

SENATE BILL 431

Introduced by Aklestad, et al.

3/10 Introduced  
3/10 Referred to Taxation  
3/10 First Reading  
3/10 Fiscal Note Requested  
3/15 Fiscal Note Received  
3/15 Fiscal Note Printed  
3/24 Hearing  
3/25 Committee Report--Bill Passed as Amended  
3/26 2nd Reading Passed  
3/27 3rd Reading Passed

Transmitted to House  
3/27 Revised Fiscal Note Requested  
3/29 Referred to Taxation  
3/29 First Reading  
4/02 Revised Fiscal Note Received  
4/02 Revised Fiscal Note Printed  
4/05 Hearing  
4/07 Tabled in Committee  
4/24 Motion Failed to Take from Committee  
and Place on 2nd Reading

1 ~~Senate~~ BILL NO. 431  
 2 INTRODUCED BY AKLESTAD, Bob Brown  
 3 Peck 440P 4-11-11  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION  
 5 OF LIQUEFIED PETROLEUM GAS AND COMPRESSED NATURAL GAS FOR  
 6 USE IN MOTOR VEHICLES; IMPOSING A TAX ON LIQUEFIED PETROLEUM  
 7 GAS AND COMPRESSED NATURAL GAS SOLD AS FUEL FOR USE IN MOTOR  
 8 VEHICLES BASED ON A PERCENTAGE OF THE GASOLINE LICENSE TAX;  
 9 REQUIRING LICENSURE OF LIQUEFIED PETROLEUM GAS DEALERS AND  
 10 COMPRESSED NATURAL GAS DEALERS; ALLOWING OWNERS OR OPERATORS  
 11 OF CERTAIN MOTOR VEHICLES TO PAY A LICENSE TAX FEE IN LIEU  
 12 OF THE TAX ON LIQUEFIED PETROLEUM GAS; ALLOWING THE  
 13 DEPARTMENT OF TRANSPORTATION TO APPOINT AGENTS TO SELL  
 14 LICENSE TAX FEE CERTIFICATES; ELIMINATING THE REQUIREMENT  
 15 THAT NONRESIDENTS OPERATING VEHICLES POWERED BY LIQUEFIED  
 16 PETROLEUM GAS PURCHASE A TEMPORARY TRIP PERMIT; AMENDING  
 17 SECTIONS 15-70-104, 15-70-121, 15-70-301, 15-70-322,  
 18 15-71-101, AND 61-12-206, MCA; REPEALING SECTION 15-71-102,  
 19 MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

20  
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 15-70-301, MCA, is amended to read:  
 23 "15-70-301. Definitions. As used in this part, the  
 24 following definitions apply:

25 (1) "Authorization" means an uncanceled special fuel

1 tax prepaid authorization issued by the department.

2 (2) "Bond" means:

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

10 (b) a deposit with the department by the special fuel  
 11 dealer or special fuel user, under terms and conditions the  
 12 department may prescribe, of certificates of deposit or  
 13 irrevocable letters of credit issued by a bank and insured  
 14 by the federal deposit insurance corporation.

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

20 (4) "Department" means the department of  
 21 transportation.

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

24 (6) "Person" means and includes any person, firm,  
 25 association, joint-stock company, syndicate, partnership, or

1 corporation; whenever used in any clause prescribing and  
 2 imposing a fine or imprisonment, or both, as applied to a  
 3 firm, association, syndicate, or partnership, means and  
 4 includes the partners or members thereof and, as applied to  
 5 joint-stock companies and corporations, the officers  
 6 thereof.

7 (7) "Public roads and highways of this state" means all  
 8 streets, roads, highways, and related structures:

9 (a) built and maintained with appropriated funds of the  
 10 United States, the state of Montana, or any political  
 11 subdivision of the state;

12 (b) dedicated to public use;

13 (c) acquired by eminent domain; or

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

17 (8) "Special fuel" means those combustible gases and  
 18 liquids commonly referred to as diesel fuel or any other  
 19 volatile liquid of less than 46 degrees A.P.I. (American  
 20 petroleum institute) gravity test, except ~~liquid~~ liquefied  
 21 petroleum gas, when actually sold for use in motor vehicles  
 22 propelled operating upon the public roads and highways  
 23 within the of this state of--Montana. The--term--includes  
 24 compressed-natural-gas;

25 (9) (a) "Special fuel dealer" means:

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

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

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

12 (b) For purposes of subsection (9)(a), the term "fuel  
 13 supply tank or tanks" does not include cargo tanks, even  
 14 though fuel is withdrawn directly from cargo tanks for  
 15 propulsion the operation of the vehicle.

16 (10) "Special fuel user" means any person other than a  
 17 county, incorporated city or town, or school district of  
 18 this state who consumes in this state special fuel for the  
 19 propulsion the operation of motor vehicles owned or  
 20 controlled by him the person upon the public roads and  
 21 highways of this state.

22 (11) "Use" means:

23 (a) the receipt, delivery, or placing of special fuels  
 24 by a special fuel dealer into the fuel supply tank or tanks  
 25 of any motor vehicle not owned or controlled by him the

dealer while the vehicle is within this state; or

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

**Section 2.** Section 15-71-101, MCA, is amended to read:

"15-71-101. Tax to be collected on motor vehicles self-propelled by liquefied petroleum gas -- recording and reporting of liquefied petroleum gas deliveries. (1) The department of transportation shall, under the rules issued by the department, ~~collect or cause to be collected from~~ allow owners or operators of motor vehicles that have a licensed gross vehicle weight of 12,000 pounds or more and that are powered by a liquefied petroleum gas to elect to pay an annual license tax fee on each vehicle in lieu of the tax imposed under [section 13]. The license tax fee is prorated on a quarterly basis and may be paid quarterly, semiannually, or annually according to the following schedule:

(a) ~~passenger cars and pickups whose licensed gross vehicle weight is 10,000 pounds or less~~ \$100;

(b) motor trucks and truck tractors whose licensed gross vehicle weight is ~~over 10,000~~ 12,000 pounds and less than 18,000 pounds, \$144;

(c) motor trucks and truck tractors whose licensed gross vehicle weight is 18,000 pounds or more and less than

48,000 pounds, \$361;

(d) motor trucks and truck tractors whose licensed gross vehicle weight is 48,000 pounds or more, \$1,806;

(e) school buses used to provide transportation services on contract with school districts in this state, \$144.

(2) Upon payment of the tax required by this section, the department shall provide, to be carried in each vehicle, a certificate that is valid for a period of no less than a calendar quarter or for a further calendar period for which the tax is paid.

(3) When a dealer delivers liquefied petroleum gas for use to power a motor vehicle, the dealer shall record the identifying number of the certificate issued and required to be carried in the motor vehicle as provided in subsection (2). ~~On or before the last day of January, April, July, and October, the dealer shall report to the department each delivery during the preceding calendar quarter of liquefied petroleum gas required to be recorded under this subsection.~~

**NEW SECTION. Section 3.** License agents. The department of transportation may appoint, under rules adopted by the department, license agents to sell liquefied petroleum gas license tax fee certificates under 15-71-101.

**NEW SECTION. Section 4.** Bonding of agents. (1) A

1 license agent appointed by the department of transportation  
 2 shall furnish a bond as defined in [section 6]. The bond  
 3 secures the performance of duties imposed on the license  
 4 agent and secures the accounting for and payment to the  
 5 department of all money received from the sale of liquefied  
 6 petroleum gas license tax fee certificates. The license  
 7 agent shall, annually or at other times prescribed by the  
 8 department, account for all unsold certificates.

9 (2) All money received for the sale of certificates  
 10 belongs to the state. In case of an assignment for the  
 11 benefit of creditors, receivership, or bankruptcy, the state  
 12 has a preferred claim against the assets and estate of a  
 13 license agent for all money owed the state.

14 NEW SECTION. **Section 5. Records -- remittance of**  
 15 **license tax fees.** (1) Each license agent shall submit to the  
 16 department of transportation all duplicates of each  
 17 liquefied petroleum gas license tax fee certificate sold.  
 18 The license agent shall remit with the duplicate  
 19 certificates all money received from the sale of  
 20 certificates. Duplicate copies of the certificates and  
 21 remittance of money from the sale of the certificates are  
 22 due on or before the last day of the succeeding calendar  
 23 month following the month in which the certificates were  
 24 sold.

