

ASSEMBLY BILL NO. 584—COMMITTEE ON TAXATION

(ON BEHALF OF LEGISLATIVE COMMISSION’S STUDY OF THE
CONSTRUCTION AND MAINTENANCE OF HIGHWAYS)

MARCH 15, 1999

Referred to Committee on Taxation

SUMMARY—Transfers responsibility for collection of taxes and fees imposed on certain fuels from department of taxation to department of motor vehicles and public safety and revises provisions relating to imposition and collection of tax on certain types of motor vehicle fuel. (BDR 32-212)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

AN ACT relating to taxation; transferring the responsibility for the collection of taxes and fees imposed on certain fuels from the department of taxation to the department of motor vehicles and public safety; providing for the collection of the tax on certain types of motor vehicle fuel at the terminal rack by suppliers of those types of fuel; prohibiting exporters of certain types of motor vehicle fuel from selling or distributing those types of fuel in this state; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Title 32 of NRS is hereby amended by adding thereto a
- 2 new chapter to consist of the provisions set forth as sections 2 to 45,
- 3 inclusive, of this act.
- 4 **Sec. 2.** *As used in this chapter, “department” means the department*
- 5 *of motor vehicles and public safety.*
- 6 **Sec. 3.** *The department shall adopt such regulations as are*
- 7 *necessary to carry out the provisions of this chapter.*
- 8 **Sec. 4. 1.** *If a person fails to file a return or the department is not*
- 9 *satisfied with the return of any tax or fee required to be paid to the*
- 10 *department pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120*

1 or 590.840, the department may determine the amount required to be
2 paid upon the basis of:

3 (a) The facts contained in the return;

4 (b) Any information that is in the possession of the department or may
5 come into its possession; or

6 (c) Reasonable estimates of the amount.

7 2. One or more deficiency determinations may be made with respect
8 to the amount due for one or more periods.

9 3. In making its determination of the amount required to be paid, the
10 department shall impose interest on the amount of tax or fee determined
11 to be due, calculated at the rate and in the manner set forth in section 22
12 of this act.

13 4. The department shall impose a penalty of 10 percent in addition to
14 the amount of a determination that is made if a person fails to file a
15 return with the department.

16 5. If a business is discontinued, a determination may be made at any
17 time thereafter within the period prescribed in section 9 of this act
18 concerning liability arising out of that business, irrespective of whether
19 the determination is issued before the due date of the liability.

20 **Sec. 5.** In making a determination, the department may offset
21 overpayments for a period or periods, together with interest on the
22 overpayments, against underpayments for another period or periods or
23 against penalties and the interest on underpayments.

24 **Sec. 6.** If any part of the deficiency for which a deficiency
25 determination is made is because of negligence or intentional disregard
26 of any applicable provision of chapter 365, 366 or 373 of NRS or NRS
27 590.120 or 590.840, or the regulations of the department adopted
28 pursuant thereto, a penalty of 10 percent of the amount of the
29 determination must be added thereto.

30 **Sec. 7.** If any part of the deficiency for which a deficiency
31 determination is made is because of fraud or an intent to evade the
32 payment of a tax or fee required by chapter 365, 366 or 373 of NRS or
33 NRS 590.120 or 590.840, or the regulations of the department adopted
34 pursuant thereto, a penalty of 25 percent of the amount of the
35 determination must be added thereto.

36 **Sec. 8. 1.** The department shall give a person against whom a
37 determination has been made written notice of its determination.

38 2. The notice may be served personally or by mail. If served by mail,
39 the notice must be addressed to the person at his address as it appears in
40 the records of the department.

41 3. If the notice is served by mail, service is complete at the time the
42 notice is deposited with the United States Postal Service.

1 **4.** *Service of notice tolls any limitation for the determination of a*
2 *further deficiency.*

3 **Sec. 9. 1.** *Except as otherwise provided in subsections 2, 3 and 4,*
4 *each notice of a deficiency determination issued by the department must*
5 *be personally served or mailed within 3 years after the last day of the*
6 *month following the period for which the amount is proposed to be*
7 *determined or within 3 years after the return is filed, whichever period*
8 *expires later.*

9 **2.** *In the case of a failure to make a return or a claim for an*
10 *additional amount, each notice of determination must be mailed or*
11 *personally served within 8 years after the last day of the month following*
12 *the period for which the amount is proposed to be determined.*

13 **3.** *If, before the expiration of the time prescribed in this section for*
14 *the mailing of a notice of determination, the taxpayer has signed a*
15 *waiver consenting to the mailing of the notice after that time, the notice*
16 *may be mailed at any time before the expiration of the period agreed*
17 *upon. The period so agreed upon may be extended by subsequent*
18 *agreements in writing if each agreement is made before the expiration of*
19 *the period previously agreed upon.*

20 **4.** *This section does not apply to cases of fraud or the intentional*
21 *evasion of a provision of chapter 365, 366 or 373 of NRS or NRS*
22 *590.120 or 590.840, or any regulation of the department adopted*
23 *pursuant thereto.*

24 **Sec. 10. 1.** *Any person against whom a deficiency determination is*
25 *made who believes that the determination is incorrect may petition the*
26 *department for a redetermination within 45 days after being served with*
27 *the notice of determination.*

28 **2.** *If a petition for redetermination is not filed within the period*
29 *prescribed in subsection 1, the person is deemed to have waived the right*
30 *to contest the determination or recover a refund.*

31 **3.** *For good cause shown, the department may extend the time within*
32 *which a petition for redetermination must be filed.*

33 **Sec. 11.** *A petition for redetermination must:*

34 **1.** *Set forth the amount of the determination that is contested and the*
35 *grounds for requesting a redetermination; and*

36 **2.** *If an oral hearing is not requested, be accompanied by the books*
37 *and records and other evidence which support the petition.*

38 **Sec. 12. 1.** *If a petition for redetermination is filed within the*
39 *period prescribed in section 10 of this act, the department shall*
40 *reconsider the determination and, if the person has so requested in the*
41 *petition, grant the person an oral hearing and give him at least 10 days'*
42 *notice of the time and place of the hearing.*

1 2. The department may continue the hearing from time to time as
2 may be necessary.

3 **Sec. 13.** The department may decrease or increase the amount of the
4 determination before it becomes final, but the amount may be increased
5 only if a claim for the increase is asserted by the department before or
6 during the hearing.

7 **Sec. 14.** The order entered by an officer of the department upon a
8 petition for redetermination becomes final 30 days after service upon the
9 petitioner of notice thereof.

10 **Sec. 15.** 1. Before a person may request judicial review pursuant to
11 NRS 233B.130 from a final order of the department upon a petition for
12 redetermination, he must:

13 (a) Pay the amount of the determination; or

14 (b) Enter into a written agreement with the department that
15 establishes a later date by which he is required to pay the amount of the
16 determination.

17 2. If a court determines that the amount of the final order should be
18 reduced or that the person does not owe any taxes or fees, the department
19 shall credit or refund any amount paid by the person that exceeds the
20 amount owed.

21 **Sec. 16.** 1. The amount specified as deficient in a determination
22 made by the department pursuant to the provisions of sections 4 to 16,
23 inclusive, of this act is due at the time the determination becomes final.

24 2. If the amount specified as deficient in a determination is not paid
25 when the determination becomes final and the person against whom the
26 determination is made has not entered into a written agreement with the
27 department for the payment of the amount specified as deficient in the
28 determination, the department shall impose a penalty of 10 percent of the
29 amount specified as deficient in the determination, exclusive of interest
30 and penalties.

31 **Sec. 17.** Except as otherwise provided in NRS 365.340 and 366.397,
32 if the department grants an extension of time for paying any amount
33 required to be paid pursuant to chapter 365, 366 or 373 of NRS or NRS
34 590.120 or 590.840, a person who pays the amount within the period for
35 which the extension is granted shall pay, in addition to the amount
36 owing, interest at the rate of 1 percent per month from the date the
37 amount would have been due without the extension until the date of
38 payment.

39 **Sec. 18.** If a check submitted to the department for payment of any
40 tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or
41 590.840 is dishonored upon presentment for payment, the department
42 may require that any future payments be made by cashier's check,
43 traveler's check, money order or cash.

1 **Sec. 19.** *If the department believes that the collection of any amount*
2 *of taxes or fees due pursuant to chapter 365, 366 or 373 of NRS or NRS*
3 *590.120 or 590.840 will be jeopardized by delay, the department shall*
4 *make a determination of the amount required to be collected and serve*
5 *notice of the determination upon the person against whom it is made.*

6 **Sec. 20.** *The amount specified in the determination must be paid*
7 *within 10 days after the service of the notice of the determination unless*
8 *a petition for redetermination is filed within that period. If the amount of*
9 *the determination is not paid within that period and a petition for*
10 *redetermination is not filed, the determination becomes final and any*
11 *penalty for delinquency and interest provided for in this chapter attaches*
12 *to the amount of the determination.*

13 **Sec. 21.** *A person against whom a determination is made pursuant*
14 *to section 19 of this act may petition for a redetermination. The petition*
15 *is subject to the requirements of sections 10 to 16, inclusive, of this act,*
16 *except that the petition must be made within 10 days after service of the*
17 *notice of determination. A person who petitions for a redetermination*
18 *must deposit with the department within 10 days after service of the*
19 *notice of determination such security as the department determines is*
20 *necessary.*

21 **Sec. 22.** *Unless a different penalty or rate of interest is specifically*
22 *provided by statute, any person who fails to pay any tax or fee required*
23 *by chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840 to this*
24 *state or a county within the time required, shall pay a penalty of not more*
25 *than 10 percent of the amount of the tax or fee that is owed, as*
26 *determined by the department, in addition to the tax or fee, plus interest*
27 *at the rate of 1 percent per month, or fraction of a month, from the last*
28 *day of the month following the period for which the amount or any*
29 *portion of the amount should have been reported until the date of*
30 *payment.*

31 **Sec. 23. 1.** *If the director of the department or a hearing officer*
32 *designated by him finds that the failure of a person to make a timely*
33 *return or payment of a tax or fee required by chapter 365, 366 or 373 of*
34 *NRS or NRS 590.120 or 590.840 is the result of circumstances beyond*
35 *the control of the person and occurred despite the exercise of ordinary*
36 *care and without willful neglect, the department may relieve him of all or*
37 *part of any interest or penalty, or both.*

38 **2.** *A person requesting relief must file with the department a*
39 *statement signed, under penalty of perjury, that sets forth the facts upon*
40 *which he bases his claim for relief.*

41 **3.** *The department shall disclose, upon the request of any person:*

42 **(a)** *The name of the person to whom relief was granted; and*

43 **(b)** *The amount of the relief.*

1 **Sec. 24.** *The department may:*

2 1. *Enter into a written agreement with a person who is required to*
3 *pay the taxes or fees required by chapter 365, 366 or 373 of NRS or NRS*
4 *590.120 or 590.840 for the payment of delinquent taxes or fees, interest*
5 *or penalties imposed pursuant to those provisions.*

6 2. *Adopt regulations providing for:*

7 (a) *The payment of delinquent taxes or fees, interest or penalties upon*
8 *the execution of a written agreement between the department and such a*
9 *person; and*

10 (b) *The cancellation of such an agreement if the person becomes*
11 *delinquent in his payment of the delinquent taxes or fees, interest or*
12 *penalties owed to the department pursuant to the provisions of chapter*
13 *365, 366 or 373 of NRS or NRS 590.120 or 590.840.*

14 **Sec. 25.** 1. *If a person who is delinquent in the payment of any tax*
15 *or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or*
16 *590.840 has not paid the amount of a deficiency determination, the*
17 *department may bring an action in a court of this state, a court of any*
18 *other state or a court of the United States to collect the delinquent or*
19 *deficient amount, penalties and interest. The action must be brought not*
20 *later than 3 years after the payment became delinquent or the*
21 *determination became final or within 5 years after the last recording of*
22 *an abstract of judgment or of a certificate constituting a lien for the tax*
23 *or fee owed.*

