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House Bill No. 1647

INTRODUCED BY

Hayden Hobbs

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE COLLECTION OF A TAX ON COMPRESSED NATURAL GAS AT THE RETAIL LEVEL; ESTABLISHING REQUIREMENTS FOR DEALER LICENSING AND RECORDKEEPING AND PROCEDURES FOR INSPECTION, PAYMENT OF TAX, PENALTIES, AND ADMINISTRATION RELATED TO THE TAX; REQUIRING THE OWNERS OF CERTAIN VEHICLES POWERED BY COMPRESSED NATURAL GAS TO PURCHASE A TEMPORARY TRIP PERMIT; AMENDING SECTIONS 15-70-104 AND 15-71-102, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because the department of transportation is required by 15-70-104 to adopt rules for the administration and enforcement of the tax on compressed natural gas. The legislature contemplates that rules promulgated under 15-70-104 address, at a minimum, the licensing of compressed natural gas dealers and, with respect to compressed natural gas dealers, requirements established by the department for reporting, recordkeeping, and invoicing.

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 17], the following definitions apply:

(1) "Bond" means:

(a) a bond executed by a compressed natural gas dealer as principal with a corporate surety qualified under the laws of Montana, payable to the state of Montana, conditioned upon performance of all requirements of [sections 1 through 17], including the payment of all taxes, penalties, and other obligations of the compressed natural gas dealer arising out of [sections 1 through 17]; or

(b) a deposit with the department by the compressed natural gas dealer, under terms and conditions that 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.

1 (2) "Compressed natural gas" means a product that is used as a fuel and that contains carbon or
2 hydrogen, or both, and is compressed to greater than 24 pounds per square inch absolute base pressure
3 and up to 3,600 pounds per square inch absolute base pressure when sold for use in motor vehicles
4 operated on the public roads and highways of this state.

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

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

8 (5) "Motor vehicle" means any vehicle that is self-propelled by compressed natural gas and that
9 is driven upon the public roads and highways of this state.

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

12 (b) When used in any clause prescribing and imposing a fine or imprisonment, or both, as applied
13 to a firm, association, syndicate, or partnership, person means and includes the partners or members of a
14 firm, association, syndicate, or partnership; as applied to a joint-stock company or corporation, the term
15 means and includes the officers of the joint-stock company or corporation.

16 (7) "Public roads and highways of this state" means all streets, roads, highways, and related
17 structures that are:

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

20 (b) dedicated to public use;

21 (c) acquired by eminent domain; or

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

24
25 **NEW SECTION. Section 2. Compressed natural gas dealer's license.** A person may not act as a
26 compressed natural gas dealer in this state unless the person holds a valid compressed natural gas dealer's
27 license issued by the department.

28
29 **NEW SECTION. Section 3. Application for license.** An application for a compressed natural gas
30 dealer's license must be filed on a form prescribed by the department. The application must contain

1 information that the department considers necessary.

2

3 **NEW SECTION. Section 4. Bonding, release of surety, and additional bond.** (1) A compressed
4 natural gas dealer's license may not be issued to a person and may not be continued in force unless the
5 person has furnished a bond, in a form prescribed by the department, to secure the dealer's compliance
6 with [sections 1 through 17] and has paid all taxes, interest, and penalties due under [sections 1 through
7 17].

8 (2) The total amount of the bond or bonds required must be equivalent to twice the compressed
9 natural gas dealer's estimated monthly tax payments but may not be less than \$2,000.

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

18 (4) The department may require a compressed natural gas dealer to give a new or additional surety
19 bond or to deposit additional securities pursuant to [section 1(1)(b)] if the department determines that the
20 security of the surety bond previously filed by the dealer or the market value of the property deposited as
21 security by the dealer is impaired or inadequate. If the compressed natural gas dealer fails to give an
22 additional surety bond or to deposit additional securities within 30 days after being requested to do so by
23 the department, the department shall cancel the dealer's license.

24

25 **NEW SECTION. Section 5. Issuance of license -- grounds for refusal -- hearing.** (1) Except as
26 provided in subsection (2), upon receipt of the application and bond in proper form, the department shall
27 issue to the applicant a license to act as a compressed natural gas dealer. A license is valid until suspended
28 or revoked for cause or otherwise canceled.

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

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

1 for cause;

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

4 (c) upon other sufficient cause being shown.

5 (3) Before refusing to issue a license, the department shall grant the applicant a hearing and shall
6 provide the dealer with at least 10 days' written notice of the time and place of hearing.

7 (4) A compressed natural gas dealer's license is not transferable.

