

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1218

Introduced by Bostar, 29.

Read first time January 16, 2024

Committee: Revenue

1 A BILL FOR AN ACT relating to motor fuels; to amend sections 60-301,
2 60-302, 66-4,105, and 70-1002.02, Reissue Revised Statutes of
3 Nebraska, section 66-482, Revised Statutes Cumulative Supplement,
4 2022, and sections 70-1001.01, 77-2701, and 77-2701.04, Revised
5 Statutes Supplement, 2023; to define and redefine terms; to change
6 and provide excise fees as prescribed; to eliminate obsolete
7 provisions; to provide rights and requirements relating to
8 commercial electric vehicle charging stations and direct-current,
9 fast-charging stations; to provide powers for electric suppliers; to
10 provide a sales and use tax exemption; to harmonize provisions; to
11 provide operative dates; to repeal the original sections; and to
12 declare an emergency.
13 Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

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

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

18 Sec. 4. Section 66-482, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 66-482 For purposes of sections 66-482 to 66-4,149:

21 (1) Agricultural ethyl alcohol means ethyl alcohol produced from
22 cereal grains or agricultural commodities grown within the continental
23 United States and which is a finished product that is a nominally
24 anhydrous ethyl alcohol meeting American Society for Testing and
25 Materials D4806 standards. For the purpose of sections 66-482 to
26 66-4,149, the purity of the ethyl alcohol shall be determined excluding
27 denaturant, and the volume of alcohol blended with gasoline for motor
28 vehicle fuel shall include the volume of any denaturant required pursuant
29 to law;

30 (2) Alcohol blend means a blend of agricultural ethyl alcohol in
31 gasoline or other motor vehicle fuel, such blend to contain not less than

1 five percent by volume of alcohol;

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

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

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

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

12 (7) Compressed fuel has the same meaning as in section 66-6,100;

13 (8) Department means the Department of Revenue;

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

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

20 (11) Ethanol facility means a plant which produces agricultural
21 ethyl alcohol;

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

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

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

31 (15) Importer means any person who owns motor fuels at the time such

1 fuels enter the State of Nebraska by any means other than barge, barge
2 line, or pipeline. Importer does not include a person who imports motor
3 fuels in a tank directly connected to the engine of a motor vehicle,
4 train, watercraft, or airplane for purposes of providing fuel to the
5 engine to which the tank is connected;

6 (16) Kerosene means kerosene meeting the specifications as found in
7 the American Society for Testing and Materials publication D3699 entitled
8 Standard Specification for Kerosene;

9 (17) Motor fuels means motor vehicle fuel, diesel fuel, aircraft
10 fuel, or compressed fuel;

11 (18) ~~(1)~~ Motor vehicle ~~has~~ shall have the same meaning definition as
12 in section 60-339;

13 (19) ~~(2)~~ Motor vehicle fuel ~~includes~~ shall include all products and
14 fuel commonly or commercially known as gasoline, including casing head or
15 natural gasoline, and ~~includes~~ shall include any other liquid and such
16 other volatile and inflammable liquids as may be produced, compounded, or
17 used for the purpose of operating or propelling motor vehicles,
18 motorboats, or aircraft or as an ingredient in the manufacture of such
19 fuel. ~~Motor vehicle fuel includes agricultural~~ Agricultural ethyl alcohol
20 produced for use as a motor vehicle fuel ~~shall be considered a motor~~
21 vehicle fuel. Motor vehicle fuel ~~does~~ shall not include the products
22 commonly known as methanol, kerosene oil, kerosene distillate, crude
23 petroleum, naphtha, and benzine with a boiling point over two hundred
24 degrees Fahrenheit, residuum gas oil, smudge oil, leaded automotive
25 racing fuel with an American Society of Testing Materials research method
26 octane number in excess of one hundred five, and any petroleum product
27 with an initial boiling point under two hundred degrees Fahrenheit, a
28 ninety-five percent distillation (recovery) temperature in excess of four
29 hundred sixty-four degrees Fahrenheit, an American Society of Testing
30 Materials research method octane number less than seventy, and an end or
31 dry point of distillation of five hundred seventy degrees Fahrenheit

