

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 21-1006.01 Ed DeCecco x4216

HOUSE BILL 21-1322

HOUSE SPONSORSHIP

Snyder and Titone,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Local Government

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE RESTRUCTURING OF THE GASOLINE AND SPECIAL**
102 **FUEL TAX.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill restructures the excise tax on gasoline and special fuel (fuels) by:

- Imposing the tax when it is imported into the state or removed from any terminal in the state, in addition to the existing points of taxation;
- Eliminating the 3 tax deferred transactions;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- Exempting the tax from the import or removal of fuels by bulk transfer to or from a terminal or refinery in certain circumstances;
- Permitting the 2% allowance to cover losses for terminals that are outside of the state;
- Requiring a terminal operator to verify that the person receiving the fuels is a licensee or is exempt from taxation;
- If the purchaser is not a licensee or exempt from taxation, requiring the terminal operator to collect the tax, which the terminal operator holds in trust for the state, and establishing that the terminal operator is liable and responsible for the tax;
- Specifying when the tax is imposed on an importer, blender, seller of liquefied petroleum gas or natural gas, user, and other distributor;
- Harmonizing provisions applicable to the exemption for governments;
- Explicitly identifying certain fuels used in aircrafts as being exempt;
- Codifying that a distributor has the burden of proving that fuels are exempt;
- Codifying the exemption for the removal of fuels from a terminal by a licensed exporter exclusively for delivery to another state;
- Requiring a terminal operator to be licensed, which is the current practice;
- Consolidating the penalties for acting without a license;
- Making conforming changes related to the aforementioned changes;
- Reorganizing and relocating provisions; and
- Modernizing language.

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-27-101, **amend**
3 (4), (5), (12), (14), and (17); and **add** (4.1), (4.2), (9.5), and (26.5) as
4 follows:

5 **39-27-101. Definitions - construction.** As used in this part 1,
6 unless the context otherwise requires:

7 (4) "Blender" means a person who produces blended gasoline or

1 blended special fuel outside of the ~~gasoline or special fuel distribution~~
2 ~~system consisting of refineries, pipelines, vessels, and terminals. For~~
3 ~~purposes of this subsection (4), gasoline in a refinery, pipeline, vessel, or~~
4 ~~terminal is in the gasoline distribution system, and special fuel in a~~
5 ~~refinery, pipeline, vessel, or terminal is in the special fuel distribution~~
6 ~~system. Gasoline or special fuel in the tank of any vehicle or in any~~
7 ~~railcar, trailer, truck, or other equipment suitable for ground~~
8 ~~transportation is not in the gasoline or special fuel distribution system,~~
9 ~~respectively~~ BULK TRANSFER AND TERMINAL SYSTEM.

10 (4.1) "BULK TRANSFER" MEANS ANY TRANSFER OF GASOLINE OR
11 SPECIAL FUEL BY PIPELINE OR VESSEL.

12 (4.2) "BULK TRANSFER AND TERMINAL SYSTEM" MEANS THE
13 DISTRIBUTION SYSTEM FOR GASOLINE AND SPECIAL FUEL CONSISTING OF
14 REFINERIES, PIPELINES, VESSELS, AND TERMINALS. GASOLINE OR SPECIAL
15 FUEL IN THE TANK OF ANY VEHICLE OR IN ANY RAILCAR, TRAILER, TRUCK,
16 OR OTHER EQUIPMENT SUITABLE FOR GROUND TRANSPORTATION IS NOT IN
17 THE BULK TRANSFER AND TERMINAL SYSTEM.

18 (5) "Common carrier" or "carrier" means a person, including a
19 railroad operator, who transports gasoline or special fuel from a terminal
20 located in this state or transports gasoline or special fuel imported into
21 this state and who does not own the gasoline or special fuel, BUT DOES
22 NOT INCLUDE TRANSPORTATION BY BULK TRANSFER.

23 (9.5) "EX-TAX" MEANS GASOLINE OR SPECIAL FUEL SOLD BY A
24 DISTRIBUTOR OR TERMINAL OPERATOR UPON WHICH THE TAX IMPOSED BY
25 THIS PART 1 HAS NOT BEEN PAID, OR FOR WHICH THE DISTRIBUTOR OR
26 TERMINAL OPERATOR WILL OBTAIN A CREDIT OR REFUND PURSUANT TO
27 SECTION 39-27-102.5.

1 (12) "Gasoline" means any flammable liquid used primarily as a
2 fuel for the propulsion of motor vehicles, motor boats, or aircraft.
3 "Gasoline" does not include diesel engine fuel, kerosene, liquefied
4 petroleum gas, OR natural gas. ~~and products, including kerosene, specially~~
5 ~~prepared, sold, and used in aircraft operated by scheduled air carriers or~~
6 ~~commuter airline operators exempt from the federal aviation fuels tax;~~
7 ~~except that "gasoline" does include products, including kerosene,~~
8 ~~specially prepared, sold, and used in any other aircraft.~~ Except as
9 otherwise provided in this subsection (12), any product blended with
10 gasoline ~~shall be~~ IS considered gasoline for purposes of the excise tax
11 imposed pursuant to this part 1.

12 (14) "Importer" means a person who imports gasoline or special
13 fuel ~~in bulk~~ BY BULK TRANSFER or by TRUCK OR RAIL transport load into
14 this state from another state by truck, rail, or pipeline.

15 (17) "Licensee" means any person holding a valid license issued
16 by the department of revenue pursuant to section 39-27-104, to act as a
17 supplier, TERMINAL OPERATOR, importer, exporter, distributor, carrier, or
18 blender.

19 (26.5) "REMOVE" MEANS TO PHYSICALLY TRANSFER GASOLINE OR
20 SPECIAL FUEL. HOWEVER, GASOLINE OR SPECIAL FUEL IS NOT REMOVED
21 WHEN IT EVAPORATES OR IS OTHERWISE LOST OR DESTROYED.

22 **SECTION 2.** In Colorado Revised Statutes, 39-27-102, **amend**
23 (1)(a)(I), (1)(a)(II), (1)(a)(IV), (1)(b), and (2)(a); **repeal** (1)(a)(V), (2.5),
24 and (9); and **add** (11) and (12) as follows:

25 **39-27-102. Tax imposed on gasoline and special fuel - deposits**
26 **- penalties.** (1) (a) (I) (A) An excise tax is imposed UPON and ~~shall be~~
27 ~~collected~~ IS REQUIRED TO BE PAID BY A DISTRIBUTOR on all gasoline or

1 special fuel acquired IN, sold ~~offered for sale~~ IN, IMPORTED INTO,
2 REMOVED FROM ANY TERMINAL IN, or used in this state for any purpose
3 whatsoever, but only one tax ~~shall be~~ IS REQUIRED TO BE paid upon the
4 same gasoline or special fuel in this state. ~~Except as otherwise provided~~
5 ~~in this subparagraph (I), no more than three tax-deferred transactions shall~~
6 ~~take place after the gasoline or special fuel has left the terminal of its~~
7 ~~origin, either within or outside of this state; except that, for purposes of~~
8 ~~counting the applicable transactions in order to collect the tax imposed by~~
9 ~~this subparagraph (I), counting shall begin when the gasoline or special~~
10 ~~fuel first enters this state, whether by truck or by rail. If more than three~~
11 ~~distributors acquire the gasoline or special fuel, the third distributor shall~~
12 ~~be liable for payment of the tax imposed. Nothing in this paragraph (a)~~
13 ~~shall preclude previous distributors from paying the tax. A distributor~~
14 ~~shall not be required to pay tax on gasoline or special fuel that is exempt~~
15 ~~pursuant to section 39-27-103 (2). The tax imposed shall be computed~~
16 ~~upon the total amount of gasoline or special fuel, measured in gallons,~~
17 ~~acquired by each distributor in this state and shall be paid in the manner~~
18 ~~provided in this section. For purposes of this sub-subparagraph (A)~~
19 ~~SUBSECTION (1)(a)(I)(A), "special fuel" does not include liquefied~~
20 ~~petroleum gas.~~

21 (B) An excise tax is imposed UPON AND IS REQUIRED TO BE PAID
22 BY A DISTRIBUTOR on liquefied petroleum gas when it is placed in a fuel
23 tank, unless the use of the special fuel is exempt. ~~The tax imposed is~~
24 ~~computed upon the total amount of liquefied petroleum gas, measured in~~
25 ~~gallons, that is placed in the fuel tank. If the liquefied petroleum gas is~~
26 ~~placed in the fuel tank by a distributor, the distributor shall pay the tax to~~
27 ~~the department of revenue in accordance with this section.~~

1 (C) If a distributor uses liquefied petroleum gas from a cargo tank
2 to propel a cargo tank motor vehicle on the highways in this state, an
3 excise tax is imposed UPON AND IS REQUIRED TO BE PAID BY A
4 DISTRIBUTOR on the liquefied petroleum gas that is used as special fuel.
5 The liquefied petroleum gas that is carried in the cargo tank but not used
6 as special fuel is not subject to the excise tax. The tax imposed is
7 computed upon an estimate of the total amount of liquefied petroleum
8 gas, measured in gallons, used to propel the cargo tank motor vehicle
9 based on the number of miles that the vehicle traveled. A distributor shall
10 report to the department of revenue the number of miles that the vehicle
11 traveled based on odometer readings. The department shall establish the
12 form to be used to report this information.

13 (D) THE TAX IMPOSED BY THIS SUBSECTION (1)(a)(I) SHALL NOT
14 APPLY TO ANY IMPORT OR REMOVAL OF GASOLINE OR SPECIAL FUEL BY
15 BULK TRANSFER TO OR FROM A TERMINAL OR REFINERY IN THIS STATE IF
16 THE PERSON IMPORTING OR REMOVING THE GASOLINE OR SPECIAL FUEL
17 AND THE TERMINAL OPERATOR OR REFINERY ARE LICENSEES. FOR
18 PURPOSES OF THIS SUBSECTION (1)(a)(I)(D), A REFINERY IS A LICENSEE IF
19 THE REFINER IS LICENSED TO ACT AS A TERMINAL OPERATOR OR A SUPPLIER
20 IN THIS STATE.

21 (II) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(IV) OF THIS
22 SECTION, the excise tax imposed on gasoline by ~~subparagraph (f) of this~~
23 ~~paragraph (a) shall be twenty cents per gallon or fraction thereof from~~
24 ~~August 1, 1989, through December 31, 1990, and IS twenty-two cents per~~
25 ~~gallon or fraction thereof. for calendar years beginning on and after~~
26 ~~January 1, 1991.~~

27 (B) The excise tax imposed on special fuel by ~~subparagraph (f) of~~

1 ~~this paragraph (a)~~ SUBSECTION (1)(a)(I) OF THIS SECTION is twenty and
2 one-half cents per gallon or a fraction thereof for calendar years
3 beginning on and after January 1, 1992. This ~~sub-subparagraph (B)~~
4 SUBSECTION (1)(a)(II)(B) does not apply to any special fuel specified in
5 ~~subparagraphs (VI), (VII), and (VIII) of this paragraph (a)~~ SUBSECTIONS
6 (1)(a)(VI), (1)(a)(VII), AND (1)(a)(VIII) OF THIS SECTION.

7 (IV) (A) The excise tax imposed by ~~subparagraph (I) of this~~
8 ~~paragraph (a) shall be~~ SUBSECTION (1)(a)(I) OF THIS SECTION IS six cents
9 per gallon or fraction thereof on gasoline used as fuel for the propulsion
10 of nonturbo-propeller or nonjet engine aircraft and ~~shall be~~ IS four cents
11 per gallon or fraction thereof on gasoline used as fuel for the propulsion
12 of turbo-propeller or jet engine aircraft.

