

HOUSE BILL NO. _____

Fuel tax revision.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; providing
2 clarification on the fuel tax rate as specified; amending
3 related provisions; repealing executed provisions; and
4 providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 39-14-801(b), 39-17-103(a)(ii),
9 39-17-104, 39-17-105(a) and (c), 39-17-109(d)(iv),
10 39-17-111(f) and (g), 39-17-201(a)(xvi), (xxi), (xxvi) and
11 (xxvii), 39-17-203(a)(ii) and (b)(iv), 39-17-204,
12 39-17-205(b) through (e), 39-17-209(c)(i), (v) and (vi),
13 39-17-211(c) and (f) and 39-21-109 are amended to read:

14

15 **39-14-801. Severance tax distributions; distribution**
16 **account created; formula.**

17

1 (b) [LUST] Before making distributions from the
2 severance tax distribution account under subsections (c)
3 and (d) of this section, an amount equal to the amount of
4 tax collected under W.S. ~~39-17-104(e)~~ 39-17-104(a)(iii) and
5 ~~39-17-204(b)~~ 39-17-204(a)(ii) for the same period shall be
6 distributed to the corrective action account created by
7 W.S. 35-11-1424 and to the financial responsibility account
8 created by W.S. 35-11-1427 in an inverse proportion to the
9 amount in the two (2) accounts.

10
11 **39-17-103. Imposition.**

12
13 (a) Taxable event. The following shall apply:

14
15 (ii) The tax imposed by W.S. ~~39-17-104(e)~~
16 39-17-104(a)(iii) shall cease to be collected on the first
17 day of the third month following the date the department of
18 environmental quality notifies the director of the
19 department of transportation that the balance of the
20 corrective action account created by W.S. 35-11-1424
21 exceeds ten million dollars (\$10,000,000.00) and the
22 environmental pollution financial responsibility account
23 created by W.S. 35-11-1427 exceeds one million dollars
24 (\$1,000,000.00). The tax shall again be collected beginning

1 on the first day of the third month following the date the
2 department of environmental quality notifies the director
3 of the department of transportation that the balance of the
4 corrective action account has fallen below four million
5 dollars (\$4,000,000.00).

6
7 **39-17-104. Taxation rate.**

8
9 (a) Except as otherwise provided by this section and
10 W.S. 39-17-105, the total tax on gasoline shall be fourteen
11 cents (\$.14) per gallon. The rate shall be imposed as
12 follows:

13
14 (i) There is levied and shall be collected a
15 license tax of eleven cents (\$.11) per gallon for the
16 period July 1, 1998, through June 30, 2002, and thereafter
17 thirteen cents (\$.13) per gallon on all gasoline used, sold
18 or distributed for sale or use in this state except for
19 those fuels exempted under W.S. 39-17-105; ~~:-~~

20
21 ~~(b)(ii)~~ Notwithstanding ~~subsection (a) of this~~
22 ~~section-paragraph (i) of this subsection~~, gasoline sold for
23 use in aircraft shall be taxed at four cents (\$.04) per

1 gallon except for those fuels exempted under W.S.
2 39-17-105;

3
4 ~~(e)~~ (iii) In addition to the tax collected
5 pursuant to ~~subsections (a) and (b) of this section~~
6 paragraphs (i) and (ii) of this subsection, there is levied
7 and shall be collected a license tax of one cent (\$.01) per
8 gallon on all gasoline used, sold or distributed for sale
9 or use in this state except for those fuels exempted under
10 W.S. 39-17-105(a);

11
12 ~~(d)~~ (iv) In addition to the tax collected
13 pursuant to ~~subsections (a) through (c) of this section~~
14 paragraphs (i) through (iii) of this subsection, for the
15 period July 1, 1998, through June 30, 2002, there is levied
16 and shall be collected a license fee of two cents (\$.02)
17 per gallon on all gasoline used, sold or distributed for
18 sale or use in Wyoming. No exemption created in this
19 article for gasoline used, sold or distributed for sale or
20 use in Wyoming shall apply to the license tax imposed under
21 this ~~subsection~~ paragraph.

