

DESCRIPTION OF LEGAL ADVERTISING

BILL #860
3349008

TERMS: Please pay from this invoice. It is due upon presentation and is past due after 15 days.

Legal Ad. Cost 16.80

Extra Proofs

Notary Fee 2.00

Total Amt due 18.80

Washoe County Clerk

Charlotte James

P. O. Box 11130

Reno, NV 89520

MONTH

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

April

x

x

PROOF OF PUBLICATION

STATE OF NEVADA,
COUNTY OF WASHOE

SS.

Doris Mertz

being first duly sworn, deposes and says: That as the legal clerk of the RENO GAZETTE-JOURNAL, a daily newspaper published in Reno, Washoe County, State of Nevada, that the notice of County Ordinance

_____ of which a copy is hereto attached, was first published in said newspaper in its issue dated the 14th day of Apr, 1986 and, Apr 21, the full period of 2 days, the last publication thereof being in the issue of April 21 1986.

Signed

Doris Mertz

Subscribed and sworn to before me this

21st day of April, 1986

Alice L. Buffaloe
Notary Public

NOTICE OF COUNTY ORDINANCE
NOTICE IS HEREBY GIVEN that Bill No. 860, Ordinance No. 686, entitled "An ordinance amending the Washoe County Code by imposing an additional tax on motor vehicle fuel and providing that proceeds of the tax may be used only for repairing existing paved roads, streets and alleys in the Cities of Reno and Sparks and in the unincorporated areas of Washoe County," was adopted on April 8, 1986, by Commissioners King, Lillard, McDowell, Ritter and Williams. Typewritten copies of the Ordinance are available for inspection by all interested persons at the office of the County Clerk.

Judi Bailey
County Clerk

3349008-Bill #860
Apr 14, 21-pb133

ALICE L. BUFFALOE
Notary Public - State of Nevada
Appointment Recorded in Washoe County
MY APPOINTMENT EXPIRES JUNE 5, 1989

SUMMARY: Amends Washoe County Code by imposing an additional tax on motor vehicle fuel and providing that proceeds of the tax may be used only for repairing existing paved roads and streets.

BILL NO. 860

ORDINANCE NO. 686

AN ORDINANCE AMENDING THE WASHOE COUNTY CODE BY IMPOSING AN ADDITIONAL TAX ON MOTOR VEHICLE FUEL AND PROVIDING THAT PROCEEDS OF THE TAX MAY BE USED ONLY FOR REPAIRING EXISTING PAVED ROADS, STREETS AND ALLEYS IN THE CITIES OF RENO AND SPARKS AND IN THE UNINCORPORATED AREAS OF WASHOE COUNTY.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

SECTION 1. Chapter 20 of the Washoe County Code is hereby amended by adding thereto the provisions set forth as sections 2 to 56, inclusive, of this Ordinance.

SECTION 2.

20.800 Authority to enact; amendments.

1. The Supplemental Motor Vehicle Fuel Tax Ordinance is enacted pursuant to the authority contained in chapter 276, Statutes of Nevada 1985, which has been partially codified in NRS 365.192 to 365.196, inclusive.

2. All amendments to chapter 365 of NRS which relate to the Supplemental Motor Vehicle Fuel Tax, and which become effective after the date of approval of the Supplemental Motor Vehicle Fuel Tax Ordinance by the voters, automatically become a part of the Supplemental Motor Vehicle Fuel Tax Ordinance.

SECTION 3.

20.803 Short title. Sections 20.800 to 20.909, inclusive, shall be known and may be referred to as the Supplemental Motor Vehicle Fuel Tax Ordinance.

SECTION 4.

20.805 Definitions. As used in the Supplemental Motor Vehicle Fuel Tax Ordinance, unless the context otherwise requires, the words and terms defined in sections 20.807 to 20.825, inclusive, have the meanings ascribed to them in such sections.

SECTION 5.

20.807 "Aviation fuel" defined. "Aviation fuel means motor vehicle fuel specially refined for use in the propulsion of aircraft, but does not include fuel for jet or turbine-powered aircraft.

SECTION 6.

20.809 "Dealer" defined.

1. "Dealer" means and includes every person who:

(a) Refines, manufactures, compounds or otherwise produces motor vehicle fuel or fuel for jet or turbine-powered aircraft and sells or distributes the same in this county.

(b) Imports motor vehicle fuel or fuel for jet or turbine-powered aircraft into this county and sells or distributes the same therein, whether in the original package or container in which it is imported or otherwise, or who uses the motor vehicle fuel in this county after having imported the same.

