

## LEGISLATIVE BILL 528

Approved by the Governor May 21, 1973

Introduced by Burbach, 19, Chmn. of Revenue, for the Governor

AN ACT to amend sections 66-403, 66-406, 66-407, 66-410.03, 66-410.06, 66-412, 66-416, 66-418, 66-518, 66-611, 66-614, 66-615, 66-621, and 66-628, Reissue Revised Statutes of Nebraska, 1943, and sections 66-404 and 66-609, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 1 and 2, respectively, Legislative Bill 397, Eighty-third Legislature, First Session, 1973, relating to motor vehicle fuel taxes; to provide for furnishing of security; to specify what constitutes security; to provide for hearings; to provide for assessment of deficiencies; to provide for collection of delinquent taxes; to provide procedures; to provide severability; and to repeal the original sections, and also sections 66-405, 66-417, and 66-610, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 66-403, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-403. Before engaging in business as a dealer, every person shall procure a license from the Tax Commissioner, permitting him to transact such business within the State of Nebraska. The Tax Commissioner upon the application of any person or persons who filed the certificate required in section 66-402, may issue a license as aforesaid; Provided, the applicant shall have furnished a good and sufficient bond security running to the State of Nebraska, conditioned for the payment of all taxes, interest, and penalties, and costs which may be assessed against him under the provisions of sections 66-401 to 66-425 whether such liability is incurred prior to or after such security is filed.

Sec. 2. That section 66-404, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 397, Eighty-third Legislature, First Session, 1973, be amended to read as follows:

66-404. Every applicant, except as provided in section 3 of this act Legislative Bill 397, will be required to furnish bond and maintain security in the sum of not less than one thousand dollars and not more than fifteen thousand dollars. The amount of the bond security shall be fixed and determined by the Tax Commissioner, in approximately two times the average monthly tax liability of the applicant. Such security may consist of a surety bond executed by a surety company duly licensed and authorized to do business within this state in the amount specified by the Tax Commissioner, or in the discretion of the Tax Commissioner pursuant to published regulations may consist of any of the following: (1) Bonds or other obligations of the United States, the State of Nebraska, or any city or county of the state of an actual market value not less than the amount specified by the Tax Commissioner; (2) certificates of deposit issued by a bank doing business in the state and insured by the Federal Deposit Insurance Corporation, in amounts not exceeding the federally-insured amount, and in the total amount specified by the Tax Commissioner; or (3) investment certificates or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation, in amounts not exceeding the federally-insured amount, and in the total amount specified by the Tax Commissioner. Such security shall run to the Department of Revenue of the State of Nebraska and be conditioned upon the payment of all taxes, interest, penalties, and costs for which such dealer is liable, whether such liability was incurred prior to or after such security is filed.

Sec. 3. That section 66-406, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-406. It shall be unlawful for a dealer to transact business without having first procured a license as required in section 66-403, or to continue to transact such business after such license has been suspended or canceled, and-revoked:

Sec. 4. That section 66-407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-407. In lieu of the expense of collecting and remitting the gasoline tax and furnishing the bond security pursuant to Chapter 66, article 4, and complying with the statutes and rules and regulations related thereto, the applicant shall be entitled to deduct and withhold a commission of two per cent upon the first five



thousand dollars and one half of one per cent upon all amounts in excess of five thousand dollars remitted each month.

Sec. 5. That section 66-410.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-410.03. The advance arrangements referred to in section 66-410.02 shall include the procuring of a permit and ~~may in the discretion of the Tax Commissioner include the posting~~ furnishing and maintaining of security as defined in section 66-404 ~~a suitable indemnity-bond~~ in a sum to be fixed ~~and determined~~ by the ~~director~~ Tax Commissioner but in a sum of not less than one thousand dollars to assure the required reporting, payment of tax, keeping of records, and payment of any penalties. The amount of security as fixed and determined by the Tax Commissioner shall be approximately two times the average monthly liability of the permit holder. Such security shall run to the Department of Revenue of the State of Nebraska and be conditioned upon the payment of all taxes, interest, penalties, and costs for which such operator is liable, whether such liability was incurred prior to or after such security is filed.

