

HOUSE BILL NO. 1313

Introduced by

Representative Weisz

1 A BILL for an Act to amend and reenact sections 57-43.2-03 and 57-43.2-19 of the North
2 Dakota Century Code, relating to the rate of special fuels and importer for use taxes on fuel
3 used for railroad purposes and allocation of revenue from those taxes; and to provide an
4 effective date.

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

6 **SECTION 1. AMENDMENT.** Section 57-43.2-03 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **57-43.2-03. (Contingent effective date - See note - Effective through June 30,**
9 **2003) Special excise tax levied.**

- 10 1. Except as otherwise provided in this chapter, a special excise tax of two percent is
11 imposed on all sales of special fuels, which are exempted from the tax imposed
12 under section 57-43.2-02. The tax under this subsection is reduced to one and
13 nine-tenths percent on all sales of diesel fuel that contains at least two percent
14 biodiesel fuel by weight.
- 15 2. A consumer importing special fuel into this state, for a purpose for which the
16 special fuel is taxable under this section, is liable for the tax. The commissioner
17 shall collect the tax from the consumer importing the fuel.
- 18 3. If any fuel subject to tax by this section was subject to tax in any other state or its
19 political subdivisions, the tax in this section applies but at a rate measured by the
20 difference between the rate imposed in this section and the rate imposed by the
21 other state or its political subdivisions. If the tax imposed by the other state or its
22 political subdivisions is the same or greater than the tax imposed by this section,
23 no tax is due.

- 1 4. An invoice, sales ticket, or other sales document issued or created covering a sale
2 taxable under this section must identify the consumer to whom the sale was made,
3 specify the purpose for which the special fuel was sold, and specify whether the
4 fuel was dyed for tax exemption purposes.
- 5 5. The tax imposed by this section does not apply on a sale by a supplier to another
6 supplier, a sale by a supplier to a distributor, a sale by a distributor to another
7 distributor, a sale by a distributor to a retailer, an export, or a sale to an exempt
8 consumer.
- 9 6. The person required to remit the tax imposed by this section shall pass the tax on
10 to the consumer.
- 11 7. The person required to remit the tax imposed by this section shall pay the tax to
12 the commissioner by the twenty-fifth day of the calendar month after the month
13 during which the special fuel was sold or used by the person. When the
14 twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday,
15 the due date is the first working day after the Saturday, Sunday, or legal holiday.
16 When payment is made by mail, the payment is timely if the envelope containing
17 the payment is postmarked by the United States postal service or other postal
18 carrier service before midnight of the due date.
- 19 8. The commissioner shall pay over all of the money received during each calendar
20 month to the state treasurer.

21 **(Effective after June 30, 2003) Special excise tax levied.**

- 22 1. Except as otherwise provided in this chapter, a special excise tax of two percent is
23 imposed on all sales of special fuels, which are exempted from the tax imposed
24 under section 57-43.2-02.
- 25 2. A consumer importing special fuel into this state, for a purpose for which the
26 special fuel is taxable under this section, is liable for the tax. The commissioner
27 shall collect the tax from the consumer importing the fuel.
- 28 3. If any fuel subject to tax by this section was subject to tax in any other state or its
29 political subdivisions, the tax in this section applies but at a rate measured by the
30 difference between the rate imposed in this section and the rate imposed by the
31 other state or its political subdivisions. If the tax imposed by the other state or its

- 1 political subdivisions is the same or greater than the tax imposed by this section,
2 no tax is due.
- 3 4. An invoice, sales ticket, or other sales document issued or created covering a sale
4 taxable under this section must identify the consumer to whom the sale was made,
5 specify the purpose for which the special fuel was sold, and specify whether the
6 fuel was dyed for tax exemption purposes.
- 7 5. The tax imposed by this section does not apply on a sale by a supplier to another
8 supplier, a sale by a supplier to a distributor, a sale by a distributor to another
9 distributor, a sale by a distributor to a retailer, an export, or a sale to an exempt
10 consumer.
- 11 6. The person required to remit the tax imposed by this section shall pass the tax on
12 to the consumer.
- 13 7. The person required to remit the tax imposed by this section shall pay the tax to
14 the commissioner by the twenty-fifth day of the calendar month after the month
15 during which the special fuel was sold or used by the person. When the
16 twenty-fifth day of the calendar month falls on a Saturday, Sunday, or legal holiday,
17 the due date is the first working day after the Saturday, Sunday, or legal holiday.
18 When payment is made by mail, the payment is timely if the envelope containing
19 the payment is postmarked by the United States postal service or other postal
20 carrier service before midnight of the due date.
- 21 8. In addition to the tax imposed by subsection 1, there is imposed a separate and
22 additional special excise tax of three percent on all sales of special fuels sold for
23 use for a railroad purpose.
- 24 9. The commissioner shall pay over all of the money received during each calendar
25 month to the state treasurer.

26 **SECTION 2. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **57-43.2-19. Transfer, deposit, and distribution of funds.** All taxes, license fees,
29 penalties, and interest collected under this chapter, except fifty percent of net collections under
30 subsection 8 of section 57-43.2-03, must be transferred to the state treasurer who shall deposit
31 moneys in a highway tax distribution fund. The highway tax distribution fund must be

1 distributed in the manner as prescribed by section 54-27-19. Fifty percent of net revenue from
2 the tax imposed by subsection 8 of section 57-43.2-03 must be deposited in the fund
3 maintained by the department of transportation for local rail projects under section
4 49-17.1-02.1.

5 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable sales and use of
6 special fuels after June 30, 2003.