8

9 **NEW SECTION. Section 6. Revocation of license -- notice.** (1) The department may revoke the
10 license of any compressed natural gas dealer for reasonable cause. Before revoking a license, the
11 department shall notify the licensee of the department's intent to revoke the license. The notice must be
12 made by certified mail addressed to the licensee's last-known address shown in the files of the department.
13 The notice must include a statement that the licensee has the right to appear before the department at a
14 time specified in the notice and to show cause, if any, why the license should not be revoked. The time
15 specified by the department may not be more than 30 days or less than 10 days from the date of the
16 notice. At any time prior to and during the hearing, the department may in the exercise of reasonable
17 discretion suspend the license.

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

20

21 **NEW SECTION. Section 7. Cancellation of license upon surrender.** The department shall cancel
22 a license to act as a compressed natural gas dealer immediately upon surrender of the license by the
23 licensee.

24

25 **NEW SECTION. Section 8. Tax on compressed natural gas.** (1) Each compressed natural gas
26 dealer shall collect the tax on compressed natural gas from the user at the time the compressed natural gas
27 is placed into the supply tank of a motor vehicle.

28 (2) (a) The total tax due is computed according to the formula provided in subsection (2)(b).

29 (b) $T = (R/V) \times TV$, where:

30 (i) T is the total tax due;

1 (ii) R is 7 cents;

2 (iii) V is 120 cubic feet of compressed natural gas at 14.73 pounds per square inch absolute base
3 pressure; and

4 (iv) TV is the total volume of compressed natural gas placed into the supply tank of a motor
5 vehicle.

6 (3) The dealer shall pay the tax to the department as provided in [section 11].

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

9

10 **NEW SECTION. Section 9. Recordkeeping.** (1) Each compressed natural gas dealer and each
11 person importing, manufacturing, refining, dealing in, transporting, or storing compressed natural gas in this
12 state shall keep all records, receipts, invoices, and other pertinent documents that the department may
13 require and shall produce them for the inspection of the department at any time during regular business
14 hours.

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

17

18 **NEW SECTION. Section 10. Examination of records -- enforcement -- reciprocity.** (1) The
19 department shall enforce the provisions of [sections 1 through 17].

20 (2) The department or its authorized representative may examine the records, receipts, invoices,
21 documents, and equipment of any compressed natural gas dealer or of any person importing,
22 manufacturing, refining, dealing in, transporting, or storing compressed natural gas and may investigate the
23 character of the disposition that any person makes of compressed natural gas in order to determine whether
24 all taxes due under [sections 1 through 17] are being properly reported and paid. If the records, receipts,
25 invoices, documents, and equipment are not maintained in this state at the time of demand, they must be
26 furnished at the direction of the department or at the business location of the dealer or other person and
27 must, if requested by the department, be accompanied by the dealer or other person.

28 (3) The department shall, upon request from an official who is responsible for the enforcement of
29 the compressed natural gas tax law of any other state, the District of Columbia, the United States, a
30 territory or possession of the United States, or a province of Canada, forward to the official any information

1 that it has relative to the receipt, storage, delivery, sale, use, or other disposition of compressed natural
2 gas by any compressed natural gas dealer if the other governmental entity furnishes similar information to
3 the department.

4

5 **NEW SECTION. Section 11. Returns required -- payment.** (1) For the purpose of determining the
6 amount of liability for the tax due under [sections 1 through 17], each compressed natural gas dealer shall
7 file with the department a monthly tax return on forms prescribed by the department.

8 (2) The dealer shall file the return on or before the last day of the next calendar month following
9 the month for which the tax is due. For good cause, the department may grant a taxpayer a reasonable
10 extension of time for filing, but the extension may not exceed 30 days.

11 (3) The tax return must be accompanied by payment of the amount of tax due under [section 8]
12 for compressed natural gas sold during the preceding month.

13

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

21 (2) Whenever a compressed natural gas dealer files a return but fails to pay in whole or in part the
22 tax due under [sections 1 through 17], there must be added to the unpaid amount due interest at the rate
23 of 1% per month or fraction of a month from the date the tax was due to the date of payment in full.

24

25 **NEW SECTION. Section 13. Deficiency -- penalty.** If the department determines that the tax
26 reported by a compressed natural gas dealer is deficient, the department shall assess the deficiency on the
27 basis of information available to the department. There must be added to the deficiency interest on the
28 deficient amount at the rate of 1% per month or fraction of a month from the date the return was due.

29

30 **NEW SECTION. Section 14. Determination if no return made -- penalty -- presumption.** (1) If a

1 compressed natural gas dealer, whether or not the dealer is licensed, fails, neglects, or refuses to file a
2 compressed natural gas tax return when due, the department shall, on the basis of information available
3 to the department, determine the tax liability of the compressed natural gas dealer for the period during
4 which a return was not filed and add to the tax determined the penalty and interest provided for in [section
5 12].