Such permit may be obtained upon application to the Tax Commissioner. The Tax Commissioner shall charge a fee of one dollar for each permit issued. The holder of a permit under this section shall have the privilege of bringing into this state in the fuel supply tanks of motor vehicles any amount of motor vehicle fuel or special fuel to be used in the operation of the vehicles and for that privilege shall pay Nebraska motor vehicle fuel or special fuel taxes.

Each vehicle operated into or through Nebraska in interstate operations using motor vehicle fuel or special fuel acquired in any other state shall carry in or on each vehicle a duplicate of the permit required in this section. All fees collected shall be deposited in the state treasury and by the State Treasurer credited to the General Fund.

Sec. 6. That section 66-410.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-410.06. [1] If any taxpayer neglects or refuses to file the report due for any month, or to pay the tax provided by section 66-410.04, due for any month, within the time prescribed for the filing of such report



or the payment of such tax, as provided in section 66-410.04, there shall automatically accrue a penalty of twenty-five dollars. If no motor vehicle fuel was used in the State of Nebraska during that period, a penalty of twenty-five dollars shall be assessed against such taxpayer for failure to make a report setting forth such fact. The Tax Commissioner may in his discretion waive any and all penalties incurred upon sufficient showing by the taxpayer that such penalties should be waived.

(2) (a) As soon as practical after a report is filed, the Tax Commissioner shall examine it to determine the correct amount of tax. If the Tax Commissioner finds that the amount of tax shown on the return is less than the correct amount, he shall notify the taxpayer of the amount of the deficiency proposed to be assessed. Such amount shall constitute a final assessment together with interest and penalties thirty days after the date on which notice was mailed to the taxpayer at his last-known address unless a written protest is filed with the Tax Commissioner within such thirty-day period.

(b) If the taxpayer fails to file a report, the Tax Commissioner shall estimate the taxpayer's liability from any available information and notify the taxpayer of the amount proposed to be assessed as in the case of a deficiency. Such amount shall constitute a final assessment together with interest and penalties thirty days after the date on which notice was mailed to the taxpayer at his last-known address unless a written protest is filed with the Tax Commissioner within such thirty-day period.

(c) The final assessment provisions of this section shall constitute a final decision of the agency for purposes of Chapter 84, article 9.

Sec. 7. That section 66-412, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-412. No tax shall be collected with respect to motor vehicle fuel imported by barge, barge line, or pipe line, and stored at a barge, barge line, or pipe line terminal in this state, or refined at a refinery in this state and stored thereat until the motor vehicle fuel is withdrawn for sale or use in this state or is loaded at the terminal or refinery into transportation equipment for shipment or delivery to a destination in this state. When motor vehicle fuel is withdrawn or loaded as provided in this section, the importer or the refiner in this state, as the case may be, shall be liable for payment of the motor vehicle fuel tax with



respect thereto and subject to the following exemptions: (1) When motor vehicle fuel is loaded as provided in this section for delivery or shipment to a person licensed as a dealer under section 66-403, such licensed dealer shall be deemed to be the importer or first receiver thereof in this state and shall pay the motor vehicle fuel tax with respect thereto, and the tax liability shall not be transferred to any other person; (2) when motor vehicle fuel so loaded is for shipment or delivery to a nonlicensed person for the account of a dealer licensed as such under section 66-403, the licensed dealer for whose account delivery to the unlicensed person is made shall be deemed to be the importer or first receiver thereof in this state and shall pay the motor vehicle fuel tax with respect thereto, and the tax liability shall not be transferred to any other person. The person, firm, or corporation owning and operating such refinery, barge or barge line terminal, or pipe line terminal shall furnish a surety bond security as defined in section 66-404, in the sum of fifty thousand dollars, executed by a surety company duly licensed and authorized to do business in this state, for each such refinery, barge or barge line terminal, or pipe line terminal within the state, said bond such security running to the Department of Revenue of the State of Nebraska, and conditioned for upon the faithful performance of all obligations to the state imposed by law upon said person, firm, or corporation. Such person, firm, or corporation shall make and file such verified reports of operations within the state as shall be required by the Tax Commissioner of the State of Nebraska.