13 (B) ~~The provisions of this subparagraph (IV) shall not apply to~~
14 ~~domestic or foreign part 121 air carriers as defined in section 39-27-101~~
15 ~~(19) or part 135 commuter air carriers as defined in section 39-27-101~~
16 ~~(20) authorized to provide passenger and cargo air transportation services~~
17 ~~pursuant to the regulations of the office of the secretary of transportation~~
18 ~~and federal aviation administration of the United States department of~~
19 ~~transportation. The provisions of this subparagraph (IV) also shall not~~
20 ~~apply to direct air carriers as defined in section 39-27-101 (6), providing~~
21 ~~air transportation to authorized public charter operators pursuant to 14~~
22 ~~CFR 380. For those air carriers that are certificated by the United States~~
23 ~~department of transportation for both part 121 air carrier operations and~~
24 ~~part 135 on-demand operations, the provisions of this sub-subparagraph~~
25 ~~(B) shall not apply to the air carrier's part 135 on-demand operations.~~

26 (C) Based upon reports submitted by ~~wholesalers or distributors~~
27 pursuant to ~~the provisions of this article~~ ARTICLE 27, the department of

1 revenue shall compile a monthly report showing the amount of excise
2 taxes collected on gasoline pursuant to ~~the provisions of this~~
3 ~~subparagraph (IV). Such monthly report shall be transmitted~~ SUBSECTION
4 (1)(a)(IV). THE DEPARTMENT SHALL TRANSMIT THE MONTHLY REPORT to
5 the division of aeronautics created in section 43-10-103 ~~C.R.S.~~, for use
6 by the division in distributing ~~moneys~~ MONEY in the aviation fund in
7 accordance with section 43-10-110. ~~C.R.S.~~

8 (V) ~~In the case of a user, the tax imposed by this section shall be~~
9 ~~measured by the gallons of special fuel imported into this state or~~
10 ~~acquired without payment of the tax imposed by this section and used in~~
11 ~~the propulsion of a motor vehicle on the highways of this state.~~

12 (b) (I) (A) In the case of gasoline or special fuel ~~shipped to a~~
13 ~~distributor~~ REMOVED from a terminal, the amount of gasoline or special
14 fuel ~~acquired~~ REMOVED is deemed to be the amount shipped from the
15 terminal, MEASURED IN GALLONS, as shown by the terminal manifest;
16 except that an allowance of two percent of the total amount of gasoline
17 or special fuel acquired during any calendar month, as shown by terminal
18 manifests, ~~shall be~~ IS deducted by the licensed distributor to cover losses
19 in transit and in unloading the gasoline or special fuel ~~and costs of~~
20 ~~collection and payment to the state of the tax imposed by this section, out~~
21 ~~of which allowance the distributor shall make to each retailer an~~
22 ~~allowance of one percent of the amount of gasoline or special fuel~~
23 ~~delivered during each calendar month by the distributor to the retailer, as~~
24 ~~shown by delivery invoices signed by the retailer, but there is no~~
25 allowance for liquefied petroleum gas OR REMOVAL BY BULK TRANSFER.
26 THE TWO PERCENT ALLOWANCE PROVIDED UNDER THIS SUBSECTION
27 (1)(b)(I)(A) IS ALLOWED WHETHER THE TERMINAL IS WITHIN OR WITHOUT

1 THIS STATE.

2 (B) THE TERMINAL OPERATOR SHALL VERIFY THAT THE PERSON
3 RECEIVING THE GASOLINE OR SPECIAL FUEL IS A LICENSEE OR IS EXEMPT
4 FROM TAX UNDER SECTION 39-27-102.5. IF THE PERSON IS NOT A LICENSEE,
5 OR IS NOT EXEMPT UNDER SECTION 39-27-102.5, AND THE EXCISE TAX
6 IMPOSED BY SUBSECTION (1)(a)(I) OF THIS SECTION HAS NOT BEEN
7 PREVIOUSLY PAID, THEN THE TERMINAL OPERATOR SHALL COLLECT THE
8 TAX FROM THE PERSON RECEIVING THE GASOLINE OR SPECIAL FUEL. THE
9 TAX IS A DEBT FROM THE PERSON TO THE TERMINAL OPERATOR
10 RECOVERABLE AT LAW IN THE SAME MANNER AS OTHER DEBTS. THE
11 TERMINAL OPERATOR SHALL PAY ALL TAXES SO COLLECTED TO THE
12 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE PURSUANT TO
13 SECTION 39-27-106.

14 (C) IN THE CASE OF GASOLINE OR SPECIAL FUEL REMOVED FROM A
15 TERMINAL BY A COMMON CARRIER, THE CONSIGNOR WHO OWNS THE
16 GASOLINE OR SPECIAL FUEL REMOVED BY THE COMMON CARRIER IS
17 DEEMED TO BE THE REMOVER AND FIRST RECIPIENT THEREOF. FOR
18 PURPOSES OF SUBSECTION (1)(b)(I)(B) OF THIS SECTION, THE TERMINAL
19 OPERATOR SHALL COLLECT THE TAX UNLESS BOTH THE COMMON CARRIER
20 AND THE CONSIGNOR ARE LICENSEES.

21 ~~(II) The tax imposed by this section is exempted on each recorded~~
22 ~~and reported sale by a distributor to the United States, or any of its~~
23 ~~agencies, and to any town, city, county, city and county, special district,~~
24 ~~or school district when the gasoline or special fuel is used exclusively by~~
25 ~~the governmental entity in performing its governmental functions and~~
26 ~~activities. The exemption applies solely to machines owned or operated~~
27 ~~by the United States or any of its agencies, by the state, or by any town,~~

1 city, county, city and county, school district, or other political division of
2 the state. Exemptions for persons conducting business for such
3 governmental entities on a contract basis using an aircraft must be based
4 solely on the applicable operating certificate of the aircraft operator
5 pursuant to sub-subparagraph (B) of subparagraph (IV) of paragraph (a)
6 of this subsection (1). Any governmental entity referred to in this
7 paragraph (b) shall obtain an exemption certificate from the executive
8 director of the department of revenue. Upon receipt of an exemption
9 certificate, a governmental entity may:

10 (A) Purchase gasoline or special fuel from a distributor without
11 payment of the excise tax imposed pursuant to this part 1 if the gasoline
12 or special fuel is used exclusively by the governmental entity in
13 performing its governmental functions and activities.

14 (B) Sell to or purchase gasoline or special fuel from another
15 governmental entity that has a fuel tax exemption certificate, and the
16 transaction is exempt from the excise tax imposed pursuant to this part 1
17 if the gasoline or special fuel is used exclusively by the governmental
18 entity in performing its governmental functions and activities. The
19 governmental entity is required to keep a copy of the fuel tax exemption
20 certificate on file for any entity to which it resells or distributes fuel. A
21 governmental entity that sells gasoline or special fuel pursuant to this
22 sub-subparagraph (B) is not required to be a licensee pursuant to the
23 provisions of section 39-27-104. Sales authorized pursuant to this
24 sub-subparagraph (B) are intended to facilitate intergovernmental
25 efficiencies with respect to sales for individual vehicles or equipment. It
26 is not the intent of this sub-subparagraph (B) for intergovernmental sales
27 to include purchases in excess of five hundred gallons in a single

1 ~~transaction unless required for unusual, unforeseen, or emergency~~
2 ~~circumstances.~~

3 (III) IN THE CASE OF GASOLINE OR SPECIAL FUEL IMPORTED INTO
4 THIS STATE, EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(I)(D) OF THIS
5 SECTION, THE TAX IS IMPOSED UPON THE IMPORTER AT THE TIME THE
6 GASOLINE OR SPECIAL FUEL IS FIRST BROUGHT INTO THIS STATE FROM
7 ANOTHER STATE FOR SALE, USE, OR STORAGE AND IS MEASURED BY THE
8 NUMBER OF GALLONS OF GASOLINE OR SPECIAL FUEL IMPORTED.

9 (IV) IN THE CASE OF LIQUEFIED PETROLEUM GAS OR NATURAL GAS
10 SOLD BY A VENDOR OR BY A DISTRIBUTOR DESCRIBED IN SECTION
11 39-27-101 (7)(a)(V), OR USED BY A PRIVATE COMMERCIAL FLEET
12 OPERATOR, THE TAX IS IMPOSED UPON THE VENDOR, DISTRIBUTOR, OR
13 PRIVATE COMMERCIAL FLEET OPERATOR AT THE TIME OF SUCH SALE OR
14 USE AND IS MEASURED BY THE NUMBER OF GALLONS PLACED INTO A FUEL
15 TANK OR RECEPTACLE FROM WHICH A FUEL TANK IS SUPPLIED.

16 (V) IN THE CASE OF BLENDED GASOLINE OR BLENDED SPECIAL FUEL
17 SOLD BY A BLENDER THEREOF, THE TAX IS IMPOSED UPON THE BLENDER AT
18 THE TIME OF SALE. IF THE BLENDER ESTABLISHES THAT A TAX WAS
19 IMPOSED AND PAID UNDER THIS SECTION, BY THE BLENDER OR BY A
20 LICENSED DISTRIBUTOR FROM WHOM THE BLENDER ACQUIRED THE
21 GASOLINE OR SPECIAL FUEL, THE AMOUNT OF TAX SO PAID IS ALLOWED AS
22 A CREDIT AGAINST THE TAX IMPOSED BY REASON OF THIS SUBSECTION
23 (1)(b)(V).

24 (VI) IN THE CASE OF A USER, THE TAX IMPOSED BY THIS SECTION
25 IS MEASURED BY THE GALLONS OF SPECIAL FUEL IMPORTED INTO THIS
26 STATE OR ACQUIRED WITHOUT PAYMENT OF THE TAX IMPOSED BY THIS
27 SECTION AND USED IN THE PROPULSION OF A MOTOR VEHICLE ON THE

1 HIGHWAYS OF THIS STATE.

2 (VII) IN ANY OTHER CASE, THE TAX IMPOSED BY THIS SECTION IS
3 IMPOSED UPON THE ACQUISITION BY EACH DISTRIBUTOR AND COMPUTED
4 UPON THE TOTAL AMOUNT OF GASOLINE OR SPECIAL FUEL, MEASURED IN
5 GALLONS, ACQUIRED BY EACH DISTRIBUTOR IN THIS STATE AND IS
6 REQUIRED TO BE PAID IN THE MANNER PROVIDED IN THIS PART 1. IF THE
7 DISTRIBUTOR ESTABLISHES THAT A TAX WAS IMPOSED BY THIS SECTION
8 UPON THE GASOLINE OR SPECIAL FUEL ACQUIRED AND PAID BY A LICENSED
9 DISTRIBUTOR FROM WHOM THE DISTRIBUTOR ACQUIRED THE GASOLINE OR
10 SPECIAL FUEL, THE AMOUNT OF TAX SO PAID IS ALLOWED AS A CREDIT
11 AGAINST THE TAX IMPOSED BY REASON OF THIS SUBSECTION (1)(b)(VII).

12 (2) (a) Except as set forth in section 39-27-102.5 (9), every person
13 who uses any gasoline or special fuel for propelling a motor vehicle on
14 the public highways of this state, ~~or who is licensed to import any~~
15 ~~gasoline or special fuel into this state for use or sale in this state,~~ upon
16 which gasoline or special fuel a licensed distributor has not paid or is not
17 liable to pay the tax imposed in this section, is deemed to be a distributor
18 and is liable for and shall pay an excise tax at a rate established by
19 ~~paragraph (a) of subsection (1)~~ SUBSECTION (1)(a) of this section on all
20 such gasoline or special fuel so used ~~or imported for use or sale,~~ in this
21 state. Such person shall pay such tax to the department of revenue
22 ~~pursuant to section 39-27-105.3~~ IN THE SAME MANNER AS A DISTRIBUTOR
23 UNDER SECTION 39-26-105, on or before the twenty-sixth day of the
24 calendar month following the month in which such gasoline or special
25 fuel was used ~~or imported~~ and shall, at the time of payment, render to the
26 department, on forms provided by it, an itemized statement, signed under
27 the penalties of perjury in the second degree, as defined in section

1 18-8-503, ~~C.R.S.~~, of all such gasoline or special fuel so used or imported
2 during such preceding calendar month. When such gasoline or special
3 fuel is delivered from a terminal in a carload lot, the quantity thereof and
4 the amount of tax thereon ~~shall be~~ IS computed in the same manner as in
5 the case of a distributor.

