

AN ACT

ENTITLED, An Act to clarify certain provisions that levy the fuel excise tax on biodiesel, biodiesel blends, and ethyl alcohol.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-47B-5 be amended to read as follows:

10-47B-5. A fuel excise tax is imposed on all motor fuel and special fuel that is removed from a terminal in this state at the rack or used at the terminal. This tax is not imposed if the fuel is withdrawn from a terminal for export by the consignee, if the consignee is specifically licensed to export fuel from this state, into the state which is indicated as the destination state on the bill of lading which was issued by the terminal operator for the fuel. This tax is not imposed if the fuel removed is ethyl alcohol or biodiesel which has been removed by a licensed blender or supplier, for resale over a terminal rack, is invoiced separately from gasoline, and is not sold as an ethanol blend or biodiesel blend. The tax imposed shall be at the rate indicated in § 10-47B-4.

Section 2. That § 10-47B-6 be amended to read as follows:

10-47B-6. A fuel excise tax is imposed on all motor fuel or special fuel, except unblended ethyl alcohol or biodiesel, imported into this state in the bulk cargo area of any motor vehicle, vessel rail car, or trailer by any means other than through a terminal located in this state, upon its entry into this state. The tax imposed shall be at the rate indicated in § 10-47B-4.

Section 3. That § 10-47B-9 be amended to read as follows:

10-47B-9. A fuel excise tax is imposed on unblended ethyl alcohol or biodiesel sold by an ethanol producer, supplier, importer, or blender unless the sale is made to a licensed supplier for resale, to a licensed blender, or to a licensed exporter for export to another state who is specifically licensed to export to that state. The tax imposed shall be at the rate set for motor fuel in § 10-47B-4.

Section 4. That § 10-47B-10 be amended to read as follows:

10-47B-10. A fuel excise tax is imposed on all motor fuel or special fuel which has been removed from a terminal in this state at the rack by a licensed exporter for which the bill of lading issued for the fuel by the terminal operator indicates a destination state other than South Dakota, and the fuel is later diverted by the exporter to a destination within this state for off-loading or is transferred or sold to another person within this state prior to off-loading in any destination state. This tax is not imposed if the fuel is ethyl alcohol or biodiesel, the exporter is also licensed as a blender or supplier, and the product is purchased and invoiced separately from gasoline and not as an ethanol blend. The tax imposed shall be at the rate set for motor fuel or special fuel in § 10-47B-4.

Section 5. That subdivisions (1B) and (39) of § 10-47B-3 be amended and that two NEW SUBDIVISIONS be added to read as follows:

- (1B) "Biodiesel," a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of the American Society of Testing and Materials D 6751 as of January 1, 2004;
- (1C) "Biodiesel blend," a blended special fuel containing a minimum of two percent by volume of biodiesel;
- (12A) "Ethyl alcohol," a fuel that has been denatured as prescribed in § 10-47B-166. This definition does not apply to § 10-47B-162 or 10-47B-166;
- (39) "Special fuel," all combustible gases and liquids that are:
  - (a) Suitable for the generation of power in an internal combustion engine or motor; or
  - (b) Used exclusively for heating, industrial, or farm purposes other than for the operation of a motor vehicle.

The term includes diesel fuel, fuel oil, heating fuel, biodiesel, all special fuel blends, and all kerosene products except K-1. The term does not include motor fuel, liquid petroleum gas, compressed natural gas, natural gas which is not compressed natural gas, compounds

or blends of fuels which are prepared and used strictly as racing fuels in motor vehicles operated solely off of public highways in organized racing events. The term, special use fuel, is synonymous with the term, special fuel;

An Act to clarify certain provisions that levy the fuel excise tax on biodiesel, biodiesel blends, and ethyl alcohol.

=====

I certify that the attached Act  
originated in the  
  
SENATE as Bill No. 31

\_\_\_\_\_  
Secretary of the Senate  
=====

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 31  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

=====

Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,  
  
20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
=====

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

=====

STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State