

HOUSE BILL NO. 562

INTRODUCED BY J. DARLING, C. SPRUNGER

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CERTAIN AGENCY REPORTS; AMENDING SECTIONS 15-70-433, 15-70-450, 17-1-102, 37-1-107, 39-51-706, 53-6-116, 60-3-304, 60-3-309, 61-10-154, 85-1-203, 85-1-501, 87-2-702, AND 90-1-182, MCA; AND REPEALING ~~SECTION~~ SECTIONS 5-12-208, 75-1-314, 77-1-820, AND 77-2-366, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-70-433, MCA, is amended to read:

"15-70-433. Refund for taxes paid on biodiesel by distributor or retailer -- statement -- payment -- appropriation -- records—~~report to interim committee~~. (1) A licensed distributor who pays the special fuel tax under 15-70-403 on biodiesel, as defined in 15-70-401, may claim a refund equal to 2 cents a gallon on biodiesel sold during the previous calendar quarter if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.

(2) The owner or operator of a retail motor fuel outlet may claim a refund equal to 1 cent a gallon on biodiesel on which the special fuel tax has been paid and that is purchased from a licensed distributor if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.

(3) (a) To receive the refund allowed under subsection (1) or (2), the licensed distributor or the owner or operator of a motor fuel outlet shall file a statement within 30 days after the end of each calendar quarter on a form provided by the department.

(b) The statement provided by a licensed distributor must set forth information required by the department, including the gallons of biodiesel sold and the source of ingredients used to produce biodiesel.

(c) The statement provided by the owner or operator of a retail motor fuel outlet must set forth information required by the department, including the gallons of biodiesel purchased.

(4) The payment of the refund allowed by this section must be made by the department within 90 days after the claim for a refund is filed by the licensed distributor or the owner or operator of a retail motor fuel

outlet. Tax refund payments under this section are statutorily appropriated, as provided in 17-7-502, from the state general fund.

(5) The records of each licensed distributor or owner or operator of a retail motor fuel outlet must be kept for a period of not more than 3 years and must include receipts, invoices, and other information as the department may require.

(6) The department or its authorized representative may examine the books, papers, or records of any licensed distributor or owner or operator of a retail motor fuel outlet.

~~(7) The department shall report to the transportation interim committee biennially, in accordance with 5-11-210, the number and type of taxpayers claiming the refund under this section, the total amount of the refund claimed, and the department's cost associated with administering the refund."~~

Section 2. Section 15-70-450, MCA, is amended to read:

"15-70-450. Cooperative agreement -- motor fuels taxes. (1) In order to prevent the possibility of dual taxation of motor fuels purchased by Montana citizens and businesses on Indian reservations, the department and an Indian tribe may enter into a cooperative agreement. The department may, with the concurrence of the attorney general, include as a member of the negotiating team a representative of the department of justice who has expertise in Indian matters.

(2) The department of transportation shall report the status of cooperative agreement negotiations to the transportation interim committee in accordance with 5-11-210.

~~(3) After negotiations are complete and if the legislature is not in session, an agreement must be presented to the transportation interim committee for review and comment before the final agreement is submitted to the attorney general for approval pursuant to 18-11-105."~~

Section 3. Section 17-1-102, MCA, is amended to read:

"17-1-102. Uniform accounting system and expenditure control. (1) The department shall establish a system of financial control so that the functioning of the various agencies of the state may be improved, duplications of work by different state agencies and employees may be eliminated, public service may be improved, and the cost of government may be reduced.

(6) A managed care or capitated health care system, except for a primary care case management service, that requires for implementation a waiver from the centers for medicare and medicaid is subject to the provisions of Title 53, chapter 6, part 7."

Section 7. Section 60-3-304, MCA, is amended to read:

"60-3-304. Duties of department of transportation. (1) The allocation of available funds for the maintenance, repair, and establishment of shared-use paths and the expenditure of funds as authorized by this part are primarily for the maintenance and repair of shared-use paths and for the promotion of traffic safety on the highways, roads, and streets of the state.

