

HOUSE BILL NO. HB0179

Fuel tax collection.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

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

6

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

8

9 **Section 1.** W.S. 39-17-101(a)(iii), (xi), (xii) and by
10 creating new paragraphs (xxiii) through (xxvii),
11 39-17-102(a), 39-17-105(a), 39-17-106(f) and (g),
12 39-17-107(a)(i)(intro), (ii), (iv), (ix), (xi), (c)(ii) and
13 by creating a new subsection (d), 39-17-109(c)(ii), (iv),
14 (v) and (d)(i)(intro), 39-17-201(a)(ii), (xxi) and by
15 creating new paragraphs (xxix) through (xxxv),
16 39-17-202(a), 39-17-204(a) by creating a new paragraph
17 (iii), 39-17-205(b), 39-17-206(c), (d) and (f),

1 39-17-207(a)(intro), (i), (iii), (iv), (vi), (xi),
2 (b)(i)(intro), (c)(ii) and by creating a new subsection
3 (d), 39-17-209(c)(v)(A), (C) and (D) and 39-17-211(d) by
4 creating a new paragraph (iii) are amended to read:

5
6 **39-17-101. Definitions.**

7
8 (a) As used in this article:

9
10 (iii) "Bulk plant" means a fuel storage and
11 distribution facility, other than a terminal, ~~that is used~~
12 ~~for redistribution of gasoline by a transport truck, tank~~
13 ~~wagon or railcar~~ from which accountable product may be
14 removed at a rack;

15
16 (xi) "Gasohol" means ~~a blend of ninety percent~~
17 ~~(90%) gasoline and ten percent (10%) alcohol derived from~~
18 ~~agricultural products or other renewable sources used for~~
19 ~~operating or propelling motor vehicles~~ an accountable
20 product resulting from a blend of gasoline and ethanol.

21 The term gasohol is included in the term gasoline;

22
23 (xii) "Gasoline" means the volatile substance
24 produced from petroleum, natural gas, oil, shale or coal,

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

21

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

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

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

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

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

39-17-102. 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

1 enforcement of the provisions of this article. All tax
2 returns and records are open to examination by the director
3 of the state department of audit or his deputies.

4
5 **39-17-105. Exemptions.**

6
7 (a) Gasoline ~~exported or~~ sold at a Wyoming terminal
8 rack ~~and directly exported outside the state~~ for export,
9 other than in the fuel supply tank of a motor vehicle, by a
10 person licensed as an exporter in this state is exempt from
11 the license tax imposed under W.S. 39-17-104(a)(i) through
12 (iii). The exempt sales shall be reported on or before the
13 last ~~business~~ day of the month ~~on forms provided~~ in a
14 format required by the department. The sales reports are
15 invalid if not submitted to the department within one (1)
16 year following date of sale. Gasoline directly exported,
17 other than in the fuel supply tank of a motor vehicle, by a
18 Wyoming licensed supplier, is exempt from the additional
19 license tax imposed under W.S. 39-17-104(a)(iii). Exchanges
20 and sales of gasoline between suppliers are exempt from the
21 license tax under this section.

22
23 **39-17-106. Licenses; permits.**

1 (f) No person shall operate a commercial vehicle as
2 defined in W.S. 31-18-101(a)(iii) between Wyoming and other
3 jurisdictions unless the person has a valid international
4 fuel tax agreement license and decals pursuant to W.S.
5 31-18-502 or a temporary permit under W.S. 31-18-201.

6
7 (g) Each applicant for an international fuel tax
8 agreement license and decals shall file an application in a
9 form and manner prescribed by the department and pay ~~a fee~~
10 ~~of ten dollars (\$10.00)~~ the applicable fees for the license
11 and a decal ~~fee~~ as prescribed by the department pursuant to
12 W.S. 31-18-502.

13
14 **39-17-107. Compliance; collection procedures.**

15
16 (a) Returns and reports. The following shall apply:

17
18 (i) On or before the last ~~business~~ day of each
19 month:

20
21 (ii) ~~Every~~ Each person transporting, conveying
22 or bringing gasoline into this state for sale, use or
23 distribution in this state shall furnish the department a
24 verified statement showing the number of gallons of

1 gasoline delivered during the month preceding the report,
2 the name of the person to whom the delivery was made and
3 the place of delivery; ~~Forms will be provided by the~~
4 ~~department and must be returned to the department no later~~
5 ~~than the tenth day of the month following delivery;~~

6
7 (iv) On or before the last ~~business~~ day of each
8 month:

9
10 (A) Each dealer, who is not licensed as a
11 distributor, shall submit a statement to the department ~~on~~
12 ~~forms furnished~~ in a format required by the department
13 showing the number of billed gallons of gasoline acquired,
14 the person who supplied the gasoline and the total gallons
15 sold during the preceding calendar month;

16
17 (B) Each ethanol producer, importer or
18 exporter shall submit a statement to the department ~~on~~
19 ~~forms furnished~~ in a format required by the department
20 showing the amount of ethanol produced, imported or
21 exported for the purpose of blending with gasoline and the
22 person who purchased the ethanol during the preceding
23 calendar month;

24

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

9
10 (ix) ~~Every~~Each person transporting, conveying
11 or importing gasoline into the state or producing,
12 refining, manufacturing, blending or compounding and using,
13 selling or distributing gasoline for sale or use in this
14 state shall keep and preserve the records relating to the
15 purchase or sale of gasoline for three (3) years;

16
17 (xi) On or before the last day of the ~~calendar~~
18 month following each calendar quarter, each carrier
19 licensed under the provisions of the international fuel tax
20 agreement shall file, ~~on forms prescribed~~ in a format
21 required by the department, ~~a report, signed by the~~
22 ~~operator,~~ indicating the total number of miles traveled in
23 all jurisdictions by the operator's vehicles subject to the
24 tax under this article, the total number of miles traveled

1 by those vehicles in this state, the amount of gasoline
2 used by those vehicles in all jurisdictions, the amount of
3 tax under this article paid during the calendar quarter and
4 any other information required by the department to compute
5 the licensee's tax liability. The licensee shall pay all
6 taxes due under this article at the time the report is
7 filed. If the tax on gasoline imported in the fuel supply
8 tanks of motor vehicles for taxable use on Wyoming highways
9 can be more accurately determined on a mileage basis, the
10 department may approve and adopt that basis. In the absence
11 of mileage records showing the number of miles actually
12 operated per gallon of gasoline consumed, it shall be
13 presumed that not less than one (1) gallon of gasoline was
14 consumed for every four (4) miles traveled.

15

16 (c) Timelines. The following shall apply:

17

18 (ii) Any tax return or license application that
19 is not signed and any tax return which does not contain all
20 pertinent information is considered not filed until the
21 licensee signs or supplies the required information to the
22 department. If the information required in the documents
23 is presented to the department ~~on forms~~ in a format other
24 than ~~those~~ that prescribed or otherwise approved by the

1 department, the tax return, application or claim for refund
2 or credit shall be deemed not filed. The licensee shall
3 have ten (10) days to provide the information requested in
4 a manner prescribed or otherwise approved by the
5 department. If the licensee provides the information
6 requested by the department within ten (10) days, the tax
7 return or license application shall be deemed to have been
8 timely filed;

9
10 (d) The department shall promulgate rules and
11 regulations necessary to define the reporting format
12 requirement for all licensees.

13
14 **39-17-109. Taxpayer remedies.**

15
16 (c) Refunds. The following shall apply:

17
18 (ii) Gasoline or gasohol purchased from a
19 Wyoming licensed distributor or dealer by the University of
20 Wyoming and community colleges and public schools located
21 in Wyoming is subject to refund of the license tax. The
22 record of purchases under this paragraph shall be submitted
23 monthly by the purchaser on refund forms provided by or in
24 a format required by the department, along with receipts

1 detailing gallons purchased and license taxes paid. The
2 refund form and receipts are invalid if not submitted to
3 the department within one (1) year following date of
4 purchase;

5

6 (iv) On or before the last day of each month
7 every distributor shall submit a statement to the
8 department on forms furnished by or in a format required by
9 the department which may include the amount of bulk
10 delivery tax credits granted under W.S. 39-17-105(c) for
11 the preceding calendar month for the purpose of obtaining a
12 refund from the department for taxes paid pursuant to W.S.
13 39-17-107(a)(i);

14

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

22

23 (d) Credits. The following shall apply:

24

1 (i) The department shall grant a credit to
2 producers of ethanol in the amount of forty cents (\$.40)
3 per gallon of ethanol produced in Wyoming provided the
4 producer submits a report to the department in a format
5 required by the department containing information which
6 will assist the department in determining:
7

8 **39-17-201. Definitions.**
9

10 (a) As used in this article:
11

12 (ii) "Bulk plant" means a ~~diesel fuels~~ fuel
13 storage and distribution facility, other than a terminal,
14 ~~that is primarily used for redistribution of diesel fuel by~~
15 ~~a transport truck, tank wagon or railcar~~ from which
16 reportable fuel may be removed at a rack;
17