1 maximum;

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

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

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

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

16 ~~(3) Agricultural ethyl alcohol shall mean ethyl alcohol produced~~
17 ~~from cereal grains or agricultural commodities grown within the~~
18 ~~continental United States and which is a finished product that is a~~
19 ~~nominally anhydrous ethyl alcohol meeting American Society for Testing~~
20 ~~and Materials D4806 standards. For the purpose of sections 66-482 to~~
21 ~~66-4,149, the purity of the ethyl alcohol shall be determined excluding~~
22 ~~denaturant and the volume of alcohol blended with gasoline for motor~~
23 ~~vehicle fuel shall include the volume of any denaturant required pursuant~~
24 ~~to law;~~

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

28 (24) (5) Supplier means shall mean any person who owns motor fuels
29 imported by barge, barge line, or pipeline and stored at a barge, barge
30 line, or pipeline terminal in this state; and

31 ~~(6) Distributor shall mean any person who acquires ownership of~~

1 ~~motor fuels directly from a producer or supplier at or from a barge,~~
2 ~~barge line, pipeline terminal, or ethanol or biodiesel facility in this~~
3 ~~state;~~

4 ~~(25) (7) Wholesaler means shall mean any person, other than a~~
5 ~~producer, supplier, distributor, or importer, who acquires motor fuels~~
6 ~~for resale. ÷~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 66-4,105 (1)(a) ~~(1)~~ There is hereby levied and imposed an excise
28 tax in an amount set in subdivision (1)(b) ~~subsection (2)~~ of this
29 section, increased by the amounts imposed or determined under sections
30 66-489.02, 66-4,140, 66-4,145, and 66-4,146, upon the use of all motor
31 fuels used in this state and due the State of Nebraska under section

1 66-489. Users of motor fuels subject to taxation under this section shall
2 be allowed the same exemptions, deductions, and rights of reimbursement
3 as are authorized and permitted by Chapter 66, article 4, other than any
4 commissions provided under such article.

5 ~~(b) (2) The excise tax shall be nine and one-half cents per
6 gallon. ÷~~

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

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

10 ~~(c) Eight and one-half cents per gallon beginning on January 1,~~
11 ~~2017, through December 31, 2017;~~

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

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

15 ~~(c) (3) For purposes of this subsection ~~section~~ and section~~
16 ~~66-4,106, use means the purchase or consumption of motor fuels in this~~
17 ~~state.~~

18 ~~(2) Beginning January 1, 2028, there is hereby levied and imposed an~~
19 ~~excise tax of three cents per kilowatt hour on the electric energy used~~
20 ~~to charge the battery of a motor vehicle at a commercial electric vehicle~~
21 ~~charging station.~~

22 Sec. 6. Section 70-1001.01, Revised Statutes Supplement, 2023, is
23 amended to read:

24 70-1001.01 For purposes of sections 70-1001 to 70-1028 and section 8
25 of this act, unless the context otherwise requires:

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

27 ~~(2) Commercial electric vehicle charging station means equipment~~
28 ~~designed to provide electricity for a fee for the charging of an electric~~
29 ~~vehicle or a plug-in hybrid electric vehicle, including an electric~~
30 ~~vehicle direct-current charger or a super-fast charger, any successor~~
31 ~~technology, and all components thereof. Commercial electric vehicle~~

1 charging station does not include the residence of a person where an
2 electric vehicle or a plug-in hybrid electric vehicle is charged if no
3 customer usage fee is charged;

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

7 (4) Direct-current, fast-charging station means a publicly available
8 charging system capable of delivering at least fifty kilowatts of direct-
9 current electrical power to an electric vehicle's rechargeable battery at
10 a voltage of two hundred volts or greater;

