

LEGISLATIVE BILL 610

Passed over the Governor's veto May 14, 2015.

Introduced by Smith, 14; Friesen, 34.

A BILL FOR AN ACT relating to motor fuels; to amend sections 66-489, 66-4,105, 66-4,145, 66-4,146, 66-6,107, and 66-6,109, Reissue Revised Statutes of Nebraska; to change excise taxes as prescribed; to eliminate obsolete provisions; and to repeal the original sections.
Be it enacted by the people of the State of Nebraska,

Section 1. Section 66-489, Reissue Revised Statutes of Nebraska, is amended to read:

66-489 (1)(a) At the time of filing the return required by section 66-488, such producer, supplier, distributor, wholesaler, or importer shall, in addition to the tax imposed pursuant to sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146 and in addition to the other taxes provided for by law, pay a tax in an amount set in subdivision (b) of this subsection of seven and one-half cents per gallon upon all motor fuels as shown by such return, except that there shall be no tax on the motor fuels reported if (i a) the required taxes on the motor fuels have been paid, (ii b) the motor fuels have been sold to a licensed exporter exclusively for resale or use in another state, (iii e) the motor fuels have been sold from a Nebraska barge line terminal, pipeline terminal, refinery, or ethanol or biodiesel facility, including motor fuels stored offsite in bulk, by a licensed producer or supplier to a licensed distributor, (iv d) the motor fuels have been sold by a licensed distributor or licensed importer to a licensed distributor or to a licensed wholesaler and the seller acquired ownership of the motor fuels directly from a licensed producer or supplier at or from a refinery, barge, barge line, pipeline terminal, or ethanol or biodiesel facility, including motor fuels stored offsite in bulk, in this state or was the first importer of such fuel into this state, or (v e) as otherwise provided in this section. Such producer, supplier, distributor, wholesaler, or importer shall remit such tax to the department.

(b) The tax shall be:

(i) Seven and one-half cents per gallon through December 31, 2015;

(ii) Eight cents per gallon beginning on January 1, 2016, through December 31, 2016;

(iii) Eight and one-half cents per gallon beginning on January 1, 2017, through December 31, 2017;

(iv) Nine cents per gallon beginning on January 1, 2018, through December 31, 2018; and

(v) Nine and one-half cents per gallon beginning on January 1, 2019.

(2) As part of filing the return required by section 66-488, each producer of ethanol shall, in addition to other taxes imposed by the motor fuel laws, pay an excise tax of one and one-quarter cents per gallon through December 31, 2004, and commencing January 1, 2010, and two and one-half cents per gallon commencing January 1, 2005, through December 31, 2009, on natural gasoline purchased for use as a denaturant by the producer at an ethanol facility. All taxes, interest, and penalties collected under this subsection shall be remitted to the State Treasurer for credit to the Agricultural Alcohol Fuel Tax Fund, except that commencing January 1, 2005, through December 31, 2009, one and one-quarter cents per gallon of such excise tax shall be credited to the Ethanol Production Incentive Cash Fund. For fiscal years 2007-08 through 2011-12, if the total receipts from the excise tax authorized in this subsection and designated for deposit in the Agricultural Alcohol Fuel Tax Fund exceed five hundred fifty thousand dollars, the State Treasurer shall deposit amounts in excess of five hundred fifty thousand dollars in the Ethanol Production Incentive Cash Fund.

(3)(a) Motor fuels, methanol, and all blending agents or fuel expanders shall be exempt from the taxes imposed by this section and sections 66-489.02, 66-4,105, 66-4,140, 66-4,145, and 66-4,146, when the fuels are used for buses equipped to carry more than seven persons for hire and engaged entirely in the transportation of passengers for hire within municipalities or within a radius of six miles thereof.

(b) The owner or agent of any bus equipped to carry more than seven persons for hire and engaged entirely in the transportation of passengers for hire within municipalities, or within a radius of six miles thereof, in lieu of the excise tax provided for in this section, shall pay an equalization fee of a sum equal to twice the amount of the registration fee applicable to such vehicle under the laws of this state. Such equalization fee shall be paid in the same manner as the registration fee and be disbursed and allocated as registration fees.

(c) Nothing in this section shall be construed as permitting motor fuels to be sold tax exempt. The department shall refund tax paid on motor fuels used in buses deemed exempt by this section.

(4) Natural gasoline purchased for use as a denaturant by a producer at an ethanol facility as defined in section 66-1333 shall be exempt from the motor fuels tax imposed by subsection (1) of this section as well as the tax imposed

pursuant to sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

(5) Unless otherwise provided by an agreement entered into between the State of Nebraska and the governing body of any federally recognized Indian tribe within the State of Nebraska, motor fuels purchased on a Nebraska Indian reservation where the purchaser is a Native American who resides on the reservation shall be exempt from the motor fuels tax imposed by this section as well as the tax imposed pursuant to sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

(6) Motor fuels purchased for use by the United States Government or its agencies shall be exempt from the motor fuels tax imposed by this section as well as the tax imposed pursuant to sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

(7) In the case of diesel fuel, there shall be no tax on the motor fuels reported if (a) the diesel fuel has been indelibly dyed and chemically marked in accordance with regulations issued by the Secretary of the Treasury of the United States under 26 U.S.C. 4082 or (b) the diesel fuel contains a concentration of sulphur in excess of five-hundredths percent by weight or fails to meet a cetane index minimum of forty and has been indelibly dyed in accordance with regulations promulgated by the Administrator of the Environmental Protection Agency pursuant to 42 U.S.C. 7545.

