or

(c) upon other sufficient cause being shown. Each

1 special fuel dealer's license or special fuel user's permit
 2 is valid until suspended or revoked for cause or otherwise
 3 canceled.

4 (2) Except as provided in subsection (3), upon receipt
 5 of the application in proper form, the department shall
 6 issue to the applicant an authorization. A holder of an
 7 authorization is not required to furnish bond as provided
 8 under 15-70-304. The authorization must be issued annually
 9 and is valid from the date of its issuance through December
 10 31 of the calendar year, unless a motor vehicle for which
 11 the tax is prepaid is sold, or until suspended or revoked
 12 for cause or otherwise canceled.

13 (3) The department may refuse to issue a special fuel
 14 dealer's license, special fuel user's permit, or
 15 authorization to any person:

16 (a) who formerly held a license, permit, or
 17 authorization that, prior to the time of filing application,
 18 has been revoked for cause;

19 (b) who is not the real party in interest and the
 20 license, permit, or authorization of the real party in
 21 interest has been revoked for cause prior to the time of
 22 filing the application; or

23 (c) upon other sufficient cause being shown.

24 †2†(4) Before such refusal to issue a license, permit,
 25 or authorization, the department shall grant the applicant a

1 hearing and shall grant him at least 10 days' written notice
 2 of the time and place thereof of hearing.

3 ~~†3--Each--special-fuel-dealer's-license-or-special-fuel~~
 4 ~~user's-permit-shall-be-valid-until-suspended-or-revoked--for~~
 5 ~~cause-or-otherwise-canceled.~~

6 ~~†4†(5) No A special fuel dealer's license, or special~~
 7 ~~fuel user's permit shall--be, or authorization is not~~
 8 ~~transferable."~~

9 **Section 6.** Section 15-70-306, MCA, is amended to read:

10 **"15-70-306. Revocation, suspension, and cancellation.**

11 (1) The department may revoke the license, or permit, or
 12 authorization of any special fuel dealer or special fuel
 13 user or any special fuel vehicle permit for reasonable
 14 cause. Before revoking such a license, or permit, or
 15 authorization, the department shall notify the licensee or
 16 permittee of its intention ~~so-to-do~~, by either certified or
 17 registered mail addressed to his last-known address shown in
 18 the files of the department, requiring him to appear before
 19 the department on a day and hour specified in such the
 20 notice, not more than 30 days or less than 10 days from date
 21 of such notice, and show cause, if any ~~he-has~~, why the
 22 license, ~~or-the permit~~, or ~~each-of-them~~ authorization should
 23 not be revoked; provided, however, that at any time prior to
 24 and pending such the hearing, the department may in the
 25 exercise of reasonable discretion suspend such the license,

1 or permit, or authorization.

2 (2) Upon revocation by the department of any such
3 license, or permit, or authorization, the holder thereof
4 shall immediately surrender the same license, permit, or
5 authorization to the department for cancellation."

6 **NEW SECTION. Section 7.** Authorization for certain uses
7 -- disposition of proceeds -- penalties. (1) (a) A person
8 who purchases, tax-free, special fuel in bulk and whose use
9 of special fuel is predominantly for agricultural and
10 nonhighway use but who owns or operates one or more
11 passenger cars or pickups, each having a licensed gross
12 vehicle weight of 10,000 pounds or less and powered by
13 special fuel, may elect to apply to the department, as
14 provided in 15-70-303, for an authorization. The
15 authorization requires the holder to prepay an annual tax on
16 the special fuel placed in bulk storage and used, in part,
17 in the holder's special fuel-powered vehicles, rather than
18 apply for a special fuel user's permit.

19 (b) If a holder elects to obtain an authorization, he
20 shall prepay the tax at the rate of \$108 for each passenger
21 car or pickup within the weight limit specified in
22 subsection (1)(a). The tax must be paid on a calendar-year
23 basis and must be prorated from the date of authorization
24 for each vehicle. A person whose purchases of special fuel
25 are predominantly for highway or nonagricultural use does

1 not qualify for the special fuel tax.

2 (c) Whenever the holder of an authorization ceases to
3 farm within this state, he shall notify the department
4 within 15 days after discontinuance. The holder shall
5 surrender to the department the authorization issued to him
6 by the department. The department shall refund the portion
7 of the prepaid tax attributable to the remaining portion of
8 the calendar year.