11 (5) Direct-current, fast-charging station operator means a person,
12 partnership, corporation, or other business entity that operates a
13 direct-current, fast-charging station open to the public. The term does
14 not include an electric supplier or a political subdivision;

15 (6) ~~(2)~~ Electric supplier or supplier of electricity means any legal
16 entity supplying, producing, or distributing electricity within the state
17 for sale at wholesale or retail. Electric supplier does not include a
18 commercial electric vehicle charging station operator;

19 (7) Plug-in hybrid electric vehicle has the same meaning as in
20 section 3 of this act;

21 (8) ~~(3)~~ Private electric supplier means an electric supplier
22 producing electricity from a privately developed renewable energy
23 generation facility that is not a public power district, a public power
24 and irrigation district, a municipality, a registered group of
25 municipalities, an electric cooperative, an electric membership
26 association, any other governmental entity, or any combination thereof;

27 (9) ~~(4)~~ Privately developed renewable energy generation facility
28 means a facility that (a) generates electricity using solar, wind,
29 geothermal, biomass, landfill gas, or biogas, including all electrically
30 connected equipment used to produce, collect, and store the facility
31 output up to and including the transformer that steps up the voltage to

1 sixty thousand volts or greater, and including supporting structures,
2 buildings, and roads, unless otherwise agreed to in a joint transmission
3 development agreement, (b) is developed, constructed, and owned, in whole
4 or in part, by one or more private electric suppliers, and (c) is not
5 wholly owned by a public power district, a public power and irrigation
6 district, a municipality, a registered group of municipalities, an
7 electric cooperative, an electric membership association, any other
8 governmental entity, or any combination thereof;

9 (10) ~~(5)~~ Regional transmission organization means an entity
10 independent from those entities generating or marketing electricity at
11 wholesale or retail, which has operational control over the electric
12 transmission lines in a designated geographic area in order to reduce
13 constraints in the flow of electricity and ensure that all power
14 suppliers have open access to transmission lines for the transmission of
15 electricity;

16 (11) ~~(6)~~ Reliable or reliability means the ability of an electric
17 supplier to supply the aggregate electric power and energy requirements
18 of its electricity consumers in Nebraska at all times under normal
19 operating conditions, taking into account scheduled and unscheduled
20 outages, including sudden disturbances or unanticipated loss of system
21 components that are to be reasonably expected for any electric utility
22 following prudent utility practices, recognizing certain weather
23 conditions and other contingencies may cause outages at the distribution,
24 transmission, and generation level;

25 (12) ~~(7)~~ Representative organization means an organization
26 designated by the board and organized for the purpose of providing joint
27 planning and encouraging maximum cooperation and coordination among
28 electric suppliers. Such organization shall represent electric suppliers
29 owning a combined electric generation plant accredited capacity of at
30 least ninety percent of the total electric generation plant accredited
31 capacity constructed and in operation within the state;

1 (13) ~~(8)~~ State means the State of Nebraska; and

2 (14) ~~(9)~~ Unbundled retail rates means the separation of utility
3 bills into the individual price components for which an electric supplier
4 charges its retail customers, including, but not limited to, the separate
5 charges for the generation, transmission, and distribution of
6 electricity.

7 Sec. 7. Section 70-1002.02, Reissue Revised Statutes of Nebraska, is
8 amended to read:

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

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

29 (3) A commercial electric vehicle charging station funded in whole
30 or part by state or federal funds shall only be installed by an installer
31 who has obtained certification from the Electric Vehicle Infrastructure

1 Training Program.

2 (4) Nothing in this section shall be construed to prohibit the use
3 of batteries with a commercial electric vehicle charging station if such
4 battery is charged with electric energy received solely from an electric
5 supplier.

