

# Missouri Revised Statutes

## Chapter 142 Motor Fuel Tax

- [←Chapter: 141](#)
- [Chapter: 143→](#) August 28, 2015

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### **Federal law changes in matching fund requirements, effect on motorvehicle license and use tax.**

[142.009](#). If changes made in the renewal of the Federal Surface Transportation Act due to expire in 1997 are such that Missouri will not need the full six-cent fuel tax increase provided in section [142.803](#), and section [226.200](#), to match federal funds available to Missouri, or if in the opinion of the general assembly revenues generated by section [142.803](#), and section [226.200](#), are not being used for the purposes outlined in the fifteen-year road and bridge program as adopted by the Missouri transportation department on January 6, 1992, or for any other reason, the general assembly may by a constitutional majority vote to place before the voters the issue of whether the increases in tax scheduled for April 1, 1994, and April 1, 1996, as specified in section [142.803](#), shall be implemented or shall be repealed.

(L. 1992 H.B. 1247 § 1, A.L. 1998 S.B. 619)

Effective 1-1-99

### **Limited alcohol manufacturer, federal permit to be filed, where.**

[142.015](#). Every limited alcohol manufacturer shall file a copy of his federal permit for the manufacturer of alcohol with the director of the Missouri department of revenue.

(L. 1981 H.B. 462)

### **Definitions--Missouri qualified producer incentive fund created,purpose--administration of fund--grants to producers, amount,computation, paid when--application for grant, content,qualifications, bonding--rules authorized--limitation on grants,when.**

[142.028](#). 1. As used in this section, the following terms mean:

(1) "Fuel ethanol", a fuel which meets ASTM International specification number D 4806 or subsequent specifications for blending with gasoline for use as automotive spark-ignition engine fuel and where the ethanol is made from cereal grains, cereal grain by-products, or qualified biomass;

(2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the gasoline portion of the blend or the finished blend meets the ASTM International specification number D 4814;

(3) "Missouri qualified fuel ethanol producer", any producer of fuel ethanol whose principal place of business and facility for the fermentation and distillation of fuel ethanol is located within the state of Missouri and is at least fifty-one percent owned by agricultural producers actively engaged in agricultural production for commercial purposes, and which has made formal application, posted a bond, and conformed to the requirements of this section;

(4) "Professional forester", any individual who holds a bachelor of science degree in forestry from a regionally accredited college or university with a minimum of two years of professional forest management experience;

(5) "Qualified biomass", any wood-derived organic material harvested in accordance with a site specific forest management plan focused for long-term forest sustainability developed by a professional forester and qualified, in consultation with the conservation commission, by the Missouri agricultural and small business development authority.

2. The "Missouri Qualified Fuel Ethanol Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified fuel ethanol producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified fuel ethanol producer shall be eligible for a monthly grant from the fund, except that a Missouri qualified fuel ethanol producer shall only be eligible for the grant for a total of sixty months unless such producer during those sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for which they were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty-month time period. The amount of the grant is determined by calculating the estimated gallons of qualified fuel ethanol production to be produced from Missouri agricultural products or qualified biomass for the succeeding calendar month, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified fuel ethanol producer shall be eligible for a total grant in any fiscal year equal to twenty cents per gallon for the first twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products or qualified biomass in the fiscal year plus five cents per gallon for the next twelve and one-half million gallons of qualified fuel ethanol produced from Missouri agricultural products or qualified biomass in the fiscal year. All such qualified fuel ethanol produced by a Missouri qualified fuel ethanol producer in excess of twenty-five million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section. If actual production of qualified fuel ethanol during a particular month either exceeds or is less than that estimated by a Missouri qualified fuel ethanol producer, the department of

agriculture shall adjust the subsequent monthly grant by paying additional amount or subtracting the amount in deficiency by using the calculation described in this subsection.

4. In order for a Missouri qualified fuel ethanol producer to obtain a grant from the fund for a particular month, an application for such funds shall be received no later than fifteen days prior to the first day of the month for which the grant is sought. The application shall include:

(1) The location of the Missouri qualified fuel ethanol producer;

(2) The average number of citizens of Missouri employed by the Missouri qualified fuel ethanol producer in the preceding quarter, if applicable;

(3) The number of bushels of Missouri agricultural commodities or green weight tons of qualified biomass used by the Missouri qualified fuel ethanol producer in the production of fuel ethanol in the preceding quarter;

(4) The number of gallons of qualified fuel ethanol the producer expects to manufacture during the month for which the grant is applied;

(5) A copy of the qualified fuel ethanol producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and

(6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified fuel ethanol producers.

5. The director of the department of agriculture, in consultation with the department of revenue and the department of conservation, shall promulgate rules and regulations necessary for the administration of the provisions of this section. The director shall also establish procedures for bonding Missouri qualified fuel ethanol producers. Each Missouri qualified fuel ethanol producer who attempts to obtain moneys pursuant to this section shall be bonded in an amount not to exceed the estimated maximum monthly grant to be issued to such Missouri qualified fuel ethanol producer.

6. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

7. Notwithstanding any other provision of this section to the contrary, beginning January 1, 2009, through December 31, 2019, the economic subsidies provided under this section to Missouri qualified fuel ethanol producers of fuel ethanol made from qualified biomass shall only be provided to two qualified fuel ethanol producers and shall not cumulatively exceed seven and one-half million dollars per qualified fuel ethanol producer. Prior to January 1, 2009, and after December 31, 2019, Missouri qualified fuel ethanol producers of fuel ethanol made from qualified biomass shall be ineligible for economic subsidies under this section.

(L. 1988 S.B. 600, A.L. 1989 S.B. 162, A.L. 1993 H.B. 611 merged with S.B. 52, A.L. 1995 S.B. 3, A.L. 2002 H.B. 1348 merged with S.B. 984 & 985, A.L. 2008 S.B. 931)

**Expiration date of section 142.028.**

142.029. Section 142.028 shall expire on December 31, 2015.

(L. 1988 S.B. 600 §§ B, C, D, A.L. 1993 H.B. 611, A.L. 1999 H.B. 153 merged with S.B. 310, A.L. 2005 S.B. 355)

**Missouri qualified biodiesel producer fund created--eligibility for grants--rulemaking authority--expiration date--sale of facility, effect of.**

142.031. 1. As used in this section the following terms shall mean:

(1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard specifications for biodiesel fuel (B100) blend stock for distillate fuels;

(2) "Missouri qualified biodiesel producer", a facility that produces biodiesel, is registered with the United States Environmental Protection Agency according to the requirements of 40 CFR 79, and:

(a) a. Is at least fifty-one percent owned by agricultural producers who are residents of this state and who are actively engaged in agricultural production for commercial purposes; or

b. At least eighty percent of the feedstock used by the facility originates in the state of Missouri. For purposes of this section, "feedstock" means an agricultural, horticultural, viticultural, vegetable, aquacultural, livestock, forestry, or poultry product either in its natural or processed state; and

(b) Meets all of the following:

a. Has registered with the department of agriculture by September 1, 2007;

b. Has begun construction of the facility before November 1, 2007; and

c. Has begun production of biodiesel before March 1, 2009.

2. The "Missouri Qualified Biodiesel Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified biodiesel producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the fund provided that one hundred percent of the feedstock originates in the United States. However, the director may waive the feedstock requirements on a month-to-month basis if the facility provides verification that adequate feedstock is not available. A Missouri qualified biodiesel producer shall only be eligible for the grant for a total of sixty months unless such producers during the sixty months fail, due to a lack of appropriations, to receive the full amount from the fund for which the producers were eligible, in which case such producers shall continue to be eligible until they have received the maximum amount of funding for which such producers were eligible during the original sixty-month

time period. The amount of the grant is determined by calculating the estimated gallons of qualified biodiesel produced during the preceding month from feedstock, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified biodiesel producer shall be eligible for a total grant in any fiscal year equal to thirty cents per gallon for the first fifteen million gallons of qualified biodiesel produced from feedstock in the fiscal year plus ten cents per gallon for the next fifteen million gallons of qualified biodiesel produced from feedstock in the fiscal year. All such qualified biodiesel produced by a Missouri qualified biodiesel producer in excess of thirty million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section.

4. In order for a Missouri qualified biodiesel producer to obtain a grant from the fund, an application for such funds shall be received no later than fifteen days following the last day of the month for which the grant is sought. The application shall include:

(1) The location of the Missouri qualified biodiesel producer;

(2) The average number of citizens of Missouri employed by the Missouri qualified biodiesel producer in the preceding month, if applicable;

(3) The number of bushel equivalents of Missouri feedstock and out-of-state feedstock used by the Missouri qualified biodiesel producer in the production of biodiesel in the preceding month;

(4) The number of gallons of qualified biodiesel the producer manufactures during the month for which the grant is applied;

(5) A copy of the qualified biodiesel producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and

(6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified biodiesel producers.

5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section.

6. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

7. This section shall expire on December 31, 2009. However, Missouri qualified biodiesel producers receiving any grants awarded prior to December 31, 2009, shall continue to be eligible for

the remainder of the original sixty-month time period under the same terms and conditions of this section unless such producer during such sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for which he or she was eligible. In such case, such producers shall continue to be eligible until they have received the maximum amount of funding for which they were eligible during the original sixty-month time period.

8. Any Missouri qualified biodiesel producer who receives any grant payments under this section who subsequently sells the biodiesel facility shall be subject to the following payback requirements:

(1) If such facility is sold within less than one year of the date of issuance of the last grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of fifty percent of the total amount of grant payments received under this section;

(2) If such facility is sold within one to two years of the date of issuance of the last grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of forty percent of the total amount of grant payments received under this section;

(3) If such facility is sold within two to three years of the date of issuance of the last grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of thirty percent of the total amount of grant payments received under this section;

(4) If such facility is sold within three to four years of the date of issuance of the last grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of twenty percent of the total amount of grant payments received under this section;

(5) If such facility is sold within four to five years of the date of issuance of the last grant payment, the Missouri qualified biodiesel producer shall pay the state the amount of ten percent of the total amount of grant payments received under this section.

If the sale date of the facility falls on a date that qualifies under more than one subdivision of this subsection, the greater payback amount shall apply. For purposes of this subsection, a facility shall be considered "sold" when there is a change in at least fifty-one percent of the facility's ownership in a transaction that involves a buyer or buyers and a seller or sellers.

(L. 2002 H.B. 1348, A.L. 2005 S.B. 355, A.L. 2006 H.B. 1270 & 1027, A.L. 2007 H.B. 741, A.L. 2012 H.B. 1462)

Expires 12-31-09

#### **Duty of attorney general--suit in name of state.**

142.200. It is hereby made the duty of the attorney general of the state of Missouri to render all necessary assistance to the director of revenue in the enforcement of the provisions of this chapter and for such purpose any and all civil suits and actions for the enforcement of any provision of this chapter may be brought in the name of the state of Missouri at the relation of the director of revenue, and for such purpose, the attorney general is hereby authorized and empowered to employ such counsel and special attorneys as may in his judgment be necessary and any expenses so incurred

by the attorney general in his employment of counsel and in the enforcement of any of the provisions of this chapter shall be chargeable against and paid out of funds appropriated for such purpose.

(L. 1943 p. 670 § 25, A.L. 1972 S.B. 263, A.L. 1998 S.B. 619)

Effective 1-1-99

#### **Exchange of information with other states.**

[142.310](#). The director of revenue shall, upon request duly received from the officials to whom are entrusted the enforcement of the motor fuel tax laws of any other state, forward to such officials any information which it may have in its possession relative to the receipt, sale, use, transportation or shipment by any person of motor fuel.

(L. 1943 p. 670 § 22, A.L. 1972 S.B. 263)

#### **Motor fuel tax fund created--disbursement, transfer.**

[142.345](#). 1. There is created the "Motor Fuel Tax Fund". All revenues derived from the motor fuel tax imposed upon highway users as an incident to their use of the highways of the state shall be deposited in the state treasury to the credit of this fund.

