

AN ACT

ENTITLED, An Act to define liquid natural gas, to revise certain provisions regarding the collection of the motor fuel tax, and to apply motor fuel tax to all fuels used to propel a motor vehicle.

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

Section 1. That § 10-47B-3 be amended by adding thereto a NEW SUBDIVISION to read as follows:

"Liquid natural gas," natural gas which has been cooled to approximately -260 degrees Fahrenheit and is in a liquid state, for use as a motor vehicle fuel and which for purposes of taxation as a motor vehicle fuel, shall be converted to equivalent liquid gallons of gasoline at the rate of 1.5536 gallons of liquid natural gas to equal one volumetric gross gallon of gasoline;

Section 2. That § 10-47B-3 be amended by adding thereto a NEW SUBDIVISION to read as follows:

"Liquid natural gas vendor," any person engaged in the business of selling liquid natural gas for use in the engine fuel supply tanks of motor vehicles;

Section 3. That subdivision (6) of § 10-47B-3 be amended to read as follows:

(6) "Compressed natural gas," natural gas which has been compressed, but not to a liquid state, for use as a motor vehicle fuel and which for purposes of taxation as a motor vehicle fuel, shall be converted to equivalent liquid gallons of gasoline at the rate of 126.67 cubic feet of natural gas as its natural service delivery line pressure to equal one volumetric gross gallon of gasoline;

Section 4. That subdivision (15) of § 10-47B-3 be amended to read as follows:

(15) "Gallon," for purposes of fuel taxation, a United States gallon measured on a gross volume basis. Temperature adjusted or net gallons of measurement are not acceptable as units of measurement for taxation purposes unless used for the calculation of liquid

petroleum gas, compressed natural gas, or liquid natural gas;

Section 5. That subdivision (39) of § 10-47B-3 be amended to read as follows:

(39) "Special fuel," all combustible gases and liquids that are:

- (a) Suitable for the generation of power in an internal combustion engine or motor; or
- (b) Used exclusively for heating, industrial, or farm purposes other than for the operation of a motor vehicle.

The term includes diesel fuel, fuel oil, heating fuel, biodiesel, all special fuel blends, and all kerosene products except K-1. The term does not include motor fuel, liquid petroleum gas, liquid natural gas, compressed natural gas, or natural gas which is not compressed natural gas. The term, special use fuel, is synonymous with the term, special fuel;

Section 6. That § 10-47B-4 be amended to read as follows:

10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

- (1) Motor fuel (except ethyl alcohol, methyl alcohol, and aviation gasoline)--\$.22 per gallon;
- (2) Special fuel (except jet fuel)--\$.22 per gallon;
- (3) Aviation gasoline--\$.06 per gallon;
- (4) Jet fuel--\$.04 per gallon;
- (5) Liquid petroleum gas--\$.20 per gallon;
- (6) Compressed natural gas--\$.10 per gallon;
- (7) Ethyl alcohol and methyl alcohol--\$.08 per gallon;
- (8) Liquid natural gas--\$.14 per gallon.

Section 7. That section 12 of chapter 55 of the 2009 Session Laws be amended to read as follows:

Section 12. That section 3 of chapter 54 of the 2008 Session Laws be amended to read as follows:

Section 3. That § 10-47B-4 be amended to read as follows:

10-47B-4. The fuel excise tax rates for the tax imposed by this chapter are as follows:

- (1) Motor fuel (except biodiesel, biodiesel blends, ethyl alcohol, methyl alcohol, and aviation gasoline)--\$.22 per gallon;
- (2) Special fuel (except jet fuel)--\$.22 per gallon;
- (3) Aviation gasoline--\$.06 per gallon;
- (4) Jet fuel--\$.04 per gallon;
- (5) Liquid petroleum gas--\$.20 per gallon;
- (6) Compressed natural gas--\$.10 per gallon;
- (7) Ethyl alcohol and methyl alcohol--\$.08 per gallon;
- (8) Biodiesel and biodiesel blends--\$.20 per gallon;
- (9) Liquid natural gas--\$.14 per gallon.

