

Sixty-third
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1208

Introduced by

Representatives Klemin, Owens, Toman

Senators Poolman, Sitte

1 A BILL for an Act to create and enact sections 54-27-19.3 and 57-43.3-06.1 of the North Dakota
2 Century Code, relating to transfers to provide enhanced distributions through the highway tax
3 distribution fund and state aeronautics commission special fund; to amend and reenact sections
4 57-43.1-02, 57-43.2-02, 57-43.2-03, and 57-43.3-02 of the North Dakota Century Code, relating
5 to reduction of the tax rate of motor vehicle fuels, special fuels, and aircraft fuels taxes; to
6 provide for transfers; and to provide an effective date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** Section 54-27-19.3 of the North Dakota Century Code is created and enacted
9 as follows:

10 **54-27-19.3. Additional transfer to supplement certain highway tax distribution fund**
11 **objectives.**

12 With each monthly transfer of money received by the commissioner as required by sections
13 57-43.1-02, 57-43.2-02, and 57-43.2-03, the commissioner shall certify to the state treasurer the
14 net amount of tax that would have applied to the taxable sales or use of motor vehicle fuels,
15 special fuels, or importer for use fuels during the taxable period covered by the transfer, if an
16 additional tax of twelve cents per gallon [3.79 liters] had been imposed on all taxable motor
17 vehicle fuel, special fuel, and importer for use fuel subject to a tax calculated on an eleven cents
18 per gallon basis which was sold or used in this state during that taxable period. With each
19 monthly transfer of money received by the commissioner as required by section 57-43.2-03, the
20 commissioner shall certify to the state treasurer the net amount of tax that would have applied
21 to the taxable sales or use of special fuels during the taxable period covered by the transfer, if
22 an additional tax of one percent had applied to sales of propane and an additional tax of two
23 cents per gallon [3.79 liters] had applied to sales of diesel fuel and other special fuels subject to
24 a tax calculated on a two cents per gallon basis which was sold or used in this state during that

1 taxable period. The state treasurer shall transfer the amount certified by the commissioner
2 under this section from the state general fund as follows:

- 3 1. Two and seven-tenths percent of the amount certified must be transferred monthly to
4 the township highway fund.
- 5 2. One and five-tenths percent of the amount certified must be transferred monthly to the
6 public transportation fund.
- 7 3. Thirty-four and five-tenths percent of the amount certified must be transferred monthly
8 to counties and cities in the manner and subject to the conditions of subsections 4
9 and 5 of section 54-27-19.
- 10 4. Sixty-one and three-tenths percent of the amount certified must be transferred monthly
11 to the department of transportation and placed in the state highway fund.

12 **SECTION 2. AMENDMENT.** Section 57-43.1-02 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **57-43.1-02. Tax imposed on motor vehicle fuels.**

- 15 1. Except as otherwise provided in this section, a tax of ~~twenty-three~~eleven cents per
16 gallon [3.79 liters] is imposed on all motor vehicle fuel sold or used in this state.
- 17 2. A refiner, supplier, or distributor shall remit the tax imposed by this section on motor
18 vehicle fuel used, on the wholesale distribution of motor vehicle fuel to a retailer, and
19 on direct sales of motor vehicle fuel to a consumer.
- 20 3. The tax imposed by this section does not apply on a sale by a supplier to another
21 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another
22 distributor, on an export, or on a sale to an exempt consumer.
- 23 4. The ~~person~~refiner, supplier, or distributor required to remit the tax imposed by this
24 section shall pass ~~the~~any tax reduction made by legislative change on to the retailer
25 and the retailer shall pass the tax reduction on to the consumer. A retailer who paid the
26 tax to the supplier or distributor shall pass the tax and the tax reduction on to the
27 consumer.
- 28 5. The person required to remit the tax imposed by this section shall pay the tax to the
29 commissioner by the twenty-fifth day of the calendar month after the month during
30 which the motor vehicle fuel was sold or used by the person. When the twenty-fifth day
31 of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the

1 first working day after the Saturday, Sunday, or legal holiday. When payment is made
2 by mail, the payment is timely if the envelope containing the payment is postmarked
3 by the United States postal service or other postal carrier service before midnight of
4 the due date.

- 5 6. The commissioner shall pay over all of the money received during each calendar
6 month to the state treasurer.

7 **SECTION 3. AMENDMENT.** Section 57-43.2-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **57-43.2-02. Tax imposed.**

- 10 1. Except as otherwise provided in this chapter, an excise tax of ~~twenty-three~~eleven
11 cents per gallon [3.79 liters] is imposed on the sale or delivery of all special fuel sold or
12 used in this state. For the purpose of determining the tax upon compressed natural
13 gas under this section, one hundred twenty cubic feet [3.40 cubic meters] of
14 compressed natural gas is equal to one gallon [3.79 liters] of other special fuel.
- 15 2. A refiner, supplier, distributor, or retailer shall remit the tax imposed by this section on
16 special fuel used and on direct sales of special fuel to a customer.
- 17 3. The tax imposed by this section does not apply on sales by a supplier to another
18 supplier, on a sale by a supplier to a distributor, on a sale by a distributor to another
19 distributor, on a sale by a distributor to a retailer, on an export, or on a sale to an
20 exempt consumer.
- 21 4. The ~~person~~refiner, supplier, wholesaler, distributor, or retailer required to remit the tax
22 imposed by this section shall pass ~~the~~any tax reduction made by legislative change on
23 to any subsequent purchaser so the tax savings ultimately is received by the
24 ~~customer~~consumer.
- 25 5. The person required to remit the tax imposed by this section shall pay the tax to the
26 commissioner by the twenty-fifth day of the calendar month after the month during
27 which the special fuel was sold or used by the person. When the twenty-fifth day of the
28 calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first
29 working day after the Saturday, Sunday, or legal holiday. When payment is made by
30 mail, the payment is timely if the envelope containing the payment is postmarked by

1 the United States postal service or other postal carrier service before midnight of the
2 due date.

