

HOUSE COMMITTEE OF REFERENCE REPORT

May 25, 2021

Chair of Committee

Date

Committee on Transportation & Local Government.

After consideration on the merits, the Committee recommends the following:

HB21-1322 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 2, line 3, strike "and (17);" and substitute "(17)
2 and (32);".
- 3 Page 3, line 11, strike "VESSEL." and substitute "VESSEL AND ANY
4 TRANSFER OF GASOLINE OR SPECIAL FUEL BY RAILCAR FROM A REFINERY
5 TO A TERMINAL OPERATED BY THE REFINER."
- 6 Page 3, line 15, strike "RAILCAR,".
- 7 Page 3, line 17, after the period insert "GASOLINE IN ANY RAILCAR IS NOT
8 IN THE BULK TRANSFER AND TERMINAL SYSTEM UNLESS IT IS BEING
9 TRANSFERRED FROM A REFINERY TO A TERMINAL OPERATED BY THE
10 REFINER."
- 11 Page 3, line 24, strike "OR TERMINAL OPERATOR".
- 12 Page 3, lines 25 and 26, strike "OR TERMINAL OPERATOR".
- 13 Page 4, line 9, after "product" insert "ONCE".
- 14 Page 4, after line 21 insert:
15 "(32) "Terminal" means a gasoline or special fuel storage and
16 distribution facility that is supplied by a pipeline, vessel, or refinery, A

- 1 STORAGE AND DISTRIBUTION FACILITY OPERATED BY A REFINER AND
2 SUPPLIED BY A RAILCAR, or a tank farm from which gasoline or special
3 fuel may be removed for distribution."
- 4 Page 6, line 14, strike "IMPORT" and substitute "ACQUISITION, SALE,
5 IMPORT,".
- 6 Page 6, line 15, strike "TO OR FROM" and substitute "TO, FROM, OR
7 WITHIN".
- 8 Page 6, line 16, strike "IMPORTING" and substitute "ACQUIRING,
9 IMPORTING,".
- 10 Page 7, lines 2 and 3, strike "thereof for calendar years beginning on and
11 after January 1, 1992." and substitute "thereof. ~~for calendar years~~
12 ~~beginning on and after January 1, 1992.~~".
- 13 Page 8, line 12, strike "(A)".
- 14 Page 8, line 13, after "the" insert "TAX IS IMPOSED UPON THE PERSON FIRST
15 RECEIVING THE GASOLINE OR SPECIAL FUEL AT THE TERMINAL EVEN IF
16 SUCH PERSON IS ALSO THE SUPPLIER. IN THE CASE OF GASOLINE OR SPECIAL
17 FUEL REMOVED FROM A TERMINAL BY A COMMON CARRIER, THE
18 CONSIGNOR WHO OWNS THE GASOLINE OR SPECIAL FUEL REMOVED BY THE
19 COMMON CARRIER IS DEEMED TO BE THE REMOVER AND FIRST RECIPIENT
20 THEREOF. THE".
- 21 Page 8, line 27, strike "(1)(b)(I)(A)" and substitute "(1)(b)(I)".
- 22 Page 9, strike lines 2 through 20.
- 23 Page 12, lines 9 and 10, strike "DISTRIBUTOR FROM WHOM THE
24 DISTRIBUTOR ACQUIRED THE GASOLINE OR SPECIAL FUEL," and substitute
25 "DISTRIBUTOR,".
- 26 Page 14, line 10, strike "OR REQUIRED TO COLLECT".
- 27 Page 17, line 5, strike "OR TERMINAL OPERATOR".
- 28 Page 17, line 8, strike "EXCEPT AS".



