
ASSEMBLY BILL NO. 255—ASSEMBLYWOMAN KIRKPATRICK
(BY REQUEST)

MARCH 21, 2005

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to dyed special fuels.
(BDR 32-1258)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: No.

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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 taxation; providing for the licensing and regulation of purchasers of dyed special fuel in bulk; requiring each purchaser of dyed special fuel in bulk to submit to the Department of Motor Vehicles a monthly report setting forth certain information relating to dyed special fuel; requiring the Department to cancel certain licenses that have been surrendered to the Department; providing penalties; 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
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this
3 act.

4 **Sec. 2.** *“Dyed special fuel” means special fuel which, in*
5 *accordance with subsection 1 of NRS 366.203, must be dyed*
6 *before it is removed for distribution from the rack.*

7 **Sec. 3.** *“Dyed special fuel in bulk” means dyed special fuel*
8 *which is kept in a tank or storage facility, regardless of the size of*
9 *the container in which the dyed special fuel is kept, for*
10 *redistribution and which does not directly supply an engine. The*



1 *term includes, without limitation, mobile fuel tanks used for*
2 *fueling generators.*

3 **Sec. 4.** *“Purchaser of dyed special fuel in bulk” means a*
4 *person who purchases dyed special fuel for the purpose of fueling*
5 *vehicles, regardless of whether the vehicle is operated on- or*
6 *off-road.*

7 **Sec. 5.** *Each purchaser of dyed special fuel in bulk shall, not*
8 *later than the last day of each month, submit to the Department a*
9 *report that sets forth:*

10 1. *The number of gallons of dyed special fuel in bulk that he*
11 *received during the previous month;*

12 2. *The number of gallons of dyed special fuel in bulk that he*
13 *used during the previous month;*

14 3. *A description of the vehicles in which the dyed special fuel*
15 *was placed during the previous month; and*

16 4. *The number of gallons of dyed special fuel in bulk*
17 *remaining in his inventory on the last day of the previous month.*

18 **Sec. 6.** NRS 366.020 is hereby amended to read as follows:

19 366.020 As used in this chapter, unless the context otherwise
20 requires, the words and terms defined in NRS 366.025 to 366.100,
21 inclusive, *and sections 2, 3 and 4 of this act* have the meanings
22 ascribed to them in those sections.

23 **Sec. 7.** NRS 366.140 is hereby amended to read as follows:

24 366.140 1. Every special fuel supplier, special fuel dealer,
25 special fuel exporter, special fuel transporter, ~~for~~ special fuel user
26 *and purchaser of dyed special fuel in bulk*, and every other person
27 transporting or storing special fuel in this State shall keep such
28 records, receipts, invoices and other pertinent papers with respect
29 thereto as the Department requires.

30 2. The records, receipts, invoices and other pertinent papers
31 used in the preparation of a report or return required pursuant to this
32 chapter must be preserved for 4 years after the report or return is
33 filed with the Department.

34 3. The records, receipts, invoices and other pertinent papers
35 must be available at all times during business hours to the
36 Department or its authorized agents.

37 **Sec. 8.** NRS 366.150 is hereby amended to read as follows:

38 366.150 1. The Department or its authorized agents may:

39 (a) Examine the books, papers, records and equipment of any
40 special fuel supplier, special fuel dealer, special fuel exporter,
41 special fuel transporter, special fuel user, *purchaser of dyed special*
42 *fuel in bulk* or any other person transporting or storing special fuel;

43 (b) Investigate the character of the disposition which any person
44 makes of special fuel; and



(c) Stop and inspect a motor vehicle that is using or transporting special fuel,
→ to determine whether all excise taxes due pursuant to this chapter are being properly reported and paid.

2. The fact that the books, papers, records and equipment described in paragraph (a) of subsection 1 are not maintained in this State at the time of demand does not cause the Department to lose any right of examination pursuant to this chapter at the time and place those books, papers, records and equipment become available.

