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PROOF OF PUBLICATION

**NOTICE OF ADOPTION
 WASHOE COUNTY
 ORDINANCE NO. 1149**

NOTICE IS HEREBY GIVEN that: Bill No.1326, Ordinance No. 1149, entitled:

"AN ORDINANCE AMENDING CHAPTER 20 (REVENUE AND TAXATION) OF THE WASHOE COUNTY CODE BY REPEALING THE DEFINITION OF DEALER; ADDING THE DEFINITIONS OF RACK, TERMINAL AND SUPPLIER; CHANGING THE DEFINITION OF RETAILER; PROVIDING THAT FOR THE PURPOSES OF THE FUEL TAX MOTOR VEHICLE FUEL IS SOLD WHERE IT IS DISTRIBUTED FROM A TERMINAL; CHANGING MULTIPLE REFERENCES FROM DEALER TO SUPPLIER; CHANGING THE REFERENCE FROM DEPARTMENT OF TAXATION TO DEPARTMENT OF MOTOR VEHICLES TO CONFORM THE COUNTY MOTOR VEHICLE FUEL TAX ORDINANCE TO CHANGES IN THE STATE LAW; REPEALING THE SUPPLEMENTAL MOTOR VEHICLE FUEL TAX ORDINANCE; AND MAKING ALL SUCH CHANGES RETROACTIVE TO JANUARY 1, 2002 AND OTHER MATTERS PROPERLY RELATING THERETO."

was adopted on February 26, 2002 by Commissioners Bond, Galloway, Sferazza, Shaw and Short. This ordinance shall be in full force and effect from and after January 1, 2002.

Typewritten copies of the ordinance are available for inspection by all interested persons at the office of the County Clerk, 75 Court Street, Reno, Nevada.

AMY HARVEY,
 Washoe County Clerk
 No.796 Mar.1,8, 2002

STATE OF NEVADA
 COUNTY OF WASHOE

ss Tana Ciccotti

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:
 Ordinance 1149

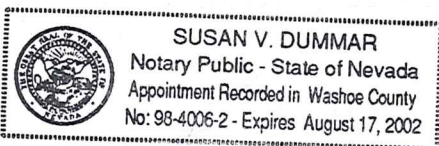
has published in each regular and entire
 issue of said newspaper on the following
 dates to wit:
 March 1, 8, 2002

Signed Tana Ciccotti

Subscribed and sworn to before me this
MAR 12 2002

Susan V. Dummar

Notary Public



MAR 14 2002

SUMMARY: An ordinance amending Chapter 20 (Revenue and Taxation) of the Washoe County Code by repealing the definition of dealer; adding the definitions of rack, terminal and supplier; changing the definition of retailer; providing that for the purposes of the fuel tax motor vehicle fuel is sold where it is distributed from a terminal; changing multiple references from dealer to supplier; changing the reference from department of taxation to department of motor vehicles to conform the County Motor Vehicle Fuel Tax Ordinance to changes in the state law; repealing the Supplemental Motor Vehicle Fuel Tax Ordinance; and making all such changes retroactive to January 1, 2002

BILL NO. 1326
ORDINANCE NO. 1149

AN ORDINANCE AMENDING CHAPTER 20 (REVENUE AND TAXATION) OF THE WASHOE COUNTY CODE BY REPEALING THE DEFINITION OF DEALER; ADDING THE DEFINITIONS OF RACK, TERMINAL AND SUPPLIER; CHANGING THE DEFINITION OF RETAILER; PROVIDING THAT FOR THE PURPOSES OF THE FUEL TAX MOTOR VEHICLE FUEL IS SOLD WHERE IT IS DISTRIBUTED FROM A TERMINAL; CHANGING MULTIPLE REFERENCES FROM DEALER TO SUPPLIER; CHANGING THE REFERENCE FROM DEPARTMENT OF TAXATION TO DEPARTMENT OF MOTOR VEHICLES TO CONFORM THE COUNTY MOTOR VEHICLE FUEL TAX ORDINANCE TO CHANGES IN THE STATE LAW; REPEALING THE SUPPLEMENTAL MOTOR VEHICLE FUEL TAX ORDINANCE; AND MAKING ALL SUCH CHANGES RETROACTIVE TO JANUARY 1, 2002 AND OTHER MATTERS PROPERLY RELATING THERETO

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

SECTION 1.