6 (2) An assessment made by the department pursuant to [section 12 or 13] or this section is
7 presumed to be correct. Whenever the validity of the assessment is in question, the burden is on the person
8 who challenges the assessment to establish by a preponderance of the evidence that it is erroneous or
9 excessive.

10

11 **NEW SECTION. Section 15. Fraudulent return -- penalty.** If a compressed natural gas dealer files
12 a fraudulent return with intent to evade the tax imposed by [sections 1 through 17]:

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

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

20

21 **NEW SECTION. Section 16. Warrant for distraint.** If all or part of the tax imposed by [sections
22 1 through 17] is not paid when due, the department may issue a warrant for distraint as provided in Title
23 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand filed or
24 recorded after the lien is filed by the department. An action may not be maintained to enjoin the collection
25 of all or any part of the license tax.

26

27 **NEW SECTION. Section 17. Statute of limitations.** Except in the case of a fraudulent return or
28 of neglect or refusal to make a return, a deficiency must be assessed within 3 years from the due date of
29 the return or the date of filing the return.

30

1 **Section 18.** Section 15-70-104, MCA, is amended to read:

2 **"15-70-104. Rules to be established by department.** (1) The department of transportation shall
3 ~~have the power and it shall be its duty to~~ adopt, publish, and enforce the rules consistent with and
4 necessary for carrying out the provisions of this chapter.

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

7 (a) part 3;

8 (b) [sections 1 through 17]; and

9 ~~(b)(c)~~ the International Fuel Tax Agreement authorized by 15-70-121."
10

11 **Section 19.** Section 15-71-102, MCA, is amended to read:

12 **"15-71-102. Temporary trip permit required.** (1) Upon entering the state, a nonresident operating
13 any motor vehicle that is powered by liquefied petroleum gas or a vehicle with a gross vehicle weight in
14 excess of 26,000 pounds or greater that is powered by compressed natural gas is required to purchase a
15 ~~liquid liquefied~~ petroleum gas or a compressed natural gas temporary trip permit. The permits must be
16 issued by scale house personnel, motor carrier services division personnel, Montana highway patrol officers,
17 and other enforcing agents that the department of transportation may prescribe.

18 (2) A temporary ~~liquid liquefied~~ petroleum gas permit or compressed natural gas permit costs \$20.
19 ~~The A~~ permit is valid for a period of time not to exceed 72 hours and is automatically void if the vehicle
20 leaves the state during this period. Special ~~liquid liquefied~~ petroleum gas permits or compressed natural gas
21 permits, remittance forms, and any other papers necessary for the enforcement of this chapter must be
22 furnished by the department."
23

24 **NEW SECTION. Section 20. Codification instruction.** [Sections 1 through 17] are intended to be
25 codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, apply to
26 [sections 1 through 17].
27

28 **NEW SECTION. Section 21. Effective dates.** (1) [Sections 1 through 17, 19, and 20] are effective
29 January 1, 1996.

30 (2) [Section 18] and this section are effective on passage and approval.

-END-

- 8 -

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0164, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for the collection of a tax on compressed natural gas at the retail level; establishing requirements for dealer licensing and record keeping and procedures for inspection, payment of tax, penalties, and administering related to the tax; requiring the owners of certain vehicles powered by compressed natural gas to purchase a temporary trip permit.

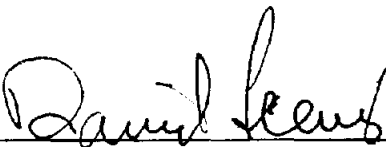
ASSUMPTIONS:

1. One license per dealer will be issued which will allow a dealer to sell Compressed Natural Gas (CNG).
2. This bill may add approximately 5 new accounts to the Department of Transportation's Motor Fuel Tax function.
3. Passage of this bill requires a tax rate of \$0.07 per gallon (same as during FY93). There would be no increase in the number of vehicles operating on CNG. Actual FY93 collections were used to determine the estimate for CNG tax collections.

FISCAL IMPACT:

Revenues:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Highway Special Revenues (02)	\$2,700	\$2,700

 1-17-95
 DAVID LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning


 HAL HARPER, PRIMARY SPONSOR DATE

Fiscal Note for HB0164, as introduced

HB 164

House Bill No. 164

INTRODUCED BY

Hayden Hobbs

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE COLLECTION OF A TAX ON COMPRESSED NATURAL GAS AT THE RETAIL LEVEL; ESTABLISHING REQUIREMENTS FOR DEALER LICENSING AND RECORDKEEPING AND PROCEDURES FOR INSPECTION, PAYMENT OF TAX, PENALTIES, AND ADMINISTRATION RELATED TO THE TAX; REQUIRING THE OWNERS OF CERTAIN VEHICLES POWERED BY COMPRESSED NATURAL GAS TO PURCHASE A TEMPORARY TRIP PERMIT; AMENDING SECTIONS 15-70-104 AND 15-71-102, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because the department of transportation is required by 15-70-104 to adopt rules for the administration and enforcement of the tax on compressed natural gas. The legislature contemplates that rules promulgated under 15-70-104 address, at a minimum, the licensing of compressed natural gas dealers and, with respect to compressed natural gas dealers, requirements established by the department for reporting, recordkeeping, and invoicing.

