A BILL FOR AN ACT

CONCERNING CHARGES RELATED TO MOTOR VEHICLES THAT TRAVEL ON THE PUBLIC HIGHWAYS OF THE STATE.

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://www.leg.state.co.us/billsummaries.)

The bill makes the following changes to the special fuel tax:

Section 3 of the bill modifies the definition of "distributor" to include persons who sell natural gas, certain fleet operators, and in limited circumstances, public utilities. It also modifies the definition of "gallon" to include gallon...
gasoline equivalents.

Section 4 lowers the tax rates for compressed natural gas, liquefied natural gas, and liquefied petroleum gas. These rates are phased-in over 6 years.

Section 5 repeals the annual fee that is charged in lieu of the special fuel tax and the related decal system, so that liquefied petroleum gas and natural gas are subject to the special fuel tax. Section 5 also exempts compressed natural gas that is supplied to a user at a residential home from the special fuel tax. This exemption ends on July 1, 2017.

Sections 6, 7, and 8 make conforming amendments related to the preceding changes.

Section 9 requires the department of transportation to prepare and submit a report to the transportation legislation review committee concerning related alternative fuels and the public roads and highways.

The bill requires the director of the division of oil and public safety to promulgate the following rules:

Section 2 requires rules for natural gas setting forth standards related to inspections; specifications; shipment notification; record keeping; labeling of containers; use of meters or mechanical devices for measurement; submittal of installation plans; and minimum standards for the design, construction, location, installation, and operation of natural gas systems and equipment and handling of the natural gas; and

Section 9 requires rules related to the accurate measurement of liquefied petroleum gas and natural gas.

Section 10 requires county clerks and recorders to annually collect a $30 fee at the time of registration on every motor vehicle that is propelled by plug-in electricity. The money is credited to the highway users tax fund. Upon payment of this fee, a person will receive a decal that the department of revenue creates, and this decal must be attached to the upper right-hand corner of the front windshield on the motor vehicle for which it was issued.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) Liquefied petroleum gas and natural gas are currently subject to the state special fuel tax;
(b) Owners or operators of motor vehicles that are powered by liquefied petroleum gas and natural gas who acquire and pay for a decal are exempt from the state special fuel tax;

(c) Removal of this exemption constitutes a tax policy change; and

(d) This tax policy change does not require prior voter approval under section 20 of article X of the state constitution because it would not cause the state to exceed the state fiscal year spending limit.

(2) The general assembly further finds and declares that:

(a) Liquefied petroleum gas and natural gas have different energy contents than gasoline or other special fuels;

(b) The changes to the tax rate for liquefied petroleum gas and natural gas reflect these differences;

(c) While the tax rates annually increase over a six-year period, all of these rates are reductions from the current rate of twenty and one-half cents per gallon on liquefied petroleum gas and natural gas;

(d) The establishment of these lower rates is not a tax rate increase that requires prior voter approval under section 20 of article X of the state constitution; and

(e) The intended purpose of this rate reduction is to fairly tax liquefied petroleum gas and natural gas and to create tax parity among special fuels based on the differences in each fuel's energy content.

(3) The general assembly further finds and declares that:

(a) Plug-in electric vehicles have impacts on the public roads and highways, as do other types of vehicles;

(b) While owners of motor vehicles that are propelled by plug-in electricity pay state sales and use tax on their vehicle purchases and annual specific ownership taxes and vehicle registration fees, electricity
is not taxed as a special fuel;

(c) Owners of plug-in electric vehicles have the same interest as other vehicle owners in contributing to the construction, improvement, repair, and maintenance of public roads and highways; and

(d) The purpose of the annual fee for these owners is to provide them with a means to pay their fair share for their vehicles' impacts on the state's public roads and highways.