24 2. *The attorney general shall prosecute the action. The provisions of*
25 *NRS and the Nevada Rules of Civil Procedure and Nevada Rules of*
26 *Appellate Procedure relating to service of summons, pleadings, proofs,*
27 *trials and appeals are applicable to the proceedings. In the action, a writ*
28 *of attachment may issue. A bond or affidavit is not required before an*
29 *attachment may be issued.*

30 3. *In the action, a certificate by the department showing the*
31 *delinquency is prima facie evidence of:*

32 (a) *The determination of the tax or fee or the amount of the tax or fee;*

33 (b) *The delinquency of the amounts; and*

34 (c) *The compliance by the department with the procedures required by*
35 *law related to the computation and determination of the amounts.*

36 **Sec. 26.** 1. *If, with respect to any tax or fee required by chapter*
37 *365, 366 or 373 of NRS or NRS 590.120 or 590.840, a person:*

38 (a) *Fails to pay the tax or fee when due according to his return filed*
39 *with the department;*

40 (b) *Fails to pay a deficiency determination when due; or*

41 (c) *Defaults on a payment pursuant to a written agreement with the*
42 *department,*

1 *the department may, within 3 years after the amount is due, file in the*
2 *office of the clerk of any court of competent jurisdiction an application*
3 *for the entry of a summary judgment for the amount due.*

4 *2. The application must be accompanied by a certificate that*
5 *specifies:*

6 *(a) The amount required to be paid, including any interest and*
7 *penalties due;*

8 *(b) The name and address of the person liable for the payment, as they*
9 *appear on the records of the department;*

10 *(c) The basis for the determination of the department of the amount*
11 *due; and*

12 *(d) That the department has complied with the applicable provisions*
13 *of law relating to the determination of the amount required to be paid.*

14 *3. The application must include a request that judgment be entered*
15 *against the person in the amount required to be paid, including any*
16 *interest and penalties due, as set forth in the certificate.*

17 **Sec. 27.** *The county clerk shall, immediately upon the filing of the*
18 *application and certificate pursuant to section 26 of this act, enter a*
19 *judgment for the State of Nevada against the person liable for the*
20 *payment in the amount required to be paid, together with any penalties*
21 *and interest due as set forth in the certificate. The department shall serve*
22 *a copy of the judgment, together with the application and the certificate,*
23 *upon the person against whom the judgment is entered, by personal*
24 *service or by mailing a copy to his last known address as it appears in the*
25 *records of the department.*

26 **Sec. 28.** *Execution must issue upon the judgment upon request of*
27 *the department in the same manner as execution may issue upon other*
28 *judgments, and sales must be held under the execution, as provided in*
29 *chapter 21 of NRS.*

30 **Sec. 29.** *1. An abstract of the judgment, or a copy thereof, may be*
31 *recorded in the office of the county recorder of any county.*

32 *2. From the time of its recordation, the abstract of the judgment*
33 *becomes a lien upon all real and personal property in that county which*
34 *the judgment debtor owns at the time, or which he may afterward*
35 *acquire, until the lien expires. The lien has the force, effect and priority*
36 *of a judgment lien and continues for 5 years after the date of the*
37 *judgment entered by the county clerk unless sooner released or otherwise*
38 *discharged.*

39 **Sec. 30.** *The lien may, within 5 years after the date of the judgment*
40 *or within 5 years after the last extension of the lien in the manner*
41 *provided in this section, be extended by recording in the office of the*
42 *county recorder an abstract or copy of the judgment, and from the time*

1 *of that recording, the lien must be extended upon the property in that*
2 *county for 5 years unless sooner released or otherwise discharged.*

3 **Sec. 31.** *The remedies provided for in sections 26 to 31, inclusive, of*
4 *this act are intended to supplement any other remedies provided for in*
5 *this chapter or chapter 365, 366 or 373 of NRS. The provisions of*
6 *sections 26 to 31, inclusive, of this act do not limit or repeal any*
7 *additional requirements imposed upon the department by statute, or*
8 *otherwise by law.*

9 **Sec. 32. 1.** *If any tax or fee required by chapter 365, 366 or 373 of*
10 *NRS or NRS 590.120 or 590.840 is not paid when due, the department*
11 *may, within 3 years after the date that the tax or fee became due, file for*
12 *record a certificate in the office of any county recorder which states:*

13 *(a) The amount of the tax or fee and any interest or penalties due;*

14 *(b) The name and address of the person who is liable for the amount*
15 *due as they appear on the records of the department; and*

16 *(c) That the department has complied with the procedures required by*
17 *law for determining the amount due.*

18 *2. From the time of the filing of the certificate, the amount due,*
19 *including interest and penalties, constitutes a lien upon all real and*
20 *personal property in the county owned by the person or acquired by him*
21 *afterwards and before the lien expires. The lien has the effect and*
22 *priority of a judgment lien and continues for 5 years after the time of the*
23 *filing of the certificate unless sooner released or otherwise discharged.*

24 *3. Within 5 years after the date of the filing of the certificate or*
25 *within 5 years after the date of the last extension of the lien pursuant to*
26 *this subsection, the lien may be extended by filing for record a new*
27 *certificate in the office of the county recorder of any county. From the*
28 *time of filing, the lien is extended to all real and personal property in the*
29 *county owned by the person or acquired by him afterwards for 5 years,*
30 *unless sooner released or otherwise discharged.*

31 **Sec. 33. 1.** *The department may release all or any portion of the*
32 *property subject to a lien imposed by the department or subordinate the*
33 *lien to other liens and encumbrances if it determines that the amount,*
34 *interest and penalties are secured sufficiently by a lien on other property*
35 *or that the release or subordination of the lien will not jeopardize the*
36 *collection of the amount, interest and penalties.*

37 *2. A certificate by the department stating that any property has been*
38 *released from the lien, or that the lien has been subordinated to other*
39 *liens and encumbrances, is conclusive evidence that the property has*
40 *been released or that the lien has been subordinated.*

1 **Sec. 34. 1.** *The amounts, including interest and penalties, required*
2 *to be paid by a person pursuant to chapter 365, 366 or 373 of NRS or*
3 *NRS 590.120 or 590.840 must be satisfied first if:*

- 4 *(a) The person is insolvent;*
5 *(b) The person makes a voluntary assignment of his assets;*
6 *(c) The estate of the person in the hands of executors, administrators*
7 *or heirs, before distribution, is insufficient to pay all the debts due from*
8 *the deceased; or*
9 *(d) The estate and effects of an absconding, concealed or absent*
10 *person required to pay any amount by force of such a revenue act are*
11 *levied upon by process of law.*

12 **2.** *This section does not give the State of Nevada a preference over:*

- 13 *(a) Any recorded lien that attached before the date when the amounts*
14 *required to be paid became a lien; or*
15 *(b) Any costs of administration, funeral expenses, expenses of*
16 *personal illness, family allowances or debts preferred pursuant to federal*
17 *law or wages as provided in NRS 150.220.*

18 **Sec. 35. 1.** *The department or its authorized representative may*
19 *issue a warrant for the enforcement of a lien and for the collection of*
20 *any delinquent taxes or fees required by chapter 365, 366 or 373 of NRS*
21 *or NRS 590.120 or 590.840:*

- 22 *(a) Within 3 years after the person is delinquent in the payment of the*
23 *tax or fee; or*
24 *(b) Within 5 years after the last recording of an abstract of judgment*
25 *or of a certificate constituting a lien for the tax or fee.*

26 **2.** *The warrant must be directed to a sheriff or constable and has the*
27 *same effect as a writ of execution.*

28 **3.** *The warrant must be levied and sale made pursuant to the warrant*
29 *in the same manner and with the same effect as a levy of and a sale*
30 *pursuant to a writ of execution.*

31 **Sec. 36. 1.** *If a person continues to engage in business in this state*
32 *without a permit or license as required by chapter 365 or 366 of NRS, or*
33 *after the license or permit has been suspended or revoked, the*
34 *department may, after providing notice to that person, order any place of*
35 *business of the person to be locked and sealed. If notice is served by mail,*
36 *it must be addressed to the person at his address as it appears in the*
37 *records of the department.*

38 **2.** *The order to lock and seal a place of business must be delivered to*
39 *the sheriff of the county in which the business is located. The sheriff*
40 *shall assist in the enforcement of the order.*

1 **Sec. 37. 1.** *The department may pay or advance to the sheriff or*
2 *constable the same fees, commissions and expenses for acting upon the*
3 *warrant as are provided by law for acting upon a writ of execution. The*
4 *department shall approve the fees for publication in a newspaper.*
5 *Approval from a court is not required for publication.*

6 **2.** *The fees, commissions and expenses are the obligation of the*
7 *person against whom the warrant is issued.*

8 **Sec. 38. 1.** *If a person is delinquent in the payment of any tax or*
9 *fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or*
10 *590.840, or if a determination has been made against him that remains*
11 *unpaid, the department may:*

12 **(a)** *Not later than 3 years after the payment became delinquent or the*
13 *determination became final; or*

14 **(b)** *Not later than 5 years after the last recording of an abstract*
15 *of judgment or of a certificate constituting a lien for the tax or fee*
16 *owed,*

17 *give a notice of the delinquency and a demand to transmit personally or*
18 *by registered or certified mail to any person, including, without*
19 *limitation, any officer or department of this state or any political*
20 *subdivision or agency of this state, who has in his possession or under his*
21 *control any credits or other personal property belonging to the delinquent*
22 *taxpayer, or owing any debts to the delinquent taxpayer or person against*
23 *whom a determination has been made which remains unpaid, or owing*
24 *any debts to the delinquent taxpayer or that person. In the case of any*
25 *state officer, department or agency, the notice must be given to the*
26 *officer, department or agency before it presents the claim of the*
27 *delinquent taxpayer to the state controller.*

28 **2.** *A state officer, department or agency which receives such a notice*
29 *may satisfy any debt owed to it by that person before it honors the notice*
30 *of the department.*

31 **3.** *After receiving the demand to transmit, the persons so notified*
32 *may not transfer or otherwise dispose of the credits, other personal*
33 *property, or debts in their possession or under their control at the time*
34 *they received the notice until the department consents to a transfer or*
35 *other disposition.*

36 **4.** *Each person so notified shall, within 10 days after receipt of the*
37 *demand to transmit, inform the department of, and transmit to the*
38 *department all such credits, other personal property, or debts in his*
39 *possession, under his control or owing by him within the time and in the*
40 *manner requested by the department. Except as otherwise provided in*
41 *subsection 5, no further notice is required to be served upon that person.*

1 5. If the property of the delinquent taxpayer consists of a series of
2 payments owed to him, the person who owes or controls the payments
3 shall transmit the payments to the department until otherwise notified by
4 the department. If the debt of the delinquent taxpayer is not paid within 1
5 year after the department issued the original demand to transmit, the
6 department shall issue another demand to transmit to the person
7 responsible for making the payments informing him to continue to
8 transmit payments to the department or that his duty to transmit the
9 payments to the department has ceased.

10 6. If the notice of the delinquency seeks to prevent the transfer or
11 other disposition of a deposit in a bank or other credits or personal
12 property in the possession or under the control of a bank or other
13 depository institution, the notice must be delivered or mailed to the
14 branch or office of the bank or other depository institution at which the
15 deposit is carried or at which the credits or personal property is held.

16 7. If any person so notified makes any transfer or other disposition
17 of the property or debts required to be withheld or transmitted, to the
18 extent of the value of the property or the amount of the debts thus
19 transferred or paid, he is liable to this state for any indebtedness due
20 pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840
21 from the person with respect to whose obligation the notice was given if
22 solely by reason of the transfer or other disposition, this state is unable to
23 recover the indebtedness of the person with respect to whose obligation
24 the notice was given.

25 Sec. 39. In carrying out the provisions of section 38 of this act, the
26 department shall determine as early as possible whether there have been
27 withheld or transmitted sufficient liquid assets to satisfy the claim of this
28 state. As soon as the department determines that the assets have been
29 withheld or transmitted, it shall consent to a transfer or other disposition
30 of the assets in excess of that amount.

