HOUSE BILL NO. HB0179

Fuel tax collection.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

AN ACT relating to taxation and revenue; providing definitions; providing for fuel tax reporting; providing for electronic filing of fuel tax reports; providing for the promulgation of rules and regulations; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 39-17-101(a)(iii), (xi), (xii) and by creating new paragraphs (xxiii) through (xxvii), 39-17-102(a), 39-17-105(a), 39-17-106(f) and (g), 39-17-107(a)(i)(intro), (ii), (iv), (ix), (xi), (c)(ii) and by creating a new subsection (d), 39-17-109(c)(ii), (iv), (v) and (d)(i)(intro), 39-17-201(a)(ii), (xxi) and by creating new paragraphs (xxix) through (xxxv), 39-17-202(a), 39-17-204(a) by creating a new paragraph (iii), 39-17-205(b), 39-17-206(c), (d) and (f), 39-17-207(a)(intro), (i), (iii), (iv), (vi), (xi), (b)(i)(intro), (c)(ii) and by creating a new subsection (d), 39-17-209(c)(v)(A), (C) and (D) and 39-17-211(d) by creating a new paragraph (iii) are amended to read:

39-17-101. Definitions.

(a) As used in this article:

(iii) "Bulk plant" means a fuel storage and distribution facility, other than a terminal, ~~that is used for redistribution of gasoline by a transport truck, tank wagon or railcar~~ from which accountable product may be removed at a rack;

(xi) "Gasohol" means ~~a blend of ninety percent (90%) gasoline and ten percent (10%) alcohol derived from agricultural products or other renewable sources used for operating or propelling motor vehicles~~ an accountable product resulting from a blend of gasoline and ethanol. The term gasohol is included in the term gasoline;

(xii) "Gasoline" means the volatile substance produced from petroleum, natural gas, oil, shale or coal, sold under the name of gasoline and such other volatile and inflammable liquids, produced, manufactured, blended or compounded which can be used for operating or propelling motor vehicles, including all products having an initial boiling point of one hundred seventy (170) degrees Fahrenheit or less and including all products having an initial boiling point of more than one hundred seventy (170) degrees Fahrenheit of which ninety-five percent (95%) or more can be evaporated at or below four hundred sixty-four (464) degrees Fahrenheit except stove oil, furnace fuel, tractor fuel, diesel fuel, distillate, naphtha, kerosene and other products that do not come within the specification for gasoline, but shall include ~~jet fuel which is the volatile substance produced from petroleum, natural gas, oil, shale or coal and sold under the name of jet fuel and~~ such other volatile and inflammable liquids produced, manufactured, blended or compounded which can be used for operating or propelling aircraft. Gasoline does not mean methane, ethane, ~~propane,~~ butane or liquefied gas;

(xxiii) "Accountable product" means any product that is subject to the reporting requirements of this state, regardless of its intended use or taxability;

<u>(xxiv) "Alternative fuel" means any accountable product other than gasoline, gasohol, diesel fuel, dyed diesel fuel, kerosene or dyed kerosene;</u>

<u>(xxv) "Common carrier" means a person, including a railroad operator, who transports accountable product and who does not own the product;</u>

<u>(xxvi) "Gallon" means gallon as measured on a gross basis as defined in this section;</u>

<u>(xxvii) "Gross gallon" means a measured gallon without temperature or barometric adjustments.</u>

39-17-102. Administration; confidentiality.

(a) The administration of this article is vested in the department which shall prescribe the <u>reporting format and</u> forms for the making of returns, and assessment and collection of license taxes and fees hereby imposed. The department shall promulgate rules and regulations consistent with the provisions hereof as provided by the Wyoming Administrative Procedure Act necessary to the enforcement of the provisions of this article. All tax returns and records are open to examination by the director of the state department of audit or his deputies.

39-17-105. Exemptions.

(a) Gasoline ~~exported or~~ sold at a Wyoming terminal rack ~~and directly exported outside the state~~ for export, other than in the fuel supply tank of a motor vehicle, by a person licensed as an exporter in this state is exempt from the license tax imposed under W.S. 39-17-104(a)(i) through (iii). The exempt sales shall be reported on or before the last ~~business~~ day of the month ~~on forms provided~~ in a format required by the department. The sales reports are invalid if not submitted to the department within one (1) year following date of sale. Gasoline directly exported, other than in the fuel supply tank of a motor vehicle, by a Wyoming licensed supplier, is exempt from the additional license tax imposed under W.S. 39-17-104(a)(iii). Exchanges and sales of gasoline between suppliers are exempt from the license tax under this section.

