

Amendment No. 52

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| Senate Amendment to Senate Bill No. 71 | (BDR 43-228) |
| Proposed by: Senate Committee on Growth and Infrastructure | |
| Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes | |

| ASSEMBLY ACTION | | | | Initial and Date | SENATE ACTION | | | | Initial and Date |
|-----------------|--------------------------|------|--------------------------|------------------|---------------|--------------------------|------|--------------------------|------------------|
| Adopted | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____ | Adopted | <input type="checkbox"/> | Lost | <input type="checkbox"/> | _____ |
| Concurred In | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ | Concurred In | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ |
| Receded | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ | Receded | <input type="checkbox"/> | Not | <input type="checkbox"/> | _____ |

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DLJ/BJE



Date: 4/15/2019

S.B. No. 71—Revises provisions governing the Motor Carrier Division of the Department of Motor Vehicles. (BDR 43-228)



SENATE BILL NO. 71—COMMITTEE ON
GROWTH AND INFRASTRUCTURE

(ON BEHALF OF THE DEPARTMENT OF MOTOR VEHICLES)

PREFILED NOVEMBER 20, 2018

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions governing the Motor Carrier Division of the Department of Motor Vehicles. (BDR 43-228)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to vehicles; authorizing certain motor carriers to provide evidence of registration and other licenses in an electronic format; providing that certain persons are jointly and severally liable with certain other persons for payment to the Department of Motor Vehicles of certain taxes and fees relating to fuel; revising the definitions of “supplier” and “special fuel supplier” to include a person who exports certain types of fuel; authorizing the Department to enter into agreements with certain persons for the issuance and renewal of a special fuel users license; authorizing a special fuel user to provide evidence of a special fuel user’s license in an electronic format; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires certain vehicles to be registered through the Motor Carrier Division of the Department of Motor Vehicles. (NRS 482.206, 482.217, 482.276, 482.2916, 706.188) Existing law also requires the owner of a registered vehicle to place a certificate of registration or a legible copy of the certificate of registration in the vehicle and to keep it in the vehicle. (NRS 482.255) **Section 1** of this bill authorizes a person who is required to register through the Motor Carrier Division to provide evidence of registration in an electronic format that can be displayed on an electronic device, which must be carried in the vehicle, or be accessible to law enforcement or other emergency personnel by other means. **Section 1** also provides that a person who presents evidence of registration by means of an electronic device assumes all liability for any resulting damage to the device and provides that the owner of the vehicle may be held liable for any other infractions indicated by the electronic image displaying evidence of registration.

Existing law requires certain taxes and fees on certain types of vehicle fuel be paid to the Department of Motor Vehicles, and authorizes the Department to impose penalties and interest if such payment is deficient or not timely paid. (NRS 360A.100) **Section 2** of this bill provides that a responsible person who willfully fails to collect or pay to the Department any such taxes or fees or attempts to evade such payment is jointly and severally liable with any

other person who is required to pay the tax or fee. **Section 2** defines a “responsible person” to include a person whose job or duty it is to collect, account for or pay any such tax or fee and who attests to the accuracy of the payment of the tax or fee under penalty of perjury, including: (1) an officer or employee of a corporation; and (2) a member or employee of a partnership or limited-liability company.

Existing law defines “supplier” for the purposes of laws governing motor vehicle fuel, except aviation fuel, and “special fuel supplier” for the purposes of laws governing special fuels. (NRS 365.084, 366.070) **Sections 3 and 6** of this bill add to the definitions of “supplier” and “special fuel supplier” a person who exports the respective fuels to a location outside of this State.

Existing law requires certain special fuel users to be licensed by the Department. (NRS 366.220, 366.221) **Section 5** of this bill authorizes the Department to enter into an agreement with a special fuel user, or a service provider who is authorized by the Department to perform certain functions on behalf of a special fuel user, to authorize the special fuel user or service provider to issue a special fuel user’s license, renew a special fuel user’s license and issue certain identifying devices required for certain special fuel users. Such a special fuel user or service provider must file a bond or certain other form of security with the Department. **Sections 8-10** of this bill make conforming changes. **Section 9** authorizes a special fuel user to keep his or her special fuel user’s license in his or her vehicle on an electronic device which displays the license in an electronic format. **Section 9** also provides that the person who presents proof of licensure by means of an electronic device assumes all liability for any resulting damage to the device, and provides that the licensee may be held liable for any other infractions indicated by the electronic image displaying evidence of licensure.

Existing law authorizes the Department to enter into a cooperative agreement with other states and countries for the exchange of information regarding, and the auditing of, persons who use special fuel in motor vehicles operated or intended to operate interstate. (NRS 366.175) **Section 7** of this bill identifies that agreement as the International Fuel Tax Agreement.

