

A.B. 235

ASSEMBLY BILL NO. 235—ASSEMBLYMEN HARDY, GOICOECHEA;
AIZLEY, GRADY, KOIVISTO, SMITH AND STEWART

MARCH 4, 2009

Referred to Committee on Transportation

SUMMARY—Makes various changes to provisions governing the taxation of certain fuels and special fuels. (BDR 32-897)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 fuel taxes; providing for the taxation of ethanol as a motor vehicle fuel and biodiesel and blends of biodiesel and petroleum-based diesel as special fuels; making various changes concerning the licensure and regulation of persons who manufacture special fuel; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides for the taxation of certain motor vehicle fuels, including
2 gasoline. (NRS 365.060, 365.175-365.192) **Section 3** of this bill includes ethanol
3 within the definition of "motor vehicle fuel" and thereby requires ethanol to be
4 taxed in the same manner and at the same rate as gasoline. In addition, the inclusion
5 of ethanol as a motor vehicle fuel will subject dealers, suppliers, exporters and
6 transporters of ethanol to the same requirements and penalties currently applicable
7 to dealers, suppliers, exporters and transporters of gasoline, including, without
8 limitation, requirements concerning licensing, bonding, recordkeeping and the
9 collection and payment of taxes. (NRS 365.270, 365.290, 365.322, 365.324,
10 365.330, 365.500-365.530, 365.570-365.605)

11 Existing law provides for the taxation of certain special fuels for motor
12 vehicles, including any combustible gas or liquid other than the fuels which are
13 taxed as motor vehicle fuels pursuant to chapter 365 of NRS, and any emulsion of
14 water-phased hydrocarbon fuel used in a motor vehicle. (NRS 366.060, 366.190,



* A B 2 3 5 *

15 366.195) **Sections 5, 6 and 10** of this bill provide for the taxation of biodiesel and
16 blends of biodiesel and petroleum-based diesel as special fuels.

17 **Section 7** of this bill defines a “special fuel manufacturer” as a person who
18 manufactures, blends, produces, refines, prepares, distills or compounds only
19 special fuel containing biodiesel or biodiesel blend in this State for his personal use
20 in this State or for sale or delivery in this State. **Section 11** of this bill exempts a
21 special fuel manufacturer from regulation as a special fuel supplier. **Section 14** of
22 this bill prohibits a person from acting as a special fuel manufacturer without first
23 obtaining a license from the Department of Motor Vehicles. The Department is
24 authorized to adopt regulations relating to the issuance of a license to a special fuel
25 manufacturer and to collect fees for the issuance of such a license. (NRS 366.220)

26 **Section 19** of this bill requires a special fuel manufacturer to file quarterly tax
27 returns with the Department. **Section 21** of this bill requires a special fuel
28 manufacturer to pay the taxes on special fuels imposed by chapter 366 of NRS.
29 (NRS 366.540) **Section 8** of this bill requires a special fuel manufacturer to submit
30 certain monthly reports to the Department. **Section 20** of this bill provides for the
31 imposition of delinquent fees, penalties and interest if a special fuel manufacturer
32 fails to file a tax return or pay a tax by the date due. **Section 15** of this bill provides
33 that the Department must require a special fuel manufacturer who is habitually
34 delinquent in the payment of special fuel taxes to execute a bond payable to the
35 State in an amount of not less than \$2,500. (NRS 366.235) **Section 22** of this bill
36 requires a special fuel manufacturer to keep certain records as required by the
37 Department. (NRS 366.685)

38 A special fuel manufacturer or any other person who makes a false or
39 fraudulent report with the intent to evade the taxes imposed pursuant to chapter 366
40 of NRS is guilty of a gross misdemeanor. (NRS 366.710) A special fuel
41 manufacturer who violates any other provision of chapter 366 of NRS as amended
42 by this bill is guilty of a misdemeanor. (NRS 366.720, 366.730)

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 *“Ethanol” means ethyl alcohol derived from agricultural*
4 *products and produced for use as a fuel.*

5 **Sec. 2.** NRS 365.010 is hereby amended to read as follows:

6 365.010 As used in this chapter, unless the context otherwise
7 requires, the words and terms defined in NRS 365.015 to 365.092,
8 inclusive, *and section 1 of this act* have the meanings ascribed to
9 them in those sections.

