

CHAPTER.....

AN ACT relating to taxation; revising certain provisions for the collection and administration of certain taxes and fees regarding petroleum products and fuels for motor vehicles and aircraft; making certain changes regarding the licensing, rights and responsibilities of certain dealers, suppliers, exporters, transporters and users of such fuels; 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:

Section 1. NRS 360A.040 is hereby amended to read as follows:

360A.040 *1.* If a check submitted to the Department for payment of any tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840 is dishonored upon presentment for payment, the Department may ~~require~~:

(a) Charge an additional fee of \$25 for handling the check; and

(b) Require that any future payments be made by cashier's check, traveler's check, money order or cash.

2. If a check is submitted to the Department for payment of a tax or fee required by chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840 on or before the date the tax or fee is due, but is afterward dishonored upon presentment for payment, the submission of the check shall be deemed not to constitute timely payment of the tax or fee.

Sec. 2. NRS 360A.050 is hereby amended to read as follows:

360A.050 Except ~~as otherwise provided in~~ *for any payments authorized pursuant to NRS 365.328, 365.340 and 366.397 ~~()~~ and section 33 of this act,* 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. 3. NRS 360A.100 is hereby amended to read as follows:

360A.100 Except as otherwise provided in NRS 366.395:

1. If a person fails to file a return or the Department is not satisfied with the return of any tax or fee required to be paid to the Department pursuant to chapter 365, 366 or 373 of NRS or NRS

590.120 or 590.840, the Department may determine the amount required to be paid upon the basis of:

- (a) The facts contained in the return;
- (b) Any information that is in the possession of the Department or may come into its possession; or
- (c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or more periods.

3. In making its determination of the amount required to be paid, the Department shall impose *a penalty and* interest on the amount of tax or fee determined to be due, calculated at the rate and in the manner set forth in NRS 360A.060.

4. ~~The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made if a person fails to file a return with the Department.~~

~~—5.]~~ If a business is discontinued, a determination may be made at any time thereafter within the period prescribed in NRS 360A.150 concerning liability arising out of that business, irrespective of whether the determination is issued before the due date of the liability.

Sec. 4. NRS 360A.150 is hereby amended to read as follows:

360A.150 1. Except as otherwise provided in subsections 2, 3 and 4, each notice of a deficiency determination issued by the Department must be personally served or mailed within ~~{3}~~ 4 years after the last day of the month following the period for which the amount is proposed to be determined or within ~~{3}~~ 4 years after the return is filed, whichever period expires later.

2. In the case of a failure to make a return or a claim for an additional amount, each notice of determination must be mailed or personally served within 8 years after the last day of the month following the period for which the amount is proposed to be determined.

3. If, before the expiration of the time prescribed in this section for the mailing of a notice of determination, the taxpayer has signed a waiver consenting to the mailing of the notice after that time, the notice may be mailed at any time before the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing if each agreement is made before the expiration of the period previously agreed upon.

4. This section does not apply to cases of fraud or the intentional evasion of a provision of chapter 365, 366 or 373 of NRS or NRS 590.120 or 590.840, or any regulation of the Department adopted pursuant thereto.

Sec. 5. NRS 360A.160 is hereby amended to read as follows:

360A.160 1. Any person against whom a deficiency determination is made who believes that the determination is

incorrect may petition the Department for a redetermination within 30 days after being served with the notice of determination.

2. If a petition for redetermination is not filed within the period prescribed in subsection 1, the person is deemed to have waived the right to contest the determination or recover a refund.

3. For good cause shown, the Department may extend the time within which a petition for redetermination must be filed. *Any request for an extension of time pursuant to this subsection must be filed with the Department within 30 days after service of the notice of determination.*

Sec. 6. NRS 360A.170 is hereby amended to read as follows:

360A.170 A petition for redetermination must:

1. Set forth the amount of the determination that is contested and the grounds for requesting a redetermination; and

2. ~~[[If an oral hearing is not requested, be]~~ *Be* accompanied by ~~{the}~~:

(a) Payment of the amount of the determination that is not contested; and

(b) Any books and records and other evidence which support the petition.