Sec. 8. That section 66-416, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~66-416. Whenever any dealer shall fail to pay any tax due under the provisions of section 66-410 within the time limited herein, the Attorney General through the county attorney in the county in which the action is brought, shall enforce payment of such tax by civil action in the name of the state against such dealer for the amount of such tax in a court of competent jurisdiction. All delinquent payments due the state by virtue of said section shall draw interest at the rate of seven per cent per annum from date of delinquency.~~

(1) (a) If any motor vehicle fuel tax is not paid when due, the amount of such tax, including any interest or penalty, together with any costs that may accrue in addition thereto, shall be a lien in favor of the State of Nebraska upon all property and rights to property, whether real or personal, belonging to any person liable



for the tax. All delinquent payments due the state shall draw interest at the rate of one per cent per month or any part thereof from date of delinquency.

(b) (i) The Tax Commissioner may, within three years after the amount is due, file for record with the appropriate county official a certificate specifying the amount of tax, interest, penalty, and costs due, the name and address of the person liable for the tax as it last appears on the records of the Tax Commissioner, and the fact that the Tax Commissioner has complied with the provisions of the motor vehicle fuel law in the determination of the amount required to be paid.

(ii) When the certificate provided for in subdivision (b) (i) of this section is filed with the register of deeds it shall constitute notice of such lien upon all real property of such person liable for the tax located in such county from the time of filing to all subsequent creditors and purchasers.

(iii) When the certificate provided for in subdivision (b) (i) of this section is filed with the county clerk it shall constitute notice of such lien upon all personal property of such person liable for the tax located in such county from the time of filing to all subsequent creditors.

(c) (i) Upon the filing of a certificate, the appropriate county official shall enter the same in the alphabetical state tax lien index, showing on one line the name and residence of the person liable named in such notice, the Tax Commissioner's serial number of such certificate, the date and hour of filing, and the amount due. The fee for filing and indexing each certificate of lien shall be one dollar. All such certificates of lien shall be retained in numerical order in a file designated state tax lien notices; Provided, that in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original certificates need not be retained.

(ii) When a certificate of discharge of any tax lien issued by the Tax Commissioner is filed in the office where the notice of lien is filed, the appropriate county official shall enter the same with the date of filing in the state tax lien index on the line where notice of the lien so discharged is entered, and shall file the certificate of discharge with the notice of lien. The fee for filing and indexing each certificate of discharge shall be fifty cents.



(d) From the time of the filing for record, the amount required to be paid together with interest and penalty shall constitute a lien upon all property in the county owned by the person or afterwards and before the lien expires acquired by him. The lien shall have the force, effect, and priority of a judgment lien and shall continue for five years from the time of the filing of the certificate unless sooner released or otherwise discharged.

(e) The lien may, within five years from the date of filing of the certificate or within five years from the date of the last extension of the lien in the manner provided in this subdivision, be extended by filing for record a new certificate with the appropriate county official of any county, and from the time of such filing the lien shall be extended to the property in such county for five years, unless sooner released or otherwise discharged. The fee for filing and indexing each new certificate shall be one dollar.

(f) The Tax Commissioner may at any time upon the request of the person liable release all or any portion of the property subject to any lien provided for in this section from the lien or subordinate the lien to other liens and encumbrances if he determines that the amount, interest, penalties, and costs have been paid or are secured sufficiently by a lien on other property or that the release or subordination of the lien will not jeopardize the collection of the amount, interest, penalties, and costs. The fee for filing and indexing each certificate of release shall be one dollar.

(g) The register of deeds and the county clerk of each county shall each bill the Tax Commissioner on a quarterly basis for fees for documents filed by him for the Tax Commissioner.

(h) A certificate by the Tax Commissioner to the effect that any property has been released from the lien, or that the lien has been subordinated to other liens and encumbrances, shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

(2) (a) At any time within three years after any amount of motor vehicle fuel tax to be collected under the provisions of motor vehicle fuel law becomes due and payable or within five years after the last recording of a certificate under subsection (1) of this section, the Tax Commissioner may bring an action in the courts of this state or any other state, or of the United States, in the name of the people of the State of Nebraska, to



collect the amount delinquent together with penalties and interest.

