

## CHAPTER 453

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**TAXATION**


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**HOUSE BILL 21-1322**

BY REPRESENTATIVE(S) Snyder and Titone, Burnett, Boesenecker, Hooton, Lontine, Ortiz, Ricks;  
also SENATOR(S) Pettersen, Moreno.

**AN ACT****CONCERNING THE RESTRUCTURING OF THE GASOLINE AND SPECIAL FUEL TAX.**

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

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

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

(4) "Blender" means a person who produces blended gasoline or blended special fuel outside of the ~~gasoline or special fuel distribution system consisting of refineries, pipelines, vessels, and terminals. For purposes of this subsection (4), gasoline in a refinery, pipeline, vessel, or terminal is in the gasoline distribution system, and special fuel in a refinery, pipeline, vessel, or terminal is in the special fuel distribution system. Gasoline or special fuel in the tank of any vehicle or in any railcar, trailer, truck, or other equipment suitable for ground transportation is not in the gasoline or special fuel distribution system, respectively~~ BULK TRANSFER AND TERMINAL SYSTEM.

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

(4.2) "BULK TRANSFER AND TERMINAL SYSTEM" MEANS THE DISTRIBUTION SYSTEM FOR GASOLINE AND SPECIAL FUEL CONSISTING OF REFINERIES, PIPELINES, VESSELS, AND TERMINALS. GASOLINE OR SPECIAL FUEL IN THE TANK OF ANY VEHICLE OR IN ANY TRAILER, TRUCK, OR OTHER EQUIPMENT SUITABLE FOR GROUND

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

TRANSPORTATION IS NOT IN THE BULK TRANSFER AND TERMINAL SYSTEM. GASOLINE IN ANY RAILCAR IS NOT IN THE BULK TRANSFER AND TERMINAL SYSTEM UNLESS IT IS BEING TRANSFERRED FROM A REFINERY TO A TERMINAL OPERATED BY THE REFINER.

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

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

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

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

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

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

(32) "Terminal" means a gasoline or special fuel storage and distribution facility that is supplied by a pipeline, vessel, or refinery, A STORAGE AND DISTRIBUTION FACILITY OPERATED BY A REFINER AND SUPPLIED BY A RAILCAR, or a tank farm from which gasoline or special fuel may be removed for distribution.

**SECTION 2.** In Colorado Revised Statutes, 39-27-102, **amend** (1)(a)(I), (1)(a)(II), (1)(a)(IV), (1)(b), and (2)(a); **repeal** (1)(a)(V), (2.5), and (9); and **add** (11) and (12) as follows:

**39-27-102. Tax imposed on gasoline and special fuel - deposits - penalties.**  
 (1) (a) (I) (A) An excise tax is imposed UPON and ~~shall be collected~~ IS REQUIRED TO BE PAID BY A DISTRIBUTOR on all gasoline or special fuel acquired IN, sold ~~offered for sale~~ IN, IMPORTED INTO, REMOVED FROM ANY TERMINAL IN, or used in

this state for any purpose whatsoever, but only one tax ~~shall be~~ IS REQUIRED TO BE paid upon the same gasoline or special fuel in this state. ~~Except as otherwise provided in this subparagraph (I), no more than three tax-deferred transactions shall take place after the gasoline or special fuel has left the terminal of its origin, either within or outside of this state; except that, for purposes of counting the applicable transactions in order to collect the tax imposed by this subparagraph (I), counting shall begin when the gasoline or special fuel first enters this state, whether by truck or by rail. If more than three distributors acquire the gasoline or special fuel, the third distributor shall be liable for payment of the tax imposed. Nothing in this paragraph (a) shall preclude previous distributors from paying the tax. A distributor shall not be required to pay tax on gasoline or special fuel that is exempt pursuant to section 39-27-103 (2). The tax imposed shall be computed upon the total amount of gasoline or special fuel, measured in gallons, acquired by each distributor in this state and shall be paid in the manner provided in this section. For purposes of this sub-subparagraph (A)~~ SUBSECTION (1)(a)(I)(A), "special fuel" does not include liquefied petroleum gas.

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

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

(D) THE TAX IMPOSED BY THIS SUBSECTION (1)(a)(I) SHALL NOT APPLY TO ANY ACQUISITION, SALE, IMPORT, OR REMOVAL OF GASOLINE OR SPECIAL FUEL BY BULK TRANSFER TO, FROM, OR WITHIN A TERMINAL OR REFINERY IN THIS STATE IF THE PERSON ACQUIRING, IMPORTING, OR REMOVING THE GASOLINE OR SPECIAL FUEL AND THE TERMINAL OPERATOR OR REFINERY ARE LICENSEES. FOR PURPOSES OF THIS SUBSECTION (1)(a)(I)(D), A REFINERY IS A LICENSEE IF THE REFINER IS LICENSED TO ACT AS A TERMINAL OPERATOR OR A SUPPLIER IN THIS STATE.