Sec. 7. Chapter 365 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 11, inclusive, of this act.

Sec. 8. *“Transporter” means a person, except a supplier or an exporter licensed pursuant to this chapter, who transports motor vehicle fuel or fuel for jet or turbine-powered aircraft in interstate commerce to or from any point within this state, or solely within this state.*

Sec. 9. *Any applicant whose application for a license as a dealer, supplier, exporter or transporter has been denied may petition the Department for a hearing. The Department shall:*

1. Grant the applicant a hearing.

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

Sec. 10. *A license issued pursuant to this chapter:*

1. Is valid until suspended, revoked or cancelled.

2. Is not transferable.

Sec. 11. *If any person ceases to be a dealer, supplier, exporter or transporter 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 pursuant to this chapter.

3. *If he is:*

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

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

Sec. 12. NRS 365.010 is hereby amended to read as follows:

365.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 365.015 to 365.088, inclusive, *and section 8 of this act* have the meanings ascribed to them in those sections.

Sec. 13. NRS 365.130 is hereby amended to read as follows:

365.130 1. The Department or its authorized agents may make any audit, examination or inquiry of and concerning the records, stocks, facilities, equipment and transactions of dealers, suppliers, retailers ~~[of petroleum products and carriers]~~, *exporters and transporters* of petroleum products, and such other investigations as it deems necessary to carry out the provisions of this chapter.

2. If any investigation discloses that any report or any payment has been incorrect, the Department may make such changes in subsequent reports and payments as may be necessary to correct the error so disclosed.

Sec. 14. NRS 365.170 is hereby amended to read as follows:

365.170 ~~[(a)]~~ Except as otherwise provided in NRS 365.135, every dealer shall, not later than the last day of each calendar month:

~~[(a)]~~ 1. Render to the Department a statement of all aviation fuel and fuel for jet or turbine-powered aircraft sold, distributed or used by him in this state, as well as all such fuel sold, distributed or used in this state by a purchaser thereof upon which sale, distribution or use the dealer has assumed liability for the tax thereon pursuant to NRS 365.020, during the preceding calendar month; and

~~[(b)]~~ 2. Pay an excise tax on:

~~[(1)]~~ (a) All fuel for jet or turbine-powered aircraft in the amount of 1 cent per gallon, plus any amount imposed by the county in which the fuel is sold, distributed or used pursuant to NRS 365.203; and

~~[(2)]~~ (b) Aviation fuel in the amount of 2 cents per gallon, plus any amount imposed by the county in which the fuel is sold, distributed or used pursuant to NRS 365.203, so sold, distributed or used, in the manner and within the time prescribed in this chapter.

~~[(2.—A dealer shall hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State.)]~~

Sec. 15. NRS 365.175 is hereby amended to read as follows:

365.175 ~~[(1)]~~ Except as otherwise provided in NRS 365.135, every supplier shall, not later than the last day of each calendar month:

~~[(a)]~~ 1. Submit to the Department a statement of all motor vehicle fuel, except aviation fuel, sold, distributed or used by him in this state; and

~~[(b)]~~ 2. Pay an excise tax on all motor vehicle fuel, except aviation fuel, in the amount of 17.65 cents per gallon sold, distributed or used in the manner prescribed in this chapter.

~~[(2.—A supplier shall hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State.)]~~

Sec. 16. NRS 365.230 is hereby amended to read as follows:

365.230 1. The provisions of this chapter requiring the payment of excise taxes do not apply to:

(a) Motor vehicle fuel, other than aviation fuel, sold by a ~~[(suppliers;)]~~ *supplier*; or

(b) Aviation fuel or fuel for jet or turbine-powered aircraft sold by a dealer, in individual quantities of 500 gallons or less for export to another state or country by the purchaser other than in the supply tank of a motor vehicle or an aircraft, if the dealer or supplier is licensed in the state of destination to collect and remit the applicable destination state taxes thereon.

