

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-1006.01 Ed DeCecco x4216

HOUSE BILL 21-1322

HOUSE SPONSORSHIP

Snyder and Titone, Bernett, Boesenecker, Hooton, Lontine, Ortiz, Ricks

SENATE SPONSORSHIP

Pettersen, Moreno

House Committees

Transportation & Local Government

Senate Committees

Finance

A BILL FOR AN ACT

101 **CONCERNING THE RESTRUCTURING OF THE GASOLINE AND SPECIAL**
102 **FUEL TAX.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill restructures the excise tax on gasoline and special fuel (fuels) by:

- Imposing the tax when it is imported into the state or removed from any terminal in the state, in addition to the existing points of taxation;
- Eliminating the 3 tax deferred transactions;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
June 3, 2021

SENATE
2nd Reading Unamended
June 2, 2021

HOUSE
3rd Reading Unamended
June 1, 2021

HOUSE
Amended 2nd Reading
May 28, 2021

- Exempting the tax from the import or removal of fuels by bulk transfer to or from a terminal or refinery in certain circumstances;
- Permitting the 2% allowance to cover losses for terminals that are outside of the state;
- Requiring a terminal operator to verify that the person receiving the fuels is a licensee or is exempt from taxation;
- If the purchaser is not a licensee or exempt from taxation, requiring the terminal operator to collect the tax, which the terminal operator holds in trust for the state, and establishing that the terminal operator is liable and responsible for the tax;
- Specifying when the tax is imposed on an importer, blender, seller of liquefied petroleum gas or natural gas, user, and other distributor;
- Harmonizing provisions applicable to the exemption for governments;
- Explicitly identifying certain fuels used in aircrafts as being exempt;
- Codifying that a distributor has the burden of proving that fuels are exempt;
- Codifying the exemption for the removal of fuels from a terminal by a licensed exporter exclusively for delivery to another state;
- Requiring a terminal operator to be licensed, which is the current practice;
- Consolidating the penalties for acting without a license;
- Making conforming changes related to the aforementioned changes;
- Reorganizing and relocating provisions; and
- Modernizing language.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 39-27-101, **amend**
 3 (4), (5), (12), (14), (17) and (32); and **add** (4.1), (4.2), (9.5), and (26.5)
 4 as follows:

5 **39-27-101. Definitions - construction.** As used in this part 1,
 6 unless the context otherwise requires:

7 (4) "Blender" means a person who produces blended gasoline or

1 blended special fuel outside of the ~~gasoline or special fuel distribution~~
2 ~~system consisting of refineries, pipelines, vessels, and terminals.~~ For
3 ~~purposes of this subsection (4), gasoline in a refinery, pipeline, vessel, or~~
4 ~~terminal is in the gasoline distribution system, and special fuel in a~~
5 ~~refinery, pipeline, vessel, or terminal is in the special fuel distribution~~
6 ~~system. Gasoline or special fuel in the tank of any vehicle or in any~~
7 ~~railcar, trailer, truck, or other equipment suitable for ground~~
8 ~~transportation is not in the gasoline or special fuel distribution system,~~
9 ~~respectively~~ BULK TRANSFER AND TERMINAL SYSTEM.

10 (4.1) "BULK TRANSFER" MEANS ANY TRANSFER OF GASOLINE OR
11 SPECIAL FUEL BY PIPELINE OR VESSEL AND ANY TRANSFER OF GASOLINE OR
12 SPECIAL FUEL BY RAILCAR FROM A REFINERY TO A TERMINAL OPERATED BY
13 THE REFINER.

14 (4.2) "BULK TRANSFER AND TERMINAL SYSTEM" MEANS THE
15 DISTRIBUTION SYSTEM FOR GASOLINE AND SPECIAL FUEL CONSISTING OF
16 REFINERIES, PIPELINES, VESSELS, AND TERMINALS. GASOLINE OR SPECIAL
17 FUEL IN THE TANK OF ANY VEHICLE OR IN ANY TRAILER, TRUCK, OR
18 OTHER EQUIPMENT SUITABLE FOR GROUND TRANSPORTATION IS NOT IN THE
19 BULK TRANSFER AND TERMINAL SYSTEM. GASOLINE IN ANY RAILCAR IS
20 NOT IN THE BULK TRANSFER AND TERMINAL SYSTEM UNLESS IT IS BEING
21 TRANSFERRED FROM A REFINERY TO A TERMINAL OPERATED BY THE
22 REFINER.

23 (5) "Common carrier" or "carrier" means a person, including a
24 railroad operator, who transports gasoline or special fuel from a terminal
25 located in this state or transports gasoline or special fuel imported into
26 this state and who does not own the gasoline or special fuel, BUT DOES
27 NOT INCLUDE TRANSPORTATION BY BULK TRANSFER.

1 (9.5) "EX-TAX" MEANS GASOLINE OR SPECIAL FUEL SOLD BY A
2 DISTRIBUTOR ■ UPON WHICH THE TAX IMPOSED BY THIS PART 1 HAS NOT
3 BEEN PAID, OR FOR WHICH THE DISTRIBUTOR ■ WILL OBTAIN A CREDIT OR
4 REFUND PURSUANT TO SECTION 39-27-102.5.

5 (12) "Gasoline" means any flammable liquid used primarily as a
6 fuel for the propulsion of motor vehicles, motor boats, or aircraft.
7 "Gasoline" does not include diesel engine fuel, kerosene, liquefied
8 petroleum gas, OR natural gas. ~~and products, including kerosene, specially~~
9 ~~prepared, sold, and used in aircraft operated by scheduled air carriers or~~
10 ~~commuter airline operators exempt from the federal aviation fuels tax;~~
11 ~~except that "gasoline" does include products, including kerosene,~~
12 ~~specially prepared, sold, and used in any other aircraft.~~ Except as
13 otherwise provided in this subsection (12), any product ONCE blended
14 with gasoline shall be IS considered gasoline for purposes of the excise
15 tax imposed pursuant to this part 1.

16 (14) "Importer" means a person who imports gasoline or special
17 fuel ~~in bulk~~ BY BULK TRANSFER or by TRUCK OR RAIL transport load into
18 this state from another state by truck, rail, or pipeline.

19 (17) "Licensee" means any person holding a valid license issued
20 by the department of revenue pursuant to section 39-27-104, to act as a
21 supplier, TERMINAL OPERATOR, importer, exporter, distributor, carrier, or
22 blender.

23 (26.5) "REMOVE" MEANS TO PHYSICALLY TRANSFER GASOLINE OR
24 SPECIAL FUEL. HOWEVER, GASOLINE OR SPECIAL FUEL IS NOT REMOVED
25 WHEN IT EVAPORATES OR IS OTHERWISE LOST OR DESTROYED.

26 (32) "Terminal" means a gasoline or special fuel storage and
27 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 SECTION 2. In Colorado Revised Statutes, 39-27-102, amend
5 (1)(a)(I), (1)(a)(II), (1)(a)(IV), (1)(b), and (2)(a); repeal (1)(a)(V), (2.5),
6 and (9); and add (11) and (12) as follows:

7 39-27-102. Tax imposed on gasoline and special fuel - deposits
8 - penalties. (1) (a) (I) (A) An excise tax is imposed UPON and shall be
9 collected IS REQUIRED TO BE PAID BY A DISTRIBUTOR on all gasoline or
10 special fuel acquired IN, sold ~~offered for sale~~ IN, IMPORTED INTO,
11 REMOVED FROM ANY TERMINAL IN, or used in this state for any purpose
12 whatsoever, but only one tax shall be IS REQUIRED TO BE paid upon the
13 same gasoline or special fuel in this state. ~~Except as otherwise provided~~
14 ~~in this subparagraph (I), no more than three tax-deferred transactions shall~~
15 ~~take place after the gasoline or special fuel has left the terminal of its~~
16 ~~origin, either within or outside of this state; except that, for purposes of~~
17 ~~counting the applicable transactions in order to collect the tax imposed by~~
18 ~~this subparagraph (I), counting shall begin when the gasoline or special~~
19 ~~fuel first enters this state, whether by truck or by rail. If more than three~~
20 ~~distributors acquire the gasoline or special fuel, the third distributor shall~~
21 ~~be liable for payment of the tax imposed. Nothing in this paragraph (a)~~
22 ~~shall preclude previous distributors from paying the tax. A distributor~~
23 ~~shall not be required to pay tax on gasoline or special fuel that is exempt~~
24 ~~pursuant to section 39-27-103 (2). The tax imposed shall be computed~~
25 ~~upon the total amount of gasoline or special fuel, measured in gallons,~~
26 ~~acquired by each distributor in this state and shall be paid in the manner~~
27 ~~provided in this section. For purposes of this sub-subparagraph (A)~~

1 SUBSECTION (1)(a)(I)(A), "special fuel" does not include liquefied
2 petroleum gas.

3 (B) An excise tax is imposed UPON AND IS REQUIRED TO BE PAID
4 BY A DISTRIBUTOR on liquefied petroleum gas when it is placed in a fuel
5 tank, unless the use of the special fuel is exempt. ~~The tax imposed is~~
6 ~~computed upon the total amount of liquefied petroleum gas, measured in~~
7 ~~gallons, that is placed in the fuel tank.~~ If the liquefied petroleum gas is
8 placed in the fuel tank by a distributor, the distributor shall pay the tax to
9 the department of revenue in accordance with this section.

10 (C) If a distributor uses liquefied petroleum gas from a cargo tank
11 to propel a cargo tank motor vehicle on the highways in this state, an
12 excise tax is imposed UPON AND IS REQUIRED TO BE PAID BY A
13 DISTRIBUTOR on the liquefied petroleum gas that is used as special fuel.
14 The liquefied petroleum gas that is carried in the cargo tank but not used
15 as special fuel is not subject to the excise tax. The tax imposed is
16 computed upon an estimate of the total amount of liquefied petroleum
17 gas, measured in gallons, used to propel the cargo tank motor vehicle
18 based on the number of miles that the vehicle traveled. A distributor shall
19 report to the department of revenue the number of miles that the vehicle
20 traveled based on odometer readings. The department shall establish the
21 form to be used to report this information.

22 (D) THE TAX IMPOSED BY THIS SUBSECTION (1)(a)(I) SHALL NOT
23 APPLY TO ANY ACQUISITION, SALE, IMPORT, OR REMOVAL OF GASOLINE OR
24 SPECIAL FUEL BY BULK TRANSFER TO, FROM, OR WITHIN A TERMINAL OR
25 REFINERY IN THIS STATE IF THE PERSON ACQUIRING, IMPORTING, OR
26 REMOVING THE GASOLINE OR SPECIAL FUEL AND THE TERMINAL OPERATOR
27 OR REFINERY ARE LICENSEES. FOR PURPOSES OF THIS SUBSECTION

1 (1)(a)(I)(D), A REFINERY IS A LICENSEE IF THE REFINER IS LICENSED TO ACT
2 AS A TERMINAL OPERATOR OR A SUPPLIER IN THIS STATE.

