

## LEGISLATIVE BILL 302

Approved by the Governor May 17, 1983

Introduced by Revenue Committee, Carsten, 2,  
Chairperson; Lundy, 36; Hannibal, 4;  
Hefner, 19; Landis, 46; Sieck, 24

AN ACT relating to motor vehicles; to amend sections 60-312, 66-434, 66-466, 66-601, 66-602, 66-606, 66-606.01, 66-619, and 66-624, Reissue Revised Statutes of Nebraska, 1943, section 60-302, Revised Statutes Supplement, 1982, and section 60-301, Revised Statutes Supplement, 1982, as amended by section 1, Legislative Bill 72, Eighty-eighth Legislature, First Session, 1983; to modify provisions relating to registration of vehicles; to modify provisions relating to motor vehicle and special fuels; to define and redefine terms; to require permits as prescribed; to provide fees; to provide duties; to provide penalties; to provide operative dates; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 60-301, Revised Statutes Supplement, 1982, as amended by section 1, Legislative Bill 72, Eighty-eighth Legislature, First Session, 1983, be amended to read as follows:

60-301. As used in sections 60-301 to 60-344, unless the context otherwise requires:

(1) Motor vehicles shall include all vehicles propelled by any power other than muscular power, except mopeds, farm tractors, self-propelled equipment designed and used exclusively to carry and apply fertilizer, chemicals, or related products to agricultural soil and crops, and other implements of husbandry designed for and used primarily for tilling the soil and harvesting crops or feeding livestock, vehicles which run only on rails or tracks, off-road designed vehicles, including but not limited to golf carts, go-carts, riding lawnmowers, garden tractors, all terrain vehicles, snowmobiles, and minibikes, and road and general purpose construction and maintenance machinery not designed or used primarily for the transportation of persons or

property, including, but not limited to, ditch-digging apparatus, asphalt spreaders, bucket loaders, leveling graders, earthmoving carryalls, power shovels, earthmoving equipment, crawler tractors, and self-propelled invalid chairs;

(2) Highways shall include public streets, roads, turnpikes, parks, parkways, drives, alleys, and other public ways used for the passage of road vehicles;

(3) Trucks shall include motor vehicles equipped or used for the transportation of property;

(4) Trailer shall include every vehicle without motor power carrying persons or property and being pulled by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;

(5) Semitrailer shall mean every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by the towing vehicle;

(6) Cabin trailer shall mean every vehicle without motive power designed for living quarters and for being drawn by a motor vehicle, and not exceeding eight feet in width, or forty feet in length, or thirteen and one half feet in height;

(7) Truck-tractor shall mean every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle and load being drawn;

(8) Owner shall mean a person, firm, or corporation who holds a legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or in the event while a vehicle is subject to a lease of thirty days or more with an immediate right of possession vested in the lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee, lessee, or mortgagor shall be deemed the owner for the purpose of sections 60-301 to 60-344. For the purpose of sections 60-301 to 60-344, there are hereby adopted and incorporated by reference the provisions of Article XI, International Registration Plan, adopted by the American Association of Motor Vehicle Administrators, as revised November, 1976;

(9) Vehicle shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved solely by human power or used exclusively upon stationary rails or tracks;

(10) Fleet shall include one or more

apportionable vehicles;

(11) Transporter shall mean every person lawfully engaged in the business of transporting vehicles, not his or her own, by driving singly, or in combinations by the towbar, fullmount or saddle mount methods, or any combinations thereof, or where a truck or tractor draws a semitrailer or tows a trailer, solely for delivery thereof;

(12) Self-propelled mobile home shall mean a vehicle with motive power designed for living quarters;

(13) Total fleet miles shall mean the total number of miles operated in all jurisdictions during the preceding year by the vehicles in such fleet during such year;

(14) In-state miles shall mean total miles operated (a) in the State of Nebraska during the preceding year by the motor vehicle or vehicles registered and licensed for fleet operation, and (b) in noncontracting reciprocity states by vehicles that are base-plated in Nebraska;

(15) Local trucks shall mean trucks having a gross weight of less than twenty-five tons and operated wholly and exclusively within an incorporated city or village, or within ten miles of the corporate limits, where they are owned and operated, which trucks shall carry on their license plates, in addition to the registration number, designation of local plate;

(16) Farm trucks shall mean trucks, including combinations of trucks or truck-tractors and trailers or semitrailers, of farmers or ranchers, used wholly and exclusively to carry their own supplies, farm equipment, and household goods to or from the owner's farm or ranch, used by the farmer or rancher to carry his or her own agricultural products, livestock, and produce, to or from storage or market, or used by farmers or ranchers in exchange of service in such hauling of such supplies or agricultural products, livestock, and produce, or used occasionally to carry camper units, which trucks shall carry on their license plates, in addition to the registration number, the designation farm, and beginning when new plates are issued pursuant to section 60-311 after the effective date of this act, the words NOT FOR HIRE;