2. In support of any exemption from taxes on account of sales of motor vehicle fuel or fuel for jet or turbine-powered aircraft in individual quantities of 500 gallons or less for export by the purchaser, the dealer or supplier who sold the fuel to the purchaser shall retain in his files for at least ~~[(3)]~~ 4 years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the Department. This certificate is prima facie evidence of the exportation of the motor vehicle fuel or fuel for jet or turbine-powered aircraft to which it applies only if accepted by the dealer or supplier in good faith. If the purchaser fails to export any part of the motor vehicle fuel or fuel for jet or

turbine-powered aircraft covered by the certificate, he shall remit to the Department immediately thereafter the applicable amount in taxes due on the part not exported. Upon failure to do so the purchaser is subject to all penalties in this chapter for delinquency in payment of taxes.

Sec. 17. NRS 365.270 is hereby amended to read as follows:

365.270 ~~[1.—After April 1, 1935, it]~~ **It** is unlawful for any person to be ~~[a]~~ :

1. A dealer without holding a license ~~[of]~~ **as** a dealer as provided for in this chapter.

2. ~~[After January 1, 2002, it is unlawful for any person to be a]~~ A supplier without holding a license ~~[of]~~ **as** a supplier as provided for in this chapter.

3. **An exporter without holding a license as an exporter as provided for in this chapter.**

4. **A transporter without holding a license as a transporter as provided for in this chapter.**

Sec. 18. NRS 365.280 is hereby amended to read as follows:

365.280 Before becoming a dealer , ~~[or]~~ supplier, **exporter or transporter**, a person shall apply to the Department, on forms to be prescribed and furnished by the Department, for a license authorizing the applicant to engage in business as a dealer ~~[or supplier.]~~ , **supplier, exporter or transporter.**

Sec. 19. NRS 365.290 is hereby amended to read as follows:

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

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

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

4. No recovery on any bond, nor the execution of any new bond, nor the revocation, cancellation or suspension of any license affects the validity of any bond.

5. In lieu of any bond or bonds, a dealer or supplier may deposit with the Department, under such terms and conditions as the Department may prescribe, a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Department.

Sec. 20. NRS 365.300 is hereby amended to read as follows:

365.300 1. ~~Upon approval of the application~~ *Except as otherwise provided in subsection 2,* the Department shall, upon receipt of:

(a) The application and bond in proper form, issue to the applicant a license as a dealer or supplier. †

~~(a) An identification number; and~~

~~(b) A nonassignable license with a duplicate copy for each place of business of the dealer or supplier in this state.~~

~~2. Each license and all duplicates must bear the identification number of the dealer or supplier.~~

~~3. The license continues in force until cancelled, suspended or revoked.~~

~~4. The dealer or supplier shall have his identification number printed on each of his delivery tickets.]~~

(b) The application in proper form, issue to the applicant a license as an exporter or a transporter.

2. *The Department may refuse to issue a license pursuant 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 he is a dealer or supplier, neglects or refuses to furnish a bond as required by this chapter;

(d) Who is in default in the payment of a tax on motor vehicle fuel or fuel for jet or turbine-powered aircraft 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. 21. NRS 365.310 is hereby amended to read as follows:

365.310 1. The Department may suspend, cancel or revoke the license of any dealer, ~~or~~ supplier, *exporter or transporter* refusing or neglecting to comply with the provisions of this chapter.

2. If a dealer or supplier 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 or bonds furnished by the dealer or supplier, the Department shall suspend his license immediately.

3. Before revoking or cancelling any license issued under this chapter, the Department shall send a notice by registered or certified mail to the dealer, ~~or~~ supplier, *exporter or transporter* at his last known address. The notice must order the dealer, ~~or~~ supplier, *exporter or transporter* to show cause why his license should not be revoked by appearing before the Department at Carson City, Nevada, or such other place in this state as may be designated by the Department, at a time not less than 10 days after the mailing of the notice. The Department shall allow the dealer, ~~or~~ supplier, *exporter or transporter* an opportunity to be heard in pursuance of the notice, and thereafter the Department may revoke or cancel his license.

