

CHAPTER 107

GOVERNMENT - LOCAL

HOUSE BILL 14-1105

BY REPRESENTATIVE(S) Mitsch Bush, Fields, Ginal, Hullinghorst, Kagan, Melton, Schafer, Tyler, Vigil, Young;
also SENATOR(S) Todd, Nicholson.

AN ACT**CONCERNING THE EXEMPTION FROM THE STATE GASOLINE AND SPECIAL FUEL TAX OF SALES
BETWEEN GOVERNMENTAL ENTITIES.**

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

SECTION 1. In Colorado Revised Statutes, 39-27-102, **amend** (1) (b) as follows:

39-27-102. Tax imposed on gasoline and special fuel - deposits - penalties.

(1) (b) (I) In the case of gasoline or special fuel shipped to a distributor from a terminal, the amount of gasoline or special fuel acquired ~~shall be~~ is deemed to be the amount shipped from the terminal, 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 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.

(II) The tax imposed by this section ~~shall be~~ 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 sale involves a single delivery and~~ the gasoline or special fuel is used exclusively by the governmental entity in performing its governmental functions and activities. The exemption ~~shall apply~~ 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

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

persons conducting business for such governmental entities on a contract basis using an aircraft ~~shall~~ 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, ~~such~~ 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, UNFORSEEN, OR EMERGENCY CIRCUMSTANCES.

SECTION 2. In Colorado Revised Statutes, 39-27-103, **amend** (2) as follows:

39-27-103. Refunds - penalties - checkoff. (2) A refund shall be 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 or by any town, city, county, or 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, any other use or any resale for any other use ~~shall be~~ is a violation of paragraph (c) of subsection (3) of this section.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 6, 2014, if adjournment sine die is on May 7, 2014); 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 such period, 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 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to fuel sales between governmental entities that occur prior to, on, or after the applicable effective date of this act.

Approved: April 7, 2014