2. The moneys deposited to the credit of the motor fuel tax fund shall be disbursed or transferred as follows:

(1) The amount of the tax collected with respect to fuel not used for propelling motor vehicles on state highways shall be transferred to the state highways and transportation department fund to be refunded by the state as provided by law;

(2) The amount of actual costs of collection, apportionment and of making refunds shall be transferred to the state highways and transportation department fund for reimbursement by appropriation, to the agencies or departments of government incurring these costs, subject to the limitations of section [226.200](#);

(3) A percentage of the net proceeds shall be transferred to the county aid road trust fund as provided in Article IV, Section 30(a) of the State Constitution;

(4) A percentage of the net proceeds shall be allocated to the several cities, towns and villages entitled thereto pursuant to the provisions of Article IV, Section 30(a) of the State Constitution;

(5) All the remaining net proceeds in excess of the allocations to counties and cities, towns and villages shall be transferred to the state highways and transportation department fund.

(L. 1963 p. 192 § 1, A.L. 1972 S.B. 263, A.L. 1992 S.B. 797, A.L. 2000 H.B. 1742)

CROSS REFERENCE:

Federal census results to be used for distribution of revenue, when, [66.351](#)

#### **Distribution of funds for highway and road purposes.**

[142.350](#). The funds herein provided for the construction of state highways shall be distributed between the higher type roads (herein referred to as the primary system) and the other state roads (herein referred to as the secondary system) on the basis now prevailing, that is, forty-eight and eight-tenths percent to the primary system and fifty-one and two-tenths percent to the secondary system, and such basis of distribution shall be continued until one of these systems shall have been completed, and thereafter all of the funds provided for construction purposes shall be used in the construction of the roads of the remaining system; provided, however, that such sums as the commission shall determine are necessary each year to reimburse counties and other civil subdivisions for state highways constructed wholly or in part at their expense and accepted by the commission, and such sums as in the judgment of the commission shall be necessary for maintenance of state highways shall first be deducted from the funds herein provided for before distribution between the primary and secondary system for construction purposes is made; provided further, that sufficient funds to provide for the payment of principal and interest on outstanding state highway bonds as now required by law shall be available from revenue under the provisions of existing laws or pursuant to this chapter before any distribution of funds is made as herein provided.

(L. 1943 p. 670 § 33, A.L. 1972 S.B. 263, A.L. 1998 S.B. 619)

Effective 1-1-99

#### **Interstate fuel taxes reciprocity agreement for collection and refund with other states.**

[142.617](#). The director of revenue may enter into reciprocity agreements on behalf of the state of Missouri with authorized representatives of other states for the collection and refund of interstate fuel taxes levied pursuant to this chapter. The director may adopt rules pursuant to this chapter to implement the agreement for collection and refund of interstate fuel taxes and other fuel tax agreements. The reporting requirements, as provided in the agreement, shall take precedence over the reporting requirements provided in this chapter. Where the agreement and this chapter address the same matters, the provisions of the agreement shall take precedence. A current copy of the agreement shall be maintained by the department of revenue.

(L. 1988 H.B. 1681, A.L. 1998 S.B. 619)

Effective 1-1-99

#### **CROSS REFERENCE:**

Interstate motor carriers, collection and regulation of amounts payable pursuant to International Fuel Tax Agreement transferred to highways and transportation commission, [226.008](#)

#### **Definitions.**

[142.800](#). As used in this chapter, the following words, terms and phrases have the meanings given:

(1) "Agricultural purposes", clearing, terracing or otherwise preparing the ground on a farm; preparing soil for planting and fertilizing, cultivating, raising and harvesting crops; raising and feeding livestock and poultry; building fences; pumping water for any and all uses on the farm, including



irrigation; building roads upon any farm by the owner or person farming the same; operating milking machines; sawing wood for use on a farm; producing electricity for use on a farm; movement of tractors, farm implements and nonlicensed equipment from one field to another;

(2) "Alternative fuel", electricity, liquefied petroleum gas (LPG or LP gas), compressed natural gas product, or a combination of liquefied petroleum gas and a compressed natural gas or electricity product used in an internal combustion engine or motor to propel any form of vehicle, machine, or mechanical contrivance. It includes all forms of fuel commonly or commercially known or sold as butane, propane, or compressed natural gas;

(3) "Aviation fuel", any motor fuel specifically compounded for use in reciprocating aircraft engines;

(4) "Blend stock", any petroleum product component of motor fuel, such as naphtha, reformat, toluene or kerosene, that can be blended for use in a motor fuel without further processing. The term includes those petroleum products presently defined by the Internal Revenue Service in regulations pursuant to 26 U.S.C., Sections 4081 and 4082, as amended. However, the term does not include any substance that:

(a) Will be ultimately used for consumer nonmotor fuel use; and

(b) Is sold or removed in drum quantities (fifty-five gallons) or less at the time of the removal or sale;

(5) "Blended fuel", a mixture composed of motor fuel and another liquid including blend stock, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle. This term includes but is not limited to gasohol, ethanol, methanol, fuel grade alcohol, diesel fuel enhancers and resulting blends;

(6) "Blender", any person that produces blended motor fuel outside the bulk transfer/terminal system;

(7) "Blending", the mixing of one or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use or otherwise sold for use in the generation of power for the propulsion of a motor vehicle, an airplane, or a motorboat. The term does not include the blending that occurs in the process of refining by the original refiner of crude petroleum or the blending of products known as lubricating oil and greases;

(8) "Bulk plant", a bulk motor fuel storage and distribution facility that is not a terminal within the bulk transfer system and from which motor fuel may be removed by truck;

(9) "Bulk transfer", any transfer of motor fuel from one location to another by pipeline tender or marine delivery within the bulk transfer/terminal system;

(10) "Bulk transfer/terminal system", the motor fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Motor fuel in a refinery, pipeline, boat, barge or terminal is in the bulk transfer/terminal system. Motor fuel in the fuel supply tank of any engine, or in any tank car, rail

car, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system;

(11) "Consumer", the user of the motor fuel;

(12) "Delivery", the placing of motor fuel or any liquid into the fuel tank of a motor vehicle or bulk storage facility;

(13) "Department", the department of revenue;

(14) "Destination state", the state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use;

(15) "Diesel fuel", any liquid that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. "Diesel fuel" does not include jet fuel sold to a buyer who is registered with the Internal Revenue Service to purchase jet fuel and remit taxes on its sale or use to the Internal Revenue Service. "Diesel fuel" does not include biodiesel commonly referred to as B100 and defined in ASTM D6751, B99, or B99.9 until such biodiesel is blended with other diesel fuel or sold for highway use;

(16) "Diesel-powered highway vehicle", a motor vehicle operated on a highway that is propelled by a diesel-powered engine;

(17) "Director", the director of revenue;

(18) "Distributor", a person who either produces, refines, blends, compounds or manufactures motor fuel, imports motor fuel into a state or exports motor fuel out of a state, or who is engaged in distribution of motor fuel;

(19) "Dyed fuel", diesel fuel or kerosene that is required to be dyed pursuant to United States Environmental Protection Agency rules or is dyed pursuant to Internal Revenue Service rules or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or Internal Revenue Service including any invisible marker requirements;

(20) "Eligible purchaser", a distributor who has been authorized by the director to purchase motor fuel on a tax-deferred basis;

(21) "Export", to obtain motor fuel in this state for sale or other distribution outside of this state. In applying this definition, motor fuel delivered out of state by or for the seller constitutes an export by the seller, and motor fuel delivered out of state by or for the purchaser constitutes an export by the purchaser;

(22) "Exporter", any person, other than a supplier, who purchases motor fuel in this state for the purpose of transporting or delivering the fuel outside of this state;

(23) "Farm tractor", all tractor-type, motorized farm implements and equipment but shall not include motor vehicles of the truck-type, pickup truck-type, automobiles, and other motor vehicles required to be registered and licensed each year pursuant to the provisions of the motor vehicle license and registration laws of this state;

(24) "Fuel grade alcohol", a methanol or ethanol with a proof of not less than one hundred ninety degrees (determined without regard to denaturants) and products derived from such alcohol for blending with motor fuel;

(25) "Fuel transportation vehicle", any vehicle designed for highway use which is also designed or used to transport motor fuels and includes transport trucks and tank wagons;

(26) "Gasoline", all products commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel. Gasoline does not include products that have an American Society for Testing and Materials (ASTM) octane number of less than seventy-five as determined by the motor method;

(27) "Gross gallons", the total measured motor fuel, exclusive of any temperature or pressure adjustments, in U.S. gallons;

(28) "Heating oil", a motor fuel that is burned in a boiler, furnace, or stove for heating or industrial processing purposes;

(29) "Import", to bring motor fuel into this state by any means of conveyance other than in the fuel supply tank of a motor vehicle. In applying this definition, motor fuel delivered into this state from out-of-state by or for the seller constitutes an import by the seller, and motor fuel delivered into this state from out-of-state by or for the purchaser constitutes an import by the purchaser;

(30) "Import verification number", the number assigned by the director with respect to a single transport truck delivery into this state from another state upon request for an assigned number by an importer or the transporter carrying motor fuel into this state for the account of an importer;

(31) "Importer" includes any person who is the importer of record, pursuant to federal customs law, with respect to motor fuel. If the importer of record is acting as an agent, the person for whom the agent is acting is the importer. If there is no importer of record of motor fuel entered into this state, the owner of the motor fuel at the time it is brought into this state is the importer;

(32) "Interstate motor fuel user", any person who operates a motor fuel-powered motor vehicle with a licensed gross weight exceeding twenty-six thousand pounds that travels from this state into another state or from another state into this state;

(33) "Invoiced gallons", the gallons actually billed on an invoice for payment to a supplier which shall be either gross or net gallons on the original manifest or bill of lading;

(34) "K-1 kerosene", a petroleum product having an A.P.I. gravity of not less than forty degrees, at a temperature of sixty degrees Fahrenheit and a minimum flash point of one hundred degrees Fahrenheit with a sulfur content not exceeding four one-hundredths percent by weight;

(35) "Kerosene", the petroleum fraction containing hydrocarbons that are slightly heavier than those found in gasoline and naphtha, with a boiling range of one hundred forty-nine to three hundred degrees Celsius;

(36) "Liquid", any substance that is liquid in excess of sixty degrees Fahrenheit and at a pressure of fourteen and seven-tenths pounds per square inch absolute;

(37) "Motor fuel", gasoline, diesel fuel, kerosene and blended fuel;

(38) "Motor vehicle", any automobile, truck, truck-tractor or any motor bus or self-propelled vehicle not exclusively operated or driven upon fixed rails or tracks. The term does not include:

(a) Farm tractors or machinery including tractors and machinery designed for off-road use but capable of movement on roads at low speeds, or

(b) A vehicle solely operated on rails;

(39) "Net gallons", the motor fuel, measured in U.S. gallons, when corrected to a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute (psi);

(40) "Permissive supplier", an out-of-state supplier that elects, but is not required, to have a supplier's license pursuant to this chapter;

(41) "Person", natural persons, individuals, partnerships, firms, associations, corporations, estates, trustees, business trusts, syndicates, this state, any county, city, municipality, school district or other political subdivision of the state, federally recognized Indian tribe, or any corporation or combination acting as a unit or any receiver appointed by any state or federal court;

(42) "Position holder", the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminating services for motor fuel at the terminal. The term includes a terminal operator who owns motor fuel in the terminal;

(43) "Propel", the operation of a motor vehicle, whether it is in motion or at rest;

(44) "Public highway", every road, toll road, highway, street, way or place generally open to the use of the public as a matter of right for the purposes of vehicular travel, including streets and alleys of any town or city notwithstanding that the same may be temporarily closed for construction, reconstruction, maintenance or repair;

(45) "Qualified terminal", a terminal which has been assigned a terminal control number ("tcn") by the Internal Revenue Service;

(46) "Rack", a mechanism for delivering motor fuel from a refinery or terminal into a railroad tank car, a transport truck or other means of bulk transfer outside of the bulk transfer/terminal system;

(47) "Refiner", any person that owns, operates, or otherwise controls a refinery;

(48) "Refinery", a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which motor fuel may be removed by pipeline, by boat or barge, or at a rack;

