
SENATE BILL NO. 343—SENATOR MCGINNESS

MARCH 17, 2003

Referred to Committee on Taxation

SUMMARY—Authorizes rebate of certain taxes on motor vehicle fuel paid by certain retailers determined to be operating at competitive disadvantage to retailers of neighboring states. (BDR 32-1160)

FISCAL NOTE: Effect on Local Government: Yes.
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 taxes on motor vehicle fuel; authorizing the rebate of certain taxes on motor vehicle fuel paid by certain retailers determined to be operating at a competitive disadvantage to retailers of neighboring states; providing a penalty; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 365 of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 ***1. A retailer who, at a fixed place of business in this state***
4 ***which is located within 3 air miles of the state border, sells motor***
5 ***vehicle fuel which concurrently with the sale and at that location***
6 ***is placed into the fuel supply tanks of motor vehicles which are not***
7 ***owned or controlled by the retailer, is entitled to a rebate of the***
8 ***taxes paid by the retailer pursuant to this chapter on that fuel,***
9 ***either directly by the collection of the tax by the vendor from the***
10 ***retailer or indirectly by the addition of the amount of the tax to the***
11 ***price of the fuel, if the retailer:***
12 ***(a) Is not and has never been entitled to a refund of the taxes***
13 ***paid pursuant to this chapter on that fuel;***
14 ***(b) Files with the Department:***



- 1 (1) *A claim for the rebate on a form provided by the*
- 2 *Department; and*
- 3 (2) *Any documentation required by the Department to*
- 4 *determine the validity of the claim and the appropriate amount of*
- 5 *the rebate; and*
- 6 (c) *Proves to the satisfaction of the Department that a*
- 7 *difference between the amount of the taxes on motor vehicle fuel*
- 8 *imposed in this state and in the neighboring state has resulted in a*
- 9 *competitive advantage for retailers in the neighboring state.*
- 10 2. *Any rebate provided pursuant to this section must be in the*
- 11 *amount of:*
- 12 (a) *The taxes paid by the retailer pursuant to this chapter on*
- 13 *the motor vehicle fuel to which the rebate applies; or*
- 14 (b) *The difference between the amount of the taxes paid by the*
- 15 *retailer pursuant to this chapter on the motor vehicle fuel to which*
- 16 *the rebate applies and the amount of the taxes that would have*
- 17 *been imposed on the same amount of motor vehicle fuel sold in the*
- 18 *neighboring state,*
- 19 *whichever is less.*
- 20 3. *The Department shall adopt such regulations as it deems*
- 21 *necessary to carry out this section.*
- 22 4. *For the purposes of this section:*
- 23 (a) *“Motor vehicle fuel” does not include aviation fuel.*
- 24 (b) *“Neighboring state” means the state of the Union, other*
- 25 *than Nevada, which is the fewest air miles from the fixed place of*
- 26 *business where a retailer sells the motor vehicle fuel for which the*
- 27 *retailer claims a rebate pursuant to this section.*
- 28 **Sec. 2.** NRS 365.135 is hereby amended to read as follows:
- 29 365.135 1. The Department may, for good cause, extend for
- 30 not more than 30 days the period for making any report or return
- 31 required pursuant to this chapter. The extension may be granted at
- 32 any time if:
- 33 (a) A request for an extension has been filed with the
- 34 Department within or before the period for which the extension may
- 35 be granted; and
- 36 (b) A remittance of the estimated tax is made when the
- 37 remittance is due.
- 38 2. Any report, return, remittance to cover a payment or claim
- 39 for *any* credit , ~~for~~ refund *or rebate* required by this chapter which
- 40 is transmitted through the United States mail shall be deemed filed
- 41 or received by the Department on the date indicated on the post
- 42 office cancellation mark stamped upon the envelope containing it, or
- 43 on the date it was mailed if proof satisfactory to the Department
- 44 establishes that the document or remittance was timely deposited in
- 45 the United States mail and properly addressed to the Department.