(17) Agricultural products shall mean field crops, horticultural, viticultural, forestry, nut, dairy, livestock, poultry, bee, and farm products, including sod grown on the land owned or rented by the farmer, and the byproducts derived from any of them;

(18) Utility trailer shall mean a trailer having a gross weight, including load thereon, of nine thousand pounds or less, attached to a motor vehicle and used wholly and exclusively to carry miscellaneous items of personal property, which trailers shall carry on

their license plate, in addition to the registration number, the letter X;

(19) Local commercial truck shall mean a truck and combinations of trucks, truck-tractors, or trailers, or semitrailers having a gross weight of twenty-five tons or more and operated solely within an incorporated city or village, or within five miles of the corporate limits, which trucks shall carry on their license plates in addition to the registration number, the letters LC;

(20) Farm trailer shall include any trailer or semitrailer used wholly and exclusively to carry a farmer's or rancher's own supplies, farm equipment, and household goods to or from the owner's farm or ranch, or used by the farmer or rancher to carry his or her own agricultural products, livestock, and produce to or from storage and market, and attached to a passenger car or farm licensed vehicle, or used by a farmer or rancher to carry his or her own agricultural products, livestock, and produce to and from market, which trailers shall carry on their license plate in addition to the registration number, the letter X, but farm trailer shall not include a trailer so used when attached to a farm tractor;

(21) Motorcycle shall mean every motor vehicle, except a tractor, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground;

(22) Fertilizer trailer shall mean any trailer designed and used exclusively to carry or apply agricultural fertilizer and having a gross weight including load thereon of twenty thousand pounds or less, which trailers shall carry on their license plate in addition to the registration number, the letter X;

(23) Apportionable vehicle shall mean any vehicle used in two or more jurisdictions that allocate or proportionally register vehicles and are used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, except that such term shall not include any recreational vehicle, vehicle displaying restricted plates, vehicle not required to be licensed as a commercial vehicle, bus used in the transportation of chartered parties, or government-owned vehicle. Such vehicle shall either (a) have a gross vehicle weight in excess of twenty-six thousand pounds, (b) have three or more axles, regardless of weight, or (c) be used in combination when the weight of such combination exceeds twenty-six thousand pounds gross vehicle weight. Vehicles, or combinations thereof, having a gross vehicle weight of twenty-six thousand pounds or less and two-axle vehicles may be proportionally registered at the option of the registrant;

(24) Noncontracting reciprocity state shall

mean any state which is not a party to any type of contracting agreement between the State of Nebraska and one or more other jurisdictions for registration purposes on commercial vehicles, and does not require as a condition to operate on the highways of that state (a) any type of vehicle registration or allocation of vehicles for registration purposes, or (b) does not impose any charges based on miles operated, other than those that might be assessed against fuel consumed in that state, on any vehicles which are part of a Nebraska-based fleet;

(25) Passenger car shall mean a motor vehicle designed and used to carry ten passengers or less and not used for hire;

(26) Moped shall mean a bicycle with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters, which produces no more than two brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than thirty miles per hour on level ground; and

(27) Minibike shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than fourteen inches, or an engine-rated capacity of less than forty-five cubic centimeters displacement.

Sec. 2. That section 60-302, Revised Statutes Supplement, 1982, be amended to read as follows:

60-302. No motor vehicle, trailer, semitrailer, or cabin trailer, unless otherwise expressly provided, shall be operated on the highways of this state unless such vehicle is registered in accordance with the provisions of this act. Every owner of a vehicle required to be registered shall make application for registration to the county treasurer of the county in which the vehicle has tax situs, as defined in section 77-1202. ~~Such~~ ; ~~Provided, that such application shall be a copy of a certificate of title or, in the case of a renewal of a registration, such application shall be the previous registration period's certificate.~~ Any nonresident owner, who desires to register a vehicle or vehicles in this state, shall register in the county where the vehicle is domiciled or where the owner conducts a bona fide business. Each new application shall contain, in addition to such other information as may be required by the department, the name and ~~post office~~ post-office address of the applicant, a description of the vehicle, including the color, the manufacturer, the identification number, and the weight of the vehicle required by this act. With such application, the applicant shall pay the proper registration fee, as provided in sections 60-305.08 to

60-342 and shall provide the following information with regard to the vehicle being registered: the type of fuel used to propel the vehicle, whether electricity, motor vehicle fuel as defined in section 66-401, or special fuel as defined in section 66-602, and if special fuel, the type of fuel. The Department of Motor Vehicles shall prescribe a form for supplying such information for vehicles to be registered on or after January 1, 1984. The county assessor shall include such form in each mailing made pursuant to section 77-1240. The county treasurer or his or her agent shall collect in addition to other registration fees, the sum of fifty cents for each and every certificate issued, which fee shall be transmitted by the county treasurer to the State Treasurer and shall, by the State Treasurer, be credited to the Highway Trust Fund.