(49) "Removal", any physical transfer of motor fuel from a terminal, manufacturing plant, customs custody, pipeline, boat or barge, refinery or any facility that stores motor fuel;

(50) "Retailer", a person that engages in the business of selling or dispensing to the consumer within this state;

(51) "Supplier", a person that is:

(a) Registered or required to be registered pursuant to 26 U.S.C., Section 4101, for transactions in motor fuels in the bulk transfer/terminal distribution system; and

(b) One or more of the following:

a. The position holder in a terminal or refinery in this state;

b. Imports motor fuel into this state from a foreign country;

c. Acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to either a two-party exchange or a qualified buy-sell arrangement which is treated as an exchange and appears on the records of the terminal operator; or

d. The position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state. A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal. "Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative substances in this state, produces fuel grade alcohol or alcohol-derivative substances for import to this state into a terminal, or acquires upon import by truck, rail car or barge into a terminal, fuel grade alcohol or alcohol-derivative substances. "Supplier" includes a permissive supplier unless specifically provided otherwise;

(52) "Tank wagon", a straight truck having multiple compartments designed or used to carry motor fuel;

(53) "Terminal", a bulk storage and distribution facility which includes:

(a) For the purposes of motor fuel, is a qualified terminal;

(b) For the purposes of fuel grade alcohol, is supplied by truck, rail car, boat, barge or pipeline and the products are removed at a rack;

(54) "Terminal bulk transfers" include but are not limited to the following:

(a) Boat or barge movement of motor fuel from a refinery or terminal to a terminal;

(b) Pipeline movements of motor fuel from a refinery or terminal to a terminal;

(c) Book transfers of product within a terminal between suppliers prior to completion of removal across the rack; and

(d) Two-party exchanges or buy-sell supply arrangements within a terminal between licensed suppliers;

(55) "Terminal operator", any person that owns, operates, or otherwise controls a terminal. A terminal operator may own the motor fuel that is transferred through or stored in the terminal;

(56) "Transmix", the buffer or interface between two different products in a pipeline shipment, or a mix of two different products within a refinery or terminal that results in an off-grade mixture;

(57) "Transport truck", a semitrailer combination rig designed or used to transport motor fuel over the highways;

(58) "Transporter", any operator of a pipeline, barge, railroad or transport truck engaged in the business of transporting motor fuels;

(59) "Two-party exchange", a transaction in which the motor fuel is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier and:

(a) Which transaction includes a transfer from the person that holds the original inventory position for motor fuel in the terminal as reflected on the records of the terminal operator; and

(b) The exchange transaction is simultaneous with removal from the terminal by the receiving exchange partner. However, in any event, the terminal operator in its books and records treats the receiving exchange party as the supplier which removes the product across a terminal rack for purposes of reporting such events to this state;

(60) "Ultimate vendor", a person that sells motor fuel to the consumer;

(61) "Undyed diesel fuel", diesel fuel that is not subject to the United States Environmental Protection Agency dyeing requirements, or has not been dyed in accordance with Internal Revenue Service fuel dyeing provisions; and

(62) "Vehicle fuel tank", any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the motor vehicle.

(L. 1998 S.B. 619, A.L. 2009 H.B. 683, A.L. 2010 H.B. 1965)

### **Imposition of tax on fuel, amount--collection and precollection oftax.**

142.803. 1. A tax is levied and imposed on all motor fuel used or consumed in this state as follows:

(1) Motor fuel, seventeen cents per gallon;

(2) Alternative fuels, not subject to the decal fees as provided in section 142.869, with a power potential equivalent of motor fuel. In the event alternative fuel, which is not commonly sold or

measured by the gallon, is used in motor vehicles on the highways of this state, the director is authorized to assess and collect a tax upon such alternative fuel measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline. The determination by the director of the power potential equivalent of such alternative fuel shall be prima facie correct;

(3) Aviation fuel used in propelling aircraft with reciprocating engines, nine cents per gallon as levied and imposed by section [155.080](#) to be collected as required under this chapter;

(4) Compressed natural gas fuel, five cents per gasoline gallon equivalent until December 31, 2019, eleven cents per gasoline gallon equivalent from January 1, 2020, until December 31, 2024, and then seventeen cents per gasoline gallon equivalent thereafter. The gasoline gallon equivalent and method of sale for compressed natural gas shall be as published by the National Institute of Standards and Technology in Handbooks 44 and 130, and supplements thereto or revisions thereof. In the absence of such standard or agreement, the gasoline gallon equivalent and method of sale for compressed natural gas shall be equal to five and sixty-six-hundredths pounds of compressed natural gas. All applicable provisions contained in this chapter governing administration, collections, and enforcement of the state motor fuel tax shall apply to the tax imposed on compressed natural gas, including but not limited to licensing, reporting, penalties, and interest;

(5) Liquefied natural gas fuel, five cents per diesel gallon equivalent until December 31, 2019, eleven cents per diesel gallon equivalent from January 1, 2020, until December 31, 2024, and then seventeen cents per diesel gallon equivalent thereafter. The diesel gallon equivalent and method of sale for liquefied natural gas shall be as published by the National Institute of Standards and Technology in Handbooks 44 and 130, and supplements thereto or revisions thereof.

In the absence of such standard or agreement, the diesel gallon equivalent and method of sale for liquefied natural gas shall be equal to six and six-hundredths pounds of liquefied natural gas. All applicable provisions contained in this chapter governing administration, collections, and enforcement of the state motor fuel tax shall apply to the tax imposed on liquefied natural gas, including but not limited to licensing, reporting, penalties, and interest;

(6) If a natural gas, compressed natural gas, or liquefied natural gas connection is used for fueling motor vehicles and for another use, such as heating, the tax imposed by this section shall apply to the entire amount of natural gas, compressed natural gas, or liquefied natural gas used unless an approved separate metering and accounting system is in place.

2. All taxes, surcharges and fees are imposed upon the ultimate consumer, but are to be precollected as described in this chapter, for the facility and convenience of the consumer. The levy and assessment on other persons as specified in this chapter shall be as agents of this state for the precollection of the tax.

(L. 1998 S.B. 619, A.L. 2002 H.B. 1196, A.L. 2014 H.B. 2141)

Effective 1-01-16

**Presumption of highway use.**

[142.806](#). 1. Except as otherwise provided in subdivision (6) of subsection 2 of section [142.815](#), all motor fuel delivered in this state into a motor vehicle fuel supply tank is presumed to be used or consumed on the highways in this state in producing or generating power for propelling motor vehicles.

2. Subject to proof of exemption pursuant to section [142.815](#), all motor fuel is presumed to be used or consumed on the highways of this state to propel motor vehicles if the motor fuel is:

(1) Removed from a terminal in this state; or

(2) Imported into this state other than by a bulk transfer within the bulk transfer/terminal system;  
or

(3) Delivered into a consumer's bulk storage tank from which motor vehicles can be fueled.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Tax levied, when, how measured.**

[142.809](#). 1. The tax levied and imposed by this chapter on the use of motor fuel which was imported into this state, other than by a bulk transfer, shall arise at the time the product is imported into the state and shall be measured by invoiced gallons received outside this state at a refinery, terminal or at a bulk plant for delivery to a destination in this state. In the event that the actual gallons imported exceed both the net or gross gallons reflected on the manifest, bill of lading or shipping papers, the measurement is on actual gallons imported.

2. Except as provided in subsection 1 of this section, the tax levied and imposed by this chapter on the use of motor fuel shall be measured by invoiced gallons of motor fuel removed, other than by a bulk transfer:

(1) From the bulk transfer/terminal system within this state;

(2) From the bulk transfer/terminal system outside this state for delivery to a location in this state as represented on the shipping papers, provided that the supplier imports the motor fuel for the account of the supplier, or the supplier has made a tax precollection election pursuant to section [142.839](#); and

(3) Upon sale in a terminal or refinery in this state to any person not holding a supplier's license.

3. The measurements of fuel grade alcohol, blend stocks and blended fuel shall follow subdivision (1) of subsection 2 for blend fuels imported, and subdivision (2) of subsection 2 for alcohol and blend stocks imported into a terminal, even if by other than a bulk transfer.

(L. 1998 S.B. 619)

Effective 1-1-99



## **Excise tax on motor fuel losses unaccounted for--liability for excisetax.**

[142.812](#). 1. An excise tax at the motor fuel rate is imposed annually on unaccounted for motor fuel losses at a terminal that exceed one half of one percent of the number of net gallons removed from the terminal during the calendar year by a system transfer or at a rack. To determine if this tax applies, the terminal operator must determine the terminal loss as the difference between the following:

(1) The amount of motor fuel in inventory at the terminal at the beginning of the year plus the amount of motor fuel received at the terminal during the year; and

(2) The amount of motor fuel in inventory at the terminal at the end of the year plus the amount of motor fuel removed from the terminal during the year.

2. The terminal operator whose motor fuel is unaccounted for is liable for the tax imposed by this section. Motor fuel received by a terminal operator and not shown on a report as having been removed from the terminal is presumed to be unaccounted for. A terminal operator may provide documentation to substantiate unaccountable losses.

(L. 1998 S.B. 619)

Effective 1-1-99

## **Exemptions allowed for nonhighway use.**

[142.815](#). 1. Motor fuel used for the following nonhighway purposes is exempt from the fuel tax imposed by this chapter, and a refund may be claimed by the consumer, except as provided for in subdivision (1) of this subsection, if the tax has been paid and no refund has been previously issued:

(1) Motor fuel used for nonhighway purposes including fuel for farm tractors or stationary engines owned or leased and operated by any person and used exclusively for agricultural purposes and including, beginning January 1, 2006, bulk sales of one hundred gallons or more of gasoline made to farmers and delivered by the ultimate vender to a farm location for agricultural purposes only. As used in this section, the term "farmer" shall mean any person engaged in farming in an authorized farm corporation, family farm, or family farm corporation as defined in section [350.010](#). At the discretion of the ultimate vender, the refund may be claimed by the ultimate vender on behalf of the consumer for sales made to farmers and to persons engaged in construction for agricultural purposes as defined in section [142.800](#). After December 31, 2000, the refund may be claimed only by the consumer and may not be claimed by the ultimate vender unless bulk sales of gasoline are made to a farmer after January 1, 2006, as provided in this subdivision and the farmer provides an exemption certificate to the ultimate vender, in which case the ultimate vender may make a claim for refund under section [142.824](#) but shall be liable for any erroneous refund;

(2) Kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft or for training, testing or research purposes of aircraft engines;

(3) Diesel fuel used as heating oil, or in railroad locomotives or any other motorized flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly exempted pursuant to another provision.

2. Subject to the procedural requirements and conditions set out in this chapter, the following uses are exempt from the tax imposed by section [142.803](#) on motor fuel, and a deduction or a refund may be claimed:

(1) Motor fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper and which is either:

(a) Exported by a supplier who is licensed in the destination state or through the bulk transfer system;

(b) Removed by a licensed distributor for immediate export to a state for which all the applicable taxes and fees (however nominated in that state) of the destination state have been paid to the supplier, as a trustee, who is licensed to remit tax to the destination state; or which is destined for use within the destination state by the federal government for which an exemption has been made available by the destination state subject to procedural rules and regulations promulgated by the director; or

(c) Acquired by a licensed distributor and which the tax imposed by this chapter has previously been paid or accrued either as a result of being stored outside of the bulk transfer system immediately prior to loading or as a diversion across state boundaries properly reported in conformity with this chapter and was subsequently exported from this state on behalf of the distributor; the exemption pursuant to paragraph (a) of this subdivision shall be claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the tax upon removal of the product from a terminal or refinery in this state.

