

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 505

Introduced by Bostar, 29.

Read first time January 17, 2023

Committee:

1 A BILL FOR AN ACT relating to motor fuels; to amend sections 60-301,
2 60-302, 60-3,191, 66-4,105, 70-1001.01, and 70-1002.02, Reissue
3 Revised Statutes of Nebraska, and sections 66-482, 77-2701, and
4 77-2701.04, Revised Statutes Cumulative Supplement, 2022; to define
5 and redefine terms; to change and provide alternative fuel fees; to
6 change and provide excise fees as prescribed; to eliminate obsolete
7 provisions; to provide rights and requirements relating to
8 commercial electric vehicle charging stations; to provide powers for
9 electric suppliers; to provide a sales and use tax exemption; to
10 harmonize provisions; to provide an operative date; and to repeal
11 the original sections.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 60-301, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 60-301 Sections 60-301 to 60-3,258 and section 3 of this act shall
4 be known and may be cited as the Motor Vehicle Registration Act.

5 Sec. 2. Section 60-302, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 60-302 For purposes of the Motor Vehicle Registration Act, unless
8 the context otherwise requires, the definitions found in sections
9 60-302.01 to 60-360 and section 3 of this act shall be used.

10 Sec. 3. Plug-in hybrid electric vehicle means any motor vehicle
11 which:

12 (1) Uses batteries to power an electric motor;

13 (2) Uses motor vehicle fuel as defined in section 66-339, diesel
14 fuel as defined in section 66-482, or compressed fuel as defined in
15 section 66-6,100 to power an internal combustion engine; and

16 (3) Has batteries that can be charged using a wall outlet or
17 charging equipment.

18 Sec. 4. Section 60-3,191, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 60-3,191 In addition to any other fee required under the Motor
21 Vehicle Registration Act, a fee for registration of each motor vehicle
22 powered by an alternative fuel shall be charged. The fee shall be two
23 hundred dollars, except that for a plug-in hybrid electric vehicle, the
24 fee shall be one hundred twenty-five dollars ~~seventy-five dollars~~. The
25 fee shall be collected by the county treasurer and remitted to the State
26 Treasurer for credit to the Highway Trust Fund.

27 Sec. 5. Section 66-482, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 66-482 For purposes of sections 66-482 to 66-4,149:

30 (1) Agricultural ethyl alcohol means ethyl alcohol produced from
31 cereal grains or agricultural commodities grown within the continental

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

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

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

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

17 (5) Commercial electric vehicle charging station has the same
18 meaning as in section 70-1001.01;

19 (6) Commercial electric vehicle charging station operator has the
20 same meaning as in section 70-1001.01;

21 (7) Compressed fuel means any fuel defined as compressed fuel in
22 section 66-6,100;

23 (8) Department means the Department of Revenue;

24 (9) Diesel fuel means all combustible liquids and biodiesel which
25 are suitable for the generation of power for diesel-powered vehicles,
26 except that diesel fuel does not include kerosene;

27 (10) Distributor means any person who acquires ownership of motor
28 fuels directly from a producer or supplier at or from a barge, barge
29 line, pipeline terminal, or ethanol or biodiesel facility in this state;

30 (11) Ethanol facility means a plant which produces agricultural
31 ethyl alcohol;

1 (12) Exporter means any person who acquires ownership of motor fuels
2 from any licensed producer, supplier, distributor, wholesaler, or
3 importer exclusively for use or resale in another state;

4 (13) Gross gallons means measured gallons without adjustment or
5 correction for temperature or barometric pressure;

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

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

16 (16) Kerosene means kerosene meeting the specifications as found in
17 the American Society for Testing and Materials publication D3699 entitled
18 Standard Specifications for Kerosene;

19 (17) Motor fuels means motor vehicle fuel, diesel fuel, aircraft
20 fuel, or compressed fuel;

21 (18) ~~(1)~~ Motor vehicle ~~has~~ shall have the same meaning ~~definition~~ as
22 in section 60-339;

23 (19) ~~(2)~~ Motor vehicle fuel includes shall include all products and
24 fuel commonly or commercially known as gasoline, including casing head or
25 natural gasoline, and includes shall include any other liquid and such
26 other volatile and inflammable liquids as may be produced, compounded, or
27 used for the purpose of operating or propelling motor vehicles,
28 motorboats, or aircraft or as an ingredient in the manufacture of such
29 fuel. Motor vehicle fuel includes agricultural ~~Agricultural~~ ethyl alcohol
30 produced for use as a motor vehicle fuel shall be considered a motor
31 vehicle fuel. Motor vehicle fuel does shall not include the products

1 commonly known as methanol, kerosene oil, kerosene distillate, crude
2 petroleum, naphtha, and benzine with a boiling point over two hundred
3 degrees Fahrenheit, residuum gas oil, smudge oil, leaded automotive
4 racing fuel with an American Society of Testing Materials research method
5 octane number in excess of one hundred five, and any petroleum product
6 with an initial boiling point under two hundred degrees Fahrenheit, a
7 ninety-five percent distillation (recovery) temperature in excess of four
8 hundred sixty-four degrees Fahrenheit, an American Society of Testing
9 Materials research method octane number less than seventy, and an end or
10 dry point of distillation of five hundred seventy degrees Fahrenheit
11 maximum;

