

## CHAPTER 265

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**TAXATION**

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**HOUSE BILL 98-1333**

BY REPRESENTATIVES May, Adkins, Agler, Allen, Arrington, Bacon, Epps, Gotlieb, S. Johnson, June, Kaufman, Keller, Kreutz, Lamborn, Lawrence, Mace, McElhany, McPherson, Musgrave, Nichol, Paschall, Reeser, Sinclair, Smith, Snyder, Swenson, Tate, Tool, S. Williams, T. Williams, Tucker, and Veiga;  
also SENATORS Mutzebaugh and Congrove.

**AN ACT**

CONCERNING ADMINISTRATION OF THE EXCISE TAX ON FUEL, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

**SECTION 1.** 39-27-101, Colorado Revised Statutes, is amended to read:

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

(1) ~~"Distributor" means a person that acquires gasoline from a refiner or from another distributor for storage and subsequent sale and distribution by tank cars, tank trucks, or both, by the person or for the account of another distributor.~~ "BLENDED GASOLINE" MEANS ANY MIXTURE OF TAXABLE OR TAX-EXEMPT GASOLINE WITH ANY OTHER LIQUID ON WHICH THE EXCISE TAX HAS NOT BEEN IMPOSED PURSUANT TO THIS SECTION.

(1.2) "BLENDER" MEANS A PERSON WHO PRODUCES BLENDED GASOLINE OUTSIDE OF THE GASOLINE DISTRIBUTION SYSTEM CONSISTING OF REFINERIES, PIPELINES, VESSELS, AND TERMINALS. FOR PURPOSES OF THIS SUBSECTION (1.2), GASOLINE IN A REFINERY, PIPELINE, VESSEL, OR TERMINAL IS IN THE GASOLINE DISTRIBUTION SYSTEM. GASOLINE IN THE TANK OF ANY VEHICLE OR IN ANY RAILCAR, TRAILER, TRUCK, OR OTHER EQUIPMENT SUITABLE FOR GROUND TRANSPORTATION IS NOT IN THE GASOLINE DISTRIBUTION SYSTEM.

(1.4) "COMMON CARRIER" OR "CARRIER" MEANS A PERSON, INCLUDING A RAILROAD OPERATOR, WHO TRANSPORTS GASOLINE FROM A TERMINAL OR

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

TRANSPORTS GASOLINE IMPORTED INTO THIS STATE AND WHO DOES NOT OWN THE GASOLINE.

(1.5) ~~"Gallons" means gallons as measured on a gross gallons basis, as defined in section 8-20-201 (3), C.R.S.~~ "DISTRIBUTOR" MEANS A GASOLINE BROKER OR A PERSON WHO ACQUIRES GASOLINE FROM A SUPPLIER, IMPORTER, BLENDER, OR ANOTHER DISTRIBUTOR FOR THE SUBSEQUENT SALE AND DISTRIBUTION BY TANK CARS, TANK TRUCKS, OR BOTH.

(1.6) "EXPORTER" MEANS A PERSON WHO ACQUIRES GASOLINE IN THIS STATE EXCLUSIVELY FOR DELIVERY IN ANOTHER STATE IN WHICH HE OR SHE IS LICENSED.

(1.7) "GALLONS" MEANS GALLONS AS MEASURED ON A GROSS GALLONS BASIS, AS DEFINED IN SECTION 8-20-201 (3), C.R.S.

(2) (a) Repealed.

(b) Effective January 1, 1989, "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, 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 PARAGRAPH (b), ANY PRODUCT BLENDED WITH GASOLINE SHALL BE CONSIDERED GASOLINE FOR PURPOSES OF THE EXCISE TAX IMPOSED PURSUANT TO THIS PART 1.

(2.2) "IMPORTER" MEANS A PERSON WHO IMPORTS GASOLINE IN BULK OR BY TRANSPORT LOAD INTO THIS STATE FROM ANOTHER STATE BY TRUCK, RAIL, OR PIPELINE.

(2.4) "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, IMPORTER, EXPORTER, DISTRIBUTOR, CARRIER, OR BLENDER.

(3) (a) "Person" means every individual, firm, association, joint stock company, syndicate, ~~corporation, city, town, county, or other political subdivision of this state~~ LIMITED LIABILITY COMPANY, PARTNERSHIP, JOINT VENTURE, CORPORATION, ESTATE, TRUST, OR ANY GROUP OR COMBINATION THEREOF ACTING AS A UNIT, THIS STATE, ANY COUNTY, CITY AND COUNTY, MUNICIPALITY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THIS STATE, OR ANY GROUP OR COMBINATION OF SUCH GOVERNMENTAL ENTITIES ACTING AS A UNIT.

(b) Whenever used in any clause in this part 1 prescribing or imposing a fine, imprisonment, or both, ~~the term~~ "person":

(1) As applied to A firm, association, LIMITED LIABILITY COMPANY, PARTNERSHIP, JOINT VENTURE, joint stock company, RECEIVER, or syndicate, means the partners or members thereof, ~~and~~

(II) As applied to a corporation, means the officers or resident managing agent thereof; AND

(III) AS APPLIED TO AN ESTATE, TRUST, OR BUSINESS TRUST, MEANS THE ADMINISTRATOR OR TRUSTEE THEREOF.

(4) (Deleted by amendment, L. 95, p. 981, 1, effective July 1, 1995.)

(5) "Refiner" means a person ~~that~~ WHO PROCESSES CRUDE OIL OR WHO produces, refines, prepares, distills, or manufactures gasoline in this state. ~~A person shall be considered a "refiner" and not a "distributor" when gasoline is shipped or delivered by or for a licensed distributor from a refinery or pipeline terminal to a licensed distributor at another refinery or pipeline terminal and unloaded into storage at the other refinery or pipeline terminal.~~

(6) "Refinery" means any place where gasoline OR CRUDE OIL is produced, refined, compounded, blended, or manufactured.

(6.6) "SUPPLIER" MEANS A PERSON WHO OWNS AND STORES GASOLINE IN A PIPELINE TERMINAL, TERMINAL, OR REFINERY IN OR OUTSIDE OF THIS STATE FOR SALE OR USE WITHIN OR OUTSIDE THE BOUNDARIES OF THIS STATE.

(7) Repealed.

(8) "Tank farm" means any collection of ~~large~~ tanks for storage of gasoline located at or appurtenant to any refinery or pipeline terminal for storage of gasoline before the sale thereof in this state.

(9) "TERMINAL" MEANS A GASOLINE STORAGE AND DISTRIBUTION FACILITY THAT IS SUPPLIED BY A PIPELINE, VESSEL, OR REFINERY, OR A TANK FARM FROM WHICH GASOLINE MAY BE REMOVED FOR DISTRIBUTION.