(c) Having acquired motor vehicle fuel or fuel for jet or turbine-powered aircraft in this county in the original package or container, distributes or sells it in such original package or container or otherwise, or in any manner uses the fuel.

(d) Otherwise acquires in this county for sale, use or distribution in this county motor vehicle fuel or fuel for jet or turbine-powered aircraft with respect to which there has been no prior taxable sale, use or distribution.

2. "Dealer" does not include any person who imports into this county motor vehicle fuel or fuel for jet or turbine-powered aircraft in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer under chapter 365 of NRS and who assumes liability for the collection and remittance of the applicable excise tax to this county.

SECTION 7.

20.811 "Department" defined. "Department" means the department of taxation and its duly authorized agents.

SECTION 8.

20.813 "Fuel for jet or turbine-powered aircraft" defined. "Fuel for jet or turbine-powered aircraft" means any inflammable liquid other than aviation fuel used for

the propulsion of aircraft having jet or turbine type engines.

SECTION 9.

20.815 "Highway" defined. "Highway means every way or place of whatever nature open to the use of the public for purposes of surface traffic, including highways under construction.

SECTION 10.

20.817 "Motor vehicle" defined. "Motor vehicle" means and includes every self-propelled motor vehicle, including tractors, operated on a surface highway.

SECTION 11.

20.819 "Motor vehicle fuel" defined. "Motor vehicle fuel" means and includes gasoline, natural gasoline, casing head gasoline and any other inflammable or combustible liquid, by whatever name such liquid may be known or sold, the chief use of which in this county is for the propulsion of motor vehicles, motorboats or aircraft other than jet or turbine-powered aircraft. Kerosene, gas oil, fuel oil, fuel for jet or turbine-powered aircraft, diesel fuel and liquefied petroleum gas are not considered motor vehicle fuel for the purposes of the Supplemental Motor Vehicle Fuel Tax Ordinance.

SECTION 12.

20.821 "Person" defined. "Person" means and includes every natural person, association, firm or partnership, corporation, municipal corporation, quasi-municipal corporation, political subdivision, governmental agency, trustee, receiver and the legal representative or representatives of the estate of any deceased person and their agents.

SECTION 13.

20.823 "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.

SECTION 14.

20.825 "Retailer" defined. "Retailer" means and

includes every person, other than a dealer as defined in section 20.809, engaged in the business of selling motor vehicle fuel or fuel for jet or turbine-powered aircraft.

SECTION 15.

20.827 Fuel deemed distributed. All motor vehicle fuel and fuel for jet or turbine-powered aircraft which is sold, donated, consigned for sale, bartered, used or in any way voluntarily disposed of so as to terminate the ownership and possession thereof by the dealer or any other person who imports such fuel owned by him shall be deemed to be distributed under this ordinance.

SECTION 16.

20.829 Administration and enforcement by department. The department is empowered to administer and enforce all of the provisions of the Supplemental Motor Vehicle Fuel Tax Ordinance pertaining to the collection of all taxes provided for therein.

SECTION 17.

20.831 Rules, regulations of department. The department has power to make all necessary rules and regulations and prescribe all necessary forms or other requirements for the purpose of making the administration of the Supplemental Motor Vehicle Fuel Tax Ordinance effective.

SECTION 18.

- 20.833 Audit, examination and inquiry.
1. The department, for and on behalf of Washoe County, has the power, by itself or by its duly authorized agents, to make any audit, examination or inquiry of and concerning the records, stocks, facilities, equipment and transactions of dealers, retailers of petroleum products and carriers thereof, and such other investigations as it may deem necessary in carrying out the provisions of the Supplemental Motor Vehicle Fuel Tax Ordinance.
 2. If any investigation discloses that any report or any payment has been incorrect, the department may make such changes in subsequent reports and payments as may be necessary to correct the error so disclosed.

SECTION 19.

20.835 Enforcement by sheriffs, peace officers. County sheriffs and all other peace officers and traffic officers

of this state shall, without further compensation, assist in the enforcement of the Supplemental Motor Vehicle Fuel Tax Ordinance, and they shall make arrests for this purpose when requested by the department or its duly authorized agents.

SECTION 20.

20.837 Imposition and rate of tax; statements of motor vehicle fuel sold, distributed or used; extensions of time; time when returns, remittances deemed filed, received by department.