31 Sec. 40. 1. If a person who is liable for any tax or fee required by
32 chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840 sells any
33 portion of his business or stock of goods not in the ordinary course of
34 business or quits the business, his successors or assignees shall:

35 (a) If the business or stock of goods was purchased for money,
36 withhold from the purchase price the amount due; or

37 (b) If the business or stock of goods was not purchased for money,
38 withhold a sufficient portion of the assets of the business or stock of
39 goods which, if sold, would equal the amount due,
40 until the former owner provides the successors or assignees with a receipt
41 or certificate from the department indicating that he paid the amount
42 due.

1 2. A successor or assignee who fails to withhold the amount required
2 pursuant to subsection 1 becomes personally liable for the payment of the
3 amount required to be withheld by him to the extent of the consideration
4 paid for the business or stock of goods, valued in money.

5 3. The department shall issue a certificate of the amount due to the
6 successor or assignee:

7 (a) Not later than 60 days after receiving a written request from the
8 successor or assignee for such a certificate; or

9 (b) Not later than 60 days after the date the records of the former
10 owner are made available for audit,
11 whichever period expires later, but not later than 90 days after receiving
12 the request.

13 4. If the department fails to mail the certificate, the successor or
14 assignee is released from any further obligation to withhold any portion
15 of the purchase price, business or stock of goods.

16 5. The time within which the obligation of the successor or assignee
17 may be enforced begins when the person who is liable for the tax or fee
18 sells or assigns all or any portion of his business or stock of goods or
19 when the determination against the person becomes final, whichever
20 occurs later.

21 **Sec. 41. 1.** At any time within 3 years after a person has become
22 delinquent in the payment of any amount of taxes or fees due pursuant to
23 chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840, the
24 department may seize any property, real or personal, of the person and
25 sell the property, or a sufficient part of it, at public auction to pay the
26 amount due, together with any interest or penalties imposed for the
27 delinquency and any costs incurred on account of the seizure and sale.

28 2. Any seizure made to collect a tax or fee due may be only of the
29 property of the person not exempt from execution under the provisions of
30 law.

31 **Sec. 42.** The department may adopt regulations that prescribe the
32 manner in which a person who does not owe any taxes or fees to the
33 department may claim an ownership interest in property transmitted to or
34 seized by the department. The regulations must set forth:

35 1. The procedure for asserting such a claim; and

36 2. The circumstances under which the department will honor the
37 claim.

38 **Sec. 43.** The notice of a sale and the time and place of the sale must
39 be given to the delinquent person in writing at least 10 days before the
40 date set for the sale. The notice must:

41 1. Include:

42 (a) A description of the property to be sold;

1 **(b) A statement of the amount due, including interest, penalties and**
2 **costs;**

3 **(c) The name of the delinquent person; and**

4 **(d) A statement that unless the amount due, interest, penalties and**
5 **costs are paid on or before the time fixed in the notice for the sale, the**
6 **property, or as much of it as is necessary, will be sold in accordance with**
7 **law and the notice;**

8 **2. Be enclosed in an envelope addressed to the person at his last**
9 **known address or place of business in this state and deposited in the**
10 **United States Postal Service, postage prepaid; and**

11 **3. Be published for at least 10 days before the date set for the sale in**
12 **a newspaper of general circulation published in the county in which the**
13 **property seized will be sold. If there is no newspaper of general**
14 **circulation in the county, notice must be posted in three public places in**
15 **the county 10 days before the date set for the sale.**

16 **Sec. 44. 1. At a sale described in section 43 of this act, the**
17 **department shall sell the property in accordance with law and the notice**
18 **and deliver to the purchaser a bill of sale for the personal property and a**
19 **deed for any real property sold. The bill of sale or deed vests the interest**
20 **or title of the person liable for the amount in the purchaser.**

21 **2. The unsold portion of any property seized may be left at the place**
22 **of sale at the risk of the person liable for the amount.**

23 **Sec. 45. 1. If, upon the sale, the money received exceeds the total**
24 **of all amounts, including interest, penalties and costs due this state, the**
25 **department shall return the excess to the person liable for the amounts**
26 **and obtain his receipt.**

27 **2. If a person who has an interest in or lien upon the property files**
28 **with the department a notice of his interest or lien before the sale, the**
29 **department shall withhold any excess pending a determination of the**
30 **rights of the respective parties to it by a court of competent jurisdiction.**

31 **3. If the receipt of the person liable for the amount is not available,**
32 **the department shall deposit the excess money with the state treasurer, as**
33 **trustee for the owner, subject to the order of the person liable for the**
34 **amount, his heirs, successors or assigns.**

35 **Sec. 46. NRS 360.001 is hereby amended to read as follows:**

36 360.001 As used in this Title, except as otherwise provided in chapters
37 364, 365, 366, ~~and~~ 371 and 373 of NRS and unless the context requires
38 otherwise:

39 1. “Department” means the department of taxation.

40 2. “Executive director” means the executive director of the department
41 of taxation.

1 **Sec. 47.** NRS 360.300 is hereby amended to read as follows:

2 360.300 1. If a person fails to file a return or the department is not
3 satisfied with the return or returns of any tax, contribution or premium or
4 amount of tax, contribution or premium required to be paid to the state by
5 any person, in accordance with the applicable provisions of ~~NRS~~
6 ~~482.313,~~ this chapter, ~~for~~ chapter 362, 364A, ~~365,~~ 369, 370, 372,
7 372A, ~~373,~~ 374, 377, 377A ~~[-444A, 585, 590]~~ or ~~444A of NRS, NRS~~
8 ~~482.313, or chapter 585 or~~ 680B of NRS as administered or audited by the
9 department, it may compute and determine the amount required to be paid
10 upon the basis of:

11 (a) The facts contained in the return;

12 (b) Any information within its possession or that may come into its
13 possession; or

14 (c) Reasonable estimates of the amount.

15 2. One or more deficiency determinations may be made with respect to
16 the amount due for one or for more than one period.

17 3. In making its determination of the amount required to be paid, the
18 department shall impose interest on the amount of tax determined to be
19 due, calculated at the rate and in the manner set forth in NRS 360.417,
20 unless a different rate of interest is specifically provided by statute.

21 4. The department shall impose a penalty of 10 percent in addition to
22 the amount of a determination that is made in the case of ~~a person's~~ ~~the~~
23 failure ~~of a person~~ to file a return with the department.

24 5. When a business is discontinued, a determination may be made at
25 any time thereafter within the time prescribed in NRS 360.355 as to
26 liability arising out of that business, irrespective of whether the
27 determination is issued before the due date of the liability.

28 **Sec. 48.** NRS 360.417 is hereby amended to read as follows:

29 360.417 Unless a different penalty or rate of interest is specifically
30 provided by statute, any person who fails to pay any tax provided for in
31 chapter 362, 364A, ~~365,~~ 369, 370, 372, ~~373,~~ 374, 377, 377A, 444A or
32 585 of NRS, or ~~the~~ fee provided for in NRS 482.313 ~~for 590.700 to~~
33 ~~590.920, inclusive,~~ to the state or a county within the time required, shall
34 pay a penalty of not more than 10 percent of the amount of the tax or fee
35 which is owed, as determined by the department, in addition to the tax or
36 fee, plus interest at the rate of 1 percent per month, or fraction of a month,
37 from the last day of the month following the period for which the amount
38 or any portion of the amount should have been reported until the date of
39 payment.

40 **Sec. 49.** NRS 360.419 is hereby amended to read as follows:

41 360.419 1. If the executive director or a designated hearing officer
42 finds that ~~a person's~~ ~~the~~ failure ~~of a person~~ to make a timely return or
43 payment of a tax imposed pursuant to NRS 361.320 or chapter 361A,

1 376A, 377 or 377A of NRS, or by chapter 362, 364A, ~~[365,]~~ 369, 370,
2 372, 372A, ~~[373,]~~ 374, 375A or 375B of NRS, is the result of
3 circumstances beyond his control and occurred despite the exercise of
4 ordinary care and without intent, the department may relieve him of all or
5 part of any interest or penalty or both.

6 2. A person seeking this relief must file with the department a
7 statement under oath setting forth the facts upon which he bases his claim.

8 3. The department shall disclose, upon the request of any person:

9 (a) The name of the person to whom relief was granted; and

10 (b) The amount of the relief.

11 4. The executive director or a designated hearing officer shall act upon
12 the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is
13 deferred by a county treasurer or county assessor.

14 **Sec. 50.** NRS 360.510 is hereby amended to read as follows:

15 360.510 1. If any person is delinquent in the payment of any tax or
16 fee administered by the department or if a determination has been made
17 against him which remains unpaid, the department may:

18 (a) Not later than 3 years after the payment became delinquent or the
19 determination became final; or

20 (b) Not later than 5 years after the last recording of an abstract of
21 judgment or of a certificate constituting a lien for tax owed,
22 give a notice of the delinquency and a demand to transmit personally or by
23 registered or certified mail to any person, including, without limitation, any
24 officer or department of ~~[the]~~ **this** state or any political subdivision or
25 agency of ~~[the]~~ **this** state, who has in his possession or under his control
26 any credits or other personal property belonging to the delinquent, or
27 owing any debts to the delinquent or person against whom a determination
28 has been made which remains unpaid, or owing any debts to the delinquent
29 or that person. In the case of any state officer, department or agency, the
30 notice must be given to the officer, department or agency before ~~[it]~~ **the**
31 **department** presents the claim of the delinquent taxpayer to the state
32 controller.

33 2. A state officer, department or agency which receives such a notice
34 may satisfy any debt owed to it by that person before it honors the
35 ~~[department's notice.]~~ **notice of the department.**

36 3. After receiving the demand to transmit, the ~~[persons so]~~ **person**
37 notified **by the demand** may not transfer or otherwise dispose of the
38 credits, other personal property, or debts in ~~[their]~~ **his** possession or under
39 ~~[their]~~ **his** control at the time ~~[they]~~ **he** received the notice until the
40 department consents to a transfer or other disposition.

41 4. ~~[All persons so]~~ **Every person** notified **by a demand to transmit**
42 shall, within 10 days after receipt of the demand to transmit, inform the
43 department of, and transmit to the department all such credits, other

1 personal property, or debts in ~~their~~ **his** possession, under ~~their~~ **his**
2 control or owing by ~~them~~ **him** within the time and in the manner
3 requested by the department. Except as otherwise provided in subsection 5,
4 no further notice is required to be served to ~~those persons.~~ **that person.**

5 5. If the property of the delinquent taxpayer consists of a series of
6 payments owed to him, the person who owes or controls the payments
7 shall transmit the payments to the department until otherwise notified by
8 the department. If the debt of the delinquent taxpayer is not paid within 1
9 year after the department issued the original demand to transmit, ~~it~~ **the**
10 **department** shall issue another demand to transmit to the person
11 responsible for making the payments informing him to continue to transmit
12 payments to the department or that his duty to transmit the payments to the
13 department has ceased.

14 6. If the notice of the delinquency seeks to prevent the transfer or other
15 disposition of a deposit in a bank or other credits or personal property in
16 the possession or under the control of a bank or other depository
17 institution, the notice must be delivered or mailed to the branch or office of
18 the bank or other depository institution at which the deposit is carried or at
19 which the credits or personal property is held.

20 7. If any person ~~so~~ notified **by the notice of the delinquency** makes
21 any transfer or other disposition of the property or debts required to be
22 withheld or transmitted, to the extent of the value of the property or the
23 amount of the debts thus transferred or paid, he is liable to the state for any
24 indebtedness due pursuant to ~~[NRS 482.313,]~~ this chapter, or chapter 362,
25 364A, ~~[365,]~~ 369, 370, 372, 372A, ~~[373,]~~ 374, 377, 377A ~~[, 444A, 585,~~
26 ~~590]~~ **or 444A of NRS, NRS 482.313, or chapter 585 or** 680B of NRS from
27 the person with respect to whose obligation the notice was given if solely
28 by reason of the transfer or other disposition the state is unable to recover
29 the indebtedness of the person with respect to whose obligation the notice
30 was given.

31 **Sec. 51.** Chapter 365 of NRS is hereby amended by adding thereto the
32 provisions set forth as sections 52 to 66, inclusive, of this act.