Sec. 3. That section 60-312, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-312. The county treasurer shall furnish each applicant for registration and on each renewal of registration, a certificate of registration which shall contain upon the face thereof the following data: The name of the registered owner of the motor vehicle, his or her post office post-office address, and a description of the vehicle as set forth in the application for registration, and the type of fuel used to propel the motor vehicle, whether electricity, motor vehicle fuel, or special fuel and, if special fuel, the type of fuel. It shall have and contain the identical registration number denoted on the number plate, in connection with which such certificate shall be issued. It shall be valid only for the registration period for which it is issued.

Sec. 4. That section 66-434, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-434. Any peace officer or agent of the Tax Commissioner, having probable cause to believe that such vehicle is being used for the unlawful transportation of motor vehicle fuels, shall make search thereof with or without a warrant, and in every case where a search is made with or without a warrant, and it appears that any provision in sections 66-432 to 66-439 66-438 has been violated, the peace officer or agent shall take such fuels being unlawfully transported, the vehicle, and the person in charge thereof, into custody, and a complaint shall forthwith be filed against such party, fuels, and vehicle, and a warrant shall issue, and such party, fuels, and vehicle shall be held for trial as in a criminal action. The vehicle and the fuel so seized shall not be taken from the possession of any officer or agent seizing and holding them by writ of replevin or

other proceedings.

Sec. 5. That section 66-466, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-466. (1) Any person, firm, or corporation, their agents, employees, or servants, who shall violate the provisions of sections 66-445 to 66-466, or who shall violate any rule or regulation adopted and promulgated thereunder under such sections shall be subject to an administrative penalty of one thousand dollars for each violation, except that such penalty may be waived or reduced at the discretion of the Tax Commissioner.

(2) Any person, firm, or corporation, their agents, employees, or servants who shall violate the provisions of sections 66-445 to 66-466, or who shall violate any rule or regulation adopted and promulgated under such sections, for which a penalty is not elsewhere provided in another section, shall be deemed guilty of a Class II misdemeanor. As part of the judgment of conviction, the trial judge may order that the license or permit of the person so convicted shall be revoked, and in such case the court shall forthwith transmit to the administrator a certified copy of such judgment of conviction. Upon receipt of the certified copy of the judgment of conviction, the administrator shall cancel the license for the period of time that the court directs in the judgment. When the administrator cancels any distributor's license in the manner this section directs, then all books containing invoices of credit held by such distributor shall be accounted for and surrendered to the administrator. Upon conviction in any court within the state of operating upon the public highways thereof any motor vehicle by using therein tax credit gasoline, the trial judge shall suspend the operator's driver's license of such convicted person for a period of time not less than twelve months.

Sec. 6. That section 66-601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-601. The purpose of sections 66-601 to 66-640 is to supplement the provisions of the tax upon motor vehicle fuel set forth in Chapter 66, article 4, by imposing a tax upon the receipt, delivery, or placing into the fuel supply tanks of motor vehicles, as defined in section 66-404, which are within this state, of all fuels not taxed under the provisions of Chapter 66, article 4.

Sec. 7. That section 66-602, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-602. As used in sections 66-601 to 66-640,

unless the context otherwise requires:

(1) Person shall mean every natural person, fiduciary, association, or corporation. Whenever used in sections 66-601 to 66-640 prescribing and imposing a fine, imprisonment, or both, the word person as applied to an association shall mean the partners or members thereof;

(2) Motor fuel tax administrator shall mean the Tax Commissioner;

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

(4) Special fuel shall mean all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor fuel as defined in subdivision (2) of section 66-401;

(5) Use shall mean the receipt, delivery, or placing of special fuels by a special fuel dealer into the fuel supply tank or tanks of any motor vehicle while such vehicle is within this state;

(6) Special fuel dealer shall mean any person who delivers is licensed pursuant to section 66-607 to deliver special fuel into the fuel tank or tanks of a motor vehicle; and

(7) Special fuel user shall mean any person who is not a special fuel dealer, who has special fuel storage facilities that are designed or equipped to fuel a motor vehicle, and who owns or has licensed one or more vehicles that (a) are propelled by the type of special fuel stored, (b) are not subject to section 66-410.02, and (c) are defined in subdivisions (16) and (25) of section 60-301; and

~~(8)~~ (7) Motor vehicle shall mean any vehicle propelled by an internal combustion engine and licensed, or subject to licensing, for operation upon the highways, except those buses engaged entirely in transportation of passengers for hire within municipalities or in and within a radius of six miles thereof.