10 **Sec. 3.** NRS 365.060 is hereby amended to read as follows:

11 365.060 “Motor vehicle fuel” means gasoline, natural gasoline,
12 casing-head gasoline, *ethanol* or any other inflammable or
13 combustible liquid, regardless of the name by which the liquid is
14 known or sold, the chief use of which in this State is for the
15 propulsion of motor vehicles, motorboats or aircraft other than jet or
16 turbine-powered aircraft. The term does not include kerosene, gas
17 oil, fuel oil, fuel for jet or turbine-powered aircraft, diesel fuel,



1 *biodiesel, biodiesel blend*, liquefied petroleum gas and an emulsion
2 of water-phased hydrocarbon fuel, as that term is defined in
3 NRS 366.026.

4 **Sec. 4.** Chapter 366 of NRS is hereby amended by adding
5 thereto the provisions set forth as sections 5 to 8, inclusive, of this
6 act.

7 **Sec. 5.** *“Biodiesel” means a fuel composed of mono-alkyl*
8 *esters of long-chain fatty acids derived from vegetable oils or*
9 *animal fats, including, without limitation, straight vegetable oil*
10 *and lipid-bearing algae.*

11 **Sec. 6.** *“Biodiesel blend” means a blend of biodiesel and*
12 *petroleum-based diesel suitable for use as a fuel in a motor*
13 *vehicle.*

14 **Sec. 7.** *“Special fuel manufacturer” means a person who*
15 *manufactures, blends, produces, refines, prepares, distills or*
16 *compounds only special fuel containing biodiesel or biodiesel*
17 *blend in this State for his personal use in this State or for sale or*
18 *delivery in this State.*

19 **Sec. 8.** *Each special fuel manufacturer shall, not later than*
20 *the last day of each month, submit to the Department a written*
21 *report which sets forth:*

22 1. *The number of gallons of special fuel containing biodiesel*
23 *or biodiesel blend the special fuel manufacturer manufactured,*
24 *blended, produced, refined, prepared, distilled or compounded in*
25 *this State;*

26 2. *The number of gallons of special fuel containing biodiesel*
27 *or biodiesel blend the special fuel manufacturer manufactured,*
28 *blended, produced, refined, prepared, distilled or compounded for*
29 *personal use in this State;*

30 3. *The number of gallons of special fuel containing biodiesel*
31 *or biodiesel blend the special fuel manufacturer sold or delivered*
32 *in this State;*

33 4. *The name and mailing address of each person to whom the*
34 *special fuel manufacturer sold or delivered special fuel containing*
35 *biodiesel or biodiesel blend in this State; and*

36 5. *The number of gallons of special fuel containing biodiesel*
37 *or biodiesel blend the special fuel manufacturer sold or distributed*
38 *to each person described in subsection 4.*

39 **Sec. 9.** NRS 366.020 is hereby amended to read as follows:
40 366.020 As used in this chapter, unless the context otherwise
41 requires, the words and terms defined in NRS 366.025 to 366.100,
42 inclusive, *and sections 5, 6 and 7 of this act* have the meanings
43 ascribed to them in those sections.



1 **Sec. 10.** NRS 366.060 is hereby amended to read as follows:
2 366.060 “Special fuel” means any combustible gas or liquid
3 used for the generation of power for the propulsion of motor
4 vehicles, including *biodiesel, biodiesel blend and* an emulsion of
5 water-phased hydrocarbon fuel. The term does not include motor
6 vehicle fuel as defined in chapter 365 of NRS.

7 **Sec. 11.** NRS 366.070 is hereby amended to read as follows:

8 366.070 1. “Special fuel supplier” means a person who:
9 ~~1-1~~ (a) Imports or acquires immediately upon importation into
10 this State special fuel from within or without a state, territory or
11 possession of the United States or the District of Columbia into a
12 terminal located in this State;

13 ~~1-2~~ (b) Produces, manufactures or refines special fuel in this
14 State; or

15 ~~1-3~~ (c) Otherwise acquires for distribution in this State special
16 fuel with respect to which there has been no previous taxable sale or
17 use.

