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BILL EXPLANATION

SENATE BILL 471 Assembly Committee on Taxation Hearing: May 13, 2003

Summary: Revises provisions relating to certain taxes and fees regarding petroleum products and fuels for motor vehicles and aircraft. If approved, **Section 54** makes the act effective on October 1, 2003, for all purposes other than to adopt regulations and to take other actions necessary to carry out provisions of act, which are authorized upon passage and approval.

Section 1: Authorizes the Department of Motor Vehicles (DMV) to charge an additional \$25 fee for bounced checks for motor vehicle fuel taxes and provides that the taxes are late and that the taxpayer is to subject penalties and interest if the check bounces.

Section 2: Exempts a purchaser of motor vehicle fuel other than aviation fuel and a special fuel supplier, dealer or user who is granted an extension pursuant to section 33 of the bill from the requirement to pay interest at 1 percent per month.

Section 3: Makes technical change to eliminate a duplicative provision regarding the payment of penalties and interest for failure to file a return for motor vehicle fuel taxes.

Section 4: Extends the period during which the DMV can serve a notice of a deficiency determination from three years to four years after the determination is made or the return is filed, whichever is later.

Section 5: Limits the period during which a person who wishes to petition the DMV for a redetermination of a deficiency in the payment of taxes to the period within 30 days after the service of the notice of determination.

Section 6: Provides that a petition for redetermination must include the payment of the amount that is not contested.

Section 7: Adds sections 8 to 11, inclusive, of the bill to chapter 365 of NRS.

Section 8: Defines "transporter" for the purposes of chapter 365 of NRS.

Section 9: Authorizes a person whose application as a dealer, supplier, exporter or transporter of motor vehicle fuel has been denied to petition DMV for a hearing.

Section 10: Provides that a license issued pursuant to chapter 365 is valid until suspended, revoked or cancelled and that it is not transferable.

Section 11: Requires a licensee who ceases to conduct business to notify the DMV, surrender the license issued to the licensee and pay any taxes due and file any reports required.

Section 12: Adds definition of "transporter" to the list of definitions applicable to chapter 365 of NRS.

Section 13: Adds exporters and transporters to the licensees whose records can be inspected or examined by the DMV.

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Sections 14 and 15:

Eliminate requirement that fuel dealer and fuel supplier, respectively, are to hold all fuel taxes collected in a separate account in trust for the state.

Section 16: Increases the period for which records must be kept by persons licensed pursuant to chapter 365 of NRS from 3 years to 4 years.

Section 17: Provides that it is unlawful to act as an exporter or transporter without a license.

Section 18: Requires an exporter or transporter to submit applications for licenses.

Section 19: Provides that exporters and transporters are not required to file a bond as a condition to obtaining a license from the DMV.

Section 20: Sets forth the reasons for which the DMV may refuse to issue a license as a dealer, supplier, exporter or transporter.

Section 21: Authorizes the DMV to suspend, cancel or revoke an exporter or transporter's license for the same reasons that it may suspend, cancel or revoke a dealer or supplier's license.

Section 22: Eliminates the 2 percent allowance for users who pay fuel taxes pursuant to NRS 365.200. Provides that if a dealer or supplier is late in remitting taxes, the dealer or supplier cannot retain the 2 percent allowance. Provides that if a dealer or supplier has failed to file a return or pay the tax when due, DMV may require the dealer or supplier to hold the taxes collected in a separate account in trust for the state.

Section 23: Requires a dealer, supplier or user who wishes to apply for an extension of time to pay motor vehicle taxes to file a request in writing before the day the payment is due. Also provides that all late fees for the payment of motor vehicle fuel excise taxes must be remitted to the Highway Fund, regardless of whether proceeds of the specific tax are remitted to another fund.

Section 24: Extends from 3 years to 4 years the period for which records regarding the usage of motor vehicle fuel or fuel for jet or turbine-powered aircraft must be kept by a person who wishes to receive a refund for fuel used for a purpose other than for the propulsion of a motor vehicle or jet or turbine-powered aircraft.

