

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1047

Introduced by Brandt, 32; Dorn, 30.

Read first time January 08, 2024

Committee:

- 1 A BILL FOR AN ACT relating to motor fuel taxes; to amend section 66-489,
- 2 Reissue Revised Statutes of Nebraska, and section 66-482, Revised
- 3 Statutes Cumulative Supplement, 2022; to define and redefine terms;
- 4 to change provisions relating to payment of an excise tax and
- 5 exemption from a motor fuels tax as prescribed; to eliminate
- 6 obsolete provisions; to harmonize provisions; to provide an
- 7 operative date; to repeal the original sections; and to outright
- 8 repeal section 66-4,146.01, Reissue Revised Statutes of Nebraska.
- 9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 66-482, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 66-482 For purposes of sections 66-482 to 66-4,149:

4 (1) Agricultural ethyl alcohol means ethyl alcohol produced from
5 cereal grains or agricultural commodities grown within the continental
6 United States and which is a finished product that is a nominally
7 anhydrous ethyl alcohol meeting American Society for Testing and
8 Materials D4806 standards. For the purpose of sections 66-482 to
9 66-4,149, the purity of the ethyl alcohol shall be determined excluding
10 denaturant and the volume of alcohol blended with gasoline for motor
11 vehicle fuel shall include the volume of any denaturant required pursuant
12 to law;

13 (2) Alcohol blend means a blend of agricultural ethyl alcohol in
14 gasoline or other motor vehicle fuel, such blend to contain not less than
15 five percent by volume of alcohol;

16 (3) Biodiesel means mono-alkyl esters of long-chain fatty acids
17 derived from vegetable oils or animal fats which conform to American
18 Society for Testing and Materials D6751 specifications for use in diesel
19 engines. Biodiesel refers to the pure fuel before blending with diesel
20 fuel;

21 (4) Biodiesel facility means a plant which produces biodiesel;

22 (5) Biomass feedstock means sugar, starch, polysaccharide, glycerin,
23 lignin, fat, grease, or oil derived from plants, animals, or algae or a
24 protein capable of being converted to a building block chemical by means
25 of a biological or chemical conversion process;

26 (6) Compressed fuel means any fuel defined as compressed fuel in
27 section 66-6,100;

28 (7) Department means the Department of Revenue;

29 (8) Diesel fuel means all combustible liquids and biodiesel which
30 are suitable for the generation of power for diesel-powered vehicles,
31 except that diesel fuel does not include kerosene;

1 (9) Distributor means any person who acquires ownership of motor
2 fuels directly from a producer or supplier at or from a barge, barge
3 line, pipeline terminal, or ethanol or biodiesel facility in this state;

4 (10) Ethanol facility means a plant which produces agricultural
5 ethyl alcohol;

6 (11) Exporter means any person who acquires ownership of motor fuels
7 from any licensed producer, supplier, distributor, wholesaler, or
8 importer exclusively for use or resale in another state;

9 (12) Gross gallons means measured gallons without adjustment or
10 correction for temperature or barometric pressure;

11 (13) Highway means every way or place generally open to the use of
12 the public for the purpose of vehicular travel, even though such way or
13 place may be temporarily closed or travel thereon restricted for the
14 purpose of construction, maintenance, repair, or reconstruction;

15 (14) Importer means any person who owns motor fuels at the time such
16 fuels enter the State of Nebraska by any means other than barge, barge
17 line, or pipeline. Importer does not include a person who imports motor
18 fuels in a tank directly connected to the engine of a motor vehicle,
19 train, watercraft, or airplane for purposes of providing fuel to the
20 engine to which the tank is connected;

21 (15) Kerosene means kerosene meeting the specifications as found in
22 the American Society for Testing and Materials publication D3699 entitled
23 Standard Specifications for Kerosene;

24 (16) Motor fuels means motor vehicle fuel, diesel fuel, aircraft
25 fuel, or compressed fuel;

26 (17) {1} Motor vehicle ~~has~~ shall have the same meaning definition as
27 in section 60-339;