6 (2.5) ~~Except as otherwise provided in paragraph (b) of subsection~~
7 ~~(2) of this section, every person who imports gasoline or special fuel~~
8 ~~other than liquefied petroleum gas into this state for use or sale in this~~
9 ~~state without a valid importer, supplier, blender, or distributor license is~~
10 ~~liable for and shall pay an excise tax pursuant to paragraph (a) of~~
11 ~~subsection (1) of this section on all gasoline or special fuel such person~~
12 ~~imports for use or sale in this state. In addition to the excise tax, such~~
13 ~~person shall be subject to the civil penalties set forth in subsection (9) of~~
14 ~~this section. Every person who imports liquefied petroleum gas into this~~
15 ~~state without a valid importer, supplier, or distributor license is subject to~~
16 ~~the civil penalties set forth in subsection (9) of this section. Immediately~~
17 ~~upon discovery of a violation of this subsection (2.5), the department of~~
18 ~~revenue and agents thereof may demand payment of such excise tax, if~~
19 ~~owed, and all applicable fines associated with the unlicensed importation~~
20 ~~of gasoline or special fuel and may detain the shipment of gasoline or~~
21 ~~special fuel until such excise tax and fines are collected.~~

22 (9) (a) ~~Any person who imports or distributes gasoline or special~~
23 ~~fuel into this state without a license shall be subject to the following civil~~
24 ~~penalties:~~

- 25 (I) ~~A five-thousand-dollar fine for the first violation;~~
26 (II) ~~A ten-thousand-dollar fine for the second violation;~~
27 (III) ~~A fifteen-thousand-dollar fine for a third or subsequent~~

1 violation.

2 ~~(b) The executive director of the department of revenue is~~
3 ~~authorized to waive, for good cause shown, any civil penalty assessed~~
4 ~~pursuant to this subsection (9).~~

5 ~~(c) All moneys collected pursuant to this subsection (9) shall be~~
6 ~~credited to the highway users tax fund, created in section 43-4-201,~~
7 ~~C.R.S., and allocated and expended as specified in section 43-4-205~~
8 ~~(5.5)(a), C.R.S.~~

9 (11) THE TAX IMPOSED BY THIS SECTION IS A DEBT OWED TO THIS
10 STATE. EVERY PERSON SUBJECT TO OR REQUIRED TO COLLECT IT SHALL
11 PAY THE TAX IMPOSED BY THIS SECTION IN THE MANNER PRESCRIBED BY
12 THIS PART 1 IRRESPECTIVE OF WHEN PAYMENT IS RECEIVED BY SUCH
13 PERSON FOR THE AMOUNT OF ANY INVOICE FOR THE SALE OF GASOLINE OR
14 SPECIAL FUEL INCLUDING THE TAX THEREON.

15 (12) ON AND AFTER JANUARY 1, 2022, NO SUPPLIER, DISTRIBUTOR,
16 IMPORTER, OR TERMINAL OPERATOR MAY SELL GASOLINE OR SPECIAL FUEL
17 ON A TAX-DEFERRED OR TAX-EXEMPT BASIS, EXCEPT AS PROVIDED IN
18 SECTION 39-27-102.5.

19 **SECTION 3.** In Colorado Revised Statutes, 39-27-102.5, **amend**
20 (1.5), (2)(a), (2)(b)(II), (2)(b)(III), and (3); and **add** (2.5) and (10) as
21 follows:

22 **39-27-102.5. Exemptions on tax imposed - ex-tax purchases -**
23 **definition.** (1.5) Except as otherwise provided in ~~paragraphs (a) and (b)~~
24 ~~of subsection (2) of this section, paragraph (b) of subsection (3) of this~~
25 ~~section, and section 39-27-102 (1)(b),~~ DIESEL ENGINE FUEL AND
26 KEROSENE IS PRESUMED TO BE FOR USE FOR A TAXABLE PURPOSE UNLESS
27 indelible dye meeting federal regulations ~~must be~~ IS added to ~~special fuel~~

1 THE DIESEL ENGINE FUEL OR KEROSENE before or upon ~~withdrawal at~~
2 REMOVAL FROM a terminal. ~~or refinery rack for that~~ SUCH DYED special
3 fuel ~~to be~~ IS exempt from the excise tax imposed pursuant to this part 1.
4 ~~Such~~ THE tax-exempt special fuel shall not be used for taxable purposes;
5 except that dyed special fuel may be used for a taxable purpose to the
6 extent that such use is allowed under federal law or regulations with such
7 fuel being subject to the excise tax imposed pursuant to this part 1. For
8 purposes of this subsection (1.5), "taxable purpose" means any use on
9 which an excise tax on special fuel is imposed pursuant to this part 1. The
10 terminal operator shall ensure that tax-exempt special fuel is dyed before
11 it leaves the terminal. ~~The~~ EVERY seller THEREAFTER shall give notice to
12 ~~the~~ ANY purchaser in accordance with federal regulations that the dyed
13 special fuel ~~is not legal for taxable use~~ MAY NOT BE USED FOR A TAXABLE
14 PURPOSE.

15 (2) (a) Dyed diesel fuel purchased to propel farm vehicles, when
16 the same are being used on farms and ranches, farm tractors, and
17 implements of husbandry only incidentally operated or moved on a
18 highway, when operated off the public highways, and vehicles or
19 construction equipment operated within the confines of highway
20 construction projects when the same are actually being used in the
21 construction of such highways ~~shall be~~ IS exempt from the excise tax
22 imposed pursuant to this part 1. In accordance with section 39-27-104
23 (1)(d.5), dyed diesel fuel may be blended by a licensed distributor with
24 biodiesel fuel after withdrawal at a terminal ~~or refinery rack~~ up to the
25 maximum federally allowable blend. Such blended special fuel ~~shall be~~
26 IS exempt from the excise tax imposed pursuant to this part 1, so long as
27 it is purchased for the purposes set forth in this ~~paragraph (a)~~ SUBSECTION

1 (2)(a). A person who purchases undyed special fuel for the purposes set
2 forth in this ~~paragraph (a)~~ SUBSECTION (2)(a) may, in accordance with
3 section 39-27-103, apply to the department of revenue for a refund of the
4 excise tax paid thereon.

5 (b) (II) ~~Dyed diesel~~ GASOLINE AND SPECIAL FUEL purchased by
6 THE UNITED STATES OR ANY OF ITS AGENCIES, the state of Colorado OR
7 any of its agencies, any town, city, county, city and county, school district
8 of this state, or any other political subdivision of this state ~~shall be~~ IS
9 exempt from the excise tax imposed pursuant to this part 1, REGARDLESS
10 OF WHETHER THE SPECIAL FUEL IS DYED PURSUANT TO SUBSECTION (1.5)
11 OF THIS SECTION, if the GASOLINE OR special fuel is used exclusively by
12 the governmental entity in performing its governmental functions and
13 activities. ~~A person who purchases dyed diesel fuel for the purposes set~~
14 ~~forth in this subparagraph (II) may, in accordance with section 39-27-103,~~
15 ~~apply to the department of revenue for a refund of the excise tax paid~~
16 ~~thereon.~~ THIS EXEMPTION ONLY APPLIES IF THE GASOLINE OR SPECIAL FUEL
17 PURCHASED BY THE GOVERNMENTAL ENTITY IS USED IN MACHINES OWNED
18 OR OPERATED BY THE GOVERNMENTAL ENTITY. EXEMPTIONS FOR PERSONS
19 CONDUCTING BUSINESS FOR THE GOVERNMENTAL ENTITIES ON A
20 CONTRACT BASIS USING AN AIRCRAFT MUST BE BASED SOLELY ON THE
21 APPLICABLE OPERATING CERTIFICATE OF THE AIRCRAFT OPERATOR
22 PURSUANT TO SUBSECTION (2.5) OF THIS SECTION.

23 (III) (A) Any ~~state or local~~ governmental entity referred to in
24 ~~subparagraph (II) of this paragraph (b)~~ SUBSECTION (2)(b)(II) OF THIS
25 SECTION may obtain an exemption certificate from the executive director
26 of the department of revenue pursuant to subsection (3) of this section.
27 ~~Upon receipt of an exemption certificate, such governmental entity may~~

1 ~~purchase from a distributor undyed special fuel without payment of the~~
2 ~~excise tax imposed pursuant to this part 1 if the special fuel is used~~
3 ~~exclusively by the governmental entity in performing its governmental~~
4 ~~functions and activities.~~

5 (B) A DISTRIBUTOR OR TERMINAL OPERATOR MAY SELL EX-TAX
6 GASOLINE OR SPECIAL FUEL TO A GOVERNMENTAL ENTITY WITH A VALID
7 EXEMPTION CERTIFICATE, REGARDLESS OF WHETHER THE SPECIAL FUEL IS
8 DYED PURSUANT TO SUBSECTION (1.5) OF THIS SECTION. EXCEPT AS
9 PROVIDED IN SUBSECTION (2)(b)(III)(C) OF THIS SECTION, THE EX-TAX
10 GASOLINE OR SPECIAL FUEL MUST BE USED EXCLUSIVELY BY THE
11 GOVERNMENTAL ENTITY IN PERFORMING ITS GOVERNMENTAL FUNCTIONS
12 AND ACTIVITIES IN MACHINES OWNED OR OPERATED BY SUCH
13 GOVERNMENTAL ENTITY.

14 (C) A GOVERNMENTAL ENTITY WITH A VALID EXEMPTION
15 CERTIFICATE MAY SELL TO OR PURCHASE GASOLINE OR SPECIAL FUEL FROM
16 ANOTHER GOVERNMENTAL ENTITY THAT ALSO HAS A VALID TAX
17 EXEMPTION CERTIFICATE. THE GASOLINE OR SPECIAL FUEL MUST BE USED
18 EXCLUSIVELY BY THE PURCHASING GOVERNMENTAL ENTITY IN
19 PERFORMING ITS GOVERNMENTAL FUNCTIONS AND ACTIVITIES IN
20 MACHINES OWNED OR OPERATED BY THE GOVERNMENTAL ENTITY. A
21 GOVERNMENTAL ENTITY IS REQUIRED TO KEEP A COPY OF THE FUEL TAX
22 EXEMPTION CERTIFICATE ON FILE FOR ANY ENTITY TO WHICH IT RESELLS
23 OR DISTRIBUTES FUEL. A GOVERNMENTAL ENTITY THAT SELLS GASOLINE
24 OR SPECIAL FUEL PURSUANT TO THIS SUBSECTION (2)(b)(III)(C) IS NOT
25 REQUIRED TO BE A LICENSEE PURSUANT TO SECTION 39-27-104. SALES
26 AUTHORIZED PURSUANT TO THIS SUBSECTION (2)(b)(III)(C) ARE INTENDED
27 TO FACILITATE INTERGOVERNMENTAL EFFICIENCIES WITH RESPECT TO

1 SALES FOR INDIVIDUAL VEHICLES OR EQUIPMENT. THIS SUBSECTION
2 (2)(b)(III)(C) DOES NOT APPLY TO INTERGOVERNMENTAL SALES IN EXCESS
3 OF FIVE HUNDRED GALLONS IN A SINGLE TRANSACTION UNLESS REQUIRED
4 FOR UNUSUAL, UNFORESEEN, OR EMERGENCY CIRCUMSTANCES.

5 (D) IN THE CASE OF GASOLINE OR SPECIAL FUEL ACQUIRED BY A
6 GOVERNMENTAL ENTITY UPON WHICH THE TAX IMPOSED BY THIS PART 1
7 WAS PAID, THE GOVERNMENTAL ENTITY MAY APPLY TO THE DEPARTMENT
8 OF REVENUE FOR A REFUND OF THE EXCISE TAX PAID THEREON IN
9 ACCORDANCE WITH SECTION 39-27-103 IF THE GASOLINE OR SPECIAL FUEL
10 IS USED EXCLUSIVELY BY THE GOVERNMENTAL ENTITY IN PERFORMING ITS
11 GOVERNMENTAL FUNCTIONS AND ACTIVITIES IN MACHINES OWNED OR
12 OPERATED BY THE GOVERNMENTAL ENTITY.