18 2. *The term does not include a special fuel manufacturer.*

19 **Sec. 12.** NRS 366.150 is hereby amended to read as follows:

20 366.150 1. The Department or its authorized agents may:

21 (a) Examine the books, papers, records and equipment of any
22 special fuel supplier, special fuel dealer, special fuel exporter,
23 special fuel transporter, special fuel user , *special fuel*
24 *manufacturer* or any other person transporting or storing special
25 fuel;

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

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

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

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

37 3. If a special fuel supplier, special fuel dealer, special fuel
38 exporter, special fuel transporter , ~~1-4~~ special fuel user *or special*
39 *fuel manufacturer* wishes to keep proper books and records
40 pertaining to business done in Nevada elsewhere than within the
41 State of Nevada for inspection as provided in this section, he must
42 pay a fee for the examination in an amount per day equal to the
43 amount set by law for out-of-state travel for each day or fraction
44 thereof during which the examiner is actually engaged in examining
45 those books and records, plus the actual expenses of the examiner



1 during the time that the examiner is absent from this State for the
2 purpose of making the examination, but the time must not exceed 1
3 day going to and 1 day coming from the place where the
4 examination is to be made in addition to the number of days or
5 fractions thereof the examiner is actually engaged in auditing those
6 books and records. Not more than two such examinations may be
7 charged against any special fuel supplier, special fuel dealer, special
8 fuel exporter, special fuel transporter , ~~or~~ special fuel user *or*
9 *special fuel manufacturer* in any year.

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

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

18 **Sec. 13.** NRS 366.160 is hereby amended to read as follows:

19 366.160 1. All records of mileage operated, origin and
20 destination points within this State, equipment operated in this State,
21 gallons or cubic feet consumed ~~and~~ and tax paid must at all
22 reasonable times be open to the public.

23 2. All supporting schedules, invoices and other pertinent papers
24 relative to the business affairs and operations of any special fuel
25 supplier, special fuel dealer, special fuel exporter, special fuel
26 transporter , ~~or~~ special fuel user ~~and~~ *or special fuel manufacturer*,
27 and any information obtained by an investigation of the records and
28 equipment of any special fuel supplier, special fuel dealer, special
29 fuel exporter, special fuel transporter , ~~or~~ special fuel user ~~and~~ *or*
30 *special fuel manufacturer*, shall be deemed confidential and must
31 not be revealed to any person except as necessary to administer this
32 chapter or as otherwise provided by NRS 239.0115 or by any other
33 law.

34 **Sec. 14.** NRS 366.220 is hereby amended to read as follows:

35 366.220 1. Except as otherwise provided in this chapter:

36 (a) Before becoming a special fuel dealer, special fuel supplier,
37 special fuel exporter, special fuel transporter , ~~or~~ special fuel user
38 ~~and~~ *or special fuel manufacturer*, a person must apply to the
39 Department, on forms to be prescribed by the Department, for a
40 license authorizing the applicant to engage in business as a special
41 fuel dealer, special fuel supplier, special fuel exporter , ~~or~~ special
42 fuel transporter ~~and~~ *or special fuel manufacturer*, or to operate as a
43 special fuel user.

44 (b) It is unlawful for any person to be:



1 (1) A special fuel dealer without holding a license as a
2 special fuel dealer pursuant to this chapter.

3 (2) A special fuel supplier without holding a license as a
4 special fuel supplier pursuant to this chapter.

5 (3) A special fuel exporter without holding a license as a
6 special fuel exporter pursuant to this chapter.

7 (4) A special fuel transporter without holding a license as a
8 special fuel transporter pursuant to this chapter.

9 (5) A special fuel user without holding a license as a special
10 fuel user pursuant to this chapter.

11 (6) *A special fuel manufacturer without holding a license*
12 *as a special fuel manufacturer pursuant to this chapter.*

13 2. The Department may adopt regulations relating to the
14 issuance of any license pursuant to this chapter and the collection of
15 fees therefor.

16 **Sec. 15.** NRS 366.235 is hereby amended to read as follows:

17 366.235 1. An applicant for or holder of a license as a special
18 fuel supplier or special fuel dealer shall provide a bond executed by
19 him as principal, and by a corporation qualified pursuant to the laws
20 of this State as surety, payable to the State of Nevada, and
21 conditioned upon the faithful performance of all the requirements of
22 this chapter and upon the punctual payment of all excise taxes,
23 penalties and interest due the State of Nevada. The total amount of
24 the bond or bonds of any holder of such a license must be fixed by
25 the Department at not less than three times the estimated maximum
26 monthly tax, determined in such a manner as the Department deems
27 proper, but the amount must not be less than \$1,000 for a special
28 fuel supplier and must not be less than \$100 for a special fuel dealer.
29 If a special fuel supplier or special fuel dealer is habitually
30 delinquent in the payment of amounts due pursuant to this chapter,
31 the Department may increase the amount of his security to not more
32 than five times the estimated maximum monthly tax. When cash or
33 a savings certificate, certificate of deposit or investment certificate
34 is used, the amount required must be rounded off to the next larger
35 integral multiple of \$100.