39-17-106. Licenses; permits.

(f) No person shall operate a commercial vehicle as defined in W.S. 31-18-101(a)(iii) between Wyoming and other jurisdictions unless the person has a valid international fuel tax agreement license and decals pursuant to W.S. 31-18-502 or a temporary permit under W.S. 31-18-201.

(g) Each applicant for an international fuel tax agreement license and decals shall file an application in a form and manner prescribed by the department and pay ~~a fee of ten dollars ($10.00)~~ the applicable fees for the license and a decal ~~fee~~ as prescribed by the department pursuant to W.S. 31-18-502.

39-17-107. Compliance; collection procedures.

(a) Returns and reports. The following shall apply:

(i) On or before the last ~~business~~ day of each month:

(ii) ~~Every~~ Each person transporting, conveying or bringing gasoline into this state for sale, use or distribution in this state shall furnish the department a verified statement showing the number of gallons of gasoline delivered during the month preceding the report, the name of the person to whom the delivery was made and the place of delivery;~~. Forms will be provided by the department and must be returned to the department no later than the tenth day of the month following delivery;~~

(iv) On or before the last ~~business~~ day of each month:

(A) Each dealer, who is not licensed as a distributor, shall submit a statement to the department ~~on forms furnished~~ in a format required by the department showing the number of billed gallons of gasoline acquired, the person who supplied the gasoline and the total gallons sold during the preceding calendar month;

(B) Each ethanol producer, importer or exporter shall submit a statement to the department ~~on forms furnished~~ in a format required by the department showing the amount of ethanol produced, imported or exported for the purpose of blending with gasoline and the person who purchased the ethanol during the preceding calendar month;

(C) ~~Every~~ Each distributor~~,~~ or importer ~~or exporter~~ shall submit a statement to the department ~~on forms furnished by the department~~ in a format required by the department which may include the amount of bulk delivery tax credits granted under W.S. 39-17-105(c) for the preceding calendar month for the purpose of obtaining a refund from the department for taxes paid pursuant to this section.

(ix) ~~Every~~ Each person transporting, conveying or importing gasoline into the state or producing, refining, manufacturing, blending or compounding and using, selling or distributing gasoline for sale or use in this state shall keep and preserve the records relating to the purchase or sale of gasoline for three (3) years;

(xi) On or before the last day of the ~~calendar~~ month following each calendar quarter, each carrier licensed under the provisions of the international fuel tax agreement shall file, ~~on forms prescribed~~ in a format required by the department, a report~~, signed by the operator,~~ indicating the total number of miles traveled in all jurisdictions by the operator's vehicles subject to the tax under this article, the total number of miles traveled by those vehicles in this state, the amount of gasoline used by those vehicles in all jurisdictions, the amount of tax under this article paid during the calendar quarter and any other information required by the department to compute the licensee's tax liability. The licensee shall pay all taxes due under this article at the time the report is filed. If the tax on gasoline imported in the fuel supply tanks of motor vehicles for taxable use on Wyoming highways can be more accurately determined on a mileage basis, the department may approve and adopt that basis. In the absence of mileage records showing the number of miles actually operated per gallon of gasoline consumed, it shall be presumed that not less than one (1) gallon of gasoline was consumed for every four (4) miles traveled.

(c) Timelines. The following shall apply:

(ii) Any tax return or license application that is not signed and any tax return which does not contain all pertinent information is considered not filed until the licensee signs or supplies the required information to the department. If the information required in the documents is presented to the department ~~on forms~~ in a format other than ~~those~~ that prescribed or otherwise approved by the department, the tax return, application or claim for refund or credit shall be deemed not filed. The licensee shall have ten (10) days to provide the information requested in a manner prescribed or otherwise approved by the department. If the licensee provides the information requested by the department within ten (10) days, the tax return or license application shall be deemed to have been timely filed;

(d) The department shall promulgate rules and regulations necessary to define the reporting format requirement for all licensees.