(10) "TERMINAL OPERATOR" MEANS THE PERSON WHO BY OWNERSHIP OR CONTRACTUAL AGREEMENT CONTROLS THE OPERATION OF A TERMINAL.

**SECTION 2.** 39-27-102 (1) (a) (I), (1) (b), and (2) (a), Colorado Revised Statutes, are amended, and the said 39-27-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**39-27-102. Tax imposed - deposits - penalties.** (1) (a) (I) Other than as provided in subparagraph (III) of this paragraph (a), an excise tax is imposed and shall be collected on all gasoline sold, offered for sale, or used in this state for any purpose whatsoever, but only one tax shall be paid upon the same gasoline in this state. Except as otherwise provided in this subparagraph (I), no more than three tax-deferred transactions shall take place after the gasoline has left the ~~refinery~~ TERMINAL of its origin, ~~or a tank farm at or appurtenant to the refinery,~~ either within or ~~without~~ OUTSIDE OF this state. If more than three distributors acquire the gasoline, 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 that is exempt pursuant to section 39-27-103 (2). The tax imposed shall be computed upon the total amount of gasoline,

measured in gallons, acquired by each distributor in this state and shall be paid in the manner provided in this section.

(b) In the case of gasoline shipped to a distributor from a ~~refinery~~ TERMINAL, the amount of gasoline acquired shall be deemed to be the amount shipped from the ~~refinery~~ TERMINAL, as shown by the ~~refinery invoice~~ TERMINAL MANIFEST; except that an allowance of two percent of the total amount of gasoline acquired during any calendar month, as shown by the ~~refinery invoices~~, TERMINAL MANIFESTS, shall be ~~made to and~~ deducted by the LICENSED distributor to cover losses in transit and in unloading the gasoline 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, "retailer" being defined as every person selling gasoline in this state at the retail level of trade, an allowance of one percent of the amount of gasoline delivered during each calendar month by the distributor to the retailer, as shown by delivery invoices signed by the retailer. ~~When gasoline is transported by a distributor to any point outside this state and there disposed of, then, upon the distributor's filing with the executive director of the department of revenue a duplicate bill of lading or an affidavit showing the transaction, the tax imposed by this section shall not apply to the gasoline and, if already paid, shall be refunded to the distributor.~~ The tax imposed by this section shall be 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 sale involves a single delivery and the gasoline is used exclusively by the governmental entity in performing its governmental functions and activities. ANY GOVERNMENTAL ENTITY REFERRED TO IN THIS PARAGRAPH (b) MAY OBTAIN AN EXEMPTION CERTIFICATE FROM THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE. UPON RECEIPT OF AN EXEMPTION CERTIFICATE, SUCH GOVERNMENTAL ENTITY MAY PURCHASE GASOLINE FROM A DISTRIBUTOR WITHOUT PAYMENT OF THE EXCISE TAX IMPOSED PURSUANT TO THIS PART 1 IF THE GASOLINE IS USED EXCLUSIVELY BY THE GOVERNMENTAL ENTITY IN PERFORMING ITS GOVERNMENTAL FUNCTIONS AND ACTIVITIES.

(1.5) (a) ANY DISTRIBUTOR, SUPPLIER, BLENDER, OR EXPORTER WHO TRANSPORTS GASOLINE TO ANY DESTINATION OUTSIDE OF THIS STATE SHALL SUBMIT TO THE DEPARTMENT OF REVENUE A MONTHLY REPORT CONTAINING ANY INFORMATION RELATIVE TO THE EXPORT OF GASOLINE THAT THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL REQUIRE. THE EXECUTIVE DIRECTOR SHALL CONSULT WITH PERSONS IN THE GASOLINE INDUSTRY TO DETERMINE SUCH REPORTING REQUIREMENTS AND ESTABLISH SAID REQUIREMENTS BY RULE IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S. THE EXECUTIVE DIRECTOR MAY BY RULE REQUIRE THAT SUCH REPORTS BE FILED ELECTRONICALLY.

(b) IF THE TAX IS PAID ON GASOLINE THAT IS SUBSEQUENTLY EXPORTED, IT SHALL BE REFUNDED PURSUANT TO SECTION 39-27-103 TO THE EXPORTER WHO PAID THE TAX.

(c) IMMEDIATELY UPON DISCOVERY OF A VIOLATION OF THIS SUBSECTION (1.5), THE DEPARTMENT OF REVENUE AND AGENTS THEREOF:

(1) MAY REQUIRE PAYMENT OF THE EXCISE TAX IMPOSED PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND ALL APPLICABLE CIVIL FINES IMPOSED

PURSUANT TO THIS SUBSECTION (1.5) FROM ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (9) OF THIS SECTION; AND

(II) MAY DETAIN THE SHIPMENT OF GASOLINE UNTIL PAYMENT IS COLLECTED.

(d) ANY LICENSED DISTRIBUTOR, SUPPLIER, OR EXPORTER WHO DIVERTS GASOLINE FOR USE OR SALE WITHIN THIS STATE AFTER CLAIMING SUCH SHIPMENT AS AN EXPORT SHALL REPORT SUCH DIVERSION TO THE DEPARTMENT WITHIN ONE WORKING DAY AFTER THE DIVERSION.

(e) IF ANY PERSON OTHER THAN A LICENSED DISTRIBUTOR, SUPPLIER, OR EXPORTER PHYSICALLY DIVERTS TO ONE OR MORE DESTINATIONS WITHIN THE BOUNDARIES OF THIS STATE ANY OR ALL OF A SHIPMENT OF GASOLINE THAT IS CLAIMED AS AN EXPORT ON THE BILL OF LADING OR OTHER AFFIDAVIT, SUCH PERSON SHALL REPORT TO THE DEPARTMENT OF REVENUE, WITHIN ONE WORKING DAY AFTER SUCH DIVERSION, THE DESTINATIONS WITHIN THIS STATE TO WHICH THE DIVERTED GASOLINE SHIPMENT WAS DELIVERED. SUCH PERSON SHALL BE LIABLE FOR PAYMENT OF THE EXCISE TAX ESTABLISHED IN PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION ON THE AMOUNT OF GASOLINE DIVERTED TO A DESTINATION WITHIN THIS STATE.

(f) ANY PERSON WHO VIOLATES THE REPORTING REQUIREMENTS OF THIS SUBSECTION (1.5) SHALL BE SUBJECT TO THE CIVIL PENALTIES SET FORTH IN SUBSECTION (9) OF THIS SECTION.

