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ORR HOUSE BILL NO. 311

INTRODUCED BY _____
A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TAXATION OF LIQUEFIED PETROLEUM GAS;
PROVIDING FOR THE COLLECTION OF A TAX ON LIQUEFIED PETROLEUM GAS AT THE RETAIL LEVEL;
ELIMINATING THE LICENSE TAX ON VEHICLES PROPELLED BY LIQUEFIED PETROLEUM GAS; AMENDING
SECTIONS 15-70-701, 15-70-702, 15-70-703, 15-70-704, 15-70-705, 15-70-706, 15-70-707, 15-70-711,
15-70-712, 15-70-713, 15-70-714, 15-70-715, 15-70-716, 15-70-717, 15-70-718, AND 61-12-206,
MCA; REPEALING SECTIONS 15-71-101, 15-71-102, 15-71-103, 15-71-104, 15-71-105, AND 15-71-110,
MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 15-70-701, MCA, is amended to read:

"15-70-701. Definitions. As used in this part, the following definitions apply:

(1) "Bond" means:

(a) a bond executed by a compressed natural gas dealer or a liquefied petroleum 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 this part, including the payment of all taxes, penalties, and other obligations of the compressed natural gas dealer or the liquefied petroleum gas dealer arising out of this part; or

(b) a deposit with the department by the compressed natural gas dealer or the liquefied petroleum 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.

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

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

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

2 (5) "Liquefied petroleum gas" means any petroleum product that is sold for use in motor vehicles
 3 and that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons:

4 (a) propane;

5 (b) propylene;

6 (c) butane, including normal butane or isobutane; or

7 (d) butylene.

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

10 (7) "Motor vehicle" means any vehicle that is self-propelled by compressed natural gas or by
 11 liquefied petroleum gas and that is driven upon the public roads and highways of this state.

12 ~~(6)(8)~~ (a) "Person" means ~~and includes any~~ a person, firm, association, joint-stock company,
 13 syndicate, partnership, or corporation.

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

18 ~~(7)(9)~~ "Public roads and highways of this state" means all streets, roads, highways, and related
 19 structures that are:

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

22 (b) dedicated to public use;

23 (c) acquired by eminent domain; or

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

26
 27 **Section 2.** Section 15-70-702, MCA, is amended to read:

28 **"15-70-702. Compressed natural gas dealer's or liquefied petroleum gas dealer's license.** A person
 29 may not act as a compressed natural gas dealer or as a liquefied petroleum gas dealer in this state unless
 30 the person holds a valid compressed natural gas dealer's license or a valid liquefied petroleum gas dealer's

1 license issued by the department.”

2

3 **Section 3.** Section 15-70-703, MCA, is amended to read:

4 **"15-70-703. Application for license.** An application for a compressed natural gas dealer's license
5 or a liquefied petroleum gas dealer's license must be filed on a form prescribed by the department. The
6 application must contain information that the department considers necessary.”

7

8 **Section 4.** Section 15-70-704, MCA, is amended to read:

9 **"15-70-704. Bonding, release of surety, and additional bond.** (1) Except as provided in this
10 section, a compressed natural gas dealer's license or a liquefied petroleum gas dealer's license may not be
11 issued to a person and may not be continued in force unless the person has furnished a bond, in a form
12 prescribed by the department, to secure the dealer's compliance with this part and has paid all taxes,
13 interest, and penalties due under this part. The department shall waive the bond requirement of a
14 compressed natural gas dealer or a liquefied petroleum gas dealer who is not subject to the provisions of
15 subsection (2)(a) or (2)(b).

16 (2) The total amount of the bond or bonds required must be equivalent to twice the compressed
17 natural gas dealer's or the liquefied petroleum gas dealer's estimated monthly tax payments but may not
18 be less than \$1,000 for any compressed natural gas dealer or liquefied petroleum gas dealer who:

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

21 (b) fails to file timely reports and pay the tax due as required by 15-70-714.