Existing law requires a special fuel user who fails to file a tax return or pay excise tax by the due date to pay a delinquent filing fee of \$50 and a penalty of 10 percent of the amount of tax owed. (NRS 366.395) **Section 11** of this bill requires such a person to pay either the delinquent filing fee or the penalty of 10 percent of the amount owed, whichever is greater.

Existing law authorizes the Department to enter into an agreement with certain departments or agencies of other states or countries regarding: (1) a plan concerning registration fees and certain other taxes; and (2) requirements that apply to certain vehicles that operate between this State and such other states or countries. (NRS 706.826) **Section 12** of this bill identifies that plan as the International Registration Plan.

~~Existing law requires any claim for certain exemptions from payment of excise tax on certain exported motor vehicle fuel or fuel for jet or turbine powered aircraft to be made within 6 months after the date of export of the fuel. (NRS 365.250) Section 13 of this bill eliminates that requirement. Section 4 of this bill makes a conforming change.~~

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

Section 1. NRS 482.255 is hereby amended to read as follows:

482.255 1. ~~Upon~~ *Except as otherwise provided in subsection 2, upon* receipt of a certificate of registration, the *registered* owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, moped, trailer or semitrailer, the *registered* owner shall carry the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. *The registered owner of a vehicle which, pursuant to the plan, must be registered through the Motor Carrier Division of the Department, in lieu of carrying a certificate of registration or a legible copy in the vehicle, may provide evidence of registration and other applicable licenses as an electronic image in an electronic format that can be displayed:*

1 (a) *On an electronic device, which must be carried in the vehicle; or*
2 (b) *Through other means by which the electronic image is accessible to law*
3 *enforcement or other emergency personnel upon request, including, without*
4 *limitation, a radio frequency identifying device.*

5 3. The registered owner or operator of a motor vehicle shall, upon demand,
6 surrender the certificate of registration , ~~for~~ the copy , *the electronic device or*
7 *access to the electronic image* for examination to any peace officer, including a
8 constable of the township in which the motor vehicle is located or a justice of the
9 peace or a deputy of the Department.

10 ~~3.4~~ 4. No person charged with violating this section may be convicted if the
11 person produces in court a certificate of registration *or evidence of registration in*
12 *an electronic format* which was previously issued to him or her and was valid at
13 the time of the demand.

14 5. *If the evidence of registration and other applicable licenses is provided by*
15 *means of an electronic device:*

16 (a) *The person who presents the device assumes all liability for any resulting*
17 *damage to the device;*

18 (b) *The owner of the electronic device may be held liable for any other*
19 *infractions indicated by the electronic image displaying evidence of registration*
20 *and other applicable licenses.*

21 6. *As used in this section, "plan" means the International Registration*
22 *Plan.*

23 **Sec. 2.** Chapter 360A of NRS is hereby amended by adding thereto a new
24 section to read as follows:

25 1. *A responsible person who willfully fails to collect or pay to the*
26 *Department any tax or fee required to be paid to the Department pursuant to*
27 *chapter 365, 366 or 373 of NRS or NRS 445C.330 or 590.120 or who attempts to*
28 *evade the payment of any such tax or fee, is jointly and severally liable with any*
29 *other person who is required to pay such a tax or fee for the tax or fee owed plus*
30 *interest and all applicable penalties. The responsible person shall pay the tax or*
31 *fee upon notice from the Department that it is due.*

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

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

34 (b) *A member or employee of a partnership or limited-liability company,*
35 *whose job or duty it is to collect, account for or pay to the Department any tax*
36 *or fee required to be paid to the Department pursuant to chapter 365, 366 or 373*
37 *of NRS or NRS 445C.330 or 590.120 and who attests to the accuracy of the*
38 *payment of the tax or fee under penalty of perjury.*

39 **Sec. 3.** NRS 365.084 is hereby amended to read as follows:

40 365.084 "Supplier" means a person who:

41 1. Imports or acquires immediately upon importation into this State motor
42 vehicle fuel, except aviation fuel, from within or without a state, territory or
43 possession of the United States or the District of Columbia into a terminal located
44 in this State;

45 2. Otherwise acquires for distribution in this State motor vehicle fuel, except
46 aviation fuel, with respect to which there has been no previous taxable sale or use;

47 ~~for~~
48 3. Produces, manufactures or refines motor vehicle fuel, except aviation fuel,
49 in this State ~~for~~; *or*

50 4. *Exports motor vehicle fuel, except aviation fuel, to a location outside of*
51 *this State.*

1 **Sec. 4.** ~~NRS 365.260 is hereby amended to read as follows:~~
2 ~~365.260 Motor vehicle fuel carried out of this State, into another state or onto~~
3 ~~federal proprietary lands or reservations, to an amount not exceeding 25 gallons in~~
4 ~~the fuel tank or tanks of such motor vehicle shall not be deemed to be exported for~~
5 ~~the purposes of NRS 365.220 to [365.250,] 365.240, inclusive.] (Deleted by~~
6 ~~amendment.)~~