Section 8. That § 10-47B-11 be amended to read as follows:

10-47B-11. A fuel excise tax is imposed on liquid petroleum gas, compressed natural gas, and liquid natural gas sold or used by licensed vendors in this state for use in motor vehicles unless liquid petroleum gas is sold to a licensed liquid petroleum gas user. The tax imposed shall be at the rate provided for in § 10-47B-4.

Section 9. That § 10-47B-27 be amended to read as follows:

10-47B-27. The tax imposed by § 10-47B-11 shall be remitted by the liquid petroleum gas vendor, compressed natural gas vendor, or liquid natural gas vendor.

Section 10. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

Any person acting in this state as a liquid natural gas vendor shall be licensed as a liquid natural gas vendor.

Section 11. That § 10-47B-168 be amended to read as follows:

10-47B-168. For the purpose of determining the amount of liquid petroleum gas, compressed natural gas, and liquid natural gas tax due, each liquid petroleum gas, natural gas, and liquid natural gas vendor shall file with the department a monthly report by electronic means on an electronic reporting system furnished by the department. In addition to the information required pursuant to § 10-47B-170, the department may require the reporting of any information reasonably necessary to determine the amount of fuel excise tax due.

Section 12. That § 10-47B-170 be amended to read as follows:

10-47B-170. The vendors shall report pursuant to § 10-47B-168:

- (1) The number of gallons of liquid petroleum gas sold upon which fuel tax was charged;
- (2) The number of gallons of liquid petroleum gas sold upon which sales tax was charged;
- (3) The number of gallons of compressed natural gas sold upon which fuel tax was charged.

Compressed natural gas sold for use in motor vehicles shall be metered separately from other sales; and

- (4) The number of gallons of liquid natural gas sold upon which fuel tax was charged. Liquid natural gas sold for use in motor vehicles shall be metered separately from other sales.

Section 13. That chapter 10-47B be amended by adding thereto a NEW SECTION to read as follows:

This section applies to any fuel that is not specifically taxed by this chapter that is used to propel a motor vehicle on the highways of this state. For the purposes of this section, fuel means any solid, liquid, or gas, or any combination thereof, that is consumed by the motor vehicle to propel the motor vehicle on the highways of this state that is not otherwise taxed by this chapter.

A fuel excise tax is imposed on all fuel as defined by this section. The fuel excise tax is imposed at the equivalent rate of \$.22 per 116,090 BTU of energy of the fuel, which is the equivalent energy

of a gallon of gasoline. The owner or operator of the motor vehicle shall remit the tax imposed by this section.

The owner or operator of the motor vehicle shall report to the department the type of fuel used to propel the motor vehicle, the amount of fuel used to propel the motor vehicle, the miles driven by the motor vehicle, and any other information that the secretary may require. The report shall be on a form provided by the department and shall be filed on a monthly basis by electronic means on an electronic reporting system furnished by the department. The report required by this section shall be filed with respect to information for the preceding monthly period by electronic means on or before the twenty-third day of the month following each monthly period. If the twenty-third day of the month falls on a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day on which the Federal Reserve Bank is closed, the report is due on the next succeeding day that is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day on which the Federal Reserve Bank is closed.

All tax required to be remitted by this section is due and payable by electronic transfer on or before the second to the last day of the month following each monthly period. For the purpose of remitting any tax by electronic transfer pursuant to this section, the last day and the second to the last day of the month means the last day and the second to the last day of the month which is not a Saturday, Sunday, legal holiday enumerated in § 1-5-1, or a day on which the Federal Reserve Bank is closed.

An Act to define liquid natural gas, to revise certain provisions regarding the collection of the motor fuel tax, and to apply motor fuel tax to all fuels used to propel a motor vehicle.

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I certify that the attached Act originated in the

SENATE as Bill No. 93

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 93
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State