The Index for Chapter 20 of the Washoe County Code is hereby amended to read as follows:

CHAPTER 20

REVENUE AND TAXATION

City-County Relief Tax

General Provisions and Definitions

- 20.010 Short title.
- 20.013 Construction: Operation of definitions.

- 20.015 "Business" defined.
- 20.017 "Department" defined.
- 20.019 "Gross receipts" defined.
- 20.021 "In Washoe County," "in the county" defined.
- 20.023 "Occasional sale" defined.
- 20.025 "Person" defined.
- 20.027 "Purchase" defined.
- 20.029 "Retail sale," "sale at retail" defined.
- 20.031 "Retailer" defined.
- 20.033 "Sale" defined.
- 20.035 "Sales price" defined.
- 20.037 "Seller" defined.
- 20.039 "Storage" defined.
- 20.041 "Storage" and "use": Exclusion.
- 20.043 "Tangible personal property" defined.
- 20.045 "Taxpayer" defined.
- 20.047 "Use" defined.

Sales Tax: Imposition and Rate

- 20.049 Imposition and rate of sales tax.
- 20.051 Method of collection of sales tax.
- 20.053 Assumption, absorption of tax by retailer; unlawful advertising.
- 20.055 Separate display of tax from list, other price.

Sales Tax: Permits; Resale Certificates

- 20.057 Application for permit: Form; contents.
- 20.059 Permit fee.
- 20.061 Issuance and display of permit; assignability.
- 20.063 Reinstatement fee for suspended, revoked permit.
- 20.065 Revocation, suspension of permit: Procedure.
- 20.067 Engaging in business as seller without permit unlawful.
- 20.069 Presumption of taxability; resale certificate.
- 20.071 Effect of resale certificate.
- 20.073 Form and contents of resale certificate.
- 20.075 Liability of purchaser giving resale certificate.
- 20.077 Improper use of resale certificate; penalty.
- 20.079 Resale certificate: Commingled fungible goods.

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- 20.081 Imposition and rate of use tax.
- 20.083 Liability for tax; extinguishment of liability.
- 20.085 Collection by retailer; purchaser's receipt.
- 20.087 Tax as debt to county.
- 20.089 Assumption, absorption of tax by retailer; unlawful advertising.
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- 20.095 Registration of retailers.
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- 20.103 Liability of purchaser giving resale certificate: Use of article bought for resale.
- 20.105 Resale certificate: Commingled fungible goods.
- 20.107 Presumption of purchase from retailer.
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- 20.153 Return: Time for filing; persons required to file; signatures.
- 20.155 Contents of return.
- 20.157 Reimbursement to taxpayer for collection of tax.
- 20.159 Delivery of return, remittance.
- 20.161 Return periods: Periods other than monthly periods.
- 20.163 Lease and rental receipts: Reporting; payment.
- 20.165 Collection of tax: Affixing, cancellation of revenue stamps.
- 20.167 Extensions for filing return, payment of tax: Interest.

Deficiency Determinations

- 20.169 Recomputation of tax; determination on discontinuance of business.
- 20.171 Interest on deficiency.
- 20.173 Offsetting of overpayments; computation of interest.
- 20.175 Penalty for negligence, disregard of law, regulations.
- 20.177 Penalty for fraud, intent to evade.
- 20.179 Notice of department's determination: Service.
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- 20.185 Offsets: Computation; interest.
- 20.187 Interest on amount of determination.
- 20.189 Penalties for fraud, intent to evade.
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- 20.193 Jeopardy determination: When made; due date.
- 20.195 Nonpayment: Finality of determination.
- 20.197 Petition for redetermination; deposit of security.