SECTION 2. In Colorado Revised Statutes, 8-20-102, amend (1) as follows:

8-20-102. Duties of director of division of oil and public safety. (1) The director of the division of oil and public safety shall make, promulgate, and enforce rules setting forth minimum and general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, and utilizing liquid fuel products. Said rules shall after September 1, 2013, but no later than January 1, 2014, the director shall make, promulgate, and enforce rules for natural gas setting forth standards related to inspections; specifications; shipment notification; record keeping; labeling of containers; use of meters or mechanical devices for measurement; submittal of installation plans; and minimum standards for the design, construction, location, installation, and operation of natural gas systems and equipment and handling of the natural gas. Thereafter, the director may modify or update the rules in his or her discretion. All of the rules required by this subsection (1) must be such as are reasonably necessary for the protection of the health, welfare, and safety of the public and persons using such materials, and shall must be in
substantial conformity with the generally accepted standards of safety concerning the same subject matter. Such rules shall be adopted by The director of the division of oil and public safety SHALL ADOPT THE RULES in compliance with section 24-4-103, C.R.S.

SECTION 3. In Colorado Revised Statutes, 39-27-101, amend (7) and (11) as follows:

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

(7) (a) "Distributor" means:

(I) A gasoline or special fuel broker, and any person who sells special fuel to another distributor, broker, or vendor, and any vendor of liquefied petroleum gases LIQUEFIED PETROLEUM GAS OR NATURAL GAS;

(II) Any person who acquires gasoline or special fuel from a supplier, importer, blender, or another distributor for the subsequent sale and distribution by tank cars, tank trucks, or both; or

(III) Any person who refines, manufactures, produces, compounds, blends, or imports special fuel or gasoline;

(IV) A private commercial fleet operator that uses liquefied petroleum gas or natural gas from a public utility, as defined in section 40-1-103 (1), C.R.S., if:

(A) The public utility is not a distributor with respect to the sale of the liquefied petroleum gas or natural gas; and

(B) The commercial fleet operator has not contracted with another person to be a distributor under subparagraph (V) of this paragraph (a); or

(V) Any person who contracts with a private commercial fleet operator to be a distributor on behalf of the operator.
(b) "Distributor" includes every person importing gasoline or special fuel by means of a pipeline or in any other manner but does not include persons importing gasoline or special fuel contained only in the fuel tank of a motor vehicle.

(c) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (7) TO THE CONTRARY, A PUBLIC UTILITY AS DEFINED IN SECTION 40-1-103 (1), C.R.S., IS ONLY A DISTRIBUTOR IF IT SELLS SPECIAL FUEL AS A VENDOR THROUGH AN ALTERNATIVE FUEL VEHICLE CHARGING OR FUELING FACILITY THAT IS UNREGULATED UNDER SECTION 40-1-103.3, C.R.S., BUT ONLY WITH RESPECT TO THOSE SALES.

(11) (a) "Gallons" means gallons as measured on a gross gallons basis, as defined in section 8-20-201 (3), C.R.S.

(b) "GALLONS" ALSO INCLUDES THE "GALLON GASOLINE EQUIVALENT" AS DEFINED IN SECTION 8-20-201 (2.7) (a), C.R.S., FOR THE PURPOSE OF MEASURING LIQUEFIED PETROLEUM GAS OR NATURAL GAS.

SECTION 4. In Colorado Revised Statutes, 39-27-102, amend (1) (a) (II) (B) and (2) (a); and add (1) (a) (VI), (1) (a) (VII), and (1) (a) (VIII) as follows:

39-27-102. Tax imposed on gasoline and special fuel - deposits - penalties. (1) (a) (II) (B) The excise tax imposed on special fuel by subparagraph (I) of this paragraph (a) shall be twenty and one-half cents per gallon or a fraction thereof for calendar years beginning on and after January 1, 1992. THIS SUB-SUBPARAGRAPH (B) DOES NOT APPLY TO ANY SPECIAL FUEL SPECIFIED IN SUBPARAGRAPHS (VI), (VII), AND (VIII) OF THIS PARAGRAPH (a).

(VI) THE EXCISE TAX IMPOSED ON COMPRESSED NATURAL GAS BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) IS:
(A) Three cents per gallon or a fraction thereof for the 2014 calendar year;
(B) Six cents per gallon or a fraction thereof for the 2015 calendar year;
(C) Nine cents per gallon or a fraction thereof for the 2016 calendar year;
(D) Twelve cents per gallon or a fraction thereof for the 2017 calendar year;
(E) Fifteen cents per gallon or a fraction thereof for the 2018 calendar year; and
(F) Eighteen and three-tenths cents per gallon or a fraction thereof for calendar years beginning on and after January 1, 2019.