22 (3) A surety on a bond furnished as provided in this section must be released and discharged from
23 any liability to the state accruing on the bond after 30 days from the date when the surety has provided
24 to the department a written request to be released and discharged. However, this provision may not operate
25 to relieve, release, or discharge the surety from any liability already accrued or that accrues before the
26 expiration of the 30-day period. Upon receiving a release request, the department shall promptly notify the
27 compressed natural gas dealer or the liquefied petroleum gas dealer who furnished the bond, and unless
28 the dealer, on or before the expiration of the 30-day period, files a new bond in accordance with the
29 requirements of this section or makes a deposit in lieu of a bond as described in 15-70-701(1)(b), the
30 department shall cancel the dealer's license.

1 (4) The department may require a compressed natural gas dealer or a liquefied petroleum gas dealer
 2 to give a new or additional surety bond or to deposit additional securities pursuant to 15-70-701(1)(b) if
 3 the department determines that the security of the surety bond previously filed by the dealer or the market
 4 value of the property deposited as security by the dealer is impaired or inadequate. If the compressed
 5 natural gas dealer or the liquefied petroleum gas dealer fails to give an additional surety bond or to deposit
 6 additional securities within 30 days after being requested to do so by the department, the department shall
 7 cancel the dealer's license."

8
 9 **Section 5.** Section 15-70-705, MCA, is amended to read:

10 **"15-70-705. Issuance of license -- grounds for refusal -- hearing.** (1) Except as provided in
 11 subsection (2), upon receipt of the application and bond in proper form, the department shall issue to the
 12 applicant a license to act as a compressed natural gas dealer or as a liquefied petroleum gas dealer. A
 13 license is valid until suspended, ~~or~~ revoked for cause, or otherwise canceled.

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

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

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

20 (c) upon other sufficient cause being shown.

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

23 (4) A compressed natural gas dealer's license or a liquefied petroleum gas dealer's license is not
 24 transferable."

25
 26 **Section 6.** Section 15-70-706, MCA, is amended to read:

27 **"15-70-706. Revocation of license -- notice.** (1) The department may revoke the license of any
 28 compressed natural gas dealer or liquefied petroleum gas dealer for reasonable cause. Before revoking a
 29 license, the department shall notify the licensee of the department's intent to revoke the license. The notice
 30 must be made by certified mail addressed to the licensee's last-known address shown in the files of the

1 department. The notice must include a statement that the licensee has the right to appear before the
2 department at a time specified in the notice and to show cause, if any, why the license should not be
3 revoked. The time specified by the department may not be more than 30 days or less than 10 days from
4 the date of the notice. At any time prior to and during the hearing, the department may in the exercise of
5 reasonable discretion suspend the license.

6 (2) Upon revocation of a license, the licensee shall immediately surrender the license to the
7 department for cancellation."

8

9 **Section 7.** Section 15-70-707, MCA, is amended to read:

10 "15-70-707. **Cancellation of license upon surrender.** The department shall cancel a license to act
11 as a compressed natural gas dealer or as a liquefied petroleum gas dealer immediately upon surrender of
12 the license by the licensee."

13

14 **Section 8.** Section 15-70-711, MCA, is amended to read:

15 "15-70-711. **Tax on compressed natural gas -- tax on liquefied petroleum gas.** (1) Each
16 compressed natural gas dealer shall collect the tax on compressed natural gas from the user at the time that
17 the compressed natural gas is placed into the supply tank of a motor vehicle.

18 (2) (a) The total tax due on compressed natural gas is computed according to the formula provided
19 in subsection (2)(b).

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

21 (i) T is the total tax due;

22 (ii) R is 7 cents;

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

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

26 (3) The compressed natural gas dealer shall pay the tax to the department as provided in
27 15-70-714.

28 (4) Each liquefied petroleum gas dealer shall collect the tax on liquefied petroleum gas from the
29 user at the time that the liquefied petroleum gas is placed into the supply tank of a motor vehicle.

30 (5) (a) The total tax due on liquefied petroleum gas is computed according to the formula provided

1 in subsection (5)(b).

2 (b) $T = (C/G) \times TG$, where:

3 (i) T is the total tax due;

4 (ii) C is 5.18 cents;

5 (iii) G is 1 gallon of liquefied petroleum gas; and

6 (iv) TG is the total gallons of liquefied petroleum gas placed into the supply tank of a motor vehicle.