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

(B) The excise tax imposed on special fuel by ~~subparagraph (I) of this paragraph~~

~~(a) SUBSECTION (1)(a)(I) OF THIS SECTION IS TWENTY AND ONE-HALF CENTS PER GALLON OR A FRACTION THEREOF. FOR CALENDAR YEARS BEGINNING ON AND AFTER JANUARY 1, 1992. THIS SUB-SUBPARAGRAPH (B) SUBSECTION (1)(a)(II)(B) DOES NOT APPLY TO ANY SPECIAL FUEL SPECIFIED IN SUBPARAGRAPHS (VI), (VII), AND (VIII) OF THIS PARAGRAPH (a) SUBSECTIONS (1)(a)(VI), (1)(a)(VII), AND (1)(a)(VIII) OF THIS SECTION.~~

~~(IV) (A) THE EXCISE TAX IMPOSED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE SUBSECTION (1)(a)(I) OF THIS SECTION IS SIX CENTS PER GALLON OR FRACTION THEREOF ON GASOLINE USED AS FUEL FOR THE PROPULSION OF NONTURBO-PROPPELLER OR NONJET ENGINE AIRCRAFT AND SHALL BE IS FOUR CENTS PER GALLON OR FRACTION THEREOF ON GASOLINE USED AS FUEL FOR THE PROPULSION OF TURBO-PROPPELLER OR JET ENGINE AIRCRAFT.~~

~~(B) THE PROVISIONS OF THIS SUBPARAGRAPH (IV) SHALL NOT APPLY TO DOMESTIC OR FOREIGN PART 121 AIR CARRIERS AS DEFINED IN SECTION 39-27-101 (19) OR PART 135 COMMUTER AIR CARRIERS AS DEFINED IN SECTION 39-27-101 (20) AUTHORIZED TO PROVIDE PASSENGER AND CARGO AIR TRANSPORTATION SERVICES PURSUANT TO THE REGULATIONS OF THE OFFICE OF THE SECRETARY OF TRANSPORTATION AND FEDERAL AVIATION ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION. THE PROVISIONS OF THIS SUBPARAGRAPH (IV) ALSO SHALL NOT APPLY TO DIRECT AIR CARRIERS AS DEFINED IN SECTION 39-27-101 (6), PROVIDING AIR TRANSPORTATION TO AUTHORIZED PUBLIC CHARTER OPERATORS PURSUANT TO 14 CFR 380. FOR THOSE AIR CARRIERS THAT ARE CERTIFICATED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION FOR BOTH PART 121 AIR CARRIER OPERATIONS AND PART 135 ON-DEMAND OPERATIONS, THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (B) SHALL NOT APPLY TO THE AIR CARRIER'S PART 135 ON-DEMAND OPERATIONS.~~

~~(C) BASED UPON REPORTS SUBMITTED BY WHOLESALEERS OR DISTRIBUTORS PURSUANT TO THE PROVISIONS OF THIS ARTICLE ARTICLE 27, THE DEPARTMENT OF REVENUE SHALL COMPILE A MONTHLY REPORT SHOWING THE AMOUNT OF EXCISE TAXES COLLECTED ON GASOLINE PURSUANT TO THE PROVISIONS OF THIS SUBPARAGRAPH (IV). SUCH MONTHLY REPORT SHALL BE TRANSMITTED SUBSECTION (1)(a)(IV). THE DEPARTMENT SHALL TRANSMIT THE MONTHLY REPORT TO THE DIVISION OF AERONAUTICS CREATED IN SECTION 43-10-103 C.R.S.; FOR USE BY THE DIVISION IN DISTRIBUTING MONEYS MONEY IN THE AVIATION FUND IN ACCORDANCE WITH SECTION 43-10-110. C.R.S.~~

~~(V) IN THE CASE OF A USER, THE TAX IMPOSED BY THIS SECTION SHALL BE MEASURED BY THE GALLONS OF SPECIAL FUEL IMPORTED INTO THIS STATE OR ACQUIRED WITHOUT PAYMENT OF THE TAX IMPOSED BY THIS SECTION AND USED IN THE PROPULSION OF A MOTOR VEHICLE ON THE HIGHWAYS OF THIS STATE.~~

~~(b) (I) IN THE CASE OF GASOLINE OR SPECIAL FUEL SHIPPED TO A DISTRIBUTOR REMOVED FROM A TERMINAL, THE TAX IS IMPOSED UPON THE PERSON FIRST RECEIVING THE GASOLINE OR SPECIAL FUEL AT THE TERMINAL EVEN IF SUCH PERSON IS ALSO THE SUPPLIER. IN THE CASE OF GASOLINE OR SPECIAL FUEL REMOVED FROM A TERMINAL BY A COMMON CARRIER, THE CONSIGNOR WHO OWNS THE GASOLINE OR SPECIAL FUEL REMOVED BY THE COMMON CARRIER IS DEEMED TO BE THE REMOVER AND FIRST RECIPIENT THEREOF. THE AMOUNT OF GASOLINE OR SPECIAL FUEL ACQUIRED REMOVED IS DEEMED TO BE THE AMOUNT SHIPPED FROM THE TERMINAL, MEASURED IN GALLONS, AS SHOWN BY THE TERMINAL MANIFEST; EXCEPT THAT AN ALLOWANCE OF TWO PERCENT OF THE TOTAL AMOUNT OF GASOLINE OR SPECIAL FUEL ACQUIRED DURING ANY CALENDAR MONTH, AS SHOWN BY TERMINAL MANIFESTS, SHALL BE IS DEDUCTED BY THE LICENSED DISTRIBUTOR TO COVER LOSSES IN TRANSIT AND IN UNLOADING THE GASOLINE OR SPECIAL FUEL AND COSTS OF COLLECTION AND~~