22

23 **39-17-105. Exemptions.**

24

1 (a) Gasoline exported or sold at a Wyoming terminal
2 rack and directly exported outside the state, other than in
3 the fuel supply tank of a motor vehicle, by a person
4 licensed only as an exporter in this state is exempt from
5 the license tax imposed under W.S. ~~39-17-104(a)~~
6 39-17-104(a)(i) through ~~(e)(iii)~~. The exempt sales shall be
7 reported on or before the last business day of the month on
8 forms provided by the department. The sales reports are
9 invalid if not submitted to the department within one (1)
10 year following date of sale. Gasoline directly exported,
11 other than in the fuel supply tank of a motor vehicle, by a
12 Wyoming licensed supplier, is exempt from the additional
13 license tax imposed under W.S. ~~39-17-104(e)~~
14 39-17-104(a)(iii). Exchanges and sales of gasoline between
15 suppliers are exempt from the license tax under this
16 section.

17
18 (c) There is granted a credit to the purchaser and
19 user of gasoline used for agricultural purposes and
20 purchased from a Wyoming licensed distributor or importer
21 an amount equal to seventy percent (70%) of the gasoline
22 license taxes imposed by W.S. ~~39-17-104(a)~~ 39-17-104(a)(i)
23 and ~~(b)(ii)~~ on bulk gasoline purchased for agricultural
24 purposes. A Wyoming licensed distributor or importer shall

1 collect the gasoline license tax on bulk gasoline sales
2 less the amount of the credit granted under this section at
3 the time of invoice on the bulk gasoline.

4
5 **39-17-109. Taxpayer remedies.**

6
7 (d) Credits. The following shall apply:

8
9 (iv) Until July 1, 2003, any person who has a
10 tax liability in Wyoming for the sale of ethanol based
11 motor fuel or gasoline sold for the purpose of blending
12 into an ethanol based motor fuel may redeem a valid credit
13 with the department to satisfy in part any tax liability
14 imposed under W.S. ~~39-17-104(a)~~ 39-17-104(a)(i) and
15 ~~(b)(ii)~~. To qualify to redeem tax credits under this
16 paragraph, an ethanol producer shall purchase at least one
17 million dollars (\$1,000,000.00) of Wyoming origin grain
18 stocks during the calendar year in which the tax credits
19 were earned. Each ethanol producer shall verify the origin
20 of the grain stocks. In the event of natural damage to a
21 significant portion of available Wyoming grain stock as
22 determined by the Wyoming department of agriculture, the
23 one million dollar (\$1,000,000.00) purchase requirement of
24 this paragraph shall not apply. In no circumstances may

1 the amount of tax credits redeemed by any person under this
2 section exceed the existing tax liability of the person
3 under W.S. ~~39-17-104(a)~~ 39-17-104(a)(i) and ~~(b)(ii)~~. The
4 total of all tax credits redeemed under this section shall
5 not exceed two million dollars (\$2,000,000.00) per year.
6 The department shall promulgate rules to implement this
7 section;

8
9 **39-17-111. Distribution.**

10
11 (f) All taxes collected under W.S. ~~39-17-104(e)~~
12 39-17-104(a)(iii) shall be transferred to the state
13 treasurer who shall deposit them only into the state
14 highway fund. The provisions of this section and W.S.
15 39-17-105(c) shall not apply to the tax imposed by W.S.
16 ~~39-17-104(e)~~ 39-17-104(a)(iii). Any refund for any
17 overpayment of this one cent (\$.01) tax shall be taken from
18 the taxes collected pursuant to W.S. ~~39-17-104(e)~~
19 39-17-104(a)(iii).

20
21 (g) Revenues from gasoline taxes under W.S.
22 ~~39-17-104(d)~~ 39-17-104(a)(iv) shall be transferred to the
23 state treasurer who shall deposit them only into the state
24 highway fund. The provisions of subsections (c) and (d) of

1 this section and W.S. 39-17-105(c) shall not apply to the
2 tax imposed by W.S. ~~39-17-104(d)~~ 39-17-104(a)(iv).