36 2. If a special fuel user *or special fuel manufacturer* is
37 habitually delinquent in the payment of amounts due pursuant to this
38 chapter, the Department shall require the special fuel user *or special*
39 *fuel manufacturer* to provide a bond executed by him as principal,
40 and by a corporation qualified pursuant to the laws of this State as
41 surety, payable to the State of Nevada, and conditioned upon the
42 faithful performance of all the requirements of this chapter and upon
43 the punctual payment of all excise taxes, penalties and interest due
44 the State of Nevada. The total amount of the bond must not be less
45 than \$2,500.



1 3. No recovery on any bond, execution of any new bond or
2 suspension or revocation of any license as a special fuel supplier,
3 special fuel dealer , ~~for~~ special fuel user *or special fuel*
4 *manufacturer* affects the validity of any bond.

5 4. In lieu of a bond or bonds, an applicant for or holder of a
6 license as a special fuel supplier or special fuel dealer, or a person
7 required to provide a bond pursuant to subsection 2, may deposit
8 with the State Treasurer, under such terms as the Department may
9 prescribe, an equivalent amount of lawful money of the United
10 States or any other form of security authorized by NRS 100.065. If
11 security is provided in the form of a savings certificate, certificate of
12 deposit or investment certificate, the certificate must state that the
13 amount is unavailable for withdrawal except upon order of the
14 Department.

15 5. If the holder of a license as a special fuel supplier or special
16 fuel dealer is required to provide a bond of more than \$5,000, the
17 Department may reduce the requirements for the bond to not less
18 than \$5,000 upon the faithful performance of the special fuel
19 supplier or special fuel dealer of all the requirements of this chapter
20 and the punctual payment of all taxes due the State of Nevada for
21 the 3 preceding calendar years.

22 6. The Department shall immediately reinstate the original
23 requirements for a bond for a holder of a license as a special fuel
24 supplier or special fuel dealer upon his:

25 (a) Lack of faithful performance of the requirements of this
26 chapter; or

27 (b) Failure to pay punctually all taxes, fees, penalties and
28 interest due the State of Nevada.

29 7. For the purposes of this section, a person is "habitually
30 delinquent" if, within any 12-month period, the person commits
31 each of the following acts or commits either of the following acts
32 more than once:

33 (a) Fails timely to file a monthly or quarterly special fuel tax
34 return, unless the Department determines that:

35 (1) The failure to file was caused by circumstances beyond
36 the control of the person and occurred notwithstanding the exercise
37 of ordinary care; and

38 (2) The person has paid any penalty and interest imposed by
39 the Department because of the failure to file.

40 (b) Fails timely to submit to the Department any tax collected by
41 the person pursuant to this chapter.

42 **Sec. 16.** NRS 366.240 is hereby amended to read as follows:

43 366.240 1. Except as otherwise provided in subsection 2, the
44 Department shall:



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

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

7 2. The Department may refuse to issue a license pursuant to
8 this section to any person:

9 (a) Who formerly held a license issued pursuant to this chapter
10 or a similar license of any other state, the District of Columbia, the
11 United States, a territory or possession of the United States or any
12 foreign country which, before the time of filing the application, has
13 been revoked for cause;

14 (b) Who applies as a subterfuge for the real party in interest
15 whose license, before the time of filing the application, has been
16 revoked for cause;

17 (c) Who, if he is a special fuel supplier or special fuel dealer,
18 neglects or refuses to furnish a bond as required by this chapter;

19 (d) Who is in default in the payment of a tax on special fuel in
20 this State, any other state, the District of Columbia, the United
21 States, a territory or possession of the United States or any foreign
22 country;

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

25 (f) Upon other sufficient cause being shown.