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- 20.201 Oral hearing: Notice; continuances.
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- 20.207 Due date of determinations; penalties.
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- 20.213 Deposit of security: Amounts; sales of security; return of surplus.
- 20.215 Notice of delinquency to persons holding credits or property of delinquent; transfer or disposition of property or debt after notice; bank deposits.

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- 20.217 Action for collection of tax, penalties, interest: Limitation.
- 20.219 District attorney to prosecute action; provisions of NRS, N.R.C.P., N.R.A.P. applicable.
- 20.221 Issuance of writ of attachment without bond, affidavit.
- 20.223 Evidentiary effect of delinquency certificate.
- 20.225 Action for use tax: Manner of service of process.

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- 20.227 Application for summary judgment: Filing of certificate of delinquency.
- 20.229 Entry of judgment by county clerk.
- 20.231 Filing of abstract, copy of judgment with county recorder; judgment lien; duration and extension.
- 20.233 Execution: Issuance; sale.

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- 20.235 Priority of tax claim or lien: Subordination to prior recorded lien, other debts.
 20.237 Recordation of certificate of delinquency: Resulting lien; duration and extension.
 20.239 Department may release, subordinate lien.
 20.241 Evidentiary effect of certificate of release; subordination.

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- 20.243 Warrant for collection of tax: Issuance; effect; levy and sale.
 20.245 Fees for services of sheriff; approval of newspaper publication fees.
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- 20.249 Power of department to seize and sell delinquent's property; exemptions.
 20.251 Notice of sale: Contents; mailings; publication.
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- 20.257 Successor, assignee to withhold tax from purchase price.
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- 20.287 Allowance of interest.
- 20.289 Judgment not to be rendered for assignee-plaintiff.
- 20.291 Recovery of erroneous refunds: Action; jurisdiction and venue.
- 20.293 District attorney to prosecute action for recovery of erroneous refund; applicability of NRS, N.R.C.P. and N.R.A.P.
- 20.295 Cancellation of illegal determination: Procedure; limitation.

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- 20.299 Employment of accountants, investigators and other persons; delegation of authority.
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- 20.506 "Gross receipts" defined.
- 20.507 "In Washoe County," "in the county" defined.
- 20.508 "Occasional sale" defined.
- 20.509 "Person" defined.
- 20.510 "Purchase" defined.
- 20.511 "Retail sale" and "sale at retail" defined.
- 20.512 "Retailer" defined.
- 20.513 "Sale" defined.
- 20.514 "Sales price" defined.
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- 20.516 "Storage" defined.
- 20.517 "Storage" and "use": Exclusion.
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- 20.520 "Use" defined.

Sales Tax: Imposition and Rate

- 20.521 Imposition and rate of sales tax; date of imposition.
- 20.522 Method of collection of sales tax.
- 20.523 Assumption, absorption of tax by retailer; unlawful

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- 20.524 Separate display of tax from list, other price.
- Sales Tax: Permits, Resale Certificates
- 20.525 Application for permit: Form; contents.
- 20.526 Permit fee.
- 20.527 Issuance and display of permit: Assignability.
- 20.528 Reinstatement fee for suspended, revoked permit.
- 20.529 Revocation, suspension of permit: Procedure; order to lock, seal place of business on revocation.
- 20.530 Engaging in business as seller without permit unlawful; order to lock, seal place of business.
- 20.531 Enforcement of order to lock and seal place of business.
- 20.532 Presumption of taxability; resale certificate.
- 20.533 Effect of resale certificate.
- 20.534 Form and contents of resale certificate.
- 20.535 Liability of purchaser giving resale certificate.
- 20.536 Improper use of resale certificate; penalty.
- 20.537 Resale certificate: Commingled fungible goods.