The exemption pursuant to paragraphs (b) and (c) of this subdivision shall be claimed by the distributor, upon a refund application made to the director within three years. A refund claim may be made monthly or whenever the claim exceeds one thousand dollars;

(2) Undyed K-1 kerosene sold at retail through dispensers which have been designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and undyed K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than twenty-one gallons for use other than for highway purposes. Exempt use of undyed kerosene shall be governed by rules and regulations of the director. If no rules or regulations are promulgated by the director, then the exempt use of undyed kerosene shall be governed by rules and regulations of the Internal Revenue Service. A distributor or supplier delivering to a retail facility shall obtain an exemption certificate from the owner or operator of such facility stating that its sales conform to the dispenser requirements of this subdivision. A licensed distributor, having obtained such certificate, may provide a copy to his or her supplier and obtain undyed kerosene without the tax levied by section [142.803](#). Having obtained such certificate in good faith, such supplier shall be relieved of any responsibility if the fuel is later used in a taxable manner. An ultimate vendor who obtained undyed kerosene upon which the tax levied by section [142.803](#) had been paid and makes sales qualifying

pursuant to this subsection may apply for a refund of the tax pursuant to application, as provided in section [142.818](#), to the director provided the ultimate vendor did not charge such tax to the consumer;

(3) Motor fuel sold to the United States or any agency or instrumentality thereof. This exemption shall be claimed as provided in section [142.818](#);

(4) Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state when leased or owned and when being operated by a federally recognized Indian tribe in the performance of essential governmental functions, such as providing police, fire, health or water services. The exemption for use pursuant to this subdivision shall be made available to the tribal government upon a refund application stating that the motor fuel was purchased for the exclusive use of the tribe in performing named essential governmental services;

(5) That portion of motor fuel used to operate equipment attached to a motor vehicle, if the motor fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir for travel on a highway and for the operation of equipment, or if the motor fuel was placed in a separate fuel tank and used only for the operation of auxiliary equipment. The exemption for use pursuant to this subdivision shall be claimed by a refund claim filed by the consumer who shall provide evidence of an allocation of use satisfactory to the director;

(6) Motor fuel acquired by a consumer out-of-state and carried into this state, retained within and consumed from the same vehicle fuel supply tank within which it was imported, except interstate motor fuel users;

(7) Motor fuel which was purchased tax-paid and which was lost or destroyed as a direct result of a sudden and unexpected casualty or which had been accidentally contaminated so as to be unsalable as highway fuel as shown by proper documentation as required by the director. The exemption pursuant to this subdivision shall be refunded to the person or entity owning the motor fuel at the time of the contamination or loss. Such person shall notify the director in writing of such event and the amount of motor fuel lost or contaminated within ten days from the date of discovery of such loss or contamination, and within thirty days after such notice, shall file an affidavit sworn to by the person having immediate custody of such motor fuel at the time of the loss or contamination, setting forth in full the circumstances and the amount of the loss or contamination and such other information with respect thereto as the director may require;

(8) Dyed diesel fuel or dyed kerosene used for an exempt purpose. This exemption shall be claimed as follows:

(a) A supplier or importer shall take a deduction against motor fuel tax owed on their monthly report for those gallons of dyed diesel fuel or dyed kerosene imported or removed from a terminal or refinery destined for delivery to a point in this state as shown on the shipping papers;

(b) This exemption shall be claimed by a deduction on the report of the supplier which is otherwise responsible for remitting the tax on removal of the product from a terminal or refinery in this state;

(c) This exemption shall be claimed by the distributor, upon a refund application made to the director within three years. A refund claim may be made monthly or whenever the claim exceeds one thousand dollars;

(9) Motor fuel delivered to any marina within this state that sells such fuel solely for use in any watercraft, as such term is defined in section [306.010](#), and not accessible to other motor vehicles, is exempt from the fuel tax imposed by this chapter. Any motor fuel distributor that delivers motor fuel to any marina in this state for use solely in any watercraft, as such term is defined in section [306.010](#), may claim the exemption provided in this subsection. Any motor fuel customer who purchases motor fuel for use in any watercraft, as such term is defined in section [306.010](#), at a location other than a marina within this state may claim the exemption provided in this subsection by filing a claim for refund of the fuel tax.

(L. 1998 S.B. 619, A.L. 1999 S.B. 414, A.L. 2005 S.B. 355, A.L. 2010 H.B. 1965, A.L. 2015 S.B. 231)

#### **Fuel tax exemption for certain public services.**

[142.817](#). Motor fuel sold to be used to operate public mass transportation service by a city transit authority, a city utilities board, or an interstate transportation authority, as such terms are defined in section [94.600](#), a city, or an agency receiving funding from either the Federal Transit Administration's urban or nonurban formula transit programs is exempt from the fuel tax imposed by this chapter. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section [536.028](#). This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

(L. 2007 S.B. 30)

#### **Federal government exemption, how claimed.**

[142.818](#). The exemption under section [142.815](#) for sales of motor fuel sold for use by the United States or any agency or instrumentality thereof shall be claimed as follows:

(1) The ultimate vendor shall obtain a certificate signed by the purchasing entity listed in this section setting forth:

(a) The name and address of the purchasing entity;

(b) The quantity of motor fuel, or if the certificate is for all the motor fuel purchased by the purchasing entity, the certificate shall be for a period not to exceed three years;

(c) The exempt use of the motor fuel;

- (d) The name and address of the ultimate vendor from whom the motor fuel was purchased;
- (e) The federal employer identification number of the purchasing entity; and

(f) A statement that the purchasing entity understands that the fraudulent use of the certificate to obtain fuel without paying the tax levied pursuant to this chapter shall result in the purchaser paying the tax, with penalties and interest, as well as such other penalties provided in this chapter;

(2) The ultimate vendor, having obtained from the purchasing entity the certificate, which the ultimate vendor shall retain for a period of not less than three years, shall execute an ultimate vendor certificate which shall contain the following information:

- (a) The name and address of the ultimate vendor;
- (b) The federal employment identification number of the ultimate vendor;
- (c) The quantity of motor fuel sold and the date of the sale;

(d) A certification that the ultimate vendor sold motor fuel to the purchasing entity for the exempt purpose;

(e) That the ultimate vendor has the necessary records to support the sale of the motor fuel; and

(f) That the ultimate vendor understands and agrees that the fraudulent use of the certificate to obtain fuel without paying the tax levied pursuant to this chapter, or paying a refund of the tax, whether for the ultimate vendor or others, shall result in the payment of the tax by the ultimate vendor, with penalties and interest, as well as such other penalties provided in this chapter;

(3) The ultimate vendor shall give the executed ultimate vendor certificate to the supplier who, having made reasonable commercial inquiries into the accuracy of the information in the certificate, shall be eligible to claim a credit against the tax liability on the ensuing monthly report of the supplier. As a condition of obtaining the credit, the supplier shall credit or refund the tax to the ultimate vendor who made the sale to the purchasing entity. If there is an intermediate vendor, or vendors, in the distribution chain between the supplier and the ultimate vendor, each vendor shall endorse the certificate, subject to any rules and regulations promulgated by the director, and transmit the certificate to the supplier and remit the credit, once received, to the customer of the intermediate vendor. The supplier and all vendors, if they accept the certificate in good faith and make a reasonable inquiry as to the accuracy of the information contained in the certificate, shall be held harmless if the purchasing entity has made a fraudulent claim; and

(4) If the sale of motor fuel to the purchasing entity occurs at a fixed retail pump available to the general public, the ultimate vendor, having made the sale to the purchasing entity without the tax, may apply for a refund from the director by submitting the application and supporting documentation as the director shall reasonably prescribe. However, if the purchase is charged to a fleet or government fueling credit card, or to an oil company credit card issued to the purchasing entity, the ultimate vendor may bill the purchasing entity without the tax and seek a refund, or utilize the provisions of this section. If the purchase occurs at a branded station of a supplier or permissive

supplier, such supplier shall be presumed to have elected to be the ultimate vendor and may claim a credit against the liability on its monthly tax return or apply for a refund.

(L. 1998 S.B. 619)

Effective 1-1-99

**Refund claim, statement to director, when filed, contents--lostdocumentation--investigation by director--credit in lieu ofrefund--records required to be kept--overpayment oftax--erroneous payments of tax--interest paid on refund.**

142.824. 1. To claim a refund in accordance with section 142.815, a person shall present to the director a statement containing a written verification that the claim is made under penalties of perjury and lists the total amount of motor fuel purchased and used for exempt purposes. The claim shall not be transferred or assigned and shall be filed not more than three years after the date the motor fuel was imported, removed or sold if the claimant is a supplier, importer, exporter or distributor. If the claim is filed by the ultimate consumer, a consumer must file the claim within one year of the date of purchase or April fifteenth following the year of purchase, whichever is later. The claim statement shall be supported by the original sales slip, invoice or other documentation as approved by the director and shall include the following information:

- (1) Date of sale;
- (2) Name and address of purchaser;
- (3) Name and address of seller;
- (4) Number of gallons purchased and base price per gallon;
- (5) Number of gallons purchased and charged Missouri fuel tax, as a separate item;
- (6) Number of gallons purchased and charged sales tax, if applicable, as a separate item;
- (7) Marked paid by the seller.

2. If the original sales slip or invoice is lost or destroyed, a statement to that effect shall accompany the claim for refund, and the claim statement shall also set forth the serial number of the invoice. If the director finds the claim is otherwise regular, the director may allow such claim for refund.

3. The director may make any investigation necessary before refunding the motor fuel tax to a person and may investigate a refund after the refund has been issued and within the time frame for making adjustments to the tax pursuant to this chapter.

4. In any case where a refund would be payable to a supplier pursuant to this chapter, the supplier may claim a credit in lieu of such refund for a period not to exceed three years.

5. Every person shall maintain and keep for a period of three years records to substantiate all claims for refund of the motor fuel tax, together with invoices, bills of lading, and other pertinent records and paper as may be required by the director for reasonable administration of this chapter.

6. Motor fuel tax that has been paid more than once with respect to the same gallon of motor fuel shall be refunded by the director to the person who last paid the tax after the subsequent taxable event upon submitting proof satisfactory to the director.

7. Motor fuel tax that has otherwise been erroneously paid by a person shall be refunded by the director upon proof shown satisfactory to the director.

8. If a refund is not issued within ninety days of an accurate and complete filing, as required by this chapter, the director shall pay interest at the rate set out in section [32.065](#) accruing after the expiration of the ninety-day period until the date the refund is issued. After December 31, 2000, if a refund is not issued within thirty days of an accurate and complete filing, as required by this chapter, the director shall pay interest at the rate provided in section [32.065](#) accruing after the expiration of the thirty-day period until the date the refund is issued.

(L. 1998 S.B. 619, A.L. 1999 S.B. 414)

**Distributor to provide invoices of sales to marinas, invoice contents--statement filed with director by certain counties and the commission--unclaimed refunds--county's authorized expenditure of refunds.**

[142.827](#). 1. Each distributor of gasoline upon which a tax is imposed pursuant to this chapter shall forward to the director not later than the last day of the month next following the month of delivery, a copy of the invoice for each delivery of such gasoline to a marina or other retailer who sells such gasoline to the ultimate consumer for use in a boat or ship operating on the waterways of this state and which is located in a county containing any part of a lake having one hundred miles of shoreline or more. Each invoice submitted to the director shall include the name and address of the purchaser, the county in which the gasoline was delivered, the quantity of gasoline delivered and the amount of gasoline tax collected thereon.

2. Prior to July first of each year, each county described in subsection 1 of this section and the state highways and transportation commission shall jointly file with the director a statement listing each public road in that county which provides access to a lake having one hundred miles of shoreline or more, and which the state highways and transportation commission assumed ownership of, from the county, after June 30, 1989. This statement shall list the mutually agreed percentage of unclaimed refunds of gasoline tax collected within that county under the provisions of this section to be paid to that county, and the percentage which is to be paid to the state highways and transportation commission. Until the state highways and transportation commission assumes ownership of one or more such public roads in a county after June 30, 1989, that county shall receive one hundred percent of all unclaimed refunds of gasoline tax derived from that county. If no such statement is filed, the director may assume that the most recent statement on file for that county is correct. As the state highways and transportation commission assumes ownership of one or more such lake access roads within a county, its percentage of unclaimed refunds of gasoline tax collected within that county shall increase correspondingly. The various counties and the state highways and transportation commission are authorized to enter into agreements to effectuate the purpose and intent of this section.