33 **Sec. 52.** ***“Department” means the department of motor vehicles and***
34 ***public safety.***

35 **Sec. 53.** ***“Exporter” means a person, other than a supplier, who***
36 ***receives motor vehicle fuel, other than aviation fuel, in this state and sells***
37 ***or distributes that fuel outside this state.***

38 **Sec. 54.** ***“Rack” means a deck, platform or open bay which consists***
39 ***of a series of metered pipes and hoses for delivering motor vehicle fuel***
40 ***from a refinery or terminal into a motor vehicle, rail car or vessel.***

1 **Sec. 55.** *“Supplier” means a person who:*

2 1. *Imports or acquires immediately upon importation into this state*
3 *motor vehicle fuel, except aviation fuel, from within or without a state,*
4 *territory or possession of the United States or the District of Columbia*
5 *into a terminal located in this state; or*

6 2. *Otherwise acquires for distribution in this state motor vehicle fuel,*
7 *except aviation fuel, with respect to which there has been no previous*
8 *taxable sale or use.*

9 **Sec. 56.** *“Terminal” means a facility for the storage of motor vehicle*
10 *fuel which is supplied by a motor vehicle, pipeline or vessel and from*
11 *which motor vehicle fuel is removed for distribution at a rack.*

12 **Sec. 57.** 1. *Except as otherwise provided in subsection 2, a person*
13 *shall not import, sell, distribute, use or store motor vehicle fuel, except*
14 *aviation fuel, in this state for which the taxes imposed pursuant to NRS*
15 *365.180 to 365.192, inclusive, and section 59 of this act, have not been*
16 *paid.*

17 2. *A supplier may import or store motor vehicle fuel for which the*
18 *taxes imposed pursuant to NRS 365.180 to 365.192, inclusive, and*
19 *section 59 of this act, have not been paid.*

20 **Sec. 58.** 1. *Except as otherwise provided in subsections 2 and 3,*
21 *each supplier who sells or distributes motor vehicle fuel, other than*
22 *aviation fuel, shall, at the time the motor vehicle fuel is distributed from*
23 *a terminal, collect the taxes imposed pursuant to NRS 365.180 to*
24 *365.192, inclusive, and section 59 of this act.*

25 2. *A supplier may sell motor vehicle fuel, other than aviation fuel, to*
26 *a purchaser without collecting the taxes imposed pursuant to NRS*
27 *365.180 to 365.192, inclusive, and section 59 of this act, if the purchaser*
28 *of the motor vehicle fuel:*

29 (a) *Has been issued a permit by the department pursuant to section 62*
30 *of this act; and*

31 (b) *Elects to defer payment of the taxes.*

32 3. *A supplier shall not collect the taxes imposed pursuant to NRS*
33 *365.180 to 365.192, inclusive, and section 59 of this act if the purchaser*
34 *of the motor vehicle fuel is:*

35 (a) *A supplier; or*

36 (b) *An exporter.*

37 4. *A supplier who sells motor vehicle fuel, other than aviation fuel, to*
38 *any other supplier shall keep such records of the transaction as the*
39 *department may require. The department shall adopt regulations setting*
40 *forth:*

41 (a) *The records which must be kept by the dealer pursuant to this*
42 *subsection; and*

43 (b) *The period for which those records must be kept by the dealer.*

1 **Sec. 59. 1.** *Except as otherwise provided in section 65 of this act,*
2 *every supplier shall, not later than the 25th day of each calendar month:*

3 (a) *Submit to the department a statement of all motor vehicle fuel,*
4 *except aviation fuel, sold, distributed or used by him in this state; and*

5 (b) *Pay an excise tax on all motor vehicle fuel, except aviation fuel, in*
6 *the amount of 17.65 cents per gallon sold, distributed or used in the*
7 *manner prescribed in this chapter.*

8 2. *A supplier shall hold the amount of all taxes collected pursuant to*
9 *this chapter in a separate account in trust for the state.*

10 **Sec. 60. 1.** *Except as otherwise provided in subsection 2, in*
11 *calculating the amount of tax on motor vehicle fuel, other than aviation*
12 *fuel, a supplier owes to the department, the supplier may deduct from the*
13 *amount due pursuant to NRS 365.180 to 365.192, inclusive, and section*
14 *59 of this act any amount that is due but has not been paid by a*
15 *purchaser who is authorized by the department to defer payment of the*
16 *tax pursuant to section 62 of this act. If such a deduction is claimed, the*
17 *claim must identify the purchaser and the amount of the taxes that he*
18 *failed to pay.*

19 2. *A supplier shall not deduct from the amount he owes the*
20 *department pursuant to subsection 1 any amount that has not been paid*
21 *by a person whose permit to defer the payment of the tax has been*
22 *revoked pursuant to subsection 4 of section 62 of this act if, before the*
23 *motor vehicle fuel, other than aviation fuel, was purchased, the supplier*
24 *was notified by the department pursuant to subsection 5 of section 62 of*
25 *this act that it had revoked the permit of the purchaser.*

26 **Sec. 61.** *Each exporter shall, not later than the 25th day of each*
27 *month, submit to the department a written statement which sets forth:*

28 1. *The number of gallons of motor vehicle fuel, other than aviation*
29 *fuel, he received during the previous month;*

30 2. *The number of gallons of motor vehicle fuel, other than aviation*
31 *fuel, he sold or distributed outside this state;*

32 3. *The name and mailing address of each person to whom he sold or*
33 *distributed motor vehicle fuel, other than aviation fuel, outside this state;*
34 *and*

35 4. *The number of gallons of motor vehicle fuel, other than aviation*
36 *fuel, he sold or distributed to each person to whom he sold or distributed*
37 *the fuel outside this state.*

38 **Sec. 62. 1.** *A purchaser of motor vehicle fuel, other than aviation*
39 *fuel, who wishes to defer payment to the supplier of the taxes imposed*
40 *pursuant to NRS 365.180 to 365.192, inclusive, and section 59 of this act*
41 *until 20 days after the end of the month in which the fuel is purchased*
42 *must apply for a permit to defer payment of the taxes.*

1 2. *The department may require an applicant for a permit to defer*
2 *payment of the taxes imposed pursuant to NRS 365.180 to 365.192,*
3 *inclusive, and section 59 of this act, to provide a bond executed by him as*
4 *principal, and by a corporation qualified pursuant to the laws of this*
5 *state as surety, payable to this state. The bond must indemnify the*
6 *department against any deduction claimed pursuant to section 60 of this*
7 *act by a supplier because of the failure of the principal to pay the taxes as*
8 *required by this chapter.*

9 3. *If a purchaser of motor vehicle fuel, other than aviation fuel:*

10 (a) *Has been issued a permit to defer the payment of the taxes*
11 *imposed pursuant to NRS 365.180 to 365.192, inclusive, and section 59*
12 *of this act; and*

13 (b) *Elects to defer payment of the taxes,*
14 *he shall, not later than 20 days after the end of the month in which the*
15 *fuel is purchased, pay the taxes to the supplier by electronic transfer of*
16 *money.*

17 4. *If a purchaser fails to make a payment to a supplier as required by*
18 *this section, the department may:*

19 (a) *Revoke the permit of the purchaser;*

20 (b) *If the purchaser was required to provide a bond pursuant to*
21 *subsection 2, require the purchaser to increase the amount of the bond;*
22 *or*

23 (c) *Take any other action to ensure that the taxes imposed pursuant to*
24 *NRS 365.180 to 365.192, inclusive, and section 59 of this act are paid.*

25 5. *The department shall notify each supplier in this state when it*
26 *revokes a permit issued pursuant to this section.*

27 6. *The department shall adopt regulations to carry out the provisions*
28 *of this section.*

29 7. *As used in this section, “electronic transfer of money” means any*
30 *transfer of money, other than a transaction initiated by a check, draft or*
31 *other similar instrument, that is initiated through an electronic terminal,*
32 *telephone, computer or magnetic tape to order, instruct or authorize a*
33 *financial institution or person holding an account on behalf of a*
34 *purchaser or motor vehicle fuel to debit an account.*

35 **Sec. 63. 1.** *Each supplier shall prepare and provide a record of*
36 *shipment to each person who purchases more than 25 gallons of motor*
37 *vehicle fuel, other than aviation fuel, and transports the fuel from the*
38 *place of purchase. The record of the shipment must include the:*

39 (a) *Place where the fuel was purchased;*

40 (b) *Place to which the purchaser declares the fuel will be transported;*

41 (c) *Number of gallons of fuel transported; and*

42 (d) *Name and address of the purchaser of the fuel.*

1 2. Each person who transports motor vehicle fuel, other than
2 aviation fuel, in this state shall:

3 (a) Keep the record of shipment required by subsection 1 in the
4 vehicle in which the fuel is transported until the fuel is delivered to the
5 purchaser; and

6 (b) Upon request from a peace officer, allow the peace officer to
7 inspect the record of shipment.

8 **Sec. 64.** An exporter shall not sell or distribute motor vehicle fuel,
9 other than aviation fuel, in this state. An exporter who violates the
10 provisions of this section:

11 1. Is guilty of a misdemeanor; and

12 2. Shall, within the period prescribed in section 59 of this act, pay to
13 the department the taxes imposed pursuant to NRS 365.180 to 365.192,
14 inclusive, and section 59 of this act on all motor vehicle fuel, other than
15 aviation fuel, sold or distributed in this state.

16 **Sec. 65.** 1. The department may, for good cause, extend for not
17 more than 30 days the period for making any report or return required
18 pursuant to this chapter. The extension may be granted at any time if:

19 (a) A request for an extension has been filed with the department
20 within or before the period for which the extension may be granted; and

21 (b) A remittance of the estimated tax is made when the remittance is
22 due.

23 2. Any report, return, remittance to cover a payment or claim for
24 credit or refund required by this chapter which is transmitted through the
25 United States mail shall be deemed filed or received by the department on
26 the date indicated on the post office cancellation mark stamped upon the
27 envelope containing it, or on the date it was mailed if proof satisfactory
28 to the department establishes that the document or remittance was timely
29 deposited in the United States mail and properly addressed to the
30 department.

31 **Sec. 66.** 1. The department may impose an administrative fine, not
32 to exceed \$2,500, for a violation of any provision of this chapter, or any
33 regulation or order adopted or issued pursuant thereto. The department
34 shall afford to any person so fined an opportunity for a hearing pursuant
35 to the provisions of NRS 233B.121.

36 2. All administrative fines collected by the department pursuant to
37 subsection 1 must be deposited with the state treasurer to the credit of the
38 state highway fund.

39 3. In addition to any other remedy provided by this chapter, the
40 department may compel compliance with any provision of this chapter
41 and any regulation or order adopted or issued pursuant thereto by
42 injunction or other appropriate remedy. The department may institute

1 *and maintain in the name of the State of Nevada any such enforcement*
2 *proceedings.*

3 **Sec. 67.** NRS 365.010 is hereby amended to read as follows:

4 365.010 ~~{Except where}~~ *As used in this chapter, unless* the context
5 otherwise requires, the ~~{definitions given in this chapter govern the~~
6 ~~construction of this chapter.}~~ *words and terms defined in NRS 365.015 to*
7 *365.080, inclusive, and sections 52 to 56, inclusive, of this act, have the*
8 *meanings ascribed to them in those sections.*

9 **Sec. 68.** NRS 365.020 is hereby amended to read as follows:

10 365.020 1. “Dealer” means every person who:

11 (a) Refines, manufactures, compounds or otherwise produces ~~{motor~~
12 ~~vehicle}~~ *aviation* fuel or fuel for jet or turbine-powered aircraft and sells or
13 distributes the same in this state.

14 (b) ~~{Refines, manufactures, compounds or otherwise produces ethyl~~
15 ~~alcohol for use in a petroleum-ethanol mixture and sells or distributes the~~
16 ~~same in this state.~~

17 ~~—(c) Imports motor vehicle}~~ *Imports aviation* fuel or fuel for jet or
18 turbine-powered aircraft into this state and sells or distributes it therein,
19 whether in the original package or container in which it is imported or
20 otherwise, or who uses the ~~{motor vehicle}~~ *aviation* fuel or fuel for jet or
21 turbine-powered aircraft in this state after having imported the fuel.

