



2023 South Dakota Legislature

Senate Bill 71

Introduced by: **Senator Klumb**

1 **An Act to authorize other fuel taxes to be included in the state’s International Fuel**
 2 **Tax Agreement collections.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 10-47B-7 be AMENDED:**

5 **10-47B-7.** A fuel excise tax is imposed on all motor fuel, ethyl alcohol, methyl
 6 alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed
 7 natural gas, special fuel, or any combination thereof, used in this state in the engine fuel
 8 supply tank of qualified motor vehicles involved in interstate commerce. The tax imposed
 9 shall be at the rate indicated in § 10-47B-4.

10 **Section 2. That § 10-47B-129 be AMENDED:**

11 **10-47B-129.** Any person who has exported motor fuel, ethyl alcohol, methyl
 12 alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas, compressed
 13 natural gas, special fuel, or any combination thereof, in the engine fuel supply tank of a
 14 qualified motor vehicle engaged in interstate commerce upon which tax has been paid to
 15 this state shall be given a credit for the amount of fuel as calculated by the provisions of
 16 the interstate user license, an interstate compact, or reciprocal agreement under which
 17 the person is licensed or governed. The credit shall be paid to the jurisdictions in which
 18 the person has accrued a fuel tax liability under the provisions of an interstate compact
 19 or reciprocal agreement. If no liability exists, the credit shall be refunded to the person.

20 **Section 3. That § 10-47B-172 be AMENDED:**

21 **10-47B-172.** The purpose of this section and §§ 10-47B-173 to 10-47B-180,
 22 inclusive, is to provide an additional method of collecting the tax on motor fuel, ethyl
 23 alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas,
 24 compressed natural gas, special fuel, or any combination thereof, ~~taxes~~ from interstate

1 operators of qualified motor vehicles commensurate with their operations on South Dakota
2 highways. No person may bring into this state, in the fuel supply tanks of a licensed
3 qualified motor vehicle, or in any other container regardless of whether it is connected to
4 the motor of the qualified vehicle, any motor fuel, ethyl alcohol, methyl alcohol, biodiesel,
5 biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special
6 fuel, or any combination thereof, to be used in the operation of the qualified vehicle in this
7 state, unless advance arrangements have been made for payment of this state's fuel tax
8 on all fuel consumed. These advance arrangements may include the obtaining of either a
9 permanent interstate fuel user license or a temporary single-trip fuel permit issued by the
10 department or its authorized agent, or authorization to operate under the provisions of an
11 interstate compact or reciprocal agreement.

12 **Section 4. That § 10-47B-173 be AMENDED:**

13 **10-47B-173.** ~~Any person who desires to obtain a permanent interstate fuel user~~
14 ~~license~~To obtain a permanent interstate fuel user license, a person shall apply for a license
15 on a form prescribed by the department and may be required to post acceptable security
16 in accordance with the provisions of this chapter. The secretary shall require suitable
17 security of any license applicant who has been delinquent in filing tax reports with the
18 department or paying fuel tax. This license allows the holder to bring motor fuel, ethyl
19 alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas,
20 compressed natural gas, special fuel, or any combination thereof, into this state in a
21 vehicle supply tank, and for that privilege, the licensee shall pay to this state the tax on
22 fuel consumed on the highways of this state, all in accordance with the provisions for the
23 licensure set forth under this chapter. There is a fee of ten dollars for the initial license
24 and a fee of ten dollars for the subsequent renewal of the license for each year thereafter.
25 There is a fee of one dollar and fifty cents per vehicle for each set of decals requested
26 along with a fee of one dollar for mailing each set of decals. The fees collected ~~shall~~must
27 be deposited into the motor fuel administration fund.

28 **Section 5. That § 10-47B-174 be AMENDED:**

29 **10-47B-174.** Each qualified motor fuel, ethyl alcohol, methyl alcohol, biodiesel,
30 biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special
31 fuel, or any combination thereof, powered vehicle ~~which~~that operates into or through this
32 state in interstate operations shall carry evidence of compliance with this chapter. For any
33 carrier who is permanently licensed, a copy, photocopy, or electronic copy of the

1 permanent license issued to the carrier ~~shall~~must be carried in each vehicle operated by
 2 the licensee within this state. No other alterations to the license or a copy of the license
 3 is allowed.

4 Notwithstanding any provision of this chapter, a permanent interstate fuel user
 5 licensee shall file reports with the department and remit tax to the department on a
 6 quarterly basis. The reports and remittance shall be due on the last day of the month
 7 following each quarterly period. If the due date falls on a Saturday, Sunday, legal holiday
 8 enumerated in § 1-5-1, or a day on which the Federal Reserve Bank is closed, the report
 9 or remittance is due on the next succeeding day which is not a Saturday, Sunday, legal
 10 holiday enumerated in § 1-5-1, or a day on which the Federal Reserve Bank is closed.

11 **Section 6. That § 10-47B-176 be AMENDED:**

12 **10-47B-176.** The tax liability of an interstate fuel user licensee shall be
 13 determined based on average fuel consumption for all qualified vehicles operated by the
 14 licensee within this state. Average fuel consumption is equal to the total fleet vehicle miles
 15 traveled divided by total fleet gallons of fuel consumed to calculate an average mile per
 16 gallon (AMPG) for all vehicles operated. This AMPG is then divided into the total miles
 17 traveled within South Dakota by all vehicles to determine the total gallons of fuel
 18 attributable to South Dakota operations. The gallons thus calculated shall be multiplied
 19 times the motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel blend, liquid natural
 20 gas, liquid petroleum gas, compressed natural gas, special fuel, or any combination
 21 thereof, per gallon tax rate currently in force at the time the return is completed to
 22 determine the total tax due from the licensee. This tax liability ~~can~~ may be credited in the
 23 amount of any South Dakota tax on motor fuel, ethyl alcohol, methyl alcohol, biodiesel,
 24 biodiesel blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special
 25 fuel, or any combination thereof, tax paid at the time the fuel is purchased within this
 26 state. Over purchases of motor fuel, ethyl alcohol, methyl alcohol, biodiesel, biodiesel
 27 blend, liquid natural gas, liquid petroleum gas, compressed natural gas, special fuel, or
 28 any combination thereof, which result in a tax overpayment ~~shall~~ must be refunded to the
 29 licensee in accordance with the provisions of § 10-47B-177.

30 **Section 7. That § 10-47B-180.1 be AMENDED:**

31 **10-47B-180.1.** Any person in this state who stores motor fuel, ethyl alcohol,
 32 methyl alcohol, biodiesel, biodiesel blend, liquid natural gas, liquid petroleum gas,
 33 compressed natural gas, or special fuel, or any combination thereof, for sale or use in this

1 state shall maintain records to demonstrate that all taxes imposed by this state have been
2 paid. If it is determined that all taxes due have not been paid or if adequate records are
3 not maintained to show that all taxes due have been paid, the fuel is subject to an
4 assessment by the department of up to twice the tax rate on all fuel involved.