Sec. 8. That section 66-606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-606. It shall be unlawful for any person to act as a special fuel dealer in this state unless such person is the holder of an uncanceled special fuel dealer's license issued to him or her by the motor fuel tax administrator. The use of special fuel in this state by any person shall be unlawful unless such person owning or operating a motor vehicle has obtained special

fuel which was delivered or placed into the fuel supply tank of such motor vehicle by a licensed special fuel dealer, or is a special fuel user who holds the appropriate valid special fuel user permit or permits.

Sec. 9. That section 66-606.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-606.01. No motor vehicle licensed in the State of Nebraska, using special fuels, as defined in subdivision (4) of section 66-602, shall be operated on any highway of this state unless, when it is refueled while in this state, it is refueled by a licensed special fuel dealer or is a vehicle owned or licensed by a special fuel user and has attached to such vehicle a valid special fuel user permit.

Sec. 10. That section 66-619, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-619. The tax imposed by section 66-605 shall be computed by each special fuel dealer or special fuel user by multiplying the tax rate per gallon, as provided by section 66-605, by the number of gallons of special fuel delivered or placed by him or her into the supply tank or tanks of a motor vehicle.

Sec. 11. That section 66-624, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-624. (1) If any special fuel dealer, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax return when due, the motor fuel tax administrator shall, on the basis of information available to him or her, determine the tax liability of the special fuel dealer for the period during which no return was filed. He or she shall add to the tax, to be determined by the motor fuel tax administrator, the penalty and interest provided in section 66-621.

(2) If any person other than a special fuel user obtains and uses special fuel without having paid the tax on such fuel as provided in Chapter 66, article 6, the motor fuel tax administrator shall, on the basis of information available to him or her, determine the tax liability of such person. If any person who is not a special fuel dealer or a special fuel user fueling their own vehicle, fuels a vehicle with special fuel, the motor tax administrator shall on the basis of information available to him or her determine the tax that would have been due on such transaction and assess the tax against such person. The motor fuel tax administrator shall add to the tax liability, as determined pursuant to this subsection, a penalty of one thousand dollars and interest provided in section 66-624 45-104.01 as such rate may from time to time be adjusted

by the Legislature, except that such penalty may be waived or reduced at the discretion of the motor fuel tax administrator. An assessment made by the administrator, pursuant to this section or to section 66-623, shall be presumed to be correct, and in any case where the validity of the assessment is questioned, the burden shall be on the person who challenges the assessment to establish by a preponderance of the evidence that it is erroneous or excessive, as the case may be.

Sec. 12. (1) Every special fuel user shall obtain, for each motor vehicle propelled by the type of special fuel stored by such special fuel user, an annual special fuel user permit. The period for which a special fuel user permit is valid shall coincide with the motor vehicle registration period of the vehicle. For the purposes of sections 12 to 19 of this act, unless the context otherwise requires, the definitions found in sections 66-602 shall apply.

(2) A special fuel user may fuel any motor vehicle owned or licensed by such user, to which is attached a valid special fuel user permit, from his or her own special fuel storage tanks without being licensed as a special fuel dealer and without having to file any returns or pay any taxes otherwise required by Chapter 66, article 6.

(3) A person shall obtain all required special fuel user permits within thirty days of becoming a special fuel user.

Sec. 13. A special fuel user shall apply for a special fuel user permit for each motor vehicle specified in subdivision (7) of section 66-602 each time the vehicle is registered. The motor fuel tax administrator shall prescribe the form of the application which shall require the applicant to provide the following information: (1) The name and address of the owner or person licensing the vehicle; (2) a description of the vehicle which shall include the mileage on the vehicle as of the date of registration; (3) information relative to any storage facilities owned or controlled by the special fuel user; and (4) such other information as may be necessary for the proper implementation of sections 12 to 19 of this act.

A completed application shall be submitted to the county treasurer and the special fuel user permit shall be issued and the fee provided for in section 15 of this act collected by the county treasurer. The county treasurer shall retain three per cent of the fee for the cost of administration. The remainder of the fee collected shall be remitted in the same manner as the sales and use taxes under sections 77-2703 to 77-2713 and deposited in the Highway Trust Fund.