(VII) The excise tax imposed on liquefied natural gas by subparagraph (I) of this paragraph (a) is:
(A) Three cents per gallon or a fraction thereof for the 2014 calendar year;
(B) Five cents per gallon or a fraction thereof for the 2015 calendar year;
(C) Seven cents per gallon or a fraction thereof for the 2016 calendar year;
(D) Eight cents per gallon or a fraction thereof for the 2017 calendar year;
(E) Ten cents per gallon or a fraction thereof for the 2018 calendar year; and
(F) Twelve cents per gallon or a fraction thereof for calendar years beginning on and after January 1, 2019.
(VIII) The excise tax imposed on liquefied petroleum gas by
subparagraph (I) of this paragraph (a) is:

(A) three cents per gallon or a fraction thereof for the
2014 calendar year;

(B) five cents per gallon or a fraction thereof for the
2015 calendar year;

(C) seven cents per gallon or a fraction thereof for the
2016 calendar year;

(D) nine cents per gallon or a fraction thereof for the
2017 calendar year;

(E) eleven cents per gallon or a fraction thereof for the
2018 calendar year; and

(F) thirteen and one-half cents per gallon or a fraction
thereof for calendar years beginning on and after January 1,
2019.

(2) (a) Except as set forth in section 39-27-102.5 (9), every
person who uses any gasoline or special fuel for propelling a motor
vehicle on the public highways of this state or who is licensed to import
any gasoline or special fuel into this state for use or sale in this state, upon
which gasoline or special fuel a licensed distributor has not paid or is not
liable to pay the tax imposed in this section, is deemed to be a distributor
and is liable for and shall pay an excise tax at a rate established by
paragraph (a) of subsection (1) of this section on all such gasoline or
special fuel so used, or imported for use or sale, in this state. Such person
shall pay such tax to the department of revenue, pursuant to section
39-27-105.3, on or before the twenty-sixth day of the calendar month
following the month in which such gasoline or special fuel was used or
imported and shall, at the time of payment, render to the department, on
forms provided by it, an itemized statement, signed under the penalties of
perjury in the second degree, as defined in section 18-8-503, C.R.S., of
all such gasoline or special fuel so used or imported during such
preceding calendar month. When such gasoline or special fuel is
delivered from a terminal in a carload lot, the quantity thereof and the
amount of tax thereon shall be computed in the same manner as in the
case of a distributor.

SECTION 5. In Colorado Revised Statutes, 39-27-102.5, amend
(7); repeal (5), (6), and (8); and add (9) as follows:

39-27-102.5. Exemptions on tax imposed - ex-tax purchases -
repeal. (5) (a) The tax imposed by section 39-27-102 (1) (a) (II) (B)
shall not apply to any motor vehicle that has been registered in this state,
that is powered by liquefied petroleum gas or natural gas, and for which
a valid decal has been acquired as provided in this subsection (5). The
owners or operators of such motor vehicles shall, in lieu of the tax
imposed under section 39-27-102 (1) (a) (II) (B), pay an annual license
tax fee on each such vehicle in accordance with the following schedule
of motor vehicle gross weights:

<table>
<thead>
<tr>
<th>Gross Weight in Pounds</th>
<th>Annual License Tax Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>(I) 1-10,000</td>
<td>$70.00</td>
</tr>
<tr>
<td>(II) 10,001-16,000</td>
<td>100.00</td>
</tr>
<tr>
<td>(III) Over 16,000</td>
<td>125.00</td>
</tr>
</tbody>
</table>

(b) The executive director of the department of revenue shall
annually, starting January 1 of each year commencing in 1984, collect or
cause to be collected from owners or operators of the motor vehicles
specified in paragraph (a) of this subsection (5) the annual license tax fee.
Applications for such licenses shall be supplied by the department of revenue. In the case of a motor vehicle that is purchased or converted to liquefied petroleum gas or natural gas by January 1 of any year, a license shall be purchased for a fractional period of such year, and the amount of the license tax shall be reduced by one-twelfth for each complete month that shall have elapsed since the beginning of such year.