7 (6) The liquefied petroleum gas dealer shall pay the tax to the department as provided in
8 15-70-714.

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

11
12 **Section 9.** Section 15-70-712, MCA, is amended to read:

13 **"15-70-712. Recordkeeping.** (1) Each compressed natural gas dealer, each liquefied petroleum gas
14 dealer, and each person importing, manufacturing, refining, dealing in, transporting, or storing compressed
15 natural gas or liquefied petroleum gas in this state shall keep all records, receipts, invoices, and other
16 pertinent documents that the department may require and shall produce them for the inspection of the
17 department at any time during regular business hours.

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

21 **Section 10.** Section 15-70-713, MCA, is amended to read:

22 **"15-70-713. Examination of records -- enforcement -- reciprocity.** (1) The department shall enforce
23 the provisions of this part.

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

1 department or at the business location of the dealer or other person and must, if requested by the
2 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 or the liquefied petroleum gas tax law of any other state, the District
5 of Columbia, the United States, a territory or possession of the United States, or a province of Canada,
6 forward to the official any information that it has relative to the receipt, storage, delivery, sale, use, or other
7 disposition of compressed natural gas or liquefied petroleum gas by any compressed natural gas dealer or
8 liquefied petroleum gas dealer if the other governmental entity furnishes similar information to the
9 department."

10

11 **Section 11.** Section 15-70-714, MCA, is amended to read:

12 **"15-70-714. Returns required -- payment.** (1) For the purpose of determining the amount of
13 liability for the tax due under this part, each compressed natural gas dealer and each liquefied petroleum
14 gas dealer shall file with the department a monthly tax return on forms prescribed by the department.

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

18 (3) The tax return must be accompanied by payment of the amount of tax due under 15-70-711
19 for compressed natural gas or liquefied petroleum gas sold during the preceding month."

20

21 **Section 12.** Section 15-70-715, MCA, is amended to read:

22 **"15-70-715. Penalties for refusal or failure to file return or pay tax when due.** (1) If a compressed
23 natural gas dealer or a liquefied petroleum gas dealer refuses or fails to file a return required by this part
24 within the time prescribed by 15-70-103 and 15-70-714, there is imposed a penalty of \$25 or a sum equal
25 to 10% of the tax due, whichever is greater, together with interest at the rate of 1% on the tax due for
26 each calendar month or fraction of a month during which the refusal or failure continues. If a compressed
27 natural gas dealer or a liquefied petroleum gas dealer establishes to the satisfaction of the department that
28 the failure to file a return within the time prescribed was due to reasonable cause, the department shall
29 waive the penalty imposed by this section.

30 (2) Whenever a compressed natural gas dealer or a liquefied petroleum gas dealer files a return but

1 fails to pay in whole or in part the tax due under this part, there must be added to the unpaid amount due
2 interest at the rate of 1% ~~per~~ a month or fraction of a month from the date on which the tax was due to
3 the date of payment in full."

4
5 **Section 13.** Section 15-70-716, MCA, is amended to read:

6 "15-70-716. **Deficiency -- penalty.** If the department determines that the tax reported by a
7 compressed natural gas dealer or a liquefied petroleum gas dealer is deficient, the department shall assess
8 the deficiency on the basis of information available to the department. There must be added to the
9 deficiency interest on the deficient amount at the rate of 1% ~~per~~ a month or fraction of a month from the
10 date on which the return was due."

11
12 **Section 14.** Section 15-70-717, MCA, is amended to read:

13 "15-70-717. **Determination if no return made -- penalty -- presumption.** (1) If a compressed natural
14 gas dealer or a liquefied petroleum gas dealer, whether or not the dealer is licensed, fails, neglects, or
15 refuses to file a compressed natural gas tax return or a liquefied petroleum gas tax return when due, the
16 department shall, on the basis of information available to the department, determine the tax liability of the
17 compressed natural gas dealer or the liquefied petroleum gas dealer for the period during which a return
18 was not filed and add to the tax determined the penalty and interest provided for in 15-70-715.