1. In addition to any other taxes provided by law, every dealer shall, not later than the 25th day of each calendar month:

(a) Render to the department a statement of all motor vehicle fuel and fuel for jet or turbine-powered aircraft sold, distributed or used by him in Washoe County, as well as all such fuel sold, distributed or used in this county by a purchaser thereof upon which sale, distribution or use the dealer has assumed liability for the tax thereon under section 20.809, during the preceding calendar month; and

(b) Pay an excise tax of 1 cent per gallon on all motor vehicle fuel so sold, distributed or used, in the manner and within the time prescribed in the Supplemental Motor Vehicle Fuel Tax Ordinance.

2. The department for good cause may extend for not to exceed 30 days the time for making any report or return required under the Supplemental Motor Vehicle Fuel Tax Ordinance. The extension may be granted at any time if:

(a) A request therefor has been filed with the department within or prior to the period for which the extension may be granted; and

(b) A remittance of the estimated tax is made when due.

3. Any report, return, remittance to cover a payment or claim for credit or refund required by the Supplemental Motor Vehicle Fuel Tax Ordinance which is transmitted through the United States mail shall be deemed filed or received by the department on the date shown by the post office cancellation mark stamped upon the envelope containing it, or on the date it was mailed if proof satisfactory to the department establishes that such document or remittance was timely deposited in the United States mail properly addressed to the department.

SECTION 21.

20.839 Imposition of excise tax on other inflammable, combustible liquids.

1. In addition to any other taxes provided for by the

Supplemental Motor Vehicle Fuel Tax Ordinance, every person who uses any inflammable or combustible liquid or other material other than motor vehicle fuel as defined in section 20.819 to operate a motor vehicle on the highways of this county, except special fuel, shall pay an excise tax as provided by section 20.837 for each gallon thereof so used, and shall render monthly statements and make monthly payments at the times and in the manner prescribed for dealers in the Supplemental Motor Vehicle Fuel Tax Ordinance.

2. Any owner or operator of a motor vehicle who imports motor vehicle fuel or other fuel or material, except special fuel, into this county, from another state or from federal proprietary lands or reservations, in the fuel tank or tanks of any such motor vehicle in a quantity exceeding 25 gallons shall, upon demand of the department or its duly authorized agent, pay to the department on such excess motor vehicle fuel the excise tax required to be paid by dealers under the Supplemental Motor Vehicle Fuel Tax Ordinance.

3. Nothing in this section shall be construed to require more than one payment of any excise tax upon or in respect to the same fuel.

SECTION 22.

20.841 Date of imposition of supplemental county motor vehicle fuel tax. The county motor vehicle fuel tax provided for in section 20.837 becomes effective and shall begin to be collected on January 1 or July 1, whichever date is earlier, following the date the Supplemental Motor Vehicle Fuel Tax Ordinance is approved by the voters of the county. The effective date of the tax, whether January 1 or July 1, shall be at least one calendar month after the Supplemental Motor Vehicle Fuel Tax Ordinance is approved by the voters of the county.

SECTION 23.

20.843 Exempt transactions and sales. The provisions of the Supplemental Motor Vehicle Fuel Tax Ordinance requiring the payment of excise taxes do not apply to any of the following:

1. Motor vehicle fuel so long as it remains in interstate or foreign commerce.
2. Motor vehicle fuel or fuel for jet or turbine-powered aircraft exported from this state by a dealer.
3. Motor vehicle fuel or fuel for jet or turbine-powered aircraft sold to the United States Government for official use of the United States Armed Forces.

4. Motor vehicle fuel or fuel for jet or turbine-powered aircraft distributed, or delivered on the order of the owner, to a dealer who has furnished bond and security in the amount prescribed and who has established to the satisfaction of the department that the bond is sufficient security to assure payment of all excise taxes as they may become due to the county from him under the Supplemental Motor Vehicle Fuel Tax Ordinance. Every dealer who claims an exemption shall report the distributions to the department in such detail as the department may require; otherwise, the exemption granted in this subsection is void and all fuel shall be considered distributed in Washoe County subject fully to the provisions of the Supplemental Motor Vehicle Fuel Tax Ordinance.

SECTION 24.

20.845 Exempt sales by dealer in individual quantities of 500 gallons or less for export.

1. The provisions of the Supplemental Motor Vehicle Fuel Tax Ordinance requiring the payment of excise taxes do not apply to motor vehicle fuel or fuel for jet or turbine-powered aircraft sold by a dealer in individual quantities of 500 gallons or less for export to another state or country by the purchaser other than in the supply tank of a motor vehicle, if such dealer is licensed in the state of destination to collect and remit the applicable destination state taxes thereon.

