

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 429**

Introduced by Cornett, 45.

Read first time January 14, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to motor fuel; to amend sections 66-486 and  
2 66-6,113, Reissue Revised Statutes of Nebraska; to change  
3 provisions relating to collection commissions; to provide  
4 an operative date; and to repeal the original sections.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 66-486, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           66-486 (1) In lieu of the expense of collecting and  
4 remitting the motor vehicle fuel tax and furnishing the security  
5 pursuant to Chapter 66, article 4, and complying with the statutes  
6 and rules and regulations related thereto, the producer, supplier,  
7 distributor, wholesaler, or importer shall be entitled to deduct and  
8 withhold a commission of ~~five percent on the first five thousand~~  
9 ~~dollars and two and one half percent upon all amounts above five~~  
10 ~~thousand dollars~~ one percent on amounts remitted each reporting  
11 period, but not to exceed five thousand dollars per reporting period.

12           (2) In lieu of the expense of collecting and remitting  
13 the diesel fuel tax and furnishing the security pursuant to Chapter  
14 66, article 4, and complying with the statutes and rules and  
15 regulations related thereto, the producer, supplier, distributor,  
16 wholesaler, or importer shall be entitled to deduct and withhold a  
17 commission of ~~two percent upon the first five thousand dollars and~~  
18 ~~one half of one percent upon all amounts in excess of five thousand~~  
19 ~~dollars~~ one percent on amounts remitted each reporting period, but  
20 not to exceed five thousand dollars per reporting period.

21           (3) Except as otherwise provided in Chapter 66, article  
22 4, the per-gallon amount of the tax shall be added to the selling  
23 price of every gallon of such motor fuels sold in this state and  
24 shall be collected from the purchaser so that the ultimate consumer  
25 bears the burden of the tax. The tax shall be a direct tax on the

1 retail or ultimate consumer precollected for the purpose of  
2 convenience and facility to the consumer. The levy and assessment on  
3 the producer, supplier, distributor, wholesaler, or importer as  
4 specified in Chapter 66, article 4, shall be as agents of the state  
5 for the precollection of the tax. The provisions of this section  
6 shall in no way affect the method of collecting the tax as provided  
7 in Chapter 66, article 4. The tax imposed by this section shall be  
8 collected and paid at the time, in the manner, and by those persons  
9 specified in Chapter 66, article 4.

10 (4) In consideration of receiving the commission, the  
11 producer, supplier, distributor, wholesaler, or importer shall not be  
12 entitled to any deductions, credits, or refunds arising out of such  
13 producer's, supplier's, distributor's, wholesaler's, or importer's  
14 failure or inability to collect any such taxes from any subsequent  
15 purchaser of motor fuels.

16 (5) For purposes of this section, reporting period means  
17 calendar month unless otherwise provided by rules and regulations of  
18 the department, but under no circumstance shall such reporting period  
19 extend beyond an annual basis.

20 (6) In consideration of receiving the commission provided  
21 under subsections (1) and (2) of this section, the producer,  
22 supplier, distributor, wholesaler, or importer shall not be entitled  
23 to a commission for any understatement of or refund for any such  
24 taxes collected as a result of a final assessment occurring pursuant  
25 to a notice of deficiency determination under section 66-722.

1           Sec. 2. Section 66-6,113, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           66-6,113 (1) In lieu of the expense of remitting the  
4 compressed fuel tax and complying with the statutes and rules and  
5 regulations related thereto, every retailer shall be entitled to  
6 deduct and withhold a commission of ~~two percent upon the first five~~  
7 ~~thousand dollars and one half of one percent upon all amounts in~~  
8 ~~excess of five thousand dollars~~ one percent on amounts remitted each  
9 tax reporting period, but not to exceed five thousand dollars per tax  
10 reporting period.

11           (2) Except as otherwise provided in the Compressed Fuel  
12 Tax Act, the per-gallon amount of the tax shall be added to the  
13 selling price of every gallon of such compressed fuel sold in this  
14 state and shall be collected from the purchaser so that the ultimate  
15 consumer bears the burden of the tax. The tax shall be a direct tax  
16 on the retail or ultimate consumer precollected for the purpose of  
17 convenience and facility to the consumer. The levy and assessment on  
18 the retailer as specified in the act shall be as an agent of the  
19 state for the precollection of the tax. The provisions of this  
20 section shall in no way affect the method of collecting the tax as  
21 provided in the act. The tax imposed by this section shall be  
22 collected and paid at the time, in the manner, and by those persons  
23 specified in the act.

24           (3) In consideration of receiving the commission provided  
25 under subsection (1) of this section, the retailer shall not be

1 entitled to any deductions, credits, or refunds arising out of such  
2 retailer's failure or inability to collect any such taxes from any  
3 subsequent purchaser of compressed fuel.

4 (4) In consideration of receiving the commission provided  
5 under subsection (1) of this section, the retailer shall not be  
6 entitled to a commission for any understatement of or refund for any  
7 such taxes collected as a result of a final assessment occurring  
8 pursuant to a notice of deficiency determination under section  
9 66-722.

10 Sec. 3. This act becomes operative on October 1, 2011.

11 Sec. 4. Original sections 66-486 and 66-6,113, Reissue  
12 Revised Statutes of Nebraska, are repealed.