Sec. 22. NRS 365.330 is hereby amended to read as follows:

365.330 1. The excise taxes prescribed in this chapter must be paid on or before the last day of each calendar month to the Department. 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.

2. *Except as otherwise provided in subsection 3:*

(a) From the tax found to be due upon any statement submitted by a dealer pursuant to NRS 365.170, ~~for a user pursuant to NRS 365.200,~~ the dealer ~~or user~~ may retain an amount equal to 2 percent of the amount of the tax collected to cover the dealer's ~~or user's~~ costs of collection of the tax and of compliance with this chapter, and the dealer's ~~or user's~~ handling losses occasioned by evaporation, spillage or other similar causes.

~~3.~~ (b) Each supplier may retain an amount equal to 2 percent of the amount of the tax collected by the supplier ~~as a fee for making the collection.~~ *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. *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 for any month for which a tax return is not filed when due or a payment is not made when due.

4. If the Department determines that a dealer or supplier 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 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 shall comply with the order immediately upon receiving notification of the order from the Department.

Sec. 23. 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, 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 ~~allocated proportionately to~~ *deposited with the State Treasurer to the credit of* the State Highway Fund . ~~[, the county gas tax funds, the Account for Taxes on Aviation Fuel and the Account for Taxes on Fuel for Jet or Turbine Powered Aircraft by the Department.]~~

Sec. 24. NRS 365.380 is hereby amended to read as follows:

365.380 1. A claimant for refund must present to the Department a refund claim form accompanied by the original invoices showing the purchase. The refund forms must state the total amount of fuel so purchased and used otherwise than for the propulsion of motor vehicles or jet or turbine-powered aircraft and the manner and the equipment in which the claimant has used the fuel.

2. A claimant for refund of tax on motor vehicle fuel or fuel for jet or turbine-powered aircraft purchased and exported from this state shall execute and furnish to the Department a certificate of exportation on such form as may be prescribed by the Department.

3. An invoice to qualify for refund must contain at least:

- (a) The number of gallons of fuel purchased;
- (b) The price per gallon;
- (c) The total purchase price of the fuel; and
- (d) Such other information as may be prescribed by the Department.

Department.

4. The signature on the refund claim form subjects the claimant to the charge of perjury for false statements contained on the refund application.

5. Daily records must be maintained and preserved for a period of ~~3~~ 4 years for audit purposes of all motor vehicle fuel and fuel for jet or turbine-powered aircraft used. The record must set forth:

- (a) The piece of equipment being supplied with the fuel;
- (b) The number of gallons of fuel used in each fill; and
- (c) The purpose for which the piece of equipment will be used.

The motor vehicle fuel fills must be further classified according to whether the motor vehicle fuel was used on or off the highway.

6. If a motor vehicle with auxiliary equipment consumes motor vehicle fuel and there is no auxiliary motor or separate tank for the motor, a refund of 20 percent of the tax paid on the fuel used in the vehicle may be claimed without the necessity of furnishing proof of the amount of fuel consumed in the operation of the auxiliary equipment. The Department shall, by regulation, establish uniform refund provisions for the respective classes of users who claim refunds of more than 20 percent of the tax paid.

7. No person may be granted a refund of motor vehicle fuel taxes for off-highway use when the consumption takes place on highways constructed and maintained by public funds, on federal proprietary lands or reservations where the claimant has no ownership or control over the land or highways, except when the person is under a contractual relationship with the Federal Government or one of its agencies and is engaged in the performance of his duties pursuant to that relationship. Employment of a person by the Federal Government or any of its agencies does not constitute a contractual relationship for the purpose of this subsection.

8. If, in the opinion of the Department, it would be beneficial to the State for a refund claimant to become a licensed dealer or supplier, the claimant may, at the option of the Department, be required to become a licensed dealer or supplier rather than a refund claimant unless the claimant chooses to claim refunds at the tax rate, less 2 percent.