39-17-109. Taxpayer remedies.

(c) Refunds. The following shall apply:

(ii) Gasoline or gasohol purchased from a Wyoming licensed distributor or dealer by the University of Wyoming and community colleges and public schools located in Wyoming is subject to refund of the license tax. The record of purchases under this paragraph shall be submitted monthly by the purchaser on refund forms provided by or in a format required by the department, along with receipts detailing gallons purchased and license taxes paid. The refund form and receipts are invalid if not submitted to the department within one (1) year following date of purchase;

(iv) On or before the last day of each month every distributor shall submit a statement to the department on forms furnished by or in a format required by the department which may include the amount of bulk delivery tax credits granted under W.S. 39-17-105(c) for the preceding calendar month for the purpose of obtaining a refund from the department for taxes paid pursuant to W.S. 39-17-107(a)(i);

(v) Any person exporting gasoline from Wyoming for which the license tax has been paid is subject to a refund of the license tax paid. The refund request shall be submitted on or before the last ~~business~~ day of the month on forms provided by or in a format required by the department. The refund request is invalid if not submitted within one (1) year of the date of purchase.

(d) Credits. The following shall apply:

(i) The department shall grant a credit to producers of ethanol in the amount of forty cents ($.40) per gallon of ethanol produced in Wyoming provided the producer submits a report to the department in a format required by the department containing information which will assist the department in determining:

39-17-201. Definitions.

(a) As used in this article:

(ii) "Bulk plant" means a ~~diesel fuels~~ fuel storage and distribution facility, other than a terminal, ~~that is primarily used for redistribution of diesel fuel by a transport truck, tank wagon or railcar~~ from which reportable fuel may be removed at a rack;

(xxi) "Diesel fuels" means those combustible gases and liquids commonly referred to as diesel fuel or any other volatile liquid of less than forty-six (46) degrees American petroleum industry gravity test, except liquid petroleum gas, when actually sold for use in motor vehicles for operation upon public roads and highways. The term "diesel fuels" includes jet fuel which is the volatile substance produced from petroleum, natural gas, oil, shale or coal and sold under the name of jet fuel and kerosene and any type of additive when the additive is mixed or blended into diesel fuel, excluding a pour point depressant. For the purposes of collecting the tax provided by W.S. 39-17-204(a)(ii) the term "diesel fuel" includes all diesel fuel consumed or purchased for any and all purposes;

(xxix) "Accountable product" means any product that is subject to the reporting requirements of this state, regardless of its intended use or taxability;

(xxx) "Alternative fuel" means any accountable product other than gasoline, gasohol, diesel fuel, dyed diesel fuel, kerosene or dyed kerosene;

(xxxi) "Biodiesel" means a fuel comprised of mono-alkyl esters of long chain fatty acids generally derived from vegetable oils or animal fats, designated B100, and meeting the requirements of ASTM D6751 for use in diesel engines;

(xxxii) "Biodiesel blend" means a blend of biodiesel fuel meeting ASTM D6751 with petroleum based diesel fuel, designated Bxx, where xx represents the volume percentage of biodiesel fuel in the blend;

(xxxiii) "Common carrier" means a person, including a railroad operator, who transports accountable product and who does not own the product;

(xxxiv) "Gallon" means gallon as measured on a gross basis as defined in this section;

(xxxv) "Gross gallon" means a measured gallon without temperature or barometric adjustments.

39-17-202. Administration; confidentiality.

(a) The administration of this article is vested in the department which shall prescribe the reporting format and forms for the making of returns, and assessment and collection of license taxes and fees hereby imposed. The department shall promulgate rules and regulations consistent with the provisions hereof as provided by the Wyoming Administrative Procedure Act necessary to the enforcement of the provisions of this article. All tax records specified in this article are open to examination by the director of the state department of audit or his deputies.

39-17-204. Taxation rate.

(a) Except as otherwise provided by this section and W.S. 39-17-205, the total tax on diesel fuels shall be fourteen cents ($.14) per gallon. The rate shall be imposed as follows:

(iii) Notwithstanding paragraph (i) of this subsection, jet fuel sold for use in aircraft shall be taxed at four cents ($.04) per gallon.