19 (2) An assessment made by the department pursuant to 15-70-715, 15-70-716, or this section is
20 presumed to be correct. Whenever the validity of the assessment is in question, the burden is on the person
21 who challenges the assessment to establish by a preponderance of the evidence that it is erroneous or
22 excessive."

23
24 **Section 15.** Section 15-70-718, MCA, is amended to read:

25 "15-70-718. **Fraudulent return -- penalty.** If a compressed natural gas dealer or a liquefied
26 petroleum gas dealer files a fraudulent return with intent to evade the tax imposed by this part:

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

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

4

5 **Section 16.** Section 61-12-206, MCA, is amended to read:

6 **"61-12-206. Offenses for which arrest authorized.** Employees appointed under 61-12-201 may
7 make arrests for violations of the following statutory provisions:

8 (1) chapters 3 and 5 of this title, but only if the vehicle involved is subject to 61-10-141;

9 (2) chapter 10 of this title;

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

11 (4) 15-24-201 through 15-24-205;

12 (5) Title 15, chapter 70, parts 2 and 3;

13 ~~(6) 15-71-101 through 15-71-105;~~

14 ~~(7)(6)~~ 44-1-1005 and safety rules adopted under that section;

15 ~~(8)(7)~~ Title 69, chapter 12."

16

17 **NEW SECTION. Section 17. Repealer.** Sections 15-71-101, 15-71-102, 15-71-103, 15-71-104,
18 15-71-105, and 15-71-110, MCA, are repealed.

19

20 **NEW SECTION. Section 18. Effective date.** [This act] is effective January 1, 1998.

21

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0311, as introduced (as revised)

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the taxation of liquefied petroleum gas; providing for the collection of tax on liquefied petroleum gas at the retail level; eliminating the license tax on vehicles propelled by liquefied petroleum gas; and providing a delayed effective date,

ASSUMPTIONS:

1. One license will be issued which allows a dealer to sell either Liquefied Petroleum Gas (LPG) or Compressed Natural Gas (CNG).
2. This bill will add approximately 175 new accounts to the Department of Transportation's Motor Fuel Tax function.
3. Based upon a poll of western Montana distributors, the industry estimates 3,250,000 gallons of LPG for use in highway vehicles will be sold in Montana per year (3,250,000 gallons x 0.0518 tax rate = \$168,350).
4. A 0.50 FTE (grade 10) will be required in the Department of Transportation to handle the additional workload for processing the reports and licensing.
5. The effective date of the bill is January 1, 1998. Therefore, the fiscal impact for fiscal year 1998 is half of the full-year impact in fiscal year 1999.
6. Current law revenues from LPG permit fees are \$200,000 per year.

FISCAL IMPACT:

Department of Transportation:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
FTE	0.25	0.50
Personal services	6,574	13,148
 <u>Funding:</u>		
Highway special revenue (02)	6,574	13,148
 <u>Revenues:</u>		
Permit fees (current law) (02)	(100,000)	(200,000)
LPG tax (HB 311) (02)	<u>84,175</u>	<u>168,350</u>
Highway special revenue (02)	(15,825)	(31,650)
 <u>Net Impact on Fund Balance: (Revenue minus expense)</u>		
Highway special revenue (02)	(22,399)	(44,798)

Dave Lewis 2-5-97
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Sf Orr 2/5/97
 SCOTT ORR, PRIMARY SPONSOR DATE

Fiscal Note for HB0311, as introduced
HB 311

APPROVED BY COM
ON TAXATION

1
2 INTRODUCED BY ORR House BILL NO. 311
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19 conditioned upon performance of all requirements of this part, including the payment of all taxes, penalties,
20 and other obligations of the compressed natural gas dealer or the liquefied petroleum gas dealer arising out
21 of this part; or

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

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

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

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

2 (5) "Liquefied petroleum gas" means any petroleum product that is sold for use in motor vehicles
 3 and that is composed predominantly of any of the following hydrocarbons or mixtures of hydrocarbons:

4 (a) propane;

5 (b) propylene;

6 (c) butane, including normal butane or isobutane; or

7 (d) butylene.