13 (2.5) (a) (I) PRODUCTS, INCLUDING KEROSENE, SPECIALLY
14 PREPARED, SOLD, AND USED IN AIRCRAFT OPERATED BY SCHEDULED AIR
15 CARRIERS OR COMMUTER AIRLINE OPERATORS EXEMPT FROM THE FEDERAL
16 AVIATION FUELS TAX ARE EXEMPT FROM THE TAX IMPOSED PURSUANT TO
17 THIS PART 1.

18 (II) GASOLINE USED BY DOMESTIC OR FOREIGN PART 121 AIR
19 CARRIERS OR PART 135 COMMUTER AIR CARRIERS AUTHORIZED TO
20 PROVIDE PASSENGER AND CARGO AIR TRANSPORTATION SERVICES
21 PURSUANT TO THE REGULATIONS OF THE OFFICE OF THE SECRETARY OF
22 TRANSPORTATION AND FEDERAL AVIATION ADMINISTRATION OF THE
23 UNITED STATES DEPARTMENT OF TRANSPORTATION IS EXEMPT FROM THE
24 TAX IMPOSED PURSUANT TO THIS PART 1. FOR THOSE AIR CARRIERS THAT
25 ARE CERTIFICATED BY THE UNITED STATES DEPARTMENT OF
26 TRANSPORTATION FOR BOTH PART 121 AIR CARRIER OPERATIONS AND PART
27 135 ON-DEMAND OPERATIONS, THE PROVISIONS OF THIS SUBSECTION

1 (2.5)(a)(II) SHALL NOT APPLY TO THE AIR CARRIER'S PART 135 ON-DEMAND
2 OPERATIONS.

3 (III) GASOLINE USED BY DIRECT AIR CARRIERS PROVIDING AIR
4 TRANSPORTATION TO AUTHORIZED PUBLIC CHARTER OPERATORS
5 PURSUANT TO 14 CFR 380 IS EXEMPT FROM THE TAX IMPOSED PURSUANT
6 TO THIS PART 1.

7 (b) A DISTRIBUTOR OR TERMINAL OPERATOR MAY SELL EX-TAX
8 GASOLINE OR SPECIAL FUEL TO AN AIR CARRIER DESCRIBED IN THIS
9 SUBSECTION (2.5). IN THE CASE OF GASOLINE OR SPECIAL FUEL ACQUIRED
10 BY AN AIR CARRIER DESCRIBED IN THIS SUBSECTION (2.5) UPON WHICH THE
11 TAX IMPOSED BY THIS PART 1 WAS PAID, THE AIR CARRIER MAY APPLY TO
12 THE DEPARTMENT OF REVENUE FOR A REFUND OF THE EXCISE TAX PAID
13 THEREON IN ACCORDANCE WITH SECTION 39-27-103.

14 (c) NOTHING IN THIS SUBSECTION (2.5) EXEMPTS SALES OF
15 AVIATION FUEL FROM THE SALES TAX IMPOSED UNDER ARTICLE 26 OF THIS
16 TITLE 39.

17 (3) (a) ~~The tax collected by the distributor pursuant to this section~~
18 ~~is deemed to have been received by the distributor at the time the fuel is~~
19 ~~acquired or, in the case of liquefied petroleum gas, at the time the fuel is~~
20 ~~placed in a fuel tank or used to propel a cargo tank motor vehicle,~~
21 ~~irrespective of when payment is received by the distributor for the amount~~
22 ~~of the invoice, including the tax, and the tax required to be collected by~~
23 ~~the distributor constitutes a debt owed by the distributor to this state.~~

24 (b) (I) The executive director of the department of revenue shall
25 issue an exemption certificate to a user of GASOLINE OR special fuel to
26 purchase ~~undyed~~ EX-TAX GASOLINE OR special fuel ~~from a distributor~~
27 ~~without payment of the tax if such~~ THE user is exempt under the

1 ~~provisions of paragraph (b) of subsection (2)~~ SUBSECTION (2) OR (2.5) of
2 this section.

3 (II) A DISTRIBUTOR OR TERMINAL OPERATOR MAY SELL EX-TAX
4 GASOLINE OR SPECIAL FUEL PURSUANT TO SUBSECTIONS (2) AND (2.5) OF
5 THIS SECTION. THE DISTRIBUTOR OR TERMINAL OPERATOR MAY CLAIM A
6 CREDIT AGAINST THE TAX ACCRUED AND PAYABLE FOR TAXES DUE ON
7 EX-TAX GASOLINE OR SPECIAL FUEL OR FOR TAXES PAID ON EX-TAX
8 GASOLINE OR SPECIAL FUEL BY SUCH DISTRIBUTOR IN A PRIOR TAXABLE
9 PERIOD. IF THE DISTRIBUTOR ESTABLISHES THAT A TAX WAS IMPOSED AND
10 PAID UNDER THIS ARTICLE 27 BY A LICENSED DISTRIBUTOR FROM WHOM
11 THE DISTRIBUTOR ACQUIRED THE GASOLINE OR SPECIAL FUEL SOLD
12 EX-TAX, THE AMOUNT OF TAX SO PAID ON THE EX-TAX GASOLINE OR
13 SPECIAL FUEL IS ALLOWED AS A CREDIT ON THE DISTRIBUTOR'S NEXT
14 RETURN. TO THE EXTENT THE CREDIT EXCEEDS THE TAX DUE, THE
15 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL ISSUE A
16 REFUND OF SUCH EXCESS. THE MANIFEST, BILL OF LADING, INVOICE, OR
17 OTHER SIMILAR DOCUMENT ISSUED BY THE SUPPLIER, IMPORTER, OR
18 DISTRIBUTOR MUST STATE THAT THE GASOLINE OR SPECIAL FUEL IS SOLD
19 ON AN EX-TAX BASIS.

20 (c) With each sale of GASOLINE OR special fuel made without
21 payment of the tax pursuant to this subsection (3), the distributor OR
22 TERMINAL OPERATOR shall secure evidence that the user ~~has authorization~~
23 ~~from the executive director of the department of revenue to purchase~~
24 ~~special fuel ex-tax, together with~~ IS EXEMPT FROM TAX UNDER THIS
25 SECTION, INCLUDING the distributor's name and address and such other
26 information as the executive director may require.

27 (d) A DISTRIBUTOR HAS THE BURDEN OF PROVING THAT GASOLINE

1 OR SPECIAL FUEL IS EXEMPT FROM TAX PURSUANT TO THIS SECTION. THE
2 DEPARTMENT OF REVENUE MAY PRESCRIBE REASONABLE REQUIREMENTS
3 OF PROOF FOR THE EXEMPTION.

4 (10) GASOLINE OR SPECIAL FUEL REMOVED FROM A TERMINAL BY
5 A LICENSED EXPORTER EXCLUSIVELY FOR DELIVERY TO ANOTHER STATE
6 IS EXEMPT FROM THE TAX IMPOSED BY THIS PART 1.

7 **SECTION 4.** In Colorado Revised Statutes, 39-27-103, **amend**
8 (1), (1.5), (2), (3)(a)(I), (3)(d), and (3)(e); **repeal** (7); and **add** (2.5) and
9 (2.7) as follows:

10 **39-27-103. Refunds - penalties - checkoff - limits on**
11 **collections.** (1) A credit AGAINST THE TAX ACCRUED OR PAYABLE OR A
12 refund ~~shall be~~ OF TAX PAID IS allowed for the tax ~~paid or accrued~~
13 IMPOSED BY THIS PART 1 on gasoline or special fuel that is lost or
14 destroyed by fire, lightning, flood, windstorm, explosion, accident, or
15 other cause beyond the control of the distributor or transporter of such
16 gasoline or special fuel. This credit or refund ~~shall be~~ IS allowed only on
17 gasoline or special fuel in quantities of one hundred gallons or more lost
18 or destroyed at any one time. Any loss of gasoline or special fuel while
19 in transit or while being loaded or unloaded ~~shall be~~ IS subject to credit
20 or refund under this section. After any such loss or destruction, the
21 distributor or transporter ~~shall~~ MUST notify the executive director of the
22 department of revenue within thirty days of such loss or destruction and,
23 within the same deadline, ~~shall~~ MUST file with the executive director
24 proof sufficient to establish the loss or destruction as the executive
25 director may require. A REFUND OF PREVIOUSLY PAID TAX IS ALLOWED TO
26 THE DISTRIBUTOR OR TRANSPORTER IN CONTROL OF THE GASOLINE OR
27 SPECIAL FUEL AT THE TIME IT IS LOST OR DESTROYED REGARDLESS OF

1 WHETHER SUCH PERSON PAID THE TAX IMPOSED BY THIS PART 1 ON THE
2 GASOLINE OR SPECIAL FUEL LOST OR DESTROYED.

3 (1.5) A refund ~~shall be~~ IS allowed to a distributor for the tax paid
4 on gasoline or special fuel pursuant to ~~the provisions of~~ this part 1 that
5 was erroneously paid due to mistake of fact, law, or computation. A
6 ~~distributor~~ THE PERSON who has paid any such tax may, within three years
7 from the date of payment thereof, file with the department of revenue an
8 application for refund of such tax so erroneously paid. ~~Such~~ THE
9 application ~~shall~~ MUST be on such forms as prescribed by the department
10 of revenue. THIS SUBSECTION (1.5) DOES NOT APPLY TO ANY REFUND
11 CLAIMABLE PURSUANT TO SUBSECTION (1), (2), (2.5), OR (3) OF THIS
12 SECTION.

13 (2) UNLESS PURCHASED EX-TAX PURSUANT TO SECTION
14 39-27-102.5 (2)(b), a refund ~~shall be~~ IS made or credit allowed for the tax
15 paid on all gasoline or special fuel that is purchased ~~and used exclusively,~~
16 ~~pursuant to section 39-27-102 (1)(b)~~ by the United States or any of its
17 agencies, ~~or by~~ the state OF COLORADO or ~~by~~ ANY OF ITS AGENCIES, any
18 town, city, county, or ANY other political subdivision of the state.
19 ~~including specifically any school district therein, solely in any machines~~
20 ~~owned or operated by the United States or any of its agencies or by the~~
21 ~~state or by such town, city, county, school district, or other political~~
22 ~~subdivision of the state. Except as provided in section 39-27-102~~
23 ~~(1)(b)(II), for purchases between governmental entities holding gasoline~~
24 ~~or special fuel exemption certificates,~~ EXCEPT AS PROVIDED IN SECTION
25 39-27-102.5 (2)(b)(III)(C), THE GASOLINE OR SPECIAL FUEL WITH RESPECT
26 TO WHICH A REFUND IS CLAIMED UNDER THIS SUBSECTION (2) MUST BE
27 USED EXCLUSIVELY BY THE GOVERNMENTAL ENTITY IN PERFORMING ITS

1 GOVERNMENTAL FUNCTIONS AND ACTIVITIES IN ANY MACHINES OWNED OR
2 OPERATED BY THE GOVERNMENTAL ENTITY. Any other use or any resale
3 for any other use is a violation of ~~paragraph (c) of subsection (3)~~
4 SUBSECTION (3)(c) of this section.