3 (II) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(IV) OF THIS
4 SECTION, the excise tax imposed on gasoline by ~~subparagraph (I) of this~~
5 ~~paragraph (a) shall be twenty cents per gallon or fraction thereof from~~
6 ~~August 1, 1989, through December 31, 1990, and IS twenty-two cents per~~
7 ~~gallon or fraction thereof. for calendar years beginning on and after~~
8 ~~January 1, 1991.~~

9 (B) The excise tax imposed on special fuel by ~~subparagraph (I) of~~
10 ~~this paragraph (a)~~ SUBSECTION (1)(a)(I) OF THIS SECTION is twenty and
11 one-half cents per gallon or a fraction thereof. ~~for calendar years~~
12 ~~beginning on and after January 1, 1992.~~ This ~~sub-subparagraph (B)~~
13 SUBSECTION (1)(a)(II)(B) does not apply to any special fuel specified in
14 ~~subparagraphs (VI), (VII), and (VIII) of this paragraph (a)~~ SUBSECTIONS
15 (1)(a)(VI), (1)(a)(VII), AND (1)(a)(VIII) OF THIS SECTION.

16 (IV) (A) The excise tax imposed by ~~subparagraph (I) of this~~
17 ~~paragraph (a) shall be~~ SUBSECTION (1)(a)(I) OF THIS SECTION IS six cents
18 per gallon or fraction thereof on gasoline used as fuel for the propulsion
19 of nonturbo-propeller or nonjet engine aircraft and ~~shall be~~ IS four cents
20 per gallon or fraction thereof on gasoline used as fuel for the propulsion
21 of turbo-propeller or jet engine aircraft.

22 (B) ~~The provisions of this subparagraph (IV) shall not apply to~~
23 ~~domestic or foreign part 121 air carriers as defined in section 39-27-101~~
24 ~~(19) or part 135 commuter air carriers as defined in section 39-27-101~~
25 ~~(20) authorized to provide passenger and cargo air transportation services~~
26 ~~pursuant to the regulations of the office of the secretary of transportation~~
27 ~~and federal aviation administration of the United States department of~~

1 transportation. The provisions of this subparagraph (IV) also shall not
2 apply to direct air carriers as defined in section 39-27-101 (6), providing
3 air transportation to authorized public charter operators pursuant to 14
4 CFR 380. For those air carriers that are certificated by the United States
5 department of transportation for both part 121 air carrier operations and
6 part 135 on-demand operations, the provisions of this sub-subparagraph
7 (B) shall not apply to the air carrier's part 135 on-demand operations.

8 (C) Based upon reports submitted by wholesalers or distributors
9 pursuant to the provisions of this article ARTICLE 27, the department of
10 revenue shall compile a monthly report showing the amount of excise
11 taxes collected on gasoline pursuant to the provisions of this
12 subparagraph (IV). Such monthly report shall be transmitted SUBSECTION
13 (1)(a)(IV). THE DEPARTMENT SHALL TRANSMIT THE MONTHLY REPORT to
14 the division of aeronautics created in section 43-10-103 C.R.S., for use
15 by the division in distributing moneys MONEY in the aviation fund in
16 accordance with section 43-10-110. C.R.S.

17 (V) In the case of a user, the tax imposed by this section shall be
18 measured by the gallons of special fuel imported into this state or
19 acquired without payment of the tax imposed by this section and used in
20 the propulsion of a motor vehicle on the highways of this state.

21 (b) (I) [REDACTED] In the case of gasoline or special fuel shipped to a
22 distributor REMOVED from a terminal, the TAX IS IMPOSED UPON THE
23 PERSON FIRST RECEIVING THE GASOLINE OR SPECIAL FUEL AT THE
24 TERMINAL EVEN IF SUCH PERSON IS ALSO THE SUPPLIER. IN THE CASE OF
25 GASOLINE OR SPECIAL FUEL REMOVED FROM A TERMINAL BY A COMMON
26 CARRIER, THE CONSIGNOR WHO OWNS THE GASOLINE OR SPECIAL FUEL
27 REMOVED BY THE COMMON CARRIER IS DEEMED TO BE THE REMOVER AND

1 ~~FIRST RECIPIENT THEREOF. THE~~ amount of gasoline or special fuel
2 ~~acquired~~ REMOVED is deemed to be the amount shipped from the terminal,
3 MEASURED IN GALLONS, as shown by the terminal manifest; except that an
4 allowance of two percent of the total amount of gasoline or special fuel
5 acquired during any calendar month, as shown by terminal manifests,
6 ~~shall be~~ IS deducted by the licensed distributor to cover losses in transit
7 and in unloading the gasoline or special fuel ~~and costs of collection and~~
8 ~~payment to the state of the tax imposed by this section, out of which~~
9 ~~allowance the distributor shall make to each retailer an allowance of one~~
10 ~~percent of the amount of gasoline or special fuel delivered during each~~
11 ~~calendar month by the distributor to the retailer, as shown by delivery~~
12 ~~invoices signed by the retailer, but there is no allowance for liquefied~~
13 ~~petroleum gas OR REMOVAL BY BULK TRANSFER. THE TWO PERCENT~~
14 ALLOWANCE PROVIDED UNDER THIS SUBSECTION (1)(b)(I) IS ALLOWED
15 WHETHER THE TERMINAL IS WITHIN OR WITHOUT THIS STATE.

16 ~~(I)~~

17 (II) ~~The tax imposed by this section is exempted on each recorded~~
18 ~~and reported sale by a distributor to the United States, or any of its~~
19 ~~agencies, and to any town, city, county, city and county, special district,~~
20 ~~or school district when the gasoline or special fuel is used exclusively by~~
21 ~~the governmental entity in performing its governmental functions and~~
22 ~~activities. The exemption applies solely to machines owned or operated~~
23 ~~by the United States or any of its agencies, by the state, or by any town,~~
24 ~~city, county, city and county, school district, or other political division of~~
25 ~~the state. Exemptions for persons conducting business for such~~
26 ~~governmental entities on a contract basis using an aircraft must be based~~
27 ~~solely on the applicable operating certificate of the aircraft operator~~

1 pursuant to sub-subparagraph (B) of subparagraph (IV) of paragraph (a)
2 of this subsection (1). Any governmental entity referred to in this
3 paragraph (b) shall obtain an exemption certificate from the executive
4 director of the department of revenue. Upon receipt of an exemption
5 certificate, a governmental entity may:

6 (A) Purchase gasoline or special fuel from a distributor without
7 payment of the excise tax imposed pursuant to this part 1 if the gasoline
8 or special fuel is used exclusively by the governmental entity in
9 performing its governmental functions and activities.

10 (B) Sell to or purchase gasoline or special fuel from another
11 governmental entity that has a fuel tax exemption certificate, and the
12 transaction is exempt from the excise tax imposed pursuant to this part 1
13 if the gasoline or special fuel is used exclusively by the governmental
14 entity in performing its governmental functions and activities. The
15 governmental entity is required to keep a copy of the fuel tax exemption
16 certificate on file for any entity to which it resells or distributes fuel. A
17 governmental entity that sells gasoline or special fuel pursuant to this
18 sub-subparagraph (B) is not required to be a licensee pursuant to the
19 provisions of section 39-27-104. Sales authorized pursuant to this
20 sub-subparagraph (B) are intended to facilitate intergovernmental
21 efficiencies with respect to sales for individual vehicles or equipment. It
22 is not the intent of this sub-subparagraph (B) for intergovernmental sales
23 to include purchases in excess of five hundred gallons in a single
24 transaction unless required for unusual, unforeseen, or emergency
25 circumstances.

26 (III) IN THE CASE OF GASOLINE OR SPECIAL FUEL IMPORTED INTO
27 THIS STATE, EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(I)(D) OF THIS

1 SECTION, THE TAX IS IMPOSED UPON THE IMPORTER AT THE TIME THE
2 GASOLINE OR SPECIAL FUEL IS FIRST BROUGHT INTO THIS STATE FROM
3 ANOTHER STATE FOR SALE, USE, OR STORAGE AND IS MEASURED BY THE
4 NUMBER OF GALLONS OF GASOLINE OR SPECIAL FUEL IMPORTED.

5 (IV) IN THE CASE OF LIQUEFIED PETROLEUM GAS OR NATURAL GAS
6 SOLD BY A VENDOR OR BY A DISTRIBUTOR DESCRIBED IN SECTION
7 39-27-101 (7)(a)(V), OR USED BY A PRIVATE COMMERCIAL FLEET
8 OPERATOR, THE TAX IS IMPOSED UPON THE VENDOR, DISTRIBUTOR, OR
9 PRIVATE COMMERCIAL FLEET OPERATOR AT THE TIME OF SUCH SALE OR
10 USE AND IS MEASURED BY THE NUMBER OF GALLONS PLACED INTO A FUEL
11 TANK OR RECEPTACLE FROM WHICH A FUEL TANK IS SUPPLIED.

12 (V) IN THE CASE OF BLENDED GASOLINE OR BLENDED SPECIAL FUEL
13 SOLD BY A BLENDER THEREOF, THE TAX IS IMPOSED UPON THE BLENDER AT
14 THE TIME OF SALE. IF THE BLENDER ESTABLISHES THAT A TAX WAS
15 IMPOSED AND PAID UNDER THIS SECTION, BY THE BLENDER OR BY A
16 LICENSED DISTRIBUTOR FROM WHOM THE BLENDER ACQUIRED THE
17 GASOLINE OR SPECIAL FUEL, THE AMOUNT OF TAX SO PAID IS ALLOWED AS
18 A CREDIT AGAINST THE TAX IMPOSED BY REASON OF THIS SUBSECTION
19 (1)(b)(V).

20 (VI) IN THE CASE OF A USER, THE TAX IMPOSED BY THIS SECTION
21 IS MEASURED BY THE GALLONS OF SPECIAL FUEL IMPORTED INTO THIS
22 STATE OR ACQUIRED WITHOUT PAYMENT OF THE TAX IMPOSED BY THIS
23 SECTION AND USED IN THE PROPULSION OF A MOTOR VEHICLE ON THE
24 HIGHWAYS OF THIS STATE.

25 (VII) IN ANY OTHER CASE, THE TAX IMPOSED BY THIS SECTION IS
26 IMPOSED UPON THE ACQUISITION BY EACH DISTRIBUTOR AND COMPUTED
27 UPON THE TOTAL AMOUNT OF GASOLINE OR SPECIAL FUEL, MEASURED IN

1 GALLONS, ACQUIRED BY EACH DISTRIBUTOR IN THIS STATE AND IS
2 REQUIRED TO BE PAID IN THE MANNER PROVIDED IN THIS PART 1. IF THE
3 DISTRIBUTOR ESTABLISHES THAT A TAX WAS IMPOSED BY THIS SECTION
4 UPON THE GASOLINE OR SPECIAL FUEL ACQUIRED AND PAID BY A LICENSED
5 DISTRIBUTOR, THE AMOUNT OF TAX SO PAID IS ALLOWED AS A CREDIT
6 AGAINST THE TAX IMPOSED BY REASON OF THIS SUBSECTION (1)(b)(VII).