9 (2) All taxes collected must be remitted to the
10 department or deposited directly in the state special
11 revenue fund for use by the department of highways.

12 (3) A person violating any provision of subsection (1)
13 is guilty of a misdemeanor and upon conviction is punishable
14 by a fine of not less than \$100 or more than \$2,000 or by
15 imprisonment for not less than 30 days or more than 6 months
16 or by both fine and imprisonment. The fine and imprisonment
17 provided in this subsection are in addition to any other
18 penalty imposed by any other provision in this chapter.

19 **NEW SECTION. Section 8.** Extension of authority. Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

23 **NEW SECTION. Section 9.** Codification instruction.
24 [Section 7] is intended to be codified as an integral part
25 of Title 15, chapter 70, part 3, and the provisions of Title

LC 1388/01

1 15, chapter 70, part 3, apply to [section 7].

2 NEW SECTION. **Section 10. Saving clause.** [This act]
3 does not affect rights and duties that matured, penalties
4 that were incurred, or proceedings that were begun before
5 [the effective date of this act].

-End-

1 *Senate* BILL NO. *389*
2 INTRODUCED BY *Jorge...* *Stewart* *GRAND*
3 *Hicken*
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON WHOSE
5 USE OF SPECIAL FUEL IS PREDOMINANTLY FOR AGRICULTURAL AND
6 NONHIGHWAY USE BUT WHO OWNS OR OPERATES ONE OR MORE
7 PASSENGER CARS OR PICKUPS TO ELECT TO APPLY FOR A SPECIAL
8 FUEL TAX-PREPAID AUTHORIZATION IN LIEU OF A SPECIAL FUEL
9 USER'S PERMIT; AND AMENDING SECTIONS 15-70-301 THROUGH
10 15-70-306, MCA."

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

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

14 "15-70-301. Definitions. As used in this part, the
15 following definitions shall apply:

16 (1) "Authorization" means an uncanceled special fuel
17 tax prepaid authorization issued by the department.

18 (2) "Bond" means:

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

There is no change on SB 389 and will not
be reprinted. Please refer to introduced
(white) or second reading (yellow) for
complete text.

STANDING COMMITTEE REPORT

March 15, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 389 (third reading copy -- blue) be concurred in as amended .

Signed: _____


Barry Stang, Chairman

[REP.  WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 13, line 20.

Strike: "\$108"

Insert: "\$120"

SB 389

HOUSE

ST

SENATE BILL NO. 389

INTRODUCED BY JERGESON, JENKINS, DEMARS, GRINDE, BACHINI

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON WHOSE USE OF SPECIAL FUEL IS PREDOMINANTLY FOR AGRICULTURAL AND NONHIGHWAY USE BUT WHO OWNS OR OPERATES ONE OR MORE PASSENGER CARS OR PICKUPS TO ELECT TO APPLY FOR A SPECIAL FUEL TAX-PREPAID AUTHORIZATION IN LIEU OF A SPECIAL FUEL USER'S PERMIT; AND AMENDING SECTIONS 15-70-301 THROUGH 15-70-306, MCA."

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) "Authorization" means an uncanceled special fuel tax prepaid authorization issued by the department.

(2) "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 the~~ 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.

(3) "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.

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

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

(6) "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.

(7) "Public roads and highways of this state" means all streets, roads, highways, and related structures ~~as have been or shall be~~

1 (a) built and maintained with appropriated funds of
 2 the United States, ~~and which have been or shall be built and~~
 3 ~~maintained with funds of~~ the state of Montana, or any
 4 political subdivision thereof ~~or which have been or shall be~~
 5 of the state;

6 (b) dedicated to public use ~~or have been;~~

7 (c) acquired by eminent domain; ~~or have been~~

8 (d) acquired by adverse use by the public,
 9 jurisdiction having been assumed by the state or any
 10 political subdivision thereof of the state.

11 ~~†7†~~(8) "Special fuel" means those combustible gases
 12 and liquids commonly referred to as diesel fuel or any other
 13 volatile liquid of less than 46 degrees A.P.I. (American
 14 petroleum institute) gravity test, except liquid petroleum
 15 gas, when actually sold for use in motor vehicles propelled
 16 upon the public roads and highways ~~or streets~~ within the
 17 state of Montana. The term includes compressed natural gas.