5 (2.5) UNLESS PURCHASED EX-TAX PURSUANT TO SECTION
6 39-27-102.5 (2.5), A REFUND IS MADE PURSUANT TO SUBSECTION (3) OF
7 THIS SECTION FOR THE TAX PAID ON THE FOLLOWING PURCHASES OF
8 GASOLINE OR SPECIAL FUEL:

9 (a) PRODUCTS, INCLUDING KEROSENE, SPECIALLY PREPARED, SOLD,
10 AND USED IN AIRCRAFT OPERATED BY SCHEDULED AIR CARRIERS OR
11 COMMUTER AIRLINE OPERATORS EXEMPT FROM THE FEDERAL AVIATION
12 FUELS TAX;

13 (b) GASOLINE USED BY DOMESTIC OR FOREIGN PART 121 AIR
14 CARRIERS OR PART 135 COMMUTER AIR CARRIERS AUTHORIZED TO
15 PROVIDE PASSENGER AND CARGO AIR TRANSPORTATION SERVICES
16 PURSUANT TO THE REGULATIONS OF THE OFFICE OF THE SECRETARY OF
17 TRANSPORTATION AND FEDERAL AVIATION ADMINISTRATION OF THE
18 UNITED STATES DEPARTMENT OF TRANSPORTATION. FOR THOSE AIR
19 CARRIERS THAT ARE CERTIFICATED BY THE UNITED STATES DEPARTMENT
20 OF TRANSPORTATION FOR BOTH PART 121 AIR CARRIER OPERATIONS AND
21 PART 135 ON-DEMAND OPERATIONS, THIS SUBSECTION (2.5)(b) SHALL NOT
22 APPLY TO THE AIR CARRIER'S PART 135 ON-DEMAND OPERATIONS; AND

23 (c) GASOLINE USED BY DIRECT AIR CARRIERS PROVIDING AIR
24 TRANSPORTATION TO AUTHORIZED PUBLIC CHARTER OPERATORS
25 PURSUANT TO 14 CFR 380.

26 (2.7) A REFUND IS MADE PURSUANT TO SUBSECTION (3) OF THIS
27 SECTION TO ANY PERSON WHO PURCHASES GASOLINE OR SPECIAL FUEL

1 UPON WHICH THE TAX IMPOSED BY THIS PART 1 HAS BEEN PAID IF THE
2 GASOLINE OR SPECIAL FUEL IS USED FOR THE PURPOSE OF:

- 3 (a) OPERATING A STATIONARY GAS ENGINE;
- 4 (b) OPERATING A MOTOR VEHICLE ON OR OVER FIXED RAILS;
- 5 (c) OPERATING A TRACTOR, TRUCK, OR OTHER FARM IMPLEMENT
6 OR MACHINE FOR AGRICULTURAL PURPOSES ON A FARM OR RANCH;
- 7 (d) OPERATING A STATE-LICENSED AGRICULTURAL APPLICATOR
8 AIRCRAFT FROM A PRIVATE LANDING FACILITY USED SOLELY AND
9 EXCLUSIVELY FOR AGRICULTURAL APPLICATIONS, TO THE EXTENT OF FIFTY
10 PERCENT OF TAXES PAYABLE PURSUANT TO SECTION 39-27-102 (1)(a)(IV);
- 11 (e) OPERATING A MOTOR BOAT;
- 12 (f) CLEANING OR DYEING;
- 13 (g) ANY COMMERCIAL USE OTHER THAN THE OPERATION OF A
14 MOTOR VEHICLE UPON THE HIGHWAYS OF THIS STATE AND THE OPERATION
15 OF ANY AIRCRAFT OTHER THAN THE OPERATION OF AIRCRAFT SPECIFIED IN
16 SUBSECTION (2.5) OR (2.7)(d) OF THIS SECTION; OR
- 17 (h) ANY OTHER USE THAT ENTITLES A PERSON TO A REFUND UNDER
18 THIS PART 1 OR FEDERAL LAW.

19 (3) (a) (I) Any person who purchases gasoline or special fuel ~~and~~
20 ~~pays the tax thereon at the time of such purchase shall be~~ IS entitled to a
21 refund by the controller, upon voucher certified by the department of
22 revenue of the amount of such tax paid ~~by him or her~~ upon complying
23 with the applicable conditions and provisions of this section. ~~if the~~
24 ~~gasoline or special fuel is used for the purpose of:~~

- 25 ~~(A) Operating a stationary gas engine;~~
- 26 ~~(B) Operating a motor vehicle on or over fixed rails;~~
- 27 ~~(C) Operating a tractor, truck, or other farm implement or machine~~

1 for agricultural purposes on a farm or ranch;

2 ~~(D) Operating a state-licensed agricultural applicator aircraft from~~
3 ~~a private landing facility used solely and exclusively for agricultural~~
4 ~~applications, to the extent of fifty percent of taxes payable pursuant to~~
5 ~~section 39-27-102 (1)(a)(IV);~~

6 ~~(E) Operating a motor boat;~~

7 ~~(F) Operating an aircraft by a part 121 air carrier as defined in~~
8 ~~section 39-27-101 (19), a part 135 commuter air carrier as defined in~~
9 ~~section 39-27-101 (20), or a direct air carrier as defined in section~~
10 ~~39-27-101 (6) providing transportation to an authorized public charter~~
11 ~~operator pursuant to 14 CFR 380;~~

12 ~~(G) Cleaning or dyeing;~~

13 ~~(H) Any commercial use other than the operation of a motor~~
14 ~~vehicle upon the highways of this state and the operation of any aircraft~~
15 ~~other than the operation of aircraft specified in sub-subparagraphs (D)~~
16 ~~and (F) of this subparagraph (I); or~~

17 ~~(I) Any other use that entitles a person to a refund under the~~
18 ~~provisions of this part 1 or federal law.~~

19 (d) Application for a refund under this section shall MUST be made
20 within twelve months after the date of purchase of the gasoline or special
21 fuel but not more than once each calendar quarter. Such application shall
22 MUST be made on forms prescribed and furnished by the executive
23 director OF THE DEPARTMENT OF REVENUE, which shall contain such
24 CONTAINS ANY information as the executive director may deem necessary.
25 At the time of making each sale and delivery of gasoline or special fuel
26 upon which a refund of tax may be claimed, the dealer shall prepare an
27 invoice, in duplicate, in a form approved by the executive director and

1 containing such information as the executive director may deem
2 necessary and carrying a serial number that shall not be repeated through
3 any one calendar year. No additional invoices covering the same sale and
4 delivery of gasoline or special fuel shall be issued by the dealer. The
5 original copy of such invoice shall be delivered to the purchaser of the
6 gasoline or special fuel, and, upon payment in full of such invoice, the
7 dealer shall enter thereon the dealer's full name and a notation showing
8 payment thereof. With respect to invoices covering the sale and delivery
9 of gasoline or special fuel to the state or those political subdivisions of the
10 state specified in subsection (2) of this section, it ~~shall not be~~ IS NOT
11 necessary for the dealer to enter the dealer's name and the notation
12 showing payment thereof. Upon proper application, refund ~~shall be~~ IS
13 made directly to such political subdivisions upon presentation of the
14 completed refund claim form. Original invoices together with a
15 certification of the date and number of the warrant by which such
16 invoices were paid ~~shall~~ MUST be retained by such political subdivisions
17 for a period of twenty-four months. The duplicate copy of the invoice
18 ~~shall~~ MUST be retained by the dealer for a period of twenty-four months
19 at the place of business where issued, and such duplicate invoices and
20 other records of the dealer shall be available for examination by the
21 executive director or the executive director's representatives. The
22 executive director shall make demand for repayment of any refund of tax
23 that has been illegally or erroneously made to any person, and the
24 executive director is authorized to request the attorney general or any
25 district attorney of the state to institute a suit for collection of any money
26 illegally or erroneously refunded to any person.

27 (e) EXCEPT AS PROVIDED IN SUBSECTION (2.5) OF THIS SECTION, no

1 refund shall be claimed by or allowed to any person on account of any
2 gasoline or special fuel carried from this state in the ordinary fuel tank of
3 a motor vehicle or aircraft. The application for a refund ~~shall~~ MUST be
4 made by the same person who purchased the gasoline or special fuel ~~and~~
5 ~~paid the tax thereon~~ UPON WHICH THE TAX IMPOSED BY THIS PART 1 HAS
6 BEEN PAID as shown in the invoice of the seller thereof. The right of any
7 person to a refund under this part 1 shall not be assignable. No refund of
8 the gasoline or special fuel tax shall be claimed by or allowed to any
9 person on any gasoline or special fuel used for propelling motor vehicles
10 operated in whole or in part during the calendar year upon public
11 highways of the state or upon the streets of any city or town in the state,
12 except as otherwise provided in this subsection (3) or subsection (2) of
13 this section.

14 ~~(7) Notwithstanding any provision of law to the contrary, the~~
15 ~~department of revenue shall not collect any penalties or interest related to~~
16 ~~the tax imposed under this part 1 for liquefied petroleum gas that, from~~
17 ~~January 1, 2014, until January 1, 2016, is acquired, sold, offered for sale,~~
18 ~~or used in this state for any purpose whatsoever. The department shall~~
19 ~~refund any of these prohibited penalties or interest that were collected~~
20 ~~prior to August 5, 2015.~~

21 **SECTION 5.** In Colorado Revised Statutes, 39-27-104, **amend**
22 (1)(a), (1)(b), (1)(c), (1)(d.5) introductory portion, (1)(e), (1)(f), (1)(g)(I)
23 introductory portion, (1)(h) introductory portion, (1)(h)(V), (2)(a)(I)(A),
24 (2)(a)(II), (2)(b), (2)(e), and (2.5)(a); **repeal** (3); and **add** (2)(f) as
25 follows:

26 **39-27-104. License and deposit - exception - repeal.** (1) (a) It
27 is unlawful for any person to act as a distributor, supplier, TERMINAL

1 OPERATOR, importer, exporter, carrier, or blender of gasoline or special
2 fuel in this state without being licensed as such. Any person who acts as
3 a distributor, supplier, TERMINAL OPERATOR, importer, exporter, carrier,
4 or blender of gasoline or special fuel within this state without being
5 licensed as such is guilty of a misdemeanor. Each day of operation
6 without a license ~~shall be~~ IS considered a separate offense. Such person
7 ~~shall~~ IS also ~~be~~ subject to the civil penalties imposed pursuant to ~~section~~
8 ~~39-27-105 (5)~~ SUBSECTION (1)(g) OF THIS SECTION.

9 (b) Each applicant for ~~the gasoline or special fuel distributor,~~
10 ~~supplier, importer, exporter, carrier, or blender~~ A license required by this
11 section ~~shall~~ MUST file with the executive director of the department of
12 revenue an application in such form and manner as the executive director
13 ~~shall prescribe~~ PRESCRIBES, stating the name and address of the applicant
14 and ~~such~~ ANY other information as may be required by this section or by
15 the executive director. The application ~~shall~~ MUST include a statement
16 that such application is signed under oath and under the penalty of perjury
17 in the second degree, as defined in section 18-8-503. ~~C.R.S.~~ An applicant
18 for a license to export gasoline or special fuel from this state shall provide
19 verification as required by the executive director that the applicant has an
20 appropriate license valid in any state into which the gasoline will be
21 exported. Each application for a ~~gasoline or special fuel distributor,~~
22 ~~supplier, importer, exporter, carrier, or blender license~~ shall MUST be
23 accompanied by a ten-dollar filing fee.

24 (c) The executive director of the department of revenue shall issue
25 a license to an applicant if the application for a ~~gasoline or special fuel~~
26 ~~distributor, supplier, importer, exporter, carrier, or blender license~~ is in
27 proper form, has been accepted for filing, and meets the other conditions

1 and requirements of this section. The license ~~shall be~~ IS valid until
2 surrendered, suspended, or revoked.

