

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1462

That the Senate recede from its amendments as printed on pages 986-989 of the House Journal and pages 823-826 of the Senate Journal and that Engrossed House Bill No. 1462 be amended as follows:

Page 1, line 1, replace "sections 57-43.1-02.2, 57-43.1-12.1, 57-43.2-03.1," with "section"

Page 1, line 2, remove "57-43.2-04.4," and remove ", 57-43.3-02.2, 57-43.3-09, 57-43.3-14, 57-43.3-18, 57-43.3-28, and"

Page 1, line 3, remove "chapter 57-43.4" and replace "collection by the supplier of" with "use of dyed special fuel in a licensed motor vehicle and penalties"

Page 1, remove line 4

Page 1, line 5, remove "administration, enforcement, and penalties" and remove "57-43.1-02,"

Page 1, line 6, remove "57-43.1-14, 57-43.1-16, 57-43.1-24," after "57-43.1-26" insert ", 57-43.1-27", remove "57-43.2-02,", and after the seventh comma insert "and 57-43.2-21"

Page 1, line 7, remove "57-43.2-04.1, 57-43.2-05, 57-43.2-07, 57-43.2-11, 57-43.2-21, and 57-43.3-02"

Page 1, line 8, replace "collection by suppliers of motor vehicle, special fuels, aviation" with "definitions for special fuels tax purposes and inventory gains and losses for motor vehicle fuels and special fuels tax purposes"

Page 1, remove line 9

Page 1, line 10, remove "penalties" and replace "sections 57-43.1-27 and 57-43.3-24" with "section 57-43.2-02.2"

Page 1, line 11, replace "motor vehicle fuels tax imposition and credit for losses and aviation fuel" with "refunds of special fuels" and after "taxes" insert "; to provide for a legislative council study"

Page 1, line 12, remove "collection allowances"

Page 1, replace lines 14 through 24 with:

**"SECTION 1. AMENDMENT.** Section 57-43.1-26 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.1-26. Inventory gains - Losses ~~-Deductions allowed to dealer-~~  
**Remedies.** ~~Each dealer of motor vehicle fuel may deduct the actual shrinkage of the total gallonage of motor fuel received during each calendar month from the statement submitted as required in section 57-43.1-16, but the allowance may not exceed one percent of the total received during that month.~~**

1. A supplier or distributor shall take a physical inventory reading of all motor vehicle fuel located in a terminal, underground tank, aboveground tank, railcar, storage tank of a truck, and the storage tank of a bulk delivery truck

on a regular basis and shall report the physical readings, inventory gains, and inventory losses to the commissioner in increments not to exceed a twelve-month period. The inventory reconciliation must include motor vehicle fuel at retail locations and motor vehicle fuel stored in a barrel, drum, or other receptacle.

2. When sold or used by a supplier or distributor, a gain in motor vehicle fuel inventories is subject to the tax imposed by this chapter in the same manner as motor vehicle fuel purchased, imported, or otherwise acquired.
3. A supplier or distributor who experiences an actual physical inventory loss due to shrinkage or evaporation is responsible for the tax imposed by this chapter on any such loss that is in excess of one-half of one percent of the motor vehicle fuel received during the period covered by the inventory reconciliation.
4. For purposes of this chapter, it is presumed that all motor vehicle fuel received ~~by each dealer~~ above ~~this~~ the one-half of one percent allowance, except that gallonage shown as inventory based on physical inventory readings at the end of ~~each calendar month~~ the time period covered by the inventory reconciliation, and other allowances provided in this chapter, has been sold, delivered, or used, and the ~~dealer~~ supplier or distributor is liable for the amount of the motor vehicle fuel tax on each gallon [liter] of motor vehicle fuel not accounted for. For purposes of this chapter, motor vehicle fuel refined at a refinery in this state and placed in storage at the refinery, and motor vehicle fuel brought into the state by pipeline and placed in storage at a pipeline terminal, is not deemed received until it is withdrawn from the refinery or terminal storage for sale or use in this state, or for shipment or delivery to destinations in this state.
5. The commissioner may allow a tax credit to a supplier or distributor for actual inventory losses due to a casualty loss, based on proof of the loss as required by the commissioner.