(2) (a) Every person who uses any gasoline for propelling a motor vehicle on the public highways of this state or who ~~imports~~ IS LICENSED TO IMPORT any gasoline into this state for use or sale in this state, upon which gasoline 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) of this section on all such gasoline so used, or imported for use or sale, in this state. Such person shall pay such tax to the department of revenue on or before the twenty-fifth day of the calendar month following the month in which such gasoline 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 so used or imported during such preceding calendar month. When such gasoline is delivered from a ~~refinery or tank farm~~ TERMINAL in a carload lot, the quantity thereof and the amount of tax thereon shall be 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 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 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. 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 AND ALL APPLICABLE FINES ASSOCIATED WITH THE UNLICENSED IMPORTATION OF GASOLINE AND MAY DETAIN THE SHIPMENT OF GASOLINE UNTIL SUCH

EXCISE TAX AND FINES ARE COLLECTED.

(9) (a) ANY PERSON WHO VIOLATES THE REPORTING PROVISIONS OF SUBSECTION (1.5) OF THIS SECTION OR IMPORTS GASOLINE 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.

(10) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE CRIMINAL PROSECUTION OF ANY PERSON WHO COMMITS A CRIMINAL OFFENSE IN CONNECTION WITH OR AS A RESULT OF VIOLATING ANY PROVISION OF THIS PART 1.

**SECTION 3.** 39-27-104 (1) and (3), Colorado Revised Statutes, are amended, and the said 39-27-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**39-27-104. License and deposit - exception.** (1) (a) It is unlawful for any person to act as a ~~refiner or as a~~ distributor, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER of gasoline in this state without ~~having a license therefor, which shall be secured by application to the executive director of the department of revenue upon the blank furnished~~ BEING LICENSED AS SUCH. ANY PERSON WHO ACTS AS A DISTRIBUTOR, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER OF GASOLINE WITHIN THIS STATE WITHOUT BEING LICENSED AS SUCH IS GUILTY OF A MISDEMEANOR. EACH DAY OF OPERATION WITHOUT A LICENSE SHALL BE CONSIDERED A SEPARATE OFFENSE.

(b) ~~The application shall be under oath and shall contain such reasonable information as the executive director deems necessary. If the applicant has or intends to have more than one place of business in this state, the application shall state the location of each place of business; and if, after the license is issued, the distributor, or refiner opens any new place of business in this state, he shall immediately notify the executive director.~~ EACH APPLICANT FOR THE GASOLINE DISTRIBUTOR, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER LICENSE REQUIRED BY THIS SECTION SHALL FILE WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE AN APPLICATION IN SUCH FORM AND MANNER AS THE EXECUTIVE DIRECTOR SHALL PRESCRIBE, STATING THE NAME AND ADDRESS OF THE APPLICANT AND SUCH OTHER INFORMATION AS MAY BE REQUIRED BY THIS SECTION OR BY THE EXECUTIVE DIRECTOR. THE APPLICATION SHALL 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 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 DISTRIBUTOR, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER LICENSE SHALL BE ACCOMPANIED BY A TEN-DOLLAR FILING FEE.

(c) ~~The executive director is authorized to refuse to issue a license to any person in default of payment of any tax imposed by this part 1 or by any preceding motor fuel tax law or who is guilty of violation of any provision of this part 1 or of any preceding motor fuel tax law, and such person shall not directly or indirectly receive a license to act as a distributor, or refiner in this state.~~ THE EXECUTIVE DIRECTOR SHALL ISSUE A LICENSE TO AN APPLICANT IF THE APPLICATION FOR A GASOLINE 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 VALID UNTIL SURRENDERED, SUSPENDED, OR REVOKED.

(d) ~~In the case of a distributor~~ A PERSON who engages in the business of blending or compounding any products to make a gasoline thereof ~~he~~ shall OBTAIN A BLENDER LICENSE AND set forth in his OR HER application the kind and general characteristics of the products to be blended, the place where such blending is done, the purpose of such blending, and the intended disposition of such blended products and any other information as the executive director deems necessary or advisable for the enforcement of this part 1.

(e) ~~The license to act as a distributor, or refiner of gasoline shall not be assignable, and, upon the discontinuance of the business of the distributor, or refiner, the license shall be immediately surrendered to the executive director for cancellation.~~ WHEN ANY PERSON CEASES TO BE A DISTRIBUTOR, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER OF GASOLINE 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 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 DUE AND PAYABLE CONCURRENTLY WITH THE DISCONTINUANCE, SALE, OR TRANSFER; AND THE DISTRIBUTOR SHALL MAKE A REPORT AND PAY ALL TAXES, PENALTIES, AND INTEREST AND SHALL SURRENDER TO THE EXECUTIVE DIRECTOR THE GASOLINE DISTRIBUTOR, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER LICENSE TOGETHER WITH ALL DUPLICATES ISSUED TO HIM OR HER.

(f) THE GASOLINE DISTRIBUTOR, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER LICENSE ISSUED UNDER THE PROVISIONS OF THIS SECTION SHALL 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 UPON PAYMENT OF A FIVE-DOLLAR FEE.

(g) (I) NO PERSON SHALL EXPORT GASOLINE OUT OF THIS STATE WITHOUT A VALID LICENSE PURSUANT TO THIS SECTION. ANY PERSON WHO EXPORTS GASOLINE OUT OF THIS STATE WITHOUT A VALID LICENSE SHALL BE SUBJECT TO THE FOLLOWING CIVIL PENALTIES:

(A) A FIVE-THOUSAND-DOLLAR FINE FOR THE FIRST VIOLATION;

(B) A TEN-THOUSAND-DOLLAR FINE FOR THE SECOND VIOLATION;

(C) A FIFTEEN-THOUSAND-DOLLAR FINE FOR A THIRD OR SUBSEQUENT VIOLATION.

(II) THE EXECUTIVE DIRECTOR IS AUTHORIZED TO WAIVE, FOR GOOD CAUSE SHOWN, ANY CIVIL PENALTY ASSESSED PURSUANT TO THIS PARAGRAPH (g).

(III) ALL MONEYS COLLECTED PURSUANT TO THIS PARAGRAPH (g) SHALL BE CREDITED TO THE HIGHWAY USERS TAX FUND, CREATED IN SECTION 43-4-201, C.R.S.

(IV) NOTHING IN THIS PARAGRAPH (g) SHALL BE CONSTRUED TO PROHIBIT THE CRIMINAL PROSECUTION OF ANY PERSON WHO COMMITS A CRIMINAL OFFENSE IN CONNECTION WITH OR AS A RESULT OF VIOLATING ANY PROVISION OF THIS PART 1.

(V) IMMEDIATELY UPON DISCOVERY OF A VIOLATION OF THIS PARAGRAPH (g), THE DEPARTMENT OF REVENUE AND AGENTS THEREOF:

(A) MAY REQUIRE PAYMENT OF THE EXCISE TAX IMPOSED PURSUANT TO SECTION 39-27-102 (1) (a) AND ALL APPLICABLE CIVIL PENALTIES IMPOSED PURSUANT TO THIS PARAGRAPH (g) FROM ANY PERSON WHO VIOLATES THE PROVISIONS OF THIS PARAGRAPH (g); AND

(B) MAY DETAIN THE SHIPMENT OF GASOLINE UNTIL PAYMENT IS COLLECTED.