(b) The Attorney General shall prosecute the action, and the rules of civil procedure relating to service of summons, pleadings, proofs, trials, and appeals shall be applicable to the proceedings.

(c) In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment shall be required.

(d) In the action a certificate by the Tax Commissioner showing the delinquency shall be prima facie evidence of the determination of such tax or the amount of such tax, the delinquency of the amounts set forth, and of the compliance by the Tax Commissioner with all the provisions of the motor vehicle fuel law in relation to the computation and determination of the amounts.

(3) To enforce collection of any motor vehicle fuel tax not paid when due, the Tax Commissioner may make demand upon the security filed on behalf of the person liable for the tax, together with any interest, penalties, and costs thereon.

(4) The Tax Commissioner is authorized to abate the unpaid portion of the assessment of any tax, or other liability in respect thereof, if he determines under uniform rules prescribed by him that the administration and collection costs involved would not warrant collection of the amount due.

(5) The methods of enforcement provided in this section shall be fully independent so that pursuit of any one method shall not be conditioned upon pursuit of any other, nor shall pursuit of any one method in any way affect or limit the right of the Tax Commissioner to subsequently pursue any of the other methods of enforcement.

Sec. 9. That section 66-418, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-418. (1) If any dealer refuses, neglects, or fails to file the return due for any month, or to pay the tax provided by section 66-410, due for any month, within the time prescribed for the filing of such return or the payment of such tax, as provided in sections 66-409 and 66-410, such dealer shall forfeit as a penalty the collection fee allowed by the provisions of section 66-407. The amount of the penalty shall in no case be



less than twenty-five dollars. The Tax Commissioner may in his discretion waive any and all penalties incurred upon sufficient showing by the dealer that such penalties should be waived.

(2) (a) As soon as practical after a return is filed, the Tax Commissioner shall examine it to determine the correct amount of tax. If the Tax Commissioner finds that the amount of tax shown on the return is less than the correct amount, he shall notify the dealer of the amount of the deficiency proposed to be assessed. Such amount shall constitute a final assessment together with interest and penalties thirty days after the date on which notice was mailed to the taxpayer at his last-known address unless a written protest is filed with the Tax Commissioner within such thirty-day period.

(b) If the dealer fails to file a report, the Tax Commissioner shall estimate the dealer's liability from any available information and notify the dealer of the amount proposed to be assessed as in the case of a deficiency. Such amount shall constitute a final assessment together with interest and penalties thirty days after the date on which notice was mailed to the dealer at his last-known address unless a written protest is filed with the Tax Commissioner within such thirty-day period.

Sec. 10. The Tax Commissioner may provide by rule and regulation that some or all of the documents required to support the claim for tax credits under sections 66-445 to 66-466 need not be filed with the claim but shall remain as part of the business records of the person claiming the credit. The Tax Commissioner shall provide by rule and regulation for the filing of credit applications or claims by partners or shareholders of small business corporations so that such partners or shareholders may receive the credit intended by the provisions of sections 66-445 to 66-466.

Sec. 11. Cancellation of security, failure to provide additional security as required, failure to report or pay taxes due within the time provided, filing of any false statement or affidavit, or violation of any of the provisions of sections 66-401 to 66-425 shall be grounds for suspension of any license or permit issued by the Tax Commissioner in accordance with sections 66-401 to 66-471.

The Tax Commissioner may, by notice either by registered or certified mail, return receipt requested, to the address of the licensee or permitholder as shown on the records of the Tax Commissioner, suspend any



license or permit theretofore granted. Such licensee or permit holder may, within thirty days after the mailing of the notice of such suspension, petition the Tax Commissioner in writing for a hearing and reconsideration of such suspension. If a petition is not filed within the thirty-day period, the suspended license shall be canceled by the Tax Commissioner at the expiration of that period. If a petition is filed with the Tax Commissioner, he shall, within ten days of his receipt of the petition, grant a hearing at which the licensee or permit holder may show cause why his suspended license should not be canceled and shall give the licensee or permit holder reasonable notice of the time and place of such hearing. Upon conclusion of the hearing, the Tax Commissioner shall, within a reasonable time, issue a finding and order either reinstating or canceling such license.