28 (18) {2} Motor vehicle fuel ~~includes~~ shall include all products and
29 fuel commonly or commercially known as gasoline, including casing head or
30 natural gasoline, and ~~includes~~ shall include any other liquid and such
31 other volatile and inflammable liquids as may be produced, compounded, or

1 used for the purpose of operating or propelling motor vehicles,
2 motorboats, or aircraft or as an ingredient in the manufacture of such
3 fuel. Motor vehicle fuel includes agricultural ~~Agricultural~~ ethyl alcohol
4 produced for use as a motor vehicle fuel ~~shall be considered a motor~~
5 ~~vehicle fuel~~. Motor vehicle fuel does ~~shall~~ not include the products
6 commonly known as methanol, kerosene oil, kerosene distillate, crude
7 petroleum, naphtha, and benzine with a boiling point over two hundred
8 degrees Fahrenheit, residuum gas oil, smudge oil, leaded automotive
9 racing fuel with an American Society of Testing Materials research method
10 octane number in excess of one hundred five, and any petroleum product
11 with an initial boiling point under two hundred degrees Fahrenheit, a
12 ninety-five percent distillation (recovery) temperature in excess of four
13 hundred sixty-four degrees Fahrenheit, an American Society of Testing
14 Materials research method octane number less than seventy, and an end or
15 dry point of distillation of five hundred seventy degrees Fahrenheit
16 maximum;

17 (19) Person means any individual, firm, partnership, limited
18 liability company, company, agency, association, corporation, state,
19 county, municipality, or other political subdivision. Whenever a fine or
20 imprisonment is prescribed or imposed in sections 66-482 to 66-4,149, the
21 word person as applied to a partnership, a limited liability company, or
22 an association means the partners or members thereof;

23 (20) Producer means any person who manufactures agricultural ethyl
24 alcohol or biodiesel at an ethanol or biodiesel facility in this state;

25 (21) Retailer means any person who acquires motor fuels from a
26 producer, supplier, distributor, wholesaler, or importer for resale to
27 consumers of such fuel;

28 (22) Semiannual period means either the period which begins on
29 January 1 and ends on June 30 of each year or the period which begins on
30 July 1 and ends on December 31 of each year;

31 ~~(3) Agricultural ethyl alcohol shall mean ethyl alcohol produced~~

1 ~~from cereal grains or agricultural commodities grown within the~~
2 ~~continental United States and which is a finished product that is a~~
3 ~~nominally anhydrous ethyl alcohol meeting American Society for Testing~~
4 ~~and Materials D4806 standards. For the purpose of sections 66-482 to~~
5 ~~66-4,149, the purity of the ethyl alcohol shall be determined excluding~~
6 ~~denaturant and the volume of alcohol blended with gasoline for motor~~
7 ~~vehicle fuel shall include the volume of any denaturant required pursuant~~
8 ~~to law;~~

9 ~~(4) Alcohol blend shall mean a blend of agricultural ethyl alcohol~~
10 ~~in gasoline or other motor vehicle fuel, such blend to contain not less~~
11 ~~than five percent by volume of alcohol;~~

12 ~~(23) (5) Supplier means shall mean any person who owns motor fuels~~
13 ~~imported by barge, barge line, or pipeline and stored at a barge, barge~~
14 ~~line, or pipeline terminal in this state; and~~

15 ~~(6) Distributor shall mean any person who acquires ownership of~~
16 ~~motor fuels directly from a producer or supplier at or from a barge,~~
17 ~~barge line, pipeline terminal, or ethanol or biodiesel facility in this~~
18 ~~state;~~

19 ~~(24) (7) Wholesaler means shall mean any person, other than a~~
20 ~~producer, supplier, distributor, or importer, who acquires motor fuels~~
21 ~~for resale. ;~~

22 ~~(8) Retailer shall mean any person who acquires motor fuels from a~~
23 ~~producer, supplier, distributor, wholesaler, or importer for resale to~~
24 ~~consumers of such fuel;~~