payment to the state of the tax imposed by this section, out of which allowance the distributor shall make to each retailer an allowance of one percent of the amount of gasoline or special fuel delivered during each calendar month by the distributor to the retailer, as shown by delivery invoices signed by the retailer, but there is no allowance for liquefied petroleum gas OR REMOVAL BY BULK TRANSFER. THE TWO PERCENT ALLOWANCE PROVIDED UNDER THIS SUBSECTION (1)(b)(I) IS ALLOWED WHETHER THE TERMINAL IS WITHIN OR WITHOUT THIS STATE.

(II) ~~The tax imposed by this section is exempted on each recorded and reported sale by a distributor to the United States, or any of its agencies, and to any town, city, county, city and county, special district, or school district when the gasoline or special fuel is used exclusively by the governmental entity in performing its governmental functions and activities. The exemption applies solely to machines owned or operated by the United States or any of its agencies, by the state, or by any town, city, county, city and county, school district, or other political division of the state. Exemptions for persons conducting business for such governmental entities on a contract basis using an aircraft must be based solely on the applicable operating certificate of the aircraft operator pursuant to sub-subparagraph (B) of subparagraph (IV) of paragraph (a) of this subsection (1). Any governmental entity referred to in this paragraph (b) shall obtain an exemption certificate from the executive director of the department of revenue. Upon receipt of an exemption certificate, a governmental entity may:~~

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

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

(III) IN THE CASE OF GASOLINE OR SPECIAL FUEL IMPORTED INTO THIS STATE, EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(I)(D) OF THIS SECTION, THE TAX IS IMPOSED UPON THE IMPORTER AT THE TIME THE GASOLINE OR SPECIAL FUEL IS FIRST BROUGHT INTO THIS STATE FROM ANOTHER STATE FOR SALE, USE, OR STORAGE AND IS MEASURED BY THE NUMBER OF GALLONS OF GASOLINE OR SPECIAL FUEL IMPORTED.

(IV) IN THE CASE OF LIQUEFIED PETROLEUM GAS OR NATURAL GAS SOLD BY A

VENDOR OR BY A DISTRIBUTOR DESCRIBED IN SECTION 39-27-101 (7)(a)(V), OR USED BY A PRIVATE COMMERCIAL FLEET OPERATOR, THE TAX IS IMPOSED UPON THE VENDOR, DISTRIBUTOR, OR PRIVATE COMMERCIAL FLEET OPERATOR AT THE TIME OF SUCH SALE OR USE AND IS MEASURED BY THE NUMBER OF GALLONS PLACED INTO A FUEL TANK OR RECEPTACLE FROM WHICH A FUEL TANK IS SUPPLIED.

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

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

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

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

(2.5) ~~Except as otherwise provided in paragraph (b) of subsection (2) of this section, every person who imports gasoline or special fuel other than liquefied petroleum gas into this state for use or sale in this state without a valid importer, supplier, blender, or distributor license is liable for and shall pay an excise tax~~

pursuant to paragraph (a) of subsection (1) of this section on all gasoline or special fuel such person imports for use or sale in this state. In addition to the excise tax, such person shall be subject to the civil penalties set forth in subsection (9) of this section. Every person who imports liquefied petroleum gas into this state without a valid importer, supplier, or distributor license is subject to the civil penalties set forth in subsection (9) of this section. Immediately upon discovery of a violation of this subsection (2.5), the department of revenue and agents thereof may demand payment of such excise tax, if owed, and all applicable fines associated with the unlicensed importation of gasoline or special fuel and may detain the shipment of gasoline or special fuel until such excise tax and fines are collected.

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

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

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

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

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

(c) All moneys collected pursuant to this subsection (9) shall be credited to the highway users tax fund, created in section 43-4-201, C.R.S., and allocated and expended as specified in section 43-4-205 (5.5)(a), C.R.S.

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

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

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

**39-27-102.5. Exemptions on tax imposed - ex-tax purchases - definition.**

(1.5) Except as otherwise provided in paragraphs (a) and (b) of subsection (2) of this section, paragraph (b) of subsection (3) of this section, and section 39-27-102 (1)(b), DIESEL ENGINE FUEL AND KEROSENE IS PRESUMED TO BE FOR USE FOR A TAXABLE PURPOSE UNLESS indelible dye meeting federal regulations ~~must be~~ added to special fuel THE DIESEL ENGINE FUEL OR KEROSENE before or upon withdrawal at removal from a terminal. ~~or refinery rack for that~~ SUCH DYED special fuel ~~to be~~ is exempt from the excise tax imposed pursuant to this part I. ~~Such~~ THE tax-exempt special fuel shall not be used for taxable purposes; except that dyed special fuel may be used for a taxable purpose to the extent that such use is allowed under federal law or regulations with such fuel being subject to the excise

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

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

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

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

(B) A DISTRIBUTOR MAY SELL EX-TAX GASOLINE OR SPECIAL FUEL TO A GOVERNMENTAL ENTITY WITH A VALID EXEMPTION CERTIFICATE, REGARDLESS OF



WHETHER THE SPECIAL FUEL IS DYED PURSUANT TO SUBSECTION (1.5) OF THIS SECTION.

