
ASSEMBLY BILL NO. 595—COMMITTEE ON TRANSPORTATION

(ON BEHALF OF THE DEPARTMENT OF MOTOR VEHICLES)

MARCH 26, 2007

Referred to Concurrent Committees on Transportation and Taxation

SUMMARY—Makes various changes relating to taxes on fuels.
(BDR 32-643)

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: Yes.

~

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

AN ACT relating to taxes on fuels; prohibiting the payment of interest on certain overpayments; revising provisions governing hearings on petitions for redetermination; prohibiting the disclosure of certain information; revising provisions governing the reporting, payment, collection and refunding of certain excise taxes; prohibiting the making of certain false or fraudulent reports; authorizing the sealing of a fuel pump and the metered pipes and hoses of a rack under certain circumstances; authorizing the sharing of additional information with other states for enforcement purposes; revising provisions governing licensure and bonding; revising provisions governing the maintenance and inspection of certain records; making various changes concerning enforcement; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, a taxpayer is entitled to receive interest on an overpayment
2 of taxes. (NRS 360.2935, 360A.110) **Section 2** of this bill provides that no interest
3 will be paid on an overpayment of taxes on fuels if the overpayment is made
4 intentionally or carelessly.

5 Under existing law, if the Department of Motor Vehicles issues a deficiency
6 determination against a taxpayer for underpayment of taxes on fuels, the taxpayer



* A B 5 9 5 *

7 may file a petition for redetermination and seek an oral hearing on the petition.
8 (NRS 360A.160, 360A.180) **Section 3** of this bill changes the hearing to an
9 administrative hearing.

10 Under existing law, persons licensed under chapter 365 of NRS are required to
11 submit reports and pay excise taxes to the Department for motor vehicle and other
12 fuels subject to that chapter. (NRS 365.170, 365.175) **Section 5** of this bill imposes
13 similar requirements on unlicensed persons who collect such excise taxes.

14 Existing law in chapter 366 of NRS concerning taxes on special fuels includes
15 provisions relating to the confidentiality of records, the unlawful disclosure of
16 information, false or fraudulent reports, and the sealing of fuel pumps. (NRS
17 366.160, 366.180, 366.710, 366.715) **Sections 6-9** of this bill add similar
18 provisions to chapter 365 of NRS concerning taxes on motor vehicle and other
19 fuels.

20 Under existing law, licenses issued pursuant to chapter 365 of NRS for dealers,
21 suppliers, transporters and exporters are valid until suspended, revoked or
22 cancelled. (NRS 365.304) **Section 15** of this bill limits the validity of each such
23 license to 1 year and requires the Department to adopt regulations providing for the
24 renewal of such licenses.

25 Existing law in chapter 366 of NRS concerning taxes on special fuels includes
26 provisions governing the due date of such taxes. (NRS 366.370) **Section 18** of this
27 bill adds similar provisions to chapter 365 of NRS concerning taxes on motor
28 vehicle and other fuels. (NRS 365.330)

29 **Section 21** of this bill increases the power of the Department and its agents to
30 make examinations and inspections, including the power to stop and inspect motor
31 vehicles that are using or transporting motor vehicle and other fuels, to determine
32 whether all excise taxes due pursuant to chapter 365 of NRS are being properly
33 reported and paid. (NRS 365.500)

34 Under existing law, persons licensed under chapter 366 of NRS are required to
35 file tax returns and pay excise taxes to the Department for special fuels subject to
36 that chapter. (NRS 366.380, 366.383, 366.386, 366.540) **Section 26** of this bill
37 imposes similar requirements on unlicensed persons who collect such excise taxes.

38 Existing law in chapter 365 of NRS concerning taxes on motor vehicle and
39 other fuels includes provisions relating to the liability of a person for willfully
40 failing to collect or pay excise taxes, the records that must be maintained by
41 retailers, the payment of the costs of prosecuting violations, and the enforcement of
42 the provisions of the chapter by county sheriffs and other peace officers. (NRS
43 365.351, 365.510, 365.590, 365.610) **Sections 27-30** of this bill add similar
44 provisions to chapter 366 of NRS concerning taxes on special fuel.

45 Under existing law, licenses issued pursuant to chapter 366 of NRS for special
46 fuel dealers, special fuel suppliers, special fuel transporters and special fuel
47 exporters are valid until suspended, revoked or cancelled, and licenses for special
48 fuel users are valid for 1 year. (NRS 366.260) **Section 36** of this bill limits the
49 validity of each such license to 1 year and requires the Department to adopt
50 regulations providing for the renewal of such licenses.

51 **Section 46** of this bill revises the provisions in NRS 366.720 that establish
52 various violations and penalties relating to taxes on special fuels by specifying that
53 each day during which such a violation occurs constitutes a separate offense.

54 Existing law authorizes a purchaser of motor vehicle fuel or special fuel from a
55 supplier to apply to the Department for a permit to defer payment of the taxes to the
56 supplier, and authorizes the supplier to deduct from his tax payments to the
57 Department the amount of such deferred taxes. (NRS 365.326, 365.328, 366.397,
58 366.540) **Sections 42 and 47** of this bill delete or repeal those provisions. **Section**
59 **47** also repeals NRS 366.360 because its provisions are being added to NRS
60 366.350 by **section 38** of this bill.



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

Section 1. NRS 360A.050 is hereby amended to read as follows:

360A.050 ~~{Except for any payments authorized pursuant to NRS 365.328, 365.340, 366.375 and 366.397, if}~~ *If* the Department grants an extension of time for paying any amount required to be paid pursuant to chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840, a person who pays the amount within the period for which the extension is granted shall pay, in addition to the amount owing, interest at the rate of 1 percent per month from the date the amount would have been due without the extension until the date of payment.

Sec. 2. NRS 360A.110 is hereby amended to read as follows:

360A.110 ~~{In}~~

1. Except as otherwise provided in subsection 2, in making a determination, the Department may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods or against penalties and the interest on underpayments.

2. No interest is allowed on any overpayment that the Department determines has been made intentionally or by reason of careless reporting.

Sec. 3. NRS 360A.180 is hereby amended to read as follows:

360A.180 1. If a petition for redetermination is filed within the period prescribed in NRS 360A.160, the Department shall reconsider the determination and, if the person has so requested in the petition, grant the person an ~~{oral}~~ *administrative* hearing and give him at least 10 days' notice of the time and place of the hearing.

2. ~~{The Department may continue the}~~ *Any* hearing *held pursuant to subsection 1 may be continued* from time to time as may be necessary.

3. A petitioner aggrieved by the decision of the Department may appeal the decision by submitting a written request to the Department for an administrative hearing not more than 30 days after notice of the redetermination was made by the Department.

Sec. 4. Chapter 365 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 9, inclusive, of this act.

Sec. 5. *Every person not licensed pursuant to this chapter who collects an excise tax shall:*



1 1. Not later than the last day of each calendar month, submit
2 a statement to the Department of all such taxes collected during
3 the preceding calendar month; and

4 2. In accordance with the provisions of NRS 365.330, pay the
5 tax to the Department.

6 **Sec. 6.** All supporting schedules, invoices and other pertinent
7 papers relating to the business affairs and operations of any
8 supplier, dealer, exporter or transporter, and any information
9 obtained by an investigation of the records and equipment of any
10 supplier, dealer, exporter or transporter, shall be deemed
11 confidential and must not be revealed to any person except as
12 necessary to administer this chapter or as otherwise provided by
13 law.