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

18 (21) Producer means any person who manufactures agricultural ethyl
19 alcohol or biodiesel at an ethanol or biodiesel facility in this state;

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

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

26 ~~(3) Agricultural ethyl alcohol shall mean ethyl alcohol produced~~
27 ~~from cereal grains or agricultural commodities grown within the~~
28 ~~continental United States and which is a finished product that is a~~
29 ~~nominally anhydrous ethyl alcohol meeting American Society for Testing~~
30 ~~and Materials D4806 standards. For the purpose of sections 66-482 to~~
31 ~~66-4,149, the purity of the ethyl alcohol shall be determined excluding~~

1 ~~denaturant and the volume of alcohol blended with gasoline for motor~~
2 ~~vehicle fuel shall include the volume of any denaturant required pursuant~~
3 ~~to law;~~

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

7 ~~(24) (5) Supplier means shall mean any person who owns motor fuels~~
8 ~~imported by barge, barge line, or pipeline and stored at a barge, barge~~
9 ~~line, or pipeline terminal in this state; and~~

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

14 ~~(25) (7) Wholesaler means shall mean any person, other than a~~
15 ~~producer, supplier, distributor, or importer, who acquires motor fuels~~
16 ~~for resale. ;~~

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

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

26 ~~(10) Exporter shall mean any person who acquires ownership of motor~~
27 ~~fuels from any licensed producer, supplier, distributor, wholesaler, or~~
28 ~~importer exclusively for use or resale in another state;~~

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

31 ~~(12) Diesel fuel shall mean all combustible liquids and biodiesel~~

1 ~~which are suitable for the generation of power for diesel-powered~~
2 ~~vehicles, except that diesel fuel shall not include kerosene;~~

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

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

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

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

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

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

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

25 ~~(20) Biodiesel shall mean mono-alkyl esters of long chain fatty~~
26 ~~acids derived from vegetable oils or animal fats which conform to~~
27 ~~American Society for Testing and Materials D6751 specifications for use~~
28 ~~in diesel engines. Biodiesel refers to the pure fuel before blending with~~
29 ~~diesel fuel;~~

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

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

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

4 Sec. 6. Section 66-4,105, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 66-4,105 (1)(a) ~~(1)~~ There is hereby levied and imposed an excise
7 tax in an amount set in subdivision (1)(b) ~~subsection (2)~~ of this
8 section, increased by the amounts imposed or determined under sections
9 66-489.02, 66-4,140, 66-4,145, and 66-4,146, upon the use of all motor
10 fuels used in this state and due the State of Nebraska under section
11 66-489. Users of motor fuels subject to taxation under this section shall
12 be allowed the same exemptions, deductions, and rights of reimbursement
13 as are authorized and permitted by Chapter 66, article 4, other than any
14 commissions provided under such article.

15 (b) (2) The excise tax shall be nine and one-half cents per
16 gallon. ÷

17 ~~(a) Seven and one-half cents per gallon through December 31, 2015;~~

18 ~~(b) Eight cents per gallon beginning on January 1, 2016, through~~
19 ~~December 31, 2016;~~

20 ~~(c) Eight and one-half cents per gallon beginning on January 1,~~
21 ~~2017, through December 31, 2017;~~

22 ~~(d) Nine cents per gallon beginning on January 1, 2018, through~~
23 ~~December 31, 2018; and~~

24 ~~(e) Nine and one-half cents per gallon beginning on January 1, 2019.~~

25 (c) (3) For purposes of this subsection ~~section~~ and section
26 66-4,106, use means the purchase or consumption of motor fuels in this
27 state.

28 (2) There is hereby levied and imposed an excise tax of three cents
29 per kilowatt hour on the electric energy used to charge the battery of a
30 motor vehicle at a commercial electric vehicle charging station at a
31 location other than a residence unless the commercial electric vehicle

1 charging station is operated by a political subdivision and the political
2 subdivision does not charge for the electric energy. A commercial
3 electric vehicle charging station operator that charges for electric
4 energy pursuant to this subsection shall keep a complete and accurate
5 record of the amount of electric energy used to charge the batteries of
6 such motor vehicles and report such information and remit the excise tax
7 collected to the department in a manner determined by the department.