7 **Sec. 5.** Chapter 366 of NRS is hereby amended by adding thereto a new
8 section to read as follows:

9 1. *Upon the request of a special fuel user or a service provider, the*
10 *Department may enter into an agreement with the special fuel user or service*
11 *provider which authorizes the special fuel user or service provider to license a*
12 *special fuel user or renew a special fuel user's license and issue the identifying*
13 *device required by NRS 366.265, if applicable.*

14 2. *Before licensing a special fuel user, renewing a special fuel user's*
15 *license or issuing an identifying device pursuant to subsection 1:*

16 (a) *A special fuel user who enters into an agreement with the Department*
17 *pursuant to this section shall file with the Department a bond of a surety*
18 *company authorized to transact business in this State for the benefit of this State*
19 *in an amount not less than \$25,000; and*

20 (b) *A service provider who enters into an agreement with the Department*
21 *pursuant to this section shall file with the Department a bond of a surety*
22 *company authorized to transact business in this State for the benefit of this State*
23 *in an amount not less than \$50,000.*

24 3. *If a special fuel user or service provider provides a savings certificate,*
25 *certificate of deposit or investment certificate pursuant to NRS 100.065 in lieu of*
26 *the bond required pursuant to subsection 2, the certificate must state that the*
27 *amount is not available for withdrawal except upon the approval of the Director*
28 *of the Department.*

29 4. *If at any time a special fuel user or service provider is unable to account*
30 *for an unissued license or an identifying device, the special fuel user or service*
31 *provider must immediately pay to the Department an amount established by the*
32 *Department.*

33 5. *The Department may cancel an agreement entered into pursuant to this*
34 *section with any special fuel user or service provider for refusing or neglecting to*
35 *comply with the provisions of this chapter.*

36 6. *The Director shall adopt such regulations as are necessary to carry out*
37 *the provisions of this section.*

38 7. *As used in this section, "service provider" means a business or*
39 *organization authorized by the Department to license a special fuel user or renew*
40 *a special fuel user's license on behalf of a special fuel user.*

41 **Sec. 6.** NRS 366.070 is hereby amended to read as follows:

42 366.070 1. "Special fuel supplier" means a person who:

43 (a) Imports or acquires immediately upon importation into this State special
44 fuel from within or without a state, territory or possession of the United States or
45 the District of Columbia into a terminal located in this State;

46 (b) *Exports special fuel to a location outside of this State;*

47 (c) Produces, manufactures or refines special fuel in this State; or

48 ~~(d)~~ (d) Otherwise acquires for distribution in this State special fuel with
49 respect to which there has been no previous taxable sale or use.

50 2. The term does not include a special fuel manufacturer.

51 **Sec. 7.** NRS 366.175 is hereby amended to read as follows:

52 366.175 1. To the extent permitted by federal law, the Department may
53 enter into a cooperative ~~agreements~~ *agreement* with other states and countries for

the exchange of information regarding, and the auditing of, persons who use special fuel in motor vehicles operated or intended to operate interstate. Any agreement, arrangement or declaration, or any amendment thereto, is not effective until reduced to writing and signed by the parties thereto or their authorized representatives.

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

- (a) For determining the domicile of those persons;
- (b) Specifying the records which are required to be kept by those persons;
- (c) Relating to audit procedures, the exchange of information and persons eligible for licensing;
- (d) Defining various words and terms;
- (e) Setting forth the procedure for collecting special fuel taxes owing to another jurisdiction and forwarding those taxes to that jurisdiction; and
- (f) Designed to facilitate the administration of the agreement.

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

4. An agreement may provide that each jurisdiction shall audit the records of persons residing or doing business within that jurisdiction to determine if the special fuel taxes owing to each jurisdiction have been properly reported and paid, and requiring each jurisdiction to forward the findings of its audits to every other jurisdiction in which the person who is the subject of an audit has incurred tax liability as a result of his or her use of special fuel. The audit findings received from another jurisdiction may be used by the Department as the basis for an estimated assessment of tax due from a person pursuant to the provisions of NRS 360A.100.

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

6. *As used in this section, "agreement" means the International Fuel Tax Agreement.*

Sec. 8. NRS 366.240 is hereby amended to read as follows:

366.240 1. Except as otherwise provided in subsection 2 ~~§~~ **and section 5 of this act**, 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, special fuel user's or special fuel manufacturer's license.

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

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

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

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

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

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

(f) Upon other sufficient cause being shown.