25 (2) If a license agent fails to submit to the

1 department of transportation all money received from the  
 2 declared sale of certificates by the due date provided in  
 3 subsection (1), the license agent is subject to penalty and  
 4 interest as provided in [section 18]. Acceptance of late  
 5 payments with interest does not preclude the department from  
 6 revoking the appointment of a license agent.

7 NEW SECTION. **Section 6. Definitions.** As used in  
 8 [sections 6 through 23], unless the context otherwise  
 9 requires, the following definitions apply:

10 (1) "Bond" means:

11 (a) a bond executed by a liquefied petroleum gas dealer  
 12 or compressed natural gas dealer as principal with a  
 13 corporate surety qualified under the laws of Montana,  
 14 payable to the state of Montana, conditioned upon faithful  
 15 performance of all requirements of [sections 6 through 23],  
 16 including the payment of all taxes, penalties, and other  
 17 obligations of the liquefied petroleum gas dealer or  
 18 compressed natural gas dealer arising out of [sections 6  
 19 through 23]; or

20 (b) a deposit with the department by the liquefied  
 21 petroleum gas dealer or compressed natural gas dealer, under  
 22 terms and conditions the department may prescribe, of  
 23 certificates of deposit or irrevocable letters of credit  
 24 issued by a bank and insured by the federal deposit  
 25 insurance corporation.

(2) "Compressed natural gas" means a product used as a fuel containing carbon or hydrogen or both and compressed to greater than 24 psi up to 3,600 psi when sold for use in motor vehicles operated on the public roads and highways of this state.

(3) "Compressed natural gas dealer" means a person who delivers any part of compressed natural gas into the fuel supply tank or tanks of a motor vehicle.

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

(5) "Liquefied petroleum gas" means any petroleum product composed predominately of any of the following hydrocarbons or mixtures thereof: propane, propylene, butane (normal butane or isobutane), and butylene when actually sold for use in motor vehicles operated upon the public roads and highways of this state.

(6) "Liquefied petroleum gas dealer" means a person who delivers any part of liquefied petroleum gas into the fuel supply tank or tanks of a motor vehicle.

(7) "Motor vehicle" has the same meaning as defined in 15-70-301.

(8) "Person" has the same meaning as defined in 15-70-301.

(9) "Public roads and highways of this state" has the same meaning as defined in 15-70-301.

**NEW SECTION. Section 7. Licensure of liquefied petroleum gas dealers or compressed natural gas dealers.** A person may not act as a liquefied petroleum gas dealer or compressed natural gas dealer in this state unless the person is the holder of an uncanceled liquefied petroleum gas dealer's license or a compressed natural gas dealer's license issued by the department.

**NEW SECTION. Section 8. Application for license.** Application for a liquefied petroleum gas dealer's license or a compressed natural gas dealer's license must be filed on a form prescribed by the department. The application must contain information that the department considers necessary.

**NEW SECTION. Section 9. Bonding -- release of surety -- additional bonding.** (1) A liquefied petroleum gas dealer's license or a compressed natural gas dealer's license may not be issued to a person and may not be continued in force unless the person has furnished bond, in a form prescribed by the department, to secure the dealer's compliance with [sections 6 through 23] and the payment of any taxes, interest, and penalties due under [sections 6 through 23].

(2) The total amount of the bond or bonds required of a liquefied petroleum gas dealer or compressed natural gas dealer must be equivalent to twice the dealer's estimated monthly tax payments, but the total amount of the bond or

1 bonds may not be less than \$1,000.

2 (3) A surety on a bond furnished by a liquefied  
3 petroleum gas dealer or compressed natural gas dealer as  
4 provided in this section must be released and discharged  
5 from any liability to the state accruing on the bond after  
6 the expiration of 30 days from the date when the surety has  
7 provided the department a written request to be released and  
8 discharged, but this provision may not operate to relieve,  
9 release, or discharge the surety from any liability already  
10 accrued or that accrues before the expiration of the 30-day  
11 period. The department shall, promptly upon receiving a  
12 release request, notify the liquefied petroleum gas dealer  
13 or compressed natural gas dealer who furnished the bond, and  
14 unless the dealer, on or before the expiration of the 30-day  
15 period, files a new bond in accordance with the requirements  
16 of this section or makes a deposit in lieu of a bond as  
17 provided in [section 6(1)], the department shall cancel the  
18 dealer's license.

19 (4) The department may require a liquefied petroleum  
20 gas dealer or compressed natural gas dealer to give a new or  
21 additional surety bond or to deposit additional securities  
22 of the character specified in [section 6(1)] if, in its  
23 opinion, the security of the surety bond previously filed by  
24 the dealer or the market value of the properties deposited  
25 as security by the dealer becomes impaired or inadequate. If

1 the liquefied petroleum gas dealer or compressed natural gas  
2 dealer fails to give additional surety bond or to deposit  
3 additional securities within 30 days after being requested  
4 to do so by the department, the department shall cancel the  
5 dealer's license.

6 NEW SECTION. Section 10. Issuance of license --  
7 grounds for refusal -- hearing. (1) Except as provided in  
8 subsection (2), upon receipt of the application and bond in  
9 proper form, the department shall issue to the applicant a  
10 license to act as a liquefied petroleum gas dealer or  
11 compressed natural gas dealer. Each license is valid until  
12 suspended or revoked for cause or otherwise canceled.

13 (2) The department may refuse to issue a liquefied  
14 petroleum gas dealer's license or a compressed natural gas  
15 dealer's license to any person:

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

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

21 (c) upon other sufficient cause being shown.

22 (3) Before refusal to issue a license, the department  
23 shall grant the applicant a hearing and shall give at least  
24 10 days' written notice of the time and place of hearing.

25 (4) A liquefied petroleum gas dealer's license or a

compressed natural gas dealer's license is not transferable.

**NEW SECTION. Section 11. Revocation, suspension, and cancellation.** (1) The department may revoke the license of any liquefied petroleum gas dealer or compressed natural gas dealer for reasonable cause. Before revoking a license, the department shall notify the licensee of its intention, by certified mail addressed to the licensee's last-known address shown in the files of the department, requiring the licensee to appear before the department at a time specified in the notice, not more than 30 days or less than 10 days from date of notice, and to show cause, if any, why the license should not be revoked. At any time prior to and pending the hearing, the department may in the exercise of reasonable discretion suspend the license.

(2) Upon revocation by the department of any license, the licensee shall immediately surrender the license to the department for cancellation.

**NEW SECTION. Section 12. Surrender of license upon discontinuance.** The department shall cancel a license to act as a liquefied petroleum gas dealer or compressed natural gas dealer immediately upon surrender of the license by the licensee.

**NEW SECTION. Section 13. Tax on liquefied petroleum gas and compressed natural gas -- computation -- exceptions.**

(1) Each dealer shall collect at the time of delivery of

liquefied petroleum gas or compressed natural gas into the supply tank of a motor vehicle a tax as follows:

(a) for each gallon of liquefied petroleum gas delivered, an amount equal to 60% of the gasoline license tax imposed under 15-70-204; and

(b) for each 120 cubic feet of compressed natural gas delivered, an amount equal to 50% of the gasoline license tax imposed under 15-70-204.

(2) The tax imposed by [sections 6 through 23] is computed as follows:

(a) with respect to liquefied petroleum gas, by multiplying the tax rate per gallon provided in this section by the number of gallons delivered into the supply tank of a motor vehicle; and

(b) with respect to compressed natural gas, by multiplying the tax rate per 120 cubic feet provided in this section by the total amount of cubic feet delivered into the supply tank of a motor vehicle.

(3) The dealer shall pay the tax to the department as provided in [section 17].

(4) The United States, the state of Montana, and any political subdivision of this state are exempt from the levy and imposition of this tax.

**NEW SECTION. Section 14. Records.** (1) Every liquefied petroleum gas dealer or compressed natural gas dealer and



every person importing, manufacturing, refining, dealing in, transporting, or storing liquefied petroleum gas or compressed natural gas in this state shall keep records, receipts, invoices, and other pertinent documents that the department may require and shall produce them for the inspection of the department at any time during regular business hours.

(2) The records, receipts, invoices, and other pertinent documents must be kept for a period of at least 3 years from the date on which the return to which they relate was required to have been made.

**NEW SECTION. Section 15. Enforcement -- examination of records.** (1) The department shall enforce the provisions of [sections 6 through 23].