26 **Sec. 17.** NRS 366.250 is hereby amended to read as follows:

27 366.250 Any applicant whose application for a special fuel
28 supplier's license, special fuel dealer's license, special fuel
29 exporter's license, special fuel transporter's license , ~~for~~ special
30 fuel user's license *or special fuel manufacturer's license* has been
31 denied may petition the Department for a hearing. The Department
32 shall:

33 1. Grant the applicant a hearing.

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

36 **Sec. 18.** NRS 366.270 is hereby amended to read as follows:

37 366.270 If any person ceases to be a special fuel supplier,
38 special fuel dealer, special fuel exporter, special fuel transporter ,
39 ~~for~~ special fuel user *or special fuel manufacturer* within this State
40 by reason of the discontinuance, sale or transfer of his business, he
41 shall:

42 1. Notify the Department in writing at the time the
43 discontinuance, sale or transfer takes effect. The notice must give
44 the date of the discontinuance, sale or transfer, and the name and
45 address of any purchaser or transferee.



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

3 3. If he is:

4 (a) A special fuel user registered under the Interstate Highway
5 User Fee Apportionment Act ~~§~~ *or a special fuel manufacturer*, file
6 the tax return required pursuant to NRS 366.380 and pay all taxes,
7 interest and penalties required pursuant to this chapter and chapter
8 360A of NRS, except that both the filing and payment are due on or
9 before the last day of the month following the month of the
10 discontinuance, sale or transfer of the business.

11 (b) A special fuel supplier, file the tax return required pursuant
12 to NRS 366.383 and pay all taxes, interest and penalties required
13 pursuant to this chapter and chapter 360A of NRS on or before the
14 last day of the month following the month of the discontinuance,
15 sale or transfer of the business.

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

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

25 (e) A special fuel transporter, file the report required pursuant to
26 NRS 366.695 on or before the last day of the month following the
27 month of the discontinuance, sale or transfer of the business.

28 **Sec. 19.** NRS 366.380 is hereby amended to read as follows:

29 366.380 1. On or before the last day of January, April, July
30 and October in each year, each special fuel user registered under the
31 Interstate Highway User Fee Apportionment Act *and each special*
32 *fuel manufacturer* shall file with the Department a quarterly tax
33 return for the preceding quarter, regardless of the amount of excise
34 tax due, on a form prescribed by the Department. The special fuel
35 user *or special fuel manufacturer* shall include with the tax return
36 payment of any excise tax due. If the due date falls on a Saturday,
37 Sunday or legal holiday, the next business day is the final due date.

38 2. The return must show such information as the Department
39 may reasonably require for the proper administration and
40 enforcement of this chapter.

41 **Sec. 20.** NRS 366.395 is hereby amended to read as follows:

42 366.395 1. Any special fuel user *or special fuel*
43 *manufacturer* who fails to file a tax return or pay any excise tax by
44 the date due shall pay, in addition to any tax that may be due, a
45 delinquent filing fee of \$50 and a penalty of 10 percent of the



1 amount of tax owed, plus interest on the amount of any tax that may
2 be due at the rate of 1 percent per month or fraction thereof, from
3 the date the tax was due until the date of payment.

4 2. A tax return, statement or payment is considered delinquent
5 if it is not received by the Department on or before the date the tax
6 return, statement or payment is due, as prescribed by the provisions
7 of this chapter.

8 3. A tax return, statement or payment shall be deemed received
9 on the date shown by the cancellation mark stamped by the United
10 States Postal Service or the postal service of any country upon an
11 envelope containing the tax return, statement or payment.

12 **Sec. 21.** NRS 366.540 is hereby amended to read as follows:

13 366.540 1. The tax provided for by this chapter must be paid
14 by special fuel suppliers, special fuel dealers , ~~and~~ special fuel
15 users ~~and~~ *special fuel manufacturers*. A special fuel supplier or
16 special fuel dealer shall pay to the Department the excise tax he
17 collects from purchasers of special fuel with the return filed
18 pursuant to NRS 366.383 or 366.386, respectively. The tax paid by
19 a special fuel user must be computed by multiplying the tax rate per
20 gallon provided in this chapter by the amount that the number of
21 gallons of special fuel consumed by the special fuel user in the
22 propulsion of motor vehicles on the highways of this State exceeds
23 the number of gallons of special fuel purchases by him. *The tax*
24 *paid by a special fuel manufacturer must be computed by*
25 *multiplying the tax rate per gallon provided in this chapter by the*
26 *number of gallons of special fuel that the special fuel*
27 *manufacturer places into the supply tank of a motor vehicle in this*
28 *State.*