3 (d.5) No person shall blend exempt dyed diesel fuel with biodiesel
4 fuel after withdrawal at a terminal rack ~~or refinery rack~~ unless such
5 person is a licensed blender in accordance with ~~paragraph (d) of this~~
6 ~~subsection (1)~~ SUBSECTION (1)(d) OF THIS SECTION who has a valid federal
7 blending permit. Any person who violates ~~the provisions of this paragraph~~
8 ~~(d.5)~~ SUBSECTION (1)(d.5) or the reporting or other requirements of this
9 section relating to such blending or who misrepresents the amount of
10 biodiesel fuel that is blended with dyed diesel fuel ~~shall be~~ IS subject to
11 the following civil penalties:

12 (e) When any person ceases to be a distributor, supplier,
13 TERMINAL OPERATOR, importer, exporter, carrier, or blender of gasoline
14 or special fuel by reason of discontinuance, sale, or transfer of such
15 person's business at any location, such person shall notify the executive
16 director of the department of revenue in writing at the time the
17 discontinuance, sale, or transfer takes effect. The notice ~~shall~~ MUST state
18 the date of discontinuance and, in the event of sale or transfer, the name
19 and address of the purchaser or transferee. All taxes, penalties, and
20 interest not yet due and payable under ~~the provisions of this part 1, shall,~~
21 notwithstanding any other provisions of this part 1, ~~become~~ ARE due and
22 payable concurrently with the discontinuance, sale, or transfer; and the
23 ~~distributor~~ PERSON shall make a report and pay all taxes, penalties, and
24 interest and shall surrender to the executive director of the department of
25 revenue the ~~gasoline distributor, supplier, importer, exporter, carrier, or~~
26 ~~blender~~ license together with all duplicates issued to him or her.

27 (f) The ~~gasoline or special fuel distributor, supplier, importer,~~

1 ~~exporter, carrier, or blender~~ license issued under ~~the provisions of this~~
2 section ~~shall~~ IS REQUIRED TO be conspicuously displayed in the
3 established place of business of the licensee. A licensee shall obtain a
4 duplicate license for each established branch office or location, which
5 shall be displayed in a like manner as the original license. ~~Each such~~
6 ~~duplicate license shall be issued by~~ The executive director of the
7 department of revenue SHALL ISSUE A DUPLICATE LICENSE upon payment
8 of a five-dollar fee.

9 (g) (I) No person shall ~~export gasoline or special fuel out of this~~
10 ~~state~~ ACT AS A DISTRIBUTOR, SUPPLIER, TERMINAL OPERATOR, IMPORTER,
11 EXPORTER, OR CARRIER without a valid license pursuant to this section.
12 Any person who violates the reporting requirements of this part 1, exports
13 gasoline or special fuel out of this state without a valid license, or imports
14 gasoline or special fuel into this state without a license ~~shall be~~ OR
15 PERMIT, OR OTHERWISE OPERATES IN THIS STATE WITHOUT THE LICENSE
16 REQUIRED BY THIS SECTION IS subject to the following civil penalties:

17 (h) The executive director of the department of revenue may
18 refuse to issue a ~~gasoline or special fuel distributor, supplier, importer,~~
19 ~~exporter, carrier, or blender~~ license if the executive director finds, after
20 affording the applicant due notice and an opportunity to be heard, that the
21 application:

22 (V) Was submitted by a person who the executive director of the
23 department of revenue determines is unable or unwilling to perform the
24 duties and responsibilities of a licensed gasoline or special fuel
25 distributor, supplier, TERMINAL OPERATOR, importer, exporter, carrier, or
26 blender, as applicable, based upon evidence furnished to him or her.

27 (2) (a) (I) (A) No license to act as a distributor ~~refiner,~~ or terminal

1 operator of ~~gasoline or special fuel shall be~~ IS issued PURSUANT TO THIS
2 SECTION until the applicant therefor has deposited with the department of
3 revenue evidence of a savings account, deposit, or certificate of deposit
4 meeting the requirements of section 11-35-101 ~~C.R.S.~~, or a surety bond
5 or a negotiable certificate of deposit issued by a commercial bank doing
6 business in this state acceptable to the executive director of the
7 department of revenue. When such deposit is a surety bond, such bond
8 ~~shall~~ MUST be in the sum of approximately three times the monthly tax
9 liability estimated by the executive director to become due by the
10 licensee, except as otherwise limited in ~~sub-subparagraph (B) of this~~
11 ~~subparagraph (I)~~ SUBSECTION (2)(a)(I)(B) OF THIS SECTION. If the deposit
12 is a surety bond, it ~~shall~~ MUST also be conditioned upon compliance by
13 the ~~distributor or refiner~~ APPLICANT with all provisions of this part 1 and
14 payment of all taxes and penalties to become due and payable thereunder;
15 if it is a negotiable certificate of deposit, it ~~shall~~ MUST be subject to
16 forfeiture upon failure of the ~~distributor or refiner~~ APPLICANT to comply
17 with said provisions or to pay all said taxes and penalties. Upon approval
18 by the executive director of the application, a license to act as a
19 distributor or refiner ~~shall be~~ IS issued to the applicant.

20 (II) The total amount of bond required of a distributor ~~shall be~~ IS
21 fixed by the executive director of the department of revenue and may be
22 increased or decreased by ~~such~~ THE EXECUTIVE director at any time,
23 subject to the limitations imposed by this subsection (2).

24 (b) If at any time after issuance of the license the executive
25 director of the department of revenue finds that the licensee is ~~using~~
26 ~~liquefied petroleum gas or acquiring gasoline or special fuel other than~~
27 ~~liquefied petroleum gas in a quantity that makes the licensee liable for~~

1 payment of excise tax, for the preceding and current month in an amount
2 greater than the amount of the deposit, the executive director ~~shall~~ MAY,
3 by written notice to the licensee, demand an additional surety bond or
4 negotiable certificate of deposit to be deposited in an amount determined
5 necessary to secure payment of a greater amount of taxes, but the
6 aggregate amount of deposit shall in no event exceed two hundred
7 thousand dollars. If the licensee fails or refuses within ten days after
8 receipt of the written notice and demand to deposit an additional surety
9 bond or negotiable certificate of deposit in the amount determined, the
10 executive director may by written notice suspend or revoke the license
11 held by the licensee. The requirements of this section relative to making
12 a deposit shall apply only to distributors AND TERMINAL OPERATORS who
13 are liable to the state for payment of the tax imposed by section
14 39-27-102.

15 (e) Any surety on a bond furnished by a distributor OR TERMINAL
16 OPERATOR pursuant to this subsection (2), upon written request to the
17 executive director of the department of revenue, ~~shall be~~ IS discharged
18 from any liability to this state accruing on the bond after expiration of
19 sixty days from the date of filing the request but not from liability already
20 accrued or accruing before the expiration of the sixty-day period. The
21 executive director, upon receipt of such a request, shall promptly notify
22 the distributor OR TERMINAL OPERATOR who furnished the bond in
23 question and, unless such distributor OR TERMINAL OPERATOR, prior to the
24 expiration of the sixty-day period, files a new bond satisfactory to the
25 executive director, the executive director shall forthwith revoke such
26 distributor's OR TERMINAL OPERATOR'S license.

27 (f) (I) NO DEPOSIT IS REQUIRED UNDER THIS SUBSECTION (2) FROM

1 ANY PERSON LICENSED PRIOR TO JANUARY 1, 2022, UNLESS A DEPOSIT WAS
2 REQUIRED BY THIS SUBSECTION (2) PRIOR TO THE ENACTMENT OF HOUSE
3 BILL 21-____, ENACTED IN 2021.

4 (II) THIS SUBSECTION (2)(f) IS REPEALED, EFFECTIVE DECEMBER
5 31, 2026.

6 (2.5) (a) Notwithstanding ~~the provisions of~~ subsection (2) of this
7 section, a distributor or ~~refiner~~ TERMINAL OPERATOR who has been
8 licensed in this state AS SUCH for five consecutive years and who, during
9 this period, has not been delinquent in the payment of taxes imposed
10 under this part 1 shall be exempt from the requirement to file a bond or
11 any other evidence of financial responsibility meeting the requirements
12 of section 11-35-101. ~~C.R.S.~~

13 (3) ~~In addition to all other applicable penalties and fines set forth~~
14 ~~in this part 1, each day on which any person engages in the business of a~~
15 ~~distributor, supplier, importer, exporter, carrier, or blender within this~~
16 ~~state without a license as required by this part 1 shall constitute a separate~~
17 ~~offense, and for each such offense, such person commits a class 6 felony~~
18 ~~and shall be punished as provided in section 18-1.3-401, C.R.S.~~

19 **SECTION 6.** In Colorado Revised Statutes, 39-27-105, **amend**
20 (1), (2), (3), (5)(a), (6), and (7)(d); **repeal** (1.2)(b) and (1.5); and **add**
21 (1.1) as follows:

22 **39-27-105. Collection of tax on gasoline and special fuel -**
23 **rules.** (1) ~~In addition to the reporting requirements set forth in subsection~~
24 ~~(1.5) of~~ EXCEPT AS OTHERWISE PROVIDED IN this section, every
25 distributor, supplier, carrier, exporter, importer, blender, refiner, or
26 terminal operator of gasoline or special fuel other than liquefied
27 petroleum gas on or before the twenty-sixth day of each calendar month

1 shall file with the executive director of the department of revenue, on
2 forms prescribed and furnished by the department, an itemized statement
3 made under penalty of perjury in the second degree, showing the
4 following:

5 (a) The number of gallons of gasoline or special fuel acquired by
6 ~~the distributor~~ IN, IMPORTED INTO, OR REMOVED FROM ANY TERMINAL in
7 this state from any source whatsoever during the preceding calendar
8 month;

9 (b) The quantity of the different kinds of gasoline or special fuel
10 so acquired, IMPORTED, OR REMOVED;

11 (c) The amount of gasoline or special fuel exported from this
12 state, with the date of shipment, the car number and initials, and the
13 number of invoiced gallons of gasoline or special fuel contained in each
14 tank car if exported by rail, and the name of the owner and the make and
15 license number of the tank truck or tank wagon if such transportation is
16 used, and the name of the person to whom such exported gasoline or
17 special fuel was sold, the point of shipment, and the point of delivery;

18 (d) The date of acquisition, IMPORT, OR REMOVAL of each
19 shipment of gasoline or special fuel acquired, ~~by the distributor,~~
20 IMPORTED, OR REMOVED, the name of the person from whom purchased
21 or acquired, the point of origin and point of destination of each shipment,
22 the quantity in gallons of each of said purchases or shipments, the name
23 of the carrier, the number of each tank car, its initial, and the number of
24 invoiced gallons contained in each tank car if shipped by rail, and the
25 name of the owner and the make, license number, and capacity in gallons
26 of the tank truck or tank wagon if such transportation was used;

27 (d.3) IN THE CASE OF A BLENDER OF GASOLINE OR SPECIAL FUEL,

1 THE AMOUNT AND CHARACTER OF THE UNBLENDED PRODUCTS AND THE
2 BLENDED PRODUCTS ON HAND ON THE LAST DAY OF THE PRECEDING
3 CALENDAR MONTH, THE AMOUNT OF UNBLENDED PRODUCTS ACQUIRED
4 AND THE AMOUNT OF PRODUCTS BLENDED DURING THE CALENDAR MONTH,
5 AND ANY OTHER INFORMATION RELATIVE TO THE DISPOSITION OF THE
6 BLENDED PRODUCTS AS THE EXECUTIVE DIRECTOR MAY DEEM NECESSARY
7 OR ADVISABLE FOR THE CORRECT DETERMINATION OF THE AMOUNT OF
8 EXCISE TAX APPLICABLE TO GASOLINE OR SPECIAL FUEL ACQUIRED, USED,
9 OR SOLD BY THE BLENDER;

10 (d.7) IN THE CASE OF A TERMINAL OPERATOR, INFORMATION
11 PERTAINING TO THE REMOVAL OF GASOLINE OR SPECIAL FUEL FROM THE
12 OPERATOR'S TERMINAL BY A PERSON WHO IS NOT A LICENSEE OR WHO IS
13 NOT OTHERWISE EXEMPT AND THE AMOUNT OF TAX COLLECTED THEREON
14 PURSUANT TO SECTION 39-27-102 (1)(b)(I)(B); AND