(h) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY REFUSE TO ISSUE A GASOLINE 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:

(I) WAS FILED BY ANY PERSON WHOSE LICENSE HAS PREVIOUSLY BEEN SUSPENDED OR REVOKED FOR CAUSE BY THE EXECUTIVE DIRECTOR;

(II) CONTAINS ANY MISREPRESENTATION, MISSTATEMENT, OR OMISSION OF MATERIAL INFORMATION REQUIRED BY THE APPLICATION;

(III) WAS FILED BY SOME PERSON OTHER THAN THE REAL PERSON IN INTEREST WHOSE LICENSE HAS BEEN PREVIOUSLY SUSPENDED OR REVOKED FOR CAUSE BY THE EXECUTIVE DIRECTOR;

(IV) WAS FILED BY ANY PERSON WHO IS OR HAS BEEN DELINQUENT IN THE PAYMENT OF ANY FEE, TAX, PENALTY, OR OTHER AMOUNT DUE TO THE DEPARTMENT OF REVENUE FOR MORE THAN TWO TAXABLE PERIODS; OR

(V) WAS SUBMITTED BY A PERSON WHO THE EXECUTIVE DIRECTOR DETERMINES IS

UNABLE OR UNWILLING TO PERFORM THE DUTIES AND RESPONSIBILITIES OF A LICENSED GASOLINE DISTRIBUTOR, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER, AS APPLICABLE, BASED UPON EVIDENCE FURNISHED TO HIM OR HER.

(2.2) (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, IN ACCORDANCE WITH RULES PROMULGATED PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., MAY REVOKE OR SUSPEND THE LICENSE OF ANY LICENSEE WHO:

(I) FAILS TO TIMELY FILE ANY REPORT REQUIRED UNDER THIS PART 1 OR FILES A FALSE REPORT;

(II) FAILS TO PAY THE TAX IMPOSED PURSUANT TO THIS PART 1 TOGETHER WITH ANY APPLICABLE PENALTY AND INTEREST;

(III) FAILS TO PAY ANY CIVIL PENALTY ASSESSED PURSUANT TO THIS PART 1;

(IV) IS CONVICTED OF ANY CRIMINAL OFFENSE RELATED TO A VIOLATION OF THE PROVISIONS OF THIS PART 1;

(V) ABUSES THE PRIVILEGES FOR WHICH THE LICENSE WAS ISSUED;

(VI) FAILS TO PRODUCE RECORDS REQUESTED OR OTHERWISE FAILS TO COOPERATE WITH THE DEPARTMENT IN THE ADMINISTRATION OF THE PROVISIONS OF THIS PART 1.

(b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY REINSTATE A LICENSE, TERMINATE A SUSPENSION, OR GRANT A NEW LICENSE TO A PERSON WHOSE LICENSE HAS BEEN REVOKED IF NO FACT OR CONDITION EXISTS THAT WOULD CONSTITUTE GROUNDS FOR THE EXECUTIVE DIRECTOR TO REFUSE TO REINSTATE, GRANT, OR TERMINATE A SUSPENSION OF A LICENSE.

(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, ~~or refiner~~ 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 18-1-105, C.R.S.

**SECTION 4.** The introductory portion to 39-27-105 (1) and 39-27-105 (1) (e), Colorado Revised Statutes, are amended, and the said 39-27-105 is further amended by THE ADDITION OF A NEW SUBSECTION, to read:

**39-27-105. Tax collection.** (1) IN ADDITION TO THE REPORTING REQUIREMENTS SET FORTH IN SUBSECTION (1.5) OF THIS SECTION, every distributor AND BLENDER on or before the twenty-fifth 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:

(e) Further information pertaining to the acquisition of gasoline and its disposition as the executive director may reasonably require. In the case of a distributor ~~engaged~~

~~in the business of blending products to make gasoline~~ DULY LICENSED AS A BLENDER, 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 acquired, used, or offered for sale by the distributor.

(1.5) ON OR BEFORE THE TWENTY-FIFTH 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 OF THE DEPARTMENT OF REVENUE SHALL REQUIRE. THE EXECUTIVE DIRECTOR SHALL CONSULT WITH PERSONS IN THE GASOLINE INDUSTRY TO DETERMINE SUCH REPORTING REQUIREMENTS AND ESTABLISH SAID REQUIREMENTS BY RULE IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S. THE EXECUTIVE DIRECTOR MAY BY RULE REQUIRE THAT SUCH REPORTS BE FILED ELECTRONICALLY.

**SECTION 5.** 39-27-107, Colorado Revised Statutes, is amended to read:

**39-27-107. When users other than distributors must report.** EXCEPT AS OTHERWISE PROVIDED IN SECTION 39-27-102 FOR PERSONS THAT EXPORT GASOLINE, every person not a licensed distributor who uses any gasoline in this state or who has in his OR HER possession any gasoline, other than that contained in the ordinary fuel tank attached to a motor vehicle or aircraft, upon which a licensed distributor has not paid or is not liable for the tax imposed in this part 1 shall file a sworn statement with the executive director of the department of revenue on or before the twenty-fifth day of the calendar month on such form as the executive director prescribes and furnishes, showing the amount of gasoline so used and held, and shall pay to the executive director the tax imposed on all such gasoline.

**SECTION 6.** Part 1 of article 27 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-27-109.7. Data collection services.** IN ORDER TO TRACK THE MOVEMENT OF GASOLINE WITHIN THIS STATE AND THEREBY FACILITATE AND EXPEDITE THE COLLECTION OF EXCISE TAXES IMPOSED PURSUANT TO THIS PART 1, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY ENTER INTO A CONTRACT WITH ONE OR MORE PRIVATE ENTITIES FOR THE PROVISION OF A COMPUTER-BASED PROGRAM TO MONITOR AND TRACK THE DATA THAT LICENSEES ARE REQUIRED TO REPORT TO THE DEPARTMENT PURSUANT TO THIS PART 1. SUCH COMPUTER-BASED PROGRAM SHALL BE FUNDED SOLELY WITH MONEYS FROM THE HIGHWAY USERS TAX FUND.