3. No later than August fifteenth of each year, the director shall compare the invoices for delivery of gasoline in each county for use in boats or ships during the previous year with the sales slips submitted to support the claims for refund of gasoline tax provided in this section, and shall, with the approval of the Missouri department of transportation, pay to each county that county's agreed percentage of record of the amount by which the tax paid in the county on sales of gasoline for use in boats and ships exceeds the tax refunded on gasoline purchased in the county. The balance of the unclaimed boat or ship gasoline tax refunds for the county shall be deposited in the state road fund for the use of the highways and transportation commission.

4. The refunds of gasoline tax received by each county in accordance with the provisions of this section shall be used by that county for the construction, repair and maintenance of public roads in the county which connect a state highway with a lake having one hundred miles of shoreline or more and for no other purpose. The state highways and transportation commission is authorized but not required to assume the ownership and responsibility for the construction, repair, and maintenance of a road which provides access to a lake having one hundred miles of shoreline or more, and each county commission having such a road is authorized to transfer its ownership of the road to the highways and transportation commission when that ownership transfer is mutually agreeable. When the highways and transportation commission assumes ownership of any such road, that road becomes a part of the state highway system, and shall be constructed, reconstructed, repaired and maintained as the highways and transportation commission deems appropriate from the revenue available in the state road fund and any other available sources.

(L. 1998 S.B. 619)

Effective 1-1-99

**License required for interstate motor fuel uses, effect of reciprocity agreement, single-trip permit, fee.**

142.830. 1. It is unlawful for any person to act as an interstate motor fuel user without being licensed as such unless the motor fuel user is licensed under a reciprocity agreement. However, as to a motor vehicle operated in this state in the course of interstate traffic by an unlicensed interstate motor fuel user, a single trip motor fuel tax permit authorizing operation of such vehicle for a single trip through the state, or from a point on the border of this state to a point within and return to the border may be issued upon proper application and in a manner prescribed by the director. Any person found to have not purchased a trip permit when so required shall immediately purchase such permit. The fee for each permit shall be ten dollars, and the permit shall be valid for a period of seventy-two hours. Permits shall be made available at official highway weigh stations.

2. A single trip permit shall be issued for each vehicle for which application is made, and the application fee for such permit shall apply only to the vehicle for which the permit is issued. A trip permit shall not be issued to anyone whose license is currently in a revoked status. Evidence of the issuance of such trip permit or in the alternative the payment and civil penalty thereof shall be furnished to the director, his agents, appointees or any officer of the Missouri state highway patrol upon demand.



(L. 1998 S.B. 619)

Effective 1-1-99

### **Liability for unpaid tax.**

[142.833](#). Any person who is required to precollect or pay a tax as established in this chapter and who fails to precollect or remit the tax or any part thereof is fully responsible for the unpaid tax. The director may recover any unpaid taxes pursuant to this chapter from any party who was under a duty to precollect or pay the tax. Such person remains liable for the taxes even in the event that, for whatever reason, such person failed to precollect or pay the taxes due. The liability to precollect and remit shall be separate from any duty that the consumer may have pursuant to this chapter to pay upon consumption, and the existence of such overlapping duties shall not be a defense for a failure to precollect and remit, though it may give rise to a refund claim in accordance with section [142.824](#) if both parties pay the tax.

(L. 1998 S.B. 619)

Effective 1-1-99

### **Precollection of tax and remittal by licensed distributors and unlicensed importers.**

[142.836](#). Except as otherwise provided in this chapter, the tax imposed by section [142.803](#) on motor fuel measured by gallons imported from another state shall be precollected on behalf of the consumers and remitted to the state by the:

(1) Licensed distributor who has imported the nonexempt motor fuel. The precollection shall be made and remitted within three business days after:

(a) The nonexempt motor fuel was entered into the state; or

(b) A valid import verification number required by this chapter was assigned by the director; whichever occurred earlier. If the motor fuel was not subject to a precollection agreement with the supplier, the precollection shall be remitted in the manner specified by the director; or

(2) Licensed distributor who has imported the nonexempt motor fuel which is subject to a precollection agreement with the supplier. The precollection shall be made and remitted on or before the last day of the following month unless such day falls upon a weekend or state holiday, in which case the liability would be due the next succeeding business day. The remittance of all amounts of tax due shall be paid on the basis of ninety-seven percent for gasoline, gasoline blends and gasoline blend stocks and ninety-eight percent for diesel, diesel blends and diesel blend stocks. The distributor shall remit the tax to the supplier, acting as trustee, who shall remit to the director on behalf of the distributor under the same terms as a supplier payment pursuant to section [142.842](#) and no import verification number shall be required; or

(3) Unlicensed importer at the time the fuel is entered into this state. However, if the supplier of the motor fuel, as shown on the records of the terminal operator, has made a blanket election to precollect tax in accordance with section [142.839](#), then the importer shall remit the tax to the

supplier, acting as trustee, who shall remit to the director on behalf of the importer under the same terms as a supplier payment pursuant to section [142.842](#), and no import verification number shall be required.

(L. 1998 S.B. 619)

Effective 1-1-99

**Supplier's blanket election to treat all removals as removals across the rack from a terminal in this state--notice--director's list of electing suppliers--precollection of tax by supplier.**

[142.839](#). 1. Any licensed supplier or licensed permissive supplier may make a blanket election with the director to treat all removals from all of its out-of-state terminals with a destination in this state as shown on the terminal-issued shipping paper as if the removals were removed across the rack by the supplier from a terminal in this state for all purposes.

2. The election provided by this section shall be made by filing a "notice of election" with the director.

3. The director shall publish a list of electing suppliers pursuant to this section.

4. The absence of an election by a supplier in accordance with this section shall in no way relieve the supplier of responsibility for remitting the tax imposed by this chapter upon the removal from an out-of-state terminal for import into this state by the supplier.

5. Any supplier which makes the election provided by this section shall precollect the tax imposed by this chapter on all removals from a qualified terminal on its account as a position holder, or as a person receiving fuel from a position holder pursuant to a terminal bulk transfer without regard to the license status of the person acquiring the fuel from the supplier, the point or terms of sale, or the character of delivery.

6. Each supplier who elects to precollect tax pursuant to this chapter agrees to waive any defense that the state lacks jurisdiction to require collection on all out-of-state sales by such person as to which the person had knowledge that the shipments were destined for this state and that this state imposes the requirement pursuant to this subsection under its general police powers to regulate the movement of motor fuels.

7. Each supplier who elects to precollect tax pursuant to this chapter shall not be subject to any civil penalties or interest imposed pursuant to this chapter for any corrections resulting from a diversion of the motor fuel from the original destination as represented by the purchaser or the agent of the purchaser. However, the supplier and exporter in accordance with this subsection may, by mutual agreement, permit the supplier to assume the liability of the exporter and adjust the taxes of the exporter payable to the supplier.

(L. 1998 S.B. 619)

Effective 1-1-99

### **Precollection of tax and remittal by person removing fuel through supplier.**

[142.842](#). 1. The tax imposed by section [142.803](#), measured by motor fuel removed from a terminal or refinery in this state, other than a terminal bulk transfer, shall be precollected and remitted on behalf of the consumers to the state by the person removing the motor fuel from the facility through the supplier of the motor fuel, as shown in the records of the terminal operator, acting as a trustee.

2. The supplier and each reseller shall list the amount of tax as a separate line item on all invoices or billings.

3. All tax to be paid by a supplier with respect to gallons removed on the account of the supplier during a calendar month shall be due and payable on or before the second day of the second succeeding month unless such day falls upon a weekend or state holiday in which case the liability would be due the next succeeding business day.

4. A supplier shall remit any late taxes remitted to the supplier by an eligible purchaser and shall timely notify the director of any late remittances if that supplier has previously given notice to the director that the tax amount was not received pursuant to subsection 1 of section [142.857](#).

5. The remittance of all amounts of tax due shall be paid on the basis of the amount invoiced to eligible purchasers or ninety-seven percent for gasoline, gasoline blends and gasoline blend stocks and ninety-eight percent for diesel fuel, diesel blends and diesel blend stocks when the supplier removed the motor fuel for its own account or on sales to noneligible purchasers. At the director's discretion, payment may be made by electronic funds transfer.

(L. 1998 S.B. 619)

Effective 1-1-99

### **Terminal operator liability for tax.**

[142.845](#). The terminal operator of a terminal in this state is jointly and severally liable for the tax imposed pursuant to section [142.803](#) and shall remit payment to this state at the same time and on the same basis as a supplier in accordance with section [142.842](#) upon:

(1) The removal of motor fuel from the terminal on account of any supplier who is not licensed in this state. However, the terminal operator shall be relieved of liability if the terminal operator establishes all of the following:

(a) The terminal operator has a valid terminal operator's license issued for the facility from which the motor fuel is withdrawn;

(b) The terminal operator has a copy of a valid license from the supplier as required by the director; and

(c) The terminal operator has no reason to believe that any information is false; or

(2) The removal of motor fuel that is not dyed and marked in accordance with Internal Revenue Service requirements, if the terminal operator provides any person with any bill of lading, shipping paper, or similar document indicating that the motor fuel is dyed and marked in accordance with Internal Revenue Service requirements.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Distributor's election on timing of remittance.**

[142.848](#). There shall be an election available to those eligible distributors who remove fuel from a terminal or refinery operated by a supplier or permissive supplier who remit the tax through the supplier, acting as a trustee, as to the timing of the remittance. At the election of an eligible purchaser, which notice shall be evidenced by a written statement from the director as to the purchaser eligibility status as determined pursuant to section [142.851](#), the supplier shall not require a payment of motor fuel tax on transport truckloads from the purchaser sooner than two business days prior to the date on which the tax is required to be remitted by the supplier pursuant to section [142.842](#). This election shall be subject to a condition that the remittances by the eligible purchaser of all amounts of tax due the supplier shall be paid on the basis of ninety-seven percent for gasoline, gasoline blends and gasoline blend stocks and ninety-eight percent for diesel fuel, diesel blends and diesel blend stocks and which shall be paid by electronic funds transfer on or before the second preceding day prior to the date of the remittance by the supplier to the director. Should the tax being remitted through the supplier be a destination state motor fuel tax on exports pursuant to section [142.815](#), the timing and basis of this section are to be substituted for the due dates and basis of an importer's tax in the destination state.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Timing election by distributors, requirements.**

[142.851](#). 1. Each purchaser desiring to make an election under section [142.848](#) shall present evidence to the director that:

(1) The applicant was a licensee in good standing under the predecessor motor fuel statute as to which the applicant remitted tax to the director; or

(2) The applicant meets the financial responsibility and bonding requirements imposed by this chapter, which bond shall conform to the specific requirements of this section.

2. The director may require a purchaser who pays the tax to a supplier to file with the director a surety bond payable to the state, upon which the purchaser is the obligor or other financial security, in an amount satisfactory to the director, calculated with a maximum of three times monthly potential tax payments with a maximum amount of one hundred fifty thousand dollars for gasoline and diesel fuel separately. The director may require that the bond indemnify the director against the tax credits claimed by the suppliers pursuant to section [142.854](#).

3. Each purchaser desiring to make an election in accordance with section [142.848](#) shall not be subject to the provisions of subsection 2 of this section if the purchaser holds a valid distributor's license and meets the bonding requirements according to the law on the day prior to the effective date of sections [142.800](#) to [142.953](#). Upon January 1, 1999, each purchaser holding a valid distributor's license issued prior to January 1, 1999, may elect to become an eligible purchaser. Such purchaser shall have the option to provide bonding as provided for distributors in section [142.896](#).

4. The director shall have the authority to rescind a purchaser's eligibility and election to defer motor fuel tax remittances for the failure to make timely tax-deferred payment of tax to a supplier pursuant to section [142.848](#), by sending written notice to all suppliers or publishing notice of the revocation. As a condition of restoring a purchaser's eligibility the director may require further assurance of the financial responsibility of the purchaser, including increasing the bond required up to the three times potential liability without regard to a maximum, or any other action that the director may reasonably require to ensure remittance of the motor fuel tax. Any person whose application is refused or eligibility cancelled by the director may seek review of the determination by the administrative hearing commission. Notwithstanding any other provision of the law, the administrative hearing commission shall not grant a stay.

