

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Diesel fuel tax amendments.

Sponsored by: Joint Transportation, Highways & Military
Affairs Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; increasing the
2 diesel fuel tax; providing a refund for specified diesel
3 fuel taxes that are paid; specifying distribution of the
4 increased tax; making conforming amendments; and providing
5 for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 39-17-203(b) (iv), 39-17-204(a) (intro)
10 and by creating a new paragraph (iv) and 39-17-209(c) (i)
11 and by creating a new paragraph (vii) are amended to read:

12

1 **39-17-203. Imposition.**

2

3 (b) Basis of tax. The following shall apply:

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5 (iv) A Wyoming licensed supplier, distributor,
6 refiner or importer who is unable to recover the license
7 taxes due from a bulk sale to a licensee who is other than
8 an end-user and is not owned, rented or leased by the
9 supplier, distributor, refiner or importer requesting the
10 credit is not liable for the taxes and may credit the
11 amount of unpaid taxes against a later remittance of taxes
12 required under W.S. 39-17-204(a) (i) and (iv). The
13 department shall promulgate rules to implement this
14 paragraph.

15

16 **39-17-204. Taxation rate.**

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18 (a) Except as otherwise provided by this section and
19 W.S. 39-17-205, the total tax on diesel fuels shall be
20 ~~twenty-four cents (\$.24)~~ XXX cents (\$0.XX) per gallon. The
21 rate shall be imposed as follows:

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 3 STAFF COMMENT
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 5 For reference, paragraphs (i) and (ii) are included in this
 6 bill draft (but would not be included if the bill is
 7 introduced).
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 9 *****
 10 *****
 11

12 (i) There is levied and shall be collected a
 13 license tax of twenty-three cents (\$.23) per gallon on all
 14 diesel fuels used, sold or distributed for sale or use in
 15 this state;

16
 17 (ii) In addition to the tax collected pursuant
 18 to paragraph (i) of this subsection, there is levied and
 19 shall be collected a license tax of one cent (\$.01) per
 20 gallon on all diesel fuels used, sold or distributed for
 21 sale or use in this state except for those fuels exempted
 22 in W.S. 39-17-205(b) and (e);

23
 24 (iv) In addition to the tax collected pursuant to
 25 paragraphs (i) and (ii) of this subsection, there is levied
 26 and shall be collected a license tax of XXX cents (\$0.XX)
 27 per gallon on all diesel fuels used, sold or distributed
 28 for sale or use in this state.

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STAFF COMMENT

State law requires each person who operates a commercial vehicle in Wyoming (and in other jurisdictions) to have a valid International Fuel Tax Agreement license and decals or a temporary permit. The Committee may wish to consider whether providing the opportunity for refund to in-state users may impact the state's participation in the International Fuel Tax Agreement.

The Committee may also wish to consider whether the diesel fuel currently exempted from either the general diesel fuel tax or the one-cent diesel tax should be exempt from the additional fuel tax contemplated in this bill draft. For reference, the exemption provisions are included below and are:

- Diesel fuel sold at a Wyoming terminal rack (a fuel-distribution point) for export, W.S. 39-17-205(b).
- Exchanges or sales of diesel fuel between suppliers or diesel fuel that is directly exported, W.S. 39-17-205(c). (Note: exemption is only for primary tax.)
- Dyed diesel fuel, W.S. 39-17-205(d). (Note: exemption is only for primary tax.)
- Diesel fuel directly exported by a licensed supplier, W.S. 39-17-205(e). (Note: exemption is only for the one-penny tax.)

The relevant provisions for these exemptions are included below and have not been amended in this bill draft.

39-17-205. Exemptions.

1 (b) Diesel fuel sold at a Wyoming terminal rack for
2 export, other than in the fuel supply tank of a motor
3 vehicle, by a person licensed as an exporter in this state
4 is exempt from the license tax imposed under W.S. 39-17-
5 204(a)(i) through (iii). The exempt sales shall be reported
6 on or before the last day of the month in a format required
7 by the department. The sales reports are invalid if not
8 submitted to the department within one (1) year following
9 the date of sale.

10

11 (c) Exchanges or sales of diesel fuel between
12 suppliers are exempt from the license tax under W.S. 39-17-
13 204(a)(i). Diesel fuel directly exported, other than in the
14 fuel supply tank of a motor vehicle, by a supplier is
15 exempt from the license tax under W.S. 39-17-204(a)(i).

16

17 (d) Dyed diesel fuel as defined in W.S. 39-17-
18 201(a)(ix) is exempt from the license tax under W.S. 39-17-
19 204(a)(i).

20

21 (e) Diesel fuel directly exported, other than in the
22 fuel supply tank of a motor vehicle, by a Wyoming licensed

1 supplier is exempt from the additional license tax imposed
2 under W.S. 39-17-204(a) (ii).

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4 **39-17-209. Taxpayer remedies.**

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6 (c) Refunds. The following shall apply:

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8 (i) Undyed diesel fuel purchased for
9 agricultural purposes as defined in W.S. 39-17-201(a) (i) is
10 exempt from a percentage of the license tax under W.S. 39-
11 17-204(a) (i) and (iv) as declared by the applicant;

12

13 (vii) The license tax under W.S. 39-17-204(a) (iv)
14 is eligible for a refund subject to the following:

15

16 (A) Any diesel fuel user who purchases or
17 uses diesel fuel in Wyoming is eligible for a refund of the
18 license tax paid. The refund request shall be submitted
19 annually on forms provided by or in a format required by
20 the department, provided that the user shall submit
21 information showing that the user's vehicle was registered
22 in Wyoming during the year for which the license tax was

1 paid. The refund request shall be invalid if not submitted
2 within one (1) year of the date of purchase;