2. In support of any exemption from taxes on account of sales of motor vehicle fuel or fuel for jet or turbine-powered aircraft in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his files for at least 3 years an export certificate executed by the purchaser in such form and containing such information as shall be prescribed by the department. This certificate is prima facie evidence of the exportation of the motor vehicle fuel or fuel for jet or turbine-powered aircraft to which it applies only if accepted by the dealer in good faith. However, if the purchaser fails to export any part of the motor vehicle fuel or fuel for jet or turbine-powered aircraft covered by the certificate, he shall be required to remit to the department immediately thereafter the applicable amount in taxes due on such part not exported. Upon failure to do so, the purchaser shall be subject to all penalties provided in the Supplemental Motor Vehicle Fuel Tax Ordinance for delinquency in payment of taxes.

SECTION 25.20.847 Forms and contents of reports of exempt exports and sales.

1. Every dealer shall report such exports and sales to the department at such times, on such forms and in such detail as the department may require.

2. Every dealer shall mark clearly upon each invoice rendered for sales upon which no excise tax is required under sections 20.843 and 20.845: "Ex Nevada Motor Vehicle Fuel Tax."

SECTION 26.

20.849 Time to claim exemption on dealer's export to another state. Any claim for exemption from excise tax on account of motor vehicle fuel or fuel for jet or turbine-powered aircraft exported by a dealer to another state, other than stock transfers or deliveries in his own equipment, must be made by the dealer within 6 months after the date of the export unless the state or territory of destination would not be prejudiced with respect to its collection of taxes thereon should the claim not be made within such time.

SECTION 27.

20.851 When motor vehicle fuel not deemed to be exported. Motor vehicle fuel carried out of this county into another state or onto federal proprietary lands or reservations, to an amount not exceeding 25 gallons in the fuel tank or tanks of such motor vehicle, shall not be deemed to be exported for the purpose of sections 20.843 to 20.849, inclusive.

SECTION 28.20.853 Dealer's bond: Form, conditions and amount; deposit in lieu of bond.

1. Before granting any license the department shall require the applicant to file with the department a bond executed by the applicant as principal and by a corporation qualified under the laws of this state as surety, payable to the State of Nevada, conditioned upon faithful performance of all the requirements of the Supplemental Motor Vehicle Fuel Tax Ordinance and upon the punctual payment of all excise taxes, penalties and other obligations of the applicant as a dealer.

2. The total amount of the bond or bonds required of any dealer shall be fixed by the department at twice the

estimated maximum monthly tax, determined in such manner as the department deems proper, and may be increased or reduced accordingly by the department at any time subject to the limitations prescribed in the Supplemental Motor Vehicle Fuel Tax Ordinance; but the total amount of the bond or bonds of any dealer shall never be less than \$1,000 nor more than \$50,000. When cash or a certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of \$100, within the same upper limit.

3. No recovery on any bond, nor the execution of any new bond, nor the revocation, cancellation or suspension of any license, affects the validity of any bond.

4. In lieu of any bond or bonds, a dealer may deposit with the department, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United States, or bonds of the United States or the State of Nevada of an actual market value not less than the amount fixed by the department as provided in subsection 2.

SECTION 29.

20.855 Monthly payment of taxes; percentage allowed dealer, user for costs of collection, handling losses.

1. The excise taxes prescribed in the Supplemental Motor Vehicle Fuel Tax Ordinance shall be paid on or before the 25th day of each calendar month to the department. The department shall deliver all such taxes to the state treasurer, who shall receipt the dealer or user therefor.

2. From the tax found to be due upon any statement duly and punctually rendered, the dealer or user shall be allowed to deduct 2 percent thereof to cover the dealer's or user's costs of collection of the tax and of compliance with the Supplemental Motor Vehicle Fuel Tax Ordinance and the dealer's or user's handling losses occasioned by evaporation, spillage or other similar causes.

SECTION 30.

20.857 Penalties for delinquencies in payment of tax; interest on delinquencies; extensions of time for payment.

1. If the amount of any excise tax for any month is not paid to the department on or before the 25th day of the next month thereafter as prescribed by the Supplemental Motor Vehicle Fuel Tax Ordinance, it becomes delinquent at the close of business on that day, and a penalty of 1 percent of such excise tax must be added thereto for delinquency together with interest at the rate of 1 per-

cent or fraction thereof until paid; but in no case shall the penalty be less than \$10 nor more than \$300.