7 (2) (a) Except as set forth in section 39-27-102.5 (9), every person
8 who uses any gasoline or special fuel for propelling a motor vehicle on
9 the public highways of this state, ~~or who is licensed to import any~~
10 ~~gasoline or special fuel into this state for use or sale in this state,~~ upon
11 which gasoline or special fuel a licensed distributor has not paid or is not
12 liable to pay the tax imposed in this section, is deemed to be a distributor
13 and is liable for and shall pay an excise tax at a rate established by
14 ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this section on all
15 such gasoline or special fuel so used ~~or imported for use or sale,~~ in this
16 state. Such person shall pay such tax to the department of revenue
17 ~~pursuant to section 39-27-105.3~~ IN THE SAME MANNER AS A DISTRIBUTOR
18 UNDER SECTION 39-26-105, on or before the twenty-sixth day of the
19 calendar month following the month in which such gasoline or special
20 fuel was used ~~or imported~~ and shall, at the time of payment, render to the
21 department, on forms provided by it, an itemized statement, signed under
22 the penalties of perjury in the second degree, as defined in section
23 18-8-503, ~~C.R.S.~~, of all such gasoline or special fuel so used or imported
24 during such preceding calendar month. When such gasoline or special
25 fuel is delivered from a terminal in a carload lot, the quantity thereof and
26 the amount of tax thereon ~~shall be~~ IS computed in the same manner as in
27 the case of a distributor.

1 ~~(2.5) Except as otherwise provided in paragraph (b) of subsection~~
2 ~~(2) of this section, every person who imports gasoline or special fuel~~
3 ~~other than liquefied petroleum gas into this state for use or sale in this~~
4 ~~state without a valid importer, supplier, blender, or distributor license is~~
5 ~~liable for and shall pay an excise tax pursuant to paragraph (a) of~~
6 ~~subsection (1) of this section on all gasoline or special fuel such person~~
7 ~~imports for use or sale in this state. In addition to the excise tax, such~~
8 ~~person shall be subject to the civil penalties set forth in subsection (9) of~~
9 ~~this section. Every person who imports liquefied petroleum gas into this~~
10 ~~state without a valid importer, supplier, or distributor license is subject to~~
11 ~~the civil penalties set forth in subsection (9) of this section. Immediately~~
12 ~~upon discovery of a violation of this subsection (2.5), the department of~~
13 ~~revenue and agents thereof may demand payment of such excise tax, if~~
14 ~~owed, and all applicable fines associated with the unlicensed importation~~
15 ~~of gasoline or special fuel and may detain the shipment of gasoline or~~
16 ~~special fuel until such excise tax and fines are collected.~~

17 ~~(9) (a) Any person who imports or distributes gasoline or special~~
18 ~~fuel into this state without a license shall be subject to the following civil~~
19 ~~penalties:~~

20 ~~(I) A five-thousand-dollar fine for the first violation;~~

21 ~~(II) A ten-thousand-dollar fine for the second violation;~~

22 ~~(III) A fifteen-thousand-dollar fine for a third or subsequent~~
23 ~~violation.~~

24 ~~(b) The executive director of the department of revenue is~~
25 ~~authorized to waive, for good cause shown, any civil penalty assessed~~
26 ~~pursuant to this subsection (9).~~

27 ~~(c) All moneys collected pursuant to this subsection (9) shall be~~

1 ~~credited to the highway users tax fund, created in section 43-4-201,~~
2 ~~C.R.S., and allocated and expended as specified in section 43-4-205~~
3 ~~(5.5)(a), C.R.S.~~

4 (11) THE TAX IMPOSED BY THIS SECTION IS A DEBT OWED TO THIS
5 STATE. EVERY PERSON SUBJECT TO IT SHALL PAY THE TAX IMPOSED BY
6 THIS SECTION IN THE MANNER PRESCRIBED BY THIS PART 1 IRRESPECTIVE
7 OF WHEN PAYMENT IS RECEIVED BY SUCH PERSON FOR THE AMOUNT OF
8 ANY INVOICE FOR THE SALE OF GASOLINE OR SPECIAL FUEL INCLUDING THE
9 TAX THEREON.

10 (12) ON AND AFTER JANUARY 1, 2022, NO SUPPLIER, DISTRIBUTOR,
11 IMPORTER, OR TERMINAL OPERATOR MAY SELL GASOLINE OR SPECIAL FUEL
12 ON A TAX-DEFERRED OR TAX-EXEMPT BASIS, EXCEPT AS PROVIDED IN
13 SECTION 39-27-102.5.

14 **SECTION 3.** In Colorado Revised Statutes, 39-27-102.5, **amend**
15 (1.5), (2)(a), (2)(b)(II), (2)(b)(III), and (3); and **add** (2.5) and (10) as
16 follows:

17 **39-27-102.5. Exemptions on tax imposed - ex-tax purchases -**
18 **definition.** (1.5) Except as otherwise provided in ~~paragraphs (a) and (b)~~
19 ~~of subsection (2) of this section, paragraph (b) of subsection (3) of this~~
20 ~~section, and section 39-27-102 (1)(b),~~ DIESEL ENGINE FUEL AND
21 KEROSENE IS PRESUMED TO BE FOR USE FOR A TAXABLE PURPOSE UNLESS
22 indelible dye meeting federal regulations ~~must be~~ IS added to ~~special fuel~~
23 THE DIESEL ENGINE FUEL OR KEROSENE before or upon ~~withdrawal at~~
24 REMOVAL FROM a terminal. ~~or refinery rack for that~~ SUCH DYED special
25 fuel ~~to be~~ IS exempt from the excise tax imposed pursuant to this part 1.
26 ~~Such~~ THE tax-exempt special fuel shall not be used for taxable purposes;
27 except that dyed special fuel may be used for a taxable purpose to the

1 extent that such use is allowed under federal law or regulations with such
2 fuel being subject to the excise tax imposed pursuant to this part 1. For
3 purposes of this subsection (1.5), "taxable purpose" means any use on
4 which an excise tax on special fuel is imposed pursuant to this part 1. The
5 terminal operator shall ensure that tax-exempt special fuel is dyed before
6 it leaves the terminal. ~~The EVERY seller THEREAFTER shall give notice to~~
7 ~~the ANY purchaser in accordance with federal regulations that the dyed~~
8 ~~special fuel is not legal for taxable use~~ MAY NOT BE USED FOR A TAXABLE
9 PURPOSE.

10 (2) (a) Dyed diesel fuel purchased to propel farm vehicles, when
11 the same are being used on farms and ranches, farm tractors, and
12 implements of husbandry only incidentally operated or moved on a
13 highway, when operated off the public highways, and vehicles or
14 construction equipment operated within the confines of highway
15 construction projects when the same are actually being used in the
16 construction of such highways ~~shall be~~ IS exempt from the excise tax
17 imposed pursuant to this part 1. In accordance with section 39-27-104
18 (1)(d.5), dyed diesel fuel may be blended by a licensed distributor with
19 biodiesel fuel after withdrawal at a terminal ~~or refinery rack~~ up to the
20 maximum federally allowable blend. Such blended special fuel ~~shall be~~
21 IS exempt from the excise tax imposed pursuant to this part 1, so long as
22 it is purchased for the purposes set forth in this ~~paragraph (a)~~ SUBSECTION
23 (2)(a). A person who purchases undyed special fuel for the purposes set
24 forth in this ~~paragraph (a)~~ SUBSECTION (2)(a) may, in accordance with
25 section 39-27-103, apply to the department of revenue for a refund of the
26 excise tax paid thereon.

27 (b) (II) ~~Dyed diesel~~ GASOLINE AND SPECIAL FUEL purchased by

1 THE UNITED STATES OR ANY OF ITS AGENCIES, the state of Colorado OR
2 any of its agencies, any town, city, county, city and county, school district
3 of this state, or any other political subdivision of this state ~~shall be~~ IS
4 exempt from the excise tax imposed pursuant to this part 1, REGARDLESS
5 OF WHETHER THE SPECIAL FUEL IS DYED PURSUANT TO SUBSECTION (1.5)
6 OF THIS SECTION, if the GASOLINE OR special fuel is used exclusively by
7 the governmental entity in performing its governmental functions and
8 activities. ~~A person who purchases dyed diesel fuel for the purposes set~~
9 ~~forth in this subparagraph (H) may, in accordance with section 39-27-103,~~
10 ~~apply to the department of revenue for a refund of the excise tax paid~~
11 ~~thereon.~~ THIS EXEMPTION ONLY APPLIES IF THE GASOLINE OR SPECIAL FUEL
12 PURCHASED BY THE GOVERNMENTAL ENTITY IS USED IN MACHINES OWNED
13 OR OPERATED BY THE GOVERNMENTAL ENTITY. EXEMPTIONS FOR PERSONS
14 CONDUCTING BUSINESS FOR THE GOVERNMENTAL ENTITIES ON A
15 CONTRACT BASIS USING AN AIRCRAFT MUST BE BASED SOLELY ON THE
16 APPLICABLE OPERATING CERTIFICATE OF THE AIRCRAFT OPERATOR
17 PURSUANT TO SUBSECTION (2.5) OF THIS SECTION.

18 (III) (A) Any ~~state or local~~ governmental entity referred to in
19 ~~subparagraph (H) of this paragraph (b)~~ SUBSECTION (2)(b)(II) OF THIS
20 SECTION may obtain an exemption certificate from the executive director
21 of the department of revenue pursuant to subsection (3) of this section.
22 ~~Upon receipt of an exemption certificate, such governmental entity may~~
23 ~~purchase from a distributor undyed special fuel without payment of the~~
24 ~~excise tax imposed pursuant to this part 1 if the special fuel is used~~
25 ~~exclusively by the governmental entity in performing its governmental~~
26 ~~functions and activities.~~

27 (B) A DISTRIBUTOR MAY SELL EX-TAX GASOLINE OR SPECIAL

1 FUEL TO A GOVERNMENTAL ENTITY WITH A VALID EXEMPTION
2 CERTIFICATE, REGARDLESS OF WHETHER THE SPECIAL FUEL IS DYED
3 PURSUANT TO SUBSECTION (1.5) OF THIS SECTION. ■ ■

4 (C) A GOVERNMENTAL ENTITY WITH A VALID EXEMPTION
5 CERTIFICATE MAY SELL TO OR PURCHASE GASOLINE OR SPECIAL FUEL FROM
6 ANOTHER GOVERNMENTAL ENTITY THAT ALSO HAS A VALID TAX
7 EXEMPTION CERTIFICATE. THE GASOLINE OR SPECIAL FUEL MUST BE USED
8 EXCLUSIVELY BY THE PURCHASING GOVERNMENTAL ENTITY IN
9 PERFORMING ITS GOVERNMENTAL FUNCTIONS AND ACTIVITIES IN
10 MACHINES OWNED OR OPERATED BY THE GOVERNMENTAL ENTITY. A
11 GOVERNMENTAL ENTITY IS REQUIRED TO KEEP A COPY OF THE FUEL TAX
12 EXEMPTION CERTIFICATE ON FILE FOR ANY ENTITY TO WHICH IT RESELLS
13 OR DISTRIBUTES FUEL. A GOVERNMENTAL ENTITY THAT SELLS GASOLINE
14 OR SPECIAL FUEL PURSUANT TO THIS SUBSECTION (2)(b)(III)(C) IS NOT
15 REQUIRED TO BE A LICENSEE PURSUANT TO SECTION 39-27-104. SALES
16 AUTHORIZED PURSUANT TO THIS SUBSECTION (2)(b)(III)(C) ARE INTENDED
17 TO FACILITATE INTERGOVERNMENTAL EFFICIENCIES WITH RESPECT TO
18 SALES FOR INDIVIDUAL VEHICLES OR EQUIPMENT. THIS SUBSECTION
19 (2)(b)(III)(C) DOES NOT APPLY TO INTERGOVERNMENTAL SALES IN EXCESS
20 OF FIVE HUNDRED GALLONS IN A SINGLE TRANSACTION UNLESS REQUIRED
21 FOR UNUSUAL, UNFORESEEN, OR EMERGENCY CIRCUMSTANCES.