14 **Sec. 7.** 1. It is unlawful for the Department or any person
15 having an administrative duty under this chapter to divulge or to
16 make known in any manner whatever the business affairs,
17 operations or information obtained by an investigation or
18 examination of the records of any person visited or examined in
19 the discharge of official duty, or the amount or source of income,
20 profits, losses, expenditures or any particular thereof set forth or
21 disclosed in any report, or to permit any report or copy thereof to
22 be seen or examined by any person except as otherwise provided in
23 section 6 of this act and NRS 365.140.

24 2. Any violation of the provisions of subsection 1 is a gross
25 misdemeanor.

26 **Sec. 8.** Any person required to make, submit, sign or verify
27 any report who makes any false or fraudulent report with intent to
28 defeat or evade the assessment required by law to be made is guilty
29 of a gross misdemeanor.

30 **Sec. 9.** 1. The Department may seal a fuel pump of a
31 retailer or dealer, or the metered pipes and hoses of a rack of a
32 dealer or supplier, if the retailer, dealer or supplier:

33 (a) Becomes delinquent in payment of any amount due
34 pursuant to the provisions of this chapter;

35 (b) Operates without the license required by the provisions of
36 this chapter; or

37 (c) Operates without the bond or cash deposit required by the
38 provisions of this chapter.

39 2. A fuel pump of a retailer or dealer, or the metered pipes
40 and hoses of a rack of a dealer or supplier, may be sealed until all
41 required reports are filed, the tax, penalties and interest are paid
42 in full, the required license is obtained and the bond or cash
43 deposit is provided.

44 3. Before sealing a fuel pump or the metered pipes and hoses
45 of a rack, the Department must send a notice by registered or



1 *certified mail to the retailer, dealer or supplier at his last known*
2 *address ordering him to appear before the Department at a time*
3 *not less than 10 days after the mailing of the notice and show*
4 *cause why the fuel pump or the metered pipes and hoses of the*
5 *rack should not be sealed.*

6 **Sec. 10.** NRS 365.092 is hereby amended to read as follows:

7 365.092 "Transporter" means a person, except a supplier or an
8 exporter licensed pursuant to this chapter, who transports motor
9 vehicle fuel or fuel for jet or turbine-powered aircraft *by pipeline,*
10 *rail or truck* in interstate commerce to or from any point within this
11 State, or solely within this State.

12 **Sec. 11.** NRS 365.140 is hereby amended to read as follows:

13 365.140 The Department ~~[shall,]~~ *may*, upon a request from the
14 officials to whom is entrusted the enforcement of the motor vehicle
15 fuel tax laws of any other state, if the other state furnishes ~~[like]~~
16 *similar* information to this State, forward any information which it
17 may have in its possession relative to the manufacture, receipt,
18 *storage, delivery,* sale, use, transportation, ~~[or]~~ shipment *or other*
19 *disposition* by any *supplier, dealer, exporter, transporter or other*
20 person of motor vehicle fuel or fuel for jet or turbine-powered
21 aircraft.

22 **Sec. 12.** NRS 365.170 is hereby amended to read as follows:

23 365.170 Except as otherwise provided in NRS 365.135, every
24 dealer shall ~~[,not]~~ :

25 1. *Not* later than the last day of each calendar month ~~[:~~
26 ~~—1.—Render]~~, *submit* to the Department a statement of all
27 aviation fuel and fuel for jet or turbine-powered aircraft sold,
28 distributed or used by him in this State, as well as all such fuel sold,
29 distributed or used in this State by a purchaser thereof upon which
30 sale, distribution or use the dealer has assumed liability for the tax
31 thereon pursuant to NRS 365.020, during the preceding calendar
32 month; and

33 2. ~~[Pay]~~ *In accordance with the provisions of NRS 365.330,*
34 *pay* an excise tax on:

35 (a) All fuel for jet or turbine-powered aircraft in the amount of 1
36 cent per gallon, plus any applicable amount imposed pursuant to
37 NRS 365.203; and

38 (b) Aviation fuel in the amount of 2 cents per gallon, plus any
39 applicable amount imposed pursuant to NRS 365.203,

40 *so sold, distributed or used .* ~~[,in the manner and within the time~~
41 ~~prescribed in this chapter.]~~

42 **Sec. 13.** NRS 365.175 is hereby amended to read as follows:

43 365.175 Except as otherwise provided in NRS 365.135, every
44 supplier shall ~~[,not]~~ :

45 1. *Not* later than the last day of each calendar month ~~[:~~



1 ~~1. Submit~~, *submit* to the Department a statement of all motor
2 vehicle fuel, except aviation fuel, sold, distributed or used by him in
3 this State ~~[i] during the preceding calendar month;~~ and

4 2. ~~[Pay]~~ *In accordance with the provisions of NRS 365.330,*
5 *pay* an excise tax on all motor vehicle fuel, except aviation fuel, in
6 the amount of 17.65 cents per gallon *so* sold, distributed or used . ~~[in~~
7 ~~the manner prescribed in this chapter.]~~

8 **Sec. 14.** NRS 365.290 is hereby amended to read as follows:

9 365.290 1. Before granting any application for a license as a
10 dealer or supplier, the Department shall require the applicant to file
11 with the Department a bond executed by the applicant as principal,
12 and by a corporation qualified under the laws of this State as surety,
13 payable to this State and conditioned upon the faithful performance
14 of all the requirements of this chapter and upon the punctual
15 payment of all excise taxes, penalties and other obligations of the
16 applicant as a dealer or supplier.

17 2. The total amount of the bond or bonds required of any dealer
18 or supplier must be fixed by the Department at three times the
19 estimated maximum monthly tax, determined in such a manner as
20 the Department deems proper, or \$1,000, whichever is greater. If
21 ~~[the Department determines that]~~ a person is habitually delinquent in
22 the payment of amounts due pursuant to this chapter, ~~[it]~~ *the*
23 *Department* may increase the amount of his security to not more
24 than five times the estimated maximum monthly tax. When cash or
25 a savings certificate, certificate of deposit or investment certificate
26 is used, the amount required must be rounded off to the next larger
27 integral multiple of \$100, within the same upper limit.

28 3. The Department may increase or decrease the amount of
29 security required by this section subject to the limitations provided
30 in this section.

31 4. No recovery on any bond, ~~[nor the]~~ execution of any new
32 bond, ~~[nor the]~~ or revocation, cancellation or suspension of any
33 license , affects the validity of any bond.

34 5. In lieu of any bond or bonds, a dealer or supplier may
35 deposit with the Department, under such terms and conditions as the
36 Department may prescribe, ~~[a like]~~ *an equivalent* amount of lawful
37 money of the United States or any other form of security authorized
38 by NRS 100.065. If security is provided in the form of a savings
39 certificate, certificate of deposit or investment certificate, the
40 certificate must state that the amount is unavailable for withdrawal
41 except upon order of the Department.