Use Tax: Imposition and Rate

- 20.538 Imposition and rate of use tax.
- 20.539 Liability for tax; extinguishment of liability.
- 20.540 Collection by retailer; purchaser's receipt.
- 20.541 Tax as debt to county.
- 20.542 Assumption, absorption of tax by retailer; unlawful advertising.
- 20.543 Separate display of tax from list, other price.
- 20.544 Unlawful acts.
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- 20.553 Constitutional and statutory exemptions.
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- 20.557 Medicines exempted.
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- 20.572 Exemption certificates: Liability of purchaser who
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Returns and Payments

- 20.573 Due date of taxes.
- 20.574 Return: Time for filing; persons required to file.
- 20.575 Contents of return.
- 20.576 Reimbursement to taxpayer for collection of tax.
- 20.577 Delivery of return: Remittance.
- 20.578 Return periods: Periods other than calendar months or
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- 20,579 Lease and rental receipts: Reporting; payment.
- 20.580 Collection of tax: Affixing, cancellation of revenue
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- 20.581 Extensions for filing return, payment of tax, interest.

Deficiency Determinations

- 20.582 Recomputation of tax; determination on discontinuance
of business.
- 20.583 Interest on deficiency.
- 20.584 Offsetting of overpayments; computation of interest.
- 20.585 Penalty for negligence, disregard of law, regulations.
- 20.586 Penalty for fraud, intent to evade.
- 20.587 Notice of department's determination: Service.
- 20.588 Time within which notice of deficiency determination to
be mailed; consent to later mailing of notice.

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- 20.589 Determination if no return made: Estimate and computation; discontinuance of business.
- 20.590 Offsets: Computation; interest.
- 20.591 Interest on amount of determination.
- 20.592 Penalties for fraud, intent to evade.
- 20.593 Notice of estimate, determination and penalty: Service.

Jeopardy Determinations

- 20.594 Jeopardy determination: When made; due date.
- 20.595 Nonpayment: Finality of determination.
- 20.596 Petition for redetermination; deposit of security.

Redeterminations

- 20.597 Petition for redetermination; time to file.
- 20.598 Oral hearing; notice; continuances.
- 20.599 Increase, decrease of amount of determination.
- 20.600 Order of department on petition for redetermination: Finality of order.
- 20.601 Due date of determinations; penalties.
- 20.602 Service of notice.

Interest and Penalties

- 20.603 Penalty, interest for failure to pay tax: Amount; rates.

Security for the Tax

- 20.604 Deposit of security: Amounts; sales of security; return of surplus.
- 20.605 Notice of delinquency to persons holding credits or property of delinquent; transfer or disposition of property or debt after notice; bank deposits.

Suit for the Tax

- 20.606 Action for collection of tax, penalties, interest: Limitation.
- 20.607 Attorney general to prosecute action; provisions of NRS, N.R.C.P., N.R.A.P. applicable.
- 20.608 Issuance of writ of attachment without bond, affidavit.
- 20.609 Evidentiary effect of delinquency certificate.
- 20.610 Action for use tax: Manner of service of process.

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- 20.611 Application for summary judgment: Filing of certificate of delinquency.
- 20.612 Entry of judgment by county clerk.
- 20.613 Filing of abstract, copy of judgment with county recorder; judgment lien; duration and extension.
- 20.614 Execution: Issuance; sale.

Priority and Lien of the Tax

- 20.615 Priority of tax claim or lien: Subordination to prior recorded lien, other debts.
- 20.616 Recordation of certificate of delinquency: Resulting lien; duration and extension.
- 20.617 Department may release, subordinate lien.
- 20.618 Evidentiary effect of certificate of release, subordination.

Warrant for Collection of the Tax

- 20.619 Warrant for collection of tax: Issuance; effect; levy and sale.
- 20.620 Fees for service of sheriff; approval of newspaper publication fees.
- 20.621 Liability for fees of sheriff.
- 20.622 Power of department to seize and sell delinquent's property; exemptions.
- 20.623 Notice of sale: Contents; mailings; publication.
- 20.624 Sale; delivery of bill of sale, deed; disposition of unsold portion.
- 20.625 Disposition of excess proceeds; third-party claims.