1 **Sec. 3.** NRS 365.390 is hereby amended to read as follows:
2 365.390 Upon the presentation of the invoices, written
3 statements, tax exemption certificates or exportation certificates
4 required pursuant to this chapter, the Department shall cause to be
5 repaid to ~~the~~ a claimant *for a refund* from the taxes collected
6 under this chapter an amount equal to the taxes paid by the claimant
7 less the percentage allowed the dealer, supplier or user pursuant to
8 NRS 365.330.

9 **Sec. 4.** NRS 365.410 is hereby amended to read as follows:
10 365.410 ~~In order to~~ To establish the validity of any claim *for*
11 *a refund or rebate pursuant to this chapter* the Department may,
12 upon demand, examine the books and records of the claimant for
13 such purpose. The failure of the claimant to accede to such demand
14 constitutes a waiver of all rights to the refund *or rebate* claimed on
15 account of the transactions questioned.

16 **Sec. 5.** NRS 365.420 is hereby amended to read as follows:
17 365.420 Except as provided in NRS 360.235, all:

18 1. Applications for a refund based upon *the* exportation of
19 motor vehicle fuel or fuel for jet or turbine-powered aircraft from
20 this state must be filed with the Department within 3 months ~~from~~
21 *after* the date of exportation.

22 2. Other applications ~~is~~ *for a refund*, together with the
23 necessary supporting evidence, must be filed with the Department
24 within 6 months ~~from~~ *after* the date of purchase.

25 3. *Applications for a rebate, together with the necessary*
26 *supporting evidence, must be filed with the Department within 6*
27 *months after the date of sale.*

28 4. Rights to refunds *and rebates* are forfeited if applications
29 are not filed with the Department within the times prescribed in this
30 section.

31 **Sec. 6.** NRS 365.430 is hereby amended to read as follows:

32 365.430 1. All claims for refunds *or rebates* under this
33 chapter must be paid from the State Highway Fund, the Account for
34 Taxes on Aviation Fuel or the Account for Taxes on Fuel for Jet or
35 Turbine-Powered Aircraft upon claims presented by the
36 Department, approved by the State Board of Examiners, and
37 allowed and paid as other claims against the State are allowed and
38 paid.

39 2. Any refunds *or rebates* to be made of the taxes provided for
40 in NRS 365.180 and 365.190 must be paid in the manner provided
41 in this chapter and deducted from the amount of any later payment
42 to the county or counties in which the taxes were collected.

43 **Sec. 7.** NRS 365.570 is hereby amended to read as follows:

44 365.570 1. It is unlawful for any person:



- 1 (a) To refuse or neglect to make any statement, report or return
2 required by the provisions of this chapter;
- 3 (b) Knowingly to make, or aid or assist any other person in
4 making, a false statement in a report to the Department or in
5 connection with an application for *a* refund *or rebate* of any tax;
- 6 (c) Knowingly to collect or attempt to collect or cause to be
7 repaid to him or to any person, either directly or indirectly, any
8 refund *or rebate* of any tax without being entitled ~~[to the same;]~~
9 *thereto*;
- 10 (d) To engage in business in this state as a dealer or supplier or
11 to act as a carrier of motor vehicle fuel, fuel for jet or turbine-
12 powered aircraft, special fuel or other inflammable or combustible
13 liquids without being the holder of an uncanceled license
14 authorizing him to engage in such business or to act in such
15 capacity;
- 16 (e) To sell any motor vehicle fuel or fuel for jet or turbine-
17 powered aircraft upon which the tax imposed by this chapter has not
18 been paid, purchased by or consigned to him by any person other
19 than a licensed dealer or supplier; or
- 20 (f) To act as an agent to sell any motor vehicle fuel or fuel for jet
21 or turbine-powered aircraft, obtained in any manner, upon which the
22 tax imposed by this chapter has not been paid.
- 23 2. Each day or part thereof during which any person engages in
24 business as a dealer or supplier without being the holder of an
25 uncanceled license constitutes a separate offense within the
26 meaning of this section.