42 6. *If the amount of security required by this section is*
43 *decreased pursuant to subsection 3, the Department shall*
44 *immediately reinstate the original requirements for a bond for a*
45 *holder of a license as a dealer or supplier upon his:*



1 (a) *Lack of faithful performance of the requirements of this*
2 *chapter; or*

3 (b) *Failure to pay punctually all taxes, fees, penalties and*
4 *interest due the State of Nevada.*

5 7. *For the purposes of this section, a person is “habitually*
6 *delinquent” if, within any 12-month period, the person commits*
7 *each of the following acts or commits either of the following acts*
8 *more than once:*

9 (a) *Fails timely to file a monthly tax return, unless the*
10 *Department determines that:*

11 (1) *The failure to file was caused by circumstances beyond*
12 *the control of the person and occurred notwithstanding the*
13 *exercise of ordinary care; and*

14 (2) *The person has paid any penalty and interest imposed*
15 *by the Department because of the failure to file.*

16 (b) *Fails timely to submit to the Department any tax collected*
17 *by the person pursuant to this chapter.*

18 **Sec. 15.** NRS 365.304 is hereby amended to read as follows:

19 365.304 1. A license issued pursuant to this chapter:

20 ~~1-1~~ (a) Is valid ~~until~~ *for 1 year, unless* suspended, revoked or
21 cancelled.

22 ~~1-2~~ (b) Is not transferable.

23 2. *The Department shall adopt regulations providing for the*
24 *renewal of such licenses.*

25 **Sec. 16.** NRS 365.306 is hereby amended to read as follows:

26 365.306 If any person ceases to be a dealer, supplier, exporter
27 or transporter within this State by reason of the discontinuance, sale
28 or transfer of his business, he shall:

29 1. Notify the Department in writing at the time the
30 discontinuance, sale or transfer takes effect. The notice must give
31 the date of the discontinuance, sale or transfer, and the name and
32 address of any purchaser or transferee.

33 2. Surrender to the Department the license issued to him
34 pursuant to this chapter.

35 3. If he is:

36 (a) A dealer, file a monthly tax return and pay all taxes, interest
37 and penalties required pursuant to chapter 360A of NRS and NRS
38 365.170 and 365.203 on or before the last day of the month
39 following the month of the discontinuance, sale or transfer of the
40 business.

41 (b) A supplier, file a monthly tax return and pay all taxes,
42 interest and penalties required pursuant to chapter 360A of NRS and
43 NRS 365.175 to 365.192, inclusive, on or before the last day of the
44 month following the month of the discontinuance, sale or transfer of
45 the business.



(c) An exporter, file the report required pursuant to NRS 365.515 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A transporter, file the report required pursuant to NRS 365.520 ~~[within 25 days after the end]~~ *on or before the last day* of the month *following the month* of the discontinuance, sale or transfer of the business.

Sec. 17. NRS 365.324 is hereby amended to read as follows:

365.324 1. Except as otherwise provided in ~~[subsections 2 and 3,]~~ *subsection 2*, each supplier who sells or distributes motor vehicle fuel, other than aviation fuel, shall, at the time the motor vehicle fuel is distributed from a terminal, collect the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive.

2. ~~[A supplier may sell motor vehicle fuel, other than aviation fuel, to a purchaser without collecting the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, if the purchaser of the motor vehicle fuel:~~

~~—(a) Has been issued a permit by the Department pursuant to NRS 365.328; and~~

~~—(b) Elects to defer payment of the taxes.~~

~~—3.]~~ A supplier shall not collect the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, if the purchaser of the motor vehicle fuel is:

(a) A supplier; or

(b) An exporter.

3. *A supplier or exporter shall not purchase motor vehicle fuel on which the tax has been paid, except that a newly licensed supplier or exporter may purchase such fuel during its first month of operation.*

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

(a) The records which must be kept by ~~[the dealer]~~ *a supplier* pursuant to this subsection; and

(b) The period for which those records must be kept . ~~[by the dealer.]~~

Sec. 18. NRS 365.330 is hereby amended to read as follows:

365.330 1. The excise taxes ~~[prescribed in]~~ *imposed by* this chapter ~~[must be paid on or before the last day of each calendar month to the Department.]~~ *are due on or before the last day of the first month following the month to which they relate.*

2. *If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.*



3. *Payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing payment properly addressed to the Department.*

4. The Department shall deliver the taxes to the State Treasurer, who shall provide ~~to the dealer, supplier or user~~ a receipt for the payment of the taxes ~~to~~

~~2.]~~ *to the person who made the payment.*

5. Except as otherwise provided in subsection ~~3.]~~ 6:

(a) From the tax found to be due upon any statement submitted by a dealer pursuant to NRS 365.170, the dealer may retain an amount equal to 2 percent of the amount of the tax collected to cover the dealer's costs of collection of the tax and of compliance with this chapter, and the dealer's handling losses occasioned by evaporation, spillage or other similar causes.

(b) Each supplier may retain an amount equal to 2 percent of the amount of the tax collected by the supplier to cover the supplier's costs of collection of the tax and of compliance with this chapter, and the supplier's handling losses occasioned by evaporation, spillage or other similar causes.

~~3.]~~ 6. A dealer or supplier who fails to submit a tax return when due pursuant to this chapter or fails to pay the tax when due pursuant to this chapter is not entitled to retain any of the amount authorized pursuant to subsection ~~2.]~~ 5 for any month for which a tax return is not filed when due or a payment is not made when due.

~~4.]~~ 7. If the Department determines that a dealer or supplier, *or any unlicensed person who collects an excise tax*, has failed to submit a tax return when due pursuant to this chapter or failed to pay the tax when due pursuant to this chapter, the Department may order the dealer, ~~or~~ supplier *or unlicensed person* to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State. The dealer, ~~or~~ supplier *or unlicensed person* shall comply with the order immediately upon receiving notification of the order from the Department.

Sec. 19. NRS 365.340 is hereby amended to read as follows:

365.340 1. If the amount of any excise tax for any month is not paid to the State on or before the ~~last day of the next month,~~ *date due*, it becomes delinquent at the close of business on that day. ~~[A dealer, supplier or user may have up to 15 additional days to make the payment if he makes written application to the Department on or before the day the payment is due and the Department finds good cause for the extension.]~~

2. The proceeds from any penalty levied for the delinquent payment of an excise tax must be deposited with the State Treasurer to the credit of the State Highway Fund.



* A B 5 9 5 *

Sec. 20. NRS 365.370 is hereby amended to read as follows:

365.370 Any person who exports any motor vehicle fuel or fuel for jet or turbine-powered aircraft from this State, or who sells any such fuel to the United States Government for official use of the United States Armed Forces, or who buys and uses any such fuel for purposes other than for the propulsion of motor vehicles or jet or turbine-powered aircraft, and who has paid any tax on such fuel levied or directed to be paid as provided by this chapter, either directly by the collection of the tax by the vendor from the customer or indirectly by the addition of the amount of the tax to the price of the fuel, must be reimbursed and repaid the amount of the tax so paid by him, except as follows:

1. ~~[Refund-claims]~~ *Claims for refunds* must be paid by prescribed classes in accordance with the ~~[department's regulations.]~~ *regulations of the Department.*

2. The minimum claim for a refund must be based on at least 200 gallons of such fuel purchased ~~[and used]~~ in this State within a 6-month period ~~[.]~~ *which is used for a purpose that is exempt from payment of the excise taxes imposed by this chapter.*

3. No refund of motor vehicle fuel taxes may be made for off-highway use of motor vehicle fuel consumed in watercraft in this State for recreational purposes.

4. A person who exports, sells, buys or uses aviation fuel for any purpose is not entitled to reimbursement of any tax paid by him on such fuel.