5. The director shall publish a list of eligible purchasers and make it available to all suppliers.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Supplier's duty to remit--tax credit, supplier entitled, when.**

[142.854](#). Every supplier has a fiduciary duty to remit to the director the amount of tax paid to the supplier, in its role as a trustee, by any purchaser, importer, exporter or eligible purchaser. In computing the amount of motor fuel tax due, the supplier shall be entitled to a credit against the tax payable in the amount of tax paid by the supplier that was accrued and remitted to a state, but not received from an eligible purchaser. The director shall have the right to recover any unpaid tax directly from the eligible purchaser.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Supplier's eligibility for credit.**

[142.857](#). 1. In order for the supplier to be eligible for the credit in section [142.854](#) it must provide notice to the director of a failure to collect the\* tax within ten business days following the earliest date on which the supplier was entitled to collect the tax from the eligible purchaser pursuant to section [142.848](#). The director shall establish the evidence a supplier must provide to receive the credit. The claim for credit shall identify the defaulting eligible purchaser and any tax liability that remains unpaid. The credit shall be claimed on the first return following the expiration of the ten-day period as provided in this section if the payment remains unpaid as of the filing date of that return or

the credit shall be disallowed. The credit of the supplier shall be limited to the amount due from the purchaser, plus any tax that accrues from that purchaser for a period not to exceed ten days or the date of notification to the director or whichever is earlier following the date of failure to pay. No additional credit shall be allowed to a supplier pursuant to this section with respect to that purchaser until the director has notified the supplier that the purchaser's eligibility to make deferrals in accordance with section [142.851](#) has been restored.

2. In the event that the credit to the supplier originates out of a failure to pay a destination state motor fuel tax on shipments removed for export under subdivision (1) of subsection 2 of section [142.815](#), the presumption in section [142.806](#) shall be raised that the fuel was removed for use in this state and thus taxable. The director shall seek payment of the tax in a dual capacity both to protect the interests of this state and as the base state from which the shipment originated to assist the destination state in the reporting or collection of tax due upon the receipt of the fuel into that state.

3. The provisions of this section shall terminate as to the credits given for motor fuel taxes not received due a destination state upon a reciprocity agreement being entered into between the director and authorized representatives of that state as to the collection of these taxes.

(L. 1998 S.B. 619)

Effective 1-1-99

\*Word "the" does not appear in original rolls.

#### **Remittance by electronic fund transfer, when.**

[142.860](#). If required by the director, all suppliers and other persons required to pay tax pursuant to this chapter shall remit by electronic fund transfer. The transfer shall be made on or before the date the tax is due.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Costs of administration, percentage retained by supplier.**

[142.863](#). Every supplier and permissive supplier who properly remits tax in accordance with this chapter shall be allowed to retain one-tenth of one percent of the tax imposed by this chapter and collected and remitted by that supplier in accordance with this chapter to cover the costs of administration imposed by this chapter including reporting, audit compliance, dye injection, and shipping paper preparation.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Consumer liable, when--vendor liable, when.**

[142.866](#). 1. In the event the tax imposed by section [142.803](#) is not otherwise precollected, the ultimate consumer shall be liable, unless such person is otherwise exempted pursuant to section [142.869](#) or subdivisions (3) and (5) of subsection 2 of section [142.815](#), for the tax upon the delivery into the fuel supply tank of a motor vehicle for the use of motor fuel on the highways including, but not limited to:

- (1) Any diesel fuel that contains a dye; or
- (2) Any motor fuel on which a claim for refund has been made.

2. The ultimate vendor of motor fuel, other than a federally recognized Indian tribe, shall be jointly and severally liable for the backup tax precollected by subsection 1 of this section if the ultimate vendor knows or has reason to know that the motor fuel, as to which tax imposed by this chapter has not been paid, is or will be consumed in a nonexempt use.

(L. 1998 S.B. 619)  
Effective 1-1-99

#### **Alternative fuel decal fee in lieu of tax--decal--penalty.**

[142.869](#). 1. The tax imposed by this chapter shall not apply to passenger motor vehicles, buses as defined in section [301.010](#), or commercial motor vehicles registered in this state which are powered by alternative fuel, and for which a valid decal has been acquired as provided in this section, provided that sales made to alternative fueled vehicles powered by compressed natural gas or liquefied natural gas that do not meet the requirements of subsection 3 of this section shall be taxed exclusively pursuant to subdivisions (4) and (5) of subsection 1 of section [142.803](#), respectively. The owners or operators of such motor vehicles shall, in lieu of the tax imposed by section [142.803](#), pay an annual alternative fuel decal fee as follows: seventy-five dollars on each passenger motor vehicle, school bus as defined in section [301.010](#), and commercial motor vehicle with a licensed gross vehicle weight of eighteen thousand pounds or less; one hundred dollars on each motor vehicle with a licensed gross weight in excess of eighteen thousand pounds but not more than thirty-six thousand pounds used for farm or farming transportation operations and registered with a license plate designated with the letter "F"; one hundred fifty dollars on each motor vehicle with a licensed gross vehicle weight in excess of eighteen thousand pounds but less than or equal to thirty-six thousand pounds, and each passenger-carrying motor vehicle subject to the registration fee provided in sections [301.059](#), [301.061](#) and [301.063](#); two hundred fifty dollars on each motor vehicle with a licensed gross weight in excess of thirty-six thousand pounds used for farm or farming transportation operations and registered with a license plate designated with the letter "F"; and one thousand dollars on each motor vehicle with a licensed gross vehicle weight in excess of thirty-six thousand pounds. Notwithstanding provisions of this section to the contrary, motor vehicles licensed as historic under section [301.131](#) which are powered by alternative fuel shall be exempt from both the tax imposed by this chapter and the alternative fuel decal requirements of this section.

2. Except interstate fuel users and vehicles licensed under a reciprocity agreement as defined in section [142.617](#), the tax imposed by section [142.803](#) shall not apply to motor vehicles registered outside this state which are powered by alternative fuel other than compressed natural gas and liquefied natural gas, and for which a valid temporary alternative fuel decal has been acquired as provided in this section. The owners or operators of such motor vehicles shall, in lieu of the tax imposed by section [142.803](#), pay a temporary alternative fuel decal fee of eight dollars on each such vehicle. Such decals shall be valid for a period of fifteen days from the date of issuance and shall be attached to the lower right-hand corner of the front windshield on the motor vehicle for which it was issued. Such decal and fee shall not be transferable. All proceeds from such decal fees shall be deposited as specified in section [142.345](#). Alternative fuel dealers selling such decals in accordance with rules and regulations prescribed by the director shall be allowed to retain fifty cents for each decal fee timely remitted to the director.

3. Owners or operators of passenger motor vehicles, buses as defined in section [301.010](#), or commercial motor vehicles registered in this state which are powered by compressed natural gas or liquefied natural gas who have installed a compressed natural gas fueling station or liquefied natural gas fueling station used solely to fuel the motor vehicles they own or operate as of December 31, 2015, may continue to apply for and use the alternative fuel decal in lieu of paying the tax imposed under subdivisions (4) and (5) of subsection 1 of section [142.803](#). Owners or operators of compressed natural gas fueling stations or liquefied natural gas fueling stations whose vehicles bear an alternative fuel decal shall be prohibited from selling or providing compressed natural gas or liquefied natural gas to any motor vehicle they do not own or operate. Owners or operators of motor vehicles powered by compressed natural gas or liquefied natural gas bearing an alternative fuel decal after January 1, 2016, that decline to renew the alternative fuel decals for such motor vehicles shall no longer be eligible to apply for and use alternative fuel decals under this subsection. Any compressed natural gas or liquefied natural gas obtained at any fueling station not owned by the owner or operator of the motor vehicle bearing an alternative fuel decal shall be subject to the tax under subdivisions (4) and (5) of subsection 1 of section [142.803](#).

4. The director shall annually, on or before January thirty-first of each year, collect or cause to be collected from owners or operators of the motor vehicles specified in subsection 1 of this section the annual decal fee. Applications for such decals shall be supplied by the department of revenue. In the case of a motor vehicle which is not in operation by January thirty-first of any year, a decal may be purchased for a fractional period of such year, and the amount of the decal fee shall be reduced by one-twelfth for each complete month which shall have elapsed since the beginning of such year.

5. Upon the payment of the fee required by subsection 1 of this section, the director shall issue a decal, which shall be valid for the current calendar year and shall be attached to the lower right-hand corner of the front windshield on the motor vehicle for which it was issued.

6. The decal fee paid pursuant to subsection 1 of this section for each motor vehicle shall be transferable upon a change of ownership of the motor vehicle and, if the LP gas or natural gas equipment is removed from a motor vehicle upon a change of ownership and is reinstalled in another motor vehicle, upon such reinstallation. Such transfers shall be accomplished in accordance with rules and regulations promulgated by the director.



7. It shall be unlawful for any person to operate a motor vehicle required to have an alternative fuel decal upon the highways of this state without a valid decal.

8. No person shall cause to be put, or put, LP gas into the fuel supply receptacle of a motor vehicle required to have an alternative fuel decal unless the motor vehicle has a valid decal attached to it. Sales of fuel placed in the supply receptacle of a motor vehicle displaying such decal shall be recorded upon an invoice, which invoice shall include the decal number, the motor vehicle license number and the number of gallons placed in such supply receptacle.

9. Any person violating any provision of this section is guilty of an infraction and shall, upon conviction thereof, be fined five hundred dollars.

10. Motor vehicles displaying a valid alternative fuel decal are exempt from the licensing and reporting requirements of this chapter.

(L. 1998 S.B. 619, A.L. 2008 H.B. 1628, A.L. 2014 H.B. 2141)

Effective 1-01-16

#### **Diverted fuel, liability.**

142.872. 1. In the event a distributor diverts motor fuel removed from a terminal in this state from an intended destination outside this state as shown on the terminal-issued shipping papers to a destination within this state, the distributor, in addition to compliance with the notification provided for in section 142.917, shall notify and pay the tax imposed by section 142.803 to the state upon the same terms and conditions as in section 142.836. Each supplier who precollects the tax pursuant to this chapter shall not be subject to any civil penalties or interest imposed pursuant to this chapter for any corrections resulting from a diversion of the motor fuel from the original destination as represented by the purchaser or the agent of the purchaser. However, the supplier and distributor may, by mutual agreement, permit the supplier to assume the liability of the exporter and adjust the taxes of the exporter payable to the supplier. The exporter shall remain liable for all interest and penalties which may accrue on this amount.

2. In the event that a person removes from a bulk plant in this state and exports motor fuel upon which the tax imposed by this chapter has previously been paid or accrued, the exporter may apply for and the director shall issue a refund of the tax upon the exporter providing proof of export satisfactory to the director.

3. In the event that a person diverts motor fuel from a destination outside this state to a destination inside this state after having removed the product from a terminal outside this state, the importer, in addition to compliance with the notification provided for in section 142.917, shall notify the state and shall pay the tax upon import on the same terms and conditions as set out in section 142.836. However, an importer who has purchased the product from a licensed supplier may, by mutual agreement with the supplier, permit the supplier to assume the liability of the importer and adjust the taxes of the importer payable to the supplier.

4. In the event of a legal diversion by a distributor from a destination in this state to another state the distributor diverting the product shall apply for a refund from this state in conformity with section [142.815](#). The distributor may, by mutual agreement with the supplier, assign the claim to the supplier who may take a credit. In the event of a legal diversion by a supplier, the supplier may take a credit for diversions directed by that supplier for the account of the supplier.

5. In the event that the other state involved in a cross-border shipment has entered into a multistate compact with this state, the distributor or supplier who diverts shall pay or seek refund only upon the difference in state taxes with notice to both states upon proof shown of payment to the actual destination state. The director shall periodically determine procedures for making this adjustment and maintain a list of those states which meet these criteria.

(L. 1998 S.B. 619)

Effective 1-1-99

### **Final report.**

[142.875](#). 1. Every licensee shall, upon the discontinuance, sale, or transfer of the business or upon the cancellation, revocation or termination by law of a license pursuant to section [142.899](#), or as otherwise provided, within fifteen days, make a report as required pursuant to this chapter marked "Final Report", and shall pay all motor fuel taxes, penalties and interest that may be due the state except as may otherwise be provided by law.

