

## LEGISLATIVE BILL 692

Approved by the Governor May 18, 1971

Introduced by Jerome Warner, 42nd District: Loran Schmit, 23rd District

AN ACT to amend sections 2-2701, 2-2702, 2-2703, 2-2704, 2-2705, 2-2706, 2-2707, 2-2708, 2-2709, 2-2710, 2-2711, and 2-2712, Reissue Revised Statutes of Nebraska, 1943, relating to tractor engine tests; to provide that the provisions of Chapter 2, article 27, Reissue Revised Statutes of Nebraska, 1943, shall apply only to tractor engines; to provide who shall make tests; to define terms; to provide for rules and regulations; to change penalties; and to repeal the original sections.

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

Section 1. That section 2-2701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2701. No tractor, or traction, or tractor engine company shall be permitted to sell or dispose of any model or type of gas, gasoline, kerosene, distillate or other liquid fuel tractor engine in the State of Nebraska without first having said model tested and passed upon by a board of three competent engineers who are or shall be under the control of the University of Nebraska. Each and every tractor engine presented for testing shall be stock model and shall not be equipped with any special appliance or apparatus not regularly supplied to the trade. Any tractor engine not complying with the provisions of this section shall not be tested under sections 2-2701 to 2-2712, nor the result certified; ~~Provided, that no official tractor tests shall be conducted during the months of December, January and February.~~ Applications for the test of a tractor engine shall be made to the testing board of engineers and shall be accompanied by specifications of the tractor engine required by the board of engineers and by the fee specified in section 2-2705. If the application with specifications and fee is submitted during ~~December, January, February, or at~~ any other time when the test cannot be started at once, the Department of Agriculture, with the approval of the board of engineers, may issue a temporary permit for the sale of

tractors tractor engines of the model specified in the application for test, the date on which the temporary permit shall terminate to be fixed by the board of engineers. All temporary permits shall be conditioned upon such tractor engine as is covered thereby being tested at the earliest available date, and the tractor engine company to which a temporary permit has been issued shall submit a tractor engine for test which conforms to the specifications filed with the application, which tractor engine shall be delivered for test at any time specified by the board of engineers. Upon failure so to do, all such fees deposited by said companies shall be forfeited to the State of Nebraska, and in addition such companies shall be liable to the penalties prescribed by section 2-2710 and shall never thereafter be issued any temporary permit whatever: Provided, that all sales of tractors tractor engines upon which a temporary permit has been issued shall be made subject to the final official test and approval of the model. For the purposes of sections 2-2701 to 2-2712, unless the context otherwise requires: Tractor engine shall mean any vehicle which moves itself and which is represented by the seller or manufacturer as suitable for use with attachments, implements, or devices which engage the soil and require a force in the direction of vehicle motion to perform their function: provided, that such attachments, implements, or devices have a function other than that of transport.

Sec. 2. That section 2-2702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2702. Such tests shall consist of endurance, official rating determination of horsepower for continuous load,--and at all regular power outlets, consumption of fuel, per--hour--or--per--acre--of--farm operations and tests related to the health and safety of the operator or the public as may be established and required by regulation promulgated by the Director of Agriculture. The results of such tests shall be open at all times to public inspection.

Sec. 3. That section 2-2703, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2703. The University--of--Nebraska board of engineers, after having duly tested any model of liquid fuel traction tractor engine, shall certify the results to the Department of Agriculture. Prior to the issuing of a permit by the department to any liquid fuel

traction tractor engine company to do business in the State of Nebraska, the official tests of the university shall be compared with the representations of the tractor engine company as to horsepower rating for not less than ten consecutive hours of continuous load, fuel used for developing such horsepower, and any other representation such company shall make, and in case any such representations shall be found false, the department shall deny the company manufacturing or assembling such tractor engine the right to do business in the State of Nebraska, except as provided in section 2-2706; Provided, that any representation which a tractor engine company shall make with regard to the horsepower performance of its tractor engine at other than the customarily used power outlets shall be subject to test at the option of the board of engineers.

Sec. 4. That section 2-2704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2704. The Department of Agriculture shall deny to any liquid fuel tractor engine company the right to do business in the State of Nebraska which shall be found, on complaint of two or more bona fide customers residing within the state, to fail to maintain an adequate service station, with full supply of replacement parts, within the confines of the state and within reasonable shipping distance of such customers; Provided, that the provisions of this section relating to the maintenance of service and replacement parts shall not apply to tractors--the--engines--of tractor engines which have less than ten twenty horsepower.