22 (D) IN THE CASE OF GASOLINE OR SPECIAL FUEL ACQUIRED BY A
23 GOVERNMENTAL ENTITY UPON WHICH THE TAX IMPOSED BY THIS PART 1
24 WAS PAID, THE GOVERNMENTAL ENTITY MAY APPLY TO THE DEPARTMENT
25 OF REVENUE FOR A REFUND OF THE EXCISE TAX PAID THEREON IN
26 ACCORDANCE WITH SECTION 39-27-103. ■

27 (2.5) (a) (I) PRODUCTS, INCLUDING KEROSENE, SPECIALLY

1 PREPARED, SOLD, AND USED IN AIRCRAFT OPERATED BY SCHEDULED AIR
2 CARRIERS OR COMMUTER AIRLINE OPERATORS EXEMPT FROM THE FEDERAL
3 AVIATION FUELS TAX ARE EXEMPT FROM THE TAX IMPOSED PURSUANT TO
4 THIS PART 1.

5 (II) GASOLINE USED BY DOMESTIC OR FOREIGN PART 121 AIR
6 CARRIERS OR PART 135 COMMUTER AIR CARRIERS AUTHORIZED TO
7 PROVIDE PASSENGER AND CARGO AIR TRANSPORTATION SERVICES
8 PURSUANT TO THE REGULATIONS OF THE OFFICE OF THE SECRETARY OF
9 TRANSPORTATION AND FEDERAL AVIATION ADMINISTRATION OF THE
10 UNITED STATES DEPARTMENT OF TRANSPORTATION IS EXEMPT FROM THE
11 TAX IMPOSED PURSUANT TO THIS PART 1. FOR THOSE AIR CARRIERS THAT
12 ARE CERTIFICATED BY THE UNITED STATES DEPARTMENT OF
13 TRANSPORTATION FOR BOTH PART 121 AIR CARRIER OPERATIONS AND PART
14 135 ON-DEMAND OPERATIONS, THE PROVISIONS OF THIS SUBSECTION
15 (2.5)(a)(II) SHALL NOT APPLY TO THE AIR CARRIER'S PART 135 ON-DEMAND
16 OPERATIONS.

17 (III) GASOLINE USED BY DIRECT AIR CARRIERS PROVIDING AIR
18 TRANSPORTATION TO AUTHORIZED PUBLIC CHARTER OPERATORS
19 PURSUANT TO 14 CFR 380 IS EXEMPT FROM THE TAX IMPOSED PURSUANT
20 TO THIS PART 1.

21 (b) A DISTRIBUTOR OR TERMINAL OPERATOR MAY SELL EX-TAX
22 GASOLINE OR SPECIAL FUEL TO AN AIR CARRIER DESCRIBED IN THIS
23 SUBSECTION (2.5). IN THE CASE OF GASOLINE OR SPECIAL FUEL ACQUIRED
24 BY AN AIR CARRIER DESCRIBED IN THIS SUBSECTION (2.5) UPON WHICH THE
25 TAX IMPOSED BY THIS PART 1 WAS PAID, THE AIR CARRIER MAY APPLY TO
26 THE DEPARTMENT OF REVENUE FOR A REFUND OF THE EXCISE TAX PAID
27 THEREON IN ACCORDANCE WITH SECTION 39-27-103.

1 (c) NOTHING IN THIS SUBSECTION (2.5) EXEMPTS SALES OF
2 AVIATION FUEL FROM THE SALES TAX IMPOSED UNDER ARTICLE 26 OF THIS
3 TITLE 39.

4 (3) (a) ~~The tax collected by the distributor pursuant to this section~~
5 ~~is deemed to have been received by the distributor at the time the fuel is~~
6 ~~acquired or, in the case of liquefied petroleum gas, at the time the fuel is~~
7 ~~placed in a fuel tank or used to propel a cargo tank motor vehicle,~~
8 ~~irrespective of when payment is received by the distributor for the amount~~
9 ~~of the invoice, including the tax, and the tax required to be collected by~~
10 ~~the distributor constitutes a debt owed by the distributor to this state.~~

11 (b) (I) The executive director of the department of revenue shall
12 issue an exemption certificate to a user of GASOLINE OR special fuel to
13 purchase ~~undyed~~ EX-TAX GASOLINE OR special fuel ~~from a distributor~~
14 ~~without payment of the tax~~ if ~~such~~ THE user is exempt under ~~the~~
15 ~~provisions of paragraph (b) of subsection (2)~~ SUBSECTION (2) OR (2.5) of
16 this section.

17 (II) A DISTRIBUTOR ■ MAY SELL EX-TAX GASOLINE OR SPECIAL
18 FUEL PURSUANT TO SUBSECTIONS (2) AND (2.5) OF THIS SECTION. THE
19 DISTRIBUTOR ■ MAY CLAIM A CREDIT AGAINST THE TAX ACCRUED AND
20 PAYABLE FOR TAXES DUE ON EX-TAX GASOLINE OR SPECIAL FUEL OR FOR
21 TAXES PAID ON EX-TAX GASOLINE OR SPECIAL FUEL BY SUCH DISTRIBUTOR
22 IN A PRIOR TAXABLE PERIOD. IF THE DISTRIBUTOR ESTABLISHES THAT A
23 TAX WAS IMPOSED AND PAID UNDER THIS ARTICLE 27 BY A LICENSED
24 DISTRIBUTOR, SPECIAL FUEL IS ALLOWED AS A CREDIT ON THE
25 DISTRIBUTOR'S NEXT RETURN. TO THE EXTENT THE CREDIT EXCEEDS THE
26 TAX DUE, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
27 SHALL ISSUE A REFUND OF SUCH EXCESS. THE MANIFEST, BILL OF LADING,

1 INVOICE, OR OTHER SIMILAR DOCUMENT ISSUED BY THE SUPPLIER,
2 IMPORTER, OR DISTRIBUTOR MUST STATE THAT THE GASOLINE OR SPECIAL
3 FUEL IS SOLD ON AN EX-TAX BASIS.

4 (c) With each sale of GASOLINE OR special fuel made without
5 payment of the tax pursuant to this subsection (3), the distributor shall
6 secure evidence that the user ~~has authorization from the executive director~~
7 ~~of the department of revenue to purchase special fuel ex-tax, together~~
8 ~~with the distributor's name and address and such other information as the~~
9 ~~executive director may require~~ IS EXEMPT FROM TAX UNDER THIS SECTION.

10 (d) A DISTRIBUTOR HAS THE BURDEN OF PROVING THAT GASOLINE
11 OR SPECIAL FUEL IS EXEMPT FROM TAX PURSUANT TO THIS SECTION. THE
12 DEPARTMENT OF REVENUE MAY PRESCRIBE REASONABLE REQUIREMENTS
13 OF PROOF FOR THE EXEMPTION.

14 (10) GASOLINE OR SPECIAL FUEL REMOVED FROM A TERMINAL BY
15 A LICENSED EXPORTER EXCLUSIVELY FOR DELIVERY TO ANOTHER STATE
16 IS EXEMPT FROM THE TAX IMPOSED BY THIS PART 1.

17 **SECTION 4.** In Colorado Revised Statutes, 39-27-103, **amend**
18 (1), (1.5), (2), (3)(a)(I), (3)(d), and (3)(e); **repeal** (7); and **add** (2.5) and
19 (2.7) as follows:

20 **39-27-103. Refunds - penalties - checkoff - limits on**
21 **collections.** (1) A credit AGAINST THE TAX ACCRUED OR PAYABLE OR A
22 refund ~~shall be~~ OF TAX PAID IS allowed for the tax ~~paid or accrued~~
23 IMPOSED BY THIS PART 1 on gasoline or special fuel that is lost or
24 destroyed by fire, lightning, flood, windstorm, explosion, accident, or
25 other cause beyond the control of the distributor or transporter of such
26 gasoline or special fuel. This credit or refund ~~shall be~~ IS allowed only on
27 gasoline or special fuel in quantities of one hundred gallons or more lost

1 or destroyed at any one time. Any loss of gasoline or special fuel while
2 in transit or while being loaded or unloaded ~~shall be~~ IS subject to credit
3 or refund under this section. After any such loss or destruction, the
4 distributor or transporter ~~shall~~ MUST notify the executive director of the
5 department of revenue within thirty days of such loss or destruction and,
6 within the same deadline, ~~shall~~ MUST file with the executive director
7 proof sufficient to establish the loss or destruction as the executive
8 director may require. A REFUND OF PREVIOUSLY PAID TAX IS ALLOWED TO
9 THE DISTRIBUTOR OR TRANSPORTER IN CONTROL OF THE GASOLINE OR
10 SPECIAL FUEL AT THE TIME IT IS LOST OR DESTROYED REGARDLESS OF
11 WHETHER SUCH PERSON PAID THE TAX IMPOSED BY THIS PART 1 ON THE
12 GASOLINE OR SPECIAL FUEL LOST OR DESTROYED.

13 (1.5) A refund ~~shall be~~ IS allowed ~~to a distributor~~ for the tax paid
14 on gasoline or special fuel pursuant to ~~the provisions of~~ this part 1 that
15 was erroneously paid due to mistake of fact, law, or computation. ~~A~~
16 ~~distributor~~ THE PERSON who has paid any such tax may, within three years
17 from the date of payment thereof, file with the department of revenue an
18 application for refund of such tax so erroneously paid. ~~Such~~ THE
19 application ~~shall~~ MUST be on such forms as prescribed by the department
20 of revenue. THIS SUBSECTION (1.5) DOES NOT APPLY TO ANY REFUND
21 CLAIMABLE PURSUANT TO SUBSECTION (1), (2), (2.5), OR (3) OF THIS
22 SECTION.