- 1 Page 17, strike lines 9 through 13.
- 2 Page 18, line 9, strike "39-27-103 IF THE GASOLINE OR SPECIAL FUEL" and
3 substitute "39-27-103."
- 4 Page 18, strike lines 10 through 12.
- 5 Page 20, line 3, strike "OR TERMINAL OPERATOR".
- 6 Page 20, line 5, strike "OR TERMINAL OPERATOR".
- 7 Page 20, strike lines 10 through 12 and substitute "PAID UNDER THIS
8 ARTICLE 27 BY A LICENSED DISTRIBUTOR,".
- 9 Page 20, lines 21 and 22, strike "OR TERMINAL OPERATOR".
- 10 Page 20, strike lines 24 through 26 and substitute "~~special fuel ex-tax,~~
11 ~~together with the distributor's name and address and such other~~
12 ~~information as the executive director may require~~ IS EXEMPT FROM TAX
13 UNDER THIS SECTION."
- 14 Page 27, line 23, strike "(1)(h)(V), (2)(a)(I)(A)," and substitute "and
15 (1)(h)(V);".
- 16 Page 27 strike line 24 and substitute "**repeal** (2.5) and (3); and **add** (2)(f),
17 (2)(g), (2.1)(d), and (2.1)(e) as".
- 18 Page 30, strike line 27.
- 19 Strike pages 31 and 32.
- 20 Page 33, strike lines 1 through 12 and substitute:
- 21 "(2) (f) THE EXECUTIVE DIRECTOR SHALL NOT REQUIRE A DEPOSIT
22 UNDER THIS SUBSECTION (2) AFTER DECEMBER 31, 2021. THE EXECUTIVE
23 DIRECTOR SHALL SURRENDER ANY SURETY BOND OR CERTIFICATE OF
24 DEPOSIT IN HIS OR HER POSSESSION ON THAT DATE NO LATER THAN MARCH
25 31, 2022, OR AS SOON THEREAFTER AS THE EXECUTIVE DIRECTOR IS
26 SATISFIED THAT ALL LIABILITY THEREUNDER HAS BEEN FULLY
27 DISCHARGED.
- 28 (g) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE DECEMBER 31,



1 2022.

2 (2.1) (d) THE EXECUTIVE DIRECTOR SHALL NOT REQUIRE A DEPOSIT
3 UNDER THIS SUBSECTION (2.1) AFTER DECEMBER 31, 2021. THE
4 EXECUTIVE DIRECTOR SHALL SURRENDER ANY SURETY BOND OR
5 CERTIFICATE OF DEPOSIT IN HIS OR HER POSSESSION ON THAT DATE NO
6 LATER THAN MARCH 31, 2022, OR AS SOON THEREAFTER AS THE
7 EXECUTIVE DIRECTOR IS SATISFIED THAT ALL LIABILITY THEREUNDER HAS
8 BEEN FULLY DISCHARGED.

9 (e) THIS SUBSECTION (2.1) IS REPEALED, EFFECTIVE DECEMBER 31,
10 2022.

11 ~~(2.5) (a) Notwithstanding the provisions of subsection (2) of this~~
12 ~~section, a distributor or refiner who has been licensed in this state for five~~
13 ~~consecutive years and who, during this period, has not been delinquent in~~
14 ~~the payment of taxes imposed under this part 1 shall be exempt from the~~
15 ~~requirement to file a bond or any other evidence of financial~~
16 ~~responsibility meeting the requirements of section 11-35-101, C.R.S.~~

17 ~~(b) If any delinquency in the payment of taxes imposed under this~~
18 ~~part 1 subsequently occurs, the executive director may reinstate the~~
19 ~~requirement of a bond or any other evidence of financial responsibility~~
20 ~~meeting the requirements of section 11-35-101, C.R.S., as a condition of~~
21 ~~licensure."~~

22 Page 35, line 9, after "BLENDER;" insert "AND".

23 Page 35, strike lines 10 through 14.

24 Page 37, strike lines 18 through 27.

25 Page 38, strike lines 1 through 3.

26 Page 38, lines 5 and 6, strike "OR TERMINAL OPERATOR".

27 Page 38, line 7, strike "PAYMENT OR collection" and substitute "collection
28 PAYMENT".

29 Page 38, line 11, strike "OR TERMINAL OPERATOR".

30 Page 38, strike lines 16 through 24 and substitute:

31 "(c) (I) IF ANY PERSON FAILS TO FILE ANY RETURN OR STATEMENT
32 WHEN DUE AS PROVIDED IN THIS SECTION, THE EXECUTIVE DIRECTOR