6 Sec. 8. (1) An electric supplier shall have the authority to own,
7 maintain, and operate a direct-current, fast-charging station for retail
8 services only under all of the following conditions:

9 (a) An electric supplier shall only develop, own, maintain, or
10 operate a direct-current, fast-charging station at a location which is at
11 least fifteen miles from a privately owned direct-current, fast-charging
12 station that is already existing or under construction and at least one
13 mile from an alternative fuel corridor designated by the Federal Highway
14 Administration; and

15 (b) Before beginning construction of a direct-current, fast-charging
16 station that is developed, owned, maintained, or operated by such
17 electric supplier, the electric supplier shall conduct a right of first
18 refusal process as follows:

19 (i) At least ninety days prior to beginning construction of a
20 direct-current, fast-charging station, the electric supplier shall
21 publish notice in a newspaper in or of general circulation in the county
22 where the direct-current, fast-charging station will be located as well
23 as on its website. Such notice shall contain the beginning construction
24 date, the construction location, the electric supplier's mailing address
25 and email address, and the method by which a direct-current, fast-
26 charging station operator may notify the electric supplier that such
27 direct-current, fast-charging station operator plans to provide a direct-
28 current, fast-charging station within fifteen miles of the proposed
29 construction location;

30 (ii) If during such ninety-day period one or more direct-current,
31 fast-charging station operators assert their right of first refusal by

1 providing notification as described under subdivision (1)(b)(i) of this
2 section, the electric supplier shall not construct the direct-current,
3 fast-charging station; and

4 (iii) If after the ninety-day period no direct-current, fast-
5 charging station operator has asserted a right of first refusal to
6 provide a direct-current, fast-charging station within fifteen miles of
7 the location proposed by an electric supplier, or if after notification
8 is received under subdivision (1)(b)(i) of this section no direct-
9 current, fast-charging station service is provided within eighteen months
10 by a direct-current, fast-charging station operator, the electric
11 supplier may proceed with construction of a direct-current, fast-charging
12 station at the proposed location.

13 (2) An electric supplier that provides a direct-current, fast-
14 charging station pursuant to this section shall do so under rates, tolls,
15 rents, and charges that shall be fair, reasonable, nondiscriminatory, and
16 available to all direct-current, fast-charging station operators in the
17 electric supplier's service territory for the purposes of operating
18 direct-current, fast-charging stations.

19 Sec. 9. Section 77-2701, Revised Statutes Supplement, 2023, is
20 amended to read:

21 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,
22 77-27,236, and 77-27,238 to 77-27,241 and section 11 of this act shall be
23 known and may be cited as the Nebraska Revenue Act of 1967.

24 Sec. 10. Section 77-2701.04, Revised Statutes Supplement, 2023, is
25 amended to read:

26 77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and
27 77-27,239 and section 11 of this act, unless the context otherwise
28 requires, the definitions found in sections 77-2701.05 to 77-2701.56
29 shall be used.

30 Sec. 11. Sales and use taxes shall not be imposed on the gross
31 receipts from the sale, use, or other consumption in this state of

1 electric energy when stored, used, or consumed by a motor vehicle and the
2 electricity was subject to the excise tax imposed in subsection (2) of
3 section 66-4,105.

4 Sec. 12. Sections 1, 2, 3, 4, 5, 9, 10, 11, and 13 of this act
5 become operative on January 1, 2025. The other sections of this act
6 become operative on their effective date.

7 Sec. 13. Original sections 60-301, 60-302, and 66-4,105, Reissue
8 Revised Statutes of Nebraska, section 66-482, Revised Statutes Cumulative
9 Supplement, 2022, and sections 77-2701 and 77-2701.04, Revised Statutes
10 Supplement, 2023, are repealed.

11 Sec. 14. Original section 70-1002.02, Reissue Revised Statutes of
12 Nebraska, and section 70-1001.01, Revised Statutes Supplement, 2023, are
13 repealed.

14 Sec. 15. Since an emergency exists, this act takes effect when
15 passed and approved according to law.