Sec. 14. (1) The special fuel user permit

required by section 12 of this act shall be a gummed sticker prepared and distributed to the county treasurers by the Department of Revenue. The permit shall be attached to the lower left corner of the windshield of the motor vehicle for which it was issued. The permit shall provide a space upon which shall be entered by the county treasurer the license number of the motor vehicle for which the permit is issued. The permit shall show the year for which it is issued and the date of expiration of the permit.

(2) Each permit shall include a duplicate to be attached to the related special fuel storage tank.

Sec. 15. (1) The fee for an annual special fuel user permit shall be based on the weight of the vehicle based on the following schedule:

<u>Vehicle Weight Class</u>	<u>Amount of Fee</u>
<u>Class A - Less than 2,500 pounds</u>	<u>\$60</u>
<u>Class B - 2,500 through 3,500 pounds</u>	<u>\$70</u>
<u>Class C - 3,501 through 4,500 pounds</u>	<u>\$80</u>
<u>Class D - 4,501 through 6,000 pounds</u>	<u>\$90</u>
<u>Class E - Over 6,000 pounds</u>	<u>\$90 plus \$10 for each additional 2,000 pounds or portion thereof.</u>

The Tax Commissioner when preparing the schedule of values pursuant to section 77-1239 shall for several types of motor vehicles place each in the appropriate weight class for purposes of this section. In so doing the Tax Commissioner may rely upon the manufacturer's shipping weight less fuel, oil, and water, of motor vehicles unless the Tax Commissioner shall determine that the actual unloaded weight of the motor vehicle less fuel, oil, and water is different than that stated as the manufacturer's shipping weight.

(2) The fee for a permit required by subsection (3) of section 12 of this act shall be calculated based on the number of unexpired months remaining in the registration year of the vehicle as measured from the date of the occurrence of the event requiring such permit.

Sec. 16. A special fuel user permit shall not be transferrable, either to a new vehicle or to a new owner. Upon the transfer of ownership of any motor vehicle having a special fuel user permit, the transferor shall be credited with the number of unexpired months remaining in the registration period, except that when such a vehicle is transferred within the same month in which acquired, no credit for such month shall be allowed. If such a transferor acquires another motor vehicle for which a special fuel user permit is required at the time of transfer, the credit provided by this section shall be applied toward payment of the special fuel user permit fee then due. Otherwise such transferor shall file a claim for the amount of the

credit with the county treasurer upon a form prescribed by the motor fuel tax administrator. The county treasurer shall make payment of the claim from the undistributed special fuel user permit fees. No person shall be entitled to a refund if the amount of the credit is less than two dollars.

Sec. 17. In addition to any other penalties or fines required by law, if any special fuel user knowingly fails to obtain a special fuel user permit for any motor vehicle for which one is required, such special fuel user shall be liable for an amount equal to one hundred twenty-five per cent of the registration fee which should have been paid and for a penalty of one thousand dollars and interest as provided in section 45-104.01 as such rate may from time to time be adjusted by the Legislature, except that such penalty may be waived or reduced at the discretion of the motor fuel tax administrator.

Sec. 18. Any person who installs equipment in any motor vehicle for the purpose of permitting such vehicle to be powered by special fuel instead of motor vehicle fuel, as defined in section 66-401, by motor vehicle fuel instead of special fuel, or by any combination thereof, or to be powered in whole or part by electricity shall within thirty days of installing such equipment report to the Department of Motor Vehicles the fact of such installation, the name and address of the owner of the vehicle, the make, model, and serial number of the vehicle, the type of fuel that the vehicle was equipped to use prior to the installation as well as after the installation, and if the vehicle is registered the license plate number of the vehicle.

Sec. 19. The owner of any motor vehicle which uses electricity in whole or part as the means of propulsion and is subject to registration for operation on the highways shall pay the same fees at the time of registration as provided in section 15 of this act.

Sec. 20. This act shall become operative on January 1, 1984, except that the provisions of sections 12 to 19 of this act shall not be effective as to any special fuel user until such special fuel user registers a motor vehicle propelled by special fuels or electricity after January 1, 1984.

Sec. 21. That original sections 60-312, 66-434, 66-466, 66-601, 66-602, 66-606, 66-606.01, 66-619, and 66-624, Reissue Revised Statutes of Nebraska, 1943, section 60-302, Revised Statutes Supplement, 1982, and section 60-301, Revised Statutes Supplement, 1982, as amended by section 1, Legislative Bill 72, Eighty-eighth Legislature, First Session, 1983, are repealed.