

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0549.01 Ed DeCecco

SENATE BILL 09-098

SENATE SPONSORSHIP

Schwartz,

HOUSE SPONSORSHIP

Vigil,

Senate Committees
Transportation

House Committees

A BILL FOR AN ACT

101 **CONCERNING BLENDING DIESEL FUELS AFTER WITHDRAWAL AT THE**
102 **RACK.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Permits dyed diesel fuel to be blended by a licensed distributor with biodiesel fuel after withdrawal at a terminal or refinery rack up to the maximum federally allowable blend and still retain its exemption from the special fuels tax.

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

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 **SECTION 1.** 39-27-101, Colorado Revised Statutes, is amended
2 BY THE ADDITION OF A NEW SUBSECTION to read:

3 **39-27-101. Definitions - construction.** As used in this part 1,
4 unless the context otherwise requires:

5 (1.5) "BIODIESEL FUEL" MEANS A MOTOR VEHICLE FUEL THAT IS
6 PRODUCED FROM PLANT OR ANIMAL PRODUCTS OR WASTES, AS OPPOSED
7 TO FOSSIL FUEL SOURCES.

8 **SECTION 2.** 39-27-102.5 (1.5) and (2) (a), Colorado Revised
9 Statutes, are amended to read:

10 **39-27-102.5. Exemptions on tax imposed - ex-tax purchases.**

11 (1.5) Except as otherwise provided in ~~paragraph (b)~~ PARAGRAPHS (a) AND
12 (b) of subsection (2) of this section, paragraph (b) of subsection (3) of this
13 section, and section 39-27-102 (1) (b), indelible dye meeting federal
14 regulations must be added to special fuel before or upon withdrawal at a
15 terminal or refinery rack for that special fuel to be exempt from the excise
16 tax imposed pursuant to this part 1. Such tax-exempt special fuel shall
17 not be used for taxable purposes; except that dyed special fuel may be
18 used for a taxable purpose to the extent that such use is allowed under
19 federal law or regulations with such fuel being subject to the excise tax
20 imposed pursuant to this part 1. For purposes of this subsection (1.5),
21 "taxable purpose" means any use on which an excise tax on special fuel
22 is imposed pursuant to this part 1. The terminal operator shall ensure that
23 tax-exempt special fuel is dyed before it leaves the terminal. The seller
24 shall give notice to the purchaser in accordance with federal regulations
25 that the dyed special fuel is not legal for taxable use.

26 (2) (a) Dyed diesel fuel purchased to propel farm vehicles, when
27 the same are being used on farms and ranches, farm tractors, and

1 implements of husbandry only incidentally operated or moved on a
2 highway, when operated off the public highways, and vehicles or
3 construction equipment operated within the confines of highway
4 construction projects when the same are actually being used in the
5 construction of such highways shall be exempt from the excise tax
6 imposed pursuant to this part 1. SUCH EXEMPT DYED DIESEL FUEL MAY BE
7 BLENDED BY A LICENSED DISTRIBUTOR WITH BIODIESEL FUEL AFTER
8 WITHDRAWAL AT A TERMINAL OR REFINERY RACK UP TO THE MAXIMUM
9 FEDERALLY ALLOWABLE BLEND AND STILL BE EXEMPT FROM THE EXCISE
10 TAX IMPOSED PURSUANT TO THIS PART 1. A person who purchases undyed
11 special fuel for the purposes set forth in this paragraph (a) may, in
12 accordance with section 39-27-103, apply to the department of revenue
13 for a refund of the excise tax paid thereon.

14 **SECTION 3. Act subject to petition - effective date.** This act
15 shall take effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly that is
17 allowed for submitting a referendum petition pursuant to article V,
18 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
19 sine die is on May 6, 2009); except that, if a referendum petition is filed
20 against this act or an item, section, or part of this act within such period,
21 then the act, item, section, or part, if approved by the people, shall take
22 effect on the date of the official declaration of the vote thereon by
23 proclamation of the governor.