(2) The department or its authorized representative may examine the books, papers, records, and equipment of any liquefied petroleum gas dealer or compressed natural gas dealer or of any person dealing in, transporting, or storing liquefied petroleum gas and compressed natural gas as defined in [sections 6 through 23] and may investigate the character of the disposition that any person makes of liquefied petroleum gas and compressed natural gas in order to ascertain and determine whether all excise taxes due are being properly reported and paid. If the books, papers, records, and equipment are not maintained in this state at

the time of demand, they must be furnished at the direction of the department for review either in the offices of the department or at the business location of the dealer or other person and must, if requested by the department, be accompanied by the dealer or other person.

(3) The department shall, upon request from officials responsible for the enforcement of the liquefied petroleum gas and compressed natural gas tax law of any other state, the District of Columbia, the United States or its territories and possessions, or the provinces of Canada, forward to the officials any information that it has relative to the receipt, storage, delivery, sale, use, or other disposition of liquefied petroleum gas or compressed natural gas by any liquefied petroleum gas dealer or compressed natural gas dealer, provided that the other state or states furnish similar information to this state.

**NEW SECTION. Section 16. Returns.** (1) For the purpose of determining the amount of liability for the tax due under [sections 6 through 23], each liquefied petroleum gas dealer and compressed natural gas dealer shall file with the department a monthly tax return on forms prescribed by the department.

(2) The dealer shall file the return on or before the last day of the next calendar month following the month for which the tax is due. For good cause, the department may

1 grant a taxpayer a reasonable extension of time for filing,  
2 but not to exceed 30 days.

3 NEW SECTION. Section 17. Payment -- deductions. The  
4 tax return must be accompanied by payment covering the tax  
5 due under [sections 6 through 23] for liquefied petroleum  
6 gas or compressed natural gas sold during the preceding  
7 month. A licensed liquefied petroleum gas dealer or  
8 compressed natural gas dealer is allowed a deduction equal  
9 to 1% of the total tax due as a collection allowance.

10 NEW SECTION. Section 18. Penalties for refusal or  
11 failure to file return or pay tax when due. (1) In case of  
12 any liquefied petroleum gas dealer or compressed natural gas  
13 dealer who refuses or fails to file a return required by  
14 [sections 6 through 23] within the time prescribed by  
15 15-70-103 and [section 16], there is imposed a penalty of  
16 \$25 or a sum equal to 10% of the tax due, whichever is  
17 greater, together with interest at the rate of 1% on the tax  
18 due for each calendar month or fraction of a month during  
19 which the refusal or failure continues. If any liquefied  
20 petroleum gas dealer or compressed natural gas dealer  
21 establishes to the satisfaction of the department that the  
22 failure to file a return within the time prescribed was due  
23 to reasonable cause, the department shall waive the penalty  
24 provided by this section.

25 (2) Whenever a liquefied petroleum gas dealer or

1 compressed natural gas dealer files a return but fails to  
2 pay in whole or in part the tax due under [sections 6  
3 through 23], there must be added to the amount due and  
4 unpaid interest at the rate of 1% per month or fraction of a  
5 month from the date the tax was due to the date of payment  
6 in full.

7 NEW SECTION. Section 19. Deficiency. If the department  
8 determines that the tax reported by a liquefied petroleum  
9 gas dealer or compressed natural gas dealer is deficient, it  
10 shall assess the deficiency on the basis of information  
11 available to it and there must be added to this deficiency  
12 interest at the rate of 1% per month or fraction of a month  
13 from the date the return was due.

14 NEW SECTION. Section 20. Determination if no return  
15 made. (1) If a liquefied petroleum gas dealer or compressed  
16 natural gas dealer, whether or not the dealer is licensed,  
17 fails, neglects, or refuses to file a liquefied petroleum  
18 gas tax return or compressed natural gas tax return when  
19 due, the department shall on the basis of information  
20 available to it determine the tax liability of the liquefied  
21 petroleum gas dealer or compressed natural gas dealer for  
22 the period during which a return was not filed and, to the  
23 tax determined, the department shall add the penalty and  
24 interest provided in [section 18].

25 (2) An assessment made by the department pursuant to

[section 19] or this section is presumed to be correct, and in any case in which the validity of the assessment is in question, the burden is on the person who challenges the assessment to establish by a preponderance of the evidence that it is erroneous or excessive as the case may be.

**NEW SECTION. Section 21. Fraudulent returns -- penalty.** If a liquefied petroleum gas dealer or compressed natural gas dealer files a false or fraudulent return with intent to evade the tax imposed by [sections 6 through 23]:

(1) there must be added to the amount of deficiency determined by the department a penalty equal to 25% of the deficiency, together with interest at 1% per month or fraction of a month on the deficiency from the date the tax was due to the date of payment, in addition to all other penalties prescribed by law; and

(2) the person is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 or more than \$2,000 or imprisonment of not less than 30 days or more than 6 months, or both.

**NEW SECTION. Section 22. Warrant for distraint.** If all or part of the tax imposed by [sections 6 through 23] is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand filed or recorded thereafter. An action may not be

maintained to enjoin the collection of all or any part of the license tax.

**NEW SECTION. Section 23. Statute of limitations.**

Except in the case of a fraudulent return or of neglect or refusal to make a return, every deficiency must be assessed within 3 years from the due date of the return or the date of filing the return, whichever period expires later.

**Section 24.** Section 15-70-121, MCA, is amended to read:

"15-70-121. **International Fuel Tax Agreement.** (1) The department of transportation may enter into the International Fuel Tax Agreement for audits, exchange of information, and collection and distribution of motor fuel taxes pertaining to users of motor fuel in fleets of motor vehicles operated or intended to operate across jurisdictional boundaries. The International Fuel Tax Agreement is not effective unless it is in writing and is signed by the department and the department has adopted rules implementing the agreement.

(2) The agreement may determine:

- (a) the base jurisdiction for motor fuel users;
- (b) motor fuel user records requirements;
- (c) audit procedures;
- (d) procedures for the exchange of information;
- (e) persons eligible for tax licensing;
- (f) the definition of qualified motor vehicles;

1 (g) bonding requirements;  
 2 (h) reporting requirements and periods;  
 3 (i) uniform penalty and interest rates for late  
 4 reporting or payment of taxes;  
 5 (j) methods for collecting and forwarding of motor fuel  
 6 taxes and penalties to another jurisdiction; and  
 7 (k) other provisions to facilitate the administration  
 8 of the agreement.  
 9 (3) The department may, as required by the terms of the  
 10 agreement, forward to officers of another jurisdiction any  
 11 information in its possession relative to the manufacture,  
 12 receipt, sale, use, transportation, or shipment of motor  
 13 fuel. The department may disclose to officers of another  
 14 jurisdiction the location of offices, motor vehicles, and  
 15 other real and personal property of users of motor fuel.  
 16 (4) The agreement may provide each jurisdiction  
 17 authority to audit the records of persons based in the  
 18 jurisdiction to determine if the motor fuel taxes due each  
 19 jurisdiction are properly reported and paid. Each  
 20 jurisdiction shall forward the findings of the audits  
 21 performed on persons based in the jurisdiction to each  
 22 jurisdiction in which the person has taxable use of motor  
 23 fuel. For a person not based in Montana who has taxable use  
 24 of motor fuel in Montana, the department may serve the audit  
 25 findings received from another jurisdiction in the form of

1 an assessment on the person, as though an audit was  
 2 conducted by the department.  
 3 (5) The agreement entered into pursuant to this section  
 4 does not preclude the department from auditing the records  
 5 of any person covered by the provisions of this chapter.  
 6 (6) If the specific requirements of the agreement, as  
 7 the agreement reads on the effective date of adoption by the  
 8 department, differ from the general provisions of this  
 9 chapter or other rules promulgated by the department, the  
 10 rules implementing the cooperative agreement prevail.  
 11 (7) The legal remedies for a person served with an  
 12 order or assessment under this section are as prescribed in  
 13 this chapter.  
 14 (8) As used in this section:  
 15 (a) "agreement" means the International Fuel Tax  
 16 Agreement provided for in this section; and  
 17 (b) "motor fuel" means gasoline as defined in  
 18 15-70-201, and special fuel as defined in 15-70-301, and  
 19 compressed natural gas and liquefied petroleum gas as  
 20 defined in [section 6]."