25 ~~(9) Importer shall mean any person who owns motor fuels at the time~~
26 ~~such fuels enter the State of Nebraska by any means other than barge,~~
27 ~~barge line, or pipeline. Importer shall not include a person who imports~~
28 ~~motor fuels in a tank directly connected to the engine of a motor~~
29 ~~vehicle, train, watercraft, or airplane for purposes of providing fuel to~~
30 ~~the engine to which the tank is connected;~~

31 ~~(10) Exporter shall mean any person who acquires ownership of motor~~

1 ~~fuels from any licensed producer, supplier, distributor, wholesaler, or~~
2 ~~importer exclusively for use or resale in another state;~~

3 ~~(11) Gross gallons shall mean measured gallons without adjustment or~~
4 ~~correction for temperature or barometric pressure;~~

5 ~~(12) Diesel fuel shall mean all combustible liquids and biodiesel~~
6 ~~which are suitable for the generation of power for diesel-powered~~
7 ~~vehicles, except that diesel fuel shall not include kerosene;~~

8 ~~(13) Compressed fuel shall mean any fuel defined as compressed fuel~~
9 ~~in section 66-6,100;~~

10 ~~(14) Person shall mean any individual, firm, partnership, limited~~
11 ~~liability company, company, agency, association, corporation, state,~~
12 ~~county, municipality, or other political subdivision. Whenever a fine or~~
13 ~~imprisonment is prescribed or imposed in sections 66-482 to 66-4,149, the~~
14 ~~word person as applied to a partnership, a limited liability company, or~~
15 ~~an association shall mean the partners or members thereof;~~

16 ~~(15) Department shall mean the Department of Revenue;~~

17 ~~(16) Semiannual period shall mean either the period which begins on~~
18 ~~January 1 and ends on June 30 of each year or the period which begins on~~
19 ~~July 1 and ends on December 31 of each year;~~

20 ~~(17) Producer shall mean any person who manufactures agricultural~~
21 ~~ethyl alcohol or biodiesel at an ethanol or biodiesel facility in this~~
22 ~~state;~~

23 ~~(18) Highway shall mean every way or place generally open to the use~~
24 ~~of the public for the purpose of vehicular travel, even though such way~~
25 ~~or place may be temporarily closed or travel thereon restricted for the~~
26 ~~purpose of construction, maintenance, repair, or reconstruction;~~

27 ~~(19) Kerosene shall mean kerosene meeting the specifications as~~
28 ~~found in the American Society for Testing and Materials publication D3699~~
29 ~~entitled Standard Specifications for Kerosene;~~

30 ~~(20) Biodiesel shall mean mono-alkyl esters of long chain fatty~~
31 ~~acids derived from vegetable oils or animal fats which conform to~~

1 ~~American Society for Testing and Materials D6751 specifications for use~~
2 ~~in diesel engines. Biodiesel refers to the pure fuel before blending with~~
3 ~~diesel fuel;~~

4 ~~(21) Motor fuels shall mean motor vehicle fuel, diesel fuel,~~
5 ~~aircraft fuel, or compressed fuel;~~

6 ~~(22) Ethanol facility shall mean a plant which produces agricultural~~
7 ~~ethyl alcohol; and~~