3

4 **39-17-201. Definitions.**

5

6 (a) As used in this article:

7

8 (xvi) "Person" means, for purposes of collecting
9 the tax provided by W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii), an
10 individual, partnership, corporation, joint stock company
11 or other association or entity, public or private;

12

13 (xxi) "Diesel fuels" means those combustible
14 gases and liquids commonly referred to as diesel fuel or
15 any other volatile liquid of less than forty-six (46)
16 degrees American petroleum industry gravity test, except
17 liquid petroleum gas, when actually sold for use in motor
18 vehicles for operation upon public roads and highways. The
19 term "diesel fuels" includes kerosene and any type of
20 additive when the additive is mixed or blended into diesel
21 fuel, excluding a pour point depressant. For the purposes
22 of collecting the tax provided by W.S. ~~39-17-204(b)~~
23 39-17-204(a)(ii) the term "diesel fuel" includes all diesel
24 fuel consumed or purchased for any and all purposes;

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

(xxvi) "Use" means the consumption of fuel in a motor vehicle upon a highway and includes the reception of diesel fuel into any tank on a motor vehicle which is used by the engine that generates motive power for the vehicle and, for the purposes of collecting the tax provided by W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii), includes all diesel fuels consumed for any and all purposes;

(xxvii) "User" means any person who uses diesel fuel within this state in an internal combustion engine for the generation of power to propel a motor vehicle upon a highway and, for the purposes of collecting the tax provided by W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii), includes any person who uses diesel fuel within this state for any and all purposes;

39-17-203. Imposition.

(a) Taxable event. The following shall apply:

(ii) The tax imposed by W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii) shall cease to be collected on the first day of the third month following the date the department of

1 environmental quality notifies the director of the
2 department of transportation that the balance of the
3 corrective action account created by W.S. 35-11-1424 and
4 the environmental pollution financial responsibility
5 account created by W.S. 35-11-1427 exceed ten million
6 dollars (\$10,000,000.00) in each account. The tax shall
7 again be collected beginning on the first day of the third
8 month following the date the department of environmental
9 quality notifies the director of the department of
10 transportation that the balance of the corrective action
11 account or the environmental pollution financial
12 responsibility account has fallen below four million
13 dollars (\$4,000,000.00);

14

15 (b) Basis of tax. The following shall apply:

16

17 (iv) A Wyoming licensed supplier, distributor,
18 refiner or importer who is unable to recover the license
19 taxes due from a bulk sale to a licensee who is other than
20 an end-user and is not owned, rented or leased by the
21 supplier, distributor, refiner or importer requesting the
22 credit is not liable for the taxes and may credit the
23 amount of unpaid taxes against a later remittance of taxes
24 required under W.S. ~~39-17-204(a)~~ 39-17-204(a)(i). The

1 department shall promulgate rules to implement this
2 paragraph.

3

4 **39-17-204. Taxation rate.**

5

6 (a) Except as otherwise provided by this section and
7 W.S. 39-17-205, the total tax on diesel shall be fourteen
8 cents (\$.14) per gallon. The rate shall be imposed as
9 follows:

10

11 (i) There is levied and shall be collected a
12 license tax of eleven cents (\$.11) per gallon for the
13 period July 1, 1998, through June 30, 2002, and thereafter
14 thirteen cents (\$.13) per gallon on all diesel fuels used,
15 sold or distributed for sale or use in this state;~~;~~

16

17 ~~(b)~~ (ii) In addition to the tax collected
18 pursuant to ~~subsection (a) of this section~~ paragraph (i) of
19 this subsection, there is levied and shall be collected a
20 license tax of one cent (\$.01) per gallon on all diesel
21 fuels used, sold or distributed for sale or used in this
22 state except for those fuels exempted in W.S. 39-17-205(b)
23 and (e);~~;~~

24

1 ~~(e)(iii)~~ In addition to the tax collected
2 pursuant to ~~subsections (a) and (b) of this section~~
3 paragraphs (i) and (ii) of this subsection, for the period
4 July 1, 1998, through June 30, 2002, there is levied and
5 shall be collected a license fee of two cents (\$.02) per
6 gallon on all dyed and undyed diesel fuel used, sold or
7 distributed for sale or use in Wyoming. No exemption
8 created in this article for dyed or undyed diesel fuel
9 used, sold or distributed for sale or use in Wyoming shall
10 apply to the license tax imposed under this subsection; ~~;~~

11
12 ~~(d)(iv)~~ With respect to diesel fuel for
13 transportation of goods and equipment in interstate
14 commerce, the tax imposed under ~~subsection (c) of this~~
15 section paragraph (iii) of this subsection is imposed upon
16 the use or sale for use of diesel fuel in Wyoming and is
17 not imposed on the sale for use outside Wyoming, provided
18 that there is an adequate system for determining whether or
19 not the diesel fuel is used in Wyoming.