3
4 (B) In submitting a refund request under
5 this paragraph, the user shall affirm that the diesel fuel
6 tax for which a refund is sought was paid for diesel fuel
7 used in a vehicle registered in Wyoming;

8
9 (C) The refund provided under this paragraph
10 shall be in an amount equal to the license tax under W.S.
11 39-17-204(a)(iv) paid by the user, provided that no refund
12 under this paragraph shall exceed the lesser of the license
13 tax paid or the registration fees paid by the user as
14 follows:

15
16 (I) If the user paid registration fees
17 under W.S. 31-3-101, an amount equal to the sum of:

18
19 (1) The county registration fee
20 the user paid in the immediately preceding calendar year
21 under W.S. 31-3-101(a)(i) or the equalized highway use tax
22 paid in the immediately preceding calendar year under W.S.
23 31-3-101(a)(iii); and

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(2) The state registration fee the user paid in the immediately preceding calendar year under 31-3-101(a)(ii).

(II) If the user paid fees under W.S. 31-18-401 or W.S. 31-3-101(a)(iii), an amount equal to the sum of:

(1) The state registration fee the user paid in the immediately preceding calendar year under 31-3-101(a)(ii); and

(2) The equalized highway use tax under W.S. 31-3-101(a)(iii) or the applicable registration fee paid under W.S. 31-18-401.

(III) If the user paid a fee under W.S. 31-2-201(a)(iv), (j) or (k), 31-2-224 or 31-18-206, an amount equal to the fee specified in the applicable provision.

1 (D) A user may seek a refund of the license
 2 tax under W.S. 39-17-204(a)(iv) for more than one (1)
 3 Wyoming registered vehicle if the license tax under W.S.
 4 39-17-204(a)(iv) was paid for diesel fuel used in each
 5 vehicle for which a refund is sought.

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 9 **STAFF COMMENT**

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11 The Committee may wish to consider whether a diesel-fuel
 12 user should be entitled to a refund of an amount equal to
 13 just the state registration fee, the county registration
 14 fee, or both. Currently, the draft authorizes a refund in
 15 an amount equal to both the state and county registration
 16 fees.

17

18 As drafted, the additional diesel fuel tax imposed in this
 19 bill draft would be deposited just as the general diesel-
 20 fuel tax is deposited. For reference, those provisions are
 21 included below.

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26 **39-17-211. Distribution.**

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28 (a) All diesel fuels license taxes and fees received
 29 by the department under this article shall be credited to
 30 the proper accounts.

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1 (b) The department shall deposit all license fees
2 under W.S. 39-17-206 into the state highway fund with
3 receipt and acknowledgement submitted to the state
4 treasurer.

5
6 (c) All taxes collected under W.S. 39-17-204(a)(ii)
7 shall be deposited into the state highway fund with receipt
8 and acknowledgement submitted to the state treasurer. The
9 provisions of subsection (d) of this section shall not
10 apply to the tax imposed by W.S. 39-17-204(a)(ii). Any
11 refund for any overpayment or for any other refund
12 authorized by law of this one cent (\$.01) tax shall be
13 taken from the taxes collected pursuant to W.S. 39-17-
14 204(a)(ii).

15
16 (d) The department shall:

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18 (i) Deduct not to exceed two percent (2%) of the
19 taxes collected under this article corresponding to the
20 actual cost of the administration of this article for the
21 month and credit the money, from taxes collected before
22 July 1, 1986, to a separate account which shall be used by
23 the department to defray the cost of administration of this

1 article, and from taxes collected on or after July 1, 1986,
2 to the general fund, and from taxes collected on or after
3 July 1, 1991, to the highway fund; and

4

5 (ii) Distribute monthly the remainder as
6 follows:

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8 (A) Twenty percent (20%) shall be
9 distributed to county treasurers. Each county treasurer
10 shall credit the revenues to the county road fund for the
11 improvement and maintenance of county roads. The
12 distribution shall be based on:

13

14 (I) One-third (1/3) in the ratio in
15 which the area of the county bears to the total area of the
16 state;

17

18 (II) One-third (1/3) in the ratio in
19 which the rural population including the population within
20 the cities and towns with less than one thousand four
21 hundred (1,400) bears to the total rural population of the
22 state;

23

1 (III) One-third (1/3) in the ratio in
2 which the assessed valuation of the county bears to the
3 last total assessed valuation of the state.

4
5 (B) Five percent (5%) shall be distributed
6 to incorporated municipalities based on the ratio that the
7 total population of the municipality bears to the total
8 population of all municipalities within the state. Each
9 treasurer of a municipality shall credit the revenues to
10 the municipal street fund for the improvement and
11 maintenance of municipal streets;

12
13 (C) The remaining revenues shall be
14 credited to the state highway fund for the maintenance,
15 construction and reconstruction of state highways. Any
16 funds deposited to the highway fund under this subparagraph
17 which are attributable to the increase in fuel taxes
18 authorized by 2013 Wyoming Session Laws, Chapter 49,
19 Section 1 and effective July 1, 2013 shall be separately
20 accounted for by the department of transportation. The
21 department shall provide a comprehensive report to the
22 joint appropriations interim committee and the joint
23 transportation, highways and military affairs interim

1 committee on or before November 15 of each year, from the
2 effective date of this act through November 15, 2020.

3

4 (iii) Deduct the pro rata share of the cost of
5 collecting the taxes received from jet fuel used for
6 aircraft at any municipal or county airport and distribute
7 the remainder to the city, town or county where the airport
8 is located. These funds shall be used for the maintenance
9 of the airport.

10

11 **Section 2.** This act is effective January 1, 2025.

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(END)