21 **Section 25.** Section 15-70-104, MCA, is amended to read:  
 22 "15-70-104. Rules to be established by department. (1)  
 23 The department of transportation ~~shall have~~ has the power  
 24 and it ~~shall be~~ is its duty to adopt, publish, and enforce  
 25 the rules consistent with and necessary for carrying out the

provisions of this chapter.

(2) The department may prescribe, adopt, and enforce reasonable rules relating to the administration and enforcement of:

(a) part 3; and

(b) sections 3 through 5;

(c) sections 6 through 23; and

(d) the International Fuel Tax Agreement authorized by 15-70-121."

**Section 26.** Section 15-70-322, MCA, is amended to read:

"15-70-322. Tax on use of special fuels. ~~{1}-Except-as provided-in-subsection-{2},-there~~ There is hereby levied and imposed ~~a-tax~~ on the use of each ~~and-every~~ gallon of special fuel in any motor vehicle while operated upon the public roads and highways of this state a tax equivalent to the lawful tax levied on motor fuel under 15-70-321. ~~Said The~~ The tax, with respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles in this state, ~~shall-attach attaches~~ at the time of ~~such~~ delivery, ~~and--shall must~~ be collected by ~~such the~~ special fuel dealer from the special fuel user, and ~~shall must~~ be paid over to the department as ~~hereinafter~~ provided in this part. ~~Said~~ The tax, with respect to special fuel acquired by any special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor

vehicle, ~~shall---attach~~ attaches at the time of the consumption of ~~such the~~ fuel in the propulsion operation of a motor vehicle upon the public roads and highways of the this state and ~~shall must~~ be paid over to the department by the special fuel user as ~~hereinafter~~ provided in this part. The United States, Montana and all other states, and the counties, incorporated cities and towns, and school districts of this state are exempt from the levy and imposition of this tax.

~~{2}--The-tax-levied-on-compressed-natural-gas-is-7-cents per-120-cubic-feet-of-compressed-natural-gas-at-14.73-pounds per-square-inch-absolute-base-pressure--"~~

**Section 27.** Section 61-12-206, MCA, is amended to read:

"61-12-206. Offenses for which arrest authorized. (1) Employees appointed under 61-12-201 may make arrests for violations of the following statutory provisions only:

(a) part 1, chapter 10, of this title;

(b) part 3, chapter 4, of this title;

(c) sections 15-24-201 through 15-24-205;

(d) sections 15-70-302 through 15-70-307;

(e) sections 15-70-311 through 15-70-314;

(f) sections 15-71-101 and 15-71-103 through 15-71-105;

(g) section 61-3-502(1);

(h) sections 61-10-201 through 61-10-215;

(i) sections 61-10-222 through 61-10-224;

1 (j) sections 61-10-231 through 61-10-233.

2 (2) These employees may not arrest for violations other  
3 than specified in this section."

4 NEW SECTION. **Section 28.** Repealer. Section 15-71-102,  
5 MCA, is repealed.

6 NEW SECTION. **Section 29.** Codification instruction. (1)  
7 [Sections 3 through 5] are intended to be codified as an  
8 integral part of Title 15, chapter 71, part 1, and the  
9 provisions of Title 15, chapter 71, part 1, apply to  
10 [sections 3 through 5].

11 (2) [Sections 6 through 23] are intended to be codified  
12 as an integral part of Title 15, chapter 70, and the  
13 provisions of Title 15, chapter 70, apply to [sections 6  
14 through 23].

15 NEW SECTION. **Section 30.** Effective date. [This act] is  
16 effective January 1, 1994.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0431, as introduced.DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the taxation of liquefied petroleum gas and compressed natural gas for use in motor vehicles; imposing a tax on liquefied petroleum gas and compressed natural gas sold as fuel for use in motor vehicles based on a percentage of the gasoline license tax; requiring licensure of liquefied petroleum gas dealers and compressed natural gas dealers; allowing owners or operators of certain motor vehicles to pay a license tax fee in lieu of the tax on liquefied petroleum gas; allowing the Department of Transportation to appoint agents to sell license tax fee certificates; eliminating the requirement that nonresidents operating vehicles powered by liquefied petroleum gas purchase a temporary trip permit; and providing a delayed effective date.

ASSUMPTIONS:

1. One license will be issued which will allow a dealer to sell either Liquefied Petroleum Gas (LPG) or Compressed Natural Gas (CNG).
2. Issuance of LPG license tax fee certificates to vehicles weighing more than 12,000 pounds will not result in material additional costs to the Department of Transportation.
3. This bill may add approximately 470 new accounts to the Department of Transportation's Motor Fuel Tax function.

FISCAL IMPACT:Expenditures:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	190.08	190.83	0.75	190.08	190.83	0.75
Personal Services	\$ 6,164,720	\$ 6,178,186	\$ 13,466	\$ 6,184,495	\$ 6,197,961	\$ 13,466
Operating	4,912,089	4,912,439	350	4,650,929	4,651,279	350
Equipment	280,426	281,426	1,000	892,400	892,400	0
Debt Service	<u>12,641</u>	<u>12,641</u>	<u>0</u>	<u>12,641</u>	<u>12,641</u>	<u>0</u>
Total	\$11,369,876	\$ 11,384,692	\$ 14,816	\$11,740,465	\$ 11,754,281	\$ 13,816

Funding:

State Special Revenue Fund	\$ 8,546,828	\$ 8,561,644	\$ 14,816	\$ 8,904,517	\$ 8,918,333	\$ 13,816
Federal Special Revenue Fund	<u>2,823,048</u>	<u>2,823,048</u>	<u>0</u>	<u>2,835,948</u>	<u>2,835,948</u>	<u>0</u>
Total	\$11,369,876	\$ 11,384,692	\$ 14,816	\$11,740,465	\$ 11,754,281	\$ 13,816

(continued)

David Lewis 3-13-93  
 DAVID LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

3/15/93  
 GARY C. AKLESTAD, PRIMARY SPONSOR DATE

Fiscal Note for SB0431, as introduced

5B 431

Revenues:

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
0405 Veh. Lic. & Perm. Gen.	\$26,632,793	\$ 26,374,610	\$ (258,183)	\$26,439,500	\$ 26,184,000	\$ (255,500)
0738 Diesel Fuel License Tax	25,412,367	25,667,879	255,512	25,220,000	25,473,258	253,258
0737 Compressed Natural Gas	0	3,100	3,100	0	3,100	3,100
Total	\$52,045,160	\$ 52,045,589	\$ 429	\$51,659,500	\$ 51,660,358	\$ 858

Net Impact: \$ (14,387) \$ (12,958)

The numerical information provided shows that the department expects losses of \$14,387 in FY94 and \$12,958 in FY95 if this bill is passed. The above estimate does not consider two circumstances that the department believes are relevant. 1) The LPG user who does not purchase the LPG Vehicle License: Under the new law, the taxes on that fuel would be collected at the time of purchase. The department does not have sufficient data to determine whether it would realize more or less revenue than at present. 2) The department is unable to estimate how much more revenue it may collect above the \$108.00 annual fee under the current law. Using a .128 tax rate for LPG, (60% of the current gasoline tax rate of .214/gallon) and a .107 rate for CNG (50% of the current gasoline rate of .214/gallon) it would require the sale of 844 gallons of LPG and 1009 gallons of CNG annually to equal the \$108.00. The assumption is that a vehicle used in Montana for a year will consume at least this much fuel.

Considering the two factors above, the department can be reasonably sure that it will collect revenues in excess of the projected loss. The department is currently unable to quantify the estimate because it does not have the necessary statistical data.



## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0431, second reading.DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the taxation of liquefied petroleum gas and compressed natural gas for use in motor vehicles; imposing a tax on liquefied petroleum gas and compressed natural gas sold as fuel for use in motor vehicles based on a percentage of the gasoline license tax; requiring licensure of liquefied petroleum gas dealers and compressed natural gas dealers; allowing owners or operators of certain motor vehicles to pay a license tax fee in lieu of the tax on liquefied petroleum gas; allowing the Department of Transportation to appoint agents to sell license tax fee certificates; eliminating the requirement that nonresidents operating vehicles powered by liquefied petroleum gas purchase a temporary trip permit; and providing a delayed effective date.