15 (e) ANY further information AS THE EXECUTIVE DIRECTOR MAY
16 REQUIRE pertaining to the acquisition, IMPORT, OR REMOVAL of gasoline
17 or special fuel and its disposition ~~as the executive director of the~~
18 ~~department of revenue may reasonably require. In the case of a distributor~~
19 ~~duly licensed as a blender of gasoline or special fuel, the report shall~~
20 ~~show the amount and character of the unblended products and the blended~~
21 ~~products on hand on the last day of the preceding calendar month, the~~
22 ~~amount of unblended products acquired and the amount of products~~
23 ~~blended during said calendar month, and any other information relative~~
24 ~~to the disposition of the blended products as the executive director may~~
25 ~~deem necessary or advisable for the correct determination of the amount~~
26 ~~of excise tax applicable to gasoline or special fuel acquired, used, or~~
27 ~~offered for sale by the distributor~~ AND THE TAX DUE, COLLECTED, OR PAID

1 THEREON, IF ANY.

2 (f) ~~The information required for reporting acquisition or~~
3 ~~disposition of gasoline or special fuel pursuant to this article shall be~~
4 ~~submitted electronically in the manner prescribed by the department of~~
5 ~~revenue by rule. The department, in consultation with distributors, shall~~
6 ~~promulgate rules regarding filing of information that includes, but is not~~
7 ~~limited to, the data elements, the format of the data elements, and the~~
8 ~~method and medium of transmission to the department.~~

9 (1.1) THE INFORMATION REQUIRED FOR REPORTING ACQUISITION
10 OR DISPOSITION OF GASOLINE OR SPECIAL FUEL PURSUANT TO THIS ARTICLE
11 27 MUST BE SUBMITTED ELECTRONICALLY IN THE MANNER PRESCRIBED BY
12 THE DEPARTMENT OF REVENUE. THE DEPARTMENT, IN CONSULTATION
13 WITH LICENSEES, SHALL DEVELOP STANDARDS REGARDING FILING OF
14 INFORMATION THAT INCLUDES, BUT IS NOT LIMITED TO, THE DATA
15 ELEMENTS, THE FORMAT OF THE DATA ELEMENTS, AND THE METHOD AND
16 MEDIUM OF TRANSMISSION TO THE DEPARTMENT. THE DEPARTMENT SHALL
17 INCORPORATE INTO THE STANDARDS, TO THE EXTENT PRACTICABLE, THE
18 UNIFORM FORMS AND REPORTING METHODS PRESCRIBED BY THE
19 FEDERATION OF TAX ADMINISTRATORS OR OTHER SIMILAR ASSOCIATION OF
20 STATES.

21 (1.2) (b) ~~Subsection (1.5) of this section does not apply to a~~
22 ~~licensee with respect to liquefied petroleum gas.~~

23 (1.5) ~~On or before the twenty-sixth day of each calendar month,~~
24 ~~every licensee shall file with the executive director of the department of~~
25 ~~revenue, on forms prescribed and furnished by the department, a report~~
26 ~~made under penalty of perjury in the second degree specifying any~~
27 ~~information that the executive director shall require. The executive~~

1 ~~director shall consult with persons in the gasoline or special fuel industry~~
2 ~~to determine such reporting requirements and promulgate said~~
3 ~~requirements by rule in accordance with the "State Administrative~~
4 ~~Procedure Act", article 4 of title 24. The executive director may by rule~~
5 ~~require that such reports be filed electronically.~~

6 (2) (a) (I) It is the duty of every distributor of gasoline or special
7 fuel other than liquefied petroleum gas to compute the amount of tax
8 payable on all gasoline or special fuel IMPORTED, REMOVED FROM A
9 TERMINAL, OR OTHERWISE acquired during the preceding calendar month
10 at the rate of tax per gallon imposed thereon in section 39-27-102 (1),
11 and, in computing the amount of tax, the allowance of two percent
12 provided for in ~~section 39-27-102 (1)~~ SECTION 39-27-102 (1)(b)(I)(A)
13 shall be taken into account.

14 (II) It is the duty of every distributor of liquefied petroleum gas to
15 compute the amount of tax payable on the liquefied petroleum gas placed
16 in a fuel tank or used to propel a cargo tank motor vehicle in the
17 preceding calendar month at the rate of tax per gallon imposed thereon.

18 (III) EVERY TERMINAL OPERATOR IS LIABLE AND RESPONSIBLE FOR
19 PAYMENT OF AN AMOUNT EQUIVALENT TO THE TAX IMPOSED BY SECTION
20 39-27-102 (1) UPON ALL GASOLINE AND SPECIAL FUEL REMOVED FROM THE
21 TERMINAL OPERATOR'S TERMINAL BY PERSONS WHO ARE NOT LICENSEES
22 OR EXEMPT UNDER SECTION 39-27-102.5, UNLESS THE TAX WAS
23 PREVIOUSLY PAID ON SUCH GASOLINE OR SPECIAL FUEL. THE TERMINAL
24 OPERATOR IS ENTITLED, AS COLLECTING AGENT OF THE STATE, TO APPLY
25 AND CREDIT THE AMOUNT OF THE COLLECTIONS UNDER SECTION 39-27-102
26 (1)(b)(I)(B) AGAINST THE AMOUNT TO BE PAID PURSUANT TO THIS
27 SUBSECTION (2)(a)(III), REMITTING ANY EXCESS OF COLLECTIONS OVER

1 THAT AMOUNT. THE AMOUNT DUE FROM A PERSON UNDER THIS
2 SUBSECTION (2)(a)(III) IS IN ADDITION TO ANY OTHER AMOUNTS IMPOSED
3 ON SUCH PERSON AS A DISTRIBUTOR UNDER THIS PART 1.

4 (b) From the amount of tax ~~so~~ computed UNDER SUBSECTION
5 (2)(a) OF THIS SECTION, the distributor ~~of gasoline or special fuel~~ OR
6 TERMINAL OPERATOR shall deduct one-half of one percent to cover
7 expenses of PAYMENT OR collection of the tax and bad debt losses and
8 shall pay the remaining balance to the department of revenue ~~at the time~~
9 ~~of filing~~ AND FILE the statement required ~~to be filed by the provisions~~ BY
10 SUBSECTION (1) of this section ON OR BEFORE THE TWENTY-SIXTH DAY OF
11 EACH CALENDAR MONTH. IF ANY DISTRIBUTOR OR TERMINAL OPERATOR
12 IS DELINQUENT IN REMITTING THE TAX, EXCEPT IN UNUSUAL
13 CIRCUMSTANCES SHOWN TO THE SATISFACTION OF THE EXECUTIVE
14 DIRECTOR OF THE DEPARTMENT OF REVENUE, THE RETAILER SHALL NOT BE
15 ALLOWED TO DEDUCT ANY AMOUNT UNDER THIS SUBSECTION (2)(b).

16 (c) A penalty of thirty dollars or ten percent of the tax due, plus
17 one-half of one percent per month from the date when due, not to exceed
18 eighteen percent in the aggregate, whichever is greater, ~~shall be~~ PLUS
19 INTEREST AT THE RATE IMPOSED UNDER SECTION 39-21-110.5 ON THE TAX
20 DUE, IS imposed for failure to file any statement when due or pay the tax
21 as provided in this section, in addition to any other penalties provided by
22 this part 1. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE
23 MAY WAIVE, FOR GOOD CAUSE SHOWN, ANY PENALTY OR INTEREST ADDED
24 PURSUANT TO THIS SUBSECTION (2)(c).

25 (3) If any ~~distributor of gasoline or special fuel~~ PERSON fails or
26 refuses to make and file the sworn statement REQUIRED BY THIS SECTION
27 and pay the tax due, IF ANY, for any calendar month or if ~~any distributor~~

1 ~~of gasoline or special fuel~~ A PERSON makes and files any incorrect or
2 fraudulent statement or return for any calendar month as required by this
3 part 1, the executive director of the department of revenue, upon such
4 information as is available in his or her office or elsewhere, shall
5 determine the amount of gasoline or special fuel taxes due from ~~said~~
6 ~~distributor~~ THAT PERSON and shall add to ~~said~~ THAT amount a penalty of
7 thirty percent thereof for failure to file such report or for filing ~~such~~ THE
8 false or fraudulent report and collect the amount of ~~said~~ THE tax and
9 penalty plus interest on the whole amount due from ~~said distributor~~ THAT
10 PERSON at the rate imposed under section 39-21-110.5 from the date due
11 until paid. UPON MAKING SUCH ESTIMATE, AND ADDING THE PENALTY AND
12 INTEREST AS PROVIDED IN THIS SECTION, THE EXECUTIVE DIRECTOR SHALL
13 MAIL A NOTICE OF DEFICIENCY AS PROVIDED IN SECTION 39-21-103. A
14 HEARING MAY BE HELD AND THE EXECUTIVE DIRECTOR SHALL MAKE A
15 FINAL DETERMINATION PURSUANT TO THAT SECTION. THE TAXPAYER MAY
16 APPEAL THAT FINAL DETERMINATION IN THE MANNER PROVIDED IN
17 SECTION 39-21-105. The executive director may waive, for good cause
18 shown, any penalty ~~assessed~~ OR INTEREST ADDED as provided in this
19 ~~article~~ ARTICLE 27 and article 21 of this ~~title~~ TITLE 39.

20 (5) (a) Except as provided in ~~paragraph (a) of subsection (4)~~
21 SUBSECTION (4)(a) of this section and in section 39-27-102.5 (2)(c), every
22 person who imports into this state special fuel within the fuel tank of a
23 motor vehicle and who is not required to report special fuel usage under
24 ~~the provisions of~~ subsection (4) of this section shall obtain from the port
25 of entry, from the office of the department of revenue nearest the point of
26 entry into this state, or from any officer of the Colorado state patrol a
27 single trip permit that ~~shall contain~~ CONTAINS a description of the motor

1 vehicle, a description of the points of travel within the state of Colorado,
2 and such other information as the executive director of the department of
3 revenue may require. At the time of issuance of such single trip permit,
4 a tax will be computed and paid based on the consumption rate of four
5 miles per gallon for special fuel consumed within Colorado at the special
6 fuel tax rate provided by ~~section 39-27-102.5~~ SECTION 39-27-102
7 (1)(a)(II)(B). A fee of one dollar shall be paid for each single trip permit
8 and the permit shall be valid for a period of seventy-two hours.

9 (6) (a) Every person who imports GASOLINE OR special fuel into
10 this state for use or sale in this state without a single trip permit or a valid
11 importer's, supplier's, BLENDER'S, or distributor's license is liable for and
12 shall pay an excise tax pursuant to section 39-27-102 (1) on all GASOLINE
13 AND undyed special fuel other than liquefied petroleum gas such person
14 imports for use or sale in this state.

15 (b) Immediately upon discovering a violation of this subsection
16 (6), the department of revenue and agents thereof:

17 (I) May demand payment of such excise tax and all applicable
18 fines AND PENALTIES associated with the unlicensed importation of
19 special fuel, as set forth in this subsection (6); and

20 (II) May detain the shipment of GASOLINE OR special fuel until
21 such excise tax, ~~and~~ fines, AND PENALTIES are collected.

22 (c) Any person who imports GASOLINE OR special fuel, INCLUDING
23 LIQUIFIED PETROLEUM GAS, into this state without a valid license pursuant
24 to section 39-27-104 ~~shall be~~ IS subject to the civil penalties set forth in
25 section 39-27-104 (1)(g).

26 (7) (d) Immediately upon discovery of a violation of this section,
27 the department of revenue and agents thereof may require payment of the

1 excise tax and all applicable civil penalties from any person who violates
2 ~~the provisions of~~ this section and may detain the shipment of GASOLINE
3 OR special fuel until payment is collected.