Payment on Termination of Business and Successor's Liability

- 20.626 Successor, assignee to withhold tax from purchase price.
- 20.627 Liability of purchaser for failure to withhold purchase price; release.

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- 20.630 Credit or refund for use tax: Reimbursement of vendor for sales tax.
- 20.631 Claim for refund, credit: Form; contents.
- 20.632 Effect of failure to file claim: Waiver.
- 20.633 Notice of disallowance of claim: Service.
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- 20.635 Disallowance of interest: Circumstances.
- 20.636 Injunction, other process to prevent tax collection prohibited.
- 20.637 Action for refund: Claim as condition precedent.
- 20.638 Action for refund: Time to sue; venue of action; waiver.
- 20.639 Right of action on failure of department to mail notice.
- 20.640 Judgment for plaintiff: Credits; refund of balance.
- 20.641 Allowance of interest.
- 20.642 Judgment not to be rendered for assignee-plaintiff.
- 20.643 Recovery of erroneous refunds: Action; jurisdiction and venue.
- 20.644 District attorney to prosecute action for recovery of erroneous refund; applicability of NRS, N.R.C.P. and N.R.A.P.
- 20.645 Cancellation of illegal determination: Procedure; limitation.

Administration

- 20.646 Enforcement by department: Regulations.
- 20.647 Employment of accountants, investigators and other persons; delegation of authority.
- 20.648 Records to be kept by sellers, retailers and others.
- 20.649 Examination of records; investigation of business.
- 20.650 Reports for administering use tax: Contents.
- 20.651 Disclosure of information unlawful; examination of records when ordered by governor.

Penalties

- 20.652 Penalty for failure to make return, furnish data.
- 20.653 Penalty for false and fraudulent returns.
- 20.654 Penalty for other violations.
- 20.655 Statute of limitations.
- 20.656 Application of res judicata doctrine.

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- 20.657 Sales and use tax account: Remittances; deposits; transfers.
- 20.658 Remedies of county are cumulative.
- 20.659 Department's authority to act for counties.
- 20.660 County to contract with department for functions incident to sales and use tax.
- 20.661 Amendments to chapter 374 of NRS automatically incorporated into this code.
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- 20.663 Creation of public transit fund; deposits; limitation on diversion; authorized expenditures.
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- 20.700 Imposition of additional filing fee in actions for divorce, annulment or separate maintenance; collection.

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SECTION 2.

Section 20.327 of the Washoe County Code is hereby repealed.

SECTION 3.

Section 20.329 of the Washoe County Code is hereby amended to read as follows:

20.329 "Department" defined. "Department" means the department of motor vehicles and its duly authorized agents.

SECTION 4.

Section 20.331 of the Washoe County Code is hereby amended to read as follows:

20.331 "Distributes," "distribution" defined. All motor vehicle fuel 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 supplier or any other person who imports such motor vehicle fuel owned by him shall be deemed to be distributed and considered as distribution under the Motor Vehicle Fuel Tax Ordinance.

SECTION 5.

Section 20.340 of the Washoe County Code is hereby amended to read as follows:

20.340 "Rack" defined. "Rack" means a deck, platform or open bay which consists of a series of metered pipes and hoses for delivering motor vehicle fuel from a refinery or terminal into a motor vehicle.

SECTION 6.

Section 20.3401 of the Washoe County Code is hereby amended to read as follows:

20.3401 "Retailer" defined. "Retailer" means:

1. Any person, other than a dealer, as defined in NRS 365.020, who is engaged in the business of selling motor vehicle fuel or fuel for jet or turbine-powered aircraft; or
2. Any person in the business of handling motor vehicle fuel, other than aviation fuel, who delivers or authorizes the delivery of fuel into the fuel supply tank or tanks of a motor vehicle that is not owned or controlled by him.

SECTION 7.