18 ~~†8†~~(9) (a) "Special fuel dealer" means:

19 (i) any person in the business of handling special
 20 fuel who delivers any part thereof of the fuel into the fuel
 21 supply tank or tanks of a motor vehicle not then owned or
 22 controlled by him ~~or;~~

23 (ii) any person who sells special fuel at a location
 24 unattended by the dealer through an unattended pump by use
 25 of a cardtrol, keylock, or similar device; or

1 (iii) any person who provides any facility, with or
 2 without attended services, from which more than one special
 3 fuel user obtains special fuel for use in the fuel supply
 4 tank of a motor vehicle not then controlled by such the
 5 dealer.

6 (b) For ~~this purpose~~ purposes of subsection (9)(a),
 7 the term "fuel supply tank or tanks" does not include cargo
 8 tanks, even though fuel is withdrawn directly ~~therefrom~~ from
 9 cargo tanks for propulsion of the vehicle.

10 ~~†9†~~(10) "Special fuel user" means any person other than
 11 a county, incorporated city or town, or school district of
 12 this state who consumes in this state special fuel for the
 13 propulsion of motor vehicles owned or controlled by him upon
 14 the highways of this state.

15 ~~†10†~~(11) "Use" means either:

16 (a) the receipt, delivery, or placing of special fuels
 17 by a special fuel dealer into the fuel supply tank or tanks
 18 of any motor vehicle not owned or controlled by him while
 19 such the vehicle is within this state; or

20 (b) the consumption by a special fuel user of special
 21 fuels in propulsion of a motor vehicle on the highways of
 22 this state."

23 **Section 2.** Section 15-70-302, MCA, is amended to read:

24 "15-70-302. Special fuel dealer's licenses and special
 25 fuel user's permits required -- exceptions. (1) It ~~shall be~~

1 is unlawful for any person to act as a special fuel dealer
2 in this state unless ~~such~~ the person is the holder of an
3 uncanceled fuel dealer's license issued to him by the
4 department.

5 (2) Every special fuel user shall obtain annually from
6 the department, prior to the use of ~~such~~ special fuel for
7 the propulsion of a motor vehicle or vehicles in this state,
8 a special fuel user's permit ~~and, except~~. Except as provided
9 in subsection (5), a special fuel user shall at all times
10 display the original or a reproduced copy of the permit in
11 each ~~such vehicle or--vehicles~~ operated by him upon the
12 public roads and highways as--herein--defined--which. The
13 permit or copy shall be exhibited for inspection on request
14 of any checking station officer, Montana highway patrol
15 officer, authorized employee of the department, or any other
16 law enforcement officer. The special fuel user ~~shall-be is~~
17 responsible for reproducing clear and legible copies of the
18 permit.

19 (3) A special fuel user's permit is not required of
20 any person whose sole use of special fuel is for the
21 propulsion of a privately operated passenger automobile,
22 provided the person purchases special fuel, tax paid, from a
23 licensed special fuel dealer in this state. For purposes of
24 this exemption, a privately operated passenger vehicle does
25 not include a motor vehicle used for the transportation of

1 persons for hire or for compensation or designed, used, or
2 maintained primarily for transportation of property.

3 (4) Any out-of-state user who operates a special fuel
4 vehicle solely for recreation or for religious, charitable,
5 educational, or other eleemosynary purposes shall secure a
6 special fuel user's courtesy vehicle permit. The permit
7 ~~shall is~~ is not be transferable and ~~shall-be is~~ is valid for 90
8 days. Permits will be issued at no cost to the user by the
9 department, scale house personnel, and gross vehicle weight
10 patrol crews. The department may require the user who has
11 fuel capacity in excess of 30 gallons to file a report and
12 pay the tax on fuel used in Montana on which the tax has not
13 been paid.

14 (5) A special fuel user need not display the original
15 or reproduced copy of the special fuel user's permit as
16 required by subsection (2) if:

17 (a) the motor vehicle operated by him is a vehicle
18 that is part of a motor vehicle fleet based in Montana that
19 is proportionally registered under the provisions of
20 61-3-711 through 61-3-733;

21 (b) he obtains a registration card issued by the
22 department of highways indicating the special fuel user's
23 permit number; and

24 (c) the registration card indicating the special fuel
25 user's permit number is carried in the vehicle and is

1 available for inspection.