2. For purposes of this section, any person who was licensed to remit motor fuel taxes by this state prior to January 1, 1999, and who is not licensed as a supplier pursuant to this chapter shall be deemed to have the license terminated pursuant to this section as of January 1, 1999.

3. Any distributor licensed prior to January 1, 1999, who is ineligible to elect eligible purchaser status, or who otherwise does not apply for or does not receive eligible purchaser status in accordance with section [142.851](#), may in the alternative elect to make payment of the tax calculated and interest provided for in section [32.065](#) pursuant to the final report provided for in this section if the tax is paid in installments agreed to by the director not to exceed twelve months after January 1, 1999.

4. If a person elects pursuant to subsection 3 of this section to defer payment, the person shall not be eligible to claim eligible purchaser status pursuant to section [142.851](#) for a period of thirty-six months following the election.

5. Any former licensee shall be given the opportunity to apply for eligible purchaser status as provided in sections [142.848](#) and [142.851](#), prior to January 1, 1999. Should such determination not be complete before January 1, 1999, collection of tax shown on the final report of the former licensee shall be delayed until the determination is complete. However, the final report shall be due not later than thirty days after a denial of eligible purchaser status becomes final.

6. The final report required by this chapter shall be accompanied by payment of the liability of the final month. A one-time alternative payment method is set out in this section upon January 1, 1999, as part of the conversion from the predecessor act.

(L. 1998 S.B. 619, A.L. 1999 S.B. 414)

### **Application for license.**

**142.878.** 1. Each person applying for a license as provided for in this chapter shall apply upon a form prepared and furnished by the director. The application shall be subscribed to by the person and shall contain the information as the director may reasonably require for the administration of this chapter, including the applicant's federal identification number.

2. The director shall investigate each applicant for a license under this chapter. No license shall be issued if the director determines that any one of the following exists:

(1) The application is not filed in good faith;

(2) The person is not the real party in interest;

(3) The license of the real party in interest has been revoked for cause;

(4) Where such application is filed by a person who managed, operated, owned or controlled, directly or indirectly, a business which held a license pursuant to this chapter which business is indebted to this state for any tax, penalties or interest accruing hereunder;

(5) Where such application is filed by a business that is managed, operated or controlled, directly or indirectly, by any person who held a license pursuant to this chapter who is indebted to this state for any tax, penalties, or interest accruing hereunder;

(6) Where such application is filed by a business that is managed, operated, owned, or controlled, directly or indirectly, by any person who managed, operated, owned or controlled, directly or indirectly, a business licensed pursuant to this chapter which is indebted to this state for any tax, penalties, or interest accruing hereunder;

(7) Any good cause the director may determine;

(8) With respect to a distributor's license, the applicant intending to export is not licensed in the intended specific state(s) of destination; or

(9) The applicant has a prior conviction for motor fuel tax evasion.

3. Applicants, including corporate officers, partners, and individuals, for a license issued by the director may be required to submit their fingerprints to the director at the time of application. Officers of publicly held corporations and their subsidiaries shall be exempt from this fingerprinting provision. Persons, other than applicants for a distributor's license, who possessed licenses issued under a predecessor statute continuously for three years prior to January 1, 1999, shall also be exempt from this provision. Fingerprints required by this section must be submitted on forms prescribed by the director. The director may forward to the Federal Bureau of Investigation or any other agency for

processing all fingerprints submitted by license applicants. The receiving agency shall issue its findings to the director. The director or another state agency may maintain a file of fingerprints.

(L. 1998 S.B. 619)

Effective 1-1-99

### **Bond requirements.**

142.881. 1. In lieu of any of the bonds required by this chapter a licensee may deposit with the director cash, a certificate of deposit or an irrevocable letter of credit. If the applicant files a bond or letter of credit it shall:

(1) Be with a surety company or bank approved by the director which may be an affiliate in the business of assuring such obligations;

(2) Name the applicant as the principal obligor and the state as the obligee; and

(3) Be on forms prescribed by the director.

2. The director may, at the reasonable discretion of the director, require a licensee or an applicant to furnish current verified, financial statements. The director may make independent inquiry into the financial condition of the applicant and, in any case, is not required to accept as accurate financial statements which have not been certified or independently audited. If the director determines that the financial condition of a licensee warrants an increase in the bond, the director may require the licensee to furnish an increased bond.

3. The director may require a licensee to file a new bond with a satisfactory surety in the same form and amount if:

(1) Liability upon the previous bond is discharged or reduced by a judgment rendered, payment made, or otherwise disposed of; or

(2) In the opinion of the director, any surety on the previous bond becomes unsatisfactory. If the new bond is unsatisfactory, the director shall cancel the license. If the new bond is satisfactorily furnished, the director shall release in writing the surety on the previous bond from any liability accruing after the effective date of the new bond.

4. If a licensee has cash, a certificate of deposit or a letter of credit with the director and it is reduced by a judgment rendered, payment made, or otherwise disposed of, the director may require the licensee to make a new deposit equal to the amount of the reduction.

5. If the director reasonably determines that the amount of the existing bond is insufficient to ensure payment to the state of the tax, fee, and any penalty and interest for which the licensee is or may become liable, the licensee shall, upon written demand of the director, file a new or increased bond. The director shall allow the licensee at least fifteen days to secure the increased bond or cash deposit.

6. The new bond shall meet the requirements set forth in this chapter.

7. If the new bond required pursuant to this section is unsatisfactory, the director shall cancel the license.

8. Sixty days after making a written request for release to the director, the surety of a bond furnished by a licensee shall be released from any liability to the state accruing on the bond after the sixty-day period. The release does not affect any liability accruing before the expiration of the sixty-day period.

9. The director shall promptly notify the licensee furnishing the bond that a release has been requested. Unless the licensee obtains a new bond that meets the requirements of this chapter and files with the director the new bond within the sixty-day period, the director shall cancel the license.

10. Sixty days after making a written request for release to the director, the cash deposit, letter of credit or certificate of deposit provided by a licensee shall be cancelled as security for any obligation accruing after the expiration of the sixty-day period. However, the director may retain all or part of the bond for up to three years and one day as security for any obligations accruing before the effective date of the cancellation. Any part not retained by the director shall be released to the licensee. Before the expiration of the sixty-day period, the licensee shall provide the director with a bond that satisfies the requirements of this chapter or the director shall cancel the license.

(L. 1998 S.B. 619)

Effective 1-1-99

### **Supplier's license--supplier's bond for financial responsibilityrequired.**

142.884. 1. Before becoming a position holder in any terminal in this state or engaging in any terminal bulk transfers any person shall first obtain a supplier's license. A valid supplier's license allows the holder of the license to engage in all other activities without having to obtain any other license.

2. Any person who desires to precollect the tax imposed by this chapter as a supplier and who meets the definition of a permissive supplier may obtain a permissive supplier's license. Application for or possession of a permissive supplier's license shall not in itself subject the applicant or licensee to the jurisdiction of this state for any other purpose than administration and enforcement of this chapter.

3. Suppliers and permissive suppliers shall be required to post a bond of not less than three months' potential tax liability based on the number of gallons handled as estimated by the director, but in no event shall the bond be less than one hundred thousand dollars nor more than two million dollars. An applicant may alternatively show proof of financial responsibility acceptable to the director in the following amounts in lieu of posting of bond or in lieu of posting of the full amount of bond, which shall constitute evidence of financial responsibility in the absence of circumstances indicating the director is otherwise at risk with respect to collection of taxes from the applicant:

(1) Proof of five million dollars net worth shall constitute evidence of financial responsibility in lieu of posting of bond;

(2) Proof of two million five hundred thousand dollars net worth shall constitute financial responsibility in lieu of posting one-half of the bond; and

(3) Proof of one million two hundred fifty thousand dollars net worth shall constitute financial responsibility in lieu of posting one-fourth of the bond. Net worth is calculated on a company, not individual state, basis.

4. For the purpose of determining the amount of precollected motor fuel tax due, every supplier shall file with the director, on forms prescribed and furnished by the director, a verified statement. The director may require the reporting of any information reasonably necessary to determine the amount of precollected motor fuel tax due.

5. The director may require every licensed supplier or permissive supplier to separately disclose and identify, in a written statement to the director with the supplier or permissive supplier report, any removal and sale from the bulk transfer/terminal system in another state by that supplier to a person other than a licensed supplier, permissive supplier or distributor of gallons of motor fuel, other than diesel fuel dyed in accordance with this chapter, and which gallons are destined for this state, as shown by the terminal-issued shipping paper, and as to which gallons the tax imposed by this chapter has not been collected or accrued by the supplier upon the removal.

6. The reports required by this section shall be filed on or before the second day of the current month with respect to information for the second preceding calendar month.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Terminal operator's license, when required--operator's bond--statement of operations.**

142.887. 1. Any person, other than a supplier licensed under section 142.884, engaged in business in this state as a terminal operator shall first obtain a terminal operator's license for each terminal site.

2. Terminal operators shall be required to post a bond of not less than three months' potential tax liability based on the number of gallons handled as estimated by the director, but in no event shall the bond be more than five hundred thousand dollars.

3. Each person operating a terminal in this state shall file with the director by the last day of the next month a sworn statement of operations within this state for each terminal within this state, including the information prescribed by the director, on forms prescribed and furnished by the director.

4. For purposes of reporting and determining tax liability under this chapter, every licensee shall maintain inventory records as required by the director.

5. In the event that the source state does not require a terminal report which provides data substantially similar to that required by this section, any terminal operator subject to the police power of this state, and who operates a terminal outside that state, shall provide a report of gallons

removed as to which the operator issued a shipping paper indicating this state as the destination state consistent with the information required under this section. This subsection shall be ineffective if substantially similar data is readily available to this state from a federal terminal report or from the source state as determined by the director.

(L. 1998 S.B. 619)

Effective 1-1-99

### **Transporter's license, when required--transporter's bond--required reports.**

142.890. 1. Each person who is not licensed as a supplier or distributor shall obtain a transporter's license before transporting motor fuel by whatever manner from a point outside this state to a point inside this state, or from a point inside this state to a point outside this state, regardless of whether the person is engaged for hire in interstate commerce or for hire in intrastate commerce.

2. Transporters shall be required to post a bond of not less than three months' potential tax liability based on the number of gallons handled as estimated by the director, but in no event shall the bond be more than one hundred thousand dollars.

3. Each person licensed as a transporter in this state shall file by the last day of each month reports providing information from the preceding calendar month as prescribed by the director on forms prescribed and furnished by the director concerning the amount of motor fuel transported within or across the borders of this state.

(L. 1998 S.B. 619)

Effective 1-1-99

### **Distributor's license, when required.**

142.893. 1. Each person, except suppliers, desiring to export motor fuel to a destination outside of this state shall first obtain a distributor's license. Such license shall be conditioned upon that person holding an appropriate license to import the motor fuel into the destination state, unless all motor fuel exported is subject to a precollection agreement with a supplier to collect the destination state tax and the destination state does not require a license to import. The tax on the motor fuel imported shall not be considered part of potential liability for calculation of the bond required of a distributor's license if all of the motor fuel is subject to one or more tax precollection agreements to remit the destination motor fuel tax of this state to the supplier as trustee with respect to the exports.

2. Each person desiring to deliver dyed or undyed motor fuel into this state on behalf of such person, for the account of that person, or for resale to a purchaser in this state, from another state in a fuel transport truck or in a pipeline or barge shipment into storage facilities other than a qualified terminal, shall first make application for and obtain a distributor's license.

3. A person desiring to import motor fuel to a destination in this state from another state, and who has not entered into an agreement to remit the motor fuel tax of this state to the supplier or permissive supplier as trustee with respect to the imports, shall do the following:

(1) Obtain a distributor's license;

(2) Obtain an import verification number from the director no sooner than twenty-four hours prior to entering the state for each separate import into this state, but in any event the number shall be obtained prior to entering this state;

(3) Display the handwritten import verification number on the terminal-issued shipping document required in accordance with section [142.929](#); and

(4) Comply with the payment requirements under section [142.836](#).