ASSUMPTIONS:

1. One license will be issued which will allow a dealer to sell either Liquefied Petroleum Gas (LPG) or Compressed Natural Gas (CNG).
2. Issuance of LPG license tax fee certificates to vehicles weighing more than 12,000 pounds will not result in material additional costs to the Department of Transportation.
3. This bill may add approximately 470 new accounts to the Department of Transportation's Motor Fuel Tax function and this will require an additional 0.75 FTE, grade 8.

FISCAL IMPACT: (unchanged from fiscal note for bill as introduced)Expenditures:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	190.08	190.83	0.75	190.08	190.83	0.75
Personal Services	\$ 6,164,720	\$ 6,178,186	\$ 13,466	\$ 6,184,495	\$ 6,197,961	\$ 13,466
Operating	4,912,089	4,912,439	350	4,650,929	4,651,279	350
Equipment	280,426	281,426	1,000	892,400	892,400	0
Debt Service	12,641	12,641	0	12,641	12,641	0
Total	\$11,369,876	\$ 11,384,692	\$ 14,816	\$11,740,465	\$ 11,754,281	\$ 13,816

Funding:

State Special Revenue Fund	\$ 8,546,828	\$ 8,561,644	\$ 14,816	\$ 8,904,517	\$ 8,918,333	\$ 13,816
Federal Special Revenue Fund	2,823,048	2,823,048	0	2,835,948	2,835,948	0
Total	\$11,369,876	\$ 11,384,692	\$ 14,816	\$11,740,465	\$ 11,754,281	\$ 13,816

(continued)

Dave Lewis 4-1-93  
 DAVID LEWIS, BUDGET DIRECTOR DATE  
 Office of Budget and Program Planning

9/2/93  
 GARY C. AKLESTAD, PRIMARY SPONSOR DATE

Fiscal Note for SB0431, second reading

SB 431 #2

Revenues:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
0405 Veh. Lic. & Perm. Gen.	\$26,632,793	\$ 26,374,610	\$ (258,183)	\$26,439,500	\$ 26,184,000	\$ (255,500)
0738 Diesel Fuel License Tax	25,412,367	25,667,879	255,512	25,220,000	25,473,258	253,258
0737 Compressed Natural Gas	0	3,100	3,100	0	3,100	3,100
Total	\$52,045,160	\$ 52,045,589	\$ 429	\$51,659,500	\$ 51,660,358	\$ 858

Net Impact: \$ (14,387) \$ (12,958)

The numerical information provided shows that the department expects losses of \$14,387 in FY94 and \$12,958 in FY95 if this bill is passed. The above estimate does not consider two circumstances that the department believes are relevant. 1) The LPG user who does not purchase the LPG Vehicle License: Under the new law, the taxes on that fuel would be collected at the time of purchase. The department does not have sufficient data to determine whether it would realize more or less revenue than at present. 2) The department is unable to estimate how much more revenue it may collect above the \$108.00 annual fee under the current law. Using a .128 tax rate for LPG, (60% of the current gasoline tax rate of .214/gallon) and a .107 rate for CNG (50% of the current gasoline rate of .214/gallon) it would require the sale of 844 gallons of LPG and 1009 gallons of CNG annually to equal the \$108.00. The assumption is that a vehicle used in Montana for a year will consume at least this much fuel.

Considering the two factors above, the department can be reasonably sure that it will collect revenues in excess of the projected loss. The department is currently unable to quantify the estimate because it does not have the necessary statistical data.

SB 431

APPROVED BY COMMITTEE  
ON TAXATION

## SENATE BILL NO. 431

INTRODUCED BY AKLESTAD, B. BROWN, PECK, HARP, HOCKETT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF LIQUEFIED PETROLEUM GAS AND COMPRESSED NATURAL GAS FOR USE IN MOTOR VEHICLES; IMPOSING A TAX ON LIQUEFIED PETROLEUM GAS AND COMPRESSED NATURAL GAS SOLD AS FUEL FOR USE IN MOTOR VEHICLES BASED ON A PERCENTAGE OF THE GASOLINE LICENSE TAX; REQUIRING LICENSURE OF LIQUEFIED PETROLEUM GAS DEALERS AND COMPRESSED NATURAL GAS DEALERS; ALLOWING OWNERS OR OPERATORS OF CERTAIN MOTOR VEHICLES TO PAY A LICENSE TAX FEE IN LIEU OF THE TAX ON LIQUEFIED PETROLEUM GAS; ALLOWING THE DEPARTMENT OF TRANSPORTATION TO APPOINT AGENTS TO SELL LICENSE TAX FEE CERTIFICATES; ELIMINATING THE REQUIREMENT THAT NONRESIDENTS OPERATING VEHICLES POWERED BY LIQUEFIED PETROLEUM GAS PURCHASE A TEMPORARY TRIP PERMIT; AMENDING SECTIONS 15-70-104, 15-70-121, 15-70-301, 15-70-322, 15-71-101, AND 61-12-206, MCA; REPEALING SECTION 15-71-102, MCA; AND PROVIDING A DELAYED 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 apply:

(1) "Authorization" means an uncanceled special fuel

tax prepaid authorization issued by the department.

(2) "Bond" means:

(a) a bond ~~duy~~ executed by a special fuel dealer or special fuel user as principal with a corporate surety qualified under the laws of Montana, 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 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 terms and conditions the department 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 transportation.

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

(6) "Person" means and includes any person, firm, association, joint-stock company, syndicate, partnership, or

1 corporation; whenever used in any clause prescribing and  
 2 imposing a fine or imprisonment, or both, as applied to a  
 3 firm, association, syndicate, or partnership, means and  
 4 includes the partners or members thereof and, as applied to  
 5 joint-stock companies and corporations, the officers  
 6 thereof.

7 (7) "Public roads and highways of this state" means all  
 8 streets, roads, highways, and related structures:

9 (a) built and maintained with appropriated funds of the  
 10 United States, the state of Montana, or any political  
 11 subdivision of the state;

12 (b) dedicated to public use;

13 (c) acquired by eminent domain; or

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

17 (8) "Special fuel" means those combustible gases and  
 18 liquids commonly referred to as diesel fuel or any other  
 19 volatile liquid of less than 46 degrees A.P.I. (American  
 20 petroleum institute) gravity test, except ~~liquid~~ liquefied  
 21 petroleum gas, when actually sold for use in motor vehicles  
 22 propelled operating upon the public roads and highways  
 23 within the of this state of--Montana. ~~The--term--includes~~  
 24 ~~compressed-natural-gas-~~

25 (9) (a) "Special fuel dealer" means:

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

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

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

12 (b) For purposes of subsection (9)(a), the term "fuel  
 13 supply tank or tanks" does not include cargo tanks, even  
 14 though fuel is withdrawn directly from cargo tanks for  
 15 propulsion the operation of the vehicle.

16 (10) "Special fuel user" means any person other than a  
 17 county, incorporated city or town, or school district of  
 18 this state who consumes in this state special fuel for the  
 19 propulsion the operation of motor vehicles owned or  
 20 controlled by him the person upon the public roads and  
 21 highways of this state.

22 (11) "Use" means:

23 (a) the receipt, delivery, or placing of special fuels  
 24 by a special fuel dealer into the fuel supply tank or tanks  
 25 of any motor vehicle not owned or controlled by him the

dealer while the vehicle is within this state; or

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

**Section 2.** Section 15-71-101, MCA, is amended to read:

"15-71-101. Tax to be collected on motor vehicles self-propelled by liquefied petroleum gas -- recording and reporting of liquefied petroleum gas deliveries. (1) The department of transportation shall, under the rules issued by the department, ~~collect-or-cause--to--be--collected--from~~ allow owners or operators, INCLUDING OWNERS OR OPERATORS OF MOTOR VEHICLE FLEETS CONSISTING OF TWO OR MORE VEHICLES USED IN THE SAME BUSINESS, of motor vehicles that have a licensed gross vehicle weight of 12,000 pounds or more and that are powered by a liquefied petroleum gas to elect to pay an annual license tax fee on each vehicle in lieu of the tax imposed under [section 13]. The license tax fee is prorated on a quarterly basis and may be paid quarterly, semiannually, or annually according to the following schedule:

(a) ~~passenger-cars-and--pickups--whose--licensed--gross vehicle-weight-is-10,000-pounds-or-less--\$100;~~

(b) motor trucks and truck tractors whose licensed gross vehicle weight is ~~over-10,000~~ 12,000 pounds and less than 18,000 pounds, \$144;

(c) motor trucks and truck tractors whose licensed gross vehicle weight is 18,000 pounds or more and less than 48,000 pounds, \$361;

(d) motor trucks and truck tractors whose licensed gross vehicle weight is 48,000 pounds or more, \$1,806;

(e) school buses used to provide transportation services on contract with school districts in this state, \$144.