23 (2) UNLESS PURCHASED EX-TAX PURSUANT TO SECTION
24 39-27-102.5 (2)(b), a refund ~~shall be~~ IS made or credit allowed for the tax
25 paid on all gasoline or special fuel that is purchased ~~and used exclusively,~~
26 ~~pursuant to section 39-27-102 (1)(b)~~ by the United States or any of its
27 agencies, ~~or by~~ the state OF COLORADO or ~~by~~ ANY OF ITS AGENCIES, any

1 town, city, county, or ANY other political subdivision of the state.
2 ~~including specifically any school district therein, solely in any machines~~
3 ~~owned or operated by the United States or any of its agencies or by the~~
4 ~~state or by such town, city, county, school district, or other political~~
5 ~~subdivision of the state. Except as provided in section 39-27-102~~
6 ~~(1)(b)(II), for purchases between governmental entities holding gasoline~~
7 ~~or special fuel exemption certificates, EXCEPT AS PROVIDED IN SECTION~~
8 39-27-102.5 (2)(b)(III)(C), THE GASOLINE OR SPECIAL FUEL WITH RESPECT
9 TO WHICH A REFUND IS CLAIMED UNDER THIS SUBSECTION (2) MUST BE
10 USED EXCLUSIVELY BY THE GOVERNMENTAL ENTITY IN PERFORMING ITS
11 GOVERNMENTAL FUNCTIONS AND ACTIVITIES IN ANY MACHINES OWNED OR
12 OPERATED BY THE GOVERNMENTAL ENTITY. Any other use or any resale
13 for any other use is a violation of ~~paragraph (c) of subsection (3)~~
14 SUBSECTION (3)(c) of this section.

15 (2.5) UNLESS PURCHASED EX-TAX PURSUANT TO SECTION
16 39-27-102.5 (2.5), A REFUND IS MADE PURSUANT TO SUBSECTION (3) OF
17 THIS SECTION FOR THE TAX PAID ON THE FOLLOWING PURCHASES OF
18 GASOLINE OR SPECIAL FUEL:

19 (a) PRODUCTS, INCLUDING KEROSENE, SPECIALLY PREPARED, SOLD,
20 AND USED IN AIRCRAFT OPERATED BY SCHEDULED AIR CARRIERS OR
21 COMMUTER AIRLINE OPERATORS EXEMPT FROM THE FEDERAL AVIATION
22 FUELS TAX;

23 (b) GASOLINE USED BY DOMESTIC OR FOREIGN PART 121 AIR
24 CARRIERS OR PART 135 COMMUTER AIR CARRIERS AUTHORIZED TO
25 PROVIDE PASSENGER AND CARGO AIR TRANSPORTATION SERVICES
26 PURSUANT TO THE REGULATIONS OF THE OFFICE OF THE SECRETARY OF
27 TRANSPORTATION AND FEDERAL AVIATION ADMINISTRATION OF THE

1 UNITED STATES DEPARTMENT OF TRANSPORTATION. FOR THOSE AIR
2 CARRIERS THAT ARE CERTIFICATED BY THE UNITED STATES DEPARTMENT
3 OF TRANSPORTATION FOR BOTH PART 121 AIR CARRIER OPERATIONS AND
4 PART 135 ON-DEMAND OPERATIONS, THIS SUBSECTION (2.5)(b) SHALL NOT
5 APPLY TO THE AIR CARRIER'S PART 135 ON-DEMAND OPERATIONS; AND

6 (c) GASOLINE USED BY DIRECT AIR CARRIERS PROVIDING AIR
7 TRANSPORTATION TO AUTHORIZED PUBLIC CHARTER OPERATORS
8 PURSUANT TO 14 CFR 380.

9 (2.7) A REFUND IS MADE PURSUANT TO SUBSECTION (3) OF THIS
10 SECTION TO ANY PERSON WHO PURCHASES GASOLINE OR SPECIAL FUEL
11 UPON WHICH THE TAX IMPOSED BY THIS PART 1 HAS BEEN PAID IF THE
12 GASOLINE OR SPECIAL FUEL IS USED FOR THE PURPOSE OF:

13 (a) OPERATING A STATIONARY GAS ENGINE;

14 (b) OPERATING A MOTOR VEHICLE ON OR OVER FIXED RAILS;

15 (c) OPERATING A TRACTOR, TRUCK, OR OTHER FARM IMPLEMENT
16 OR MACHINE FOR AGRICULTURAL PURPOSES ON A FARM OR RANCH;

17 (d) OPERATING A STATE-LICENSED AGRICULTURAL APPLICATOR
18 AIRCRAFT FROM A PRIVATE LANDING FACILITY USED SOLELY AND
19 EXCLUSIVELY FOR AGRICULTURAL APPLICATIONS, TO THE EXTENT OF FIFTY
20 PERCENT OF TAXES PAYABLE PURSUANT TO SECTION 39-27-102 (1)(a)(IV);

21 (e) OPERATING A MOTOR BOAT;

22 (f) CLEANING OR DYEING;

23 (g) ANY COMMERCIAL USE OTHER THAN THE OPERATION OF A
24 MOTOR VEHICLE UPON THE HIGHWAYS OF THIS STATE AND THE OPERATION
25 OF ANY AIRCRAFT OTHER THAN THE OPERATION OF AIRCRAFT SPECIFIED IN
26 SUBSECTION (2.5) OR (2.7)(d) OF THIS SECTION; OR

27 (h) ANY OTHER USE THAT ENTITLES A PERSON TO A REFUND UNDER

1 THIS PART 1 OR FEDERAL LAW.

2 (3) (a) (I) Any person who purchases gasoline or special fuel and
3 ~~pays the tax thereon at the time of such purchase shall be~~ IS entitled to a
4 refund by the controller, upon voucher certified by the department of
5 revenue of the amount of such tax paid by him or her upon complying
6 with the applicable conditions and provisions of this section. ~~if the~~
7 ~~gasoline or special fuel is used for the purpose of:~~

8 (A) ~~Operating a stationary gas engine;~~

9 (B) ~~Operating a motor vehicle on or over fixed rails;~~

10 (C) ~~Operating a tractor, truck, or other farm implement or machine~~
11 ~~for agricultural purposes on a farm or ranch;~~

12 (D) ~~Operating a state-licensed agricultural applicator aircraft from~~
13 ~~a private landing facility used solely and exclusively for agricultural~~
14 ~~applications, to the extent of fifty percent of taxes payable pursuant to~~
15 ~~section 39-27-102 (1)(a)(IV);~~

16 (E) ~~Operating a motor boat;~~

17 (F) ~~Operating an aircraft by a part 121 air carrier as defined in~~
18 ~~section 39-27-101 (19), a part 135 commuter air carrier as defined in~~
19 ~~section 39-27-101 (20), or a direct air carrier as defined in section~~
20 ~~39-27-101 (6) providing transportation to an authorized public charter~~
21 ~~operator pursuant to 14 CFR 380;~~

22 (G) ~~Cleaning or dyeing;~~

23 (H) ~~Any commercial use other than the operation of a motor~~
24 ~~vehicle upon the highways of this state and the operation of any aircraft~~
25 ~~other than the operation of aircraft specified in sub-subparagraphs (D)~~
26 ~~and (F) of this subparagraph (I); or~~

27 (I) ~~Any other use that entitles a person to a refund under the~~

1 ~~provisions of this part 1 or federal law.~~

2 (d) Application for a refund under this section ~~shall~~ MUST be made
3 within twelve months after the date of purchase of the gasoline or special
4 fuel but not more than once each calendar quarter. Such application ~~shall~~
5 MUST be made on forms prescribed and furnished by the executive
6 director OF THE DEPARTMENT OF REVENUE, which ~~shall contain such~~
7 CONTAINS ANY information as the executive director may deem necessary.
8 At the time of making each sale and delivery of gasoline or special fuel
9 upon which a refund of tax may be claimed, the dealer shall prepare an
10 invoice, in duplicate, in a form approved by the executive director and
11 containing such information as the executive director may deem
12 necessary and carrying a serial number that shall not be repeated through
13 any one calendar year. No additional invoices covering the same sale and
14 delivery of gasoline or special fuel shall be issued by the dealer. The
15 original copy of such invoice shall be delivered to the purchaser of the
16 gasoline or special fuel, and, upon payment in full of such invoice, the
17 dealer shall enter thereon the dealer's full name and a notation showing
18 payment thereof. With respect to invoices covering the sale and delivery
19 of gasoline or special fuel to the state or those political subdivisions of the
20 state specified in subsection (2) of this section, it ~~shall not be~~ IS NOT
21 necessary for the dealer to enter the dealer's name and the notation
22 showing payment thereof. Upon proper application, refund ~~shall be~~ IS
23 made directly to such political subdivisions upon presentation of the
24 completed refund claim form. Original invoices together with a
25 certification of the date and number of the warrant by which such
26 invoices were paid ~~shall~~ MUST be retained by such political subdivisions
27 for a period of twenty-four months. The duplicate copy of the invoice

1 ~~shall~~ MUST be retained by the dealer for a period of twenty-four months
2 at the place of business where issued, and such duplicate invoices and
3 other records of the dealer shall be available for examination by the
4 executive director or the executive director's representatives. The
5 executive director shall make demand for repayment of any refund of tax
6 that has been illegally or erroneously made to any person, and the
7 executive director is authorized to request the attorney general or any
8 district attorney of the state to institute a suit for collection of any money
9 illegally or erroneously refunded to any person.

10 (e) EXCEPT AS PROVIDED IN SUBSECTION (2.5) OF THIS SECTION, no
11 refund shall be claimed by or allowed to any person on account of any
12 gasoline or special fuel carried from this state in the ordinary fuel tank of
13 a motor vehicle or aircraft. The application for a refund ~~shall~~ MUST be
14 made by the same person who purchased the gasoline or special fuel ~~and~~
15 ~~paid the tax thereon~~ UPON WHICH THE TAX IMPOSED BY THIS PART 1 HAS
16 BEEN PAID as shown in the invoice of the seller thereof. The right of any
17 person to a refund under this part 1 shall not be assignable. No refund of
18 the gasoline or special fuel tax shall be claimed by or allowed to any
19 person on any gasoline or special fuel used for propelling motor vehicles
20 operated in whole or in part during the calendar year upon public
21 highways of the state or upon the streets of any city or town in the state,
22 except as otherwise provided in this subsection (3) or subsection (2) of
23 this section.

24 (7) ~~Notwithstanding any provision of law to the contrary, the~~
25 ~~department of revenue shall not collect any penalties or interest related to~~
26 ~~the tax imposed under this part 1 for liquefied petroleum gas that, from~~
27 ~~January 1, 2014, until January 1, 2016, is acquired, sold, offered for sale,~~

1 or used in this state for any purpose whatsoever. The department shall
2 refund any of these prohibited penalties or interest that were collected
3 prior to August 5, 2015.

4 **SECTION 5.** In Colorado Revised Statutes, 39-27-104, **amend**
5 (1)(a), (1)(b), (1)(c), (1)(d.5) introductory portion, (1)(e), (1)(f), (1)(g)(I)
6 introductory portion, (1)(h) introductory portion, and (1)(h)(V); **repeal**
7 (2.5) and (3); and **add** (2)(f), (2)(g), (2.1)(d), and (2.1)(e) as follows:

8 **39-27-104. License and deposit - exception - repeal.** (1) (a) It
9 is unlawful for any person to act as a distributor, supplier, TERMINAL
10 OPERATOR, importer, exporter, carrier, or blender of gasoline or special
11 fuel in this state without being licensed as such. Any person who acts as
12 a distributor, supplier, TERMINAL OPERATOR, importer, exporter, carrier,
13 or blender of gasoline or special fuel within this state without being
14 licensed as such is guilty of a misdemeanor. Each day of operation
15 without a license ~~shall be~~ IS considered a separate offense. Such person
16 ~~shall~~ IS also ~~be~~ subject to the civil penalties imposed pursuant to ~~section~~
17 ~~39-27-105 (5)~~ SUBSECTION (1)(g) OF THIS SECTION.