2. If the tax is not received on or before the close of business on the last day of the month in which payment is due, a penalty of 5 percent must be added thereto in addition to the penalty and interest provided for in subsection 1. The dealer or user may have up to 15 additional days to make the payment, if he makes application to the department and the department finds good cause for such extension.

3. The proceeds from any such penalty assessments so levied shall be allocated to the county gas tax funds by the department.

SECTION 31.

20.859 Commencement and prosecution of action to collect delinquent tax, penalties and interest.

1. At the request of the department, the attorney general or the district attorney of Washoe County shall collect any delinquent tax with penalties and interest. To that end, the attorney general or the district attorney forthwith shall commence and prosecute to final determination an action in the name of the State of Nevada in any court of competent jurisdiction.

2. In any action on a bond filed by a dealer, recovery may be had against the surety without exhausting or seeking a remedy against the dealer.

SECTION 32.

20.861 Evidentiary effect of certificate of department of taxation. In any action commenced and prosecuted under the provisions of section 20.859 the certificate of the department shall be prima facie evidence of the amount of the tax and penalty and of the obligation therefor of the person named in such certificate.

SECTION 33.

20.863 Tax refunds: Persons entitled; payment of refund claims; minimum claims; deductions. Any person who exports any motor vehicle fuel or fuel for jet or turbine-powered aircraft from this county, or who sells any such fuel to the United States Government for official use of the United States Armed Forces, or who buys and uses any such fuel for purpose other than, in and for the propulsion of motor vehicles or jet or turbine-powered aircraft, and who has paid any tax on such fuel levied or directed to be paid as provided by the Supplemental Motor

Vehicle Fuel Tax Ordinance, either directly by the collection of such tax by the vendor from such consumer or indirectly by the addition of the amount of such tax to the price of such fuel, shall be reimbursed and repaid the amount of such tax so paid by him, except as follows:

1. Refund claims must be paid by prescribed classes in accordance with the department's regulations.
2. The minimum claim for refund must be based on at least 200 gallons purchased and used in a 6-month period.
3. No refund of county motor vehicle fuel taxes may be made for off-highway use of motor vehicle fuel consumed in watercraft in this state for recreational purposes.

SECTION 34.

20.865 Presentation of claim: Refund form; original invoices; contents of invoices; contents, preservation of records.

1. A claimant for refund must present to the department a refund claim form accompanied by the original invoices showing the purchase. The refund forms shall state the total amount of such fuel so purchased and used by the consumer otherwise than for the propulsion of motor vehicles or jet or turbine-powered aircraft and the manner and the equipment in which the claimant has used the same.

2. A claimant for refund of tax on motor vehicle fuel or fuel for jet or turbine-powered aircraft purchased and exported from this county shall execute and furnish to the department a certificate of exportation on such form as may be prescribed by the department.

3. An invoice to qualify for refund shall contain at least:

- (a) The number of gallons of fuel purchased;
- (b) The price per gallon;
- (c) The total purchase price of the fuel; and
- (d) Such other information as may be prescribed by the department.

4. The signature on the refund claim form subjects the claimant to the charge of perjury for false statements contained on the refund application.

5. Daily records shall be maintained and preserved for a period of 3 years for audit purpose of all motor vehicle fuel and fuel for jet or turbine-powered aircraft used. The record shall set forth:

- (a) The piece of equipment being supplied with the fuel;
- (b) The number of gallons of fuel used in each fill; and
- (c) The purpose for which the piece of equipment will be used.

The gasoline fills shall be further classified as to on- or off-highway use.

6. If a motor vehicle with auxiliary equipment consumes motor vehicle fuel and there is no auxiliary motor or separate tank for the motor, a refund of 20 percent of the tax paid on the fuel used in the vehicle may be claimed without the necessity of furnishing proof of the amount of fuel consumed in the operation of the auxiliary equipment. Where claims for refund exceed 20 percent the department shall, by regulation, establish uniform refund provisions for the respective classes of users.

7. No person may be granted a refund of motor vehicle fuel taxes for off-highway use when such consumption takes place on highways constructed and maintained by public funds, on federal proprietary lands or reservations where the claimant has no ownership or control over such land or highways, except when such person is under a contractual relationship with the Federal Government or one of its agencies and is engaged in the performance of his duties pursuant to such relationship. Employment of an individual by the Federal Government or any of its agencies does not constitute a contractual relationship for the purpose of this subsection.

