

HOUSE BILL NO. 1478

Introduced by

Representatives Berg, Belter, Nelson, Pollert

Senators Espeguard, Klein

1 A BILL for an Act to create and enact a new subsection to section 57-43.1-01 of the North
2 Dakota Century Code, relating to a definition of E85 fuel; to amend and reenact sections
3 57-43.1-02 and 57-43.1-28 of the North Dakota Century Code, relating to reduced motor vehicle
4 fuels tax rate for sales of E85 fuel, deposit of taxes on that fuel in the township highway aid
5 fund, and to provide for transfer of funds to the highway tax distribution fund; and to provide an
6 effective date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** A new subsection to section 57-43.1-01 of the North Dakota Century Code
9 is created and enacted as follows:

10 "E85 fuel" means fuel containing a minimum blend of eighty-five percent ethanol.

11 **SECTION 2. AMENDMENT.** Section 57-43.1-02 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **57-43.1-02. Tax imposed on motor vehicle fuels.**

14 1. Except as otherwise provided in this section, a tax of twenty-one cents per gallon
15 [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.

16 2. Sale of E85 fuel is exempt from the tax imposed under subsection 1 and is instead
17 subject to a tax of one cent per gallon [3.79 liters] on all E85 fuel sold or used in
18 this state. The tax imposed under this subsection is not subject to refund under
19 section 57-43.1-03 or 57-43.1-03.1.

20 3. A supplier or distributor shall remit the tax imposed by this section on motor vehicle
21 fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and on
22 direct sales of motor vehicle fuel to a consumer.

- 1 ~~3.~~ 4. The tax imposed by this section does not apply on a sale by a supplier to another
2 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to
3 another distributor, on an export, or on a sale to an exempt consumer.
- 4 ~~4.~~ 5. The person required to remit the tax imposed by this section shall pass the tax on
5 to the retailer and to the consumer. A retailer who paid the tax to the supplier or
6 distributor shall pass the tax on to the consumer.
- 7 ~~5.~~ 6. The person required to remit the tax imposed by this section shall pay the tax to
8 the commissioner by the twenty-fifth day of the calendar month after the month
9 during which the motor vehicle fuel was sold or used by the person. When the
10 twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday,
11 the due date is the first working day after the Saturday, Sunday, or legal holiday.
12 When payment is made by mail, the payment is timely if the envelope containing
13 the payment is postmarked by the United States postal service or other postal
14 carrier service before midnight of the due date.
- 15 ~~6.~~ 7. The commissioner shall pay over all of the money received during each calendar
16 month to the state treasurer.

17 **SECTION 3. AMENDMENT.** Section 57-43.1-28 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **57-43.1-28. Transfer, deposit, and distribution of funds.** Taxes, license fees,
20 penalties, and interest collected under the provisions of this chapter must be transferred to the
21 state treasurer who shall deposit the moneys collected to the highway tax distribution fund,
22 except the entire proceeds of the tax imposed on E85 fuel under subsection 2 of section
23 57-43.1-02 must be deposited in the township highway aid fund and allocated as provided in
24 section 54-27-19.1. At the time of each transfer for deposit in the highway tax distribution fund,
25 the tax commissioner shall certify to the state treasurer the number of gallons of E85 fuel sold
26 or used in this state during the time period covered by that transfer and exempt from the tax
27 under subsection 1 of section 57-43.1-02. The department of commerce shall seek approval for
28 the transfer to the state treasurer of twenty cents for each gallon certified by the tax
29 commissioner, from the petroleum violation escrow fund for deposit in the highway tax
30 distribution fund. The highway tax distribution fund must be distributed in the manner
31 prescribed by section 54-27-19.

1 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
2 June 30, 2005.