

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0222

SENATE TAXATION COMMITTEE ENGROSSED NO.

**SB 31** - 01/28/2004

Introduced by: The Committee on Transportation at the request of the Department of  
Revenue and Regulation

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

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

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

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7 is withdrawn from a terminal for export by the consignee, if the consignee is specifically  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

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

15 10-47B-6. A fuel excise tax is imposed on all motor fuel or special fuel, except unblended



1 ethyl alcohol or biodiesel, imported into this state in the bulk cargo area of any motor vehicle,  
2 vessel rail car, or trailer by any means other than through a terminal located in this state, upon  
3 its entry into this state. The tax imposed shall be at the rate indicated in § 10-47B-4.

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

5 10-47B-9. A fuel excise tax is imposed on unblended ethyl alcohol or biodiesel sold by an  
6 ethanol producer, supplier, importer, or blender unless the sale is made to a licensed supplier  
7 for resale, to a licensed blender, or to a licensed exporter for export to another state who is  
8 specifically licensed to export to that state. The tax imposed shall be at the rate set for motor  
9 fuel in § 10-47B-4.

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

11 10-47B-10. A fuel excise tax is imposed on all motor fuel or special fuel which has been  
12 removed from a terminal in this state at the rack by a licensed exporter for which the bill of  
13 lading issued for the fuel by the terminal operator indicates a destination state other than South  
14 Dakota, and the fuel is later diverted by the exporter to a destination within this state for  
15 off-loading or is transferred or sold to another person within this state prior to off-loading in any  
16 destination state. This tax is not imposed if the fuel is ethyl alcohol or biodiesel, the exporter  
17 is also licensed as a blender or supplier, and the product is purchased and invoiced separately  
18 from gasoline and not as an ethanol blend. The tax imposed shall be at the rate set for motor fuel  
19 or special fuel in § 10-47B-4.

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

22 (1B) "~~Biodiesel blend,~~" a ~~blended special fuel containing a minimum of two percent by~~  
23 ~~volume of biodiesel. Biodiesel means a renewable, biodegradable, mono alkyl ester~~  
24 ~~combustible liquid fuel that is derived from agricultural plant oils or animal fats and~~

1 ~~that meets American Society For Testing and Materials Specification D 6751-02 for~~  
2 ~~Biodiesel Fuel (B100) Blend Stock for Distillate Fuels as in effect on December 31,~~  
3 ~~2002 fuel comprised of mono-alkyl esters of long chain fatty acids derived from~~  
4 ~~vegetable oils or animal fats, designated B100, and meeting the requirements of the~~  
5 ~~American Society of Testing and Materials D 6751 as of January 1, 2004;~~

6 (1C) "Biodiesel blend," a blended special fuel containing a minimum of two percent by  
7 volume of biodiesel;

8 (12A) "Ethyl alcohol," a fuel that has been denatured as prescribed in § 10-47B-166. This  
9 definition does not apply to § 10-47B-162 or 10-47B-166;

10 (39) "Special fuel," all combustible gases and liquids that are:

11 (a) Suitable for the generation of power in an internal combustion engine or  
12 motor; or

13 (b) Used exclusively for heating, industrial, or farm purposes other than for the  
14 operation of a motor vehicle.

15 The term includes diesel fuel, fuel oil, heating fuel, biodiesel, all special fuel blends,  
16 and all kerosene products except K-1. The term does not include motor fuel, liquid  
17 petroleum gas, compressed natural gas, natural gas which is not compressed natural  
18 gas, compounds or blends of fuels which are prepared and used strictly as racing  
19 fuels in motor vehicles operated solely off of public highways in organized racing  
20 events. The term, special use fuel, is synonymous with the term, special fuel;

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