Sec. 9. NRS 366.265 is hereby amended to read as follows:

366.265 1. A special fuel user who is required to hold a special fuel user's license pursuant to the provisions of this chapter shall:

(a) If the special fuel user uses special fuel in a motor vehicle that is operated or intended to operate interstate:

(1) Obtain an identifying device issued pursuant to ~~§~~:

(I) An agreement with the Department entered into pursuant to section 5 of this act; or

(II) A cooperative agreement entered into pursuant to NRS 366.175;
and

(2) Conspicuously display that identifying device on the exterior of the motor vehicle in such location as is required pursuant to the cooperative agreement.

(b) At any time the special fuel user is using special fuel in this State, ensure that his or her license, ~~for~~ a reproduction of the license that is authorized by the Department ~~is~~ *or an electronic device that displays the license in an electronic format that is authorized by the Department* is located in the motor vehicle.

2. The Department may establish by regulation a fee for the issuance of the identifying device described in subsection 1, in an amount not to exceed the estimated administrative costs of issuing the device. If the Department establishes the fee and issues such a device to a special fuel user ~~is~~ *or provides such a device to the special fuel user under the terms of an agreement entered into pursuant to section 5 of this act*, it shall charge and collect the fee from the special fuel user.

3. If proof of licensure is provided by means of an electronic device:

(a) The person who presents the electronic device assumes all liability for any resulting damage to the electronic device; and

(b) The licensee may be held liable for other infractions indicated by the electronic image displaying evidence of licensure.

Sec. 10. 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, special fuel user or special fuel manufacturer within this State by reason of the discontinuance, sale or transfer of his or her business, the person 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 the person by the Department ~~is~~ *or under the terms of an agreement entered into with the Department pursuant to section 5 of this act.*

3. If the person 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

1 and chapter 360A of NRS on or before the last day of the month following the
2 month of the discontinuance, sale or transfer of the business.

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

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

11 (e) A special fuel transporter, file the report required pursuant to NRS 366.695
12 on or before the last day of the month following the month of the discontinuance,
13 sale or transfer of the business.

14 **Sec. 11.** NRS 366.395 is hereby amended to read as follows:

15 366.395 1. Any special fuel user who fails to file a tax return or pay any
16 excise tax by the date due shall pay, in addition to any tax that may be due, a
17 delinquent filing fee of \$50 ~~and~~ *or* a penalty of 10 percent of the amount of tax
18 owed, *whichever is greater*, plus interest on the amount of any tax that may be due
19 at a rate established by the Department in accordance with the provisions of a
20 cooperative agreement entered into pursuant to NRS 366.175, from the date the tax
21 was due until the date of payment.

22 2. A tax return, statement or payment is considered delinquent if it is not
23 received by the Department on or before the date the tax return, statement or
24 payment is due, as prescribed by the provisions of this chapter.

25 3. A tax return, statement or payment shall be deemed received on the date
26 shown by the cancellation mark stamped by the United States Postal Service or the
27 postal service of any country upon an envelope containing the tax return, statement
28 or payment.

29 **Sec. 12.** NRS 706.826 is hereby amended to read as follows:

30 706.826 In carrying out NRS 706.801 to 706.861, inclusive, each department
31 of this State may enter into agreements with the departments or appropriate
32 agencies of this or any other state or country to provide for any or all of the
33 following:

34 1. For the exemption from the plan of certain classes of vehicles either on the
35 basis of type, extent or frequency of operations and, when also deemed advisable,
36 for their total or partial exemption from the fees for registration or taxes or both
37 upon the conditions set forth in the agreement, all as found to be in the interest of
38 this State, the facilitating of this plan, or of the facilitating of the operation of
39 vehicles between this and the other contracting state or country.

40 2. For the reports and records required pursuant to NRS 706.801 to 706.861,
41 inclusive, or any regulations made pursuant thereto to be uniform with the reports
42 and records required by the other contracting state or country, but this does not
43 prevent any department from requiring additional information from any operator
44 subject to NRS 706.801 to 706.861, inclusive.

45 3. For the joint audit of the reports and records of any operator subject to NRS
46 706.801 to 706.861, inclusive, the reports and records of any such operator and the
47 department may be disclosed to the extent necessary for this purpose.

48 4. For the use of a plate, license, emblem, certificate or other device of this or
49 any other state or country, for the identification of vehicles subject to the plan.

50 5. For putting the plan into effect between this and any other state or country.

51 *6. As used in this section, "plan" means the International Registration*
52 *Plan.*

53 **Sec. 13.** ~~[NRS 365.250 is hereby repealed.]~~ *(Deleted by amendment.)*

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~~TEXT OF REPEALED SECTION~~

~~365.250 Time to claim exemption on dealer's export to another state. Any claim for exemption from excise tax on account of motor vehicle fuel or fuel for jet or turbine powered aircraft exported by a dealer to another state, other than stock transfers or deliveries in his or her own equipment, must be made by the dealer within 6 months after the date of the export unless the state or territory of destination would not be prejudiced with respect to its collection of taxes thereon should the claim not be made within that time.]~~