Sec. 25. NRS 365.390 is hereby amended to read as follows:

365.390 Upon the presentation of the invoices, written statements, tax exemption certificates or exportation certificates required pursuant to this chapter, the Department shall cause to be repaid to the claimant from the taxes collected under this chapter an amount equal to the taxes paid by the claimant less the percentage allowed the dealer ~~[, supplier or user]~~ *or supplier* pursuant to NRS 365.330.

Sec. 26. NRS 365.420 is hereby amended to read as follows:

365.420 ~~[Except as provided in NRS 360.235, all:]~~

1. Applications for refund based upon exportation of motor vehicle fuel or fuel for jet or turbine-powered aircraft from this state

must be filed with the Department within 3 months ~~from~~ *after* the date of exportation.

2. Other applications, together with the necessary supporting evidence, must be filed with the Department within ~~6 months from~~ *12 months after* the date of purchase.

3. Rights to refunds are forfeited if applications are not filed with the Department within the times prescribed in this section.

Sec. 27. NRS 365.500 is hereby amended to read as follows:

365.500 1. Every dealer , ~~and~~ 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 records are subject to inspection at all times within business hours by the Department or its authorized agents, and must remain available for inspection for a period of ~~3~~ *4* years after the date of any entry therein.

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

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

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

Sec. 28. NRS 365.510 is hereby amended to read as follows:

365.510 1. Every retailer shall maintain and keep within the State for a period of ~~3~~ *4* years a true record of motor vehicle fuel or fuel for jet or turbine-powered aircraft received, of the price

thereof and the name of the person who supplies the fuel, together with delivery tickets, invoices and such other records as the Department may require.

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

Sec. 29. NRS 365.520 is hereby amended to read as follows:

365.520 1. Every ~~[carrier, whether common, contract or private.]~~ *transporter*, except a dealer licensed under this chapter or a wholesale distributor transporting the products of a dealer licensed under this chapter, who transports motor vehicle fuel or fuel for jet or turbine-powered aircraft in interstate commerce to or from any point within ~~[the State of Nevada]~~ *this state, or solely within this state*, shall report *all of those deliveries* to the Department . ~~[all deliveries so made.~~

~~—2. Such]~~

2. A report must ~~[cover the period of]~~ *be made for* each calendar month and must be filed within 25 days after the end of ~~[that month.]~~ *the month for which the report is made.* The report must show:

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

(b) The date of every delivery.

(c) The amount of every delivery in gallons.

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

~~[3. The Department or its authorized agents may examine the books and records of any carrier during business hours to determine if the provisions of this section have been or are being complied with.]~~

Sec. 30. NRS 365.570 is hereby amended to read as follows:

365.570 1. It is unlawful for any person:

(a) To refuse or neglect to make any statement, report or return required by the provisions of this chapter;

(b) Knowingly to make, or aid or assist any other person in making, a false statement in a report to the Department or in connection with an application for refund of any tax;

(c) Knowingly to collect or attempt to collect or cause to be repaid to him or to any person, either directly or indirectly, any refund of any tax without being entitled to the same;

(d) To engage in business in this state as a dealer , ~~[or]~~ *supplier or exporter* or to act *in this state* as a ~~[carrier of motor vehicle fuel, fuel for jet or turbine powered aircraft, special fuel or other inflammable or combustible liquids]~~ *transporter* without being the holder of an uncanceled license authorizing him to engage in ~~[such]~~ *that* business or to act in ~~[such]~~ *that* capacity;

(e) To sell any motor vehicle fuel or fuel for jet or turbine-powered aircraft upon which the tax imposed by this chapter has not been paid, purchased by or consigned to him by any person other than a licensed dealer or supplier; or

(f) To act as an agent to sell any motor vehicle fuel or fuel for jet or turbine-powered aircraft, obtained in any manner, upon which the tax imposed by this chapter has not been paid.

2. Each day or part thereof during which any person engages in business as a dealer , ~~[or]~~ supplier *or exporter or acts as a transporter* without being the holder of an uncanceled 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. 31. Chapter 366 of NRS is hereby amended by adding thereto the provisions set forth as sections 32 and 33 of this act.