39-17-205. Exemptions.

(b) Diesel fuel sold at a Wyoming terminal rack ~~and directly exported~~ for export, other than in the fuel supply tank of a motor vehicle, by a person licensed as an exporter in this state is exempt from the license tax imposed under W.S. ~~39-17-204(a)(i) and (ii)~~ 39-17-204(a)(i) through (iii). The exempt sales shall be reported on or before the last ~~business~~ day of the month ~~on forms provided~~ in a format required by the department. The sales reports are invalid if not submitted to the department within one (1) year following the date of sale.

39-17-206. Licenses; permits.

(c) No person shall operate a commercial vehicle in Wyoming and in other jurisdictions unless the person has a valid international fuel tax agreement license and decals pursuant to W.S. 31-18-502 or a temporary permit under W.S. 31-18-201.

(d) Each applicant for international fuel tax agreement license and decals shall file an application in a form and manner prescribed by the department, and pay ~~a fee of ten dollars ($10.00)~~ the fees for the license and decals as prescribed by the department pursuant to W.S 31-18-502.

(f) On or before the last day of the ~~calendar~~ month following each calendar quarter, each carrier licensed under the provisions of the international fuel tax agreement shall file, ~~on forms~~ in a format prescribed by the department, a report~~, signed by the operator,~~

indicating the total number of miles traveled in all jurisdictions by the operator's vehicles subject to the tax under this section, the total number of miles traveled by those vehicles in this state, the amount of diesel fuel used by those vehicles in all jurisdictions, the amount of tax under this article paid during the calendar quarter and any other information required by the department to compute the licensee's tax liability. The licensee shall pay all taxes due under this article at the time the report is filed. If the tax on diesel fuel imported into this state in the fuel supply tanks of motor vehicles for taxable use on Wyoming highways can be more accurately determined on a mileage basis the department may approve and adopt that basis. In the absence of mileage records showing the number of miles actually operated per gallon of diesel fuel consumed, it shall be presumed that not less than one (1) gallon of diesel fuel was consumed for every four (4) miles traveled. The department shall by rule promulgated pursuant to W.S. 39-17-202(a) prescribe procedures under which a diesel fuel user who is entitled to at least a two hundred fifty dollar ($250.00) refund of tax under this article for purchases and use of fuel in any calendar month may apply for and receive the refund at any time after the last day of that month.

39-17-207. Compliance; collection procedures.

(a) Returns and reports~~. The~~ required by this subsection shall be filed on or before the last day of the month, and the following shall apply:

(i) ~~Every~~ Each person transporting, conveying or bringing diesel fuels into this state for sale, use or distribution in this state shall furnish the department a verified statement showing the number of gallons of diesel fuels delivered during the preceding reporting period, the name of the person to whom the delivery was made and the place of delivery. ~~Forms will be provided by the department and shall be returned to the department no later than the last day of the month following the end of the preceding reporting period.~~ This subsection does not apply to a person who transports less than fifty (50) gallons of diesel fuel into this state in the fuel supply tanks of a motor vehicle for use in that vehicle;

(iii) ~~On or before the last business day of each month,~~ Each dealer, who is not licensed as a distributor, shall submit a statement to the department ~~on forms~~

~~furnished~~ in a format required by the department showing the number of billed gallons of diesel fuel acquired, the distributor or importer who supplied the diesel fuel and collected the tax and the total gallons sold during the preceding calendar month;

(iv) ~~Every~~ Each distributor shall submit a statement to the department ~~on forms furnished~~ in a format required by the department. Distributors may include in their reports the amount of the tax exempt bulk deliveries for authorized agricultural purposes;

(vi) ~~Every~~ Each person transporting, conveying or importing diesel fuels into the state or producing, refining, manufacturing, blending or compounding and using, selling or distributing diesel fuels for sale or use in this state shall keep the records relating to the purchase or sale of for three (3) years;

(xi) ~~On or before the last day of the calendar month following each calendar quarter, e~~Each carrier licensed under the provisions of the international fuel tax agreement shall file ~~on forms prescribed~~ in a format required by the department a report~~, signed by the~~

