

MOTOR FUEL STATUTES

Administration: These are selected motor fuel tax statutes administered by the Department of Revenue. The Department of Agriculture is named in some of these statutes. Inquiries concerning these references can be made to the Department of Agriculture, which is located in the State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509. Telephone: (402) 471-3422.

Revisions: The provisions of these statutes were revised during the 2017 session of the Nebraska Legislature.

Rules: The Department of Agriculture has no authority to promulgate regulations under these statutes.

Note: References in these statutes to "Department" refer to the Department of Revenue. Department of Agriculture is stated as such.

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66-720. License or permit; suspension; grounds; procedure; cancellation; reinstatement fee.

(1) Any license or permit issued by the department under the motor fuel laws may be suspended for the following reasons:

- (a) Cancellation of security;
- (b) Failure to provide additional security as required;

(c) Failure to file any report or return, filing an incomplete report or return, or not filing electronically, within the time provided;

(d) Failure to pay taxes due within the time provided;

(e) Filing of any false report, return, statement, or affidavit, knowing it to be false;

(f) Delivering motor fuel to a Nebraska destination if Nebraska is not listed as the destination state on the original bill of sale, bill of lading, or manifest except as authorized under section 66-503;

(g) Failure to remain in compliance with requirements of the State Fire Marshal regarding underground storage tanks;

(h) Failure to remain in compliance with requirements of the Department of Agriculture regarding weights and measures;

(i) Using or placing dyed diesel fuel in a motor vehicle except as authorized under section 66-495.01;

(j) No longer being eligible to obtain a license or permit; or

(k) Any other violation of the motor fuel laws or the rules and regulations.

(2) The department shall mail notice of suspension of any license or permit.

(3) The licensee or permitholder may, within sixty days after the mailing of the notice of such suspension, petition the Department of Revenue in writing for a hearing and reconsideration of such suspension. If a petition is filed, the department shall, within ten days of receipt of the petition, set a hearing date at which the licensee or permitholder may show cause why his or her suspended license or permit should not be canceled. The department shall give the licensee or permitholder reasonable notice of the time and place of such hearing. Within a reasonable time after the conclusion of the hearing, the department shall issue an order either reinstating or canceling such license or permit.

(4) If a petition is not filed within the sixty-day period, the suspended license or permit shall be canceled by the department at the expiration of the period.

(5) The department shall not issue a new permit or license to the same person for one year from the date of cancellation. Any reissuance of a permit or license to the same person within three years from the date of cancellation shall require a reinstatement fee of one hundred dollars to be submitted to the department. The department shall remit the fee to the State Treasurer for credit to the Highway Cash Fund.

(6) Suspension or cancellation of a license or permit issued by the department shall not relieve any person from making or filing the reports or returns required by the motor fuel laws in the manner or within the time required.

Source: Laws 1991, LB 627, § 115; Laws 1992, LB 1013, § 15; Laws 1993, LB 440, § 12; Laws 1994, LB 1160, § 100; Laws 1996, LB 1121, § 7; Laws 2004, LB 983, § 49; Laws 2008, LB914, § 2.

66-729. Permit or license; issuance; when; department; powers and duties.

After reviewing an application received in proper form, the department may issue to the applicant a permit or license. The department may refuse to issue a permit or license to any person:

(1) Who previously had a permit or license issued under the motor fuel laws of any state which, prior to the time of filing the application, has been suspended or canceled for cause;

(2) Who is a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been suspended or canceled for cause;

(3) Which has as a partner, limited liability company member, or shareholder, with a ten percent or larger ownership interest, any person who is unable to obtain a license or permit in his or her own name;

(4) Who is not in compliance with requirements of the State Fire Marshal regarding underground storage tanks;

(5) Who is not in compliance with the Department of Agriculture regarding weights and measures;

(6) Who has been convicted of a felony in the last ten years; or

(7) Upon other sufficient cause being shown.

Before such refusal, the department shall grant the applicant a hearing and shall grant him or her at least ten days' written notice of the time and place.

Source: Laws 1991, LB 627, § 124; Laws 1993, LB 121, § 399; Laws 1994, LB 884, § 83; Laws 1996, LB 1121, § 9.

66-731. Department; computer system; shared information.

(1) The department shall develop, implement, and maintain a computer system for the automated recording and analysis of the motor vehicle fuel tax, the diesel fuel tax, and related information. The system shall be capable of directly accepting and recording data filed by magnetic media.