22 ~~{(d)}~~ (c) Having acquired ~~{motor vehicle}~~ *aviation* fuel or fuel for jet or
23 turbine-powered aircraft in this state in the original package or container,
24 distributes or sells it in the original package or container or otherwise, or in
25 any manner uses the fuel.

26 ~~{(e)}~~ (d) Otherwise acquires in this state for sale, use or distribution in
27 this state ~~{motor vehicle}~~ *aviation* fuel or fuel for jet or turbine-powered
28 aircraft with respect to which there has been no prior taxable sale, use or
29 distribution.

30 2. “Dealer” does not include any person who imports into this state
31 ~~{motor vehicle}~~ *aviation* fuel, fuel for jet or turbine-powered aircraft ~~{, or~~
32 ~~ethyl alcohol}~~ in quantities of 500 gallons or less purchased from ~~{a~~
33 ~~supplier}~~ *another dealer* who is licensed ~~{as a dealer}~~ under this chapter
34 and who assumes liability for the collection and remittance of the
35 applicable excise tax to this state.

36 **Sec. 69.** NRS 365.080 is hereby amended to read as follows:

37 365.080 “Retailer” means ~~{every}~~ :

38 1. *Any* person, other than a dealer ~~{as defined in NRS 365.020,}~~ who is
39 engaged in the business of selling motor vehicle fuel or fuel for jet or
40 turbine-powered aircraft ~~{}~~ ; *or*

2. *Any person in the business of handling motor vehicle fuel, other than aviation fuel, who delivers or authorizes the delivery of fuel into the fuel supply tank or tanks of a motor vehicle that is not owned or controlled by him.*

Sec. 70. NRS 365.130 is hereby amended to read as follows:

365.130 1. The department ~~[shall have power, by itself or by its duty]~~ *or its* authorized agents ~~[, to]~~ *may* make any audit, examination or inquiry of and concerning the records, stocks, facilities, equipment and transactions of dealers, *suppliers*, retailers of petroleum products and carriers ~~[thereof,]~~ *of petroleum products*, and such other investigations as it ~~[may deem necessary in carrying]~~ *deems necessary to carry* out the provisions of this chapter.

2. If any investigation discloses that any report or any payment has been incorrect, the department may make such changes in subsequent reports and payments as may be necessary to correct the error so disclosed.

Sec. 71. NRS 365.170 is hereby amended to read as follows:

365.170 1. ~~[Every]~~ *Except as otherwise provided in section 65 of this act, every* dealer shall, not later than the 25th day of each calendar month:

(a) Render to the department a statement of all ~~[motor vehicle]~~ *aviation* fuel and fuel for jet or turbine-powered aircraft sold, distributed or used by him in ~~[the State of Nevada,]~~ *this state*, as well as all such fuel sold, distributed or used in this state by a purchaser thereof upon which sale, distribution or use the dealer has assumed liability for the tax thereon pursuant to NRS 365.020, during the preceding calendar month; and

(b) Pay an excise tax on:

(1) All fuel for jet or turbine-powered aircraft in the amount of 1 cent per gallon, plus any amount imposed by the county in which the fuel is sold, distributed or used pursuant to NRS 365.203; *and*

(2) Aviation fuel in the amount of 2 cents per gallon, plus any amount imposed by the county in which the fuel is sold, distributed or used pursuant to NRS 365.203, ~~[; and~~

~~—(3) All other motor vehicle fuel in the amount of 17.65 cents per gallon,]~~

so sold, distributed or used, in the manner and within the time prescribed in this chapter.

2. A dealer shall hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the state.

~~[3.—The department for good cause may extend for not more than 30 days the time for making any report or return required pursuant to this chapter. The extension may be granted at any time if:~~

~~—(a) A request therefor has been filed with the department within or before the period for which the extension may be granted; and~~

1 ~~—(b) A remittance of the estimated tax is made when due.~~

2 ~~—4. Any report, return, remittance to cover a payment or claim for credit~~
3 ~~or refund required by this chapter which is transmitted through the United~~
4 ~~States mail shall be deemed filed or received by the department on the date~~
5 ~~shown by the post office cancellation mark stamped upon the envelope~~
6 ~~containing it, or on the date it was mailed if proof satisfactory to the~~
7 ~~department establishes that the document or remittance was timely~~
8 ~~deposited in the United States mail properly addressed to the department.]~~

9 **Sec. 72.** NRS 365.180 is hereby amended to read as follows:

10 365.180 1. In addition to any other tax provided for in this chapter,
11 there is hereby levied an excise tax of 3.6 cents per gallon on all motor
12 vehicle fuel, except aviation fuel.

13 2. This tax must be accounted for by each ~~{dealer}~~ **supplier** and be
14 collected in the manner provided in this chapter. The tax must be paid to
15 the department and delivered by the department to the state treasurer.

16 **Sec. 73.** NRS 365.185 is hereby amended to read as follows:

17 365.185 1. In addition to any other tax provided for in this chapter,
18 there ~~{must be}~~ **is hereby** levied an excise tax on gasoline.

19 2. This tax must be imposed and will increase if the tax collected by
20 the Federal Government pursuant to the provisions of 26 U.S.C. § 4081 or
21 any other tax collected by the Federal Government relating to gasoline is
22 reduced or discontinued in whole or in part. The amount of the tax so
23 imposed by this state must be equal to the amount by which the federal tax
24 is reduced.

25 3. This tax must be accounted for by each ~~{dealer}~~ **supplier** and
26 collected in the manner provided in this chapter. The tax must be paid to
27 the department and delivered by the department to the state treasurer.

28 **Sec. 74.** NRS 365.190 is hereby amended to read as follows:

29 365.190 1. Subject to the provisions of subsection 3, in addition to
30 any other tax provided for in this chapter, there is hereby levied an excise
31 tax of 1.75 cents per gallon on all motor vehicle fuel, except aviation fuel.

32 2. ~~{This tax must be accounted for by each dealer as to the county in~~
33 ~~which it is sold to the retailer and}~~ **The tax imposed pursuant to this**
34 **section must be collected by the supplier** in the manner provided in this
35 chapter. **Upon the collection of the tax by the supplier, the purchaser of**
36 **the fuel shall provide to the supplier a statement that sets forth the**
37 **number of gallons of fuel that will be sold to retailers in each county in**
38 **this state.** The tax must be paid to the department and delivered by the
39 department to the state treasurer. **When the tax is paid to the department,**
40 **the supplier shall provide to the department a copy of the statement**
41 **provided to the supplier by the purchaser pursuant to this subsection.**

3. The provisions of this section shall be deemed to be optional. The board of county commissioners of any county may decline to accept the additional tax *levied pursuant to this section* by *the* adoption of a resolution passed before July 1, 1947, which must be reconsidered and passed once each year within 60 days before July 1 of each year as long as the board of county commissioners desires so to act. Upon the adoption of such a resolution no tax may be collected.

Sec. 75. NRS 365.192 is hereby amended to read as follows:

365.192 1. In addition to any other tax provided for in this chapter, there is hereby levied an excise tax of 1 cent per gallon on motor vehicle fuel, except aviation fuel.

2. ~~[This tax must be accounted for by each dealer as to the county in which the motor vehicle fuel is sold to the retailer and]~~ *The tax imposed pursuant to this section must be collected by the supplier in the manner provided in this chapter. Upon the collection of the tax by the supplier, the purchaser of the fuel shall provide to the supplier a statement that sets forth the number of gallons of fuel that will be sold to retailers in each county in this state.* The tax must be paid to the department and delivered by the department to the state treasurer. *When the tax is paid to the department, the supplier shall provide to the department a copy of the statement provided to the supplier by the purchaser pursuant to this subsection.*

Sec. 76. NRS 365.196 is hereby amended to read as follows:

365.196 1. The receipts of the tax as levied in NRS 365.192 must be allocated monthly by the department to the counties in ~~[which the tax payments originate.]~~ *proportion to the number of gallons of fuel that are sold to the retailers in each county pursuant to the information contained in the statements provided to the department pursuant to NRS 365.192.*

2. Each county must apportion the receipts of that tax among the county, for unincorporated areas of the county, and each incorporated city in the county. The county and each city are respectively entitled to receive each month that proportion of those receipts which its total population bears to the total population of the county.

3. During the month immediately preceding each January 1 and July 1, the county treasurer of each county shall, when necessary and after a hearing, adopt a regulation which provides for the accurate apportionment of those receipts in the county during the ensuing 6 months.

4. The money apportioned to the county or a city must be used by it solely to repair or restore existing paved roads, streets and alleys, other than those maintained by the Federal Government and this state, by resurfacing, overlaying, resealing or other such customary methods.

1 **Sec. 77.** NRS 365.200 is hereby amended to read as follows:

2 365.200 1. In addition to any other taxes provided for by this
3 chapter, every person who ~~{shall use}~~ **uses** any inflammable or combustible
4 liquid or other material other than motor vehicle fuel ~~{as defined in NRS~~
5 ~~365.060}~~ to operate a motor vehicle on the highways of this state, except
6 special fuel as defined in NRS 366.060, shall pay an excise tax as provided
7 by NRS ~~{365.170,}~~ 365.180 and 365.190 **and section 59 of this act** for
8 each gallon thereof so used, and shall render monthly statements and make
9 monthly payments at the times and in the manner prescribed for ~~{dealers}~~ **a**
10 **supplier** in this chapter.

11 2. Any owner or operator of a motor vehicle who ~~{shall import}~~
12 **imports** motor vehicle fuel or other fuel or material, except special fuel as
13 defined in NRS 366.060, into this state, from another state or from federal
14 proprietary lands or reservations, in the fuel tank or tanks of any such
15 motor vehicle in a quantity exceeding 25 gallons shall, upon demand of the
16 department or its ~~{duly}~~ authorized agent, pay to the department on such
17 excess motor vehicle fuel the excise tax required to be paid by ~~{dealers}.~~

18 ~~—3.— Nothing in this chapter shall be construed to} a supplier.~~

19 **3. The provisions of this chapter do not** require more than one
20 payment of any excise tax upon or in respect to the same fuel.

21 **Sec. 78.** NRS 365.205 is hereby amended to read as follows:

22 365.205 1. A retailer of ~~{motor vehicle}~~ **aviation** fuel who receives
23 or sells ~~{motor vehicle}~~ **aviation** fuel for which the taxes imposed pursuant
24 to this chapter have not been paid is liable for the taxes and any applicable
25 penalty or interest if the retailer knew or should have known that the
26 applicable taxes on the fuel had not been paid.

27 2. For the purposes of subsection 1, a retailer who verifies the
28 identification number printed on the delivery ticket of the dealer shall be
29 deemed to have acted without knowledge of the fact of nonpayment.

30 **Sec. 79.** NRS 365.207 is hereby amended to read as follows:

31 365.207 1. A responsible person who willfully fails to collect or pay
32 to the department the tax imposed by this chapter or who willfully attempts
33 to evade the payment of the tax is jointly and severally liable with the
34 dealer **or supplier** for the tax owed , plus interest and all applicable
35 penalties. The responsible person shall pay the tax upon notice from the
36 department that it is due.

37 2. As used in this section, “responsible person” includes:

38 (a) An officer or employee of a corporation; and

39 (b) A member or employee of a partnership or limited-liability
40 company,

41 whose job or duty it is to collect, account for or pay to the department the
42 tax imposed by this chapter.

1 **Sec. 80.** NRS 365.220 is hereby amended to read as follows:

2 365.220 The provisions of this chapter requiring the payment of excise
3 taxes do not apply to : ~~{any of the following:}~~

4 1. Motor vehicle fuel ~~{so long as}~~ **if** it remains in interstate or foreign
5 commerce.

6 2. Motor vehicle fuel , **except aviation fuel, exported from this state**
7 **by a supplier.**

8 **3. Aviation fuel** or fuel for jet or turbine-powered aircraft exported
9 from this state by a dealer.

10 ~~{3.}~~ **4.** Motor vehicle fuel or fuel for jet or turbine-powered aircraft
11 sold to the United States Government for official use of the United States
12 Armed Forces.