Sec. 21. NRS 365.500 is hereby amended to read as follows:

365.500 1. Every dealer, supplier, exporter and transporter shall cause to be kept a true record, in such form as may be prescribed or approved by the Department, of all stocks of motor vehicle fuel and fuel for jet or turbine-powered aircraft and of other inflammable or combustible liquids, and of all manufacture, refining, compounding, blending, purchases, receipts, exportations, transportations, use, sales and distribution thereof.

2. The *Department or its authorized agents may:*

(a) *Examine the books, records, papers and equipment of any dealer, supplier, exporter or transporter of such fuel or liquids, or of any other person transporting or storing such fuel or liquids;*

(b) *Investigate the character of the disposition which any person makes of such fuel or liquids; and*

(c) *Stop and inspect a motor vehicle that is using or transporting such fuel or liquids,*

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

3. *Books and records* ~~[are subject to inspection at all times within business hours by the Department or its authorized agents,~~



* A B 5 9 5 *

1 ~~and~~ *subject to examination pursuant to subsection 2* must remain
2 available for ~~[inspection]~~ *examination* for a period of 4 years after
3 the date of any entry therein.

4 ~~[3.]~~ 4. If a dealer, supplier, exporter or transporter wishes to
5 keep proper books and records pertaining to business done in
6 Nevada elsewhere than within the State of Nevada for inspection as
7 provided in this section, he must pay a fee for the examination in an
8 amount per day equal to the amount set by law for out-of-state travel
9 for each day or fraction thereof during which the examiner is
10 actually engaged in examining those books and records, plus the
11 actual expenses of the examiner during the time that the examiner is
12 absent from this State for the purpose of making the examination,
13 but the time must not exceed 1 day going to and 1 day coming from
14 the place where the examination is to be made in addition to the
15 number of days or fractions thereof the examiner is actually engaged
16 in auditing those books and records. Not more than two such
17 examinations may be charged against any dealer, supplier, exporter
18 or transporter in any year.

19 ~~[4.]~~ 5. Any money received must be deposited by the
20 Department to the credit of the fund or operating account from
21 which the expenditures for the examination were paid.

22 ~~[5.]~~ 6. Upon the demand of the Department, each dealer,
23 supplier, exporter or transporter shall furnish a statement showing
24 the contents of the *books and* records to such extent and in such
25 detail and form as the Department may require.

26 **Sec. 22.** NRS 365.520 is hereby amended to read as follows:

27 365.520 1. Every transporter, except a dealer licensed under
28 this chapter or a wholesale distributor transporting the products of a
29 dealer licensed under this chapter, who transports motor vehicle fuel
30 or fuel for jet or turbine-powered aircraft in interstate commerce to
31 or from any point within this State, or solely within this State, shall
32 report all ~~[of]~~ those deliveries to the Department.

33 2. A report must be made for each calendar month and must be
34 filed ~~[within 25 days after the end of the month for which the report~~
35 ~~is made.]~~ *not later than the last day of each month for the*
36 *deliveries made during the preceding month.* The report must
37 show:

38 (a) The name and address of every consignor and consignee and
39 of every person other than the designated consignee to whom
40 delivery has actually been made.

41 (b) The date of every delivery.

42 (c) The amount of every delivery in gallons.

43 (d) Such other information as the Department may require.



* A B 5 9 5 *

Sec. 23. NRS 365.545 is hereby amended to read as follows:

365.545 1. The proceeds of all taxes on fuel for jet or turbine-powered aircraft imposed pursuant to the provisions of NRS 365.170 or 365.203 must be deposited in the Account for Taxes on Fuel for Jet or Turbine-Powered Aircraft in the State General Fund and must be allocated monthly by the Department to the:

(a) Governmental entity which operates the airport at which the tax was collected, if the airport is operated by a governmental entity;

(b) Governmental entity which owns the airport at which the tax was collected, if the airport is owned but not operated by a governmental entity; or

(c) County in which is located the airport at which the tax was collected, if the airport is neither owned nor operated by a governmental entity.

2. Except as otherwise provided in subsection 3, the money allocated pursuant to subsection 1:

(a) Must be used by the governmental entity receiving it to pay the cost of:

(1) Transportation projects related to airports, including access on the ground to airports;

(2) The payment of principal and interest on notes, bonds or other obligations incurred to fund projects described in subparagraph (1);

(3) Promoting the use of an airport located in a county whose population is less than 400,000, including, without limitation, increasing the number and availability of flights at the airport;

(4) Contributing money to the Trust Fund for Aviation created by NRS 494.048; or

(5) Any combination of those purposes; and

(b) May also be pledged for the payment of general or special obligations issued to fund projects described in paragraph (a). Any money pledged pursuant to this paragraph may be treated as pledged revenues of the project for the purposes of subsection 3 of NRS 350.020.

3. Any money allocated pursuant to subsection 1 to a county whose population is 400,000 or more and in which a regional transportation commission has been created pursuant to chapter 373 of NRS, from the proceeds of the tax imposed pursuant to ~~subparagraph (1) of paragraph (b) of subsection 1~~ **paragraph (a) of subsection 2** of NRS 365.170 on fuel for jet or turbine-powered aircraft sold, distributed or used in that county, excluding the proceeds of any tax imposed pursuant to NRS 365.203, may, in addition to the uses authorized pursuant to subsection 2, be allocated by the county to that regional transportation commission. The



1 money allocated pursuant to this subsection to a regional
2 transportation commission:

3 (a) Must be used by the regional transportation commission:

4 (1) To pay the cost of transportation projects described in a
5 regional plan for transportation established by that regional
6 transportation commission pursuant to NRS 373.1161;

7 (2) For the payment of principal and interest on notes, bonds
8 or other obligations incurred to fund projects described in
9 subparagraph (1); or

10 (3) For any combination of those purposes; and

11 (b) May also be pledged for the payment of general or special
12 obligations issued by the county at the request of the regional
13 transportation commission to fund projects described in paragraph
14 (a). Any money pledged pursuant to this paragraph may be treated
15 as pledged revenues of the project for the purposes of subsection 3
16 of NRS 350.020.

17 **Sec. 24.** NRS 365.575 is hereby amended to read as follows:

18 365.575 An exporter shall not sell or distribute motor vehicle
19 fuel ~~[, other than aviation fuel,]~~ in this State. An exporter who
20 violates the provisions of this section:

21 1. Is guilty of a misdemeanor; and

22 2. Shall, within the period prescribed in NRS ~~[365.175,]~~
23 **365.330**, pay to the Department the taxes imposed pursuant to NRS
24 365.175 to 365.192, inclusive, on all motor vehicle fuel ~~[, other than~~
25 ~~aviation fuel,]~~ sold or distributed in this State.

26 **Sec. 25.** Chapter 366 of NRS is hereby amended by adding
27 thereto the provisions set forth as sections 26 to 30, inclusive, of this
28 act.