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

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

(2.5)(a)(I) PRODUCTS, INCLUDING KEROSENE, SPECIALLY PREPARED, SOLD, AND USED IN AIRCRAFT OPERATED BY SCHEDULED AIR CARRIERS OR COMMUTER AIRLINE OPERATORS EXEMPT FROM THE FEDERAL AVIATION FUELS TAX ARE EXEMPT FROM THE TAX IMPOSED PURSUANT TO THIS PART 1.

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

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

(b) A DISTRIBUTOR OR TERMINAL OPERATOR MAY SELL EX-TAX GASOLINE OR SPECIAL FUEL TO AN AIR CARRIER DESCRIBED IN THIS SUBSECTION (2.5). IN THE CASE OF GASOLINE OR SPECIAL FUEL ACQUIRED BY AN AIR CARRIER DESCRIBED IN THIS SUBSECTION (2.5) UPON WHICH THE TAX IMPOSED BY THIS PART 1 WAS PAID, THE AIR CARRIER MAY APPLY TO THE DEPARTMENT OF REVENUE FOR A REFUND OF THE

EXCISE TAX PAID THEREON IN ACCORDANCE WITH SECTION 39-27-103.

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

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

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

(II) A DISTRIBUTOR MAY SELL EX-TAX GASOLINE OR SPECIAL FUEL PURSUANT TO SUBSECTIONS (2) AND (2.5) OF THIS SECTION. THE DISTRIBUTOR MAY CLAIM A CREDIT AGAINST THE TAX ACCRUED AND PAYABLE FOR TAXES DUE ON EX-TAX GASOLINE OR SPECIAL FUEL OR FOR TAXES PAID ON EX-TAX GASOLINE OR SPECIAL FUEL BY SUCH DISTRIBUTOR IN A PRIOR TAXABLE PERIOD. IF THE DISTRIBUTOR ESTABLISHES THAT A TAX WAS IMPOSED AND PAID UNDER THIS ARTICLE 27 BY A LICENSED DISTRIBUTOR, SPECIAL FUEL IS ALLOWED AS A CREDIT ON THE DISTRIBUTOR'S NEXT RETURN. TO THE EXTENT THE CREDIT EXCEEDS THE TAX DUE, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL ISSUE A REFUND OF SUCH EXCESS. THE MANIFEST, BILL OF LADING, INVOICE, OR OTHER SIMILAR DOCUMENT ISSUED BY THE SUPPLIER, IMPORTER, OR DISTRIBUTOR MUST STATE THAT THE GASOLINE OR SPECIAL FUEL IS SOLD ON AN EX-TAX BASIS.

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

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

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

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

**39-27-103. Refunds - penalties - checkoff - limits on collections.** (1) A credit

AGAINST THE TAX ACCRUED OR PAYABLE OR A REFUND ~~SHALL BE~~ OF TAX PAID IS ALLOWED FOR THE TAX ~~PAID OR ACCRUED~~ IMPOSED BY THIS PART 1 ON GASOLINE OR SPECIAL FUEL THAT IS LOST OR DESTROYED BY FIRE, LIGHTNING, FLOOD, WINDSTORM, EXPLOSION, ACCIDENT, OR OTHER CAUSE BEYOND THE CONTROL OF THE DISTRIBUTOR OR TRANSPORTER OF SUCH GASOLINE OR SPECIAL FUEL. THIS CREDIT OR REFUND ~~SHALL BE~~ IS ALLOWED ONLY ON GASOLINE OR SPECIAL FUEL IN QUANTITIES OF ONE HUNDRED GALLONS OR MORE LOST OR DESTROYED AT ANY ONE TIME. ANY LOSS OF GASOLINE OR SPECIAL FUEL WHILE IN TRANSIT OR WHILE BEING LOADED OR UNLOADED ~~SHALL BE~~ IS SUBJECT TO CREDIT OR REFUND UNDER THIS SECTION. AFTER ANY SUCH LOSS OR DESTRUCTION, THE DISTRIBUTOR OR TRANSPORTER ~~SHALL~~ MUST NOTIFY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE WITHIN THIRTY DAYS OF SUCH LOSS OR DESTRUCTION AND, WITHIN THE SAME DEADLINE, ~~SHALL~~ MUST FILE WITH THE EXECUTIVE DIRECTOR PROOF SUFFICIENT TO ESTABLISH THE LOSS OR DESTRUCTION AS THE EXECUTIVE DIRECTOR MAY REQUIRE. A REFUND OF PREVIOUSLY PAID TAX IS ALLOWED TO THE DISTRIBUTOR OR TRANSPORTER IN CONTROL OF THE GASOLINE OR SPECIAL FUEL AT THE TIME IT IS LOST OR DESTROYED REGARDLESS OF WHETHER SUCH PERSON PAID THE TAX IMPOSED BY THIS PART 1 ON THE GASOLINE OR SPECIAL FUEL LOST OR DESTROYED.