13 ~~{4.}~~ **5.** Motor vehicle fuel , **other than aviation fuel, distributed or**
14 **delivered on the order of the owner, to a supplier, or aviation fuel** or fuel
15 for jet or turbine-powered aircraft distributed ~~{}~~ or delivered on the order
16 of the owner, to a dealer ~~{who}~~ , **if the dealer or supplier** has furnished
17 security in the amount prescribed in NRS 365.290 and ~~{who}~~ has
18 established to the satisfaction of the department that the security is
19 sufficient to ensure payment of all excise taxes as they may become due to
20 the state from him under this chapter. Every dealer **or supplier** who claims
21 an exemption shall report the distributions to the department in such detail
22 as the department may require. If he does not do so, the exemption granted
23 in this subsection is void and all fuel is considered distributed in this state
24 subject fully to the provisions of this chapter.

25 ~~{5.}~~ **6.** Leaded racing fuel. As used in this subsection, “leaded racing
26 fuel” means motor vehicle fuel that contains lead and is produced for
27 motor vehicles that are designed and built for racing and not for operation
28 on a public highway.

29 **Sec. 81.** NRS 365.230 is hereby amended to read as follows:

30 365.230 1. The provisions of this chapter requiring the payment of
31 excise taxes do not apply to ~~{motor}~~ :

32 **(a) Motor** vehicle fuel , **other than aviation fuel, sold by a supplier; or**

33 **(b) Aviation fuel** or fuel for jet or turbine-powered aircraft sold by a
34 dealer ,

35 in individual quantities of 500 gallons or less for export to another state or
36 country by the purchaser other than in the supply tank of a motor vehicle
37 or an aircraft, if the dealer **or supplier** is licensed in the state of destination
38 to collect and remit the applicable destination state taxes thereon.

39 2. In support of any exemption from taxes on account of sales of
40 motor vehicle fuel or fuel for jet or turbine-powered aircraft in individual
41 quantities of 500 gallons or less for export by the purchaser, the dealer **or**
42 **supplier who sold the fuel to the purchaser** shall retain in his files for at
43 least 3 years an export certificate executed by the purchaser in such form

1 and containing such information as is prescribed by the department. This
2 certificate is prima facie evidence of the exportation of the motor vehicle
3 fuel or fuel for jet or turbine-powered aircraft to which it applies only if
4 accepted by the dealer *or supplier* in good faith. If the purchaser fails to
5 export any part of the motor vehicle fuel or fuel for jet or turbine-powered
6 aircraft covered by the certificate, he shall remit to the department
7 immediately thereafter the applicable amount in taxes due on the part not
8 exported. Upon failure to do so the purchaser is subject to all penalties in
9 this chapter for delinquency in payment of taxes.

10 **Sec. 82.** NRS 365.240 is hereby amended to read as follows:

11 365.240 1. Every dealer *and supplier* shall report such exports and
12 sales to the department at such times, on such forms and in such detail as
13 the department may require.

14 2. Every dealer *and supplier* shall mark clearly upon each invoice
15 rendered for sales upon which no excise tax is required under NRS
16 365.220 and 365.230 “Ex Nevada Motor Vehicle Fuel Tax” or “Ex Nevada
17 Fuel for Jet or Turbine-Powered Aircraft Tax,” whichever is applicable.

18 **Sec. 83.** NRS 365.270 is hereby amended to read as follows:

19 365.270 1. After April 1, 1935, it ~~shall be~~ *is* unlawful for any
20 person to be a dealer without holding a license *of a dealer* as provided for
21 in this chapter.

22 *2. After January 1, 2000, it is unlawful for any person to be a*
23 *supplier without holding a license of a supplier as provided for in this*
24 *chapter.*

25 **Sec. 84.** NRS 365.280 is hereby amended to read as follows:

26 365.280 1. Before becoming a dealer ~~[-every]~~ *or supplier, a* person
27 shall apply to the department, on forms to be prescribed and furnished by
28 the department, for a license authorizing the applicant to engage in
29 business as a dealer ~~[-]~~ *or supplier.*

30 2. The fee for each license issued ~~shall~~ *must* be \$5 . ~~[-, which shall]~~
31 *The fee must* be paid to the department. All ~~such fees shall~~ *fees paid to*
32 *the department must* be delivered by the department to the state treasurer
33 and ~~shall~~ *must* be credited by him to the state highway fund.

34 **Sec. 85.** NRS 365.290 is hereby amended to read as follows:

35 365.290 1. Before granting any license the department shall require
36 the applicant to file with the department a bond executed by the applicant
37 as principal, and by a corporation qualified under the laws of this state as
38 surety, payable to ~~the State of Nevada,~~ *this state* and conditioned upon
39 the faithful performance of all the requirements of this chapter and upon
40 the punctual payment of all excise taxes, penalties and other obligations of
41 the applicant as a dealer ~~[-]~~ *or supplier.*

1 2. The total amount of the bond or bonds required of any dealer **or**
2 **supplier** may be fixed by the department at three times the estimated
3 maximum monthly tax, determined in such a manner as the department
4 deems proper. If the department determines that a person is habitually
5 delinquent in the payment of amounts due pursuant to this chapter, it may
6 increase the amount of his security to not more than five times the
7 estimated maximum monthly tax. When cash or a savings certificate,
8 certificate of deposit or investment certificate is used, the amount required
9 must be rounded off to the next larger integral multiple of \$100, within the
10 same upper limit.

11 3. The department may increase or decrease the amount of security
12 required by this section subject to the limitations provided in this section.

13 4. No recovery on any bond, nor the execution of any new bond, nor
14 the revocation, cancellation or suspension of any license affects the
15 validity of any bond.

16 5. In lieu of any bond or bonds, a dealer **or supplier** may deposit with
17 the department, under such terms and conditions as the department may
18 prescribe, a like amount of lawful money of the United States or any other
19 form of security authorized by NRS 100.065. If security is provided in the
20 form of a savings certificate, certificate of deposit or investment certificate,
21 the certificate must state that the amount is unavailable for withdrawal
22 except upon order of the department.

23 **Sec. 86.** NRS 365.300 is hereby amended to read as follows:

24 365.300 1. Upon approval of the application the department shall
25 issue to the dealer **or supplier**:

26 (a) An identification number; and

27 (b) A nonassignable license with a duplicate copy for each place of
28 business of the dealer **or supplier** in this state.

29 2. Each license and all duplicates must bear the ~~{dealer's}~~
30 identification number ~~{ }~~ **of the dealer or supplier.**

31 3. The license continues in force until canceled, suspended or revoked.

32 4. The dealer **or supplier** shall have his identification number printed
33 on each of his delivery tickets.

34 **Sec. 87.** NRS 365.310 is hereby amended to read as follows:

35 365.310 1. The department ~~{shall have power to}~~ **may** suspend,
36 cancel or revoke the license of any dealer **or supplier** refusing or
37 neglecting to comply with the provisions of this chapter.

38 2. If a dealer **or supplier** becomes delinquent in the payment of excise
39 taxes as prescribed by this chapter to the extent that his liability exceeds
40 the total amount of **the** bond **or bonds** furnished by the dealer ~~{ }~~ **or**
41 **supplier**, the department shall suspend his license immediately.

1 3. Before revoking or canceling any license issued under this chapter,
2 the department shall send a notice by registered or certified mail to the
3 dealer *or supplier* at his last known address. The notice ~~{shall}~~ *must* order
4 the dealer *or supplier* to show cause why his license should not be revoked
5 by appearing before the department at Carson City, Nevada, or such other
6 place in this state as may be designated by the department, at a time not
7 less than 10 days after the mailing of the notice. The department shall
8 allow the dealer *or supplier* an opportunity to be heard in pursuance of
9 ~~{such}~~ *the* notice, and thereafter the department ~~{shall have full power to}~~
10 *may* revoke or cancel his license.

11 **Sec. 88.** NRS 365.330 is hereby amended to read as follows:

12 365.330 1. The excise taxes prescribed in this chapter ~~{shall}~~ *must* be
13 paid on or before the 25th day of each calendar month to the department.
14 The department shall deliver ~~{all such}~~ *the* taxes to the state treasurer, who
15 shall ~~{receipt}~~ *provide to* the dealer , *supplier* or user ~~{therefor.}~~ *a receipt*
16 *for the payment of the taxes.*

17 2. From the tax found to be due upon any statement ~~{duly and~~
18 ~~punctually rendered.}~~ *submitted by a dealer pursuant to NRS 365.170 or a*
19 *user pursuant to NRS 365.200,* the dealer or user ~~{shall be allowed to~~
20 ~~deduct}~~ *may retain an amount equal to* 2 percent ~~{thereof}~~ *of the amount*
21 *of the tax collected* to cover the dealer's or user's costs of collection of the
22 tax and of compliance with this chapter and the dealer's or user's handling
23 losses occasioned by evaporation, spillage or other similar causes.

24 3. *Each supplier may retain an amount equal to 2 percent of the*
25 *amount of the tax collected by the supplier as a fee for making the*
26 *collection. If the motor vehicle fuel for which the tax was collected by the*
27 *supplier is sold to a purchaser who has been issued a permit pursuant to*
28 *section 62 of this act, the supplier:*

29 *(a) Is entitled to retain one-half of the fee; and*

30 *(b) Shall distribute one-half of the fee to the purchaser. If the fuel is*
31 *resold by that purchaser to another purchaser who has been issued a*
32 *permit pursuant to section 62 of this act, the purchaser who sells the fuel*
33 *to the subsequent purchaser shall distribute to that subsequent purchaser*
34 *one-half of the fee he received from the supplier.*

35 **Sec. 89.** NRS 365.340 is hereby amended to read as follows:

36 365.340 1. If the amount of any excise tax for any month is not paid
37 to the state on or before the 25th day of the next month, it becomes
38 delinquent at the close of business on that day. A dealer , *supplier* or user
39 may have up to 15 additional days to make the payment ~~{}~~ if he makes
40 application to the department and the department finds good cause for the
41 extension.

2. The proceeds from any penalty levied for the delinquent payment of an excise tax must be allocated proportionately to the state highway fund, the county gas tax funds, the account for taxes on aviation fuel and the account for taxes on fuel for jet or turbine-powered aircraft by the department.

Sec. 90. NRS 365.380 is hereby amended to read as follows:

365.380 1. A claimant for refund must present to the department a refund claim form accompanied by the original invoices showing the purchase. The refund forms must state the total amount of fuel so purchased and used otherwise than for the propulsion of motor vehicles or jet or turbine-powered aircraft and the manner and the equipment in which the claimant has used the fuel.

2. A claimant for refund of tax on motor vehicle fuel or fuel for jet or turbine-powered aircraft purchased and exported from this state shall execute and furnish to the department a certificate of exportation on such form as may be prescribed by the department.

3. An invoice to qualify for refund must contain at least:

- (a) The number of gallons of fuel purchased;
- (b) The price per gallon;
- (c) The total purchase price of the fuel; and
- (d) Such other information as may be prescribed by the department.

4. The signature on the refund claim form subjects the claimant to the charge of perjury for false statements contained on the refund application.

5. Daily records must be maintained and preserved for a period of 3 years for audit purposes of all motor vehicle fuel and fuel for jet or turbine-powered aircraft used. The record must set forth:

- (a) The piece of equipment being supplied with the fuel;
- (b) The number of gallons of fuel used in each fill; and
- (c) The purpose for which the piece of equipment will be used.

The gasoline fills must be further classified ~~as to on or off highway use.~~ *according to whether the gasoline was used on or off the highway.*

6. If a motor vehicle with auxiliary equipment consumes motor vehicle fuel and there is no auxiliary motor or separate tank for the motor, a refund of 20 percent of the tax paid on the fuel used in the vehicle may be claimed without the necessity of furnishing proof of the amount of fuel consumed in the operation of the auxiliary equipment. ~~Where claims for refund exceed 20 percent the~~ *The* department shall, by regulation, establish uniform refund provisions for the respective classes of users ~~who claim~~ *who claim refunds of more than 20 percent of the tax paid.*

7. No person may be granted a refund of motor vehicle fuel taxes for off-highway use when the consumption takes place on highways constructed and maintained by public funds, on federal proprietary lands or reservations where the claimant has no ownership or control over the land

1 or highways, except when the person is under a contractual relationship
2 with the Federal Government or one of its agencies and is engaged in the
3 performance of his duties pursuant to that relationship. Employment of a
4 person by the Federal Government or any of its agencies does not
5 constitute a contractual relationship for the purpose of this subsection.