**SECTION 7.** 39-27-201 (1) and (6), Colorado Revised Statutes, are amended, and the said 39-27-201 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**39-27-201. Definitions - construction.** As used in this part 2, unless the context otherwise requires:

(1) ~~"Distributor" means any person who refines, manufactures, produces, compounds, blends, or imports special fuel in the original package or container or otherwise, and includes every person importing special fuel by means of a pipeline or in any other manner, but does not include persons importing special fuel contained only in the fuel tank of a motor vehicle. "Distributor" includes any person who sells special fuel to another distributor, broker, or vendor, and any vendor of liquefied petroleum gases. "BLENDED SPECIAL FUEL" MEANS ANY MIXTURE OF TAXABLE OR TAX-EXEMPT SPECIAL FUEL WITH ANY OTHER LIQUID ON WHICH THE EXCISE TAX HAS NOT BEEN IMPOSED PURSUANT TO THIS SECTION, OTHER THAN SPECIAL FUEL THAT HAS BEEN DYED IN ACCORDANCE WITH FEDERAL REGULATIONS.~~

(1.2) "BLENDER" MEANS A PERSON WHO PRODUCES BLENDED SPECIAL FUEL OUTSIDE OF THE SPECIAL FUEL DISTRIBUTION SYSTEM CONSISTING OF REFINERIES, PIPELINES, VESSELS, AND TERMINALS. SPECIAL FUEL IN A REFINERY, PIPELINE, VESSEL, OR TERMINAL IS IN THE SPECIAL FUEL DISTRIBUTION SYSTEM. FOR PURPOSES OF THIS SUBSECTION (1.2), 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 SPECIAL FUEL DISTRIBUTION SYSTEM.

(1.4) "COMMON CARRIER" OR "CARRIER" MEANS A PERSON, INCLUDING A RAILROAD OPERATOR, WHO IS INVOLVED IN THE TRANSPORT OF SPECIAL FUEL FROM A TERMINAL LOCATED IN THIS STATE OR IN THE TRANSPORT OF SPECIAL FUEL IMPORTED INTO THIS STATE AND WHO DOES NOT OWN THE SPECIAL FUEL.

(1.5) "DISTRIBUTOR" MEANS ANY PERSON WHO ACQUIRES SPECIAL FUEL FROM A SUPPLIER, IMPORTER, BLENDER, OR ANOTHER DISTRIBUTOR FOR THE SUBSEQUENT SALE AND DISTRIBUTION BY TANK CARS, TANK TRUCKS, OR BOTH. "DISTRIBUTOR" ALSO MEANS ANY PERSON WHO REFINES, MANUFACTURES, PRODUCES, COMPOUNDS, BLENDS, OR IMPORTS SPECIAL FUEL. "DISTRIBUTOR" INCLUDES EVERY PERSON IMPORTING SPECIAL FUEL BY MEANS OF A PIPELINE OR IN ANY OTHER MANNER BUT DOES NOT INCLUDE PERSONS IMPORTING SPECIAL FUEL CONTAINED ONLY IN THE FUEL TANK OF A MOTOR VEHICLE. "DISTRIBUTOR" ALSO INCLUDES A SPECIAL FUEL BROKER AND ANY PERSON WHO SELLS SPECIAL FUEL TO ANOTHER DISTRIBUTOR, BROKER, OR VENDOR, AND ANY VENDOR OF LIQUEFIED PETROLEUM GASES.

(1.6) "DYED DIESEL" MEANS DIESEL FUEL THAT IS DYED UNDER THE RULES OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR THE INTERNAL REVENUE SERVICE FOR HIGH SULPHUR DIESEL FUEL OR LOW SULPHUR DIESEL FUEL OR UNDER ANY OTHER REQUIREMENTS SUBSEQUENTLY SET BY SUCH AGENCIES FOR SPECIAL FUEL SOLD FOR NONTAXABLE USES.

(1.8) "EXPORTER" MEANS A PERSON WHO ACQUIRES SPECIAL FUEL IN THIS STATE EXCLUSIVELY FOR DELIVERY IN ANOTHER STATE IN WHICH HE OR SHE IS LICENSED.

(3.5) "IMPORTER" MEANS A PERSON WHO IMPORTS SPECIAL FUEL IN BULK OR BY TRANSPORT LOAD INTO THIS STATE FROM ANOTHER STATE BY TRUCK, RAIL, OR PIPELINE.

(6) (a) "Person" means any individual, firm, limited liability company, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, JOINT STOCK COMPANY, or syndicate, ~~and includes this state, any county, municipality,~~

~~district, or other political subdivision thereof, or any other group or combination acting as a unit~~ OR ANY GROUP OR COMBINATION THEREOF ACTING AS A UNIT, THIS STATE, ANY COUNTY, CITY AND COUNTY, MUNICIPALITY, SPECIAL DISTRICT, OR OTHER POLITICAL SUBDIVISION OF THIS STATE, OR ANY GROUP OR COMBINATION OF SUCH GOVERNMENTAL ENTITIES ACTING AS A UNIT.

(b) WHENEVER USED IN ANY CLAUSE IN THIS PART 2 PRESCRIBING OR IMPOSING A FINE, IMPRISONMENT, OR BOTH, "PERSON":

(I) AS APPLIED TO A FIRM, AN ASSOCIATION, A LIMITED LIABILITY COMPANY, A PARTNERSHIP, A JOINT VENTURE, A JOINT STOCK COMPANY, A RECEIVER, OR A SYNDICATE, MEANS THE PARTNERS OR MEMBERS THEREOF;

(II) AS APPLIED TO A CORPORATION, MEANS THE OFFICERS OR RESIDENT MANAGING AGENT THEREOF; AND

(III) AS APPLIED TO AN ESTATE, A TRUST, OR A BUSINESS TRUST, MEANS THE ADMINISTRATOR OR TRUSTEE THEREOF.

(6.2) "REFINER" MEANS A PERSON WHO PROCESSES CRUDE OIL OR WHO PRODUCES, REFINES, PREPARES, DISTILLS, OR MANUFACTURES SPECIAL FUEL IN THIS STATE.

(6.4) "REFINERY" MEANS ANY PLACE WHERE SPECIAL FUEL OR CRUDE OIL IS PRODUCED, REFINED, COMPOUNDED, BLENDED, OR MANUFACTURED.

(8.5) "SUPPLIER" MEANS A PERSON WHO OWNS AND STORES SPECIAL FUEL IN A PIPELINE TERMINAL, TERMINAL, OR REFINERY IN OR OUTSIDE OF THIS STATE FOR DISTRIBUTION WITHIN OR OUTSIDE THE BOUNDARIES OF THIS STATE.

(8.6) "TANK FARM" MEANS ANY COLLECTION OF TANKS FOR STORAGE OF SPECIAL FUEL LOCATED AT OR APPURTENANT TO ANY REFINERY OR PIPELINE TERMINAL FOR STORAGE OF SPECIAL FUEL BEFORE THE SALE THEREOF IN THIS STATE.