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 17], the following definitions apply:

(1) "Bond" means:

(a) a bond executed by a compressed natural gas dealer as principal with a corporate surety qualified under the laws of Montana, payable to the state of Montana, conditioned upon performance of all requirements of [sections 1 through 17], including the payment of all taxes, penalties, and other obligations of the compressed natural gas dealer arising out of [sections 1 through 17]; or

(b) a deposit with the department by the compressed natural gas dealer, under terms and conditions that 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.

1 (2) "Compressed natural gas" means a product that is used as a fuel and that contains carbon or
 2 hydrogen, or both, and is compressed to greater than 24 pounds per square inch absolute base pressure
 3 and up to 3,600 pounds per square inch absolute base pressure when sold for use in motor vehicles
 4 operated on the public roads and highways of this state.

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

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

8 (5) "Motor vehicle" means any vehicle that is self-propelled by compressed natural gas and that
 9 is driven upon the public roads and highways of this state.

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

12 (b) When used in any clause prescribing and imposing a fine or imprisonment, or both, as applied
 13 to a firm, association, syndicate, or partnership, person means and includes the partners or members of a
 14 firm, association, syndicate, or partnership; as applied to a joint-stock company or corporation, the term
 15 means and includes the officers of the joint-stock company or corporation.

16 (7) "Public roads and highways of this state" means all streets, roads, highways, and related
 17 structures that are:

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

20 (b) dedicated to public use;

21 (c) acquired by eminent domain; or

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

24

25 **NEW SECTION. Section 2. Compressed natural gas dealer's license.** A person may not act as a
 26 compressed natural gas dealer in this state unless the person holds a valid compressed natural gas dealer's
 27 license issued by the department.

28

29 **NEW SECTION. Section 3. Application for license.** An application for a compressed natural gas
 30 dealer's license must be filed on a form prescribed by the department. The application must contain

1 information that the department considers necessary.

2
3 **NEW SECTION. Section 4. Bonding, release of surety, and additional bond.** (1) A compressed
4 natural gas dealer's license may not be issued to a person and may not be continued in force unless the
5 person has furnished a bond, in a form prescribed by the department, to secure the dealer's compliance
6 with [sections 1 through 17] and has paid all taxes, interest, and penalties due under [sections 1 through
7 17].

8 (2) The total amount of the bond or bonds required must be equivalent to twice the compressed
9 natural gas dealer's estimated monthly tax payments but may not be less than \$2,000.

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

18 (4) The department may require a compressed natural gas dealer to give a new or additional surety
19 bond or to deposit additional securities pursuant to [section 1(1)(b)] if the department determines that the
20 security of the surety bond previously filed by the dealer or the market value of the property deposited as
21 security by the dealer is impaired or inadequate. If the compressed natural gas dealer fails to give an
22 additional surety bond or to deposit additional securities within 30 days after being requested to do so by
23 the department, the department shall cancel the dealer's license.

24
25 **NEW SECTION. Section 5. Issuance of license -- grounds for refusal -- hearing.** (1) Except as
26 provided in subsection (2), upon receipt of the application and bond in proper form, the department shall
27 issue to the applicant a license to act as a compressed natural gas dealer. A license is valid until suspended
28 or revoked for cause or otherwise canceled.

29 (2) The department may refuse to issue a compressed natural gas dealer's license to any person:
30 (a) who formerly held a license that, prior to the time of filing the application, has been revoked

1 for cause;

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

4 (c) upon other sufficient cause being shown.

5 (3) Before refusing to issue a license, the department shall grant the applicant a hearing and shall
6 provide the dealer with at least 10 days' written notice of the time and place of hearing.

7 (4) A compressed natural gas dealer's license is not transferable.

8

9 **NEW SECTION. Section 6. Revocation of license -- notice.** (1) The department may revoke the
10 license of any compressed natural gas dealer for reasonable cause. Before revoking a license, the
11 department shall notify the licensee of the department's intent to revoke the license. The notice must be
12 made by certified mail addressed to the licensee's last-known address shown in the files of the department.
13 The notice must include a statement that the licensee has the right to appear before the department at a
14 time specified in the notice and to show cause, if any, why the license should not be revoked. The time
15 specified by the department may not be more than 30 days or less than 10 days from the date of the
16 notice. At any time prior to and during the hearing, the department may in the exercise of reasonable
17 discretion suspend the license.