2 (6) A person whose use of special fuel is
3 predominantly for agricultural and nonhighway use but who
4 owns or operates one or more passenger cars or light trucks
5 may obtain annually from the department an authorization as
6 provided in [section 7]."

7 **Section 3.** Section 15-70-303, MCA, is amended to read:

8 "15-70-303. Application for license, or permit, or
9 authorization. (1) Application for a special fuel dealer's
10 license, or a special fuel user's permit, or authorization
11 shall be made to the department unless otherwise provided
12 herein in this part.

13 (2) The application shall be filed upon a form
14 prepared and furnished by the department. The application
15 ~~shall must~~ contain such information as the department ~~deems~~
16 considers necessary."

17 **Section 4.** Section 15-70-304, MCA, is amended to read:

18 "15-70-304. Bonding, release of surety, and additional
19 bond. (1) Except as herein provided in this section, no a
20 special fuel dealer's license or special fuel user's permit
21 shall may not be issued to any person or continued in force
22 unless such the person has furnished bond, as defined in
23 15-70-301 and in such a form as the department may require,
24 to secure its compliance with this part and the payment of
25 any and all taxes, interest, and penalties due and to become

1 due hereunder under this part. The department shall waive
2 the bond requirement of any special fuel user not subject to
3 subsection (2)(a) or (2)(b). Upon application, the
4 department shall waive the bond requirement of any public
5 contractor licensed under Title 15, chapter 50, who has
6 posted a performance bond conditioned on payment of all
7 lawful taxes with the contracting entity.

8 (2) The total amount of the bond or bonds required of
9 any special fuel dealer shall be equivalent to twice his
10 estimated monthly tax payments and the total amount of the
11 bond or bonds required of any special fuel user shall be
12 equivalent to twice his estimated quarterly tax payments as
13 hereinafter provided in this part, determined in such manner
14 as the department may--deem considers proper; provided,
15 however, that the total amount of the bond or bonds ~~shall~~
16 never may not be less than:

17 (a) \$5,000 for any special fuel user awarded a
18 contract in accordance with 15-70-321;

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

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

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

24 (iii) fails to file timely reports and pay tax due as
25 required by 15-70-325 and 15-70-327; and

(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 in this section shall be released and discharged from any and all liability to the state accruing on such the bond after the expiration of 30 days from the date upon which such the surety ~~shall have~~ has lodged with the department a written request to be released and discharged, but this provision shall may not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the 30-day period. The department shall, promptly upon receiving any-such a release request, notify the special fuel dealer or special fuel user who furnished the bond, and unless the special fuel dealer or special fuel user ~~shall~~, on or before the expiration of the 30-day period, file files a new bond in accordance with the requirements of this section or make makes a deposit in lieu thereof of a bond as provided in 15-70-301~~(1)~~(2), the department forthwith shall cancel the special fuel dealer's license or special fuel user's permit.

(4) The department may require a special fuel dealer or special fuel user to give a new or additional surety bond or to deposit additional securities of the character specified in 15-70-301~~(1)~~(2) if, in its opinion, the security of the surety bond theretofore previously filed by

such the special fuel dealer or special fuel user or the market value of the properties deposited as security by such the special fuel dealer or special fuel user ~~shall~~ become impaired or inadequate, and upon failure of the special fuel dealer or special fuel user to give such a new additional surety bond or to deposit additional securities within 30 days after being requested so to do by the department, said the department forthwith shall cancel his license."

Section 5. Section 15-70-305, MCA, is amended to read:

"15-70-305. Issuance of license, or permit, or authorization -- grounds for refusal -- hearing. (1) Upon Except as provided in subsection (3), upon receipt of the application and bond in proper form, the department shall issue to the applicant a license or permit to act as a special fuel dealer or special fuel user; provided, however, the--department--may-refuse-to-issue-a-special-fuel-dealer's license-or-a-special-fuel-user's-permit-to-any-person:

(a)--who-formerly-held-a-license-or-permit-which, prior to-the-time-of-filing--application,--has--been--revoked--for cause;

(b)--who--is--not--the-real-party-in-interest-and-where the-license-or-permit-of-the-real-party-in-interest-has-been revoked--for--cause--prior--to--the--time--of--filing--such application; or

(c)--upon--other--sufficient--cause--being-shown. Each

1 special fuel dealer's license or special fuel user's permit
 2 is valid until suspended or revoked for cause or otherwise
 3 canceled.