Section 20.3402 of the Washoe County Code is hereby amended to read as follows:

20.3402 "Supplier" defined. "Supplier" means a person who:

1. Imports or acquires immediately upon importation into this county motor vehicle fuel, except aviation fuel, from within or without a state, territory or possession of the United States or the District of Columbia into a terminal located in this county;

2. Otherwise acquires for distribution in this county motor vehicle fuel, except aviation fuel, with respect to which there has been no previous taxable sale or use; or

3. Produces, manufactures or refines motor vehicle fuel, except aviation fuel, in this county.

SECTION 8.

Section 20.3403 of the Washoe County Code is hereby amended to read as follows:

20.3403 "Terminal" defined. Terminal means a facility for the storage of motor vehicle fuel which is supplied by a motor vehicle, pipeline or vessel and from which motor vehicle fuel is removed for distribution at a rack.

SECTION 9.

Section 20.357 of the Washoe County Code is hereby amended to read as follows:

20.357 Contract with department. The board of county commissioners shall contract with the department to perform all functions incident to the administration and operation of the Motor Vehicle Fuel Tax Ordinance.

SECTION 10.

Section 20.363 of the Washoe County Code is hereby amended to read as follows:

20.363 Audit, examination and inquiry.

1. The department, for and on behalf of Washoe County, has 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 suppliers, retailers of petroleum products and carriers thereof, and such other investigations as it may deem necessary in carrying out the provisions of the 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 11.

Section 20.367 of the Washoe County Code is hereby amended to read as follows:

Imposition of Tax

20.367 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 supplier shall, not later than the 25th day of each calendar month:

(a) Render to the department a statement of all motor vehicle fuel sold, distributed or used by him in Washoe County, as well as all motor vehicle fuel sold, distributed or used in this county by a purchaser thereof upon which sale, distribution or use the supplier has assumed liability for the tax thereon under section 20.327, during the preceding calendar month; and

(b) Pay an excise tax of 4 cents per gallon on all motor vehicle fuel so sold, distributed or used, in the manner and within the time prescribed in the 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 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. Any supplier to whom an extension is granted shall pay, in addition to any delinquent tax due, interest at the rate of one-half of 1 percent per month, or fraction thereof, from the date on which the tax would have been due without the extension to the date of payment.

3. Any report, return, remittance to cover a payment or claim for credit or refund required by the 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.

4. For the purpose of the Motor Vehicle Fuel Tax Ordinance, motor vehicle fuel is sold where it is distributed from a terminal.

SECTION 12.

Section 20.368 of the Washoe County Code is hereby amended to read as follows:

20.368 Imposition and rate of additional tax. In addition to the excise tax imposed by section 20.367, every supplier shall pay an additional excise tax of 5 cents per gallon on all motor vehicle fuel sold, distributed or used, in the same manner, within the time prescribed, and subject to the same procedures applicable to the tax imposed by section 20.367.

SECTION 13.

Section 20.369 of the Washoe County Code is hereby amended to read as follows:

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

1. In addition to any other taxes provided for by the 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 20.337 to operate a motor vehicle on the highways of this county, except special fuel as defined in section 20.337, shall pay an excise tax as provided by section 20.367 for each gallon thereof so used, and shall render monthly statements and make monthly payments at the times and in the manner prescribed for suppliers in the 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 as defined in section 20.337, 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 suppliers under the 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 14.

Section 20.373 of the Washoe County Code is hereby amended to read as follows:

Exemptions

20.373 Exempt transactions and sales. The provisions of the 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 exported from this state by a supplier.
3. Motor vehicle fuel sold to the United States Government for official use of the United States Armed Forces.
4. Motor vehicle fuel distributed, or delivered on the order of the owner, to a supplier 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 Motor Vehicle Fuel Tax Ordinance. Every supplier claiming exemption shall report the distributions to the department in such detail as the department may require; otherwise, the exemptions granted in this subsection shall be void and all fuel shall be considered distributed in Washoe County subject fully to the provisions of the Motor Vehicle Fuel Tax Ordinance.

SECTION 15.