18 (b) Each applicant for ~~the gasoline or special fuel distributor,~~
19 ~~supplier, importer, exporter, carrier, or blender~~ A license required by this
20 section ~~shall~~ MUST file with the executive director of the department of
21 revenue an application in such form and manner as the executive director
22 ~~shall prescribe~~ PRESCRIBES, stating the name and address of the applicant
23 and ~~such~~ ANY other information as may be required by this section or by
24 the executive director. The application ~~shall~~ MUST include a statement
25 that such application is signed under oath and under the penalty of perjury
26 in the second degree, as defined in section 18-8-503. ~~C.R.S.~~ An applicant
27 for a license to export gasoline or special fuel from this state shall provide

1 verification as required by the executive director that the applicant has an
2 appropriate license valid in any state into which the gasoline will be
3 exported. Each application ~~for a gasoline or special fuel distributor,~~
4 ~~supplier, importer, exporter, carrier, or blender license shall~~ MUST be
5 accompanied by a ten-dollar filing fee.

6 (c) The executive director of the department of revenue shall issue
7 a license to an applicant if the application ~~for a gasoline or special fuel~~
8 ~~distributor, supplier, importer, exporter, carrier, or blender license~~ is in
9 proper form, has been accepted for filing, and meets the other conditions
10 and requirements of this section. The license ~~shall be~~ IS valid until
11 surrendered, suspended, or revoked.

12 (d.5) No person shall blend exempt dyed diesel fuel with biodiesel
13 fuel after withdrawal at a terminal rack ~~or refinery rack~~ unless such
14 person is a licensed blender in accordance with ~~paragraph (d) of this~~
15 ~~subsection (1)~~ SUBSECTION (1)(d) OF THIS SECTION who has a valid federal
16 blending permit. Any person who violates ~~the provisions of this paragraph~~
17 ~~(d.5)~~ SUBSECTION (1)(d.5) or the reporting or other requirements of this
18 section relating to such blending or who misrepresents the amount of
19 biodiesel fuel that is blended with dyed diesel fuel ~~shall be~~ IS subject to
20 the following civil penalties:

21 (e) When any person ceases to be a distributor, supplier,
22 TERMINAL OPERATOR, importer, exporter, carrier, or blender of gasoline
23 or special fuel by reason of discontinuance, sale, or transfer of such
24 person's business at any location, such person shall notify the executive
25 director of the department of revenue in writing at the time the
26 discontinuance, sale, or transfer takes effect. The notice ~~shall~~ MUST state
27 the date of discontinuance and, in the event of sale or transfer, the name

1 and address of the purchaser or transferee. All taxes, penalties, and
2 interest not yet due and payable under ~~the provisions of this part 1, shall,~~
3 notwithstanding any other provisions of this part 1, ~~become~~ ARE due and
4 payable concurrently with the discontinuance, sale, or transfer; and the
5 ~~distributor~~ PERSON shall make a report and pay all taxes, penalties, and
6 interest and shall surrender to the executive director of the department of
7 revenue the ~~gasoline distributor, supplier, importer, exporter, carrier, or~~
8 ~~blender~~ license together with all duplicates issued to him or her.

9 (f) The ~~gasoline or special fuel distributor, supplier, importer,~~
10 ~~exporter, carrier, or blender~~ license issued under ~~the provisions of this~~
11 section ~~shall~~ IS REQUIRED TO be conspicuously displayed in the
12 established place of business of the licensee. A licensee shall obtain a
13 duplicate license for each established branch office or location, which
14 shall be displayed in a like manner as the original license. ~~Each such~~
15 ~~duplicate license shall be issued by~~ The executive director of the
16 department of revenue SHALL ISSUE A DUPLICATE LICENSE upon payment
17 of a five-dollar fee.

18 (g) (I) No person shall ~~export gasoline or special fuel out of this~~
19 ~~state~~ ACT AS A DISTRIBUTOR, SUPPLIER, TERMINAL OPERATOR, IMPORTER,
20 EXPORTER, OR CARRIER without a valid license pursuant to this section.
21 Any person who violates the reporting requirements of this part 1, exports
22 gasoline or special fuel out of this state without a valid license, or imports
23 gasoline or special fuel into this state without a license ~~shall be~~ OR
24 PERMIT, OR OTHERWISE OPERATES IN THIS STATE WITHOUT THE LICENSE
25 REQUIRED BY THIS SECTION IS subject to the following civil penalties:

26 (h) The executive director of the department of revenue may
27 refuse to issue a ~~gasoline or special fuel distributor, supplier, importer,~~

1 ~~exporter, carrier, or blender~~ license if the executive director finds, after
2 affording the applicant due notice and an opportunity to be heard, that the
3 application:

4 (V) Was submitted by a person who the executive director of the
5 department of revenue determines is unable or unwilling to perform the
6 duties and responsibilities of a licensed gasoline or special fuel
7 distributor, supplier, TERMINAL OPERATOR, importer, exporter, carrier, or
8 blender, as applicable, based upon evidence furnished to him or her.

9 (2) (f) THE EXECUTIVE DIRECTOR SHALL NOT REQUIRE A
10 DEPOSIT UNDER THIS SUBSECTION (2) AFTER DECEMBER 31, 2021. THE
11 EXECUTIVE DIRECTOR SHALL SURRENDER ANY SURETY BOND OR
12 CERTIFICATE OF DEPOSIT IN HIS OR HER POSSESSION ON THAT DATE NO
13 LATER THAN MARCH 31, 2022, OR AS SOON THEREAFTER AS THE
14 EXECUTIVE DIRECTOR IS SATISFIED THAT ALL LIABILITY THEREUNDER HAS
15 BEEN FULLY DISCHARGED.

16 (g) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE DECEMBER 31,
17 2022.

18 (2.1)(d) THE EXECUTIVE DIRECTOR SHALL NOT REQUIRE A DEPOSIT
19 UNDER THIS SUBSECTION (2.1) AFTER DECEMBER 31, 2021. THE
20 EXECUTIVE DIRECTOR SHALL SURRENDER ANY SURETY BOND OR
21 CERTIFICATE OF DEPOSIT IN HIS OR HER POSSESSION ON THAT DATE NO
22 LATER THAN MARCH 31, 2022, OR AS SOON THEREAFTER AS THE
23 EXECUTIVE DIRECTOR IS SATISFIED THAT ALL LIABILITY THEREUNDER HAS
24 BEEN FULLY DISCHARGED.

25 (e) THIS SUBSECTION (2.1) IS REPEALED, EFFECTIVE DECEMBER 31,
26 2022.

27 (2.5) (a) ~~Notwithstanding the provisions of subsection (2) of this~~

1 ~~section, a distributor or refiner who has been licensed in this state for five~~
2 ~~consecutive years and who, during this period, has not been delinquent in~~
3 ~~the payment of taxes imposed under this part 1 shall be exempt from the~~
4 ~~requirement to file a bond or any other evidence of financial~~
5 ~~responsibility meeting the requirements of section 11-35-101, C.R.S.~~

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

11 (3) ~~In addition to all other applicable penalties and fines set forth~~
12 ~~in this part 1, each day on which any person engages in the business of a~~
13 ~~distributor, supplier, importer, exporter, carrier, or blender within this~~
14 ~~state without a license as required by this part 1 shall constitute a separate~~
15 ~~offense, and for each such offense, such person commits a class 6 felony~~
16 ~~and shall be punished as provided in section 18-1.3-401, C.R.S.~~

17 **SECTION 6.** In Colorado Revised Statutes, 39-27-105, **amend**
18 (1), (2), (3), (5)(a), (6), and (7)(d); **repeal** (1.2)(b) and (1.5); and **add**
19 (1.1) as follows:

20 **39-27-105. Collection of tax on gasoline and special fuel -**
21 **rules.** (1) ~~In addition to the reporting requirements set forth in subsection~~
22 ~~(1.5) of~~ EXCEPT AS OTHERWISE PROVIDED IN this section, every
23 distributor, supplier, carrier, exporter, importer, blender, refiner, or
24 terminal operator of gasoline or special fuel other than liquefied
25 petroleum gas on or before the twenty-sixth day of each calendar month
26 shall file with the executive director of the department of revenue, on
27 forms prescribed and furnished by the department, an itemized statement

1 made under penalty of perjury in the second degree, showing the
2 following:

3 (a) The number of gallons of gasoline or special fuel acquired by
4 ~~the distributor~~ IN, IMPORTED INTO, OR REMOVED FROM ANY TERMINAL in
5 this state from any source whatsoever during the preceding calendar
6 month;

7 (b) The quantity of the different kinds of gasoline or special fuel
8 so acquired, IMPORTED, OR REMOVED;

9 (c) The amount of gasoline or special fuel exported from this
10 state, with the date of shipment, the car number and initials, and the
11 number of invoiced gallons of gasoline or special fuel contained in each
12 tank car if exported by rail, and the name of the owner and the make and
13 license number of the tank truck or tank wagon if such transportation is
14 used, and the name of the person to whom such exported gasoline or
15 special fuel was sold, the point of shipment, and the point of delivery;

16 (d) The date of acquisition, IMPORT, OR REMOVAL of each
17 shipment of gasoline or special fuel acquired, ~~by the distributor,~~
18 IMPORTED, OR REMOVED, the name of the person from whom purchased
19 or acquired, the point of origin and point of destination of each shipment,
20 the quantity in gallons of each of said purchases or shipments, the name
21 of the carrier, the number of each tank car, its initial, and the number of
22 invoiced gallons contained in each tank car if shipped by rail, and the
23 name of the owner and the make, license number, and capacity in gallons
24 of the tank truck or tank wagon if such transportation was used;

25 (d.3) IN THE CASE OF A BLENDER OF GASOLINE OR SPECIAL FUEL,
26 THE AMOUNT AND CHARACTER OF THE UNBLENDED PRODUCTS AND THE
27 BLENDED PRODUCTS ON HAND ON THE LAST DAY OF THE PRECEDING

1 CALENDAR MONTH, THE AMOUNT OF UNBLENDED PRODUCTS ACQUIRED
2 AND THE AMOUNT OF PRODUCTS BLENDED DURING THE CALENDAR MONTH,
3 AND ANY OTHER INFORMATION RELATIVE TO THE DISPOSITION OF THE
4 BLENDED PRODUCTS AS THE EXECUTIVE DIRECTOR MAY DEEM NECESSARY
5 OR ADVISABLE FOR THE CORRECT DETERMINATION OF THE AMOUNT OF
6 EXCISE TAX APPLICABLE TO GASOLINE OR SPECIAL FUEL ACQUIRED, USED,
7 OR SOLD BY THE BLENDER; AND

8

9 (e) ANY further information AS THE EXECUTIVE DIRECTOR MAY
10 REQUIRE pertaining to the acquisition, IMPORT, OR REMOVAL of gasoline
11 or special fuel and its disposition as ~~the executive director of the~~
12 ~~department of revenue may reasonably require. In the case of a distributor~~
13 ~~duly licensed as a blender of gasoline or special fuel, the report shall~~
14 ~~show the amount and character of the unblended products and the blended~~
15 ~~products on hand on the last day of the preceding calendar month, the~~
16 ~~amount of unblended products acquired and the amount of products~~
17 ~~blended during said calendar month, and any other information relative~~
18 ~~to the disposition of the blended products as the executive director may~~
19 ~~deem necessary or advisable for the correct determination of the amount~~
20 ~~of excise tax applicable to gasoline or special fuel acquired, used, or~~
21 ~~offered for sale by the distributor AND THE TAX DUE, COLLECTED, OR PAID~~
22 THEREON, IF ANY.