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

20

21 **NEW SECTION. Section 7. Cancellation of license upon surrender.** The department shall cancel
22 a license to act as a compressed natural gas dealer immediately upon surrender of the license by the
23 licensee.

24

25 **NEW SECTION. Section 8. Tax on compressed natural gas.** (1) Each compressed natural gas
26 dealer shall collect the tax on compressed natural gas from the user at the time the compressed natural gas
27 is placed into the supply tank of a motor vehicle.

28 (2) (a) The total tax due is computed according to the formula provided in subsection (2)(b).

29 (b) $T = (R/V) \times TV$, where:

30 (i) T is the total tax due;

- 1 (ii) R is 7 cents;
- 2 (iii) V is 120 cubic feet of compressed natural gas at 14.73 pounds per square inch absolute base
3 pressure; and
- 4 (iv) TV is the total volume of compressed natural gas placed into the supply tank of a motor
5 vehicle.
- 6 (3) The dealer shall pay the tax to the department as provided in [section 11].
- 7 (4) The United States, the state of Montana, and any political subdivision of this state are exempt
8 from the levy and imposition of this tax.

9

10 **NEW SECTION. Section 9. Recordkeeping.** (1) Each compressed natural gas dealer and each
11 person importing, manufacturing, refining, dealing in, transporting, or storing compressed natural gas in this
12 state shall keep all records, receipts, invoices, and other pertinent documents that the department may
13 require and shall produce them for the inspection of the department at any time during regular business
14 hours.

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

17

18 **NEW SECTION. Section 10. Examination of records -- enforcement -- reciprocity.** (1) The
19 department shall enforce the provisions of [sections 1 through 17].

20 (2) The department or its authorized representative may examine the records, receipts, invoices,
21 documents, and equipment of any compressed natural gas dealer or of any person importing,
22 manufacturing, refining, dealing in, transporting, or storing compressed natural gas and may investigate the
23 character of the disposition that any person makes of compressed natural gas in order to determine whether
24 all taxes due under [sections 1 through 17] are being properly reported and paid. If the records, receipts,
25 invoices, documents, and equipment are not maintained in this state at the time of demand, they must be
26 furnished at the direction of the department or at the business location of the dealer or other person and
27 must, if requested by the department, be accompanied by the dealer or other person.

28 (3) The department shall, upon request from an official who is responsible for the enforcement of
29 the compressed natural gas tax law of any other state, the District of Columbia, the United States, a
30 territory or possession of the United States, or a province of Canada, forward to the official any information

1 that it has relative to the receipt, storage, delivery, sale, use, or other disposition of compressed natural
2 gas by any compressed natural gas dealer if the other governmental entity furnishes similar information to
3 the department.

4

5 **NEW SECTION. Section 11. Returns required -- payment.** (1) For the purpose of determining the
6 amount of liability for the tax due under [sections 1 through 17], each compressed natural gas dealer shall
7 file with the department a monthly tax return on forms prescribed by the department.

8 (2) The dealer shall file the return on or before the last day of the next calendar month following
9 the month for which the tax is due. For good cause, the department may grant a taxpayer a reasonable
10 extension of time for filing, but the extension may not exceed 30 days.

11 (3) The tax return must be accompanied by payment of the amount of tax due under [section 8]
12 for compressed natural gas sold during the preceding month.

13

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

21 (2) Whenever a compressed natural gas dealer files a return but fails to pay in whole or in part the
22 tax due under [sections 1 through 17], there must be added to the unpaid amount due interest at the rate
23 of 1% per month or fraction of a month from the date the tax was due to the date of payment in full.

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25 **NEW SECTION. Section 13. Deficiency -- penalty.** If the department determines that the tax
26 reported by a compressed natural gas dealer is deficient, the department shall assess the deficiency on the
27 basis of information available to the department. There must be added to the deficiency interest on the
28 deficient amount at the rate of 1% per month or fraction of a month from the date the return was due.

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30 **NEW SECTION. Section 14. Determination if no return made -- penalty -- presumption.** (1) If a

1 compressed natural gas dealer, whether or not the dealer is licensed, fails, neglects, or refuses to file a
2 compressed natural gas tax return when due, the department shall, on the basis of information available
3 to the department, determine the tax liability of the compressed natural gas dealer for the period during
4 which a return was not filed and add to the tax determined the penalty and interest provided for in [section
5 12].

6 (2) An assessment made by the department pursuant to [section 12 or 13] or this section is
7 presumed to be correct. Whenever the validity of the assessment is in question, the burden is on the person
8 who challenges the assessment to establish by a preponderance of the evidence that it is erroneous or
9 excessive.