Section 20.375 of the Washoe County Code is hereby amended to read as follows:

20.375 Exempt sales by supplier in individual quantities of 500 gallons or less for export.

1. The provisions of the Motor Vehicle Fuel Tax Ordinance requiring the payment of excise taxes do not apply to motor vehicle fuel sold by a supplier in individual quantities of 500 gallons or less for export to another state by the purchaser other than in the supply tank of a motor vehicle, provided such supplier 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 in individual quantities of 500 gallons or less for export by the purchaser, the supplier 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 shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the supplier in good faith. However, should the purchaser not export any part of the motor vehicle fuel 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 Motor Vehicle Fuel Tax Ordinance for delinquency in payment of taxes.

SECTION 16.

Section 20.377 of the Washoe County Code is hereby amended to

read as follows:

20.377 Forms and contents of reports of exempt exports and sales.

1. Every supplier 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 supplier shall mark clearly upon each invoice rendered for sales upon which no excise tax is required under sections 20.373 and 20.375: "Ex Nevada Motor Vehicle Fuel Tax."

SECTION 17.

Section 20.379 of the Washoe County Code is hereby amended to read as follows:

20.379 Time to claim exemption on supplier's export to another state. Any claim for exemption from excise tax on account of motor vehicle fuel exported by a supplier to another state, other than stock transfers or deliveries in his own equipment, must be made by the supplier 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 18.

Section 20.383 of the Washoe County Code is hereby amended to read as follows:

Bonds

20.383 Supplier's bond: Form, conditions and amount; deposit in lieu of bond.

1. Every supplier shall file with the department a bond duly executed by the supplier 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 Motor Vehicle Fuel Tax Ordinance and upon the punctual payment of all excise taxes, penalties and other obligations of the supplier.

2. The total amount of the bond or bonds required of any supplier 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 by the department at any time subject to the limitations prescribed in the Motor Vehicle Fuel Tax Ordinance; but the total amount of the bond or bonds of any supplier shall never exceed \$10,000.

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 supplier may deposit with

the state treasurer, 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 19.

Section 20.385 of the Washoe County Code is hereby amended to read as follows:

Determinations and Payments

20.385 Monthly payment of taxes; percentage allowed supplier, user for costs of collection, handling losses.

1. The excise taxes prescribed in the 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 supplier or user therefor.

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

SECTION 20.

Section 20.389 of the Washoe County Code is hereby amended to read as follows:

20.389 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 supplier, recovery may be had against the surety without exhausting or seeking a remedy against the supplier.

SECTION 21.

Section 20.395 of the Washoe County Code is hereby amended to read as follows:

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

1. A claimant for refund shall 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 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 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 motor vehicle fuel purchased;
- (b) The price per gallon;
- (c) The total purchase price of the motor vehicle fuel; and
- (d) Such other information as may be prescribed by the department.

4. The signature on the refund claim form shall subject 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 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. Any motor vehicle fuel used in any licensed motor vehicle does not qualify for refund.

6. In accounting for motor vehicle fuel used for refund purpose, direct measure shall be used and estimates are prohibited. Self-propelled vehicles with mounted auxiliary equipment consuming motor vehicle fuel shall be allowed refunds only if a separate motor vehicle fuel tank and a separate motor are used to operate the auxiliary equipment.

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 supplier, such claimant may, at the option of the department, be required to become a licensed supplier rather than a refund claimant unless such claimant chooses to claim refunds at the tax rate, less 2 percent.

SECTION 22.

Section 20.407 of the Washoe County Code is hereby amended to read as follows:

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

SECTION 23.

Section 20.413 of the Washoe County Code is hereby amended to read as follows:

20.413 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 supplier 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 24.

Section 20.419 of the Washoe County Code is hereby amended to read as follows:

20.419 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 Motor Vehicle Fuel Tax Ordinance when such action is brought by or in the name of an assignee of the supplier paying the excise tax, or by any person, company or corporation which has paid the excise tax.

SECTION 25.