Sec. 5. That section 2-2705, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2705. Application to the University---of Nebraska board of engineers for the testing of a tractor engine shall be accompanied by such fee as shall be prescribed by the Board of Regents of the University of Nebraska as a partial reimbursement for making the same. The board is empowered to establish and change, from time to time, as it determines advisable, a schedule of fees for such tractor engine tests. Payment--shall--also be--made--upon--presentation--of--the--proper--statement--for the--cost--of--all--fuel--and--oil--consumed--in--making--the test.

Sec. 6. That section 2-2706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

2-2706. The failure of any model of tractor engine to come up to the representations of the company manufacturing or assembling it shall not prevent the company from placing on the market other models of tractors tractor engines that do comply with specifications and ratings. Any model of tractor engine that fails, in the official test, to come up to the company's own specifications may be retested after alteration and remodeling upon submission of a new test application and fee. Each and every permit issued under sections 2-2701 to 2-2712 shall specify the model or models included in such permit to sell.

Sec. 7. That section 2-2707, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2707. The report of the official test required by section 2-2704 shall be posted published and made available in the Agricultural Engineering Department of the University of Nebraska and in such other places as may be designated by the university board of engineers. ~~The same shall be incorporated in the annual report of the Department of Agriculture.~~

Sec. 8. That section 2-2708, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2708. No tractor engine company shall use the results of such tests in such manner as would cause it to appear that the University of Nebraska or the Department of Agriculture intended to recommend the use of any given type or model of tractor engine in preference to any other type or model. It shall be unlawful for any tractor engine company operating in the State of Nebraska to publish extracts from such official tests for advertising purposes without publishing the entire report. For any violation of the foregoing provision the Department of Agriculture may, in its discretion, suspend or deny the right of any such company to do business in the state.

Sec. 9. That section 2-2709, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2709. Tractors Tractor engines shall be tested by the University of Nebraska board of engineers in the order in which they are presented for such tests,

and no discrimination shall be made for or against any tractor engine company in any manner whatsoever. Complaints against the violation of this provision shall be heard and adjudicated by the Department of Agriculture.

Sec. 10. That section 2-2710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2710. Any gas, gasoline, kerosene, distillate or other liquid fuel tractor, or traction, or tractor engine company selling or offering for sale for use in the State of Nebraska, or any automobile, implement or other company or individual operating in behalf of such tractor engine company or on his own behalf, who shall sell or offer for sale for use in the state any model of liquid fuel tractor engine, either new or used, without having in his possession a permit issued by the ~~State Railway-Commission-prior-to-June-8, 1967-and--thereafter~~ from the Department of Agriculture to sell such model of tractor engines as he is offering for sale for use in this state, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, shall be punished by a fine of not less than one hundred thousand dollars nor more than five hundred thousand dollars for each offense, in the discretion of the court.

Sec. 11. That section 2-2711, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2711. The Department of Agriculture shall have full authority to enforce the provisions of sections 2-2701 to 2-2712, both by denial of a permit to do business in the state and by ~~due-process--of--law--to~~ compel-compliance-there-with injunctive relief in the district court having jurisdiction.

Sec. 12. That section 2-2712, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2712. The provisions of sections 2-2701 to 2-2711 shall not apply to the following tractors tractor engines:

(1) All ~~tractors tractor engines~~, the engines of which ~~have-only-one-cylinder--or-the--engines--of--which~~ have less than twenty horsepower, manufacturer's maximum engine power claim; or

~~{2}--All--truck-tractors--which---are---designed  
primarily--for--drawing--truck--trailers--and--semitrailers,  
and--constructed--so--as--to--carry--part--of--the--weight--and  
load--of--a--truck--trailer--or--semitrailer;--or~~

{3} (2) All tractors tractor engines  
manufactured, sold and used for heavy construction and  
earthmoving by contractors and governmental bodies and  
not held out for sale by dealers or manufacturers'  
representatives for tillage, or the planting,  
cultivating or harvesting of agricultural products.

Sec. 13. That original sections 2-2701,  
2-2702, 2-2703, 2-2704, 2-2705, 2-2706, 2-2707, 2-2708,  
2-2709, 2-2710, 2-2711, and 2-2712, Reissue Revised  
Statutes of Nebraska, 1943, are repealed.