(2) Upon payment of the tax required by this section, the department shall provide, to be carried in each vehicle, a certificate that is valid for a period of no less than a calendar quarter or for a further calendar period for which the tax is paid.

(3) When a dealer delivers liquefied petroleum gas for use to power a motor vehicle, the dealer shall record the identifying number of the certificate issued and required to be carried in the motor vehicle as provided in subsection (2). ~~On-or-before-the-last-day-of-January, April, July, and October, the dealer shall report to the department each delivery during the preceding calendar quarter of liquefied petroleum gas required to be recorded under this subsection.~~

**NEW SECTION. Section 3.** License agents. The department of transportation may appoint, under rules adopted by the department, license agents to sell liquefied petroleum gas

license tax fee certificates under 15-71-101.

**NEW SECTION. Section 4. Bonding of agents.** (1) A license agent appointed by the department of transportation shall furnish a bond as defined in [section 6]. The bond secures the performance of duties imposed on the license agent and secures the accounting for and payment to the department of all money received from the sale of liquefied petroleum gas license tax fee certificates. The license agent shall, annually or at other times prescribed by the department, account for all unsold certificates.

(2) All money received for the sale of certificates belongs to the state. In case of an assignment for the benefit of creditors, receivership, or bankruptcy, the state has a preferred claim against the assets and estate of a license agent for all money owed the state.

**NEW SECTION. Section 5. Records -- remittance of license tax fees.** (1) Each license agent shall submit to the department of transportation all duplicates of each liquefied petroleum gas license tax fee certificate sold. The license agent shall remit with the duplicate certificates all money received from the sale of certificates. Duplicate copies of the certificates and remittance of money from the sale of the certificates are due on or before the last day of the succeeding calendar month following the month in which the certificates were

sold.

(2) If a license agent fails to submit to the department of transportation all money received from the declared sale of certificates by the due date provided in subsection (1), the license agent is subject to penalty and interest as provided in [section 18]. Acceptance of late payments with interest does not preclude the department from revoking the appointment of a license agent.

**NEW SECTION. Section 6. Definitions.** As used in [sections 6 through 23], unless the context otherwise requires, the following definitions apply:

(1) "Bond" means:

(a) a bond executed by a liquefied petroleum gas dealer or compressed natural gas dealer as principal with a corporate surety qualified under the laws of Montana, payable to the state of Montana, conditioned upon faithful performance of all requirements of [sections 6 through 23], including the payment of all taxes, penalties, and other obligations of the liquefied petroleum gas dealer or compressed natural gas dealer arising out of [sections 6 through 23]; or

(b) a deposit with the department by the liquefied petroleum gas dealer or compressed natural gas dealer, under terms and conditions the department may prescribe, of certificates of deposit or irrevocable letters of credit

1 issued by a bank and insured by the federal deposit  
2 insurance corporation.

3 (2) "Compressed natural gas" means a product used as a  
4 fuel containing carbon or hydrogen or both and compressed to  
5 greater than 24 psi up to 3,600 psi when sold for use in  
6 motor vehicles operated on the public roads and highways of  
7 this state.

8 (3) "Compressed natural gas dealer" means a person who  
9 delivers any part of compressed natural gas into the fuel  
10 supply tank or tanks of a motor vehicle.

11 (4) "Department" means the department of  
12 transportation.

13 (5) "Liquefied petroleum gas" means any petroleum  
14 product composed predominately of any of the following  
15 hydrocarbons or mixtures thereof: propane, propylene, butane  
16 (normal butane or isobutane), and butylene when actually  
17 sold for use in motor vehicles operated upon the public  
18 roads and highways of this state.

19 (6) "Liquefied petroleum gas dealer" means a person who  
20 delivers any part of liquefied petroleum gas into the fuel  
21 supply tank or tanks of a motor vehicle.

22 (7) "Motor vehicle" has the same meaning as defined in  
23 15-70-301.

24 (8) "Person" has the same meaning as defined in  
25 15-70-301.

1 (9) "Public roads and highways of this state" has the  
2 same meaning as defined in 15-70-301.

3 NEW SECTION. **Section 7.** Licensure of liquefied  
4 petroleum gas dealers or compressed natural gas dealers. A  
5 person may not act as a liquefied petroleum gas dealer or  
6 compressed natural gas dealer in this state unless the  
7 person is the holder of an uncanceled liquefied petroleum  
8 gas dealer's license or a compressed natural gas dealer's  
9 license issued by the department.

10 NEW SECTION. **Section 8.** Application for license.  
11 Application for a liquefied petroleum gas dealer's license  
12 or a compressed natural gas dealer's license must be filed  
13 on a form prescribed by the department. The application must  
14 contain information that the department considers necessary.

15 NEW SECTION. **Section 9.** Bonding -- release of surety  
16 -- additional bonding. (1) A liquefied petroleum gas  
17 dealer's license or a compressed natural gas dealer's  
18 license may not be issued to a person and may not be  
19 continued in force unless the person has furnished bond, in  
20 a form prescribed by the department, to secure the dealer's  
21 compliance with [sections 6 through 23] and the payment of  
22 any taxes, interest, and penalties due under [sections 6  
23 through 23].

24 (2) The total amount of the bond or bonds required of a  
25 liquefied petroleum gas dealer or compressed natural gas

dealer must be equivalent to twice the dealer's estimated monthly tax payments, but the total amount of the bond or bonds may not be less than \$1,000.

(3) A surety on a bond furnished by a liquefied petroleum gas dealer or compressed natural gas dealer as provided in this section must be released and discharged from any liability to the state accruing on the bond after the expiration of 30 days from the date when the surety has provided the department a written request to be released and discharged, but this provision may not operate to relieve, release, or discharge the surety from any liability already accrued or that accrues before the expiration of the 30-day period. The department shall, promptly upon receiving a release request, notify the liquefied petroleum gas dealer or compressed natural gas dealer who furnished the bond, and unless the dealer, on or before the expiration of the 30-day period, files a new bond in accordance with the requirements of this section or makes a deposit in lieu of a bond as provided in [section 6(1)], the department shall cancel the dealer's license.

(4) The department may require a liquefied petroleum gas dealer or compressed natural gas dealer to give a new or additional surety bond or to deposit additional securities of the character specified in [section 6(1)] if, in its opinion, the security of the surety bond previously filed by

the dealer or the market value of the properties deposited as security by the dealer becomes impaired or inadequate. If the liquefied petroleum gas dealer or compressed natural gas dealer fails to give additional surety bond or to deposit additional securities within 30 days after being requested to do so by the department, the department shall cancel the dealer's license.

**NEW SECTION. Section 10. Issuance of license -- grounds for refusal -- hearing.** (1) Except as provided in subsection (2), upon receipt of the application and bond in proper form, the department shall issue to the applicant a license to act as a liquefied petroleum gas dealer or compressed natural gas dealer. Each license is valid until suspended or revoked for cause or otherwise canceled.

(2) The department may refuse to issue a liquefied petroleum gas dealer's license or a compressed natural gas dealer's license to any person:

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

(b) who is not the real party in interest and the license 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.

(3) Before refusal to issue a license, the department shall grant the applicant a hearing and shall give at least



1 10 days' written notice of the time and place of hearing.

2 (4) A liquefied petroleum gas dealer's license or a  
3 compressed natural gas dealer's license is not transferable.

4 NEW SECTION. Section 11. Revocation, suspension, and  
5 cancellation. (1) The department may revoke the license of  
6 any liquefied petroleum gas dealer or compressed natural gas  
7 dealer for reasonable cause. Before revoking a license, the  
8 department shall notify the licensee of its intention, by  
9 certified mail addressed to the licensee's last-known  
10 address shown in the files of the department, requiring the  
11 licensee to appear before the department at a time specified  
12 in the notice, not more than 30 days or less than 10 days  
13 from date of notice, and to show cause, if any, why the  
14 license should not be revoked. At any time prior to and  
15 pending the hearing, the department may in the exercise of  
16 reasonable discretion suspend the license.

17 (2) Upon revocation by the department of any license,  
18 the licensee shall immediately surrender the license to the  
19 department for cancellation.