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11 **NEW SECTION. Section 15. Fraudulent return -- penalty.** If a compressed natural gas dealer files
12 a fraudulent return with intent to evade the tax imposed by [sections 1 through 17]:

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

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

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21 **NEW SECTION. Section 16. Warrant for distraint.** If all or part of the tax imposed by [sections
22 1 through 17] is not paid when due, the department may issue a warrant for distraint as provided in Title
23 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand filed or
24 recorded after the lien is filed by the department. An action may not be maintained to enjoin the collection
25 of all or any part of the license tax.

26

27 **NEW SECTION. Section 17. Statute of limitations.** Except in the case of a fraudulent return or
28 of neglect or refusal to make a return, a deficiency must be assessed within 3 years from the due date of
29 the return or the date of filing the return.

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1 **Section 18.** Section 15-70-104, MCA, is amended to read:

2 **"15-70-104. Rules to be established by department.** (1) The department of transportation shall
3 ~~have the power and it shall be its duty to~~ adopt, publish, and enforce the rules consistent with and
4 necessary for carrying out the provisions of this chapter.

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

7 (a) part 3;

8 (b) [sections 1 through 17]; and

9 ~~(b)~~(c) the International Fuel Tax Agreement authorized by 15-70-121."
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11 **Section 19.** Section 15-71-102, MCA, is amended to read:

12 **"15-71-102. Temporary trip permit required.** (1) Upon entering the state, a nonresident operating
13 any motor vehicle that is powered by liquefied petroleum gas or a vehicle with a gross vehicle weight in
14 excess of 26,000 pounds or greater that is powered by compressed natural gas is required to purchase a
15 ~~liquid liquefied~~ liquefied petroleum gas or a compressed natural gas temporary trip permit. The permits must be
16 issued by scale house personnel, motor carrier services division personnel, Montana highway patrol officers,
17 and other enforcing agents that the department of transportation may prescribe.

18 (2) A temporary ~~liquid liquefied~~ liquefied petroleum gas permit or compressed natural gas permit costs \$20.
19 ~~The A~~ permit is valid for a period of time not to exceed 72 hours and is automatically void if the vehicle
20 leaves the state during this period. ~~Special liquid liquefied petroleum gas permits or compressed natural gas~~
21 permits, remittance forms, and any other papers necessary for the enforcement of this chapter must be
22 furnished by the department."
23

24 **NEW SECTION. Section 20. Codification instruction.** [Sections 1 through 17] are intended to be
25 codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, apply to
26 [sections 1 through 17].
27

28 **NEW SECTION. Section 21. Effective dates.** (1) [Sections 1 through 17, 19, and 20] are effective
29 January 1, 1996.

30 (2) [Section 18] and this section are effective on passage and approval.

-END-

- 8 -

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House Bill No. 1647

INTRODUCED BY

Hayes Hubbard

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE COLLECTION OF A TAX ON COMPRESSED NATURAL GAS AT THE RETAIL LEVEL; ESTABLISHING REQUIREMENTS FOR DEALER LICENSING AND RECORDKEEPING AND PROCEDURES FOR INSPECTION, PAYMENT OF TAX, PENALTIES, AND ADMINISTRATION RELATED TO THE TAX; REQUIRING THE OWNERS OF CERTAIN VEHICLES POWERED BY COMPRESSED NATURAL GAS TO PURCHASE A TEMPORARY TRIP PERMIT; AMENDING SECTIONS 15-70-104 AND 15-71-102, MCA; AND PROVIDING EFFECTIVE DATES."

THERE ARE NO CHANGES IN THIS BILL AND WILL NOT BE REPRINTED. PLEASE REFER TO YELLOW COPY FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 6, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration HB 164 (third reading copy -- blue), respectfully report that HB 164 be amended as follows and as so amended be concurred in.

Signed: Sen Devlin
Senator Gerry Devlin, Chair

That such amendments read:

1. Page 3, line 3.

Strike: "A"

Insert: "Except as provided in this section, a"

2. Page 3, line 7.

Following: "17]."

Insert: "The department shall waive the bond requirement of a compressed natural gas dealer who is not subject to the provisions of subsection (2)(a) or (2)(b)."

3. Page 3, line 9.

Strike: "\$2,000"

Insert: "\$1,000 for any compressed natural gas dealer who:

(a) requests a compressed natural gas dealer's license to be reissued after the license was canceled for cause; or

(b) fails to file timely reports and pay the tax due as required by [section 11]"

-END-

HB 164

PW
CS

Amd. Coord.
Sec. of Senate

SEN. GAGE
Senator Carrying Bill

SENATE

521102SC.SPV

1 HOUSE BILL NO. 164

2 INTRODUCED BY HARPER, HIBBARD

3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE COLLECTION OF A TAX ON COMPRESSED
6 NATURAL GAS AT THE RETAIL LEVEL; ESTABLISHING REQUIREMENTS FOR DEALER LICENSING AND
7 RECORDKEEPING AND PROCEDURES FOR INSPECTION, PAYMENT OF TAX, PENALTIES, AND
8 ADMINISTRATION RELATED TO THE TAX; REQUIRING THE OWNERS OF CERTAIN VEHICLES POWERED
9 BY COMPRESSED NATURAL GAS TO PURCHASE A TEMPORARY TRIP PERMIT; AMENDING SECTIONS
10 15-70-104 AND 15-71-102, MCA; AND PROVIDING EFFECTIVE DATES."