(e) Upon payment of the tax required by this subsection (5), the executive director of the department of revenue shall issue a decal, which shall be valid for the current calendar year and shall be attached to the upper right-hand corner of the front windshield on the motor vehicle for which it was issued:

(d) The identifying decal and license tax fee paid for each motor vehicle shall be transferable upon a change of ownership of the motor vehicle. Such transfer shall be accomplished in accordance with rules promulgated by the executive director of the department of revenue:

(e) It is unlawful for any person to operate a motor vehicle required to have a liquefied petroleum gas or natural gas decal upon the highways of this state without such decal unless such motor vehicle is titled outside Colorado and all Colorado purchases are taxed pursuant to section 39-27-102 (1) (a) (II) (B) or such vehicle is otherwise exempt from the provisions of this part 1:

(f) No person shall put, or cause to be put, liquefied petroleum gas or natural gas into the fuel tank of a motor vehicle required to have a liquefied petroleum gas or natural gas decal unless the motor vehicle has such decal attached to it or written or electronic evidence that a valid decal has been acquired for the motor vehicle and such evidence has been provided to such person or such person's employer. Sales of fuel placed
in the fuel tank of a motor vehicle not displaying such decal or otherwise evidencing acquisition of a valid decal and for which the distributor is obligated to collect the tax specified by section 39-27-102 (1)(a)(II)(B) shall be recorded upon an invoice, which invoice shall include the date, the motor vehicle license number, the number of gallons or, in the case of natural gas, the energy equivalent in gallons placed in such fuel tank, and the tax due thereon.

(g) Any person violating any provision of this subsection (5) is subject to the penalty provisions of sections 39-27-114 and 39-27-120.

(h) Motor vehicles displaying a liquefied petroleum gas or natural gas decal are exempt from the licensing and reporting requirements stated in the remainder of this part I.

(6) (a) The department of revenue shall promulgate rules allowing for payment of the annual license tax fee, if applicable, and acquisition of the decal as set forth in subsection (5) of this section by a user directly from a vendor or distributor of liquefied petroleum gas or natural gas.

(b) Such rules shall permit each vendor or distributor who participates in the program to return decals that are not issued by the vendor or distributor and remit the applicable annual license tax fees collected by the vendor or distributor not earlier than one hundred twenty days from the time decals are supplied to the vendor or distributor by the department of revenue.

(7) Motor vehicles that are owned or operated by a nonprofit transit agency that receives public funds and that are used exclusively in performing the agency's nonprofit functions and activities shall be exempt from the provisions of subsection (5) of this section and from the special fuel tax imposed by section 39-27-102 (1)(a)(II)(B) SECTION 39-27-102.
(1) (a) upon liquefied petroleum gas and natural gas. A person who purchases special fuel for the purposes set forth in this subsection (7) may, in accordance with section 39-27-103, apply to the department of revenue for a refund of the excise tax paid thereon.

(8) The department of revenue is authorized to promulgate reasonable rules, consistent with this part 1, concerning annual license tax fees collected and decals issued pursuant to subsections (5) and (6) of this section, including, but not limited to, reporting procedures, reporting forms, and the penalties described in sections 39-27-114 and 39-27-120.

(9) (a) COMPRESSED NATURAL GAS USED TO PROPEL A MOTOR VEHICLE ON THE HIGHWAYS OF THIS STATE THAT IS SUPPLIED TO THE USER AT A RESIDENTIAL HOME IS EXEMPT FROM THE SPECIAL FUEL TAX IMPOSED BY THIS ARTICLE.

(b) THIS SUBSECTION (9) IS REPEALED, EFFECTIVE JULY 1, 2017.

SECTION 6. In Colorado Revised Statutes, 39-27-103, amend (3) (a.3) as follows:

39-27-103. Refunds - penalties - checkoff. (3) (a.3) (I) Any person who purchases or uses gasoline for the propulsion of an aircraft shall be entitled to a refund by the controller if:

(A) The use of such gasoline in such aircraft is subject to the excise tax levied pursuant to section 39-27-102 (1) (a) (IV) (A); and

(B) The excise tax actually paid was the excise tax levied pursuant to section 39-27-102 (1) (a) (H) ANY PROVISION OF SECTION 39-27-102 (1) (a), EXCLUDING SECTION 39-27-102 (1) (a) (IV) (A).