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

10 (7) "Motor vehicle" means any vehicle that is self-propelled by compressed natural gas or by
 11 liquefied petroleum gas and that is driven upon the public roads and highways of this state.

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14 (b) When used in any clause prescribing and imposing a fine or imprisonment, or both, as applied
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 16 firm, association, syndicate, or partnership; as applied to a joint-stock company or corporation, the term
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 19 structures that are:

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22 (b) dedicated to public use;

23 (c) acquired by eminent domain; or

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

26

27 **Section 2.** Section 15-70-702, MCA, is amended to read:

28 **"15-70-702. Compressed natural gas dealer's or liquefied petroleum gas dealer's license.** A person
 29 may not act as a compressed natural gas dealer or as a liquefied petroleum gas dealer in this state unless
 30 the person holds a valid compressed natural gas dealer's license or a valid liquefied petroleum gas dealer's

1 license issued by the department."
2

3 **Section 3.** Section 15-70-703, MCA, is amended to read:

4 "15-70-703. **Application for license.** An application for a compressed natural gas dealer's license
5 or a liquefied petroleum gas dealer's license must be filed on a form prescribed by the department. The
6 application must contain information that the department considers necessary."
7

8 **Section 4.** Section 15-70-704, MCA, is amended to read:

9 "15-70-704. **Bonding, release of surety, and additional bond.** (1) Except as provided in this
10 section, a compressed natural gas dealer's license or a liquefied petroleum gas dealer's license may not be
11 issued to a person and may not be continued in force unless the person has furnished a bond, in a form
12 prescribed by the department, to secure the dealer's compliance with this part and has paid all taxes,
13 interest, and penalties due under this part. The department shall waive the bond requirement of a
14 compressed natural gas dealer or a liquefied petroleum gas dealer who is not subject to the provisions of
15 subsection (2)(a) or (2)(b).

16 (2) The total amount of the bond or bonds required must be equivalent to twice the compressed
17 natural gas dealer's or the liquefied petroleum gas dealer's estimated monthly tax payments but may not
18 be less than \$1,000 for any compressed natural gas dealer or liquefied petroleum gas dealer who:

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

21 (b) fails to file timely reports and pay the tax due as required by 15-70-714.

22 (3) A surety on a bond furnished as provided in this section must be released and discharged from
23 any liability to the state accruing on the bond after 30 days from the date when the surety has provided
24 to the department a written request to be released and discharged. However, this provision may not operate
25 to relieve, release, or discharge the surety from any liability already accrued or that accrues before the
26 expiration of the 30-day period. Upon receiving a release request, the department shall promptly notify the
27 compressed natural gas dealer or the liquefied petroleum gas dealer who furnished the bond, and unless
28 the dealer, on or before the expiration of the 30-day period, files a new bond in accordance with the
29 requirements of this section or makes a deposit in lieu of a bond as described in 15-70-701(1)(b), the
30 department shall cancel the dealer's license.

1 (4) The department may require a compressed natural gas dealer or a liquefied petroleum gas dealer
 2 to give a new or additional surety bond or to deposit additional securities pursuant to 15-70-701(1)(b) if
 3 the department determines that the security of the surety bond previously filed by the dealer or the market
 4 value of the property deposited as security by the dealer is impaired or inadequate. If the compressed
 5 natural gas dealer or the liquefied petroleum gas dealer fails to give an additional surety bond or to deposit
 6 additional securities within 30 days after being requested to do so by the department, the department shall
 7 cancel the dealer's license."

8

9 **Section 5.** Section 15-70-705, MCA, is amended to read:

10 **"15-70-705. Issuance of license -- grounds for refusal -- hearing.** (1) Except as provided in
 11 subsection (2), upon receipt of the application and bond in proper form, the department shall issue to the
 12 applicant a license to act as a compressed natural gas dealer or as a liquefied petroleum gas dealer. A
 13 license is valid until suspended, ~~or~~ revoked for cause, or otherwise canceled.

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

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

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

20 (c) upon other sufficient cause being shown.