Section 20.420 of the Washoe County Code is hereby amended to read as follows:

20.420 Illegal claim for refund. Any person who files a refund claim based on an altered invoice, unless the alteration

of such invoice is certified by the supplier as made for the purpose of correcting an error in good faith, or whose claim is not based on records of use as required in the Motor vehicle Fuel Tax Ordinance or by the department's rules and regulations, shall at the option of the department, in lieu of other penalties provided, be denied refunds for a period of 3 years from the date of the illegal claim filed. The claimant has the right to appeal the decision to the Nevada tax commission and, after exhausting his administrative remedies, appeal to the district court in and for Carson City.

SECTION 26.

Section 20.421 of the Washoe County Code is hereby amended to read as follows:

Records and Reports

20.421 Suppliers' records: Contents; examinations.

1. Every supplier 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 of other inflammable or combustible liquids, and of all manufacture, refining, compounding, blending, purchases, receipts, transportations, use, sales and distribution thereof.

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

3. Should any supplier 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 shall 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 supplier'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 supplier's books. Not more than two such examinations shall be charged against any supplier in any year.

4. Any moneys received shall 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 supplier 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 27.

Section 20.425 of the Washoe County Code is hereby amended to read as follows:

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

1. Every carrier, whether common, contract or private, except a supplier licensed under chapter 365 of NRS or a wholesale distributor transporting the products of a supplier licensed under chapter 365 of NRS, transporting motor vehicle fuel as defined in section 20.337 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 compliance with the provisions of this section.

SECTION 28.

Section 20.427 of the Washoe County Code is hereby amended to read as follows:

20.427 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 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 other inflammable or combustible liquids by tank truck or tank truck and trailer to be delivered to a supplier or any reseller of such products or to persons known to the trade as commercial consumers shall be required only to have in his possession

adequate evidence showing the amount of the motor vehicle fuel 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 supplier 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 29.

Section 20.431 of the Washoe County Code is hereby amended to read as follows:

Violations

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

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

2. Each day or part thereof during which any person shall engage in business as a supplier without being the holder of an uncanceled license shall constitute 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, and upon conviction thereof shall be punished by a fine of not less than \$200 nor more than \$1,000, or by imprisonment in the county jail for not less than 60 days nor more than 6 months, or by both fine and imprisonment.

SECTION 30.

Sections 20.800 through 20.909, inclusive, are hereby repealed.

[Reviser's note: Washoe County's Supplemental Motor Vehicle Fuel Tax Ordinance was enacted by Ord. No. 686 in 1986 under the authority of Chapter 276, Statutes of Nevada 1985 which was codified as NRS 365.192. As enacted by the legislature in 1985, NRS 365.192 authorized county commissions to impose an optional

one-cent tax on motor vehicle fuel by ordinance provided the tax was first approved by the voters. Washoe County voters approved such a tax and Ord. No. 686 followed. In 1989 the legislature removed the requirement for voter approval of the optional one-cent tax. In 1991 the legislature repealed the portion of the statute making the tax optional making the one-cent tax mandatory. Thus, the Supplemental Motor Vehicle Fuel Tax Ordinance has been rendered unnecessary. The intent of this repealer is to conform the county's code to state law. Nothing in the repeal of The Supplemental Motor Vehicle Fuel Tax Ordinance is intended to effect or impair the collection of taxes or revenues currently allowed by state law.]

SECTION 31.

The changes in this ordinance shall be retroactive to January 1, 2002.

[Business Impact Note: The Board of County Commissioners hereby finds that this ordinance does not impose a direct and significant economic burden upon a business, nor does it directly restrict the formation, operation or expansion of a business.]

Proposed on the 10th day of FEBRUARY, 2002.

Proposed by Commissioner SHAW.

Passed on the 26th day of FEBRUARY, 2002.

Vote:

Ayes:

Nays:

Absent:


Chairman
Washoe County Commission

ATTEST:

County Clerk

This ordinance shall be in force and effect from and after the 1st day of JANUARY, 2002.