23 (f) ~~The information required for reporting acquisition or~~
24 ~~disposition of gasoline or special fuel pursuant to this article shall be~~
25 ~~submitted electronically in the manner prescribed by the department of~~
26 ~~revenue by rule. The department, in consultation with distributors, shall~~
27 ~~promulgate rules regarding filing of information that includes, but is not~~

1 ~~limited to, the data elements, the format of the data elements, and the~~
2 ~~method and medium of transmission to the department.~~

3 (1.1) THE INFORMATION REQUIRED FOR REPORTING ACQUISITION
4 OR DISPOSITION OF GASOLINE OR SPECIAL FUEL PURSUANT TO THIS ARTICLE
5 27 MUST BE SUBMITTED ELECTRONICALLY IN THE MANNER PRESCRIBED BY
6 THE DEPARTMENT OF REVENUE. THE DEPARTMENT, IN CONSULTATION
7 WITH LICENSEES, SHALL DEVELOP STANDARDS REGARDING FILING OF
8 INFORMATION THAT INCLUDES, BUT IS NOT LIMITED TO, THE DATA
9 ELEMENTS, THE FORMAT OF THE DATA ELEMENTS, AND THE METHOD AND
10 MEDIUM OF TRANSMISSION TO THE DEPARTMENT. THE DEPARTMENT SHALL
11 INCORPORATE INTO THE STANDARDS, TO THE EXTENT PRACTICABLE, THE
12 UNIFORM FORMS AND REPORTING METHODS PRESCRIBED BY THE
13 FEDERATION OF TAX ADMINISTRATORS OR OTHER SIMILAR ASSOCIATION OF
14 STATES.

15 (1.2) (b) ~~Subsection (1.5) of this section does not apply to a~~
16 ~~licensee with respect to liquefied petroleum gas.~~

17 (1.5) ~~On or before the twenty-sixth day of each calendar month,~~
18 ~~every licensee shall file with the executive director of the department of~~
19 ~~revenue, on forms prescribed and furnished by the department, a report~~
20 ~~made under penalty of perjury in the second degree specifying any~~
21 ~~information that the executive director shall require. The executive~~
22 ~~director shall consult with persons in the gasoline or special fuel industry~~
23 ~~to determine such reporting requirements and promulgate said~~
24 ~~requirements by rule in accordance with the "State Administrative~~
25 ~~Procedure Act", article 4 of title 24. The executive director may by rule~~
26 ~~require that such reports be filed electronically.~~

27 (2) (a) (I) It is the duty of every distributor of gasoline or special

1 fuel other than liquefied petroleum gas to compute the amount of tax
2 payable on all gasoline or special fuel IMPORTED, REMOVED FROM A
3 TERMINAL, OR OTHERWISE acquired during the preceding calendar month
4 at the rate of tax per gallon imposed thereon in section 39-27-102 (1),
5 and, in computing the amount of tax, the allowance of two percent
6 provided for in ~~section 39-27-102 (1)~~ SECTION 39-27-102 (1)(b)(I)(A)
7 shall be taken into account.

8 (II) It is the duty of every distributor of liquefied petroleum gas to
9 compute the amount of tax payable on the liquefied petroleum gas placed
10 in a fuel tank or used to propel a cargo tank motor vehicle in the
11 preceding calendar month at the rate of tax per gallon imposed thereon.

12 [REDACTED] [REDACTED]
13 (b) From the amount of tax so computed UNDER SUBSECTION
14 (2)(a) OF THIS SECTION, the distributor of ~~gasoline or special fuel~~ [REDACTED] shall
15 deduct one-half of one percent to cover expenses of collection PAYMENT
16 of the tax and bad debt losses and shall pay the remaining balance to the
17 department of revenue ~~at the time of filing~~ AND FILE the statement
18 required ~~to be filed by the provisions~~ BY SUBSECTION (1) of this section
19 ON OR BEFORE THE TWENTY-SIXTH DAY OF EACH CALENDAR MONTH. IF
20 ANY DISTRIBUTOR [REDACTED] IS DELINQUENT IN REMITTING THE TAX, EXCEPT IN
21 UNUSUAL CIRCUMSTANCES SHOWN TO THE SATISFACTION OF THE
22 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, THE RETAILER
23 SHALL NOT BE ALLOWED TO DEDUCT ANY AMOUNT UNDER THIS
24 SUBSECTION (2)(b).

25 (c) (I) IF ANY PERSON FAILS TO FILE ANY RETURN OR STATEMENT
26 WHEN DUE AS PROVIDED IN THIS SECTION, THE EXECUTIVE DIRECTOR
27 SHALL IMPOSE AND COLLECT A PENALTY OF ONE HUNDRED DOLLARS.

1 (II) IF ANY PERSON FAILS TO PAY THE TAX WHEN DUE AS PROVIDED
2 IN THIS SECTION, THE EXECUTIVE DIRECTOR SHALL IMPOSE AND COLLECT
3 a penalty of thirty dollars or ten percent of the tax due, plus one-half of
4 one percent per month from the date when due, not to exceed eighteen
5 percent in the aggregate, whichever is greater, ~~shall be imposed for failure~~
6 ~~to file any statement when due or pay the tax as provided in this section,~~
7 in addition to any other penalties provided by this part 1. THE EXECUTIVE
8 DIRECTOR SHALL ALSO COLLECT INTEREST AT THE RATE IMPOSED UNDER
9 SECTION 39-21-110.5.

10 (III) IF THE PENALTIES PROVIDED FOR IN SUBSECTION (2)(c)(I) and
11 (2)(c)(II) BOTH APPLY, THEN THE EXECUTIVE DIRECTOR SHALL IMPOSE AND
12 COLLECT ONLY THE LARGER OF THE TWO PENALTIES. THE EXECUTIVE
13 DIRECTOR MAY WAIVE, FOR GOOD CAUSE SHOWN, ANY PENALTY OR
14 INTEREST ADDED PURSUANT TO THIS SUBSECTION (2)(c).

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

23 (II) THIS SUBSECTION (2)(d) IS REPEALED, EFFECTIVE JULY 1, 2026.

24 (3) If any ~~distributor of gasoline or special fuel~~ PERSON fails or
25 refuses to make and file the sworn statement REQUIRED BY THIS SECTION
26 and pay the tax due, IF ANY, for any calendar month or if ~~any distributor~~
27 ~~of gasoline or special fuel~~ A PERSON makes and files any incorrect or

1 fraudulent statement or return for any calendar month as required by this
2 part 1, the executive director of the department of revenue, upon such
3 information as is available in his or her office or elsewhere, shall
4 determine the amount of gasoline or special fuel taxes due from ~~said~~
5 ~~distributor~~ THAT PERSON and shall add to ~~said~~ THAT amount a penalty of
6 thirty percent thereof for failure to file such report or for filing ~~such~~ THE
7 false or fraudulent report and collect the amount of ~~said~~ THE tax and
8 penalty plus interest on the whole amount due from ~~said distributor~~ THAT
9 PERSON at the rate imposed under section 39-21-110.5 from the date due
10 until paid. UPON MAKING SUCH ESTIMATE, AND ADDING THE PENALTY AND
11 INTEREST AS PROVIDED IN THIS SECTION, THE EXECUTIVE DIRECTOR SHALL
12 MAIL A NOTICE OF DEFICIENCY AS PROVIDED IN SECTION 39-21-103. A
13 HEARING MAY BE HELD AND THE EXECUTIVE DIRECTOR SHALL MAKE A
14 FINAL DETERMINATION PURSUANT TO THAT SECTION. THE TAXPAYER MAY
15 APPEAL THAT FINAL DETERMINATION IN THE MANNER PROVIDED IN
16 SECTION 39-21-105. The executive director may waive, for good cause
17 shown, any penalty ~~assessed~~ OR INTEREST ADDED as provided in this
18 ~~article~~ ARTICLE 27 and article 21 of this ~~title~~ TITLE 39.

19 (5) (a) Except as provided in ~~paragraph (a) of subsection (4)~~
20 SUBSECTION (4)(a) of this section and in section 39-27-102.5 (2)(c), every
21 person who imports into this state special fuel within the fuel tank of a
22 motor vehicle and who is not required to report special fuel usage under
23 ~~the provisions of~~ subsection (4) of this section shall obtain from the port
24 of entry, from the office of the department of revenue nearest the point of
25 entry into this state, or from any officer of the Colorado state patrol a
26 single trip permit that ~~shall contain~~ CONTAINS a description of the motor
27 vehicle, a description of the points of travel within the state of Colorado,

1 and such other information as the executive director of the department of
2 revenue may require. At the time of issuance of such single trip permit,
3 a tax will be computed and paid based on the consumption rate of four
4 miles per gallon for special fuel consumed within Colorado at the special
5 fuel tax rate provided by ~~section 39-27-102.5~~ SECTION 39-27-102
6 (1)(a)(II)(B). A fee of one dollar shall be paid for each single trip permit
7 and the permit shall be valid for a period of seventy-two hours.

8 (6) (a) Every person who imports GASOLINE OR special fuel into
9 this state for use or sale in this state without a single trip permit or a valid
10 importer's, supplier's, BLENDER'S, or distributor's license is liable for and
11 shall pay an excise tax pursuant to section 39-27-102 (1) on all GASOLINE
12 AND undyed special fuel other than liquefied petroleum gas such person
13 imports for use or sale in this state.

14 (b) Immediately upon discovering a violation of this subsection
15 (6), the department of revenue and agents thereof:

16 (I) May demand payment of such excise tax and all applicable
17 fines AND PENALTIES associated with the unlicensed importation of
18 special fuel, as set forth in this subsection (6); and

19 (II) May detain the shipment of GASOLINE OR special fuel until
20 such excise tax, ~~and~~ fines, AND PENALTIES are collected.

21 (c) Any person who imports GASOLINE OR special fuel, INCLUDING
22 LIQUIFIED PETROLEUM GAS, into this state without a valid license pursuant
23 to section 39-27-104 ~~shall be~~ IS subject to the civil penalties set forth in
24 section 39-27-104 (1)(g).

25 (7) (d) Immediately upon discovery of a violation of this section,
26 the department of revenue and agents thereof may require payment of the
27 excise tax and all applicable civil penalties from any person who violates

1 ~~the provisions of~~ this section and may detain the shipment of GASOLINE
2 OR special fuel until payment is collected.