6 8. ~~When~~ If, in the opinion of the department, it would be beneficial
7 to the state for a refund claimant to become a licensed dealer ~~or~~
8 **supplier**, the claimant may, at the option of the department, be required to
9 become a licensed dealer **or supplier** rather than a refund claimant unless
10 the claimant chooses to claim refunds at the tax rate, less 2 percent.

11 **Sec. 91.** NRS 365.390 is hereby amended to read as follows:

12 365.390 Upon the presentation of ~~such affidavits,~~ **the** invoices,
13 written statements, tax exemption certificates or exportation certificates ~~or~~
14 **required pursuant to this chapter**, the department shall cause to be repaid
15 to the claimant from the taxes collected under this chapter an amount equal
16 to the taxes ~~so~~ paid by the claimant less the percentage allowed the dealer
17 **, supplier** or user pursuant to NRS 365.330.

18 **Sec. 92.** NRS 365.440 is hereby amended to read as follows:

19 365.440 In lieu of the collection and refund of the tax on motor
20 vehicle fuel or fuel for jet or turbine-powered aircraft used by a dealer **or**
21 **supplier** in such a manner as would entitle a purchaser to claim **a** refund
22 under the provisions of this chapter, or in lieu of the refund of any prior
23 erroneous payment of tax on motor vehicle fuel or fuel for jet or turbine-
24 powered aircraft to the department made by a dealer ~~or~~ **supplier**, credit
25 may be given the dealer **or supplier** upon his tax return and assessment.

26 **Sec. 93.** NRS 365.460 is hereby amended to read as follows:

27 365.460 After payment of any excise tax under protest duly verified,
28 served on the department, and setting forth the grounds of objection to the
29 legality of the excise tax, the dealer **or supplier** paying the excise tax may
30 bring an action against the state treasurer in the district court in and for
31 Carson City for the recovery of the excise tax so paid under protest.

32 **Sec. 94.** NRS 365.490 is hereby amended to read as follows:

33 365.490 A judgment shall not be rendered in favor of the plaintiff in
34 any action brought against the state treasurer to recover any excise tax paid
35 under this chapter when such action is brought by or in the name of an
36 assignee of the dealer **or supplier** paying the excise tax, or by any person,
37 company or corporation other than the person, company or corporation
38 which has paid the excise tax.

39 **Sec. 95.** NRS 365.500 is hereby amended to read as follows:

40 365.500 1. Every dealer shall cause to be kept a true record, in such
41 form as may be prescribed or approved by the department, of all stocks of
42 motor vehicle fuel and fuel for jet or turbine-powered aircraft and of other
43 inflammable or combustible liquids, and of all manufacture, refining,

1 compounding, blending, purchases, receipts, transportations, use, sales and
2 distribution thereof.

3 2. ~~{Such}~~ *The* records are subject to inspection at all times within
4 business hours by the department or its authorized agents, and must remain
5 available for inspection for a period of 3 years ~~{from}~~ *after* the date of any
6 entry therein.

7 3. ~~{Should any dealer wish}~~ *If a dealer wishes* to keep proper books
8 and records pertaining to business done in Nevada elsewhere than within
9 the State of Nevada for inspection as provided in this section, he must pay
10 a fee for the examination in an amount per day equal to the amount set by
11 law for out-of-state travel for each day or fraction thereof during which the
12 examiner is actually engaged in examining the ~~{dealer's books,}~~ *books of*
13 *the dealer*, plus the actual expenses of the examiner during the time that
14 the examiner is absent from Carson City, Nevada, for the purpose of
15 making the examination, ~~{,}~~ but the time must not exceed 1 day going to
16 and 1 day coming from the place where the examination is to be made in
17 addition to the number of days or fractions thereof the examiner is actually
18 engaged in auditing the dealer's books. Not more than two such
19 examinations may be charged against any dealer in any year.

20 4. Any money received must be deposited by the department to the
21 credit of the fund or operating account from which the expenditures for the
22 examination were paid.

23 5. Upon the demand of the department ~~{or at such times as the tax~~
24 ~~commission may prescribe by regulation, every}~~, *each* dealer shall furnish
25 a statement showing the contents of the records to such extent ~~{,}~~ *and* in
26 such detail and ~~{in such}~~ form as the department may require.

27 **Sec. 96.** NRS 365.530 is hereby amended to read as follows:

28 365.530 1. Every person transporting on any highway ~~{of the State~~
29 ~~of Nevada motor vehicle}~~ *in this state aviation* fuel or fuel for jet or
30 turbine-powered aircraft or other inflammable or combustible liquids in an
31 amount of 25 gallons or more shall have in his possession at all times
32 ~~{during such transportation}~~ *while transporting the fuel* an invoice, bill of
33 sale or other document showing the name and address of the seller or
34 consignor and of the buyer or consignee, if any, of the product so
35 transported.

36 2. Any person engaged in transporting ~~{motor vehicle}~~ *aviation* fuel or
37 fuel for jet or turbine-powered aircraft or other inflammable or
38 combustible liquids by tank truck or tank truck and trailer to be delivered
39 to a dealer or any reseller of such products or to persons known to the trade
40 as commercial consumers is required only to have in his possession
41 adequate evidence showing the amount of the ~~{motor vehicle}~~ *aviation*
42 fuel, fuel for jet or turbine-powered aircraft or other inflammable or
43 combustible liquids loaded in his conveyance at the time the conveyance

1 left its loading point, and the name and address of the dealer who has
2 assumed or is charged with the responsibility for the payment of the tax
3 due thereon, if any. The date of ~~the~~ delivery ~~thereto~~ of the fuel to the
4 ~~dealer~~ must be furnished to the department upon request.

5 3. A person shall produce and exhibit the documentation and evidence
6 required to be in his possession by this section to any sheriff, deputy
7 sheriff, police officer or authorized agent of the department upon request.
8 If the person fails to produce the documentation and evidence, the sheriff,
9 deputy sheriff, police officer or authorized agent of the department may
10 seize and detain the truck and trailer and the fuel or other inflammable or
11 combustible liquid until the documentation and evidence are produced and
12 any taxes due are paid.

13 **Sec. 97.** NRS 365.535 is hereby amended to read as follows:

14 365.535 1. It is declared to be the policy of the State of Nevada to
15 apply the tax on motor vehicle fuel paid on fuel used in watercraft for
16 recreational purposes during each calendar year, which is hereby declared
17 to be not refundable to the consumer, for the improvement of boating and
18 the improvement, operation and maintenance of other outdoor recreational
19 facilities associated with boating and for the payment of the costs incurred,
20 in part, for the administration and enforcement of the provisions of chapter
21 488 of NRS.

22 2. The amount of excise taxes paid on all motor vehicle fuel used in
23 watercraft for recreational purposes must be determined annually by the
24 department by use of the following formula:

25 (a) Multiplying the total boats with motors registered the previous
26 calendar year, pursuant to provisions of chapter 488 of NRS, times 220.76
27 gallons average fuel purchased per boat;

28 (b) Adding 566,771 gallons of fuel purchased by out-of-state boaters as
29 determined through a study conducted during 1969-1970 by the division of
30 agricultural and resource economics, Max C. Fleischmann college of
31 agriculture, University of Nevada, Reno; and

32 (c) Multiplying the total gallons determined by adding the total obtained
33 under paragraph (a) to the figure in paragraph (b) times the rate of tax, per
34 gallon, imposed on motor vehicle fuel used in watercraft for recreational
35 purposes, less the percentage of the tax authorized to be deducted by the
36 ~~dealer~~ supplier pursuant to NRS 365.330.

37 3. The division of wildlife of the state department of conservation and
38 natural resources shall submit annually to the department, on or before
39 April 1, the number of boats with motors registered in the previous
40 calendar year. On or before June 1, the department, using that data, shall
41 compute the amount of excise taxes paid on all motor vehicle fuel used in
42 watercraft for recreational purposes based on the formula set forth in
43 subsection 2, and shall certify the ratio for apportionment and distribution,

1 in writing, to the division of wildlife of the state department of
2 conservation and natural resources and to the division of state parks of the
3 state department of conservation and natural resources for the next fiscal
4 year.

5 4. In each fiscal year, the state treasurer shall, upon receipt of the tax
6 money from the department collected pursuant to the provisions of NRS
7 ~~{365.170 to 365.190, inclusive,}~~ **365.180, 365.185 and 365.190 and**
8 **section 59 of this act** allocate the amount determined pursuant to
9 subsection 2, in proportions directed by the legislature, to:

10 (a) The wildlife account in the state general fund. This money may be
11 expended only for the administration and enforcement of the provisions of
12 chapter 488 of NRS and for the improvement, operation and maintenance
13 of boating facilities and other outdoor recreational facilities associated with
14 boating on state-owned wildlife management areas. Any of this money
15 declared by the division of wildlife of the state department of conservation
16 and natural resources to be in excess of its immediate requirements for
17 these purposes may be transferred to the credit of the parks marina
18 development fund for use by the division of state parks of the state
19 department of conservation and natural resources in accordance with the
20 provisions of paragraph (b).

21 (b) The parks marina development fund which is hereby created as a
22 special revenue fund for use by the division of state parks of the state
23 department of conservation and natural resources. All money so deposited
24 to the credit of the division of state parks may be expended only as
25 authorized by the legislature for the improvement, operation and
26 maintenance of boating facilities and other outdoor recreational facilities
27 associated with boating.

28 5. Money that the state treasurer is required to allocate pursuant to the
29 provisions of subsection 4 may be paid quarterly or oftener if convenient to
30 the state treasurer.

31 **Sec. 98.** NRS 365.540 is hereby amended to read as follows:

32 365.540 1. The money collected, as prescribed by NRS ~~{365.170 and~~
33 ~~365.185,}~~ **365.185 and section 59 of this act**, from the tax on motor
34 vehicle fuels, **other than aviation fuel**, after the remittances and deposits
35 have first been made pursuant to the provisions of NRS 365.535, must be
36 placed to the credit of the state highway fund by the state treasurer. An
37 amount equal to that part of the tax collected pursuant to ~~{subparagraph (3)~~
38 ~~of paragraph (b) of subsection 1 of NRS 365.170,}~~ **section 59 of this act**,
39 which represents 5 cents of the tax per gallon must be used exclusively for
40 the construction and maintenance of public highways, and may not be used
41 to purchase equipment related thereto.

2. The money collected, as prescribed by NRS 365.180 and 365.190, after the remittances and deposits have first been made pursuant to the provisions of NRS 365.535, must be allocated by the department to the counties as prescribed in NRS 365.550 and 365.560.

3. The money collected as prescribed by NRS 365.200 must be allocated by the department as prescribed by NRS 365.550 and 365.560.

4. The money collected from the tax on aviation fuel must be deposited by the department with the state treasurer for credit to the account for taxes on aviation fuel, which is hereby created as a revolving account.

Sec. 99. NRS 365.570 is hereby amended to read as follows:

365.570 1. It is unlawful for any person:

(a) To refuse or neglect to make any statement, report or return required by the provisions of this chapter;

(b) Knowingly to make, or aid or assist any other person in making, a false statement in a report to the department or in connection with an application for refund of any tax;

(c) Knowingly to collect or attempt to collect or cause to be repaid to him or to any person, either directly or indirectly, any refund of any tax without being entitled to the same;

(d) To engage in business in this state as a dealer **or supplier** or to act as a carrier of motor vehicle fuel, fuel for jet or turbine-powered aircraft, special fuel or other inflammable or combustible liquids without being the holder of an uncanceled license authorizing him to engage in such business or to act in such capacity;

(e) To sell any motor vehicle fuel or fuel for jet or turbine-powered aircraft upon which the tax imposed by this chapter has not been paid, purchased by or consigned to him by any person other than a licensed dealer ~~or~~ **or supplier**; or

(f) To act as an agent to sell any motor vehicle fuel or fuel for jet or turbine-powered aircraft, obtained in any manner, upon which the tax imposed by this chapter has not been paid.