18 (xxi) "Diesel fuels" means those combustible
19 gases and liquids commonly referred to as diesel fuel or
20 any other volatile liquid of less than forty-six (46)
21 degrees American petroleum industry gravity test, except
22 liquid petroleum gas, when actually sold for use in motor
23 vehicles for operation upon public roads and highways. The
24 term "diesel fuels" includes jet fuel which is the volatile

1 substance produced from petroleum, natural gas, oil, shale
2 or coal and sold under the name of jet fuel and kerosene
3 and any type of additive when the additive is mixed or
4 blended into diesel fuel, excluding a pour point
5 depressant. For the purposes of collecting the tax provided
6 by W.S. 39-17-204(a)(ii) the term "diesel fuel" includes
7 all diesel fuel consumed or purchased for any and all
8 purposes;

9
10 (xxix) "Accountable product" means any product
11 that is subject to the reporting requirements of this
12 state, regardless of its intended use or taxability;

13
14 (xxx) "Alternative fuel" means any accountable
15 product other than gasoline, gasohol, diesel fuel, dyed
16 diesel fuel, kerosene or dyed kerosene;

17
18 (xxxi) "Biodiesel" means a fuel comprised of
19 mono-alkyl esters of long chain fatty acids generally
20 derived from vegetable oils or animal fats, designated
21 B100, and meeting the requirements of ASTM D6751 for use in
22 diesel engines;

23

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

5
6 (xxxiii) "Common carrier" means a person,
7 including a railroad operator, who transports accountable
8 product and who does not own the product;

9
10 (xxxiv) "Gallon" means gallon as measured on a
11 gross basis as defined in this section;

12
13 (xxxv) "Gross gallon" means a measured gallon
14 without temperature or barometric adjustments.

15
16 **39-17-202. Administration; confidentiality.**

17
18 (a) The administration of this article is vested in
19 the department which shall prescribe the reporting format
20 and forms for the making of returns, and assessment and
21 collection of license taxes and fees hereby imposed. The
22 department shall promulgate rules and regulations
23 consistent with the provisions hereof as provided by the
24 Wyoming Administrative Procedure Act necessary to the

1 enforcement of the provisions of this article. All tax
2 records specified in this article are open to examination
3 by the director of the state department of audit or his
4 deputies.

5
6 **39-17-204. Taxation rate.**

7
8 (a) Except as otherwise provided by this section and
9 W.S. 39-17-205, the total tax on diesel fuels shall be
10 fourteen cents (\$.14) per gallon. The rate shall be
11 imposed as follows:

12
13 (iii) Notwithstanding paragraph (i) of this
14 subsection, jet fuel sold for use in aircraft shall be
15 taxed at four cents (\$.04) per gallon.

16
17 **39-17-205. Exemptions.**

18
19 (b) Diesel fuel sold at a Wyoming terminal rack ~~and~~
20 ~~directly exported~~ for export, other than in the fuel supply
21 tank of a motor vehicle, by a person licensed as an
22 exporter in this state is exempt from the license tax
23 imposed under W.S. ~~39-17-204(a)(i) and (ii)~~ 39-17-204(a)(i)
24 through (iii). The exempt sales shall be reported on or

1 before the last ~~business~~ day of the month ~~on forms provided~~
2 in a format required by the department. The sales reports
3 are invalid if not submitted to the department within one
4 (1) year following the date of sale.

5
6 **39-17-206. Licenses; permits.**

7
8 (c) No person shall operate a commercial vehicle in
9 Wyoming and in other jurisdictions unless the person has a
10 valid international fuel tax agreement license and decals
11 pursuant to W.S. 31-18-502 or a temporary permit under W.S.
12 31-18-201.

13
14 (d) Each applicant for international fuel tax
15 agreement license and decals shall file an application in a
16 form and manner prescribed by the department, and pay ~~a fee~~
17 ~~of ten dollars (\$10.00)~~ the fees for the license and decals
18 as prescribed by the department pursuant to W.S 31-18-502.