Sec. 32. *“Special fuel transporter” means a person, except a special fuel supplier or special fuel exporter licensed pursuant to this chapter, who transports special fuel in interstate commerce to or from any point within this state, or solely within this state.*

Sec. 33. *1. If the amount of any excise tax for any reporting period is not paid to the State on or before the day the payment is due pursuant to this chapter, the payment becomes delinquent at the close of business on that day. A special fuel supplier, special fuel dealer or special fuel 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.

Sec. 34. NRS 366.020 is hereby amended to read as follows:

366.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 366.025 to 366.100, inclusive, *and section 32 of this act* have the meanings ascribed to them in those sections.

Sec. 35. NRS 366.140 is hereby amended to read as follows:

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

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

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

Sec. 36. NRS 366.150 is hereby amended to read as follows:

366.150 1. The Department or its authorized agents may:

(a) Examine the books, papers, records and equipment of any special fuel supplier, special fuel dealer, *special fuel exporter, special fuel transporter*, special fuel user or *any other* person transporting or storing special fuel ; ~~as defined in NRS 366.060;~~

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

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

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

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

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

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

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

Sec. 37. NRS 366.160 is hereby amended to read as follows:

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

2. All supporting schedules, invoices and other pertinent papers relative to the business affairs and operations of any special fuel supplier, special fuel dealer, *special fuel exporter, special fuel transporter* or special fuel user, and any information obtained by an investigation of the records and equipment of any special fuel supplier, special fuel dealer, *special fuel exporter, special fuel transporter* or special fuel user, shall be deemed confidential and must not be revealed to any person except as necessary to administer this chapter or as otherwise provided by law.

Sec. 38. NRS 366.170 is hereby amended to read as follows:

366.170 The Department may, upon request from officials to whom is entrusted the enforcement of the special fuel tax law of any other state, the District of Columbia, the United States, its territories or possessions, or any foreign country, forward to those officials any information which it may have relative to the receipt, storage, delivery, sale, use or other disposition of special fuel by any special fuel supplier, special fuel ~~exporter,~~ *dealer*, special fuel ~~dealer,~~ *exporter, special fuel transporter* or special fuel user, if such other state, district, territory or possession furnishes similar information to this state.

Sec. 39. NRS 366.203 is hereby amended to read as follows:

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

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

3. A person who, pursuant to subsection 2, 3 or 4 of NRS 366.200 is exempt from the tax imposed by this chapter, may operate or maintain a motor vehicle on a highway in this state which contains in the fuel tank of that vehicle special fuel which has been dyed.

4. A person may operate or maintain on a highway in this state any special mobile equipment or farm equipment that contains in the fuel tank of the special mobile equipment or farm equipment special fuel which has been dyed. As used in this subsection:

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

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

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

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

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

5. There is a rebuttable presumption that all special fuel which has not been dyed and which is sold or distributed in this state is for the purpose of propelling a motor vehicle.

Sec. 40. NRS 366.220 is hereby amended to read as follows:

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

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

(b) *Person to be a:*

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

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

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

Sec. 41. NRS 366.240 is hereby amended to read as follows:

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

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

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

2. The Department may refuse to issue a ~~[special fuel supplier's, special fuel dealer's license or special fuel user's]~~ license *pursuant to this section* to any person:

(a) Who formerly held a ~~[special fuel license in this state,]~~ *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 he 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; ~~[or]~~

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

(f) Upon other sufficient cause being shown.

Sec. 42. NRS 366.250 is hereby amended to read as follows:

366.250 Any applicant whose application for a special fuel supplier's license, special fuel dealer's license, *special fuel exporter's license, special fuel transporter's license* or special fuel user's license has been denied may petition the Department for a hearing. The Department shall:

1. Grant the applicant a hearing.

2. Provide to the ~~[person,]~~ *applicant*, not less than 10 days before the hearing, written notice of the time and place of the hearing.