29 **Sec. 26.** *Every person not licensed pursuant to this chapter*
30 *who collects an excise tax shall, not later than the last day of each*
31 *calendar month, file with the Department a tax return upon which*
32 *is reported all such taxes collected during the preceding calendar*
33 *month and, in accordance with the provisions of NRS 366.370,*
34 *pay the tax to the Department.*

35 **Sec. 27.** *1. A responsible person who willfully fails to*
36 *collect or pay to the Department the tax imposed by this chapter or*
37 *who willfully attempts to evade the payment of the tax is jointly*
38 *and severally liable with the special fuel dealer or special fuel*
39 *supplier for the tax owed, plus interest and all applicable penalties.*
40 *The responsible person shall pay the tax upon notice from the*
41 *Department that it is due.*

42 *2. As used in this section, "responsible person" includes:*

43 *(a) An officer or employee of a corporation; and*

44 *(b) A member or employee of a partnership or limited-liability*
45 *company,*



1 ↪ *whose job or duty it is to collect, account for or pay to the*
2 *Department the tax imposed by this chapter.*

3 **Sec. 28.** 1. *Every retailer shall maintain and keep within*
4 *the State for a period of 4 years a true record of special fuel*
5 *received, the price thereof and the name of the person who*
6 *supplied the special fuel, together with delivery tickets, invoices*
7 *and such other records as the Department may require.*

8 2. *Such records are subject to inspection by the Department*
9 *or its authorized agents at all times during business hours.*

10 **Sec. 29.** *The Department is authorized to have paid out of the*
11 *State Highway Fund all expenses incurred in the prosecution*
12 *before any court of this State of any person charged with the*
13 *violation of any provision of this chapter.*

14 **Sec. 30.** *County sheriffs and all other peace officers and*
15 *traffic officers of this State shall, without further compensation,*
16 *assist in the enforcement of this chapter, and make arrests for that*
17 *purpose when requested by the Department or its duly authorized*
18 *agents.*

19 **Sec. 31.** NRS 366.075 is hereby amended to read as follows:

20 366.075 “Special fuel transporter” means a person, except a
21 special fuel supplier or special fuel exporter licensed pursuant to this
22 chapter, who transports special fuel in interstate commerce *by*
23 *pipeline, rail or truck* to or from any point within this State, or
24 solely within this State.

25 **Sec. 32.** NRS 366.140 is hereby amended to read as follows:

26 366.140 1. Every special fuel supplier, special fuel dealer,
27 special fuel exporter, special fuel transporter, special fuel user and
28 retailer, and every other person transporting or storing special fuel in
29 this State shall keep such records, receipts, invoices and other
30 pertinent papers with respect thereto as the Department requires.

31 2. The records, receipts, invoices and other pertinent papers
32 described in subsection 1 must be preserved for 4 years after the
33 date on which the record, receipt, invoice or other pertinent paper
34 was created or generated.

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

38 4. *In addition to any other penalty that may be imposed, any*
39 *violation of the provisions of this section constitutes grounds for*
40 *the Department to deny any future application for a license*
41 *pursuant to this chapter that is submitted by a person who is*
42 *determined to be responsible for the violation.*

43 **Sec. 33.** NRS 366.207 is hereby amended to read as follows:

44 366.207 1. Except as otherwise provided in ~~{subsections 2~~
45 ~~and 3,}~~ *subsection 2*, each special fuel supplier who sells or



1 distributes special fuel to which dye has not been added shall, at the
2 time the special fuel is purchased, collect the tax imposed pursuant
3 to NRS 366.190.

4 2. ~~[A special fuel supplier may sell special fuel to a purchaser~~
5 ~~without collecting the tax imposed pursuant to NRS 366.190 if the~~
6 ~~purchaser of the special fuel:~~

7 ~~—(a) Has been issued a permit by the Department pursuant to~~
8 ~~NRS 366.397; and~~

9 ~~—(b) Elects to defer payment of the tax.~~

10 ~~—3.]~~ A special fuel supplier shall not collect the tax imposed
11 pursuant to NRS 366.190 if the purchaser of the special fuel is:

12 (a) A special fuel supplier;

13 (b) A special fuel exporter; or

14 (c) A special fuel dealer.

15 3. *A special fuel supplier or special fuel exporter shall not*
16 *purchase special fuel on which the tax imposed pursuant to NRS*
17 *366.190 has been paid, except that a newly licensed special fuel*
18 *supplier or special fuel exporter may purchase such fuel during its*
19 *first month of operation.*

20 4. A special fuel supplier who sells special fuel to any other
21 special fuel supplier, ~~for~~ special fuel dealer *or special fuel*
22 *exporter* shall keep such records of the transaction as the
23 Department may require. The Department shall adopt regulations
24 setting forth:

25 (a) The records which must be kept by the special fuel supplier
26 pursuant to this subsection; and

27 (b) The period for which those records must be kept by the
28 special fuel supplier.

29 5. If, within a period of 6 months, a person purchases ~~[not less~~
30 ~~than]~~ 200 gallons *or more* of special fuel in this State which is used
31 for a purpose that is exempt from the payment of the tax on special
32 fuel pursuant to NRS 366.200, he may apply to the Department for a
33 refund in the manner prescribed in subsection 6 of NRS 366.650.

34 6. Any person who resells, for a taxable purpose, special fuel
35 that was exempt from the tax imposed by this chapter and to which
36 dye has not been added shall collect the tax and remit it to the
37 Department.

38 **Sec. 34.** NRS 366.220 is hereby amended to read as follows:

39 366.220 1. Except as otherwise provided in this chapter ~~[, it~~
40 ~~is unlawful for any:~~

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



* A B 5 9 5 *

1 ~~—(b) Person to be a:~~

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

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

6 ~~—(c) Retailer or other person to sell or distribute dyed special fuel~~
7 ~~unless the retailer or person controls the access to the dyed special~~
8 ~~fuel.]:~~

9 *(a) Before becoming a special fuel dealer, special fuel*
10 *supplier, special fuel exporter, special fuel transporter or special*
11 *fuel user, a person must apply to the Department, on forms to be*
12 *prescribed by the Department, for a license authorizing the*
13 *applicant to engage in business as a special fuel dealer, special*
14 *fuel supplier, special fuel exporter or special fuel transporter, or to*
15 *operate as a special fuel user.*

16 *(b) It is unlawful for any person to be:*

17 *(1) A special fuel dealer without holding a license as a*
18 *special fuel dealer pursuant to this chapter.*

19 *(2) A special fuel supplier without holding a license as a*
20 *special fuel supplier pursuant to this chapter.*

21 *(3) A special fuel exporter without holding a license as a*
22 *special fuel exporter pursuant to this chapter.*

23 *(4) A special fuel transporter without holding a license as a*
24 *special fuel transporter pursuant to this chapter.*

25 *(5) A special fuel user without holding a license as a special*
26 *fuel user pursuant to this chapter.*

27 2. The Department may adopt regulations relating to the
28 issuance of any ~~[special fuel supplier's, special fuel dealer's, special~~
29 ~~fuel exporter's, special fuel transporter's or special fuel user's]~~
30 license *pursuant to this chapter* and the collection of fees therefor.

31 **Sec. 35.** NRS 366.235 is hereby amended to read as follows:

32 366.235 1. An applicant for or holder of a *license as a*
33 special fuel ~~[supplier's]~~ *supplier* or special fuel ~~[dealer's license]~~
34 *dealer* shall provide a bond executed by him as principal, and by a
35 corporation qualified pursuant to the laws of this State as surety,
36 payable to the State of Nevada, and conditioned upon the faithful
37 performance of all ~~[of]~~ the requirements of this chapter and upon the
38 punctual payment of all excise taxes, penalties and interest due ~~[to]~~
39 the State of Nevada. The total amount of the bond or bonds of any
40 holder of *such* a ~~[special fuel supplier's or special fuel dealer's]~~
41 license must be fixed by the Department at not less than three times
42 the estimated maximum monthly tax, determined in such a manner
43 as the Department deems proper, but the amount must not be less
44 than \$1,000 for a special fuel supplier and must not be less than
45 \$100 for a special fuel dealer. If ~~[the Department determines that a~~



* A B 5 9 5 *

1 ~~person~~ *a special fuel supplier or special fuel dealer* is habitually
2 delinquent in the payment of amounts due *pursuant to this chapter*,
3 the Department ~~[, it]~~ may increase the amount of his security to not
4 more than five times the estimated maximum monthly tax. When
5 cash or a savings certificate, certificate of deposit or investment
6 certificate is used, the amount required must be rounded off to the
7 next larger integral multiple of \$100.