4 **SECTION 7.** In Colorado Revised Statutes, **repeal** 39-27-105.3
5 as follows:

6 **39-27-105.3. Remittance of tax on gasoline and special fuel -**
7 **electronic funds transfers.** ~~A distributor, supplier, carrier, exporter,~~
8 ~~importer, blender, refiner, licensee, or terminal operator shall remit all~~
9 ~~taxes required to be remitted to the department of revenue on or before~~
10 ~~the twenty-sixth day of each calendar month.~~

11 **SECTION 8.** In Colorado Revised Statutes, **amend** 39-27-105.5
12 as follows:

13 **39-27-105.5. Lien to secure payment of taxes - exemption -**
14 **recovery.** (1) (a) The state of Colorado and the department of revenue
15 shall have a lien to secure the payment of the taxes, penalties, and interest
16 imposed pursuant to this part 1 upon all the assets and property of the
17 distributor OR TERMINAL OPERATOR owing ~~such~~ THE tax, including the
18 stock in trade, business fixtures, and equipment owned or used by the
19 distributor OR TERMINAL OPERATOR in the conduct of his OR HER business,
20 as long as a delinquency in the payment of such tax continues. Such lien
21 ~~shall be~~ IS prior to any lien of any kind whatsoever, including existing
22 liens for taxes.

23 (b) Any distributor, TERMINAL OPERATOR, or person in possession
24 shall provide a copy of any lease pertaining to the assets and property
25 described in ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF
26 THIS SECTION to the department of revenue within ten days after seizure
27 by the department of such assets and property. The department shall

1 verify that such lease is bona fide and notify the owner that such lease has
2 been received by the department. The department shall use its best efforts
3 to notify the owner of the real or personal property which might be
4 subject to the lien created in ~~paragraph (a) of this subsection (1)~~
5 SUBSECTION (1)(a) OF THIS SECTION. The real or personal property of an
6 owner who has made a bona fide lease to a distributor ~~shall be~~ OR
7 TERMINAL OPERATOR IS exempt from the lien created in ~~paragraph (a) of~~
8 ~~this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION if such property
9 can reasonably be identified from the lease description or if the lessee is
10 given an option to purchase in such lease and has not exercised such
11 option to become the owner of the property leased. This exemption ~~shall~~
12 ~~be~~ IS effective from the date of the execution of the lease. ~~Such~~ THE
13 exemption ~~shall also apply~~ ALSO APPLIES if the lease is recorded with the
14 county clerk and recorder of the county where the property is located or
15 based or a memorandum of the lease is filed with the department of
16 revenue on such forms as may be prescribed by said department after the
17 execution of the lease at a cost for such filing of two dollars and fifty
18 cents per document. Motor vehicles which are properly registered in this
19 state, showing the lessor as owner thereof, shall be exempt from the lien
20 created in ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS
21 SECTION; except that said lien ~~shall apply~~ APPLIES to the extent that the
22 lessee has an earned reserve, allowance for depreciation not to exceed fair
23 market value, or similar interest which is or may be credited to the lessee.
24 Where the lessor and lessee are blood relatives or relatives by law or have
25 twenty-five percent or more common ownership, a lease between such
26 lessee and such lessor ~~shall not be~~ IS NOT considered as bona fide for the
27 purposes of this section.

1 (c) WHEN THE PROPERTY OF ANY LICENSEE IS SEIZED UPON ANY
2 MESNE OR FINAL PROCESS OF ANY COURT OF THIS STATE OR WHEN THE
3 BUSINESS OF ANY LICENSEE IS SUSPENDED BY THE ACTION OF CREDITORS
4 OR PUT INTO THE HANDS OF ANY ASSIGNEE, RECEIVER, OR TRUSTEE, THEN
5 IN ALL SUCH CASES ALL GASOLINE OR SPECIAL FUEL TAXES DUE FROM AND
6 PAYABLE BY SUCH LICENSEE TOGETHER WITH ANY PENALTIES AND
7 INTEREST THEREON UNDER THIS PART 1 ARE CONSIDERED AND TREATED AS
8 PREFERRED CLAIMS, AND THE STATE OF COLORADO IS A PREFERRED
9 CREDITOR AND TO BE PAID IN FULL.

10 (d) (I) THE TAX IMPOSED BY THIS PART 1, EXCEPT WHEN PAID BY
11 THE USER TO A VENDOR, TOGETHER WITH PENALTIES AND INTEREST
12 THEREON, CONSTITUTES A LIEN AGAINST ANY MOTOR VEHICLE IN
13 CONNECTION WITH WHICH THE TAXABLE USE IS MADE. THE LIEN SHALL
14 NOT BE REMOVED UNTIL THE TAX, TOGETHER WITH PENALTIES AND
15 INTEREST, IS PAID OR THE MOTOR VEHICLE SUBJECT TO THE LIEN IS SOLD
16 IN PAYMENT OF THE TAX, PENALTY, AND INTEREST. THE LIEN IS PRIOR TO
17 ALL PRIVATE LIENS AND ENCUMBRANCES AND TO THE RIGHTS OF A
18 CONDITIONAL VENDOR OR OTHER HOLDER OF THE LEGAL OR EQUITABLE
19 TITLE TO THE MOTOR VEHICLE.

20 (II) IF OWNERSHIP OF A MOTOR VEHICLE SUBJECT TO LIEN UNDER
21 THIS SUBSECTION (1)(d) IS TRANSFERRED BY OPERATION OF LAW OR
22 OTHERWISE, REGISTRATION OR TITLE WITH RESPECT TO THE VEHICLE
23 SHALL NOT BE ISSUED UNTIL THE LIEN HAS BEEN REMOVED.

24 (2) If ~~a distributor~~ ANY PERSON fails OR REFUSES to comply with
25 ~~the provisions of~~ section 39-27-105, the executive director of the
26 department of revenue may seek to enforce collection of the unpaid taxes,
27 penalties, and interest in accordance with ~~the provisions of~~ article 21 of

1 this ~~title~~ TITLE 39.

2 **SECTION 9.** In Colorado Revised Statutes, **amend** 39-27-106 as
3 follows:

4 **39-27-106. Distributor trustee of tax.** ~~Every distributor who sells~~
5 ~~any gasoline or special fuel for any purpose that is subject to the tax~~
6 ~~imposed by this part 1 shall collect from the purchaser the amount of~~
7 ~~excise tax thereon, and any sums of money paid by the purchaser to the~~
8 ~~distributor~~ ANY AMOUNT COLLECTED AND PAID TO A TERMINAL OPERATOR
9 PURSUANT TO SECTION 39-27-102 (1)(b)(I)(B) as gasoline or special fuel
10 taxes ~~shall be and remain~~ IS public money, the property of the state in the
11 hands of ~~such distributor~~ THE TERMINAL OPERATOR, and ~~such distributor~~
12 THE TERMINAL OPERATOR shall hold the same in trust for the sole use and
13 benefit of the state until paid to the executive director of the department
14 of revenue as provided in this part 1. Any ~~distributor~~ TERMINAL
15 OPERATOR who willfully fails or refuses upon demand to pay over to the
16 executive director the ~~moneys~~ MONEY paid to the ~~distributor~~ TERMINAL
17 OPERATOR as gasoline or special fuel taxes that are by this part 1 declared
18 to be trust funds in the ~~distributor's~~ TERMINAL OPERATOR'S hands and the
19 property of the state of Colorado or who fraudulently withholds, converts
20 to ~~such distributor's~~ THE TERMINAL OPERATOR'S own use, or appropriates
21 or otherwise uses such ~~moneys~~ MONEY or any part thereof belonging to
22 the state ~~shall be punished~~ IS PUNISHABLE as provided by section
23 39-21-118.

24 **SECTION 10.** In Colorado Revised Statutes, **repeal** 39-27-113
25 as follows:

26 **39-27-113. Tax lien - priority.** ~~(1) If any person fails, neglects,~~
27 ~~or refuses to pay the tax imposed by this part 1, the amount of the tax,~~

1 together with any penalties or interest or any costs that accrue in addition
2 thereto, shall be a lien in favor of the state upon all franchises, property,
3 and rights to property, whether real or personal, tangible or intangible,
4 belonging to or thereafter acquired by that person, whether the property
5 is employed by that person in the operation of a business or is in
6 possession of an assignee, trustee, or receiver for the benefit of creditors.

7 (2) When the property of any distributor is seized upon any mesne
8 or final process of any court of this state or when the business of any
9 distributor is suspended by the action of creditors or put into the hands of
10 any assignee, receiver, or trustee, then in all such cases all gasoline or
11 special fuel tax moneys collected by such distributor under the provisions
12 of this part 1 and due and owing to the state shall be considered and
13 treated as preferred claims, and the state of Colorado shall be a preferred
14 creditor and shall be paid in full.

15 (3) (a) Notwithstanding the provisions of subsection (1) of this
16 section, the tax imposed by this part 1, except when paid by the user to a
17 vendor, together with penalties and interest thereon, constitutes a lien
18 against any motor vehicle in connection with which the taxable use is
19 made. The lien shall not be removed until the tax, together with penalties
20 and interest, is paid or the motor vehicle subject to the lien is sold in
21 payment of the tax, penalty, and interest. The lien shall be prior to all
22 private liens and encumbrances and to the rights of a conditional vendor
23 or other holder of the legal or equitable title to the motor vehicle.

24 (b) If ownership of a motor vehicle subject to lien under this
25 subsection (3) is transferred by operation of law or otherwise, no
26 registration or title with respect to such vehicle shall be issued until the
27 lien has been removed.

1 **SECTION 11.** In Colorado Revised Statutes, **amend** 39-27-120
2 as follows:

3 **39-27-120. Penalties.** Any person who in any way violates any of
4 the provisions of this part 1 for which no penalty is expressly provided
5 ~~shall be~~ IS punished as provided by section 39-21-118. In addition to the
6 foregoing penalties, the executive director of the department of revenue
7 may suspend or revoke the license of any ~~distributor~~ PERSON who violates
8 any of the provisions of this part 1 and shall notify ~~such distributor~~ THE
9 PERSON of ~~such~~ THE suspension or revocation and, upon application to
10 any court of competent jurisdiction without furnishing bond, ~~shall be~~ IS
11 entitled to an injunction restraining ~~any such distributor~~ THE PERSON from
12 operating, transporting, using, selling, delivering, or transferring any
13 gasoline or special fuel in this state while the license or permit of ~~such~~
14 ~~distributor~~ THE PERSON has been suspended or revoked. The attorney
15 general shall institute an action on behalf of the state against any person
16 required to collect or pay the tax imposed by this part 1, or the sureties of
17 ~~such~~ THE person, to collect or recover the amount of tax due from ~~such~~
18 THE person, together with penalties and interest thereon.

19 **SECTION 12.** In Colorado Revised Statutes, 39-21-119.5,
20 **amend** (4)(d) as follows:

21 **39-21-119.5. Mandatory electronic filing of returns -**
22 **mandatory electronic payment - penalty - waiver - definitions.**

23 (4) Except as provided in subsection (6) of this section, on and after
24 August 2, 2019, electronic filing of returns and the payment of any tax or
25 fee by electronic funds transfer is required for the following:

26 (d) Any gasoline or special fuel report required to be filed
27 pursuant to section 39-27-105; ~~and the payment required to be made~~

1 pursuant to section ~~39-27-105.3~~;

2 **SECTION 13.** In Colorado Revised Statutes, 43-4-205, **amend**
3 (5.5)(a) as follows:

4 **43-4-205. Allocation of fund.** (5.5) The following highway users
5 tax fund revenues shall be allocated and expended in accordance with the
6 formula specified in subsection (5) of this section:

7 (a) Revenues from fines, penalties, or forfeitures that are credited
8 to the fund pursuant to sections 18-4-509 (2)(a), ~~39-27-102 (9)(c)~~,
9 ~~39-27-104 (1)(g)(H)~~, **39-27-104 (1)(g)**, 42-1-217 (1)(a), (1)(b), (1)(d),
10 (1)(e), and (2), 42-4-225 (3), and 42-4-235 (2)(a); ~~C.R.S.~~;

11 **SECTION 14. Act subject to petition - effective date.** This act
12 takes effect January 1, 2022; except that, if a referendum petition is filed
13 pursuant to section 1 (3) of article V of the state constitution against this
14 act or an item, section, or part of this act within the ninety-day period
15 after final adjournment of the general assembly, then the act, item,
16 section, or part will not take effect unless approved by the people at the
17 general election to be held in November 2022 and, in such case, will take
18 effect on the date of the official declaration of the vote thereon by the
19 governor.