19
20 (f) On or before the last day of the ~~calendar~~ month
21 following each calendar quarter, each carrier licensed
22 under the provisions of the international fuel tax
23 agreement shall file, ~~on forms~~ in a format prescribed by
24 the department, a report, ~~signed by the operator,~~

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

1
2 **39-17-207. Compliance; collection procedures.**

3
4 (a) Returns and reports. ~~The~~ required by this
5 subsection shall be filed on or before the last day of the
6 month, and the following shall apply:

7
8 (i) ~~Every~~ Each person transporting, conveying or
9 bringing diesel fuels into this state for sale, use or
10 distribution in this state shall furnish the department a
11 verified statement showing the number of gallons of diesel
12 fuels delivered during the preceding reporting period, the
13 name of the person to whom the delivery was made and the
14 place of delivery. ~~Forms will be provided by the~~
15 ~~department and shall be returned to the department no later~~
16 ~~than the last day of the month following the end of the~~
17 ~~preceding reporting period.~~ This subsection does not apply
18 to a person who transports less than fifty (50) gallons of
19 diesel fuel into this state in the fuel supply tanks of a
20 motor vehicle for use in that vehicle;

21
22 (iii) ~~On or before the last business day of each~~
23 ~~month,~~ Each dealer, who is not licensed as a distributor,
24 shall submit a statement to the department ~~on forms~~

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

6
7 (iv) ~~Every~~ Each distributor shall submit a
8 statement to the department ~~on forms furnished~~ in a format
9 required by the department. Distributors may include in
10 their reports the amount of the tax exempt bulk deliveries
11 for authorized agricultural purposes;

12
13 (vi) ~~Every~~ Each person transporting, conveying
14 or importing diesel fuels into the state or producing,
15 refining, manufacturing, blending or compounding and using,
16 selling or distributing diesel fuels for sale or use in
17 this state shall keep the records relating to the purchase
18 or sale of for three (3) years;

19
20 (xi) ~~On or before the last day of the calendar~~
21 ~~month following each calendar quarter,~~ Each carrier
22 licensed under the provisions of the international fuel tax
23 agreement shall file ~~on forms prescribed~~ in a format
24 required by the department a report, ~~signed by the~~

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

1

2 (b) Payment. The following shall apply:

3

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

6

7 (c) Timelines. The following shall apply:

8

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

24

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

4
5 **39-17-209. Taxpayer remedies.**

6
7 (c) Refunds. The following shall apply:

8
9 (v) The license tax under W.S. 39-17-204(a)(i)
10 is subject to refund on the following:

11
12 (A) Any person exporting diesel fuel for
13 which the license tax has been paid is subject to a refund
14 of the license tax paid. The refund request shall be
15 submitted monthly on forms provided by or in a format
16 required by the department. The refund request is invalid
17 if not submitted within one (1) year of the date of
18 purchase;

19
20 (C) Diesel fuel sold by a distributor,
21 importer, supplier or dealer and used as heating fuel or to
22 a person engaged in logging operations, mining operations,
23 manufacturing, processing, drilling, exploration or well
24 servicing, highway or other construction or railroad

1 operations when the fuel is consumed directly in logging
2 operations, mining operations, manufacturing, processing,
3 drilling, exploration or well servicing, highway or other
4 construction or railroad operations, or other nonhighway
5 operations or uses is subject to a refund. The record of
6 purchases under this paragraph shall be submitted quarterly
7 on a form provided by or in a format required by the
8 department, along with receipts detailing the gallons
9 purchased and license taxes paid. The refund form and
10 receipts shall be invalid if not submitted to the
11 department within one (1) year following date of purchase.
12 The department shall not deduct the state sales and use tax
13 imposed by the provisions of W.S. 39-15-101 through
14 39-16-311 from the refund to any person who possesses a
15 valid sales or use tax license under W.S. 39-15-106 or
16 39-16-106, or if the person is exempt from paying sales or
17 use taxes under W.S. 39-15-105 or 39-16-105. A copy of the
18 most recent sales or use tax report or proof that the
19 person is exempt from sales or use taxes shall accompany
20 the claim for refund;

21

22 (D) Diesel fuel purchased from a Wyoming
23 licensed dealer, distributor, supplier or importer by the
24 University of Wyoming and community colleges and public

1 schools located in Wyoming are subject to refund of the
2 license tax. The record of purchases under this paragraph
3 shall be submitted monthly by the purchaser on refund forms
4 provided by or in a format required by the department,
5 along with receipts detailing gallons purchased and license
6 taxes paid. The refund form and receipts are invalid if not
7 submitted to the department within one (1) year following
8 date of purchase.

9

10 **39-17-211. Distribution.**

11

12 (d) The state treasurer shall:

13

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

20

21 **Section 2.** W.S. 39-17-101(a)(viii), 39-17-206(j) and
22 39-17-207(a)(x) are repealed.

23