20 NEW SECTION. Section 12. Surrender of license upon  
21 discontinuance. The department shall cancel a license to act  
22 as a liquefied petroleum gas dealer or compressed natural  
23 gas dealer immediately upon surrender of the license by the  
24 licensee.

25 NEW SECTION. Section 13. Tax on liquefied petroleum

1 gas and compressed natural gas -- computation -- exceptions.

2 (1) Each dealer shall collect at the time of delivery of  
3 liquefied petroleum gas or compressed natural gas into the  
4 supply tank of a motor vehicle a tax as follows:

5 (a) for each gallon of liquefied petroleum gas  
6 delivered, an amount equal to 60% of the gasoline license  
7 tax imposed under 15-70-204; and

8 (b) for each 120 cubic feet of compressed natural gas  
9 delivered, an amount equal to 50% of the gasoline license  
10 tax imposed under 15-70-204.

11 (2) The tax imposed by [sections 6 through 23] is  
12 computed as follows:

13 (a) with respect to liquefied petroleum gas, by  
14 multiplying the tax rate per gallon provided in this section  
15 by the number of gallons delivered into the supply tank of a  
16 motor vehicle; and

17 (b) with respect to compressed natural gas, by  
18 multiplying the tax rate per 120 cubic feet provided in this  
19 section by the total amount of cubic feet delivered into the  
20 supply tank of a motor vehicle.

21 (3) The dealer shall pay the tax to the department as  
22 provided in [section 17].

23 (4) The United States, the state of Montana, and any  
24 political subdivision of this state are exempt from the levy  
25 and imposition of this tax.

1        NEW SECTION.    **Section 14. Records.** (1) Every liquefied  
 2 petroleum gas dealer or compressed natural gas dealer and  
 3 every person importing, manufacturing, refining, dealing in,  
 4 transporting, or storing liquefied petroleum gas or  
 5 compressed natural gas in this state shall keep records,  
 6 receipts, invoices, and other pertinent documents that the  
 7 department may require and shall produce them for the  
 8 inspection of the department at any time during regular  
 9 business hours.

10        (2) The records, receipts, invoices, and other  
 11 pertinent documents must be kept for a period of at least 3  
 12 years from the date on which the return to which they relate  
 13 was required to have been made.

14        NEW SECTION.    **Section 15. Enforcement -- examination of**  
 15 **records.** (1) The department shall enforce the provisions of  
 16 [sections 6 through 23].

17        (2) The department or its authorized representative may  
 18 examine the books, papers, records, and equipment of any  
 19 liquefied petroleum gas dealer or compressed natural gas  
 20 dealer or of any person dealing in, transporting, or storing  
 21 liquefied petroleum gas and compressed natural gas as  
 22 defined in [sections 6 through 23] and may investigate the  
 23 character of the disposition that any person makes of  
 24 liquefied petroleum gas and compressed natural gas in order  
 25 to ascertain and determine whether all excise taxes due are

1 being properly reported and paid. If the books, papers,  
 2 records, and equipment are not maintained in this state at  
 3 the time of demand, they must be furnished at the direction  
 4 of the department for review either in the offices of the  
 5 department or at the business location of the dealer or  
 6 other person and must, if requested by the department, be  
 7 accompanied by the dealer or other person.

8        (3) The department shall, upon request from officials  
 9 responsible for the enforcement of the liquefied petroleum  
 10 gas and compressed natural gas tax law of any other state,  
 11 the District of Columbia, the United States or its  
 12 territories and possessions, or the provinces of Canada,  
 13 forward to the officials any information that it has  
 14 relative to the receipt, storage, delivery, sale, use, or  
 15 other disposition of liquefied petroleum gas or compressed  
 16 natural gas by any liquefied petroleum gas dealer or  
 17 compressed natural gas dealer, provided that the other state  
 18 or states furnish similar information to this state.

19        NEW SECTION.    **Section 16. Returns.** (1) For the purpose  
 20 of determining the amount of liability for the tax due under  
 21 [sections 6 through 23], each liquefied petroleum gas dealer  
 22 and compressed natural gas dealer shall file with the  
 23 department a monthly tax return on forms prescribed by the  
 24 department.

25        (2) The dealer shall file the return on or before the

1 last day of the next calendar month following the month for  
2 which the tax is due. For good cause, the department may  
3 grant a taxpayer a reasonable extension of time for filing,  
4 but not to exceed 30 days.

5 NEW SECTION. Section 17. Payment -- deductions. The  
6 tax return must be accompanied by payment covering the tax  
7 due under [sections 6 through 23] for liquefied petroleum  
8 gas or compressed natural gas sold during the preceding  
9 month. A licensed liquefied petroleum gas dealer or  
10 compressed natural gas dealer is allowed a deduction equal  
11 to 1% of the total tax due as a collection allowance.

12 NEW SECTION. Section 18. Penalties for refusal or  
13 failure to file return or pay tax when due. (1) In case of  
14 any liquefied petroleum gas dealer or compressed natural gas  
15 dealer who refuses or fails to file a return required by  
16 [sections 6 through 23] within the time prescribed by  
17 15-70-103 and [section 16], there is imposed a penalty of  
18 \$25 or a sum equal to 10% of the tax due, whichever is  
19 greater, together with interest at the rate of 1% on the tax  
20 due for each calendar month or fraction of a month during  
21 which the refusal or failure continues. If any liquefied  
22 petroleum gas dealer or compressed natural gas dealer  
23 establishes to the satisfaction of the department that the  
24 failure to file a return within the time prescribed was due  
25 to reasonable cause, the department shall waive the penalty

1 provided by this section.

2 (2) Whenever a liquefied petroleum gas dealer or  
3 compressed natural gas dealer files a return but fails to  
4 pay in whole or in part the tax due under [sections 6  
5 through 23], there must be added to the amount due and  
6 unpaid interest at the rate of 1% per month or fraction of a  
7 month from the date the tax was due to the date of payment  
8 in full.

9 NEW SECTION. Section 19. Deficiency. If the department  
10 determines that the tax reported by a liquefied petroleum  
11 gas dealer or compressed natural gas dealer is deficient, it  
12 shall assess the deficiency on the basis of information  
13 available to it and there must be added to this deficiency  
14 interest at the rate of 1% per month or fraction of a month  
15 from the date the return was due.

16 NEW SECTION. Section 20. Determination if no return  
17 made. (1) If a liquefied petroleum gas dealer or compressed  
18 natural gas dealer, whether or not the dealer is licensed,  
19 fails, neglects, or refuses to file a liquefied petroleum  
20 gas tax return or compressed natural gas tax return when  
21 due, the department shall on the basis of information  
22 available to it determine the tax liability of the liquefied  
23 petroleum gas dealer or compressed natural gas dealer for  
24 the period during which a return was not filed and, to the  
25 tax determined, the department shall add the penalty and

1 interest provided in [section 18].

2 (2) An assessment made by the department pursuant to  
3 [section 19] or this section is presumed to be correct, and  
4 in any case in which the validity of the assessment is in  
5 question, the burden is on the person who challenges the  
6 assessment to establish by a preponderance of the evidence  
7 that it is erroneous or excessive as the case may be.

8 **NEW SECTION. Section 21. Fraudulent returns --**  
9 **penalty.** If a liquefied petroleum gas dealer or compressed  
10 natural gas dealer files a false or fraudulent return with  
11 intent to evade the tax imposed by [sections 6 through 23]:

12 (1) there must be added to the amount of deficiency  
13 determined by the department a penalty equal to 25% of the  
14 deficiency, together with interest at 1% per month or  
15 fraction of a month on the deficiency from the date the tax  
16 was due to the date of payment, in addition to all other  
17 penalties prescribed by law; and

18 (2) the person is guilty of a misdemeanor and upon  
19 conviction is punishable by a fine of not less than \$100 or  
20 more than \$2,000 or imprisonment of not less than 30 days or  
21 more than 6 months, or both.

22 **NEW SECTION. Section 22. Warrant for distraint.** If all  
23 or part of the tax imposed by [sections 6 through 23] is not  
24 paid when due, the department may issue a warrant for  
25 distraint as provided in Title 15, chapter 1, part 7. The

1 resulting lien has precedence over any other claim, lien, or  
2 demand filed or recorded thereafter. An action may not be  
3 maintained to enjoin the collection of all or any part of  
4 the license tax.