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

23 (4) A compressed natural gas dealer's license or a liquefied petroleum gas dealer's license is not
 24 transferable."

25

26 **Section 6.** Section 15-70-706, MCA, is amended to read:

27 **"15-70-706. Revocation of license -- notice.** (1) The department may revoke the license of any
 28 compressed natural gas dealer or liquefied petroleum gas dealer for reasonable cause. Before revoking a
 29 license, the department shall notify the licensee of the department's intent to revoke the license. The notice
 30 must be made by certified mail addressed to the licensee's last-known address shown in the files of the

1 department. The notice must include a statement that the licensee has the right to appear before the
2 department at a time specified in the notice and to show cause, if any, why the license should not be
3 revoked. The time specified by the department may not be more than 30 days or less than 10 days from
4 the date of the notice. At any time prior to and during the hearing, the department may in the exercise of
5 reasonable discretion suspend the license.

6 (2) Upon revocation of a license, the licensee shall immediately surrender the license to the
7 department for cancellation."

8

9 **Section 7.** Section 15-70-707, MCA, is amended to read:

10 "**15-70-707. Cancellation of license upon surrender.** The department shall cancel a license to act
11 as a compressed natural gas dealer or as a liquefied petroleum gas dealer immediately upon surrender of
12 the license by the licensee."

13

14 **Section 8.** Section 15-70-711, MCA, is amended to read:

15 "**15-70-711. Tax on compressed natural gas -- tax on liquefied petroleum gas.** (1) Each
16 compressed natural gas dealer shall collect the tax on compressed natural gas from the user at the time that
17 the compressed natural gas is placed into the supply tank of a motor vehicle.

18 (2) (a) The total tax due on compressed natural gas is computed according to the formula provided
19 in subsection (2)(b).

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

21 (i) T is the total tax due;

22 (ii) R is 7 cents;

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

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

26 (3) The compressed natural gas dealer shall pay the tax to the department as provided in
27 15-70-714.

28 (4) Each liquefied petroleum gas dealer shall collect the tax on liquefied petroleum gas from the
29 user at the time that the liquefied petroleum gas is placed into the supply tank of a motor vehicle.

30 (5) (a) The total tax due on liquefied petroleum gas is computed according to the formula provided

1 in subsection (5)(b).

2 (b) $T = (C/G) \times TG$, where:

3 (i) T is the total tax due;

4 (ii) C is 5.18 cents;

5 (iii) G is 1 gallon of liquefied petroleum gas; and

6 (iv) TG is the total gallons of liquefied petroleum gas placed into the supply tank of a motor vehicle.

7 (6) The liquefied petroleum gas dealer shall pay the tax to the department as provided in
8 15-70-714.

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

11

12 **Section 9.** Section 15-70-712, MCA, is amended to read:

13 **"15-70-712. Recordkeeping.** (1) Each compressed natural gas dealer, each liquefied petroleum gas
14 dealer, and each person importing, manufacturing, refining, dealing in, transporting, or storing compressed
15 natural gas or liquefied petroleum gas in this state shall keep all records, receipts, invoices, and other
16 pertinent documents that the department may require and shall produce them for the inspection of the
17 department at any time during regular business hours.

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

20

21 **Section 10.** Section 15-70-713, MCA, is amended to read:

22 **"15-70-713. Examination of records -- enforcement -- reciprocity.** (1) The department shall enforce
23 the provisions of this part.

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

1 department or at the business location of the dealer or other person and must, if requested by the
2 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 or the liquefied petroleum gas tax law of any other state, the District
5 of Columbia, the United States, a territory or possession of the United States, or a province of Canada,
6 forward to the official any information that it has relative to the receipt, storage, delivery, sale, use, or other
7 disposition of compressed natural gas or liquefied petroleum gas by any compressed natural gas dealer or
8 liquefied petroleum gas dealer if the other governmental entity furnishes similar information to the
9 department."

10

11 **Section 11.** Section 15-70-714, MCA, is amended to read:

12 "**15-70-714. Returns required -- payment.** (1) For the purpose of determining the amount of
13 liability for the tax due under this part, each compressed natural gas dealer and each liquefied petroleum
14 gas dealer shall file with the department a monthly tax return on forms prescribed by the department.