4 (2) Except as provided in subsection (3), upon receipt
 5 of the application in proper form, the department shall
 6 issue to the applicant an authorization. A holder of an
 7 authorization is not required to furnish bond as provided
 8 under 15-70-304. The authorization must be issued annually
 9 and is valid from the date of its issuance through December
 10 31 of the calendar year, unless a motor vehicle for which
 11 the tax is prepaid is sold, or until suspended or revoked
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 14 dealer's license, special fuel user's permit, or
 15 authorization to any person:

16 (a) who formerly held a license, permit, or
 17 authorization that, prior to the time of filing application,
 18 has been revoked for cause;

19 (b) who is not the real party in interest and the
 20 license, permit, or authorization of the real party in
 21 interest has been revoked for cause prior to the time of
 22 filing the application; or

23 (c) upon other sufficient cause being shown.

24 +2)(4) Before such refusal to issue a license, permit,
 25 or authorization, the department shall grant the applicant a

1 hearing and shall grant him at least 10 days' written notice
 2 of the time and place thereof of hearing.

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 15 authorization, the department shall notify the licensee or
 16 permittee of its intention ~~so-to-do~~, by either certified or
 17 registered mail addressed to his last-known address shown in
 18 the files of the department, requiring him to appear before
 19 the department on a day and hour specified in such the
 20 notice, not more than 30 days or less than 10 days from date
 21 of such notice, and show cause, if any he-has, why the
 22 license, or-the permit, or each-of-them authorization should
 23 not be revoked; provided, however, that at any time prior to
 24 and pending such the hearing, the department may in the
 25 exercise of reasonable discretion suspend such the license,

1 or permit, or authorization.

2 (2) Upon revocation by the department of any such
3 license, or permit, or authorization, the holder thereof
4 shall immediately surrender the same license, permit, or
5 authorization to the department for cancellation."

6 NEW SECTION. Section 7. Authorization for certain
7 uses -- disposition of proceeds -- penalties. (1) (a) A
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10 and nonhighway use but who owns or operates one or more
11 passenger cars or pickups, each having a licensed gross
12 vehicle weight of 10,000 pounds or less and powered by
13 special fuel, may elect to apply to the department, as
14 provided in 15-70-303, for an authorization. The
15 authorization requires the holder to prepay an annual tax on
16 the special fuel placed in bulk storage and used, in part,
17 in the holder's special fuel-powered vehicles, rather than
18 apply for a special fuel user's permit.

19 (b) If a holder elects to obtain an authorization, he
20 shall prepay the tax at the rate of ~~\$100~~ \$120 for each
21 passenger car or pickup within the weight limit specified in
22 subsection (1)(a). The tax must be paid on a calendar-year
23 basis and must be prorated from the date of authorization
24 for each vehicle. A person whose purchases of special fuel
25 are predominantly for highway or nonagricultural use does

1 not qualify for the special fuel tax.

2 (c) Whenever the holder of an authorization ceases to
3 farm within this state, he shall notify the department
4 within 15 days after discontinuance. The holder shall
5 surrender to the department the authorization issued to him
6 by the department. The department shall refund the portion
7 of the prepaid tax attributable to the remaining portion of
8 the calendar year.

9 (2) All taxes collected must be remitted to the
10 department or deposited directly in the state special
11 revenue fund for use by the department of highways.

12 (3) A person violating any provision of subsection (1)
13 is guilty of a misdemeanor and upon conviction is punishable
14 by a fine of not less than \$100 or more than \$2,000 or by
15 imprisonment for not less than 30 days or more than 6 months
16 or by both fine and imprisonment. The fine and imprisonment
17 provided in this subsection are in addition to any other
18 penalty imposed by any other provision in this chapter.

19 NEW SECTION. Section 8. Extension of authority. Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

23 NEW SECTION. Section 9. Codification instruction.
24 [Section 7] is intended to be codified as an integral part
25 of Title 15, chapter 70, part 3, and the provisions of Title

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1 15, chapter 70, part 3, apply to [section 7].
2 NEW SECTION. Section 10. Saving clause. [This act]
3 does not affect rights and duties that matured, penalties
4 that were incurred, or proceedings that were begun before
5 [the effective date of this act].

-End-