11

12

STATEMENT OF INTENT

13 A statement of intent is required for this bill because the department of transportation is required
14 by 15-70-104 to adopt rules for the administration and enforcement of the tax on compressed natural gas.
15 The legislature contemplates that rules promulgated under 15-70-104 address, at a minimum, the licensing
16 of compressed natural gas dealers and, with respect to compressed natural gas dealers, requirements
17 established by the department for reporting, recordkeeping, and invoicing.

18

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

20

21 **NEW SECTION.** Section 1. **Definitions.** As used in [sections 1 through 17], the following
22 definitions apply:

23 (1) "Bond" means:

24 (a) a bond executed by a compressed natural gas dealer as principal with a corporate surety
25 qualified under the laws of Montana, payable to the state of Montana, conditioned upon performance of
26 all requirements of [sections 1 through 17], including the payment of all taxes, penalties, and other
27 obligations of the compressed natural gas dealer arising out of [sections 1 through 17]; or

28 (b) a deposit with the department by the compressed natural gas dealer, under terms and
29 conditions that the department may prescribe, of certificates of deposit or irrevocable letters of credit issued
30 by a bank and insured by the federal deposit insurance corporation.

1 (2) "Compressed natural gas" means a product that is used as a fuel and that contains carbon or
2 hydrogen, or both, and is compressed to greater than 24 pounds per square inch absolute base pressure
3 and up to 3,600 pounds per square inch absolute base pressure when sold for use in motor vehicles
4 operated on the public roads and highways of this state.

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

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

8 (5) "Motor vehicle" means any vehicle that is self-propelled by compressed natural gas and that
9 is driven upon the public roads and highways of this state.

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

12 (b) When used in any clause prescribing and imposing a fine or imprisonment, or both, as applied
13 to a firm, association, syndicate, or partnership, person means and includes the partners or members of a
14 firm, association, syndicate, or partnership; as applied to a joint-stock company or corporation, the term
15 means and includes the officers of the joint-stock company or corporation.

16 (7) "Public roads and highways of this state" means all streets, roads, highways, and related
17 structures that are:

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

20 (b) dedicated to public use;

21 (c) acquired by eminent domain; or

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

24

25 **NEW SECTION. Section 2. Compressed natural gas dealer's license.** A person may not act as a
26 compressed natural gas dealer in this state unless the person holds a valid compressed natural gas dealer's
27 license issued by the department.

28

29 **NEW SECTION. Section 3. Application for license.** An application for a compressed natural gas
30 dealer's license must be filed on a form prescribed by the department. The application must contain

1 information that the department considers necessary.

2

3 NEW SECTION. Section 4. Bonding, release of surety, and additional bond. (1) A EXCEPT AS
4 PROVIDED IN THIS SECTION, A compressed natural gas dealer's license may not be issued to a person and
5 may not be continued in force unless the person has furnished a bond, in a form prescribed by the
6 department, to secure the dealer's compliance with [sections 1 through 17] and has paid all taxes, interest,
7 and penalties due under [sections 1 through 17]. THE DEPARTMENT SHALL WAIVE THE BOND
8 REQUIREMENT OF A COMPRESSED NATURAL GAS DEALER WHO IS NOT SUBJECT TO THE PROVISIONS
9 OF SUBSECTION (2)(A) OR (2)(B).

10 (2) The total amount of the bond or bonds required must be equivalent to twice the compressed
11 natural gas dealer's estimated monthly tax payments but may not be less than ~~\$2,000~~ \$1,000 FOR ANY
12 COMPRESSED NATURAL GAS DEALER WHO:

13 (A) REQUESTS A COMPRESSED NATURAL GAS DEALER'S LICENSE TO BE REISSUED AFTER THE
14 LICENSE WAS CANCELED FOR CAUSE; OR

15 (B) FAILS TO FILE TIMELY REPORTS AND PAY THE TAX DUE AS REQUIRED BY [SECTION 11].

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

25 (4) The department may require a compressed natural gas dealer to give a new or additional surety
26 bond or to deposit additional securities pursuant to [section 1(1)(b)] if the department determines that the
27 security of the surety bond previously filed by the dealer or the market value of the property deposited as
28 security by the dealer is impaired or inadequate. If the compressed natural gas dealer fails to give an
29 additional surety bond or to deposit additional securities within 30 days after being requested to do so by
30 the department, the department shall cancel the dealer's license.