**SECTION 2. AMENDMENT.** Section 57-43.1-27 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.1-27. Sales of motor vehicle fuels to retail outlets - Tax imposed - Credit for losses.** When a ~~wholesale dealer~~ supplier or distributor in motor vehicle fuels makes a sale to a retail outlet the ~~wholesale dealer~~ supplier or distributor shall credit the retail outlet with one-half of one percent of the total state motor vehicle fuel tax applied to the gallonage sold. This must appear on the face of the delivery invoice at the time of delivery of the motor vehicle fuel in consideration of evaporation and shrinkage losses and the retail outlet's cost of collection of the tax. On making payments to the commissioner as provided in this chapter, the ~~dealer~~ supplier or distributor shall deduct the total credit allowance granted on sales to retail outlets in motor vehicle fuels under the provisions of this section, in addition to other deductions allowed, from the amount of tax due."

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 31

Page 4, remove lines 1 through 31

Page 5, remove lines 1 through 31

Page 6, remove lines 1 through 31

Page 7, remove lines 1 through 31

Page 8, remove lines 1 through 31

Page 9, remove lines 1 through 31

Page 10, remove lines 1 through 20

Page 13, line 11, remove the overstrike over "~~compressed natural gas~~" and insert immediately thereafter an underscored comma

Page 13, line 17, remove "alternative fuels as defined in section 57-43.4-01,"

Page 13, remove lines 28 through 30

Page 14, remove lines 1 through 31

Page 15, remove lines 1 through 30

Page 16, remove lines 1 through 10

Page 16, line 14, remove the overstrike over "~~two percent~~"

Page 16, line 15, remove "one and two-tenths cents per gallon [3.79 liters]"

Page 16, line 16, remove "For a"

Page 16, remove lines 17 through 19

Page 16, line 20, overstrike "The special excise tax applies to all special fuels taxed under section 57-43.2-02"

Page 16, overstrike line 21

Page 16, line 22, overstrike "3."

Page 16, line 25, overstrike "4." and insert immediately thereafter "3."

Page 17, line 1, overstrike "5." and insert immediately thereafter "4."

Page 17, line 2, remove the overstrike over "identify the consumer to whom the sale was made,"

Page 17, line 3, remove the overstrike over "specify the purpose for which the special fuel was sold, and"

Page 17, line 5, overstrike "6." and insert immediately thereafter "5." and remove "The tax imposed by this section does not apply on sales by a supplier to another"

Page 17, remove line 6

Page 17, line 7, remove "7.", remove the overstrike over "The dealer", remove "A supplier", and remove the overstrike over "on all sales to a"

Page 17, line 8, remove "and shall pass the tax on to the distributor, retailer, or" and remove "A distributor"

Page 17, replace lines 9 through 30 with:

**"SECTION 5. AMENDMENT.** Section 57-43.2-21 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-21. Inventory gains - Losses—Deductions allowed to dealer—Remedies.**