Sec. 43. NRS 366.260 is hereby amended to read as follows:

366.260 1. ~~[Each special fuel supplier's license or special fuel dealer's]~~ *A license issued pursuant to this chapter:*

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

(b) *Is not transferable.*

2. Each special fuel user's license is valid for ~~[the]~~ *a* calendar year unless suspended ~~[or revoked for cause or otherwise cancelled.]~~

~~3. The license of a special fuel supplier, special fuel dealer or special fuel user is not transferable.]~~, *revoked or cancelled.*

Sec. 44. NRS 366.270 is hereby amended to read as follows:

366.270 ~~Whenever~~ *If* any person ceases to be a special fuel supplier, special fuel dealer, *special fuel exporter, special fuel transporter* or special fuel user within ~~the~~ *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 ~~and, in the event of a sale, the date thereof~~, *sale or transfer*, and the name and address of ~~the~~ *any* purchaser or transferee.

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

3. If he is ~~a~~ :

(a) A special fuel user, file ~~a quarterly~~ *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*, ~~366.370 and 366.380,~~ 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.

~~4. If he is a~~

(b) A special fuel supplier, file ~~a monthly~~ *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* ~~366.370 and 366.383~~ on or before the last day of the month following the month of *the* discontinuance, sale or transfer of the business.

~~5. If he is a~~

(c) A special fuel dealer, file ~~a monthly~~ *the* tax return *required pursuant to NRS 366.386* and pay all taxes, interest and penalties *required pursuant to* ~~NRS 366.370 and 366.386~~ *this chapter and chapter 360A of NRS, except that both the filing and payment are due* on or before the last day of the month following the month of *the* discontinuance, sale or transfer of the business.

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

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

Sec. 45. NRS 366.350 is hereby amended to read as follows:

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

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

Sec. 46. NRS 366.370 is hereby amended to read as follows:

366.370 1. Except as otherwise provided in ~~subsections 4 and 5 and NRS 366.380,~~ *this chapter*, the excise tax imposed by this chapter with respect to the use or sale of special fuel during any calendar quarter is due on or before the last day of the first month following the quarterly period to which it relates.

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. A special fuel supplier shall pay the tax imposed by this chapter at the time he files his ~~monthly~~ tax return pursuant to NRS 366.383.

5. A special fuel dealer shall pay the tax imposed by this chapter at the time he files his ~~monthly~~ tax return pursuant to NRS 366.386.

Sec. 47. NRS 366.386 is hereby amended to read as follows:

366.386 1. On or before the last day of *the month following each ~~month,~~ reporting period*, a special fuel dealer shall file with the Department a tax return for the preceding ~~month,~~ *reporting period*, regardless of the amount of tax collected, on a form prescribed by the Department.

2. The tax return must:

(a) Include information required by the Department for the administration and enforcement of this chapter; and

(b) Be accompanied by a remittance, payable to the Department, for the amount of the tax due.

3. *Except as otherwise provided in this subsection, the reporting period for a special fuel dealer is a calendar month. Upon application by a special fuel dealer, the Department may assign to the special fuel dealer for a specific calendar year:*

(a) A reporting period consisting of that entire calendar year if the Department estimates, based upon the tax returns filed by the special fuel dealer for the preceding calendar year, that the special fuel dealer will sell not more than 200 gallons of special fuel in this state each calendar month of that reporting period.

(b) Two reporting periods consisting of 6 consecutive calendar months, commencing on the first day of January and July, respectively, if the Department estimates, based upon the tax

returns filed by the special fuel dealer for the preceding calendar year, that the special fuel dealer will sell more than 200 gallons but not more than 500 gallons of special fuel in this state each calendar month during those reporting periods.

(c) Four reporting periods consisting of 3 consecutive months, commencing on the first day of January, April, July and October, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer for the preceding calendar year, that the special fuel dealer will sell more than 500 gallons but less than 5,000 gallons of special fuel in this state each calendar month during those reporting periods.