(1.5) A refund ~~shall be~~ IS ALLOWED TO A DISTRIBUTOR FOR THE TAX PAID ON GASOLINE OR SPECIAL FUEL PURSUANT TO ~~THE PROVISIONS OF THIS PART 1~~ THAT WAS ERRONEOUSLY PAID DUE TO MISTAKE OF FACT, LAW, OR COMPUTATION. ~~A DISTRIBUTOR~~ THE PERSON WHO HAS PAID ANY SUCH TAX MAY, WITHIN THREE YEARS FROM THE DATE OF PAYMENT THEREOF, FILE WITH THE DEPARTMENT OF REVENUE AN APPLICATION FOR REFUND OF SUCH TAX SO ERRONEOUSLY PAID. ~~SUCH~~ THE APPLICATION ~~SHALL~~ MUST BE ON SUCH FORMS AS PRESCRIBED BY THE DEPARTMENT OF REVENUE. THIS SUBSECTION (1.5) DOES NOT APPLY TO ANY REFUND CLAIMABLE PURSUANT TO SUBSECTION (1), (2), (2.5), OR (3) OF THIS SECTION.

(2) UNLESS PURCHASED EX-TAX PURSUANT TO SECTION 39-27-102.5 (2)(b), a refund ~~shall be~~ IS MADE OR CREDIT ALLOWED FOR THE TAX PAID ON ALL GASOLINE OR SPECIAL FUEL THAT IS PURCHASED ~~AND USED EXCLUSIVELY, PURSUANT TO SECTION 39-27-102 (1)(b)~~ BY THE UNITED STATES OR ANY OF ITS AGENCIES, ~~OR BY THE STATE OF COLORADO OR BY ANY OF ITS AGENCIES, ANY TOWN, CITY, COUNTY, OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE. INCLUDING SPECIFICALLY ANY SCHOOL DISTRICT THEREIN, SOLELY IN ANY MACHINES OWNED OR OPERATED BY THE UNITED STATES OR ANY OF ITS AGENCIES OR BY THE STATE OR BY SUCH TOWN, CITY, COUNTY, SCHOOL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THE STATE. EXCEPT AS PROVIDED IN SECTION 39-27-102 (1)(b)(II), FOR PURCHASES BETWEEN GOVERNMENTAL ENTITIES HOLDING GASOLINE OR SPECIAL FUEL EXEMPTION CERTIFICATES; EXCEPT AS PROVIDED IN SECTION 39-27-102.5 (2)(b)(III)(C), THE GASOLINE OR SPECIAL FUEL WITH RESPECT TO WHICH A REFUND IS CLAIMED UNDER THIS SUBSECTION (2) MUST BE USED EXCLUSIVELY BY THE GOVERNMENTAL ENTITY IN PERFORMING ITS GOVERNMENTAL FUNCTIONS AND ACTIVITIES IN ANY MACHINES OWNED OR OPERATED BY THE GOVERNMENTAL ENTITY. ANY OTHER USE OR ANY RESALE FOR ANY OTHER USE IS A VIOLATION OF~~ ~~paragraph (c) of subsection (3)~~ SUBSECTION (3)(c) OF THIS SECTION.

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

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

(b) GASOLINE USED BY DOMESTIC OR FOREIGN PART 121 AIR CARRIERS OR PART 135 COMMUTER AIR CARRIERS AUTHORIZED TO PROVIDE PASSENGER AND CARGO AIR TRANSPORTATION SERVICES PURSUANT TO THE REGULATIONS OF THE OFFICE OF THE SECRETARY OF TRANSPORTATION AND FEDERAL AVIATION ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION. FOR THOSE AIR CARRIERS THAT ARE CERTIFICATED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION FOR BOTH PART 121 AIR CARRIER OPERATIONS AND PART 135 ON-DEMAND OPERATIONS, THIS SUBSECTION (2.5)(b) SHALL NOT APPLY TO THE AIR CARRIER'S PART 135 ON-DEMAND OPERATIONS; AND

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

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

(a) OPERATING A STATIONARY GAS ENGINE;

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

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

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

(e) OPERATING A MOTOR BOAT;

(f) CLEANING OR DYEING;

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

(h) ANY OTHER USE THAT ENTITLES A PERSON TO A REFUND UNDER THIS PART 1 OR FEDERAL LAW.

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

(A) Operating a stationary gas engine;

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

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

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

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

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

~~(G) Cleaning or dyeing;~~

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

~~(I) Any other use that entitles a person to a refund under the provisions of this part 1 or federal law.~~