(8.7) "TERMINAL" MEANS A SPECIAL FUEL STORAGE AND DISTRIBUTION FACILITY THAT IS SUPPLIED BY A PIPELINE, VESSEL, REFINERY, OR TANK FARM FROM WHICH SPECIAL FUEL MAY BE REMOVED FOR DISTRIBUTION.

(8.9) "TERMINAL OPERATOR" MEANS THE PERSON WHO BY OWNERSHIP OR CONTRACTUAL AGREEMENT CONTROLS THE OPERATION OF A TERMINAL.

**SECTION 8.** 39-27-202 (2) (a), (2) (b), (2) (c), (3) (b), (3) (c), and (3) (d), Colorado Revised Statutes, are amended, and the said 39-27-202 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**39-27-202. Tax imposed - exemptions - ex-tax purchases.** (1.5) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION AND PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION, INDELIBLE DYE MEETING FEDERAL REGULATIONS MUST BE ADDED TO SPECIAL FUEL BEFORE OR UPON WITHDRAWAL AT A TERMINAL OR REFINERY RACK FOR THAT SPECIAL FUEL TO BE EXEMPT FROM THE EXCISE TAX IMPOSED PURSUANT TO THIS PART 2. SUCH 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 2. 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 2. THE TERMINAL OPERATOR SHALL ENSURE THAT TAX-EXEMPT SPECIAL FUEL IS DYED BEFORE IT LEAVES THE TERMINAL. THE SELLER SHALL GIVE NOTICE TO THE PURCHASER IN ACCORDANCE WITH FEDERAL REGULATIONS THAT THE DYED SPECIAL FUEL IS NOT LEGAL FOR TAXABLE USE.

(2) (a) DYED DIESEL FUEL PURCHASED TO PROPEL farm vehicles, when the same are being used on farms and ranches, and 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 exempt from the ~~provisions of~~ EXCISE TAX IMPOSED PURSUANT TO THIS PART 2. A PERSON WHO PURCHASES UNDYED SPECIAL FUEL FOR THE PURPOSES SET FORTH IN THIS PARAGRAPH (a) MAY, IN ACCORDANCE WITH SECTION 39-27-203, APPLY TO THE DEPARTMENT OF REVENUE FOR A REFUND OF THE EXCISE TAX PAID THEREON.

(b) (I) All purchases of special fuel for the propulsion of a motor vehicle on the highways of this state 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, or school district of this state, and any other political subdivision of this state~~ shall be exempt from the provisions of this part 2 if the special fuel is used exclusively by the governmental entity in performing its governmental functions and activities.

(II) DYED DIESEL PURCHASED BY THE STATE OF COLORADO OR ANY OF ITS AGENCIES, ANY TOWN, CITY, COUNTY, CITY AND COUNTY, OR SCHOOL DISTRICT OF THIS STATE, AND ANY OTHER POLITICAL SUBDIVISION OF THIS STATE SHALL BE EXEMPT FROM THE EXCISE TAX IMPOSED PURSUANT TO THIS PART 2 IF THE SPECIAL FUEL IS USED EXCLUSIVELY BY THE GOVERNMENTAL ENTITY IN PERFORMING ITS GOVERNMENTAL FUNCTIONS AND ACTIVITIES.

(III) ANY STATE OR LOCAL GOVERNMENTAL ENTITY REFERRED TO IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) 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 2 IF THE SPECIAL FUEL IS USED EXCLUSIVELY BY THE GOVERNMENTAL ENTITY IN PERFORMING ITS GOVERNMENTAL FUNCTIONS AND ACTIVITIES.

(c) ~~All purchases of special fuel dyed in accordance with federal regulations and on whose sale no federal excise tax is imposed shall be exempt from the provisions of this part 2 if the seller gives notice to the purchaser in accordance with federal regulations that the dyed special fuel~~ is not legal for taxable use. For purposes of this paragraph (c), "taxable use" means any use on which an excise tax on special fuel is imposed.

(3) (b) The executive director of the department of revenue ~~may~~ SHALL issue ~~written authorization~~ AN EXEMPTION CERTIFICATE to a user of special fuel to purchase UNDYED special fuel from a distributor without payment of the tax if such user is exempt under the provisions of paragraph (a) ~~or~~ (b) of subsection (2) of this section. ~~or if such user maintains bulk storage for special fuel in an amount of at least two hundred fifty gallons and receives individual deliveries of special fuel from such distributor and if the executive director is satisfied from evidence presented by the bulk user that:~~

~~(I) The user operates a motor vehicle propelled by special fuel which is subject to the mileage taxes imposed by section 42-3-134, C.R.S., and such user establishes a special fuel user tax account with the department of revenue and files returns; or~~

~~(II) The user's purchases of special fuel are to be used in motor vehicles exempt from tax under paragraph (a) of subsection (2) of this section and, when such motor vehicles are operated on the highways of this state, such user establishes a special fuel user tax account with the department of revenue and files returns.~~

(c) ~~To secure authorization to purchase special fuel without payment of the tax to the distributor, the user shall apply to the executive director, furnishing a description of his operations sufficiently detailed to demonstrate that he meets the conditions of this subsection (3) and such other information as the executive director may require.~~

(d) ~~Authorization to purchase special fuel without payment of the tax to the distributor shall be revoked when the conditions of this subsection (3) are no longer met.~~

**SECTION 9.** 39-27-204 (1), (2), and (3), Colorado Revised Statutes, are amended, and the said 39-27-204 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**39-27-204. Licenses - deposits - exception.** (1) (a) It is unlawful for any person to act as a distributor, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER of special fuel within this state without being licensed as such. Any person who acts as a distributor, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER of special fuel within this state without being licensed as such is guilty of a misdemeanor. ~~and, upon conviction thereof, shall be punished by a fine of one hundred dollars for each offense.~~ Each day of operation without a special fuel distributor license shall be considered a separate offense. SUCH PERSON SHALL ALSO BE SUBJECT TO THE CIVIL PENALTIES IMPOSED PURSUANT TO SECTION 39-27-205 (3.5).

(b) Each applicant for the special fuel distributor, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER license required by this subsection (1) shall file with the executive director of the department of revenue an application in such form and manner as the executive director shall prescribe, stating the name and address of the applicant and such other information as may be required by this section or by the executive director. The application shall be accompanied by a written declaration that it is made under penalties of perjury in the second degree, as defined in section 18-8-503, C.R.S. AN APPLICANT FOR A LICENSE TO EXPORT 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 SPECIAL FUEL WILL BE EXPORTED. Each application for a special fuel distributor, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER license shall be accompanied by a filing fee of ten dollars.

(c) The executive director shall issue a license to the applicant if the application for a 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 the requirements of this section. The license shall be valid until surrendered, suspended, or revoked as provided in this section.