Sec. 48. NRS 366.390 is hereby amended to read as follows:

366.390 1. Except as otherwise provided in subsection 2, the Department shall allow each special fuel supplier to retain an amount equal to 2 percent of the amount of the tax collected by the special fuel supplier ~~as a fee for making the collection.~~ *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.*

2. A special fuel supplier who fails to submit a tax return *when due* pursuant to ~~NRS 366.383~~ *this chapter or fails to pay the tax when due pursuant to this chapter* is not entitled to *retain any of* the ~~fee~~ *amount* authorized pursuant to subsection 1 for any month for which a tax return is not filed ~~[-]~~ *when due or a payment is not made when due.*

Sec. 49. NRS 366.540 is hereby amended to read as follows:

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

2. Except as otherwise provided in subsection 3, in computing the amount of tax on special fuel a special fuel supplier owes to the Department, the special fuel supplier may deduct from the amount due pursuant to subsection 1 any amount which 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 366.397. If such a deduction is claimed, the claim must identify the purchaser and the amount of taxes that he failed to pay.

3. A special fuel supplier shall not deduct from the amount he owes the Department pursuant to subsection 1 any amount which 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 366.397 if, before the special fuel was purchased, the special fuel supplier had been notified by the Department pursuant to subsection 5 of NRS 366.397 that it had revoked the purchaser's permit.

4. ~~Each~~ *If the Department determines that a special fuel supplier or special fuel dealer 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 special fuel supplier ~~and~~ or special fuel dealer ~~shall~~ to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the state. The special fuel supplier or special fuel dealer shall comply with the order immediately upon receiving notification of the order from the Department.*

Sec. 50. NRS 366.650 is hereby amended to read as follows:

366.650 1. If illegally or through error the Department collects or receives any excise tax, penalty or interest imposed pursuant to this chapter, the excise tax, penalty or interest must be refunded to the person who paid the tax, penalty or interest. ~~Except as otherwise provided in NRS 360.235, a~~ A written application for a refund, stating the specific grounds therefor, must be made within ~~36~~ 12 months after the date of payment, whether or not the excise tax, penalty or interest was paid voluntarily or under protest.

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

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

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

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

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

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

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

The Department shall refund to an applicant who complies with the provisions of this subsection a refund in an amount equal to the tax paid by ~~[that person when he purchased the special fuel.]~~ *the applicant less the percentage allowed the special fuel supplier pursuant to NRS 366.390.*

Sec. 51. NRS 366.695 is hereby amended to read as follows:

366.695 1. Every ~~[carrier, whether common, contract or private, except a special fuel supplier licensed pursuant to this chapter or]~~ *special fuel transporter, except* a wholesale distributor transporting the products of a special fuel supplier licensed pursuant to this chapter, who transports special fuel in interstate commerce to or from any point within this state, or solely within this state, shall report *all of those deliveries* to the Department . ~~[all deliveries of that special fuel.]~~

2. A report must be made for each calendar month and must be filed within 25 days after the end of the month for which the report is made. The report must show:

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

(b) The date of each delivery;

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

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

~~[3.—The Department or its authorized agents may examine the books and records of any carrier during business hours to determine whether the carrier is in compliance with the provisions of this section.]~~

Sec. 52. NRS 366.720 is hereby amended to read as follows:

366.720 Any person who:

1. Fails or refuses to pay the tax imposed by this chapter;

2. 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. Fails to make any of the reports required by this chapter;

4. Makes any false statement in any application, report or statement required by this chapter;
 5. Refuses to permit the Department or any authorized agent to examine records as provided by this chapter;
 6. 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. Makes any false statement in connection with an application for the refund of any money or taxes provided in this chapter;
 8. Violates the provisions of NRS 366.265;
 9. 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. 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.

Sec. 53. NRS 373.090 is hereby amended to read as follows:

373.090 ~~4.~~ For the purpose of the tax imposed by an ordinance enacted pursuant to this chapter, motor vehicle fuel is sold at the place where it is ~~distributed from a terminal.~~
~~2. As used in this section, "terminal" has the meaning ascribed to it in NRS 365.088.] delivered into a vehicle not belonging to the seller or into a stationary tank on the premises of the buyer.~~

Sec. 54. This act becomes effective upon passage and approval for the purpose of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act, and on October 1, 2003, for all other purposes.