Sec. 12. That section 66-518, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-518. No permit shall be issued by the Tax Commissioner until the applicant shall have filed with and the Tax Commissioner shall have approved a policy certificate of insurance, or certified copy thereof, in such an amount as hereinafter specified. Such certificate of insurance policy shall state that the applicant is the obligee under a policy of insurance which binds ~~and~~ the obligor or obligors thereunder to pay compensation for injuries to persons, including death resulting therefrom, except injury to assured's employees while engaged in the course of their employment, and loss of or damage to property, not including property usually designated as cargo, resulting from the negligent operation of such applicant. The schedule of minimum limits for such policies of insurance shall be as follows: Public liability and property damage for each vehicle to be used in the transportation of motor vehicle fuels by applicant, (1) amount for damages to property of others, ten thousand dollars; and (2) amount for bodily injuries to or death of all persons in any one casualty or accident, subject to the maximum of ten twenty-five thousand dollars for bodily injuries to or death of one person, twenty one hundred thousand dollars. The insurer under such policy certificate shall be an insurance company authorized and qualified to engage in business in this state. The provisions of sections 66-501, 66-512, and 66-514 to 66-522 shall not be applicable to holders of certificates or permits issued by the Interstate Commerce Commission as common or contract carriers, in their operation in interstate commerce, under the Motor Carrier Act of 1935, who may be governed by regulations



of said commission, where and to the extent that such regulations are exclusive of and supersede the requirements of said sections.

Sec. 13. That section 66-609, Reissue Revised Statutes of Nebraska, 1943, as amended by section 2, Legislative Bill 397, Eighty-third Legislature, First Session, 1973, be amended to read as follows:

66-609. No special fuel dealer's license shall be issued to any person or continued in force unless such person, except as provided in section 3 of ~~this act~~ Legislative Bill 397, has furnished ~~a surety bond and maintained for each license issued security~~ in such form and amount as the motor fuel tax administrator may require, but in a sum not less than one thousand dollars and not more than fifteen thousand dollars, to secure his compliance with the provisions of sections 66-601 to 66-640, and the payment of any and all taxes, including interest and penalties due and to become due under the provisions of sections 66-601 to 66-640. The amount of ~~bond security~~ shall be fixed and determined by the motor fuel tax administrator, in approximately two times the average monthly tax liability of the applicant. Such security may consist of a surety bond executed by a surety company duly licensed and authorized to do business within this state in the amount specified by the motor fuel tax administrator, or in the discretion of the motor fuel tax administrator pursuant to published regulations may consist of the following: (1) Bonds or other obligations of the United States, the State of Nebraska, or any city or county of the state of an actual market value not less than the amount specified by the motor fuel tax administrator; (2) certificates of deposit issued by the Federal Deposit Insurance Corporation, in amounts not exceeding the federally-insured amount, and in the total amount specified by the motor fuel tax administrator; or (3) investment certificates or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation, in amounts not exceeding the federally-insured amount, and in the total amount specified by the motor fuel tax administrator. Such security shall run to the Department of Revenue of the State of Nebraska and be conditioned upon the payment of all taxes, interest, penalties, and costs for which such dealer is liable, whether such liability was incurred prior to or after such security is filed.

Sec. 14. That section 66-611, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:



66-611. Upon receipt of the application and ~~bond~~ security in proper form, the motor fuel tax administrator shall issue to the applicant a license to act as a special fuel dealer; Provided, the motor fuel tax administrator may refuse to issue a special fuel dealer's license to any person: (1) who formerly held a special fuel dealer's license which, prior to the time of filing the application, has been revoked for cause; (2) who is a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause; or (3) upon other sufficient cause being shown. Before such refusal, the motor fuel tax administrator shall grant the applicant a hearing and shall grant him at least ten days' written notice of the time and place.