8 Sec. 7. Section 70-1001.01, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 70-1001.01 For purposes of sections 70-1001 to 70-1028, unless the
11 context otherwise requires:

12 (1) Board means the Nebraska Power Review Board;

13 (2) Commercial electric vehicle charging station means equipment
14 designed to provide electricity for the charging of an electric vehicle
15 or a plug-in hybrid electric vehicle, including an electric vehicle
16 direct current charger or a super-fast charger, any successor technology,
17 and all components thereof;

18 (3) Commercial electric vehicle charging station operator means a
19 person, partnership, corporation, or other business entity or political
20 subdivision that operates a commercial electric vehicle charging station;

21 (4) ~~(2)~~ Electric ~~supplier~~ suppliers or ~~supplier~~ suppliers of
22 electricity means any legal entity supplying, producing, or distributing
23 electricity within the state for sale at wholesale or retail. Electric
24 supplier does not include a commercial electric vehicle charging station
25 operator;

26 (5) Plug-in hybrid electric vehicle has the same meaning as in
27 section 3 of this act;

28 (6) ~~(3)~~ Private electric supplier means an electric supplier
29 producing electricity from a privately developed renewable energy
30 generation facility that is not a public power district, a public power
31 and irrigation district, a municipality, a registered group of

1 municipalities, an electric cooperative, an electric membership
2 association, any other governmental entity, or any combination thereof;

3 (7) ~~(4)~~ Privately developed renewable energy generation facility
4 means a facility that (a) generates electricity using solar, wind,
5 geothermal, biomass, landfill gas, or biogas, including all electrically
6 connected equipment used to produce, collect, and store the facility
7 output up to and including the transformer that steps up the voltage to
8 sixty thousand volts or greater, and including supporting structures,
9 buildings, and roads, unless otherwise agreed to in a joint transmission
10 development agreement, (b) is developed, constructed, and owned, in whole
11 or in part, by one or more private electric suppliers, and (c) is not
12 wholly owned by a public power district, a public power and irrigation
13 district, a municipality, a registered group of municipalities, an
14 electric cooperative, an electric membership association, any other
15 governmental entity, or any combination thereof;

16 (8) ~~(5)~~ Regional transmission organization means an entity
17 independent from those entities generating or marketing electricity at
18 wholesale or retail, which has operational control over the electric
19 transmission lines in a designated geographic area in order to reduce
20 constraints in the flow of electricity and ensure that all power
21 suppliers have open access to transmission lines for the transmission of
22 electricity;

23 (9) ~~(6)~~ Representative organization means an organization designated
24 by the board and organized for the purpose of providing joint planning
25 and encouraging maximum cooperation and coordination among electric
26 suppliers. Such organization shall represent electric suppliers owning a
27 combined electric generation plant capacity of at least ninety percent of
28 the total electric generation plant capacity constructed and in operation
29 within the state;

30 (10) ~~(7)~~ State means the State of Nebraska; and

31 (11) ~~(8)~~ Unbundled retail rates means the separation of utility

1 bills into the individual price components for which an electric supplier
2 charges its retail customers, including, but not limited to, the separate
3 charges for the generation, transmission, and distribution of
4 electricity.

5 Sec. 8. Section 70-1002.02, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 70-1002.02 (1) No supplier shall offer, provide, or sell electric
8 energy at wholesale in areas, or to customers, in violation of any
9 agreement entered into and approved by the Nebraska Power Review Board
10 pursuant to section 70-1002.01.

11 (2) A commercial electric vehicle charging station operator may
12 receive electric energy solely from an electric supplier with the right
13 to serve the location of the commercial electric vehicle charging station
14 and shall not offer, provide, sell, or resell electric energy at
15 wholesale or retail for any purpose or use other than the charging of
16 electric vehicles at the location of the commercial electric vehicle
17 charging station. A commercial electric vehicle charging station operator
18 may charge electric vehicle charging customers on the basis of kilowatt-
19 hours consumed. A commercial electric vehicle charging station is subject
20 to the interconnection requirements, electric rates, and service
21 regulations of the electric supplier in whose certified service area the
22 commercial electric vehicle charging station is located. Nothing in
23 sections 70-1001 to 70-1028 shall prohibit an electric supplier from
24 owning and operating an electric vehicle charging station or recovering
25 its costs to provide electric service to a commercial electric vehicle
26 charging station.

27 Sec. 9. Section 77-2701, Revised Statutes Cumulative Supplement,
28 2022, is amended to read:

29 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,
30 77-27,236, and 77-27,238 to 77-27,240 and section 11 of this act shall be
31 known and may be cited as the Nebraska Revenue Act of 1967.

1 Sec. 10. Section 77-2701.04, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and
4 77-27,239 and section 11 of this act, unless the context otherwise
5 requires, the definitions found in sections 77-2701.05 to 77-2701.55
6 shall be used.

7 Sec. 11. Sales and use taxes shall not be imposed on the gross
8 receipts from the sale, use, or other consumption in this state of
9 electric energy when stored, used, or consumed by a motor vehicle and the
10 electricity was subject to the excise tax imposed in subsection (1) of
11 section 66-4,105.

12 Sec. 12. This act becomes operative on January 1, 2024.

13 Sec. 13. Original sections 60-301, 60-302, 60-3,191, 66-4,105,
14 70-1001.01, and 70-1002.02, Reissue Revised Statutes of Nebraska, and
15 sections 66-482, 77-2701, and 77-2701.04, Revised Statutes Cumulative
16 Supplement, 2022, are repealed.