8 2. *If a special fuel user is habitually delinquent in the*
9 *payment of amounts due pursuant to this chapter, the Department*
10 *shall require the special fuel user to provide a bond executed by*
11 *him as principal, and by a corporation qualified pursuant to the*
12 *laws of this State as surety, payable to the State of Nevada, and*
13 *conditioned upon the faithful performance of all the requirements*
14 *of this chapter and upon the punctual payment of all excise taxes,*
15 *penalties and interest due the State of Nevada. The total amount of*
16 *the bond must not be less than \$2,500.*

17 3. No recovery on any bond, ~~[nor the]~~ execution of any new
18 bond ~~[, nor the]~~ or suspension or revocation of any *license as a*
19 special fuel ~~[supplier's or]~~ *supplier*, special fuel ~~[dealer's license]~~
20 *dealer or special fuel user* affects the validity of any bond.

21 ~~[3-]~~ 4. In lieu of a bond or bonds, an applicant for or holder of a
22 *license as a* special fuel ~~[supplier's]~~ *supplier* or special fuel
23 ~~[dealer's license]~~ *dealer, or a person required to provide a bond*
24 *pursuant to subsection 2*, may deposit with the State Treasurer,
25 under such terms as the Department may prescribe, ~~[a like]~~ *an*
26 *equivalent* amount of lawful money of the United States or any
27 other form of security authorized by NRS 100.065. If security is
28 provided in the form of a savings certificate, certificate of deposit or
29 investment certificate, the certificate must state that the amount is
30 unavailable for withdrawal except upon order of the Department.

31 ~~[4-]~~ 5. If the holder of a *license as a* special fuel ~~[supplier's]~~
32 *supplier* or special fuel ~~[dealer's license]~~ *dealer* is required to
33 provide a bond of more than \$5,000, the Department may reduce the
34 requirements for the bond to not less than \$5,000 upon the
35 ~~[supplier's or dealer's]~~ faithful performance of *the special fuel*
36 *supplier or special fuel dealer of* all the requirements of this chapter
37 and the punctual payment of all taxes due the State of Nevada for
38 the 3 preceding calendar years.

39 ~~[5-]~~ 6. The Department shall immediately reinstate the original
40 requirements for a bond for a holder of a *license as a* special fuel
41 ~~[supplier's]~~ *supplier* or special fuel ~~[dealer's license]~~ *dealer* upon
42 his:

43 (a) Lack of faithful performance of the requirements of this
44 chapter; or



(b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.

7. For the purposes of this section, a person is "habitually delinquent" if, within any 12-month period, the person commits each of the following acts or commits either of the following acts more than once:

(a) Fails timely to file a monthly or quarterly special fuel tax return, unless the Department determines that:

(1) The failure to file was caused by circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care; and

(2) The person has paid any penalty and interest imposed by the Department because of the failure to file.

(b) Fails timely to submit to the Department any tax collected by the person pursuant to this chapter.

Sec. 36. NRS 366.260 is hereby amended to read as follows:

366.260 1. A license issued pursuant to this chapter:

(a) ~~[Except as otherwise provided in subsection 2, is valid until]~~ *Is valid for 1 year unless* suspended, revoked or cancelled.

(b) Is not transferable.

2. ~~[Each special fuel user's license is valid for a calendar year unless suspended, revoked or cancelled.]~~ *The Department shall adopt regulations providing for the renewal of such licenses.*

Sec. 37. NRS 366.270 is hereby amended to read as follows:

366.270 If any person ceases to be a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter or special fuel user within this State by reason of the discontinuance, sale or transfer of his business, he shall:

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

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

3. If he is:

(a) A special fuel user ~~[]~~ *registered under the Interstate Highway User Fee Apportionment Act*, 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



1 last day of the month following the month of the discontinuance,
2 sale or transfer of the business.

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

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

12 (e) A special fuel transporter, file the report required pursuant to
13 NRS 366.695 ~~{within 25 days after the end}~~ *on or before the last*
14 *day* of the month *following the month* of the discontinuance, sale or
15 transfer of the business.

16 **Sec. 38.** NRS 366.350 is hereby amended to read as follows:

17 366.350 1. The Department may *suspend*, revoke *or cancel*
18 the license of any special fuel dealer, special fuel supplier, special
19 fuel exporter, special fuel transporter or special fuel user for
20 ~~{reasonable cause, including, without limitation,}~~ refusing or
21 neglecting to comply with the provisions of this chapter.

22 2. *If a special fuel dealer or special fuel supplier becomes*
23 *delinquent in the payment of excise taxes as prescribed by this*
24 *chapter to the extent that his liability exceeds the total amount of*
25 *bond or bonds furnished by the special fuel dealer or special fuel*
26 *supplier, the Department shall suspend his license immediately.*

27 3. Before revoking *or cancelling* a license ~~{}~~ *issued pursuant*
28 *to this chapter*, the Department shall send a notice by registered or
29 certified mail to the ~~{licensee}~~ *special fuel dealer, special fuel*
30 *supplier, special fuel exporter or special fuel transporter* at his last
31 known address . ~~{ordering him to appear before the Department at a~~
32 ~~time not less than 10 days after the mailing of the notice and}~~ *The*
33 *notice must order the special fuel dealer, special fuel supplier,*
34 *special fuel exporter or special fuel transporter to show cause why*
35 ~~{the}~~ *his* license should not be revoked ~~{}~~ *by appearing before the*
36 *Department at Carson City, Nevada, or such other place in this*
37 *State as may be designated by the Department, at a time not less*
38 *than 10 days after the mailing of the notice. The Department shall*
39 *allow the special fuel dealer, special fuel supplier, special fuel*
40 *exporter or special fuel transporter an opportunity to be heard.*
41 *The Department may revoke or cancel his license after reviewing*
42 *all information received.*

43 4. *The Department shall cancel any license issued pursuant*
44 *to this chapter upon the surrender of the license by the holder.*



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

7 **Sec. 39.** NRS 366.375 is hereby amended to read as follows:

8 366.375 1. If the amount of any excise tax for any reporting
9 period is not paid to the State on or before the ~~{day the payment is~~
10 ~~due pursuant to this chapter,}~~ *date due*, the payment becomes
11 delinquent at the close of business on that day. ~~{A special fuel~~
12 ~~supplier, special fuel dealer or special fuel user may have up to 15~~
13 ~~additional days to make the payment if he makes written application~~
14 ~~to the Department on or before the day the payment is due and the~~
15 ~~Department finds good cause for the extension.}~~

16 2. The proceeds from any penalty levied for the delinquent
17 payment of an excise tax must be deposited with the State Treasurer
18 to the credit of the State Highway Fund.