(d) Application for a refund under this section ~~shall~~ MUST be made within twelve months after the date of purchase of the gasoline or special fuel but not more than once each calendar quarter. Such application ~~shall~~ MUST be made on forms prescribed and furnished by the executive director OF THE DEPARTMENT OF REVENUE, which ~~shall contain such~~ CONTAINS ANY information as the executive director may deem necessary. At the time of making each sale and delivery of gasoline or special fuel upon which a refund of tax may be claimed, the dealer shall prepare an invoice, in duplicate, in a form approved by the executive director and containing such information as the executive director may deem necessary and carrying a serial number that shall not be repeated through any one calendar year. No additional invoices covering the same sale and delivery of gasoline or special fuel shall be issued by the dealer. The original copy of such invoice shall be delivered to the purchaser of the gasoline or special fuel, and, upon payment in full of such invoice, the dealer shall enter thereon the dealer's full name and a notation showing payment thereof. With respect to invoices covering the sale and delivery of gasoline or special fuel to the state or those political subdivisions of the state specified in subsection (2) of this section, it ~~shall not be~~ IS NOT necessary for the dealer to enter the dealer's name and the notation showing payment thereof. Upon proper application, refund ~~shall be~~ IS made directly to such political subdivisions upon presentation of the completed refund claim form. Original invoices together with a certification of the date and number of the warrant by which such invoices were paid ~~shall~~ MUST be retained by such political subdivisions for a period of twenty-four months. The duplicate copy of the invoice ~~shall~~ MUST be retained by the dealer for a period of twenty-four months at the place of business where issued, and such duplicate invoices and other records of the dealer shall be available for examination by the executive director or the executive director's representatives. The executive director shall make demand for repayment of any refund of tax that has been illegally or erroneously made to any person, and the executive director is

authorized to request the attorney general or any district attorney of the state to institute a suit for collection of any money illegally or erroneously refunded to any person.

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

(7) Notwithstanding any provision of law to the contrary, the department of revenue shall not collect any penalties or interest related to the tax imposed under this part 1 for liquefied petroleum gas that, from January 1, 2014, until January 1, 2016, is acquired, sold, offered for sale, or used in this state for any purpose whatsoever. The department shall refund any of these prohibited penalties or interest that were collected prior to August 5, 2015.

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

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

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

MUST be accompanied by a ten-dollar filing fee.

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

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

(e) When any person ceases to be a distributor, supplier, ~~TERMINAL OPERATOR, importer, exporter, carrier, or blender~~ of gasoline or special fuel by reason of discontinuance, sale, or transfer of such person's business at any location, such person shall notify the executive director of the department of revenue in writing at the time the discontinuance, sale, or transfer takes effect. The notice ~~shall~~ MUST state the date of discontinuance and, in the event of sale or transfer, the name and address of the purchaser or transferee. All taxes, penalties, and interest not yet due and payable under ~~the provisions of this part 1, shall,~~ notwithstanding any other provisions of this part 1, ~~become~~ ARE due and payable concurrently with the discontinuance, sale, or transfer; and the ~~distributor~~ PERSON shall make a report and pay all taxes, penalties, and interest and shall surrender to the executive director of the department of revenue the ~~gasoline distributor, supplier, importer, exporter, carrier, or blender~~ license together with all duplicates issued to him or her.

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

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

(h) The executive director of the department of revenue may refuse to issue a ~~gasoline or special fuel distributor, supplier, importer, exporter, carrier, or blender~~ license if the executive director finds, after affording the applicant due notice and an opportunity to be heard, that the application:

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

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

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

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

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

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

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

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

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

**39-27-105. Collection of tax on gasoline and special fuel - rules.** (1) ~~In addition to the reporting requirements set forth in subsection (1.5) of~~ EXCEPT AS OTHERWISE PROVIDED IN this section, every distributor, supplier, carrier, exporter, importer, blender, refiner, or terminal operator of gasoline or special fuel other than liquefied petroleum gas on or before the twenty-sixth day of each calendar month



shall file with the executive director of the department of revenue, on forms prescribed and furnished by the department, an itemized statement made under penalty of perjury in the second degree, showing the following:

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

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

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

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

(d.3) IN THE CASE OF A BLENDER OF GASOLINE OR SPECIAL FUEL, THE AMOUNT AND CHARACTER OF THE UNBLENDED PRODUCTS AND THE BLENDED PRODUCTS ON HAND ON THE LAST DAY OF THE PRECEDING CALENDAR MONTH, THE AMOUNT OF UNBLENDED PRODUCTS ACQUIRED AND THE AMOUNT OF PRODUCTS BLENDED DURING THE CALENDAR MONTH, AND ANY OTHER INFORMATION RELATIVE TO THE DISPOSITION OF THE BLENDED PRODUCTS AS THE EXECUTIVE DIRECTOR MAY DEEM NECESSARY OR ADVISABLE FOR THE CORRECT DETERMINATION OF THE AMOUNT OF EXCISE TAX APPLICABLE TO GASOLINE OR SPECIAL FUEL ACQUIRED, USED, OR SOLD BY THE BLENDER; AND

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

(f) The information required for reporting acquisition or disposition of gasoline

~~or special fuel pursuant to this article shall be submitted electronically in the manner prescribed by the department of revenue by rule. The department, in consultation with distributors, shall promulgate rules regarding filing of information that includes, but is not limited to, the data elements, the format of the data elements, and the method and medium of transmission to the department.~~

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

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

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

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

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

(b) From the amount of tax ~~so~~ computed UNDER SUBSECTION (2)(a) OF THIS SECTION, the distributor of ~~gasoline or special fuel~~ shall deduct one-half of one percent to cover expenses of ~~collection~~ PAYMENT of the tax and bad debt losses and shall pay the remaining balance to the department of revenue ~~at the time of filing~~ AND FILE the statement required ~~to be filed by the provisions~~ BY SUBSECTION (1) of this section ON OR BEFORE THE TWENTY-SIXTH DAY OF EACH CALENDAR MONTH. IF ANY DISTRIBUTOR IS DELINQUENT IN REMITTING THE TAX, EXCEPT IN UNUSUAL CIRCUMSTANCES SHOWN TO THE SATISFACTION OF THE EXECUTIVE DIRECTOR OF THE

DEPARTMENT OF REVENUE, THE RETAILER SHALL NOT BE ALLOWED TO DEDUCT ANY AMOUNT UNDER THIS SUBSECTION (2)(b).