3. If a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter , ~~for~~ special fuel user *or purchaser of dyed special fuel in bulk* wishes to keep proper books and records pertaining to business done in Nevada elsewhere than within the State of Nevada for inspection as provided in this section, he must pay a fee for the examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the examiner is actually engaged in examining those books and records, plus the actual expenses of the examiner during the time that the examiner is absent from this State for the purpose of making the examination, but the time must not exceed 1 day going to and 1 day coming from the place where the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing those books and records. Not more than two such examinations may be charged against any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter , ~~for~~ special fuel user *or purchaser of dyed special fuel in bulk* in any year.

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

5. Upon the demand of the Department, each special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter , ~~for~~ special fuel user *or purchaser of dyed special fuel in bulk* shall furnish a statement showing the contents of the records to such extent and in such detail and form as the Department may require.

Sec. 9. NRS 366.160 is hereby amended to read as follows:

366.160 1. All records of mileage operated, origin and destination points within this State, equipment operated in this State, gallons or cubic feet consumed, and tax paid must at all reasonable times be open to the public.

2. All supporting schedules, invoices and other pertinent papers relative to the business affairs and operations of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter , ~~for~~ special fuel user ~~for~~ *or purchaser of dyed special*



1 *fuel in bulk*, and any information obtained by an investigation of the
2 records and equipment of any special fuel supplier, special fuel
3 dealer, special fuel exporter, special fuel transporter , ~~for~~ special
4 fuel user ~~or~~ *or purchaser of dyed special fuel in bulk*, shall be
5 deemed confidential and must not be revealed to any person except
6 as necessary to administer this chapter or as otherwise provided by
7 law.

8 **Sec. 10.** NRS 366.203 is hereby amended to read as follows:

9 366.203 1. Special fuel, other than compressed natural gas,
10 liquefied petroleum gas or kerosene, which is exempt from the tax
11 pursuant to subsection 3 or 4 of NRS 366.200 must be dyed before it
12 is removed for distribution from a rack. The dye added to the
13 exempt special fuel must be of the color and concentration required
14 by the regulations adopted by the Secretary of the Treasury pursuant
15 to 26 U.S.C. § 4082.

16 2. Except as otherwise provided in subsections 3, 4 and 5, a
17 person shall not operate or maintain on any highway in this State a
18 motor vehicle which contains *dyed special fuel* in the fuel tank of
19 that vehicle . ~~[special fuel which has been dyed.]~~ A person who
20 operates or maintains a motor vehicle in violation of this subsection
21 and the registered owner of the motor vehicle are jointly and
22 severally liable for any taxes, penalties and interest payable to the
23 Department.

24 3. A person who, pursuant to subsection 2, 3 or 4 of NRS
25 366.200, is exempt from the tax imposed by this chapter may
26 operate or maintain a motor vehicle on a highway in this State
27 which contains *dyed special fuel* in the fuel tank of that vehicle .
28 ~~[special fuel which has been dyed.]~~

29 4. To the extent permitted by federal law, a person may operate
30 or maintain on a highway in this State any special mobile equipment
31 or farm equipment that contains *dyed special fuel* in the fuel tank of
32 the special mobile equipment or farm equipment . ~~[special fuel
33 which has been dyed.]~~ As used in this subsection:

34 (a) "Farm equipment" means any self-propelled machinery or
35 motor vehicle that is designed solely for tilling soil or for
36 cultivating, harvesting or transporting crops or other agricultural
37 products from a field or other area owned or leased by the operator
38 of the farm equipment and in which the crops or agricultural
39 products are grown, to a field, yard, silo, cellar, shed or other facility
40 which is:

41 (1) Owned or leased by the operator of the farm equipment;
42 and



(2) Used to store or process the crops or agricultural products.

↳ The term includes a tractor, baler or swather or any implement used to retrieve hay.

(b) "Highway" does not include a controlled-access highway as defined in NRS 484.041.

5. To the extent authorized by federal law, a person may operate or maintain a motor vehicle on a highway in this State that contains *dyed special fuel* in the fuel tank ~~[special fuel which has been dyed]~~ if the motor vehicle is used only to cross the highway to travel from one parcel of land owned or controlled by the person to another parcel of land owned or controlled by the person.

6. There is a rebuttable presumption that all special fuel which ~~[has not been dyed]~~ *is not dyed special fuel* and which is sold or distributed in this State is for the purpose of propelling a motor vehicle.