8 ~~(23) Biodiesel facility shall mean a plant which produces biodiesel.~~

9 Sec. 2. Section 66-489, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 66-489 (1)(a) At the time of filing the return required by section
12 66-488, such producer, supplier, distributor, wholesaler, or importer
13 shall, in addition to the tax imposed pursuant to sections 66-489.02,
14 66-4,140, 66-4,145, and 66-4,146 and in addition to the other taxes
15 provided for by law, pay a tax in an amount set in subdivision (b) of
16 this subsection upon all motor fuels as shown by such return, except that
17 there shall be no tax on the motor fuels reported if (i) the required
18 taxes on the motor fuels have been paid, (ii) the motor fuels have been
19 sold to a licensed exporter exclusively for resale or use in another
20 state, (iii) the motor fuels have been sold from a Nebraska barge line
21 terminal, pipeline terminal, refinery, or ethanol or biodiesel facility,
22 including motor fuels stored offsite in bulk, by a licensed producer or
23 supplier to a licensed distributor, (iv) the motor fuels have been sold
24 by a licensed distributor or licensed importer to a licensed distributor
25 or to a licensed wholesaler and the seller acquired ownership of the
26 motor fuels directly from a licensed producer or supplier at or from a
27 refinery, barge, barge line, pipeline terminal, or ethanol or biodiesel
28 facility, including motor fuels stored offsite in bulk, in this state or
29 was the first importer of such fuel into this state, or (v) as otherwise
30 provided in this section. Such producer, supplier, distributor,
31 wholesaler, or importer shall remit such tax to the department.

1 (b) The tax shall be:

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

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

5 (iii) Eight and one-half cents per gallon beginning on January 1,
6 2017, through December 31, 2017;

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

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

10 ~~(2)(a) (2)~~ As part of filing the return required by section 66-488,
11 each producer of ethanol shall, in addition to other taxes imposed by the
12 motor fuel laws, pay an excise tax of one and one-quarter cents per
13 gallon through ~~December 31, 2004, and commencing January 1, 2010, and two~~
14 ~~and one-half cents per gallon commencing January 1, 2005, through~~
15 ~~December 31, 2009, on:~~

16 (i) Gasoline, natural gasoline, or any other gasoline component,
17 including, but not limited to, any gasoline component produced from
18 biomass feedstock, purchased for use as a denaturant by the producer at
19 an ethanol facility; and -

20 (ii) Two percent of agricultural ethyl alcohol sold that is unfit
21 for beverage purposes and does not meet the American Society for Testing
22 and Materials D4806 standards.

23 (b) All taxes, interest, and penalties collected under this
24 subsection shall be remitted to the State Treasurer for credit to the
25 Agricultural Alcohol Fuel Tax Fund, except that commencing January 1,
26 2005, through December 31, 2009, one and one-quarter cents per gallon of
27 such excise tax shall be credited to the Ethanol Production Incentive
28 Cash Fund. For fiscal years 2007-08 through 2011-12, if the total
29 receipts from the excise tax authorized in this subsection and designated
30 for deposit in the Agricultural Alcohol Fuel Tax Fund exceed five hundred
31 fifty thousand dollars, the State Treasurer shall deposit amounts in

1 ~~excess of five hundred fifty thousand dollars in the Ethanol Production~~
2 ~~Incentive Cash Fund.~~

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

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

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

20 (4) Gasoline, natural ~~Natural~~ gasoline, or any other gasoline
21 component, including, but not limited to, any gasoline component produced
22 from biomass feedstock, purchased for use as a denaturant by a producer
23 at an ethanol facility as defined in section 66-1333 shall be exempt from
24 the motor fuels tax imposed by subsection (1) of this section as well as
25 the tax imposed pursuant to sections 66-489.02, 66-4,140, 66-4,145, and
26 66-4,146.

27 (5) Unless otherwise provided by an agreement entered into between
28 the State of Nebraska and the governing body of any federally recognized
29 Indian tribe within the State of Nebraska, motor fuels purchased on a
30 Nebraska Indian reservation where the purchaser is a Native American who
31 resides on the reservation shall be exempt from the motor fuels tax

1 imposed by this section as well as the tax imposed pursuant to sections
2 66-489.02, 66-4,140, 66-4,145, and 66-4,146.

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

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

16 Sec. 3. This act becomes operative on August 1, 2024.

17 Sec. 4. Original section 66-489, Reissue Revised Statutes of
18 Nebraska, and section 66-482, Revised Statutes Cumulative Supplement,
19 2022, are repealed.

20 Sec. 5. The following section is outright repealed: Section
21 66-4,146.01, Reissue Revised Statutes of Nebraska.