1 **NEW SECTION. Section 5. Issuance of license -- grounds for refusal -- hearing.** (1) Except as
2 provided in subsection (2), upon receipt of the application and bond in proper form, the department shall
3 issue to the applicant a license to act as a compressed natural gas dealer. A license is valid until suspended
4 or revoked for cause or otherwise canceled.

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

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

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

10 (c) upon other sufficient cause being shown.

11 (3) Before refusing to issue a license, the department shall grant the applicant a hearing and shall
12 provide the dealer with at least 10 days' written notice of the time and place of hearing.

13 (4) A compressed natural gas dealer's license is not transferable.

14
15 **NEW SECTION. Section 6. Revocation of license -- notice.** (1) The department may revoke the
16 license of any compressed natural gas dealer for reasonable cause. Before revoking a license, the
17 department shall notify the licensee of the department's intent to revoke the license. The notice must be
18 made by certified mail addressed to the licensee's last-known address shown in the files of the department.
19 The notice must include a statement that the licensee has the right to appear before the department at a
20 time specified in the notice and to show cause, if any, why the license should not be revoked. The time
21 specified by the department may not be more than 30 days or less than 10 days from the date of the
22 notice. At any time prior to and during the hearing, the department may in the exercise of reasonable
23 discretion suspend the license.

24 (2) Upon revocation of a license, the licensee shall immediately surrender the license to the
25 department for cancellation.

26
27 **NEW SECTION. Section 7. Cancellation of license upon surrender.** The department shall cancel
28 a license to act as a compressed natural gas dealer immediately upon surrender of the license by the
29 licensee.

30

1 **NEW SECTION. Section 8. Tax on compressed natural gas.** (1) Each compressed natural gas
2 dealer shall collect the tax on compressed natural gas from the user at the time the compressed natural gas
3 is placed into the supply tank of a motor vehicle.

4 (2) (a) The total tax due is computed according to the formula provided in subsection (2)(b).

5 (b) $T = (R/V) \times TV$, where:

6 (i) T is the total tax due;

7 (ii) R is 7 cents;

8 (iii) V is 120 cubic feet of compressed natural gas at 14.73 pounds per square inch absolute base
9 pressure; and

10 (iv) TV is the total volume of compressed natural gas placed into the supply tank of a motor vehicle.

11 (3) The dealer shall pay the tax to the department as provided in [section 11].

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

14
15 **NEW SECTION. Section 9. Recordkeeping.** (1) Each compressed natural gas dealer and each
16 person importing, manufacturing, refining, dealing in, transporting, or storing compressed natural gas in this
17 state shall keep all records, receipts, invoices, and other pertinent documents that the department may
18 require and shall produce them for the inspection of the department at any time during regular business
19 hours.

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

22
23 **NEW SECTION. Section 10. Examination of records -- enforcement -- reciprocity.** (1) The
24 department shall enforce the provisions of [sections 1 through 17].

25 (2) The department or its authorized representative may examine the records, receipts, invoices,
26 documents, and equipment of any compressed natural gas dealer or of any person importing,
27 manufacturing, refining, dealing in, transporting, or storing compressed natural gas and may investigate the
28 character of the disposition that any person makes of compressed natural gas in order to determine whether
29 all taxes due under [sections 1 through 17] are being properly reported and paid. If the records, receipts,
30 invoices, documents, and equipment are not maintained in this state at the time of demand, they must be

1 furnished at the direction of the department or at the business location of the dealer or other person and
2 must, if requested by the department, be accompanied by the dealer or other person.

3 (3) The department shall, upon request from an official who is responsible for the enforcement of
4 the compressed natural gas tax law of any other state, the District of Columbia, the United States, a
5 territory or possession of the United States, or a province of Canada, forward to the official any information
6 that it has relative to the receipt, storage, delivery, sale, use, or other disposition of compressed natural
7 gas by any compressed natural gas dealer if the other governmental entity furnishes similar information to
8 the department.

9

10 **NEW SECTION. Section 11. Returns required -- payment.** (1) For the purpose of determining the
11 amount of liability for the tax due under [sections 1 through 17], each compressed natural gas dealer shall
12 file with the department a monthly tax return on forms prescribed by the department.

13 (2) The dealer shall file the return on or before the last day of the next calendar month following
14 the month for which the tax is due. For good cause, the department may grant a taxpayer a reasonable
15 extension of time for filing, but the extension may not exceed 30 days.

16 (3) The tax return must be accompanied by payment of the amount of tax due under [section 8]
17 for compressed natural gas sold during the preceding month.

18

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

26 (2) Whenever a compressed natural gas dealer files a return but fails to pay in whole or in part the
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