

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0318.01 Gregg Fraser x4325

HOUSE BILL 14-1105

HOUSE SPONSORSHIP

Mitsch Bush,

SENATE SPONSORSHIP

Todd,

House Committees

Transportation & Energy
Finance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE EXEMPTION FROM THE STATE GASOLINE AND**
102 **SPECIAL FUEL TAX OF SALES BETWEEN GOVERNMENTAL**
103 **ENTITIES.**

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>.)

Sales of gasoline and other special fuels used by motor vehicles are subject to the state gasoline and special fuel tax. Sales from retailers to governmental entities are exempt from the tax. The bill specifies that sales between governmental entities are also exempt.

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

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

2 **SECTION 1.** In Colorado Revised Statutes, 39-27-102, **amend**
3 (1) (b) as follows:

4 **39-27-102. Tax imposed on gasoline and special fuel - deposits**
5 **- penalties.** (1) (b) (I) In the case of gasoline or special fuel shipped to
6 a distributor from a terminal, the amount of gasoline or special fuel
7 acquired ~~shall be~~ IS deemed to be the amount shipped from the terminal,
8 as shown by the terminal manifest; except that an allowance of two
9 percent of the total amount of gasoline or special fuel acquired during any
10 calendar month, as shown by terminal manifests, shall be deducted by the
11 licensed distributor to cover losses in transit and in unloading the gasoline
12 or special fuel and costs of collection and payment to the state of the tax
13 imposed by this section, out of which allowance the distributor shall make
14 to each retailer an allowance of one percent of the amount of gasoline or
15 special fuel delivered during each calendar month by the distributor to the
16 retailer, as shown by delivery invoices signed by the retailer.

17 (II) The tax imposed by this section ~~shall be~~ IS exempted on each
18 recorded and reported sale by a distributor to the United States, or any of
19 its agencies, and to any town, city, county, city and county, special
20 district, or school district when ~~the sale involves a single delivery and~~
21 gasoline or special fuel is used exclusively by the governmental entity in
22 performing its governmental functions and activities. The exemption ~~shall~~
23 ~~apply~~ APPLIES solely to machines owned or operated by the United States
24 or any of its agencies, by the state, or by any town, city, county, city and
25 county, school district, or other political division of the state. Exemptions
26 for persons conducting business for such governmental entities on a

1 contract basis using an aircraft ~~shall~~ MUST be based solely on the
2 applicable operating certificate of the aircraft operator pursuant to
3 sub-subparagraph (B) of subparagraph (IV) of paragraph (a) of this
4 subsection (1). Any governmental entity referred to in this paragraph (b)
5 shall obtain an exemption certificate from the executive director of the
6 department of revenue. Upon receipt of an exemption certificate, ~~such~~ A
7 governmental entity may:

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

12 (B) SELL TO OR PURCHASE GASOLINE OR SPECIAL FUEL FROM
13 ANOTHER GOVERNMENTAL ENTITY THAT HAS A FUEL TAX EXEMPTION
14 CERTIFICATE, AND THE TRANSACTION IS EXEMPT FROM THE EXCISE TAX
15 IMPOSED PURSUANT TO THIS PART 1 IF THE GASOLINE OR SPECIAL FUEL IS
16 USED EXCLUSIVELY BY THE GOVERNMENTAL ENTITY IN PERFORMING ITS
17 GOVERNMENTAL FUNCTIONS AND ACTIVITIES. THE GOVERNMENTAL
18 ENTITY IS REQUIRED TO KEEP A COPY OF THE FUEL TAX EXEMPTION
19 CERTIFICATE ON FILE FOR ANY ENTITY TO WHICH IT RESELLS OR
20 DISTRIBUTES FUEL. A GOVERNMENTAL ENTITY THAT SELLS GASOLINE OR
21 SPECIAL FUEL PURSUANT TO THIS SUB-SUBPARAGRAPH (B) IS NOT
22 REQUIRED TO BE A LICENSEE PURSUANT TO THE PROVISIONS OF SECTION
23 39-27-104. SALES AUTHORIZED PURSUANT TO THIS SUB-SUBPARAGRAPH
24 (B) ARE INTENDED TO FACILITATE INTERGOVERNMENTAL EFFICIENCIES
25 WITH RESPECT TO SALES FOR INDIVIDUAL VEHICLES OR EQUIPMENT. IT IS
26 NOT THE INTENT OF THIS SUB-SUBPARAGRAPH (B) FOR
27 INTERGOVERNMENTAL SALES TO INCLUDE PURCHASES IN EXCESS OF FIVE

1 HUNDRED GALLONS IN A SINGLE TRANSACTION UNLESS REQUIRED FOR
2 UNUSUAL, UNFORSEEN, OR EMERGENCY CIRCUMSTANCES.

3 **SECTION 2.** In Colorado Revised Statutes, 39-27-103, **amend**
4 (2) as follows:

5 **39-27-103. Refunds - penalties - checkoff.** (2) A refund shall be
6 made or credit allowed for the tax paid on all gasoline or special fuel that
7 is purchased and used exclusively, pursuant to section 39-27-102 (1) (b)
8 by the United States or any of its agencies or by the state or by any town,
9 city, county, or other political subdivision of the state, including
10 specifically any school district therein, solely in any machines owned or
11 operated by the United States or any of its agencies or by the state or by
12 such town, city, county, school district, or other political subdivision of
13 the state. EXCEPT AS PROVIDED IN SECTION 39-27-102 (1) (b) (II), FOR
14 PURCHASES BETWEEN GOVERNMENTAL ENTITIES HOLDING GASOLINE OR
15 SPECIAL FUEL EXEMPTION CERTIFICATES, any other use or any resale for
16 any other use shall be IS a violation of paragraph (c) of subsection (3) of
17 this section.

18 **SECTION 3. Act subject to petition - effective date -**
19 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
20 the expiration of the ninety-day period after final adjournment of the
21 general assembly (August 6, 2014, if adjournment sine die is on May 7,
22 2014); except that, if a referendum petition is filed pursuant to section 1
23 (3) of article V of the state constitution against this act or an item, section,
24 or part of this act within such period, then the act, item, section, or part
25 will not take effect unless approved by the people at the general election
26 to be held in November 2014 and, in such case, will take effect on the
27 date of the official declaration of the vote thereon by the governor.

- 1 (2) This act applies to fuel sales between governmental entities
- 2 that occur prior to, on, or after the applicable effective date of this act.