1 SHALL IMPOSE AND COLLECT A PENALTY OF ONE HUNDRED DOLLARS.
2 (II) IF ANY PERSON FAILS TO PAY THE TAX WHEN DUE AS PROVIDED
3 IN THIS SECTION, THE EXECUTIVE DIRECTOR SHALL IMPOSE AND COLLECT
4 a penalty of thirty dollars or ten percent of the tax due, plus one-half of
5 one percent per month from the date when due, not to exceed eighteen
6 percent in the aggregate, whichever is greater, ~~shall be imposed for failure~~
7 ~~to file any statement when due or pay the tax as provided in this section;~~
8 in addition to any other penalties provided by this part 1. THE EXECUTIVE
9 DIRECTOR SHALL ALSO COLLECT INTEREST AT THE RATE IMPOSED UNDER
10 SECTION 39-21-110.5.
11 (III) IF THE PENALTIES PROVIDED FOR IN SUBSECTION (2)(c)(I) and
12 (2)(c)(II) BOTH APPLY, THEN THE EXECUTIVE DIRECTOR SHALL IMPOSE AND
13 COLLECT ONLY THE LARGER OF THE TWO PENALTIES. THE EXECUTIVE
14 DIRECTOR MAY WAIVE, FOR GOOD CAUSE SHOWN, ANY PENALTY OR
15 INTEREST ADDED PURSUANT TO THIS SUBSECTION (2)(c)."

16 Page 38, after line 24 insert:

17 "(d) (I) THE EXECUTIVE DIRECTOR SHALL WAIVE THE PENALTIES
18 IMPOSED UNDER SUBSECTION (2)(c) OF THIS SECTION FOR TAX PERIODS
19 BETWEEN JANUARY 1, 2022, AND DECEMBER 31, 2022, IF THE
20 DISTRIBUTOR DEMONSTRATES A GOOD-FAITH EFFORT TO COMPLY WITH
21 THE CHANGES MADE BY HOUSE BILL 21-1322, ENACTED 2021, TO THE
22 SATISFACTION OF THE EXECUTIVE DIRECTOR; AMENDS ANY RETURNS
23 FILED; AND PAYS ANY TAX DEFICIENCY RESULTING FROM THOSE AMENDED
24 RETURNS ON OR BEFORE MARCH 31, 2023.

25 (II) THIS SUBSECTION (2)(d) IS REPEALED, EFFECTIVE JULY 1,
26 2026."

27 Page 41, line 17, strike "OR TERMINAL OPERATOR".

28 Page 41, line 19, strike "OR TERMINAL OPERATOR".

29 Page 41, line 23, strike "distributor, TERMINAL OPERATOR," and substitute
30 "distributor".

31 Page 42, lines 6 and 7, strike "OR TERMINAL OPERATOR".

32 Page 44, strike lines 2 through 23 and substitute:

33 "SECTION 9. In Colorado Revised Statutes, **repeal** 39-27-106



1 as follows:
2 **39-27-106. Distributor trustee of tax.** Every distributor who sells
3 any gasoline or special fuel for any purpose that is subject to the tax
4 imposed by this part 1 shall collect from the purchaser the amount of
5 excise tax thereon, and any sums of money paid by the purchaser to the
6 distributor as gasoline or special fuel taxes shall be and remain public
7 money, the property of the state in the hands of such distributor, and such
8 distributor shall hold the same in trust for the sole use and benefit of the
9 state until paid to the executive director of the department of revenue as
10 provided in this part 1. Any distributor who willfully fails or refuses upon
11 demand to pay over to the executive director the moneys paid to the
12 distributor as gasoline or special fuel taxes that are by this part 1 declared
13 to be trust funds in the distributor's hands and the property of the state of
14 Colorado or who fraudulently withholds, converts to such distributor's
15 own use, or appropriates or otherwise uses such moneys or any part
16 thereof belonging to the state shall be punished as provided by section
17 39-21-118."

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