20

21 **39-17-205. Exemptions.**

22

23 (b) Diesel fuel sold at a Wyoming terminal rack and
24 directly exported, other than in the fuel supply tank of a

1 motor vehicle, by a person licensed only as an exporter in
2 this state is exempt from the license tax imposed under
3 W.S. ~~39-17-204(a) and (b)~~ 39-17-204(a)(i) and (ii). The
4 exempt sales shall be reported on or before the last
5 business day of the month on forms provided by the
6 department. The sales reports are invalid if not submitted
7 to the department within one (1) year following the date of
8 sale.

9
10 (c) Exchanges or sales of diesel fuel between
11 suppliers are exempt from the license tax under W.S.
12 ~~39-17-204(a)~~ 39-17-204(a)(i). Diesel fuel directly
13 exported, other than in the fuel supply tank of a motor
14 vehicle, by a supplier is exempt from the license tax under
15 W.S. ~~39-17-204(a)~~ 39-17-204(a)(i).

16
17 (d) Dyed diesel fuel as defined in W.S.
18 39-17-201(a)(ix) is exempt from the license tax under W.S.
19 ~~39-17-204(a)~~ 39-17-204(a)(i).

20
21 (e) Diesel fuel directly exported, other than in the
22 fuel supply tank of a motor vehicle, by a Wyoming licensed
23 supplier is exempt from the additional license tax imposed
24 under W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii).

1

2

39-17-209. Taxpayer remedies.

3

4

(c) Refunds. The following shall apply:

5

6

(i) Undyed diesel fuel purchased for agricultural purposes as defined in W.S. 39-17-201(a)(i) is exempt from a percentage of the license tax under W.S. ~~39-17-204(a)~~ 39-17-204(a)(i) as declared by the applicant;

10

11

12

(v) The license tax under W.S. ~~39-17-204(a) and (e)~~ 39-17-204(a)(i) and (iii) is subject to refund on the following:

14

15

16

17

18

19

20

21

22

23

24

(vi) The license tax under W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii) is subject to refund on all diesel fuel sold in Wyoming for transportation of people, goods and equipment in interstate commerce and used outside Wyoming, provided that there is an adequate system for determining whether or not the diesel fuel is used in Wyoming. Nothing in this paragraph shall apply to the use, or sale or distribution for use, of diesel fuel in Wyoming. The refund request is invalid if not submitted within one (1) year.

1 **39-17-211. Distribution.**

2

3 (c) All taxes collected under W.S. ~~39-17-204(b)~~

4 39-17-204(a)(ii) shall be transferred to the state

5 treasurer who shall deposit them only into the state

6 highway fund. The provisions of subsection (d) of this

7 section shall not apply to the tax imposed by W.S.

8 ~~39-17-204(b)~~ 39-17-204(a)(ii). Any refund for any

9 overpayment or for any other refund authorized by law of

10 this one cent (\$.01) tax shall be taken from the taxes

11 collected pursuant to W.S. ~~39-17-204(b)~~ 39-17-204(a)(ii).

12

13 (f) Revenues from diesel fuel taxes under W.S.

14 ~~39-17-204(e)~~ 39-17-204(a)(iii) shall be transferred to the

15 state treasurer who shall deposit them only into the state

16 highway fund. The provisions of W.S. 39-17-205(c) through

17 (e), 39-17-203(b)(iii) and subsections (a), (b) and (d) of

18 this section shall not apply to the tax imposed by W.S.

19 ~~39-17-204(e)~~ 39-17-204(a)(iii).

20

21 **39-21-109. Taxpayer remedies.**

22

23 The tax imposed and paid pursuant to this chapter shall be

24 a tax credit against sales taxes paid by the same person

1 when that person is exempt from the fuel tax due under W.S.
2 ~~39-17-104(a)~~ 39-17-104(a)(i) or ~~39-17-204(a)~~
3 39-17-204(a)(i), but is not exempt from sales tax on that
4 fuel.

5
6 **Section 2.** W.S. 9-4-601(h) and 39-14-211(h) are
7 repealed.

8
9 **Section 3.** This act is effective immediately upon
10 completion of all acts necessary for a bill to become law
11 as provided by Article 4, Section 8 of the Wyoming
12 Constitution.

13

14

(END)