5 **NEW SECTION. Section 23. Statute of limitations.**  
6 Except in the case of a fraudulent return or of neglect or  
7 refusal to make a return, every deficiency must be assessed  
8 within 3 years from the due date of the return or the date  
9 of filing the return, whichever period expires later.

10 **Section 24.** Section 15-70-121, MCA, is amended to read:  
11 **"15-70-121. International Fuel Tax Agreement.** (1) The  
12 department of transportation may enter into the  
13 International Fuel Tax Agreement for audits, exchange of  
14 information, and collection and distribution of motor fuel  
15 taxes pertaining to users of motor fuel in fleets of motor  
16 vehicles operated or intended to operate across  
17 jurisdictional boundaries. The International Fuel Tax  
18 Agreement is not effective unless it is in writing and is  
19 signed by the department and the department has adopted  
20 rules implementing the agreement.

21 (2) The agreement may determine:  
22 (a) the base jurisdiction for motor fuel users;  
23 (b) motor fuel user records requirements;  
24 (c) audit procedures;  
25 (d) procedures for the exchange of information;

1 (e) persons eligible for tax licensing;  
 2 (f) the definition of qualified motor vehicles;  
 3 (g) bonding requirements;  
 4 (h) reporting requirements and periods;  
 5 (i) uniform penalty and interest rates for late  
 6 reporting or payment of taxes;  
 7 (j) methods for collecting and forwarding of motor fuel  
 8 taxes and penalties to another jurisdiction; and  
 9 (k) other provisions to facilitate the administration  
 10 of the agreement.  
 11 (3) The department may, as required by the terms of the  
 12 agreement, forward to officers of another jurisdiction any  
 13 information in its possession relative to the manufacture,  
 14 receipt, sale, use, transportation, or shipment of motor  
 15 fuel. The department may disclose to officers of another  
 16 jurisdiction the location of offices, motor vehicles, and  
 17 other real and personal property of users of motor fuel.  
 18 (4) The agreement may provide each jurisdiction  
 19 authority to audit the records of persons based in the  
 20 jurisdiction to determine if the motor fuel taxes due each  
 21 jurisdiction are properly reported and paid. Each  
 22 jurisdiction shall forward the findings of the audits  
 23 performed on persons based in the jurisdiction to each  
 24 jurisdiction in which the person has taxable use of motor  
 25 fuel. For a person not based in Montana who has taxable use

1 of motor fuel in Montana, the department may serve the audit  
 2 findings received from another jurisdiction in the form of  
 3 an assessment on the person, as though an audit was  
 4 conducted by the department.

5 (5) The agreement entered into pursuant to this section  
 6 does not preclude the department from auditing the records  
 7 of any person covered by the provisions of this chapter.

8 (6) If the specific requirements of the agreement, as  
 9 the agreement reads on the effective date of adoption by the  
 10 department, differ from the general provisions of this  
 11 chapter or other rules promulgated by the department, the  
 12 rules implementing the cooperative agreement prevail.

13 (7) The legal remedies for a person served with an  
 14 order or assessment under this section are as prescribed in  
 15 this chapter.

16 (8) As used in this section:

17 (a) "agreement" means the International Fuel Tax  
 18 Agreement provided for in this section; and

19 (b) "motor fuel" means gasoline as defined in  
 20 15-70-201, and special fuel as defined in 15-70-301, and  
 21 compressed natural gas and liquefied petroleum gas as  
 22 defined in [section 6]."

23 **Section 25.** Section 15-70-104, MCA, is amended to read:

24 "15-70-104. Rules to be established by department. (1)  
 25 The department of transportation shall have has the power

and it ~~shall be~~ is its duty to adopt, publish, and enforce the rules consistent with and necessary for carrying out the provisions of this chapter.

(2) The department may prescribe, adopt, and enforce reasonable rules relating to the administration and enforcement of:

(a) part 3; and

(b) [sections 3 through 5];

(c) [sections 6 through 23]; and

~~(b)(d)~~ the International Fuel Tax Agreement authorized by 15-70-121."

**Section 26.** Section 15-70-322, MCA, is amended to read:

"15-70-322. Tax on use of special fuels. ~~(1)-Except--as provided-in-subsection-(2)--there~~ There is hereby levied and imposed ~~a-tax~~ on the use of each and every gallon of special fuel in any motor vehicle while operated upon the public roads and highways of this state a tax equivalent to the lawful tax levied on motor fuel under 15-70-321. ~~Said The~~ tax, with respect to all special fuel delivered by a special fuel dealer into supply tanks of motor vehicles in this state, ~~shall--attach attaches~~ at the time of such delivery, ~~and-shall must~~ be collected by such the special fuel dealer from the special fuel user, and ~~shall must~~ be paid over to the department as hereinafter provided in this part. ~~Said The~~ tax, with respect to special fuel acquired by any

special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle, ~~shall--attach attaches~~ at the time of the consumption of such the fuel in the propulsion operation of a motor vehicle upon the public roads and highways of this state and ~~shall must~~ be paid over to the department by the special fuel user as hereinafter provided in this part. The United States, Montana and all other states, and the counties, incorporated cities and towns, and school districts of this state are exempt from the levy and imposition of this tax.

~~(2)--The-tax-levied-on-compressed-natural-gas-is-7-cents per-120-cubic-feet-of-compressed-natural-gas-at-14.73-pounds per-square-inch-absolute-base-pressure--"~~

**Section 27.** Section 61-12-206, MCA, is amended to read:

"61-12-206. Offenses for which arrest authorized. (1) Employees appointed under 61-12-201 may make arrests for violations of the following statutory provisions only:

(a) part 1, chapter 10, of this title;

(b) part 3, chapter 4, of this title;

(c) sections 15-24-201 through 15-24-205;

(d) sections 15-70-302 through 15-70-307;

(e) sections 15-70-311 through 15-70-314;

(f) sections 15-71-101 and 15-71-103 through 15-71-105;

(g) section 61-3-502(1);

(h) sections 61-10-201 through 61-10-215;

(i) sections 61-10-222 through 61-10-224;

(j) sections 61-10-231 through 61-10-233.

(2) These employees may not arrest for violations other than specified in this section."

NEW SECTION. **Section 28.** Repealer. Section 15-71-102, MCA, is repealed.

NEW SECTION. **Section 29.** Codification instruction. (1) [Sections 3 through 5] are intended to be codified as an integral part of Title 15, chapter 71, part 1, and the provisions of Title 15, chapter 71, part 1, apply to [sections 3 through 5].

(2) [Sections 6 through 23] are intended to be codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, apply to [sections 6 through 23].

NEW SECTION. **Section 30.** Effective date. [This act] is effective January 1, 1994.

-End-

## SENATE BILL NO. 431

INTRODUCED BY AKLESTAD, B. BROWN, PECK, HARP, HOCKETT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF LIQUEFIED PETROLEUM GAS AND COMPRESSED NATURAL GAS FOR USE IN MOTOR VEHICLES; IMPOSING A TAX ON LIQUEFIED PETROLEUM GAS AND COMPRESSED NATURAL GAS SOLD AS FUEL FOR USE IN MOTOR VEHICLES BASED ON A PERCENTAGE OF THE GASOLINE LICENSE TAX; REQUIRING LICENSURE OF LIQUEFIED PETROLEUM GAS DEALERS AND COMPRESSED NATURAL GAS DEALERS; ALLOWING OWNERS OR OPERATORS OF CERTAIN MOTOR VEHICLES TO PAY A LICENSE TAX FEE IN LIEU OF THE TAX ON LIQUEFIED PETROLEUM GAS; ALLOWING THE DEPARTMENT OF TRANSPORTATION TO APPOINT AGENTS TO SELL LICENSE TAX FEE CERTIFICATES; ELIMINATING THE REQUIREMENT THAT NONRESIDENTS OPERATING VEHICLES POWERED BY LIQUEFIED PETROLEUM GAS PURCHASE A TEMPORARY TRIP PERMIT; AMENDING SECTIONS 15-70-104, 15-70-121, 15-70-301, 15-70-322, 15-71-101, AND 61-12-206, MCA; REPEALING SECTION 15-71-102, MCA; AND PROVIDING A DELAYED 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 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, 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 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 terms and conditions the department 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

THERE ARE NO CHANGES IN THIS BILL  
AND WILL NOT BE REPRINTED. PLEASE  
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