(2) The transportation commission shall, when requested, provide technical assistance and advice to cities and counties in carrying out the purpose of this part.

(3) The department of transportation shall:

(a) maintain an inventory of all shared-use paths located in the right-of-way of each state-maintained federal-aid highway in Montana;

~~(b) maintain a plan for maintenance and repair of all the shared-use paths described in subsection (3)(a);~~

~~(c)~~(b) recommend construction and maintenance standards for shared-use paths;

~~(d)~~(c) provide a uniform system of signing shared-use paths that applies to all shared-use paths, whether under the jurisdiction of the commission or a city or county; and

~~(e)~~(d) as provided in 60-3-309, allocate funds in the account established in 61-3-321(21).

(4) (a) Except as provided in subsection (4)(b), shared-use paths may not be used by motorized vehicles.

(b) The transportation commission, a city or county, or the commission jointly with a city or county may authorize the use of snowmobiles on all or a portion of a shared-use path under its jurisdiction."

Section 8. Section 60-3-309, MCA, is amended to read:

"60-3-309. Allocation of funds. (1) Of the total funds in the account established in 61-3-321(21)(a):

(a) in fiscal year 2018 only, an amount not to exceed \$50,000 must be transferred to the

department of justice to reprogram the software and equipment of the department and the department's vendor to accommodate the optional fee provided for in 61-3-321(21); and

(b) of the remainder in fiscal year 2018 and for succeeding fiscal years:

(i) 20% of the total must be allocated to the department of transportation to be used for bicycle and pedestrian education throughout the state as provided in 60-3-308(2); and

(ii) 80% of the total must be allocated as provided in subsection (2) by the department of transportation to each of the five districts established in 2-15-2502.

(2) The amount of funds to be allocated to a district is equal to the total amount of optional registration fees provided for in 61-3-321(21)(a) collected in the district divided by the total amount of the optional registration fees provided for in 61-3-321(21)(a) collected for the entire state.

(3) Except as provided in subsection (4), the total funds allocated to a district under subsection (1)(b)(ii) must be used within the district for the maintenance and repair of shared-use paths described in this part. At least 10% of the funds allocated to a district under subsection (1)(b)(ii) must be used to maintain or repair shared-use paths that are not part of the state-maintained federal-aid highway system.

(4) (a) Subject to the provisions of subsection (4)(b), if all of the shared-use paths in the district are maintained and repaired at a level that meets or exceeds the standards established pursuant to ~~60-3-304(3)(e)~~ 60-3-304(3)(b) or if there are no shared-use paths in the district that are not part of the state-maintained federal-aid highway system, any funds remaining in a fiscal year may be used to construct new shared-use paths within the district.

(b) Prior to the construction or extension of a shared-use path, the department shall enter into a maintenance agreement with the county or municipality, or both, in which the path is proposed to be constructed or extended. The maintenance agreement may provide that maintenance be conducted by the county or the municipality, by both the county and the municipality, by the department, or by a combination of those entities. Based on the maintenance agreement and available funding, the department shall transfer funds from the account established in 61-3-321(21)(a) to the appropriate county or municipality as provided for in the maintenance agreement. If the maintenance agreement provides for maintenance by the department, the department shall use the funds in the account for that purpose."

Section 9. Section 61-10-154, MCA, is amended to read:

"61-10-154. Department of transportation to adopt motor carrier safety standards -- enforcement -- designation of peace officers -- duties -- violations. (1) As used in this section, the terms "for-hire motor carrier", "private motor carrier", "gross vehicle weight rating", and "gross combination weight rating" have the same meaning as provided in 49 CFR 390.5.

(2) The department of transportation shall adopt, by rule, standards for safety of operations of:

(a) any for-hire motor carrier or any private motor carrier;

(b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 10,001 pounds or more;

(c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana;

(d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver, and that is not used to transport passengers for compensation;

(e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver, for compensation; or

(f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part 172.

(3) Standards of safety adopted under this section must substantially comply, within allowed tolerance guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as applied to motor carriers and vehicles transporting passengers or property in commerce.