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

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

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

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

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

(3) If any ~~distributor of gasoline or special fuel~~ PERSON fails or refuses to make and file the sworn statement REQUIRED BY THIS SECTION and pay the tax due, IF ANY, for any calendar month or if any ~~distributor of gasoline or special fuel~~ A PERSON makes and files any incorrect or fraudulent statement or return for any calendar month as required by this part 1, the executive director of the department of revenue, upon such information as is available in his or her office or elsewhere, shall determine the amount of gasoline or special fuel taxes due from ~~said distributor~~ THAT PERSON and shall add to ~~said~~ THAT amount a penalty of thirty percent thereof for failure to file such report or for filing ~~such~~ THE false or fraudulent report and collect the amount of ~~said~~ THE tax and penalty plus interest on the whole amount due from ~~said distributor~~ THAT PERSON at the rate imposed under section 39-21-110.5 from the date due until paid. UPON MAKING SUCH ESTIMATE, AND ADDING THE PENALTY AND INTEREST AS PROVIDED IN THIS SECTION, THE EXECUTIVE DIRECTOR SHALL MAIL A NOTICE OF DEFICIENCY AS PROVIDED IN SECTION 39-21-103. A HEARING MAY BE HELD AND THE EXECUTIVE DIRECTOR SHALL MAKE A FINAL DETERMINATION PURSUANT TO THAT SECTION. THE TAXPAYER MAY APPEAL THAT FINAL DETERMINATION IN THE MANNER PROVIDED IN SECTION 39-21-105. The executive director may waive, for good cause shown, any penalty ~~assessed~~ OR INTEREST ADDED as provided in this ~~article~~ ARTICLE 27 and article 21 of this ~~title~~

## TITLE 39.

(5) (a) Except as provided in ~~paragraph (a) of subsection (4)~~ SUBSECTION (4)(a) of this section and in section 39-27-102.5 (2)(c), every person who imports into this state special fuel within the fuel tank of a motor vehicle and who is not required to report special fuel usage under the provisions of subsection (4) of this section shall obtain from the port of entry, from the office of the department of revenue nearest the point of entry into this state, or from any officer of the Colorado state patrol a single trip permit that ~~shall contain~~ CONTAINS a description of the motor vehicle, a description of the points of travel within the state of Colorado, and such other information as the executive director of the department of revenue may require. At the time of issuance of such single trip permit, a tax will be computed and paid based on the consumption rate of four miles per gallon for special fuel consumed within Colorado at the special fuel tax rate provided by ~~section 39-27-102.5~~ SECTION 39-27-102 (1)(a)(II)(B). A fee of one dollar shall be paid for each single trip permit and the permit shall be valid for a period of seventy-two hours.

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

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

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

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

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

(7) (d) Immediately upon discovery of a violation of this section, the department of revenue and agents thereof may require payment of the excise tax and all applicable civil penalties from any person who violates the provisions of this section and may detain the shipment of GASOLINE OR special fuel until payment is collected.

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

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

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

**39-27-105.5. Lien to secure payment of taxes - exemption - recovery.**

(1) (a) The state of Colorado and the department of revenue shall have a lien to secure the payment of the taxes, penalties, and interest imposed pursuant to this part 1 upon all the assets and property of the distributor owing ~~such~~ THE tax, including the stock in trade, business fixtures, and equipment owned or used by the distributor in the conduct of his OR HER business, as long as a delinquency in the payment of such tax continues. Such lien ~~shall be~~ IS prior to any lien of any kind whatsoever, including existing liens for taxes.