~~operator,~~ indicating the total number of miles traveled in all jurisdictions by the operator's vehicles subject to the tax under this article, the total number of miles traveled by those vehicles in this state, the amount of diesel fuel used by those vehicles in all jurisdictions, the amount of tax under this article paid during the calendar quarter and any other information required by the department to compute the licensee's tax liability. The licensee shall pay all taxes due under this article at the time the report is filed. If the tax on diesel fuel imported into this state in the fuel supply tanks of motor vehicles for taxable use on Wyoming highways can be more accurately determined on a mileage basis the department may approve and adopt that basis. In the absence of mileage records showing the number of miles actually operated per gallon of diesel fuel consumed, it shall be presumed that not less than one (1) gallon of diesel fuel was consumed for every four (4) miles traveled. The department shall by rule promulgated pursuant to W.S. 39-17-202(a) prescribe procedures under which a diesel user who is entitled to at least a two hundred fifty dollar ($250.00) refund of tax under this article for purchases and use of fuel in any calendar month may apply for and receive the refund at any time after the last day of that month.

(b) Payment. The following shall apply:

(i) On or before the last ~~business~~ day of each ~~calendar~~ month:

(c) Timelines. The following shall apply:

(ii) Any tax return or license application that is not signed and any tax return which does not contain all pertinent information is considered not filed until the licensee signs or supplies the required information to the department. If the information required in the documents is presented to the department ~~on forms~~ in a format other than ~~those~~ that prescribed or otherwise approved by the department, the tax return, application or claim for refund or credit shall be deemed not filed. The licensee shall have ten (10) days to provide the information requested in a manner prescribed or otherwise approved by the department. If the licensee provides the information requested by the department within ten (10) days, the tax return or license application shall be deemed to have been timely filed;

<u>(d) The department shall promulgate rules and regulations necessary to define the reporting format requirement for all licensees.</u>

39-17-209. Taxpayer remedies.

(c) Refunds. The following shall apply:

(v) The license tax under W.S. 39-17-204(a)(i) is subject to refund on the following:

(A) Any person exporting diesel fuel for which the license tax has been paid is subject to a refund of the license tax paid. The refund request shall be submitted monthly on forms provided by <u>or in a format required by</u> the department. The refund request is invalid if not submitted within one (1) year of the date of purchase;

(C) Diesel fuel sold by a distributor, importer, supplier or dealer and used as heating fuel or to a person engaged in logging operations, mining operations, manufacturing, processing, drilling, exploration or well servicing, highway or other construction or railroad operations when the fuel is consumed directly in logging operations, mining operations, manufacturing, processing, drilling, exploration or well servicing, highway or other construction or railroad operations, or other nonhighway operations or uses is subject to a refund. The record of purchases under this paragraph shall be submitted quarterly on a form provided by or in a format required by the department, along with receipts detailing the gallons purchased and license taxes paid. The refund form and receipts shall be invalid if not submitted to the department within one (1) year following date of purchase. The department shall not deduct the state sales and use tax imposed by the provisions of W.S. 39-15-101 through 39-16-311 from the refund to any person who possesses a valid sales or use tax license under W.S. 39-15-106 or 39-16-106, or if the person is exempt from paying sales or use taxes under W.S. 39-15-105 or 39-16-105. A copy of the most recent sales or use tax report or proof that the person is exempt from sales or use taxes shall accompany the claim for refund;

(D) Diesel fuel purchased from a Wyoming licensed dealer, distributor, supplier or importer by the University of Wyoming and community colleges and public schools located in Wyoming are subject to refund of the license tax. The record of purchases under this paragraph shall be submitted monthly by the purchaser on refund forms provided by or in a format required by the department, along with receipts detailing gallons purchased and license taxes paid. The refund form and receipts are invalid if not submitted to the department within one (1) year following date of purchase.

39-17-211. Distribution.

(d) The state treasurer shall:

(iii) Deduct the pro rata share of the cost of collecting the taxes received from jet fuel used for aircraft at any municipal or county airport and distribute the remainder to the city, town or county where the airport is located. These funds shall be used for the maintenance of the airport.

Section 2. W.S. 39-17-101(a)(viii), 39-17-206(j) and 39-17-207(a)(x) are repealed.

Section 3. This act is effective July 1, 2007.

(END)