~~(8) The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on and after July 1, 2009.~~

Sec. 2. Section 66-4,105, Reissue Revised Statutes of Nebraska, is amended to read:

66-4,105 (1) There is hereby levied and imposed an excise tax in an amount set in subsection (2) of this section of seven and one-half cents per gallon, increased by the amounts imposed or determined under sections 66-489.02, 66-4,140, 66-4,145, and 66-4,146, upon the use of all motor fuels used in this state and due the State of Nebraska under section 66-489. Users of motor fuels subject to taxation under this section shall be allowed the same exemptions, deductions, and rights of reimbursement as are authorized and permitted by Chapter 66, article 4, other than any commissions provided under such article.

(2) The excise tax shall be:

(a) Seven and one-half cents per gallon through December 31, 2015;

(b) Eight cents per gallon beginning on January 1, 2016, through December 31, 2016;

(c) Eight and one-half cents per gallon beginning on January 1, 2017, through December 31, 2017;

(d) Nine cents per gallon beginning on January 1, 2018, through December 31, 2018; and

(e) Nine and one-half cents per gallon beginning on January 1, 2019.

~~(3) For purposes of this section and section 66-4,106, use means shall mean the purchase or consumption of motor fuels in this state. The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on and after July 1, 2009.~~

Sec. 3. Section 66-4,145, Reissue Revised Statutes of Nebraska, is amended to read:

66-4,145 (1) In addition to the tax imposed by sections 66-489, 66-489.02, and 66-4,140, each producer, supplier, distributor, wholesaler, and importer required by section 66-489 to pay motor fuels taxes shall pay an excise tax in an amount set in subsection (2) of this section of two and eight-tenths cents per gallon on all motor fuels received, imported, produced, refined, manufactured, blended, or compounded by such producer, supplier, distributor, wholesaler, or importer within the State of Nebraska. The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on and after July 1, 2009.

(2) The excise tax shall be:

(a) Two and eight-tenths cents per gallon through December 31, 2015;

(b) Three and eight-tenths cents per gallon beginning on January 1, 2016, through December 31, 2016;

(c) Four and eight-tenths cents per gallon beginning on January 1, 2017, through December 31, 2017;

(d) Five and eight-tenths cents per gallon beginning on January 1, 2018, through December 31, 2018; and

(e) Six and eight-tenths cents per gallon beginning on January 1, 2019.

Sec. 4. Section 66-4,146, Reissue Revised Statutes of Nebraska, is amended to read:

66-4,146 (1) In addition to the tax imposed by sections 66-489, 66-489.02, 66-4,140, and 66-4,145, each producer, supplier, distributor, wholesaler, and importer required by section 66-489 to pay motor fuels taxes shall pay an excise tax in an amount set in subsection (2) of this section of two and eight-tenths cents per gallon on all motor fuels used in the State of Nebraska. The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on and after July 1, 2009.

(2) The tax shall be:

(a) Two and eight-tenths cents per gallon through December 31, 2015;

(b) Three and eight-tenths cents per gallon beginning on January 1, 2016, through December 31, 2016;

(c) Four and eight-tenths cents per gallon beginning on January 1, 2017, through December 31, 2017;

(d) Five and eight-tenths cents per gallon beginning on January 1, 2018, through December 31, 2018; and

(e) Six and eight-tenths cents per gallon beginning on January 1, 2019.

Sec. 5. Section 66-6,107, Reissue Revised Statutes of Nebraska, is amended to read:

66-6,107 (1) In addition to the tax imposed pursuant to sections 66-6,108, 66-6,109, and 66-6,109.02, an excise tax in an amount set in subsection (2) of this section of seven and one-half cents per gallon or gallon equivalent is levied and imposed on all compressed fuel sold for use in registered motor vehicles. The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on and after July 1, 2009.

(2) The tax shall be:

(a) Seven and one-half cents per gallon or gallon equivalent through December 31, 2015;

(b) Eight cents per gallon or gallon equivalent beginning on January 1, 2016, through December 31, 2016;

(c) Eight and one-half cents per gallon or gallon equivalent beginning on January 1, 2017, through December 31, 2017;

(d) Nine cents per gallon or gallon equivalent beginning on January 1, 2018, through December 31, 2018; and

(e) Nine and one-half cents per gallon or gallon equivalent beginning on January 1, 2019.

Sec. 6. Section 66-6,109, Reissue Revised Statutes of Nebraska, is amended to read:

66-6,109 (1) In addition to the tax imposed by sections 66-6,107, 66-6,108, and 66-6,109.02, each retailer shall pay an excise tax in an amount set in subsection (2) of this section of two and eight-tenths cents per gallon or gallon equivalent on all compressed fuel sold for use in registered motor vehicles. The changes made to this section by Laws 2008, LB 846, apply for tax periods beginning on and after July 1, 2009.

(2) The tax shall be:

(a) Two and eight-tenths cents per gallon or gallon equivalent through December 31, 2015;

(b) Three and eight-tenths cents per gallon or gallon equivalent beginning on January 1, 2016, through December 31, 2016;

(c) Four and eight-tenths cents per gallon or gallon equivalent beginning on January 1, 2017, through December 31, 2017;

(d) Five and eight-tenths cents per gallon or gallon equivalent beginning on January 1, 2018, through December 31, 2018; and

(e) Six and eight-tenths cents per gallon or gallon equivalent beginning on January 1, 2019.

Sec. 7. Original sections 66-489, 66-4,105, 66-4,145, 66-4,146, 66-6,107, and 66-6,109, Reissue Revised Statutes of Nebraska, are repealed.