(b) Any distributor or person in possession shall provide a copy of any lease pertaining to the assets and property described in ~~paragraph (a) of this subsection~~ ~~(1) SUBSECTION (1)(a) OF THIS SECTION~~ to the department of revenue within ten days after seizure by the department of such assets and property. The department shall verify that such lease is bona fide and notify the owner that such lease has been received by the department. The department shall use its best efforts to notify the owner of the real or personal property which might be subject to the lien created in ~~paragraph (a) of this subsection~~ ~~(1) SUBSECTION (1)(a) OF THIS SECTION~~. The real or personal property of an owner who has made a bona fide lease to a distributor ~~shall be~~ IS exempt from the lien created in ~~paragraph (a) of this subsection~~ ~~(1) SUBSECTION (1)(a) OF THIS SECTION~~ if such property can reasonably be identified from the lease description or if the lessee is given an option to purchase in such lease and has not exercised such option to become the owner of the property leased. This exemption ~~shall be~~ IS effective from the date of the execution of the lease. ~~Such~~ THE exemption ~~shall also apply~~ ALSO APPLIES if the lease is recorded with the county clerk and recorder of the county where the property is located or based or a memorandum of the lease is filed with the department of revenue on such forms as may be prescribed by said department after the execution of the lease at a cost for such filing of two dollars and fifty cents per document. Motor vehicles which are properly registered in this state, showing the lessor as owner thereof, shall be exempt from the lien created in ~~paragraph (a) of this subsection~~ ~~(1) SUBSECTION (1)(a) OF THIS SECTION~~; except that said lien ~~shall apply~~ APPLIES to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed fair market value, or similar interest which is or may be credited to the lessee. Where the lessor and lessee are blood relatives or relatives by law or have twenty-five percent or more common ownership, a lease between such lessee and such lessor ~~shall not be~~ IS NOT considered as bona fide for the purposes of this section.

(c) WHEN THE PROPERTY OF ANY LICENSEE IS SEIZED UPON ANY MESNE OR FINAL PROCESS OF ANY COURT OF THIS STATE OR WHEN THE BUSINESS OF ANY LICENSEE IS SUSPENDED BY THE ACTION OF CREDITORS OR PUT INTO THE HANDS OF ANY ASSIGNEE, RECEIVER, OR TRUSTEE, THEN IN ALL SUCH CASES ALL GASOLINE OR SPECIAL FUEL TAXES DUE FROM AND PAYABLE BY SUCH LICENSEE TOGETHER WITH ANY PENALTIES AND INTEREST THEREON UNDER THIS PART 1 ARE CONSIDERED AND TREATED AS PREFERRED CLAIMS, AND THE STATE OF COLORADO IS A PREFERRED CREDITOR AND TO BE PAID IN FULL.

(d) (I) THE TAX IMPOSED BY THIS PART 1, EXCEPT WHEN PAID BY THE USER TO A VENDOR, TOGETHER WITH PENALTIES AND INTEREST THEREON, CONSTITUTES A LIEN AGAINST ANY MOTOR VEHICLE IN CONNECTION WITH WHICH THE TAXABLE USE IS MADE. THE LIEN SHALL NOT BE REMOVED UNTIL THE TAX, TOGETHER WITH PENALTIES AND INTEREST, IS PAID OR THE MOTOR VEHICLE SUBJECT TO THE LIEN IS

SOLD IN PAYMENT OF THE TAX, PENALTY, AND INTEREST. THE LIEN IS PRIOR TO ALL PRIVATE LIENS AND ENCUMBRANCES AND TO THE RIGHTS OF A CONDITIONAL VENDOR OR OTHER HOLDER OF THE LEGAL OR EQUITABLE TITLE TO THE MOTOR VEHICLE.

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

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

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

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

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

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

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

(3) (a) Notwithstanding the provisions of subsection (1) of this section, the tax imposed by this part 1, except when paid by the user to a vendor, together with penalties and interest thereon, constitutes a lien against any motor vehicle in

connection with which the taxable use is made. The lien shall not be removed until the tax, together with penalties and interest, is paid or the motor vehicle subject to the lien is sold in payment of the tax, penalty, and interest. The lien shall be prior to all private liens and encumbrances and to the rights of a conditional vendor or other holder of the legal or equitable title to the motor vehicle.

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

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

**39-27-120. Penalties.** Any person who in any way violates any of the provisions of this part 1 for which no penalty is expressly provided ~~shall be~~ is punished as provided by section 39-21-118. In addition to the foregoing penalties, the executive director of the department of revenue may suspend or revoke the license of any ~~distributor~~ PERSON who violates any of the provisions of this part 1 and shall notify ~~such distributor~~ THE PERSON of ~~such~~ THE suspension or revocation and, upon application to any court of competent jurisdiction without furnishing bond, ~~shall be~~ IS entitled to an injunction restraining ~~any such distributor~~ THE PERSON from operating, transporting, using, selling, delivering, or transferring any gasoline or special fuel in this state while the license or permit of ~~such distributor~~ THE PERSON has been suspended or revoked. The attorney general shall institute an action on behalf of the state against any person required to collect or pay the tax imposed by this part 1, or the sureties of ~~such~~ THE person, to collect or recover the amount of tax due from ~~such~~ THE person, together with penalties and interest thereon.

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

**39-21-119.5. Mandatory electronic filing of returns - mandatory electronic payment - penalty - waiver - definitions.** (4) Except as provided in subsection (6) of this section, on and after August 2, 2019, electronic filing of returns and the payment of any tax or fee by electronic funds transfer is required for the following:

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

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

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

(a) Revenues from fines, penalties, or forfeitures that are credited to the fund pursuant to sections 18-4-509 (2)(a), ~~39-27-102 (9)(c), 39-27-104 (1)(g)(III), 39-27-104 (1)(g),~~ 42-1-217 (1)(a), (1)(b), (1)(d), (1)(e), and (2), 42-4-225 (3), and 42-4-235 (2)(a); ~~C.R.S.;~~

**SECTION 14. Act subject to petition - effective date.** This act takes effect

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

Approved: July 6, 2021