8. When in the opinion of the department it would be beneficial to the state for a refund claimant to become a licensed dealer, such claimant may, at the option of the department, be required to become a licensed dealer rather than a refund claimant unless such claimant chooses to claim refunds at the tax rate, less 2 percent.

SECTION 35.

20.867 Payment of refund. Upon the presentation of such affidavits, invoices, written statements, tax exemption certificates or exportation certificates, the department shall cause to be repaid to the claimant from the taxes collected under the Supplemental Motor Vehicle Fuel Tax Ordinance an amount equal to the taxes so paid by the claimant less the percentage allowed the dealer or user pursuant to section 20.755.

SECTION 36.

20.869 Payment of refund based on duplicate invoice. In the event of the loss of an original invoice, the person claiming a refund may submit in lieu thereof a duplicate copy of the invoice, which shall be retained by the department until the expiration of the period specified for filing of refund applications. No payment of refund

based upon a duplicate invoice shall be made until after the expiration of such statutory period.

SECTION 37.

20.871 Examination of claimant's books, records; effect of refusal to permit examination. In order to establish the validity of any claim the department may, upon demand, examine the books and records of the claimant for such purpose. The failure of the claimant to accede to such demand constitutes a waiver of all rights to the refund claimed on account of the transactions questioned.

SECTION 38.

20.873 Time for application for refund. Except as provided in NRS 360.235, all:

1. Applications for refund based upon exportation of motor vehicle fuel from this state must be filed with the department within 3 months from the date of exportation.
2. Other applications, together with the necessary supporting evidence, must be filed with the department within 6 months from the date of purchase.
3. Rights to refunds are forfeited if applications are not filed with the department within the times herein prescribed in this section.

SECTION 39.

20.875 Payment of refunds from county gas tax funds. All claims for refunds under the Supplemental Motor Vehicle Fuel Tax Ordinance must be paid from county gasoline tax funds collected under the Supplemental Motor Vehicle Fuel Tax Ordinance upon claims presented by the department, approved by the state board of examiners, and allowed and paid as other claims against the state are allowed and paid.

SECTION 40.

20.877 Granting of credit in lieu of refund. In lieu of the collection and refund of the tax on motor vehicle fuel or fuel for jet or turbine-powered aircraft used by a dealer in such a manner as would entitle a purchaser to claim refund under the provisions of the Supplemental Motor Vehicle Fuel Tax Ordinance, or in lieu of the refund of any prior erroneous payment of tax on motor vehicle fuel or fuel for jet or turbine-powered aircraft to the department made by a dealer, credit may be given the dealer upon his tax return and assessment.

SECTION 41.20.879 Refunds to farmers, ranchers on basis of bulk purchases; procedure.

1. For the purpose of this section, "bulk purchases" means purchases in excess of 50 gallons of motor vehicle fuel which are not placed directly into the tanks of motor vehicles.

2. Any person determined by the department to be a bona fide farmer or rancher, not engaged in other activities which would distort his highway usage, may claim a refund only on the basis of 80 percent of his bulk purchases, without necessity of maintaining records of use.

3. Any farmer or rancher desiring to claim a refund under the provisions of this section must first secure a permit from the department, and such a permit shall bind the permittee to file claims for refunds under the provisions of this section until a request has been made for a change of basis for filing, which request has been approved by the department.

4. The department is empowered to issue reasonable rules and regulations to carry out the purpose of this section.

SECTION 42.

20.881 Injunction or other process to prevent collection prohibited. No injunction or writ of mandate or other legal or equitable process shall ever issue in any suit, action or proceeding in any court against this state or Washoe County or any officer thereof to prevent or enjoin the collection under the Supplemental Motor Vehicle Fuel Tax Ordinance of any excise tax assessed by the department.

SECTION 43.

20.883 Right to bring action against state treasurer; venue. After payment of any excise tax under protest duly verified, served on the department, and setting forth the grounds of objection to the legality of the excise tax, the dealer paying the excise tax may bring an action against the state treasurer in the district court in and for Carson City for the recovery of the excise tax so paid under protest.

SECTION 44.

20.885 Action to recover amount paid: Time to sue; waiver of right; consideration of grounds of illegality.

1. No action authorized by section 20.883 may be insti-

tuted more than 90 days after the last day prescribed for the payment of the excise tax without penalty. Failure to bring suit within the 90 days shall constitute a waiver of any and all demands against the county on account of alleged overpayment of excise taxes.

2. No grounds of illegality of the excise tax shall be considered by the court other than those set forth in the protest filed at the time of the payment of the excise tax.

SECTION 45.