Section 25: Makes technical adjustment required as a result of eliminating 2 percent collection allowance for users who pay motor vehicle taxes.

Section 26: Extends the period within which an application for certain refunds may be filed from 6 months to 12 months after the date of purchase.

Section 27: Makes technical adjustment to require exporters and transporters to keep records of their fuel-related activities. Increases the period for which records can be inspected by the DMV from 3 years to 4 years.

Section 28: Increases the period for which a retailer is required to maintain fuel-related records from 3 years to 4 years.

Section 29: Requires transporters to submit to the DMV monthly a report regarding their activities in this state. Currently carriers are required to submit the reports.

Section 30: Makes it unlawful to engage in business in this state as a dealer, supplier, exporter or transporter without a valid license issued by DMV.

Section 31: Adds section 32 and 33 to chapter 366 of NRS.

- Section 32:** Defines "special fuel transporter" for the purposes of chapter 366 of NRS.
- Section 33:** Authorizes the DMV to grant extensions of up to 15 days for the payment of special fuel taxes.
- Section 34:** Adds definition of "special fuel transporter" to the list of definitions applicable to chapter 366 of NRS.
- Section 35:** Requires special fuel exporters and special fuel transporters to keep the same records as special fuel dealers and suppliers.
- Section 36:** Authorizes the DMV to examine the books and records of exporters and transporters and adds provisions authorizing the storage of records out of state under certain circumstances; similar to provisions applicable to motor vehicle fuel dealers, suppliers, exporters and transporters.
- Section 37:** Provides that special fuel exporters and transporters must keep their records open to the public.
- Section 38:** Authorizes the DMV to exchange information regarding special fuel licensees with other states and countries.
- Section 39:** Provides that the person operating or maintaining a vehicle and the owner of the vehicle are jointly and severally liable for taxes, penalties and interest if they operate a vehicle unlawfully with dyed special fuel.
- Section 40:** Provides that it is unlawful to be a special fuel exporter or transporter without a license.
- Section 41:** Adds special fuel exporters and transporters to administrative provisions regarding obtaining a license from the DMV.
- Section 42:** Authorizes applicants for a special fuel exporter or transporter's license to request a hearing if the application is denied.
- Section 43:** Provides that a license for a special fuel exporter or transporter is valid until suspended, revoked or cancelled and that the license is not transferable.
- Section 44:** Requires a special fuel licensee who ceases to conduct business to notify the DMV, surrender the license issued to the licensee and pay any taxes due and file any reports required.
- Section 45:** Authorizes the DMV to revoke a special fuel license for reasonable cause, including a violation of chapter 366 of NRS.
- Section 46:** Makes technical adjustment based on authorization provided in section 47 to apply to file returns less often than monthly.
- Section 47:** Provides that the reporting period for a dealer is the calendar month, but authorizes a dealer to apply for a different reporting period under certain circumstances.
- Section 48:** Disallows the 2 percent special fuel collection allowance if the tax return and payment are not filed on time.
- Section 49:** Makes technical adjustment based on authorization provided in section 47 to apply to file returns less often than monthly. Provides that special fuel taxes collected must be held in a separate account in trust for the state only upon order of the department if a special fuel dealer or supplier has failed to submit a return or pay the when due.

Section 50: Reduces the period within which an application for a refund of special fuel tax payments can be filed from 36 months to 12 months. Requires the subtraction of the 2 percent collection allowance from any refund granted.

Section 51: Requires a special fuel transporter to obtain a license from DMV and requires transporters to file a monthly report of their activities. Special fuel carriers are currently required to file such reports.

Section 52: Provides misdemeanor penalty for acting as an exporter or transporter without a license.

Section 53: Provides that the place of sale of the county option fuel tax is the place where the fuel is delivered into the tank of a vehicle not belonging to the seller or into a stationary tank on the premises of the buyer. Beginning January 1, 2002, when the DMV took over responsibility for collecting fuel taxes, the place of sale was changed to the location at which it is distributed from a terminal.