29 2. If the Department determines that a special fuel supplier or
30 special fuel dealer, or any unlicensed person who collects an excise
31 tax, has failed to submit a tax return when due pursuant to this
32 chapter or failed to pay the tax when due pursuant to this chapter,
33 the Department may order the special fuel supplier, special fuel
34 dealer or unlicensed person to hold the amount of all taxes collected
35 pursuant to this chapter in a separate account in trust for the State.
36 The special fuel supplier, special fuel dealer or unlicensed person
37 shall comply with the order immediately upon receiving notification
38 of the order from the Department.

39 3. A retailer who receives or sells special fuel for which the
40 taxes imposed pursuant to this chapter have not been paid is liable
41 for the taxes and any applicable penalty or interest if the retailer
42 knew or should have known that the applicable taxes on the special
43 fuel had not been paid.



1 **Sec. 22.** NRS 366.685 is hereby amended to read as follows:
2 366.685 1. Every special fuel supplier, special fuel dealer,
3 special fuel exporter, special fuel transporter, special fuel user ,
4 *special fuel manufacturer* and retailer, and every other person
5 transporting or storing special fuel in this State shall keep such
6 records, receipts, invoices and other pertinent papers with respect
7 thereto as the Department requires.

8 2. The records, receipts, invoices and other pertinent papers
9 described in subsection 1 must be preserved for 4 years after the
10 date on which the record, receipt, invoice or other pertinent paper
11 was created or generated.

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

15 4. In addition to any other penalty that may be imposed, any
16 violation of the provisions of this section constitutes grounds for the
17 Department to deny any future application for a license pursuant to
18 this chapter that is submitted by a person who is determined to be
19 responsible for the violation.

20 **Sec. 23.** NRS 366.720 is hereby amended to read as follows:

21 366.720 1. Any person who:

- 22 (a) Fails or refuses to pay the tax imposed by this chapter;
- 23 (b) Engages in business in this State as a *special fuel*
24 *manufacturer*, special fuel user, special fuel exporter, special fuel
25 dealer or special fuel supplier, or acts in this State as a special fuel
26 transporter, without being the holder of a license to engage in that
27 business or to act in that capacity;
- 28 (c) Fails to make any of the reports required by this chapter;
- 29 (d) Makes any false statement in any application, report or
30 statement required by this chapter;
- 31 (e) Refuses to permit the Department or any authorized agent to
32 examine records as provided by this chapter;
- 33 (f) Fails to keep proper records of quantities of special fuel
34 received, produced, refined, manufactured, compounded, used or
35 delivered in this State as required by this chapter;
- 36 (g) Makes any false statement in connection with an application
37 for the refund of any money or taxes provided in this chapter;
- 38 (h) Violates the provisions of NRS 366.265;
- 39 (i) Fails or refuses to stop his motor vehicle for an inspection to
40 determine if all excise taxes due pursuant to the provisions of this
41 chapter are being properly reported and paid; or



1 (j) Refuses to allow the Department or an authorized agent to
2 inspect a motor vehicle to determine whether all excise taxes due
3 pursuant to the provisions of this chapter are being properly reported
4 and paid,

5 ➤ is guilty of a misdemeanor.

6 2. Each day or part thereof during which any person engages in
7 business as a *special fuel manufacturer*, special fuel dealer, special
8 fuel supplier or special fuel exporter or acts as a special fuel
9 transporter without being the holder of a license authorizing him to
10 engage in that business or to act in that capacity constitutes a
11 separate offense within the meaning of this section.

12 **Sec. 24.** NRS 365.072 is hereby repealed.

13 **Sec. 25.** This act becomes effective upon passage and approval
14 for the purpose of adopting regulations and performing any other
15 preparatory administrative tasks that are necessary to carry out the
16 provisions of this act and on October 1, 2009, for all other purposes.

TEXT OF REPEALED SECTION

365.072 “Petroleum-ethanol mixture” defined.
“Petroleum-ethanol mixture” means a fuel containing a minimum of
10 percent by volume of ethyl alcohol derived from agricultural
products.

