

SENATE BILL NO. 349—SENATOR JACOBSEN

MARCH 10, 1999

Referred to Committee on Taxation

SUMMARY—Makes various changes to provisions governing special fuels. (BDR 32-1073)

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 ~~[omitted material]~~ is material to be omitted.

AN ACT relating to the tax on special fuel; authorizing the department of motor vehicles and public safety or its authorized agent to stop and inspect a motor vehicle that is using or transporting special fuel in violation of certain provisions; authorizing the department to impose an administrative fine under certain circumstances; 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.** Chapter 366 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2, 3 and 4 of this act.
- 3 **Sec. 2.** *“Storage tank” means any container designed to transport or*
- 4 *store fuel, including, without limitation, a fuel tank on a motor vehicle*
- 5 *that is used to supply fuel for the propulsion of the motor vehicle.*
- 6 **Sec. 3.** *The department may impose an administrative fine of the*
- 7 *greater of \$1000 or \$10 per gallon of special fuel based on the maximum*
- 8 *storage capacity of the storage tank if a person:*
- 9 *1. Sells or stores any special fuel that has been dyed for a use which*
- 10 *the person selling or storing such fuel knows, or has reason to know, is a*
- 11 *taxable use of the fuel;*
- 12 *2. Willfully alters or attempts to alter the strength or composition of*
- 13 *any dye in any special fuel intended to be used for a taxable purpose; or*
- 14 *3. Uses special fuel that has been dyed for a taxable purpose.*
- 15 **Sec. 4.** *A special fuel user who is required to hold a special fuel*
- 16 *user’s license pursuant to the provisions of this chapter shall:*
- 17 *1. If he uses special fuel in a motor vehicle that is operated or*
- 18 *intended to operate interstate:*

1 (a) Obtain an identifying device issued pursuant to a cooperative
2 agreement entered into pursuant to NRS 366.175; and
3 (b) Conspicuously display that identifying device on the exterior of the
4 motor vehicle in such location as is required pursuant to the cooperative
5 agreement.

6 2. At any time he is using special fuel in this state, ensure that his
7 license, or a reproduction of the license that is authorized by the
8 department, is located in the motor vehicle.

9 Sec. 5. NRS 366.020 is hereby amended to read as follows:

10 366.020 As used in this chapter, unless the context otherwise requires,
11 the words and terms defined in NRS 366.025 to 366.100, inclusive, **and**
12 **section 2 of this act** have the meanings ascribed to them in those sections.

13 Sec. 6. NRS 366.150 is hereby amended to read as follows:

14 366.150 1. The department or its authorized agents may:

15 (a) Examine the books, papers, records and equipment of any special
16 fuel supplier, special fuel dealer, special fuel user or person transporting or
17 storing special fuel as defined in NRS 366.060; ~~and~~

18 (b) Investigate the character of the disposition which any person makes
19 of ~~that fuel,~~ **special fuel; and**

20 (c) **Stop and inspect a motor vehicle that is using or transporting**
21 **special fuel,**

22 to determine whether all excise taxes due pursuant to this chapter are being
23 properly reported and paid.

24 2. The fact that ~~those~~ **the** books, papers, records and equipment
25 **described in paragraph (a) of subsection 1** are not maintained in this state
26 at the time of demand does not cause the department to lose any right of
27 examination pursuant to this chapter at the time and place those books,
28 papers, records and equipment become available.

29 Sec. 7. NRS 366.720 is hereby amended to read as follows:

30 366.720 Any person who:

31 1. Fails or refuses to pay the tax imposed by this chapter;

32 2. Engages in business in this state as a special fuel user, special fuel
33 dealer or special fuel supplier without being the holder of a license to
34 engage in that business;

35 3. Fails to make any of the reports required by this chapter;

36 4. Makes any false statement in any application, report or statement
37 required by this chapter;

38 5. Refuses to permit the department or any authorized agent to examine
39 records as provided by this chapter;

40 6. Fails to keep proper records of quantities of special fuel received,
41 produced, refined, manufactured, compounded, used or delivered in this
42 state as required by this chapter; ~~or~~

1 7. Makes any false statement in connection with an application for the
2 refund of any money or taxes provided in this chapter ~~H~~;

3 **8. Violates the provisions of section 4 of this act;**

4 **9. Fails or refuses to stop his motor vehicle for an inspection to**
5 **determine if all excise taxes due pursuant to the provisions of this**
6 **chapter are being properly reported and paid; or**

7 **10. Refuses to allow the department or an authorized agent to inspect**
8 **a motor vehicle to determine whether all excise taxes due pursuant to the**
9 **provisions of this chapter are being properly reported and paid,**

10 is guilty of a misdemeanor.

11 **Sec. 8.** NRS 366.740 is hereby amended to read as follows:

12 366.740 1. ~~The~~ **Except as otherwise provided in section 3 of this**
13 **act, the** department may impose an administrative fine, not to exceed
14 \$2,500, for a violation of any provision of this chapter, or any regulation or
15 order adopted or issued pursuant thereto.

16 **2.** The department shall afford to any person ~~se~~ fined **pursuant to**
17 **this section or section 3 of this act** an opportunity for a hearing pursuant to
18 the provisions of NRS 233B.121.

19 ~~2~~ **3.** All administrative fines collected by the department pursuant to
20 subsection 1 **or section 3 of this act** must be deposited with the state
21 treasurer to the credit of the state highway fund.

22 ~~3~~ **4.** In addition to any other remedy provided by this chapter, the
23 department may compel compliance with any provision of this chapter and
24 any regulation or order adopted or issued pursuant thereto by injunction or
25 other appropriate remedy. The department may institute and maintain in the
26 name of the State of Nevada any such enforcement proceedings.

27 **Sec. 9.** The amendatory provisions of this act do not apply to offenses
28 that were committed before July 1, 1999.

29 **Sec. 10.** This act becomes effective on July 1, 1999.