3 6. The commissioner shall pay over all of the money received during each calendar
4 month to the state treasurer.

5 **SECTION 4. AMENDMENT.** Section 57-43.2-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-43.2-03. Special excise tax levied.**

8 1. Except as otherwise provided in this chapter, a special excise tax of ~~two~~one percent is
9 imposed on all sales of propane and a tax of ~~four~~two cents per gallon is imposed on all
10 sales of diesel fuel and other special fuels, which are exempted from the tax imposed
11 under section 57-43.2-02.

12 2. A consumer importing special fuel into this state, for a purpose for which the special
13 fuel is taxable under this section, is liable for the tax. The commissioner shall collect
14 the tax from the consumer importing the fuel.

15 3. If any fuel subject to tax by this section was subject to tax in any other state or its
16 political subdivisions, the tax in this section applies but at a rate measured by the
17 difference between the rate imposed in this section and the rate imposed by the other
18 state or its political subdivisions. If the tax imposed by the other state or its political
19 subdivisions is the same or greater than the tax imposed by this section, no tax is due.

20 4. An invoice, sales ticket, or other sales document issued or created covering a sale
21 taxable under this section must identify the consumer to whom the sale was made,
22 specify the purpose for which the special fuel was sold, and specify whether the fuel
23 was dyed for tax exemption purposes.

24 5. The tax imposed by this section does not apply on a sale by a supplier to another
25 supplier, a sale by a supplier to a distributor, a sale by a distributor to another
26 distributor, a sale by a distributor to a retailer, an export, or a sale to an exempt
27 consumer.

28 6. The ~~person~~refiner, supplier, wholesaler, distributor, or retailer required to remit the tax
29 imposed by this section shall pass ~~the~~any tax reduction made by legislative change on
30 to any subsequent purchaser so the tax reduction ultimately is received by the
31 consumer.

7. The person required to remit the tax imposed by this section shall pay the tax to the commissioner by the twenty-fifth day of the calendar month after the month during which the special fuel was sold or used by the person. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When payment is made by mail, the payment is timely if the envelope containing the payment is postmarked by the United States postal service or other postal carrier service before midnight of the due date.

8. The commissioner shall pay over all of the money received during each calendar month to the state treasurer.

SECTION 5. AMENDMENT. Section 57-43.3-02 of the North Dakota Century Code is amended and reenacted as follows:

57-43.3-02. Tax imposed on aviation fuel.

1. Except as otherwise provided in this chapter, a tax of ~~eight~~four cents per gallon [3.79 liters] is imposed on all aviation fuel sold or used in this state.

2. A supplier or distributor shall remit the tax imposed by this section on aviation fuel used, on the wholesale distribution of aviation fuel to a retailer, and on direct sales of aviation fuel to a customer.

3. The tax imposed by this section does not apply on a sale by a supplier to another supplier, a sale by a supplier to a distributor, a sale by a distributor to another distributor, an export, or a sale to an exempt consumer.

4. ~~The person required to remit the tax imposed by this section~~supplier, distributor, or retailer of aviation fuel shall pass ~~the any~~any ~~tax reduction made by legislative change~~tax reduction made by legislative change on to the retailer and to the customer. ~~A retailer who paid the tax to the supplier or distributor shall pass the tax on to~~any subsequent purchaser so the tax reduction ultimately is received by the consumer.

5. The person required to remit the tax imposed by this section shall pay the tax to the commissioner by the twenty-fifth day of the calendar month after the month during which the aviation fuel was sold or used by the person. When the twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day after the Saturday, Sunday, or legal holiday. When payment is made

1 by mail, the payment is timely if the envelope containing the payment is postmarked
2 by the United States postal service or other postal carrier service before midnight of
3 the due date.

4 6. The commissioner shall pay over all of the money received during each calendar
5 month to the state treasurer.

6 **SECTION 6.** Section 57-43.3-06.1 of the North Dakota Century Code is created and
7 enacted as follows:

8 **57-43.3-06.1. Revenue transfer.**

9 With each monthly transfer of money received by the commissioner as required by section
10 5743.302, the commissioner shall certify to the state treasurer the amount of tax that would
11 have applied to the taxable sales or use of aviation fuel during the taxable period covered by
12 the transfer, if an additional tax of four cents per gallon [3.79 liters] had been imposed on all
13 aviation fuel sold or used in this state during that taxable period. The state treasurer shall
14 transfer the amount certified by the commissioner under this section from the state general fund
15 to the state aeronautics commission special fund.

16 **SECTION 7. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
17 June 30, 2013.