2. Each day or part thereof during which any person engages in business as a dealer **or supplier** without being the holder of an uncanceled license constitutes a separate offense within the meaning of this section.

Sec. 100. NRS 366.175 is hereby amended to read as follows:

366.175 1. To the extent permitted by federal law, the department may enter into cooperative agreements with other states and countries for the exchange of information regarding, and the auditing of, persons who use special fuel in motor vehicles operated or intended to operate interstate. Any agreement, arrangement or declaration, or any amendment thereto, is not effective until reduced to writing and signed by the parties thereto or their authorized representatives.

1 2. An agreement may include, with respect to persons who use special
2 fuel, provisions:

3 (a) For determining the domicile of those persons;

4 (b) Specifying the records which are required to be kept by those
5 persons;

6 (c) Relating to audit procedures, the exchange of information and
7 persons eligible for licensing;

8 (d) Defining various words and terms;

9 (e) Setting forth the procedure for collecting special fuel taxes owing to
10 another jurisdiction and forwarding those taxes to that jurisdiction; and

11 (f) Designed to facilitate the administration of the agreement.

12 3. The department may, pursuant to the terms of an agreement,
13 forward to the designated representatives of another jurisdiction any
14 information in its possession relating to the manufacture, transportation,
15 shipment, sale or use of special fuel by any person, and the location within
16 this state of any motor vehicles owned by a person who has been identified
17 by another jurisdiction as a user of special fuel.

18 4. An agreement may provide that each jurisdiction shall audit the
19 records of persons residing or doing business within that jurisdiction to
20 determine if the special fuel taxes owing to each jurisdiction have been
21 properly reported and paid, and requiring each jurisdiction to forward the
22 findings of its audits to every other jurisdiction in which the person who is
23 the subject of an audit has incurred tax liability as a result of his use of
24 special fuel. The audit findings received from another jurisdiction may be
25 used by the department as the basis for an estimated assessment of tax due
26 from a person pursuant to the provisions of ~~NRS 366.405.~~ **section 4 of**
27 **this act.**

28 5. Any agreement entered into pursuant to the provisions of this
29 section does not preclude the department from auditing the records of any
30 person subject to the provisions of this chapter.

31 **Sec. 101.** Chapter 373 of NRS is hereby amended by adding thereto a
32 new section to read as follows:

33 ***“Department” means the department of motor vehicles and public***
34 ***safety.***

35 **Sec. 102.** NRS 373.020 is hereby amended to read as follows:

36 373.020 As used in this chapter, unless the context otherwise requires,
37 the words and terms defined in NRS 373.0205 to 373.029, inclusive, **and**
38 **section 101 of this act**, have the meanings ascribed to them in those
39 sections.

1 **Sec. 103.** NRS 373.070 is hereby amended to read as follows:

2 373.070 Any motor vehicle fuel tax ordinance enacted under this
3 chapter must include provisions in substance as follows:

4 1. A provision imposing the additional excise tax and stating the
5 amount of the tax per gallon of fuel.

6 2. Provisions identical to those contained in chapter 365 of NRS on the
7 date of enactment of the ordinance, insofar as applicable, except that the
8 name of the county as taxing agency must be substituted for that of the
9 state and that an additional ~~{dealer's}~~ **supplier's** license is not required.

10 3. A provision that all amendments to chapter 365 of NRS subsequent
11 to the date of enactment of the ordinance, not inconsistent with this
12 chapter, automatically become a part of the motor vehicle fuel tax
13 ordinance of the county.

14 4. A provision that the county shall contract prior to the effective date
15 of the county motor vehicle fuel tax ordinance with the department to
16 perform all functions incident to the administration or operation of the
17 motor vehicle fuel tax ordinance of the county.

18 **Sec. 104.** NRS 373.090 is hereby amended to read as follows:

19 373.090 **1.** For the purpose of the tax imposed by an ordinance
20 enacted pursuant to this chapter, motor vehicle fuel is sold at the place
21 where it is ~~{delivered into a vehicle not belonging to the seller or into a~~
22 ~~stationary tank on the premises of the buyer.}~~ **distributed from a terminal.**

23 **2.** *As used in this section, "terminal" has the meaning ascribed to it*
24 *in section 56 of this act.*

25 **Sec. 105.** NRS 482.187 is hereby amended to read as follows:

26 482.187 The department may:

27 1. Enter into written agreements providing for the periodic payment of
28 delinquent taxes or fees imposed pursuant to this chapter.

29 2. Adopt regulations:

30 (a) Setting forth the permissible terms of ~~{such}~~ **those** agreements; and

31 (b) Providing for the cancellation of such an agreement if the person
32 with whom the department has contracted becomes delinquent in his
33 payments pursuant to the agreement or in his payment of other taxes or
34 fees owed to the department pursuant to the provisions of chapter **365**, 366,
35 371, **373** or 482 of NRS.

36 **Sec. 106.** NRS 590.120 is hereby amended to read as follows:

37 590.120 1. Every person, or any officer, agent or employee thereof,
38 shipping or transporting any gasoline or lubricating oil into this state for
39 sale or consignment, or with intent to sell or consign the same, shall pay to
40 the department of ~~{taxation}~~ **motor vehicles and public safety** an inspection
41 fee of 0.055 of a cent per gallon for every gallon of gasoline or lubricating
42 oil so shipped or transported into the state, or that is held for sale within
43 this state. ~~{Nothing in this section requires}~~ **This section does not require**

1 the payment of an inspection fee on any shipment or consignment of
2 gasoline or lubricating oil when ~~{such}~~ *the* inspection fee has ~~{already}~~
3 been paid.

4 2. Of each inspection fee paid to the department of ~~{taxation}~~ *motor*
5 *vehicles and public safety* pursuant to this section, 0.005 of a cent per
6 gallon must be transferred quarterly to an account in the state general fund
7 for the state board of agriculture. The state board of agriculture shall use
8 all money transferred pursuant to this subsection to pay the expenses
9 incurred in enforcing the provisions of NRS 590.070.

10 3. On or before the 25th day of each calendar month, every person, or
11 any officer, agent or employee thereof, required to pay the inspection fee
12 ~~{mentioned}~~ *described* in subsection 1 shall send to the department of
13 ~~{taxation}~~ *motor vehicles and public safety* a correct report of the gasoline
14 or oil volumes for the preceding month. The report must include a list of
15 distributors or retailers distributing or selling the products and must be
16 accompanied by the required fees.

17 4. Failure to send the report and remittance as specified in subsections
18 1 and 3 is a violation of NRS 590.010 to 590.150, inclusive, *and is*
19 punishable as provided in NRS 590.150.

20 5. *The provisions of this section must be carried out in the manner*
21 *prescribed in chapter 365 of NRS and sections 2 to 45, inclusive, of this*
22 *act.*

23 **Sec. 107.** NRS 590.130 is hereby amended to read as follows:

24 590.130 Except as otherwise provided in subsection 2 of NRS
25 590.120, all inspection fees received by the department of ~~{taxation}~~ *motor*
26 *vehicles and public safety* must be deposited with the state treasurer for
27 credit to the state general fund, and all expenses incurred in carrying out
28 the provisions of NRS 590.010 to 590.150, inclusive, must be paid out of
29 funds provided by direct legislative appropriation.

30 **Sec. 108.** NRS 590.720 is hereby amended to read as follows:

31 590.720 “Department” means the department of ~~{taxation.}~~ *motor*
32 *vehicles and public safety.*

33 **Sec. 109.** NRS 590.840 is hereby amended to read as follows:

34 590.840 1. Except as otherwise provided in subsection ~~{3,}~~ *2*, the
35 department shall collect for deposit in the fund a fee of 0.75 cent for each
36 gallon of motor vehicle fuel, diesel fuel of grade number 1, diesel fuel of
37 grade number 2 and heating oil imported into this state in one of those
38 forms or refined in this state. The fee imposed by this section is in addition
39 to the taxes imposed by chapters 365 and 366 of NRS.

40 2. ~~{The department of motor vehicles and public safety shall cooperate~~
41 ~~with the department of taxation in ascertaining the amount of diesel fuel so~~
42 ~~imported and the identity of each person liable for payment of the fee upon~~
43 ~~it.~~

1 ~~3.1~~ The fee imposed by subsection 1 does not apply to motor vehicle
2 fuel, diesel fuel of grade number 1, diesel fuel of grade number 2 or
3 heating oil that is:

4 (a) Imported or refined by the United States, its unincorporated
5 agencies and instrumentalities, or any incorporated agency or
6 instrumentality of the United States wholly owned by the United States or
7 by a corporation wholly owned by the United States;

8 (b) Exported from ~~the~~ *this* state;

9 (c) Imported or refined by railroad companies for use in locomotive
10 engines;

11 (d) Being transported through ~~the~~ *this* state in interstate commerce; or

12 (e) Used as fuel for jet or turbine-powered aircraft.

13 ~~4.1~~ 3. The fee is payable on or before the 25th day of each calendar
14 month for those products subject to the fee that are handled during the
15 preceding calendar month. The department shall prescribe by regulation
16 the manner of payment of the fee and for this purpose may reasonably
17 classify the persons liable for payment. The department may, in collecting
18 the
19 fee, employ any administrative power conferred upon it by chapter 365 of
20 NRS ~~4~~.

21 ~~5.1~~ *or sections 2 to 45, inclusive, of this act.*

22 4. The expenses incurred by the department in performing its duties
23 under NRS 590.700 to 590.920, inclusive, are a charge against the fund.

24 **Sec. 110.** NRS 366.394, 366.395, 366.3955, 366.396, 366.405,
25 366.510, 366.560, 366.570, 366.580, 366.590, 366.600, 366.610, 366.620,
26 366.630 and 366.640 are hereby repealed.

27 **Sec. 111.** The regulations adopted by the department of taxation
28 pursuant to NRS 365.110 are void. The legislative counsel shall remove
29 those regulations from the Nevada Administrative Code as soon as
30 practicable after July 1, 1999.

31 **Sec. 112.** The amendatory provisions of this act do not apply to
32 offenses that were committed before July 1, 1999.

33 **Sec. 113.** 1. This section and sections 1 to 47, inclusive, 49 to 112,
34 inclusive, and 114 of this act become effective on July 1, 1999.

35 2. Section 48 of this act becomes effective at 12:01 a.m. on July 1,
36 1999.

37 **Sec. 114.** In preparing the 1999 reprint of the Nevada Revised
38 Statutes with respect to any section which is not amended by this act or is
39 further amended by another act, and in the Nevada Administrative Code,
40 the legislative counsel shall appropriately correct:

41 1. Any references concerning the collection of the taxes imposed by
42 chapters 365 and 366 of NRS from references to the department of taxation
43 to references to the department of motor vehicles and public safety.

- 1 2. Any references concerning an exporter or supplier of motor vehicle
- 2 fuel in chapter 365 of NRS.

LEADLINES OF REPEALED SECTIONS

- 366.394 Dishonored checks.
- 366.395 Interest and penalties on default; when return or statement deemed delinquent.
- 366.3955 Waiver of penalties and interest for late return or payment; written claim required.
- 366.396 Agreement for payment of delinquent taxes, interest or penalties; regulations of department.
- 366.405 Additional or estimated assessment of special fuel tax: Interest; penalties; notice; redeterminations.
- 366.510 Remittances: Time for payment; addition of penalties.
- 366.560 Suit for tax: Duty of attorney general or district attorney.
- 366.570 Suit for tax: Attachment.
- 366.580 Evidentiary effect of verified claim of department.
- 366.590 Lien of tax: Nature and operation; time of attachment; department to give notice to interest holders before seizure of vehicle; hearing.
- 366.600 Duration of lien.
- 366.610 Priority of lien.
- 366.620 Transfer of motor vehicle subject to lien: Issuance of certificate that lien has been removed.
- 366.630 Notice to persons controlling credits or other property of delinquent user; transfer or disposition prohibited; persons notified to advise department of such credits and property.
- 366.640 Remedies cumulative; election of remedies.