(2) The department shall share information pertaining to motor fuel use, tax collection, and related information with the Department of Agriculture, the State Fire Marshal, and the Nebraska State Patrol. The information shall be made available to these agencies and to any other state, federal, or local agency with a valid need for the information as determined by the Department of Revenue.

(3) The department may forward to any agency in this state, to the officials to whom are entrusted the enforcement of the motor fuel tax laws of any other state, the District of Columbia, the United States, its territories and possessions, and the provinces or the Dominion of Canada, or to any other person any information which the department may have relative to the receipt, storage, delivery, sale, use, or other disposition of motor fuel.

(4) The department may forward to any person statistical information, lists of licensees or permitholders, or totals for any licensee or permitholder.

Source: Laws 1991, LB 627, § 126; Laws 1994, LB 1160, § 103; Laws 1996, LB 1121, § 10.

66-738. Motor Fuel Tax Enforcement and Collection Division; created within Department of Revenue; powers and duties; funding; contracts authorized.

The Motor Fuel Tax Enforcement and Collection Division is hereby created within the Department of Revenue. The division shall be funded by a separate appropriation program within the department. All provisions of the Compressed Fuel Tax Act, the Petroleum Release Remedial Action Act, the State Aeronautics Act, and sections 66-482 to 66-4,149, 66-501 to 66-531, and 66-712 to 66-736, pertaining to the Department of Revenue, the Tax Commissioner, or the division, shall be entirely and separately undertaken and enforced by the division, except that the division may utilize services provided by other programs of the Department of Revenue in functional areas known on July 1, 1991, as the budget subprograms designated revenue operations and administration. Appropriations for the division that are used to fund costs allocated for such functional operations shall be expended by the division in an appropriate pro rata share and shall be subject to audit by the Auditor of Public Accounts, at such time as he or she determines necessary, which audit shall be provided to the budget division of the Department of Administrative Services and the Legislative Fiscal Analyst by October 1 of the year under audit. Audit information useful to other divisions of the Department of Revenue may be shared by the Motor Fuel Tax Enforcement and Collection Division with the other divisions of the department and the Division of Motor Carrier Services of the Department of Motor Vehicles, but audits shall not be considered as a functional operation for purposes of this section. Except for staff performing in functional areas, staff funded from the separate appropriation program shall only be utilized to carry out the provisions of such acts and sections. The auditors and field investigators in the Motor Fuel Tax Enforcement and Collection Division shall be adequately trained for the purposes of motor fuel tax enforcement and collection. The Tax Commissioner shall hire for or assign to the division sufficient staff to carry out the responsibility of the division for the enforcement of the motor fuel laws.

Funds appropriated to the division may also be used to contract with other public agencies or private entities to aid in the issuance of motor fuel delivery permit numbers as provided in

subsection (2) of section 66-503, and such contracted funds shall only be used for such purpose. The amount of any contracts entered into pursuant to this section shall be appropriated and accounted for in a separate budget subprogram of the division.

Source: Laws 1991, LB 627, § 141; Laws 1994, LB 1160, § 109; Laws 1996, LB 1121, § 11; Laws 1996, LB 1218, § 21; Laws 1999, LB 143, § 4; Laws 2011, LB289, § 36; Laws 2011, LB337, § 4; Laws 2012, LB727, § 25; Laws 2017, LB339, § 241.

Operative Date: July 1, 2017

Cross References

- **Compressed Fuel Tax Act**, see section 66-697.
- **Petroleum Release Remedial Action Act**, see section 66-1501.
- **State Aeronautics Act**, see section 3-154.

66-739. Motor Fuel Tax Enforcement and Collection Cash Fund; created; use; investment.

There is hereby created the Motor Fuel Tax Enforcement and Collection Cash Fund. Such fund shall consist of appropriations to the fund and money transferred to it pursuant to section 39-2215. The fund shall be used exclusively for the costs of the Motor Fuel Tax Enforcement and Collection Division created by section 66-738 and other related costs for the Department of Agriculture, the Nebraska State Patrol, and functional areas of the Department of Revenue as provided by such section, except that transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Motor Fuel Tax Enforcement and Collection Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1991, LB 627, § 142; Laws 1994, LB 1066, § 53; Laws 1994, LB 1160, § 110; Laws 2009, First Spec. Sess., LB3, § 40.

Cross References

- **Nebraska Capital Expansion Act**, see section 72-1269.
- **Nebraska State Funds Investment Act**, see section 72-1260.