19 **Sec. 40.** NRS 366.380 is hereby amended to read as follows:

20 366.380 1. ~~{Except as otherwise provided in subsection 2,~~
21 ~~on}~~ *On* or before the last day of January, April, July and October in
22 each year, each special fuel user *registered under the Interstate*
23 *Highway User Fee Apportionment Act* shall file with the
24 Department a quarterly tax return for the preceding quarter,
25 regardless of the amount of excise tax due, on a form prescribed by
26 the Department. *The special fuel user shall include with the tax*
27 *return payment of any excise tax due. If the due date falls on a*
28 *Saturday, Sunday or legal holiday, the next business day is the*
29 *final due date.*

30 2. ~~{A special fuel user may, upon the issuance or renewal of a~~
31 ~~special fuel license, request to file a tax return annually with~~
32 ~~the Department. If the request is approved by the Department, the~~
33 ~~special fuel user shall file with the Department a tax return for the~~
34 ~~preceding year on or before the last day of January of each year,~~
35 ~~regardless of the amount of excise tax due, on a form prescribed by~~
36 ~~the Department.~~

37 ~~—3.—~~ The return must show such information as the Department
38 may reasonably require for the proper administration and
39 enforcement of this chapter.

40 **Sec. 41.** NRS 366.395 is hereby amended to read as follows:

41 366.395 1. Any special fuel user who fails to *file a tax return*
42 *or* pay any excise tax ~~{within the time prescribed by this chapter}~~ *by*
43 *the date due* shall pay, in addition to ~~{the tax, a penalty}~~ *any tax*
44 *that may be due, a delinquent filing fee* of \$50 ~~{or}~~ *and a penalty*
45 *of 10 percent of the amount of tax owed, {whichever is greater,}*



1 plus interest on the amount of ~~the~~ any tax *that may be due* at the
2 rate of 1 percent per month or fraction thereof, from the date the tax
3 ~~became finally~~ was due until the date of payment.

4 2. A tax return , ~~or~~ statement *or payment* is considered
5 delinquent ~~when it has not been~~ if it is not received by the
6 Department ~~by~~ *on or before* the date the tax return , ~~or~~ statement
7 *or payment* is due, as prescribed by the provisions of this chapter.

8 3. *A tax return, statement or payment shall be deemed*
9 *received on the date shown by the cancellation mark stamped by*
10 *the United States Postal Service or the postal service of any*
11 *country upon an envelope containing the tax return, statement or*
12 *payment.*

13 **Sec. 42.** NRS 366.540 is hereby amended to read as follows:

14 366.540 1. The tax provided for by this chapter must be paid
15 by special fuel suppliers, special fuel dealers and special fuel users.
16 A special fuel supplier or special fuel dealer shall pay to the
17 Department the excise tax he collects from purchasers of special
18 fuel with the return filed pursuant to NRS 366.383 or 366.386,
19 respectively. The tax paid by a special fuel user must be computed
20 by multiplying the tax rate per gallon provided in this chapter by the
21 amount that the number of gallons of special fuel consumed by
22 the special fuel user in the propulsion of motor vehicles on the
23 highways of this State exceeds the number of gallons of special fuel
24 purchases by him.

25 2. ~~Except as otherwise provided in subsection 3, in computing~~
26 ~~the amount of tax on special fuel a special fuel supplier owes to the~~
27 ~~Department, the special fuel supplier may deduct from the amount~~
28 ~~due pursuant to subsection 1 any amount which is due but has not~~
29 ~~been paid by a purchaser who is authorized by the Department to~~
30 ~~defer payment of the tax pursuant to NRS 366.397. If such a~~
31 ~~deduction is claimed, the claim must identify the purchaser and the~~
32 ~~amount of taxes that he failed to pay.~~

33 ~~—3.— A special fuel supplier shall not deduct from the amount he~~
34 ~~owes the Department pursuant to subsection 1 any amount which~~
35 ~~has not been paid by a person whose permit to defer the payment of~~
36 ~~the tax has been revoked pursuant to subsection 4 of NRS 366.397~~
37 ~~if, before the special fuel was purchased, the special fuel supplier~~
38 ~~had been notified by the Department pursuant to subsection 5 of~~
39 ~~NRS 366.397 that it had revoked the purchaser's permit.~~

40 ~~—4.]~~ If the Department determines that a special fuel supplier or
41 special fuel dealer , *or any unlicensed person who collects an*
42 *excise tax*, has failed to submit a tax return when due pursuant to
43 this chapter or failed to pay the tax when due pursuant to this
44 chapter, the Department may order the special fuel supplier , ~~or~~
45 special fuel dealer *or unlicensed person* to hold the amount of all



1 taxes collected pursuant to this chapter in a separate account in trust
2 for the State. The special fuel supplier, ~~for~~ special fuel dealer *or*
3 *unlicensed person* shall comply with the order immediately upon
4 receiving notification of the order from the Department.

5 *3. A retailer who receives or sells special fuel for which the*
6 *taxes imposed pursuant to this chapter have not been paid is liable*
7 *for the taxes and any applicable penalty or interest if the retailer*
8 *knew or should have known that the applicable taxes on the*
9 *special fuel had not been paid.*

10 **Sec. 43.** NRS 366.650 is hereby amended to read as follows:

11 366.650 1. If illegally or through error the Department
12 collects or receives any excise tax, penalty or interest imposed
13 pursuant to this chapter, the excise tax, penalty or interest must be
14 refunded to the person who paid the tax, penalty or interest. A
15 written application for a refund, *including, without limitation, a*
16 *request for a refund that is submitted on an amended tax return,*
17 stating the specific grounds therefor, must be made within 12
18 months after the date of payment, whether or not the excise tax,
19 penalty or interest was paid voluntarily or under protest.

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

23 3. Any amount determined to be refundable by the Department
24 must be refunded or credited to any amounts then due from the
25 special fuel supplier or special fuel dealer.

26 4. All amounts refunded pursuant to the provisions of this
27 chapter must be paid from the State Highway Fund on claims
28 presented by the Department, approved by the State Board of
29 Examiners, and allowed and paid as other claims against the State
30 are allowed and paid.

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

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

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

44 (b) Establish to the satisfaction of the Department that within a
45 period of 6 months he purchased not less than 200 gallons of special



1 fuel in this State which was used for a purpose that is exempt from
2 the tax on special fuel pursuant to NRS 366.200.

3 ➔ The Department shall refund to an applicant who complies with
4 the provisions of this subsection a refund in an amount equal to the
5 tax paid by the applicant less the percentage allowed the special fuel
6 supplier pursuant to NRS 366.390.

7 *7. To establish the validity of any claim for a refund, the*
8 *Department may, upon demand, examine the books and records of*
9 *the claimant. The failure of the claimant to accede to such a*
10 *demand constitutes a waiver of all rights to the refund claimed on*
11 *account of the transactions questioned.*

12 *8. No refund of special fuel taxes may be made for off-*
13 *highway use of special fuel consumed in watercraft in this State*
14 *for recreational purposes.*

15 **Sec. 44.** NRS 366.695 is hereby amended to read as follows:

16 366.695 1. Every special fuel transporter, except a wholesale
17 distributor transporting the products of a special fuel supplier
18 licensed pursuant to this chapter, who transports special fuel in
19 interstate commerce to or from any point within this State, or solely
20 within this State, shall report all of those deliveries to the
21 Department.