Sec. 11. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter, it is unlawful for any:

(a) Special fuel supplier, special fuel dealer or special fuel user to sell or use special fuel within this State unless the special fuel supplier, special fuel dealer or special fuel user is the holder of a special fuel supplier's, special fuel dealer's or special fuel user's license issued to him by the Department.

(b) Person to be a:

(1) Special fuel exporter unless the person is the holder of a special fuel exporter's license issued to him by the Department.

(2) Special fuel transporter unless the person is the holder of a special fuel transporter's license issued to him by the Department.

(3) *Purchaser of dyed special fuel in bulk unless the person is a holder of a license as a purchaser of dyed special fuel in bulk issued to him by the Department.*

2. The Department may adopt regulations relating to the issuance of any special fuel supplier's, special fuel dealer's, special fuel exporter's, special fuel transporter's or special fuel user's license, *and a license as a purchaser of dyed special fuel in bulk*, and the collection of fees therefor.

Sec. 12. NRS 366.240 is hereby amended to read as follows:

366.240 1. Except as otherwise provided in subsection 2, the Department shall:

(a) Upon receipt of the application and bond in proper form, issue to the applicant a special fuel supplier's or special fuel dealer's license.

(b) Upon receipt of the application in proper form, issue to the applicant a special fuel exporter's, special fuel transporter's or



1 special fuel user's license ~~or~~ *or a license as a purchaser of dyed*
2 *special fuel in bulk, as appropriate.*

3 2. The Department may refuse to issue a license pursuant to
4 this section to any person:

5 (a) Who formerly held a license issued pursuant to this chapter
6 or a similar license of any other state, the District of Columbia, the
7 United States, a territory or possession of the United States or any
8 foreign country which, before the time of filing the application, has
9 been revoked for cause;

10 (b) Who applies as a subterfuge for the real party in interest
11 whose license, before the time of filing the application, has been
12 revoked for cause;

13 (c) Who, if he is a special fuel supplier or special fuel dealer,
14 neglects or refuses to furnish a bond as required by this chapter;

15 (d) Who is in default in the payment of a tax on special fuel in
16 this State, any other state, the District of Columbia, the United
17 States, a territory or possession of the United States or any foreign
18 country;

19 (e) Who has failed to comply with any provision of this chapter;
20 or

21 (f) Upon other sufficient cause being shown.

22 **Sec. 13.** NRS 366.250 is hereby amended to read as follows:

23 366.250 Any applicant whose application for a special fuel
24 supplier's license, special fuel dealer's license, special fuel
25 exporter's license, special fuel transporter's license or special
26 fuel user's license, *or for a license as a purchaser of dyed special*
27 *fuel in bulk* has been denied may petition the Department for a
28 hearing. The Department shall:

29 1. Grant the applicant a hearing.

30 2. Provide to the applicant, not less than 10 days before the
31 hearing, written notice of the time and place of the hearing.

32 **Sec. 14.** NRS 366.270 is hereby amended to read as follows:

33 366.270 If any person ceases to be a special fuel supplier,
34 special fuel dealer, special fuel exporter, special fuel transporter,
35 ~~or~~ special fuel user *or purchaser of dyed special fuel in bulk*
36 within this State by reason of the discontinuance, sale or transfer of
37 his business, he shall:

38 1. Notify the Department in writing at the time the
39 discontinuance, sale or transfer takes effect. The notice must give
40 the date of the discontinuance, sale or transfer, and the name and
41 address of any purchaser or transferee.

42 2. Surrender to the Department the license issued to him by the
43 Department.



3. If he is:

(a) A special fuel user, file the tax return required pursuant to NRS 366.380 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(b) A special fuel supplier, file the tax return required pursuant to NRS 366.383 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(c) A special fuel dealer, file the tax return required pursuant to NRS 366.386 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A special fuel exporter, file the report required pursuant to NRS 366.387 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(e) A special fuel transporter, file the report required pursuant to NRS 366.695 within 25 days after the end of the month of the discontinuance, sale or transfer of the business.

