

LEGISLATIVE BILL 907

Approved by the Governor April 6, 2012

Introduced by Carlson, 38; Bloomfield, 17; Brasch, 16; Harr, 8; Karpisek, 32; Larson, 40; Lathrop, 12; Price, 3; Wallman, 30.

FOR AN ACT relating to agriculture; to amend sections 2-2701, 2-2701.01, 2-2707, 2-2709, 2-2710, and 77-2704.36, Reissue Revised Statutes of Nebraska; to change provisions relating to tractor permitting and a sales tax exemption for agricultural machinery and equipment; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 2-2701, Reissue Revised Statutes of Nebraska, is amended to read:

2-2701 (1) No person shall be permitted to sell or dispose of any current tractor model of one hundred or more horsepower in the State of Nebraska without first having (a) made application for a permit and obtained a permit to sell the tractor model, (b) the model tested by the University of Nebraska onsite or offsite or by any Organization for Economic Cooperation and Development test station, and (c) the model passed upon by the board.

(2) A person may obtain a permit to sell or dispose of a current tractor model of less than one hundred horsepower by meeting the permit requirements of sections 2-2701 to 2-2711. A purchaser of a current tractor model is not eligible to claim the exemption from sales and use tax for agricultural machinery and equipment under section 77-2704.36 unless the current tractor model has been permitted for sale pursuant to sections 2-2701 to 2-2711.

(3) Each and every tractor model presented for testing shall be a stock model and shall not be equipped with any special accessory unless regularly supplied to the trade. Any tractor model not complying with this section shall not be tested under sections 2-2701 to 2-2711. Applications shall be made to the board and shall be accompanied by specifications of the tractor model required by the board and by the applicable fees specified in sections 2-2705 and 2-2705.01.

~~(2)~~ (4) If an official test application, with the required specifications and fees, is submitted to any Organization for Economic Cooperation and Development test station or to the University of Nebraska and an application for a temporary permit and the fee prescribed in section 2-2705.01 are submitted, the department, with the approval of the board, may issue a temporary permit for the sale of the tractor model specified in the official test application. The date on which the temporary permit terminates shall be fixed by the board. All temporary permits shall be conditioned upon such tractor model being tested at a mutually agreed-upon date, and the person to whom a temporary permit has been issued shall submit a tractor model for testing which conforms to the specifications filed with the official test application. Such tractor model shall be delivered for testing at the mutually agreed-upon date. Upon failure so to do, all such fees deposited by such person shall be forfeited to the University of Nebraska Tractor Test Cash Fund, except that the fee imposed in section 2-2705.01 shall be deposited in and forfeited to the Tractor Permit Cash Fund, and in addition such person shall not be issued any temporary permit for a period of five years from the date such tractor was to be delivered for testing and until such person meets the obligations required under subsection ~~(3)~~ (5) of this section to the department's satisfaction. ~~Any person who, prior to April 17, 1986, has been barred from applying for temporary permits may again make applications for temporary permits if five years have passed from the date such person last failed to deliver a tractor as specified by the board.~~

~~(3)~~ (5) All sales of tractors upon which a temporary permit has been issued shall be made subject to the final official test and approval of the tractor model as follows:

(a) If a tractor model upon which a temporary permit has been issued was not submitted for the official test and approval on the mutually agreed-upon date, the person to whom the temporary permit was issued shall repurchase any such tractor sold in Nebraska under the temporary permit. A claim by a purchaser under this subdivision shall be brought within two years after the date of the expiration of the temporary permit; and

(b) If a tractor model upon which a temporary permit has been issued fails in the official test to meet the specifications of the tractor model which were filed with the application and fees, the person to whom the temporary permit was issued shall send a notice, as approved by the

department, to any person in Nebraska who has purchased a tractor sold under the temporary permit. The person to whom the temporary permit was issued shall either modify the tractor to meet the specifications filed with the board or remedy to the satisfaction of the purchaser any injury incurred by the purchaser which was caused by the failure of the tractor to meet the specifications claimed. Such person shall be prohibited from modifying sales literature, advertisement claims, or specifications of the tractor to avoid such notice.

Sec. 2. Section 2-2701.01, Reissue Revised Statutes of Nebraska, is amended to read:

2-2701.01 For purposes of sections 2-2701 to 2-2711, unless the context otherwise requires:

(1) Board ~~shall mean~~ means the University of Nebraska Board of Tractor Test Engineers which shall consist of three engineers under the control of the university;

(2) Current tractor model ~~shall mean~~ means any model included in the manufacturer's annual price list of tractors being offered for sale by its dealers or distributors;

(3) Department ~~shall mean~~ means the Department of Agriculture;

(4) Director ~~shall mean~~ means the Director of Agriculture or his or her authorized representative;

(5) Person ~~shall mean~~ means bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations; and

(6) Tractor ~~shall mean an agricultural tractor of forty or more horsepower which is~~ means a traction machine designed and advertised primarily to supply power to agricultural implements and farmstead equipment. An agricultural tractor propels itself and provides a force in the direction of travel and may provide mechanical, hydraulic, and electrical power and control to enable attached soil-engaging and other agricultural implements to perform their intended function.

Sec. 3. Section 2-2707, Reissue Revised Statutes of Nebraska, is amended to read:

2-2707 The report of the official test required by section 2-2701 shall be published by the board and made available in the Agricultural Biological Systems Engineering Department of the University of Nebraska and in such other places as may be designated by the board. All information pertaining to the official testing of a tractor shall be public record and available for inspection during normal business hours.

Sec. 4. Section 2-2709, Reissue Revised Statutes of Nebraska, is amended to read:

2-2709 Except when a temporary permit has been issued pursuant to subsection ~~(2)~~ (4) of section 2-2701, tractors shall be tested by the board in the order in which they are presented for such tests, and no discrimination shall be made for or against any person in any manner whatsoever. Complaints alleging a violation of this section shall be heard by the department.

Sec. 5. Section 2-2710, Reissue Revised Statutes of Nebraska, is amended to read:

2-2710 Any person selling a current tractor model of one hundred or more horsepower for use in the State of Nebraska without a permit issued by the department for such tractor model shall be required to repurchase any such tractor model sold in Nebraska for which a permit has not been issued. A claim by a purchaser under this section shall be brought within two years from the date of purchase.

Sec. 6. Section 77-2704.36, Reissue Revised Statutes of Nebraska, is amended to read:

77-2704.36 Sales and use tax shall not be imposed on the gross receipts from the sale, lease, or rental of depreciable agricultural machinery and equipment purchased, leased, or rented on or after January 1, 1993, for use in commercial agriculture. For purposes of this section, agricultural machinery and equipment excludes any current tractor model as defined in section 2-2701.01 not permitted for sale in Nebraska pursuant to sections 2-2701 to 2-2711.

Sec. 7. Original sections 2-2701, 2-2701.01, 2-2707, 2-2709, 2-2710, and 77-2704.36, Reissue Revised Statutes of Nebraska, are repealed.