22 2. A report must be made for each calendar month and must be
23 filed ~~{within 25 days after the end of the month for which the report~~
24 ~~is made.}~~ *not later than the last day of each month for the*
25 *deliveries made during the preceding month.* The report must
26 show:

27 (a) The name and address of every consignor and consignee and
28 of every person other than the designated consignee to whom
29 delivery has actually been made;

30 (b) The date of each delivery;

31 (c) The number of gallons of special fuel delivered for each
32 delivery; and

33 (d) Such other information as the Department may require.

34 **Sec. 45.** NRS 366.715 is hereby amended to read as follows:

35 366.715 1. The Department may seal a special fuel pump of a
36 *retailer or* special fuel dealer, or the metered pipes and hoses of a
37 *rack of a special fuel dealer or special fuel supplier,* if the *retailer,*
38 special fuel dealer or special fuel supplier:

39 (a) Becomes delinquent in payment of any amount due pursuant
40 to the provisions of this chapter;

41 (b) Operates without the license required by the provisions of
42 this chapter; or

43 (c) Operates without the bond or cash deposit required by the
44 provisions of this chapter.



2. A special fuel pump of a *retailer or* special fuel dealer , or the metered pipes and hoses of the rack *of a special fuel dealer or special fuel supplier*, may be sealed until all required reports are filed, the tax, penalties and interest are paid in full, the required license is obtained and the bond or cash deposit is provided.

3. Before sealing ~~the~~ a fuel pump or ~~the~~ metered pipes and hoses of a rack, the Department must send a notice by registered or certified mail to the ~~licensed~~ *retailer*, special fuel ~~supplier~~ *dealer* or special fuel ~~dealer~~ *supplier* 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 fuel pump or the metered pipes and hoses of the rack should not be sealed.

Sec. 46. NRS 366.720 is hereby amended to read as follows:

366.720 1. Any person who:

~~1-1~~ (a) Fails or refuses to pay the tax imposed by this chapter;

~~1-2~~ (b) Engages in business in this State as a special fuel user, special fuel exporter, special fuel dealer or special fuel supplier, or acts in this State as a special fuel transporter, without being the holder of a license to engage in that business or to act in that capacity;

~~3-1~~ (c) Fails to make any of the reports required by this chapter;

~~4-1~~ (d) Makes any false statement in any application, report or statement required by this chapter;

~~5-1~~ (e) Refuses to permit the Department or any authorized agent to examine records as provided by this chapter;

~~6-1~~ (f) Fails to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this State as required by this chapter;

~~7-1~~ (g) Makes any false statement in connection with an application for the refund of any money or taxes provided in this chapter;

~~8-1~~ (h) Violates the provisions of NRS 366.265;

~~9-1~~ (i) Fails or refuses to stop his motor vehicle for an inspection to determine if all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid; or

~~10-1~~ (j) Refuses to allow the Department or an authorized agent to inspect a motor vehicle to determine whether all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid,

➤ is guilty of a misdemeanor.

2. *Each day or part thereof during which any person engages in business as a special fuel dealer, special fuel supplier or special fuel exporter or acts as a special fuel transporter without being the holder of a license authorizing him to engage in that business or*



to act in that capacity constitutes a separate offense within the meaning of this section.

Sec. 47. NRS 365.326, 365.328, 366.360 and 366.397 are hereby repealed.

Sec. 48. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

365.326 Calculation of amount due from supplier: Deduction of amount due from purchaser who is authorized to defer payment.

1. Except as otherwise provided in subsection 2, in calculating the amount of tax on motor vehicle fuel, other than aviation fuel, a supplier owes to the Department, the supplier may deduct from the amount due pursuant to NRS 365.175 to 365.192, inclusive, any amount that is due but has not been paid by a purchaser who is authorized by the Department to defer payment of the tax pursuant to NRS 365.328. If such a deduction is claimed, the claim must identify the purchaser and the amount of the taxes that he failed to pay.

2. A supplier shall not deduct from the amount he owes the Department pursuant to subsection 1 any amount that has not been paid by a person whose permit to defer the payment of the tax has been revoked pursuant to subsection 4 of NRS 365.328 if, before the motor vehicle fuel, other than aviation fuel, was purchased, the supplier was notified by the Department pursuant to subsection 5 of NRS 365.328 that it had revoked the permit of the purchaser.

365.328 Deferral of payment by purchaser of certain motor vehicle fuel: Permit; bond; time and method of payment; failure to pay; regulations.

1. A purchaser of motor vehicle fuel, other than aviation fuel, who wishes to defer payment to the supplier of the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, until 20 days after the end of the month in which the fuel is purchased must apply for a permit to defer payment of the taxes.

2. The Department may require an applicant for a permit to defer payment of the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to this State. The bond must indemnify the Department against any deduction claimed pursuant to NRS 365.326



* A B 5 9 5 *

by a supplier because of the failure of the principal to pay the taxes as required by this chapter.

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

(a) Has been issued a permit to defer the payment of the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive; and

(b) Elects to defer payment of the taxes,

↳ he shall, not later than 25 days after the end of the month in which the fuel is purchased, pay the taxes to the supplier by electronic transfer of money.

4. If a purchaser fails to make a payment to a supplier as required by this section, the Department may:

(a) Revoke the permit of the purchaser;

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

(c) Take any other action to ensure that the taxes imposed pursuant to NRS 365.175 to 365.192, inclusive, are paid.

5. The Department shall notify each supplier in this State when it revokes a permit issued pursuant to this section.

6. The Department shall adopt regulations to carry out the provisions of this section.

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

366.360 Cancellation of license.

1. The Department shall cancel any license to act as a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter or special fuel user immediately upon the surrender thereof by the holder.

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

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



* A B 5 9 5 *

366.397 Permit to defer payment of tax: Application; bond; payment of tax by electronic transfer; effect of failure to pay tax; notice of revocation; regulations.

1. A purchaser of special fuel who wishes to defer payment of the tax imposed pursuant to NRS 366.190 to the special fuel supplier until 25 days after the end of the month in which the fuel is purchased must apply for a permit to defer payment of the tax.

2. The Department may require an applicant for a permit to defer payment of the tax imposed pursuant to NRS 366.190 to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to this State. The bond must indemnify the Department against any deduction claimed pursuant to subsection 2 of NRS 366.540 by a special fuel supplier because of the principal's failure to pay the tax as required by this chapter.

3. If a purchaser of special fuel:

(a) Has been issued a permit to defer the payment of the tax imposed pursuant to NRS 366.190; and

(b) Elects to defer payment of the tax,
➔ he shall, not later than 25 days after the end of the month in which the fuel is purchased, pay the tax to the special fuel supplier by electronic transfer of money.

4. If a purchaser fails to make a payment to a special fuel supplier as required by this section, the Department may:

(a) Revoke the purchaser's permit;

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

(c) Take any other action to ensure that the tax imposed pursuant to NRS 366.190 is paid.

5. The Department shall notify each special fuel supplier in this State when it revokes a permit issued pursuant to this section.

6. The Department shall adopt regulations to carry out the provisions of this section.

7. As used in this section, "electronic transfer of money" means any transfer of money, other than a transaction initiated by a check, draft or other similar instrument, that is initiated through an electronic terminal, telephone, computer or magnetic tape to order, instruct or authorize a financial institution or person holding an account on behalf of a purchaser of special fuel to debit an account.