Sec. 15. That section 66-614, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~66-614. The motor fuel tax administrator may revoke the license of any special fuel dealer for reasonable cause. Before revoking any such license, the motor fuel tax administrator shall notify the licensee to show cause within ten days of the date of the written notice why such license should not be revoked; Provided, that at any time prior to and pending such hearing the motor fuel tax administrator may, in the exercise of reasonable discretion, suspend such license. In case the required security shall have been canceled, or the licensee shall fail to give further and additional security of the kind specified by the motor fuel tax administrator, or the licensee fails to report or pay the tax as required by section 66-605, the motor fuel tax administrator may, by notice either by registered or certified mail, return receipt requested, to the licensee as shown on the records of the motor fuel tax administrator, suspend any license theretofore granted. Such licensee may, within thirty days after the mailing of the notice of such suspension, petition the motor fuel tax administrator in writing for a hearing and reconsideration of such suspension. If a petition is not filed within the thirty-day period, the suspended license shall be canceled by the motor fuel tax administrator at the expiration of that period. If a petition is filed with the motor fuel tax administrator, he shall, within ten days of his receipt of the petition, grant a hearing at which the dealer may show cause why his suspended license should not be canceled and shall give the dealer reasonable notice of the time and place of such hearing. Upon conclusion of the hearing, the motor fuel tax administrator shall, within a reasonable time, issue a finding and order either reinstating or canceling the~~



license.

Sec. 16. That section 66-615, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-615. The motor fuel tax administrator shall cancel any license to act as a special fuel dealer immediately upon surrender thereof by the holder or for fraud. When any license is canceled, ~~or--revoked,~~ the administrator shall cancel the bond security on final payment of all sums due.

Sec. 17. That section 66-621, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

66-621. In the event any special fuel dealer refuses, neglects, or fails to file a return, as required by the provisions of sections 66-601 to 66-640, or refuses, neglects, or fails to pay in whole the tax provided in section 66-605 within the time prescribed for the filing of each return or the payment of such tax such dealer shall forfeit as a penalty the collection fee to which such dealer is entitled with respect to the collection and remission of such tax on special fuels pursuant to section 66-605.01. The amount of the penalty in no case shall be less than twenty-five dollars. The motor fuel tax administrator may in his discretion waive any and all penalties incurred upon sufficient showing by the licensee that such penalties should be waived. All delinquent payments due the state shall draw interest at the rate of one per cent per month or any part thereof from date of delinquency.

Sec. 18. That section 66-628, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~66-628. Whenever any special fuel dealer shall fail to pay any tax and penalties due under the provisions of sections 66-601 to 66-640 within the time limited in section 66-618, the Attorney General, through the county attorney in the county in which the action is brought, shall enforce payment of such tax and penalties by civil action in the name of the state against the special fuel dealer for the amount of the tax in a court of competent jurisdiction. All delinquent payments due the state by virtue of this section shall draw interest at the rate of seven per cent per annum from date of delinquency.~~



(1) (a) If any special fuel tax is not paid when due, the amount of such tax, including any interest or penalty, together with any costs that may accrue in addition thereto, shall be a lien in favor of the State of Nebraska upon all property and rights to property, whether real or personal, belonging to any person liable for the tax.

(b) (i) The motor fuel tax administrator may, within three years after the amount is due, file for record with the appropriate county official a certificate specifying the amount of tax, interest, penalty, and costs due, the name and address of the person liable for the tax as it last appears on the records of the motor fuel tax administrator, and the fact that the motor fuel tax administrator has complied with the provisions of the special fuel law in the determination of the amount required to be paid.

(ii) When the certificate provided for in subdivision (b) (i) of this section is filed with the register of deeds it shall constitute notice of such lien upon all real property of such person liable for the tax located in such county from the time of filing to all subsequent creditors and purchasers.

(iii) When the certificate provided for in subdivision (b) (i) of this section is filed with the county clerk it shall constitute notice of such lien upon all personal property of such person liable for the tax located in such county from the time of filing to all subsequent creditors.

(c) (i) Upon the filing of a certificate, the appropriate county official shall enter the same in the alphabetical state tax lien index, showing on one line the name and residence of the person liable as named in such notice, the motor fuel tax administrator's serial number of such certificate, the date and hour of filing, and the amount due. The fee for filing and indexing each certificate of lien shall be one dollar. All such certificates of lien shall be retained in numerical order in a file designated state tax lien notices; Provided, that in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original certificates need not be retained.