(d) The special fuel distributor, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER license issued under the provisions of this subsection (1) shall be conspicuously displayed in the established place of business of the licensee. A licensee shall obtain duplicate licenses 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 upon payment of a fee of five dollars.

(e) The executive director may refuse to issue a special fuel distributor, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER license if ~~he~~ THE EXECUTIVE DIRECTOR finds, after affording the applicant therefor due notice and an opportunity to be heard, that the application:

(I) Is filed by any person whose license previously has been SUSPENDED OR revoked for cause by the executive director;

(II) Contains any misrepresentation, misstatement, or omission of material information required by the application;

(III) Is filed by some person other than the real person in interest whose license has been previously SUSPENDED OR revoked for cause by the executive director;

(IV) Is filed by any person who is or has been delinquent in the payment of any fee, tax, penalty, or other amount due the department of revenue for more than two taxable periods; or

(V) Is submitted by a person who the executive director determines is unable or unwilling to perform the duties and responsibilities of a licensed special fuel distributor, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER, AS APPLICABLE, based upon evidence furnished to him OR HER.

(2) When any person ceases to be a distributor, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER of special fuel by reason of discontinuance, sale, or transfer of ~~his~~ SUCH PERSON'S business at any location, ~~he~~ 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 give 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 2 shall, notwithstanding any other provisions of this part 2, become due and payable concurrently with the discontinuance, sale, or transfer; and the distributor shall make a report and pay all taxes, penalties, and

interest and shall surrender to the executive director the special fuel distributor, SUPPLIER, IMPORTER, EXPORTER, CARRIER, OR BLENDER license, together with all duplicates, issued to him OR HER.

(2.5) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY SUSPEND THE LICENSE OF ANY LICENSEE WHO FAILS TO TIMELY FILE ANY REPORT REQUIRED UNDER THIS PART 2, WHO FAILS TO PAY THE TAX DUE TOGETHER WITH ANY APPLICABLE INTEREST PURSUANT TO THIS PART 2, OR WHO FAILS TO PAY ANY CIVIL PENALTY ASSESSED PURSUANT TO THIS PART 2.

(3) (a) ~~The executive director may revoke the special fuel distributors license issued to any person who refuses or neglects to comply with any provision of this part 2 or any rule promulgated pursuant thereto. Before revoking the license, the executive director shall send notice by first-class mail as set forth in section 39-21-105.5 to the licensee, at the licensee's last address of record, ordering the licensee to appear in the office of the executive director on a date not less than ten days after the mailing of the notice and to show cause why the license should not be revoked.~~ THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, IN ACCORDANCE WITH RULES PROMULGATED PURSUANT TO THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., MAY REVOKE OR SUSPEND THE LICENSE OF ANY LICENSEE WHO:

(I) FAILS TO TIMELY FILE ANY REPORT REQUIRED UNDER THIS PART 2 OR FILES A FALSE REPORT;

(II) FAILS TO PAY THE TAX IMPOSED PURSUANT TO THIS PART 2 TOGETHER WITH ANY APPLICABLE PENALTY AND INTEREST;

(III) FAILS TO PAY ANY CIVIL PENALTY ASSESSED PURSUANT TO THIS PART 2;

(IV) IS CONVICTED OF ANY CRIMINAL OFFENSE RELATED TO A VIOLATION OF THE PROVISIONS OF THIS PART 2;

(V) ABUSES THE PRIVILEGES FOR WHICH THE LICENSE WAS ISSUED;

(VI) FAILS TO PRODUCE RECORDS REQUESTED OR OTHERWISE FAILS TO COOPERATE WITH THE DEPARTMENT IN THE ADMINISTRATION OF THE PROVISIONS OF THIS PART 2.

(b) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY REINSTATE A LICENSE, TERMINATE A SUSPENSION, OR GRANT A NEW LICENSE TO A PERSON WHOSE LICENSE HAS BEEN REVOKED PURSUANT TO THIS PART 2 IF NO FACT OR CONDITION EXISTS THAT WOULD CONSTITUTE GROUNDS FOR THE EXECUTIVE DIRECTOR TO REFUSE TO REINSTATE, GRANT, OR TERMINATE A SUSPENSION OF A LICENSE.

**SECTION 10.** 39-27-205 (2) (a) and (3) (d), Colorado Revised Statutes, are amended, and the said 39-27-205 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**39-27-205. Tax collection.** (1.5) ON OR BEFORE THE TWENTY-FIFTH 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 OF THE DEPARTMENT OF REVENUE SHALL REQUIRE. THE EXECUTIVE DIRECTOR SHALL CONSULT WITH PERSONS IN THE 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, C.R.S.

(2) (a) ~~Except as provided in paragraph (d) of this subsection (2), every person authorized by the executive director to purchase special fuel ex-tax under the provisions of section 39-27-202 (3) (b), except such persons who qualify for ex-tax purchases under section 39-27-202 (2) (a) or (2) (b), and~~ Every person who has obtained a passenger-mile tax permit pursuant to section 42-3-137, C.R.S., where such permit relates to a motor vehicle which is powered by special fuel, shall, on or before the last day of the month following the end of the quarter, file with the executive director OF THE DEPARTMENT OF REVENUE a report stating the amount of special fuel, subject to the tax imposed by this part 2, consumed by such person during the prior quarter and such other information relating to the use of special fuel for the propulsion of a motor vehicle on the highways of this state as the executive director may require. The executive director, under rules and procedures established by him or her, may exempt from the reporting requirement of this subsection (2) any motor vehicle used exclusively within this state. Failure to receive the authorized report form does not relieve such person from the obligation of submitting a report to the executive director setting forth all information required on the prescribed report form. The report shall contain or be accompanied by a written declaration that it is made under the penalties of perjury in the second degree, as defined in section 18-8-503, C.R.S.

(3) (d) Any person who violates this subsection (3) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of seventy-five dollars, WHICH SHALL BE IN ADDITION TO THE CIVIL PENALTIES IMPOSED BY PARAGRAPH (b) OF SUBSECTION (3.5) OF THIS SECTION.

(3.5) (a) EVERY PERSON WHO IMPORTS SPECIAL FUEL INTO THIS STATE FOR USE OR SALE IN THIS STATE WITHOUT A SINGLE TRIP PERMIT OR A VALID IMPORTER'S, SUPPLIER'S, OR DISTRIBUTOR'S LICENSE IS LIABLE FOR AND SHALL PAY AN EXCISE TAX PURSUANT TO SECTION 39-27-202 (1) ON ALL UNDYED SPECIAL FUEL SUCH PERSON IMPORTS FOR USE OR SALE IN THIS STATE.