20.887 Judgment for plaintiff: Disposition of amount; interest.

1. If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any excise taxes due from the plaintiff under the Supplemental Motor Vehicle Fuel Tax Ordinance, and the balance of the judgment shall be refunded to the plaintiff.

2. In any judgment, interest shall be allowed at the rate of 6 percent per annum upon the amount of the excise tax found to have been collected illegally from the date of payment thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the department.

SECTION 46.

20.889 Judgment shall not be rendered for plaintiff when action is by or in name of assignee. A judgment shall not be rendered in favor of the plaintiff in any action brought against the state treasurer to recover any excise tax paid under the Supplemental Motor Vehicle Fuel Tax Ordinance when such action is brought by or in the name of an assignee of the dealer paying the excise tax, or by any person, company or corporation other than the person, company or corporation which has paid the excise tax.

SECTION 47.

20.891 Dealers' records: Contents; examinations.

1. Every dealer shall cause to be kept a true record, in such form as may be prescribed or approved by the department, of all stocks of motor vehicle fuel and fuel for jet or turbine-powered aircraft and of other inflammable or combustible liquids, and of all manufacture, refining, compounding, blending, purchases, receipts, transportations, use, sales and distribution thereof.

2. Such records are subject to inspection at all times within business hours by the department or its duly authorized agents, and must remain so available for inspection for a period of 3 years from the date of any entry therein.

3. Should any dealer wish to keep proper books and records pertaining to business done in Washoe County elsewhere than within the State of Nevada for inspection as provided in this section, he must pay a fee for such examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the examiner is actually engaged in examining the dealer's books, plus the actual expenses of the examiner during the time that the examiner is absent from Carson City, Nevada, for the purpose of making such examination; but such time shall not exceed 1 day going to and 1 day coming from the place where the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing the dealer's books. Not more than two such examinations shall be charged against any dealer in any year.

4. Any money received must be deposited by the department to the credit of the fund from which the expenditures for the examination were made.

5. Upon the demand of the department or at such times as the department may prescribe by regulation, every dealer shall furnish a statement showing the contents of the records to such extent, in such detail and in such form as the department may require.

SECTION 48.

20.893 Retailers' records: Contents; inspection.

1. Every retailer shall maintain and keep within the state for a period of 3 years a true record of motor vehicle fuel or fuel for jet or turbine-powered aircraft received, of the price thereof and the name of the person supplying the same, together with delivery tickets, invoices and such other records as the department may require.

2. Such records shall be subject to inspection by the department or its duly authorized agents at all times within business hours.

SECTION 49.

20.895 Carriers' delivery reports: Contents; examination of records.

1. Every carrier, whether common, contract or private, except a dealer licensed under chapter 365 of NRS or a

wholesale distributor transporting the products of a dealer licensed under chapter 365 of NRS, who transports motor vehicle fuel or fuel for jet or turbine-powered aircraft in interstate commerce to or from any point within Washoe County shall report to the department all deliveries so made.

2. Such report shall cover the period of each calendar month and shall be filed within 25 days after the end of such month. The report shall show:

(a) The name and address of every consignor and consignee and of every person other than the designated consignee to whom delivery has actually been made.

(b) The date of every delivery.

(c) The amount of every delivery in gallons.

(d) Such other information as the department may require.

3. The department or its duly authorized agents may examine the books and records of any carrier during business hours to determine if the provisions of this section have been or are being complied with.

SECTION 50.

20.897 Invoices, other documents, required of carriers when transporting motor vehicle fuel, other liquids.

1. Every person transporting on any highway of Washoe County any motor vehicle fuel or fuel for jet or turbine-powered aircraft or other inflammable or combustible liquids in an amount of 25 gallons or more must have in his possession at all times during such transportation an invoice, bill of sale or other document showing the name and address of the seller or consignor and of the buyer or consignee, if any, of the product so transported. He shall produce and exhibit the same to any sheriff, deputy sheriff, police officer or authorized agent of the department upon request or demand.

2. Any person engaged in transporting motor vehicle fuel or fuel for jet or turbine-powered aircraft or other inflammable or combustible liquids by tank truck or tank truck and trailer to be delivered to a dealer or any reseller of such products or to persons known to the trade as commercial consumers is required only to have in his possession adequate evidence showing the amount of the motor vehicle fuel or fuel for jet or turbine-powered aircraft or other inflammable or combustible liquids loaded in his conveyance at the time the conveyance left its loading point, and the name and address of the dealer who has assumed or is charged with the responsibility for the payment of the tax due thereon, if any. The date of

delivery thereto must be furnished the department upon request.