(ii) When a certificate of discharge of any tax lien issued by the motor fuel tax administrator is filed in the office where the notice of lien is filed, the appropriate county official shall enter the same with the date of filing in the state tax lien index on the line where notice of the lien so discharged is entered, and



shall file the certificate of discharge with the notice of lien. The fee for filing and indexing each certificate of discharge shall be fifty cents.

(d) From the time of the filing for record, the amount required to be paid together with interest and penalty shall constitute a lien upon all property in the county owned by the person or afterwards and before the lien expires acquired by him. The lien shall have the force, effect, and priority of a judgment lien and shall continue for five years from the time of the filing of the certificate unless sooner released or otherwise discharged.

(e) The lien may, within five years from the date of the filing of the certificate or within five years from the date of the last extension of the lien in the manner provided in this subdivision, be extended by filing for record a new certificate with the appropriate county official of any county and from the time of such filing, the lien shall be extended to the property in such county for five years, unless sooner released or otherwise discharged. The fee for filing and indexing each new certificate shall be one dollar.

(f) The motor fuel tax administrator may at any time upon the request of the person liable release all or any portion of the property subject to any lien provided for in this section from the lien or subordinate the lien to other liens and encumbrances if he determines that the amount, interest, penalties, and costs have been paid or are secured sufficiently by a lien on other property or that the release or subordination of the lien will not jeopardize the collection of the amount, interest, penalties, and costs. The fee for filing and indexing each certificate of release shall be one dollar.

(g) The appropriate county official of each county shall bill the motor fuel tax administrator on a quarterly basis for fees for documents filed by him for the motor fuel tax administrator.

(h) A certificate by the motor fuel tax administrator to the effect that any property has been released from the lien, or that the lien has been subordinated to other liens and encumbrances, shall be conclusive evidence that the property has been released or that the lien has been subordinated as provided in the certificate.

(2) (a) At any time within three years after any amount of special fuel tax to be collected under the provisions of the special fuel tax law becomes due and



payable or within five years after the last recording of a certificate under subsection (1) of this section, the motor fuel tax administrator may bring an action in the courts of this state or any other state, or of the United States, in the name of the people of the State of Nebraska, to collect the amount delinquent together with penalties and interest.

(b) The Attorney General shall prosecute the action, and the rules of civil procedure relating to service of summons, pleadings, proofs, trials, and appeals shall be applicable to the proceedings.

(c) In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment shall be required.

(d) In the action a certificate by the motor fuel tax administrator showing the delinquency shall be prima facie evidence of the determination of such tax or the amount of such tax, the delinquency of the amounts set forth, and of the compliance by the motor fuel tax administrator with all the provisions of the special fuel law in relation to the computation and determination of the amounts.

(3) To enforce collection of any special fuel tax, not paid when due, the motor fuel tax administrator may make demand upon the security filed on behalf of the person liable for the tax, together with any interest, penalties, and costs thereon.

(4) The motor fuel tax administrator is authorized to abate the unpaid portion of the assessment of any tax, or other liability in respect thereof, if he determines under uniform rules prescribed by him that the administration and collection costs involved would not warrant collection of the amount due.

(5) The methods of enforcement provided in this section shall be fully independent so that pursuit of any one method shall not be conditioned upon pursuit of any other, nor shall pursuit of any one method in any way affect or limit the right of the motor fuel tax administrator to subsequently pursue any of the other methods of enforcement.

Sec. 19. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration of invalidity shall not affect the validity of the remaining portions thereof.



Sec. 20. That original sections 66-403, 66-406, 66-407, 66-410.03, 66-410.06, 66-412, 66-416, 66-418, 66-518, 66-611, 66-614, 66-615, 66-621, and 66-628, Reissue Revised Statutes of Nebraska, 1943, and sections 66-404 and 66-609, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 1 and 2, respectively, Legislative Bill 397, Eighty-third Legislature, First Session, 1973, and also sections 66-405, 66-417, and 66-610, Reissue Revised Statutes of Nebraska, 1943, are repealed.