

## LEGISLATIVE BILL 346

Approved by the Governor April 26, 1985

Introduced by Schmit, 23; V. Johnson, 8

AN ACT relating to motor fuels; to amend sections 66-410, 66-418.03, 66-452, and 66-821, Reissue Revised Statutes of Nebraska, 1943, and section 66-428, Revised Statutes Supplement, 1984; to change the tax on certain fuels as described; to eliminate public policy statements; to redefine a term; to require labeling of motor fuel dispensers as prescribed; to provide a penalty; to harmonize provisions; to provide operative dates; to repeal the original sections, and also sections 66-471 and 66-472, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

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

Section 1. That section 66-410, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-410. At the time of filing the statement, required by section 66-409, such dealer shall, in addition to the tax imposed pursuant to sections 66-473, 66-477, and 66-478 and in addition to the other taxes provided for by law, pay a tax of ten and one half cents per gallon upon all motor vehicle fuels as shown by such statement. Effective January 1, 1978, ~~agricultural ethyl alcohol produced and sold in the State of Nebraska for use as a motor vehicle fuel~~ and gasoline sold in Nebraska which contains a minimum of ten per cent blend of an agricultural ethyl alcohol whose purity shall be at least ninety-nine per cent alcohol, excluding denaturant, produced from cereal grains or domestic agricultural commodities shall be subject to a state motor fuel tax which is five cents per gallon less than gasoline which does not contain such a blend. Effective July 1, 1985, gasoline which contains such a blend shall be subject to a state motor fuel tax rate which is three cents per gallon less than gasoline which does not contain such a blend. Effective January 1, 1993, gasoline which contains such a blend shall be subject to the same state motor fuel tax rate as gasoline which does not contain such a blend. Such dealers shall remit such tax to the Tax Commissioner.

Sec. 2. That section 66-418.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-418.03. Cancellation of security, failure to provide additional security as required, failure to report or pay taxes due within the time provided, filing of any false statement or affidavit, or violation of any of the

provisions of sections 66-401 to 66-425 shall be grounds for suspension of any license or permit issued by the Tax Commissioner in accordance with sections 66-401 to 66-471 66-470.

The Tax Commissioner may, by notice either by registered or certified mail, return receipt requested, to the address of the licensee or permitholder as shown on the records of the Tax Commissioner, suspend any license or permit theretofore granted. Such licensee or permitholder may, within thirty days after the mailing of the notice of such suspension, petition the Tax Commissioner in writing for a hearing and reconsideration of such suspension. If a petition is not filed within the thirty-day period, the suspended license shall be canceled by the Tax Commissioner at the expiration of that period. If a petition is filed with the Tax Commissioner, he or she shall, within ten days of his receipt of the petition, grant a hearing at which the licensee or permitholder may show cause why his or her suspended license should not be canceled and shall give the licensee or permitholder reasonable notice of the time and place of such hearing. Upon conclusion of the hearing, the Tax Commissioner shall, within a reasonable time, issue a finding and order either reinstating or canceling such license.

Sec. 3. That section 66-428, Revised Statutes Supplement, 1984, be amended to read as follows:

66-428. In addition to the tax imposed pursuant to sections 66-473, 66-477, and 66-478, there is hereby levied and imposed an excise tax of ten and one half cents per gallon upon the use of all motor vehicle fuels, as defined by section 66-401, used in this state, and due the State of Nebraska under the provisions of section 66-410 or Chapter 66, article 6, except that such excise tax after June 1, 1979, shall be five cents per gallon less on agricultural ethyl alcohol produced in the State of Nebraska for use as a motor vehicle fuel and on motor vehicle fuel containing a minimum of ten per cent blend of agricultural ethyl alcohol produced from cereal grains or domestic agricultural commodities whose purity shall be at least ninety-nine per cent alcohol, excluding denaturant, than on motor vehicle fuel which does not contain such a blend. Effective July 1, 1985, such excise tax shall be three cents per gallon less on such motor vehicle fuel containing such a blend than on such motor vehicle fuel which does not contain such a blend. Effective January 1, 1993, the excise tax on such motor vehicle fuel containing such a blend shall be the same as that on such motor vehicle fuel which does not contain such a blend. Users of motor vehicle fuels subject to taxation under this section shall be allowed the same exemptions, deductions, and rights of reimbursement as are authorized and permitted by sections 66-413 and 66-414. For purposes of this section and section 66-429, use shall mean the purchase or consumption

of motor vehicle fuels in this state.

Sec. 4. That section 66-452, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-452. Every recipient of a permit, as described in section 66-449, shall be regarded as purchaser and claimant if he or she has paid for any one purchase the excise tax to a distributor upon forty or more gallons of gasoline or motor vehicle fuel, which gasoline or motor vehicle fuel was or is to be used solely and exclusively by such person for propelling or operating a stationary gas engine, tractor, combine, or machinery used solely for agricultural, quarrying, or industrial purposes in the state or for some purpose not involving the use of any highways in this state. As such purchaser and claimant he or she shall be entitled to a credit against the purchaser's Nebraska income tax liability for the amount of tax so paid during the taxable year of purchase of the fuel by the taxpayer less one and three-fourths one-fourth cents per gallon of the tax paid upon compliance with the provisions of sections 66-445 to 66-466 and not otherwise. Each purchaser and claimant shall be entitled to a credit against the purchaser's Nebraska income tax liability for the amount of the taxes imposed by sections 66-473, 66-477, and 66-478 on motor vehicle fuels purchased during the taxable year, which tax credit shall be established by the Tax Commissioner. No credit shall be made to anyone other than the actual purchaser of such tax credit gasoline or motor vehicle fuel.

Sec. 5. That section 66-821, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-821. For purposes of sections 66-821 to 66-824, unless the context otherwise requires:

(1) Gasohol shall mean gasoline which contains a minimum of ten per cent blend of an agricultural ethyl alcohol whose purity shall be at least ninety-nine per cent alcohol, excluding denaturant, produced in Nebraska from cereal grains or domestic agricultural commodities; and

(2) Department shall mean the Department of Roads.

Sec. 6. Commencing January 1, 1986, motor fuel dispensers shall be labeled on both faces with the product identity using the most descriptive terms commercially practicable. In addition, all alcohol-blended fuel dispensers shall have a label stating: With or containing ethanol, methanol, or ethanol and methanol or with similar wording if the motor fuel being dispensed contains one per cent or more by volume of alcohol. Any person who owns or controls such a motor fuel dispenser and does not attach the notice required by this section shall be guilty of an infraction.

Sec. 7. Sections 4 and 10 of this act shall become operative for all taxable years beginning or deemed to begin on or after January 1, 1985, sections 2 and 9 of

this act shall become operative on January 1, 1993, and the remaining sections of this act shall become operative on their effective date.

Sec. 8. That original sections 66-410 and 66-821, Reissue Revised Statutes of Nebraska, 1943, and section 66-428, Revised Statutes Supplement, 1984, are repealed.

Sec. 9. That original section 66-418.03, Reissue Revised Statutes of Nebraska, 1943, and also sections 66-471 and 66-472, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 10. That original section 66-452, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 11. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.