3 **SECTION 7.** In Colorado Revised Statutes, **repeal** 39-27-105.3
4 as follows:

5 **39-27-105.3. Remittance of tax on gasoline and special fuel -**
6 **electronic funds transfers.** ~~A distributor, supplier, carrier, exporter,~~
7 ~~importer, blender, refiner, licensee, or terminal operator shall remit all~~
8 ~~taxes required to be remitted to the department of revenue on or before~~
9 ~~the twenty-sixth day of each calendar month.~~

10 **SECTION 8.** In Colorado Revised Statutes, **amend** 39-27-105.5
11 as follows:

12 **39-27-105.5. Lien to secure payment of taxes - exemption -**
13 **recovery.** (1) (a) The state of Colorado and the department of revenue
14 shall have a lien to secure the payment of the taxes, penalties, and interest
15 imposed pursuant to this part 1 upon all the assets and property of the
16 distributor owing ~~such~~ THE tax, including the stock in trade, business
17 fixtures, and equipment owned or used by the distributor in the
18 conduct of his OR HER business, as long as a delinquency in the payment
19 of such tax continues. Such lien ~~shall be~~ IS prior to any lien of any kind
20 whatsoever, including existing liens for taxes.

21 (b) Any distributor or person in possession shall provide a copy
22 of any lease pertaining to the assets and property described in **paragraph**
23 ~~(a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION to the
24 department of revenue within ten days after seizure by the department of
25 such assets and property. The department shall verify that such lease is
26 bona fide and notify the owner that such lease has been received by the
27 department. The department shall use its best efforts to notify the owner

1 of the real or personal property which might be subject to the lien created
2 in ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS
3 SECTION. The real or personal property of an owner who has made a bona
4 fide lease to a distributor ~~shall be~~ IS exempt from the lien created in
5 ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION
6 if such property can reasonably be identified from the lease description
7 or if the lessee is given an option to purchase in such lease and has not
8 exercised such option to become the owner of the property leased. This
9 exemption ~~shall be~~ IS effective from the date of the execution of the lease.
10 ~~Such~~ THE exemption ~~shall also apply~~ ALSO APPLIES if the lease is
11 recorded with the county clerk and recorder of the county where the
12 property is located or based or a memorandum of the lease is filed with
13 the department of revenue on such forms as may be prescribed by said
14 department after the execution of the lease at a cost for such filing of two
15 dollars and fifty cents per document. Motor vehicles which are properly
16 registered in this state, showing the lessor as owner thereof, shall be
17 exempt from the lien created in ~~paragraph (a) of this subsection (1)~~
18 SUBSECTION (1)(a) OF THIS SECTION; except that said lien ~~shall apply~~
19 APPLIES to the extent that the lessee has an earned reserve, allowance for
20 depreciation not to exceed fair market value, or similar interest which is
21 or may be credited to the lessee. Where the lessor and lessee are blood
22 relatives or relatives by law or have twenty-five percent or more common
23 ownership, a lease between such lessee and such lessor ~~shall not be~~ IS NOT
24 considered as bona fide for the purposes of this section.

25 (c) WHEN THE PROPERTY OF ANY LICENSEE IS SEIZED UPON ANY
26 MESNE OR FINAL PROCESS OF ANY COURT OF THIS STATE OR WHEN THE
27 BUSINESS OF ANY LICENSEE IS SUSPENDED BY THE ACTION OF CREDITORS

1 OR PUT INTO THE HANDS OF ANY ASSIGNEE, RECEIVER, OR TRUSTEE, THEN
2 IN ALL SUCH CASES ALL GASOLINE OR SPECIAL FUEL TAXES DUE FROM AND
3 PAYABLE BY SUCH LICENSEE TOGETHER WITH ANY PENALTIES AND
4 INTEREST THEREON UNDER THIS PART 1 ARE CONSIDERED AND TREATED AS
5 PREFERRED CLAIMS, AND THE STATE OF COLORADO IS A PREFERRED
6 CREDITOR AND TO BE PAID IN FULL.

7 (d) (I) THE TAX IMPOSED BY THIS PART 1, EXCEPT WHEN PAID BY
8 THE USER TO A VENDOR, TOGETHER WITH PENALTIES AND INTEREST
9 THEREON, CONSTITUTES A LIEN AGAINST ANY MOTOR VEHICLE IN
10 CONNECTION WITH WHICH THE TAXABLE USE IS MADE. THE LIEN SHALL
11 NOT BE REMOVED UNTIL THE TAX, TOGETHER WITH PENALTIES AND
12 INTEREST, IS PAID OR THE MOTOR VEHICLE SUBJECT TO THE LIEN IS SOLD
13 IN PAYMENT OF THE TAX, PENALTY, AND INTEREST. THE LIEN IS PRIOR TO
14 ALL PRIVATE LIENS AND ENCUMBRANCES AND TO THE RIGHTS OF A
15 CONDITIONAL VENDOR OR OTHER HOLDER OF THE LEGAL OR EQUITABLE
16 TITLE TO THE MOTOR VEHICLE.

17 (II) IF OWNERSHIP OF A MOTOR VEHICLE SUBJECT TO LIEN UNDER
18 THIS SUBSECTION (1)(d) IS TRANSFERRED BY OPERATION OF LAW OR
19 OTHERWISE, REGISTRATION OR TITLE WITH RESPECT TO THE VEHICLE
20 SHALL NOT BE ISSUED UNTIL THE LIEN HAS BEEN REMOVED.

21 (2) If ~~a distributor~~ ANY PERSON fails OR REFUSES to comply with
22 ~~the provisions of~~ section 39-27-105, the executive director of the
23 department of revenue may seek to enforce collection of the unpaid taxes,
24 penalties, and interest in accordance with ~~the provisions of~~ article 21 of
25 this ~~title~~ TITLE 39.

26 **SECTION 9.** In Colorado Revised Statutes, **repeal** 39-27-106 as
27 **follows:**

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

17 **SECTION 10.** In Colorado Revised Statutes, **repeal** 39-27-113
18 as follows:

19 **39-27-113. Tax lien - priority.** (1) If any person fails, neglects,
20 or refuses to pay the tax imposed by this part 1, the amount of the tax,
21 together with any penalties or interest or any costs that accrue in addition
22 thereto, shall be a lien in favor of the state upon all franchises, property,
23 and rights to property, whether real or personal, tangible or intangible,
24 belonging to or thereafter acquired by that person, whether the property
25 is employed by that person in the operation of a business or is in
26 possession of an assignee, trustee, or receiver for the benefit of creditors.

27 (2) When the property of any distributor is seized upon any mesne

1 ~~or final process of any court of this state or when the business of any~~
2 ~~distributor is suspended by the action of creditors or put into the hands of~~
3 ~~any assignee, receiver, or trustee, then in all such cases all gasoline or~~
4 ~~special fuel tax moneys collected by such distributor under the provisions~~
5 ~~of this part 1 and due and owing to the state shall be considered and~~
6 ~~treated as preferred claims, and the state of Colorado shall be a preferred~~
7 ~~creditor and shall be paid in full.~~

8 ~~(3) (a) Notwithstanding the provisions of subsection (1) of this~~
9 ~~section, the tax imposed by this part 1, except when paid by the user to a~~
10 ~~vendor, together with penalties and interest thereon, constitutes a lien~~
11 ~~against any motor vehicle in connection with which the taxable use is~~
12 ~~made. The lien shall not be removed until the tax, together with penalties~~
13 ~~and interest, is paid or the motor vehicle subject to the lien is sold in~~
14 ~~payment of the tax, penalty, and interest. The lien shall be prior to all~~
15 ~~private liens and encumbrances and to the rights of a conditional vendor~~
16 ~~or other holder of the legal or equitable title to the motor vehicle.~~

17 ~~(b) If ownership of a motor vehicle subject to lien under this~~
18 ~~subsection (3) is transferred by operation of law or otherwise, no~~
19 ~~registration or title with respect to such vehicle shall be issued until the~~
20 ~~lien has been removed.~~

21 **SECTION 11.** In Colorado Revised Statutes, **amend** 39-27-120
22 as follows:

23 **39-27-120. Penalties.** Any person who in any way violates any of
24 the provisions of this part 1 for which no penalty is expressly provided
25 ~~shall be~~ IS punished as provided by section 39-21-118. In addition to the
26 foregoing penalties, the executive director of the department of revenue
27 may suspend or revoke the license of any ~~distributor~~ PERSON who violates

1 any of the provisions of this part 1 and shall notify ~~such distributor~~ THE
2 PERSON of ~~such~~ THE suspension or revocation and, upon application to
3 any court of competent jurisdiction without furnishing bond, ~~shall be~~ IS
4 entitled to an injunction restraining ~~any such distributor~~ THE PERSON from
5 operating, transporting, using, selling, delivering, or transferring any
6 gasoline or special fuel in this state while the license or permit of ~~such~~
7 ~~distributor~~ THE PERSON has been suspended or revoked. The attorney
8 general shall institute an action on behalf of the state against any person
9 required to collect or pay the tax imposed by this part 1, or the sureties of
10 ~~such~~ THE person, to collect or recover the amount of tax due from ~~such~~
11 THE person, together with penalties and interest thereon.

12 **SECTION 12.** In Colorado Revised Statutes, 39-21-119.5,
13 **amend** (4)(d) as follows:

14 **39-21-119.5. Mandatory electronic filing of returns -**
15 **mandatory electronic payment - penalty - waiver - definitions.**

16 (4) Except as provided in subsection (6) of this section, on and after
17 August 2, 2019, electronic filing of returns and the payment of any tax or
18 fee by electronic funds transfer is required for the following:

19 (d) Any gasoline or special fuel report required to be filed
20 pursuant to section 39-27-105; ~~and the payment required to be made~~
21 ~~pursuant to section 39-27-105.3;~~

22 **SECTION 13.** In Colorado Revised Statutes, 43-4-205, **amend**
23 (5.5)(a) as follows:

24 **43-4-205. Allocation of fund.** (5.5) The following highway users
25 tax fund revenues shall be allocated and expended in accordance with the
26 formula specified in subsection (5) of this section:

27 (a) Revenues from fines, penalties, or forfeitures that are credited

1 to the fund pursuant to sections 18-4-509 (2)(a), ~~39-27-102 (9)(c)~~,
2 ~~39-27-104 (1)(g)(H)~~, **39-27-104 (1)(g)**, 42-1-217 (1)(a), (1)(b), (1)(d),
3 (1)(e), and (2), 42-4-225 (3), and 42-4-235 (2)(a); ~~C.R.S.~~;

4 **SECTION 14. Act subject to petition - effective date.** This act
5 takes effect January 1, 2022; except that, if a referendum petition is filed
6 pursuant to section 1 (3) of article V of the state constitution against this
7 act or an item, section, or part of this act within the ninety-day period
8 after final adjournment of the general assembly, then the act, item,
9 section, or part will not take effect unless approved by the people at the
10 general election to be held in November 2022 and, in such case, will take
11 effect on the date of the official declaration of the vote thereon by the
12 governor.