1. ~~Each dealer of special fuel other than liquefied petroleum gas is allowed to deduct the actual shrinkage of the total gallonage of special fuel received during each calendar month from the statement submitted as required in section 57-43.2-12, but such allowance may not exceed one percent of the total received during the month. Each wholesale dealer of liquefied petroleum gas may deduct the actual shrinkage of the total gallonage received during each calendar month from the statement submitted as required in section 57-43.2-12, but this allowance may not exceed two percent of the total received during the month. A supplier or distributor shall take a physical inventory reading of all special fuel located in a terminal, underground tank, aboveground tank, railcar, storage tank of a truck, and the storage tank of a bulk delivery truck on a regular basis and shall report the physical readings, inventory gains, and inventory losses to the commissioner in increments not to exceed a twelve-month period. The inventory reconciliation must include special fuel at retail locations and special fuel stored in a barrel, drum, or other receptacle.~~
2. When sold or used by a supplier or distributor, a gain in special fuel inventories is subject to the tax imposed by this chapter in the same manner as special fuel purchased, imported, or otherwise acquired.
3. A supplier or distributor who experiences an actual physical inventory loss due to shrinkage or evaporation is responsible for the tax imposed by this chapter on any loss in excess of two percent of liquefied petroleum gases and one-half of one percent of all other special fuel received during the period covered by the inventory reconciliation.
- 2- 4. ~~For the purposes of this chapter, it is presumed that all special fuel received by each dealer over and above the one percent allowance, or the~~

~~two percent allowance for liquefied petroleum gas, not otherwise accounted for, but not above these allowances, except that gallonage shown as actual inventory based on physical inventory readings at the end of every calendar month the time period covered by the inventory reconciliation, and other allowances provided in this chapter, has been sold, delivered, or used.—The dealer, and the supplier or distributor is liable for the amount of the special fuel tax on each gallon [3.79 liters] of special fuel not accounted for. For purposes of this chapter, special fuel refined at a refinery in this state and placed in storage at the refinery, and special fuel brought into the state by pipeline and placed in storage at a pipeline terminal, is not deemed received until it is withdrawn from the refinery or terminal storage for sale or use in this state, or for shipment or delivery to destinations in this state.~~

5. The commissioner may allow a tax credit to a supplier or distributor for actual inventory losses due to casualty loss subject to the discretion of the commissioner and based on proof of the loss as required by the commissioner."

Page 18, remove lines 1 through 30

Page 19, remove lines 1 through 29

Page 20, remove lines 1 through 31

Page 21, remove lines 1 through 31

Page 22, remove lines 1 through 31

Page 23, remove lines 1 through 30

Page 24, remove lines 1 through 31

Page 25, remove lines 1 through 30

Page 26, line 3, replace "**Penalties**" with "**Administrative fees**"

Page 26, line 10, replace "civil penalties" with "administrative fees"

Page 26, line 11, replace "one" with "two", after "hundred" insert "fifty", and replace "fine" with "fee"

Page 26, line 12, replace "fine" with "fee"

Page 26, line 14, replace "fine" with "fee"

Page 26, line 16, replace "fine" with "fee"

Page 27, line 5, after "hearing" insert "before the tax commissioner in the manner provided in chapter 28-32 if, within thirty days after receiving a citation, the person requests a hearing"

Page 27, after line 13, insert:

"6. All administrative fees or civil penalties under this section may be completely or partially waived by the tax commissioner for good cause shown, and any fees or penalties not waived must be collected by the tax commissioner and transferred to the state treasurer and deposited in the state highway fund."

Page 27, remove lines 14 through 29

Page 28, remove lines 1 through 31

Page 29, remove lines 1 through 31

Page 30, remove lines 1 through 31

Page 31, remove lines 1 through 31

Page 32, remove lines 1 through 30

Page 33, remove lines 1 through 29

Page 34, remove lines 1 through 31

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Page 47, remove lines 1 through 31

Page 48, remove lines 1 through 31

Page 49, remove lines 1 through 31

Page 50, remove lines 1 through 31

Page 51, remove lines 1 through 31

Page 52, remove lines 1 through 31

Page 53, remove lines 1 through 19

Page 53, line 20, replace "57-43.1-27" with "57-43.2-02.2", after "the" insert "1997 Supplement to the", and replace "and" with "is repealed."

Page 53, replace lines 21 and 22 with:

**"SECTION 8. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying during the 1999-2000 interim the application, enforcement, and administration under the fuels tax laws."

Page 53, line 24, replace ", and taxable inventories held on, December 31" with "June 30"

Renumber accordingly