(b) IMMEDIATELY UPON DISCOVERING A VIOLATION OF THIS SUBSECTION (3.5), THE DEPARTMENT OF REVENUE AND AGENTS THEREOF:

(I) MAY DEMAND PAYMENT OF SUCH EXCISE TAX AND ALL APPLICABLE FINES ASSOCIATED WITH THE UNLICENSED IMPORTATION OF SPECIAL FUEL, AS SET FORTH IN THIS SUBSECTION (3.5); AND

(II) MAY DETAIN THE SHIPMENT OF SPECIAL FUEL UNTIL SUCH EXCISE TAX AND FINES ARE COLLECTED.

(c) ANY PERSON WHO IMPORTS SPECIAL FUEL INTO THIS STATE WITHOUT A VALID LICENSE PURSUANT TO SECTION 39-27-204 SHALL BE SUBJECT TO THE CIVIL PENALTIES

SET FORTH IN SUBSECTION (8) OF THIS SECTION.

(3.7) (a) ANY DISTRIBUTOR, SUPPLIER, OR EXPORTER WHO TRANSPORTS SPECIAL FUEL TO ANY DESTINATION OUTSIDE OF THIS STATE SHALL PROVIDE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE WITH A MONTHLY REPORT CONTAINING ANY INFORMATION RELATIVE TO THE EXPORT OF SPECIAL FUEL THAT THE EXECUTIVE DIRECTOR SHALL REQUIRE. THE EXECUTIVE DIRECTOR SHALL CONSULT WITH PERSONS IN THE 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, C.R.S. THE EXECUTIVE DIRECTOR MAY BY RULE REQUIRE THAT SUCH REPORTS BE FILED ELECTRONICALLY.

(b) THE TAX IMPOSED BY THIS SECTION SHALL NOT APPLY TO EXPORTED SPECIAL FUEL. IF THE TAX IS PAID ON SPECIAL FUEL THAT IS SUBSEQUENTLY EXPORTED, IT SHALL BE REFUNDED PURSUANT TO SECTION 39-27-203 TO THE EXPORTER WHO PAID THE TAX.

(3.8) (a) IF ANY PERSON OTHER THAN A LICENSED DISTRIBUTOR OR SUPPLIER PHYSICALLY DIVERTS TO ONE OR MORE DESTINATIONS WITHIN THE BOUNDARIES OF THIS STATE ALL OR ANY PORTION OF A SHIPMENT OF SPECIAL FUEL THAT IS CLAIMED AS AN EXPORT ON THE BILL OF LADING OR OTHER AFFIDAVIT, SUCH PERSON SHALL REPORT TO THE DEPARTMENT OF REVENUE THE DESTINATIONS WITHIN THIS STATE TO WHICH THE DIVERTED SPECIAL FUEL SHIPMENT WAS DELIVERED WITHIN ONE WORKING DAY AFTER SUCH DIVERSION. SUCH PERSON SHALL BE LIABLE FOR PAYMENT OF THE EXCISE TAX ESTABLISHED IN THIS PART 2 ON THE AMOUNT OF SPECIAL FUEL DIVERTED TO A DESTINATION WITHIN THIS STATE.

(b) ANY LICENSED DISTRIBUTOR OR SUPPLIER WHO DIVERTS SPECIAL FUEL FOR USE OR SALE WITHIN THIS STATE AFTER CLAIMING SUCH SHIPMENT AS AN EXPORT SHALL REPORT SUCH DIVERSION TO THE DEPARTMENT WITHIN ONE WORKING DAY AFTER THE DIVERSION.

(c) ANY PERSON WHO VIOLATES THE REPORTING REQUIREMENTS OF THIS SUBSECTION (3.8) SHALL BE SUBJECT TO THE CIVIL PENALTIES SET FORTH IN SUBSECTION (8) OF THIS SECTION.

(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 SPECIAL FUEL UNTIL PAYMENT IS COLLECTED.

(8) (a) ANY PERSON WHO VIOLATES THE REPORTING PROVISIONS OF SUBSECTION (3.8) OF THIS SECTION, EXPORTS SPECIAL FUEL OUTSIDE OF THIS STATE WITHOUT A VALID LICENSE, OR IMPORTS 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 (8).

(c) ALL MONEYS COLLECTED PURSUANT TO THIS SUBSECTION (8) SHALL BE CREDITED TO THE HIGHWAY USERS TAX FUND CREATED IN SECTION 43-4-201, C.R.S.

(9) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT THE CRIMINAL PROSECUTION OF ANY PERSON WHO COMMITS A CRIMINAL OFFENSE IN CONNECTION WITH OR AS A RESULT OF VIOLATING ANY PROVISION OF THIS PART 2.

**SECTION 11.** Part 2 of article 27 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-27-218. Data collection services.** IN ORDER TO TRACK THE MOVEMENT OF SPECIAL FUEL WITHIN THIS STATE AND THEREBY FACILITATE AND EXPEDITE THE COLLECTION OF EXCISE TAXES IMPOSED PURSUANT TO THIS PART 2, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE MAY ENTER INTO A CONTRACT WITH ONE OR MORE PRIVATE ENTITIES FOR THE PROVISION OF A COMPUTER-BASED PROGRAM THAT WILL MONITOR AND TRACK THE DATA THAT LICENSEES ARE REQUIRED TO REPORT TO THE DEPARTMENT PURSUANT TO THIS PART 2. SUCH COMPUTER-BASED PROGRAM SHALL BE FUNDED SOLELY WITH MONEYS FROM THE HIGHWAY USERS TAX FUND.

**SECTION 12.** 8-20-235, Colorado Revised Statutes, is amended to read:

**8-20-235. Measuring gasoline and special fuel for sale to distributors.** Notwithstanding any other provision of this part 2, the method of determining gallonage of gasoline or special fuel sold to distributors, as defined in ~~section 39-27-101 (1)~~ SECTION 39-27-101 (1.5), C.R.S., shall be on a gross or net gallons basis at the option of the distributor. Such election shall be for a twelve-month period.

**SECTION 13.** 43-4-201 (3) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

**43-4-201. Funds created.** (3) (a) (V) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, THE GENERAL ASSEMBLY MAY MAKE AN ANNUAL APPROPRIATION OR STATUTORY DISTRIBUTION FROM THE HIGHWAY USERS TAX FUND TO THE DEPARTMENT OF REVENUE FOR THE DATA COLLECTION SERVICES PROVIDED FOR UNDER SECTIONS 39-27-109.7 AND 39-27-218, C.R.S.

**SECTION 13. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the highway users tax fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 1998, the sum of six hundred twenty-two thousand eight hundred fifty-seven dollars (\$622,857) and 1.5 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 14. Effective date - applicability.** This act shall take effect July 1, 1998, and shall apply to gasoline and special fuel transactions taking place on or after said date.

**SECTION 15. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 27, 1998