(f) A purchaser of dyed special fuel in bulk, file the report required pursuant to section 5 of this act on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

Sec. 15. NRS 366.350 is hereby amended to read as follows:

366.350 1. The Department may revoke the license of any special fuel dealer, special fuel supplier, special fuel exporter, special fuel transporter, ~~or~~ special fuel user *or purchaser of dyed special fuel in bulk* for reasonable cause, including, without limitation, refusing or neglecting to comply with the provisions of this chapter.

2. Before revoking a license, the Department shall send a notice by registered or certified mail to the licensee at his last known address ordering him to appear before the Department at a time not less than 10 days after the mailing of the notice and show cause why the license should not be revoked.

Sec. 16. NRS 366.360 is hereby amended to read as follows:

366.360 1. The Department shall cancel any license to act as a special fuel supplier, special fuel dealer ~~or~~, *special fuel exporter, special fuel transporter*, special fuel user *or purchaser of*



1 *dyed special fuel in bulk* immediately upon the surrender thereof by
2 the holder.

3 2. If a surety has lodged with the Department a written request
4 to be released and discharged of liability, the Department shall
5 immediately notify the special fuel supplier or special fuel dealer
6 who furnished the bond, and unless he files a new bond as required
7 by the Department within 30 days or makes a deposit in lieu thereof
8 as provided in NRS 366.235, the Department may cancel his license.

9 3. If a special fuel supplier or special fuel dealer becomes
10 delinquent in the payment of excise taxes as prescribed by this
11 chapter to the extent that his liability exceeds the total amount of
12 bond furnished by him, the Department may cancel his license
13 immediately.

14 **Sec. 17.** NRS 366.650 is hereby amended to read as follows:

15 366.650 1. If illegally or through error the Department
16 collects or receives any excise tax, penalty or interest imposed
17 pursuant to this chapter, the excise tax, penalty or interest must be
18 refunded to the person who paid the tax, penalty or interest. A
19 written application for a refund, stating the specific grounds
20 therefor, must be made within 12 months after the date of payment,
21 whether or not the excise tax, penalty or interest was paid
22 voluntarily or under protest.

23 2. Refunds must be made to a successor, assignee, estate or
24 heir of the person if written application is made within the time
25 limit.

26 3. Any amount determined to be refundable by the Department
27 must be refunded or credited to any amounts then due from the
28 special fuel supplier or special fuel dealer. *If the applicant for the
29 refund is a special fuel supplier, the amount of the refund or
30 credit must be equal to the amount of the tax paid by the special
31 fuel supplier less the percentage allowed the special fuel supplier
32 pursuant to NRS 366.390.*

33 4. All amounts refunded pursuant to the provisions of this
34 chapter must be paid from the State Highway Fund on claims
35 presented by the Department, approved by the State Board of
36 Examiners, and allowed and paid as other claims against the State
37 are allowed and paid.

38 5. A licensed special fuel user operating interstate or off road,
39 or both, who can prove to the satisfaction of the Department that his
40 special fuel purchases in Nevada exceed his use of the special fuel
41 over the highways of this State for a certain quarter must apply
42 credit to any excise taxes, penalties or interest required by this
43 chapter or fees, taxes, penalties or interest applicable pursuant to
44 chapter 371, 482 or 706 of NRS and any balance may be refunded
45 or credited to succeeding reports.



1 6. A person who wishes to apply for a refund of the tax on
2 special fuel paid by him pursuant to subsection 5 of NRS 366.207
3 must:

4 (a) Submit an application for the refund on a form prescribed by
5 the Department; and

6 (b) Establish to the satisfaction of the Department that within a
7 period of 6 months he purchased not less than 200 gallons of special
8 fuel in this State which was used for a purpose that is exempt from
9 the tax on special fuel pursuant to NRS 366.200.

10 ~~{→ The Department shall refund to an applicant who complies with~~
11 ~~the provisions of this subsection a refund in an amount equal to the~~
12 ~~tax paid by the applicant less the percentage allowed the special fuel~~
13 ~~supplier pursuant to NRS 366.390.]~~

14 **Sec. 18.** This act becomes effective:

15 1. Upon passage and approval for the purpose of adopting
16 regulations and taking such other actions as are required to carry out
17 the provisions of this act; and

18 2. On January 1, 2006, for all other purposes.