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

18 (3) The tax return must be accompanied by payment of the amount of tax due under 15-70-711
19 for compressed natural gas or liquefied petroleum gas sold during the preceding month."

20

21 **Section 12.** Section 15-70-715, MCA, is amended to read:

22 "**15-70-715. Penalties for refusal or failure to file return or pay tax when due.** (1) If a compressed
23 natural gas dealer or a liquefied petroleum gas dealer refuses or fails to file a return required by this part
24 within the time prescribed by 15-70-103 and 15-70-714, there is imposed a penalty of \$25 or a sum equal
25 to 10% of the tax due, whichever is greater, together with interest at the rate of 1% on the tax due for
26 each calendar month or fraction of a month during which the refusal or failure continues. If a compressed
27 natural gas dealer or a liquefied petroleum gas dealer establishes to the satisfaction of the department that
28 the failure to file a return within the time prescribed was due to reasonable cause, the department shall
29 waive the penalty imposed by this section.

30 (2) Whenever a compressed natural gas dealer or a liquefied petroleum gas dealer files a return but

1 fails to pay in whole or in part the tax due under this part, there must be added to the unpaid amount due
 2 interest at the rate of 1% ~~per~~ a month or fraction of a month from the date on which the tax was due to
 3 the date of payment in full."

4

5 **Section 13.** Section 15-70-716, MCA, is amended to read:

6 "15-70-716. **Deficiency -- penalty.** If the department determines that the tax reported by a
 7 compressed natural gas dealer or a liquefied petroleum gas dealer is deficient, the department shall assess
 8 the deficiency on the basis of information available to the department. There must be added to the
 9 deficiency interest on the deficient amount at the rate of 1% ~~per~~ a month or fraction of a month from the
 10 date on which the return was due."

11

12 **Section 14.** Section 15-70-717, MCA, is amended to read:

13 "15-70-717. **Determination if no return made -- penalty -- presumption.** (1) If a compressed natural
 14 gas dealer or a liquefied petroleum gas dealer, whether or not the dealer is licensed, fails, neglects, or
 15 refuses to file a compressed natural gas tax return or a liquefied petroleum gas tax return when due, the
 16 department shall, on the basis of information available to the department, determine the tax liability of the
 17 compressed natural gas dealer or the liquefied petroleum gas dealer for the period during which a return
 18 was not filed and add to the tax determined the penalty and interest provided for in 15-70-715.

19 (2) An assessment made by the department pursuant to 15-70-715, 15-70-716, or this section is
 20 presumed to be correct. Whenever the validity of the assessment is in question, the burden is on the person
 21 who challenges the assessment to establish by a preponderance of the evidence that it is erroneous or
 22 excessive."

23

24 **Section 15.** Section 15-70-718, MCA, is amended to read:

25 "15-70-718. **Fraudulent return -- penalty.** If a compressed natural gas dealer or a liquefied
 26 petroleum gas dealer files a fraudulent return with intent to evade the tax imposed by this part:

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

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

4

5 **Section 16.** Section 61-12-206, MCA, is amended to read:

6 **"61-12-206. Offenses for which arrest authorized.** Employees appointed under 61-12-201 may
 7 make arrests for violations of the following statutory provisions:

8 (1) chapters 3 and 5 of this title, but only if the vehicle involved is subject to 61-10-141;

9 (2) chapter 10 of this title;

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

11 (4) 15-24-201 through 15-24-205;

12 (5) Title 15, chapter 70, parts 2 and 3;

13 ~~(6) 15-71-101 through 15-71-105;~~

14 ~~(7)(6)~~ 44-1-1005 and safety rules adopted under that section;

15 ~~(8)(7)~~ Title 69, chapter 12."

16

17 NEW SECTION. **Section 17. Repealer.** Sections 15-71-101, 15-71-102, 15-71-103, 15-71-104,
 18 15-71-105, and 15-71-110, MCA, are repealed.

19

20 NEW SECTION. **Section 18. Effective date.** [This act] is effective January 1, 1998.

21

-END-