(II) The amount of such refund shall be the difference between the amount actually paid pursuant to section 39-27-102 (1) (a) (H) and the amount that should have been paid pursuant to section 39-27-102 (1) (a)
(IV) as certified by the department of revenue.

SECTION 7. In Colorado Revised Statutes, 39-27-105, amend (1.3) (d) as follows:


(1.3) (d) Distributors may aggregate figures stated in the reports required by this part 1 for liquefied petroleum gas and natural gas for sales of such fuels to a particular class or type of individual user, or holder of the decals authorized by section 39-27-102.5 (5). Distributors of liquefied petroleum gas and natural gas shall not be required to separately report the amount of sales to individual users.

SECTION 8. In Colorado Revised Statutes, amend 39-27-107 as follows:

39-27-107. When users other than distributors must report.

Except as otherwise provided in section 39-27-102 for persons that export gasoline, every person not a licensed distributor who uses any gasoline in this state or who has in his or her possession any gasoline, other than that contained in the ordinary fuel tank attached to a motor vehicle or aircraft, upon which a licensed distributor has not paid or is not liable for the tax imposed in this part 1 shall file a sworn statement with the executive director of the department of revenue on or before the twenty-fifth twenty-sixth day of the calendar month on such form as the executive director prescribes and furnishes, showing the amount of gasoline so used and held, and shall pay to the executive director the tax imposed on all such gasoline. THIS SECTION DOES NOT APPLY TO A USER WHO IS EXEMPT FROM TAXATION UNDER SECTION 39-27-102.5 (9).

SECTION 9. In Colorado Revised Statutes, add 39-27-122 and 39-27-123 as follows:
39-27-122. Measurement - liquefied petroleum gas and natural gas - director of division of oil and public safety - rules. Prior to January 1, 2014, the director of the division of oil and public safety shall promulgate reasonable rules related to the accurate measurement of liquefied petroleum gas and natural gas. Thereafter, the director may modify or update the rules in his or her discretion.

39-27-123. Department of transportation - special fuels - impact - report. (1) On or before January 1, 2017, the department of transportation shall prepare and submit a report to the transportation legislation review committee created in section 43-2-145 (1), C.R.S. The report must include:

(a) An evaluation of the effectiveness of any statutory provision included in House Bill 13-___, enacted in 2013;

(b) An analysis of the impact of alternative fuels for propelling a motor vehicle on the public roads and highways of this state and on the amount of excise taxes collected related to those vehicles;

(c) A recommendation on whether the tax levied pursuant to this part 1 should be collected when the special fuel is supplied to the user at a residential home, and if so, any recommendations for how to collect this tax; and

(d) Recommendations for a tax system that fairly and equitably taxes all fuels and methods for propelling motor vehicles on the public roads and highways of this state and that helps pay for the construction, improvement, repair, and maintenance of those public roads and highways.
(2) Section 24-1-136 (11), C.R.S., does not apply to the report required by subsection (1) of this section.

SECTION 10. In Colorado Revised Statutes, 42-3-304, add (25) as follows:

42-3-304. Registration fees - passenger and passenger-mile taxes - clean screen fund - repeal. (25) (a) Beginning January 1, 2014, in addition to any other fee imposed by this section, county clerks and recorders shall annually collect a fee of thirty dollars at the time of registration on every motor vehicle that is propelled by plug-in electricity. County clerks and recorders shall transmit the fee to the state treasurer, who shall credit the same to the highway users tax fund created in section 43-4-201, C.R.S.

(b) The department of revenue shall create an electric vehicle decal, which a county clerk and recorder shall give to each person who pays the fee charged under paragraph (a) of this subsection (25). The decal must be attached to the upper right-hand corner of the front windshield on the motor vehicle for which it was issued. If there is a change of vehicle ownership, the decal is transferable to the new owner.

SECTION 11. Act subject to petition - effective date. This act takes effect January 1, 2014; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the
general election to be held in November 2014 and, in such case, will take
effect on the date of the official declaration of the vote thereon by the
governor.