SECTION 51.

20.899 Distribution of proceeds; County treasurer.

1. After receiving the monthly tax allocation by the department pursuant to NRS 365.196, the county treasurer shall apportion the receipts of that tax among the county, for unincorporated areas of the county, and each incorporated city in the county. The county and each city are respectively entitled to receive each month that proportion of those receipts which its total population bears to the total population of the county.

2. During the month immediately preceding each January 1 and July 1, the county treasurer shall, when necessary and after a hearing, adopt a regulation which provides for the accurate apportionment of those receipts in the county during the ensuing 6 months.

SECTION 52.

20.901 Use of proceeds; use limited to repairing or restoring existing paved streets, roads, alleys. The proceeds of the tax levied in section 20.837 of the Supplemental Motor Vehicle Fuel Tax Ordinance which is apportioned to the county or an incorporated city must be used by it solely to repair or restore existing paved roads, streets and alleys, other than those maintained by the Federal Government and the State of Nevada, by resurfacing, overlaying, resealing or other such customary methods.

SECTION 53.

20.903 Unlawful acts; penalties.

1. It is unlawful for any person:

(a) To refuse or neglect to make any statement, report or return required by the provisions of the Supplemental Motor Vehicle Fuel Tax Ordinance;

(b) Knowingly to make, or aid or assist any other person in making, a false statement in a report to the department or in connection with an application for refund of any tax;

(c) Knowingly to collect or attempt to collect or cause to be repaid to him or to any person, either directly or indirectly, any refund of any tax without being entitled to the same;

(d) To engage in business in this state as a dealer or to act as a carrier of motor vehicle fuel, fuel for jet or

turbine-powered aircraft, special fuel or other inflammable or combustible liquids without being the holder of an uncanceled license authorizing him to engage in such business or to act in such capacity;

(e) To sell any motor vehicle fuel upon which the tax imposed by the Supplemental Motor Vehicle Fuel Tax Ordinance has not been paid, purchased by or consigned to him by any person other than a duly licensed dealer; or

(f) To act as an agent to sell any motor vehicle fuel, obtained in any manner, upon which the tax imposed by the Supplemental Motor Vehicle Fuel Tax Ordinance has not been paid.

2. Each day or part thereof during which any person engages in business as a dealer without being the holder of an uncanceled license constitutes a separate offense within the meaning of this section.

3. Any person violating any of the provisions of this section is guilty of a misdemeanor.

SECTION 54.

20.905 Any person violating any of the provisions of the Supplemental Motor Vehicle Fuel Tax Ordinance for which no specific penalty is provided is guilty of a misdemeanor.

SECTION 55.

20.907 Effective date. The Supplemental Motor Vehicle Fuel Tax Ordinance becomes effective when it is approved by a majority of the registered voters of the county voting upon the question.

SECTION 56.

20.909 Submission of question to voters. Pursuant to the requirement of subsection 2 of section 4 of chapter 276, Statutes of Nevada 1985:

1. The registrar of voters shall place upon the ballot of the general election in 1986 the question whether the Supplemental Motor Vehicle Fuel Tax Ordinance shall be approved by the voters of Washoe County; and

2. If the Supplemental Motor Vehicle Fuel Tax Ordinance is not approved by the voters of Washoe County at the general election in 1986, it may again be submitted to the voters at any time thereafter.

Proposed on the 18th day of March, 1986.

Proposed by Commissioners McDowell.

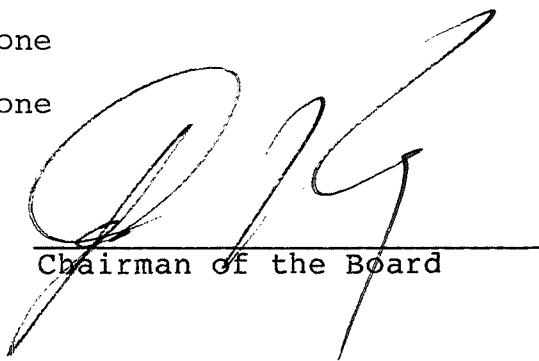
Passed on the 8th day of April, 1986.

Vote:

Ayes: Commissioners: Lillard, McDowell, King, Ritter & Williams

Nays: Commissioners: None

Absent: Commissioners: None



Chairman of the Board


County Clerk

This ordinance shall be in force and effect from and after
the 21st day of April, 1986.