(4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to this section. The highway patrol and the department of transportation shall cooperate to ensure minimum duplication and maximum coordination of enforcement efforts.

(5) In order to enforce compliance with safety standards adopted pursuant to this section, the department of transportation shall designate employees as peace officers. The designated employees must be

employed in the administration of the motor carrier services functions of the department of transportation. Each employee designated as a peace officer may:

(a) issue citations and make arrests in connection with violations of safety standards adopted under this section;

(b) issue summonses;

(c) accept bail;

(d) serve warrants for arrest;

(e) make reasonable inspections of cargo carried by commercial motor vehicles;

(f) enforce the provisions of Title 49 of the United States Code and regulations that have been adopted under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers; and

(g) require production of documents relating to the cargo, driver, routing, or ownership of commercial motor vehicles.

(6) In addition to other enforcement duties assigned under 61-10-141 and this section, an employee of the department of transportation who is appointed as a peace officer pursuant to 61-12-201 or this section:

(a) has the same authority to enforce provisions of the motor carriers law as that granted to the public service commission under 69-12-203;

(b) has the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds, as defined in 80-5-120, that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date that the bill of lading was obtained;

(c) has the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance with Title 15, chapter 70, part 4;

(d) has for vehicle configurations subject to 61-10-141 and this section, the authority to issue a citation:

(i) pursuant to 61-9-520(1)(a) for violation of 61-9-406(6) when the vehicle configuration causes a

lane blockage; and

(ii) pursuant to 61-9-520(1)(b) for violation of 61-9-406(6) when the vehicle configuration causes an incident that results in the closure of all lanes in one or both directions of a highway; and

(e) may, on any highway under the jurisdiction of the department of transportation within the exterior boundaries of a reservation whose tribal government has entered into an agreement with the department of transportation pursuant to Title 18, chapter 11, part 1, exercise the authority under this part to issue a citation pursuant to 61-9-520 for violation of 61-9-406(6).

(7) A violation of the standards adopted pursuant to this section is punishable as provided in 61-9-512, and the court, upon conviction, as defined in 61-5-213, shall forward a record of conviction to the department of transportation within 5 days in accordance with 61-11-101.

~~(8) The department of transportation shall report to the transportation interim committee biennially, in accordance with 5-11-210, on its enforcement of the provisions of Title 15, chapter 70, part 4, pursuant to the authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special revenue fund."~~

Section 10. Section 85-1-203, MCA, is amended to read:

"85-1-203. State water plan. (1) The department shall gather from any source reliable information relating to Montana's water resources and prepare from that information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may:

(a) conduct studies;

(b) adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies;

(c) perform research or employ other competent agencies to perform research on a contract basis; and

(d) hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be

significant federal land management proposals. The department of commerce may use the review and analysis to comment in a timely manner on the federal proposals regarding projected impacts on local government.

(2) The department of commerce may:

(a) establish a minimal procedure for local governments to request from the department a review and analysis of significant federal land management proposals that may have a direct socioeconomic impact on the community for which the local government has requested the review. The request must include sufficient details about the federal land management proposal for the department of commerce to determine a deadline by which the review must be conducted.

(b) contract with a unit of the Montana university system experienced in technical, doctorate-level analysis of the socioeconomic impacts of federal land management proposals to provide an independent economic analysis of the federal proposals; and

(c) advocate on behalf of the local government before the agency issuing the federal land management proposals, using the reports generated under this subsection (2); and

~~(d) report to the local government interim committee in accordance with 5-11-210, in any year in which there is a request, the number of requests, the types of requests, and the number of responses handled. The department shall post the information under this subsection (2)(d) on its website when a request has been made along with a summary of each requested analysis.~~

(3) The department of commerce may adopt rules to implement this section."

NEW SECTION. Section 14. Repealer. The following section of the Montana Code Annotated is repealed:

5-12-208. Grant information to be provided to legislative finance committee -- internet link required.

75-1-314. Reporting requirements.

77-1-820. Reporting requirements.

77-2-366. Land banking and state land cabin and home sites -- reports to environmental quality council.

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