4. Any person blending any motor fuel for sale is required to obtain a license as a distributor.

5. A distributor's license is a prerequisite to making the election permitted in section [142.848](#).

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Distributors' bond--motor fuel trust fund created.**

[142.896](#). 1. Distributors shall be required to post a bond of not less than three months' total liability based on the number of gallons handled as estimated by the director, with a maximum amount of one hundred and fifty thousand dollars for gasoline and diesel fuel separately.

2. The tax on the motor fuel imported shall not be considered part of potential liability for calculation of the bond required of a distributor's license if the nonexempt motor fuels meet the following conditions:

(1) All of the motor fuel is subject to one or more tax precollection agreements to remit the motor fuel tax of this state to the supplier or permissive supplier as trustee with respect to the imports, as provided pursuant to section [142.839](#); and

(2) The director has determined that all border states have adopted terminal reporting requirements adequate for the mutual enforcement of this chapter.

3. If a distributor qualifies pursuant to subsection 3 of section [142.851](#) and was not required to have a bond posted pursuant to the predecessor act, then such distributor may elect to either post the bond as set out in this subsection or participate in a cash bond as set out below. The cash bond shall be held by the director in a "Motor Fuel Bond Trust Fund", which is hereby created, for the benefit of the participating distributors. The bond shall be used solely for the purpose of preventing a loss to the state for motor fuel taxes, surcharges and fees not paid. No distributor shall have any claim or rights against the fund as a separate person. Contributions to the fund will be made at the rate as defined in regulations promulgated by the director of the department of revenue. Contributions will be remitted by the participating distributors through the suppliers under the same



procedures as set out for remitting of motor fuel taxes set out in this chapter. The director shall notify the suppliers of which distributors have elected to participate, when the contributions are required and when the fund has reached its maximum. At that time no further contributions will be required until the fund has been depleted to the minimum amount established by regulation, at which time the director shall notify the distributors and suppliers to resume contributions at the defined rate. In the event the director has made a demand for payment from a participating distributor in this fund, and such demand has not been satisfied within ninety days, the director shall use the cash bond to satisfy the delinquency. Such action shall not affect the liability of the distributor for the tax or prevent the director from taking other actions permitted by this chapter.

4. After the expiration of three consecutive years of satisfactory tax compliance, as determined by the director, a licensed distributor will be eligible to participate in the pool bond in lieu of furnishing any other type of bond. The licensed distributor will be required to pay into the pool bond for a minimum of one year regardless whether the pool bond has reached its maximum or not.

5. The director shall compile a monthly report of all activities regarding the motor fuel bond fund including the name and license number of all licensees who have had a claim made against them, and the report shall be made available to pool members.

6. A distributor is required to remit the tax due on the last day of the succeeding month and file reports prescribed by the director.

7. Each licensed distributor shall report such information as required by the director including, but not limited to imports of motor fuel, exports of motor fuel, blending of motor fuels, all receipts of motor fuel, all receipts and sales of dyed fuel, all receipts and sales of tax-free undyed kerosene and the transporting of motor fuel or blend stocks for or on behalf of others.

8. The report required by this section shall be due on the last day of each month with respect to information required for the next preceding calendar month.

(L. 1998 S.B. 619, A.L. 1999 S.B. 414)

**License issued by director, nontransferable, display of license--transfer of business, procedure--successor to licensee, duties and liabilities--publication list of licensees--record retention period.**

142.899. 1. If the applicant and bond are approved, the director shall issue a license for the principal place of business and the applicant shall make copies for each business location.

2. A license is valid until suspended, revoked for cause, or cancelled.

3. No license is transferable to another person or to another place of business. For purposes of this section, a transfer of a majority interest in a business association, including corporations, partnerships, trusts, joint ventures and any other business association shall be deemed to be a transfer of any license held by the business association to another person. Any change in ownership of a business association, other than a publicly held business association, shall be reported to the director.

4. Each license shall be preserved and conspicuously displayed at the principal place of business for which it is issued.

5. Any person licensed under this chapter shall display his license number on the back of any conveyance of motor fuel.

6. Upon the discontinuance, sale, transfer or change of ownership of the business, the license shall be immediately surrendered to the director. Any relocation of the business shall be immediately reported to the director.

7. Whenever any person licensed to do business under this chapter discontinues, sells, or transfers the business, the licensee shall immediately notify the director in writing of the discontinuance, sale, or transfer. The notice shall give the date of discontinuance, sale, or transfer and in the event of the sale or transfer of the business, the name and address of the purchaser or transferee. The licensee shall be liable for all taxes, interest, and penalties that accrue or may be owing and any criminal liability for misuse of the license that occurs prior to cancellation of the license.

8. The successor to a licensee shall not have liability for its predecessor if the successor obtains a statement that no tax is due from the director prior to making the transfer of interest. All successors shall be required to withhold a sufficient amount of the purchase money to cover the amount of such taxes, interest or penalties due and unpaid until such time as the former owner or predecessor, whether immediate or not, shall produce a receipt from the director showing that the taxes have been paid, or a certificate stating that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold the purchase money and remit at the time of purchase all amounts so withheld to the director to pay all unpaid taxes, interest and penalties due from the owner or predecessor, the purchaser shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by the former owner and person.

9. The director shall publish without charge a list with monthly updates of all licensees, by category.

10. Every licensee, including interstate motor fuel users, shall maintain and keep for a period of three years records of all transactions by which motor fuel is received, used, sold, delivered, or otherwise disposed of, together with invoices, bills of lading, and other pertinent records and papers as may be required by the director for reasonable administration of this chapter. Interstate motor fuel users shall keep such records for a further period if so required by a reciprocity agreement.

(L. 1998 S.B. 619)

Effective 1-1-99

**Director may prescribe forms and require the submission of information.**

142.900. The director of the department of revenue may prescribe forms upon which reports are made to the director and all other forms and information the director deems necessary to enforce

the provisions of this chapter, and may require periodic submission of information from any person dealing in, transporting or storing motor fuel.

(L. 1999 S.B. 414 § 2)

#### **Reports, filing date, how determined.**

[142.902](#). Any report required under this chapter which is transmitted through the United States mail shall be deemed filed and received on the date shown by the post office cancellation or if by certified mail the day shown on the certificate shall be deemed the postmarked date. If the report was mailed but not received, or when received the cancellation is illegible, erroneous or omitted, it shall be deemed filed and received on the date it was mailed if the sender establishes by competent evidence that the report was deposited in the United States mail on or before the due date.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Revocation of license--review--penalties.**

[142.905](#). 1. The director may revoke the license of a person who refuses or neglects to comply with any provision of this chapter or any regulation promulgated pursuant to this chapter. Any person whose license is revoked may seek review of the director's decision by the administrative hearing commission.

2. No person shall engage in any business activity in this state as to which a license is required by this chapter unless the person shall have first obtained the license. Any person who negligently violates this section is subject to a civil penalty in the amount of one thousand dollars. Any person who knowingly violates or knowingly aids and abets another to violate this section with the intent to evade the tax levied by this chapter shall be guilty of a class A misdemeanor.

3. The director may impose a civil penalty against any person who fails to file a return or retain records required by this chapter in the amount of one hundred dollars for the first offense and increasing by that amount for each additional occurrence.

4. If a monthly report is filed or the amount due is remitted later than the time required by this chapter, the tax remitter shall pay to the director all of the motor fuel tax without the reduction allowed by subdivision (2) of section [142.836](#) or subsection 5 of section [142.842](#) in addition to penalties and interest.

5. A supplier, permissive supplier, or distributor who knowingly fails to precollect or timely remit tax otherwise required to be paid over to the director pursuant to this chapter, or pursuant to a tax precollection agreement pursuant to this chapter shall be liable for the uncollected tax plus a penalty of five percent per month for each month or part of a month for which the amount remains unpaid up to a maximum of twenty-five percent and interest as provided in section [32.065](#).

6. A person who fails to pay the tax collected on motor fuel at the time required in this chapter or who fraudulently withholds or appropriates or otherwise uses the money or any portion thereof

belonging to the state shall be guilty of the crime of stealing and subject to punishment pursuant to section [570.030](#).

7. If any person liable for the tax pursuant to this chapter files a false or fraudulent return with the intent to evade the tax, then fifty percent of the total amount of any deficiency, in addition to the deficiency, including interest as provided in section [32.065](#), shall be added, collected and paid.

8. All civil penalties imposed pursuant to this chapter, with any interest, shall be deposited to the credit of the motor fuel tax fund created in section [142.345](#).

(L. 1998 S.B. 619, A.L. 1999 S.B. 414)

#### **Consumer remittance, when due--penalty.**

[142.908](#). In the event the tax imposed by this chapter is not precollected and must be paid by the consumer in accordance with section [142.866](#), the tax is due and payable by the consumer on the last day of each month for the purchases made in the preceding calendar month. The consumer shall file with the director, on forms furnished by the director, a return showing in detail the total purchase price of the motor fuel, the number of gallons purchased or blended, the location of the purchase, the blend stocks and motor fuel components and any other information the director may deem reasonably necessary. With each return, the consumer shall remit to the director the amount of tax shown on the return to be due. Reports timely mailed shall be considered timely filed. If a report is not timely filed, penalties and interest shall be charged from the date the report should have been filed until the report is actually filed and taxes are paid. Penalties shall be five percent of the tax due per month for each month or part of a month for which the amount remains unpaid up to a maximum of twenty-five percent plus interest as provided in section [32.065](#).

(L. 1998 S.B. 619, A.L. 1999 S.B. 414)

#### **Beginning January 1, 2017--Penalties for failure to comply withchapter--misdemeanor or class E felony.**

[142.909](#). A person who violates any provision of this chapter, including, but not limited to the failure to obtain required licenses or permits, or fails to keep records as prescribed herein, or neglects, fails or refuses to allow the director, the director's authorized agents or the Missouri highway patrol to inspect an item of equipment or records, or who fails, neglects or refuses to pay the tax due is guilty of a misdemeanor and may be punished as prescribed by law. Any person who violates any of the provisions of this section with the purpose to defraud is guilty of a class E felony.

(L. 1999 S.B. 414 § 3, A.L. 2014 S.B. 491)

Effective 1-01-17

#### **Until December 31, 2016--Penalties for failure to comply withchapter--misdemeanor or class D felony.**

142.909. A person who violates any provision of this chapter, including, but not limited to the failure to obtain required licenses or permits, or fails to keep records as prescribed herein, or neglects, fails or refuses to allow the director, the director's authorized agents or the Missouri highway patrol to inspect an item of equipment or records, or who fails, neglects or refuses to pay the tax due is guilty of a misdemeanor and may be punished as prescribed by law. Any person who violates any of the provisions of this section with the purpose to defraud is guilty of a class D felony.

(L. 1999 S.B. 414 § 3)

\*This section was amended by S.B. 491, 2014, effective 1-01-17. Due to the delayed effective date, both versions of this section are printed here.

**Beginning January 1, 2017--Shipping documents, contents--manually prepared shipping papers--exemption--split loads--posted notice--penalties.**

142.911. 1. Each person operating a refinery, terminal, or bulk plant in this state shall prepare and provide to the driver of every fuel transportation vehicle receiving motor fuel into the vehicle storage tank at the facility a shipping document setting out on its face:

- (1) Identification by city and state of the terminal, refinery or bulk plant from which the motor fuel was removed;
- (2) The date the motor fuel was removed;
- (3) The amount of motor fuel removed, gross gallons and net gallons;
- (4) The state of destination as represented to the terminal operator by the transporter, the shipper or the agent of the shipper;
- (5) Any other information required by the director for the enforcement of this chapter; and
- (6) The supplier, consignee and carrier of the motor fuel.

2. A terminal operator may manually prepare shipping papers if the terminal does not have the ability to prepare automated shipping papers or as a result of extraordinary unforeseen circumstances, including acts of God, which temporarily interfere with the ability of the terminal operator to issue automated machine-generated shipping papers. However, the terminal operator shall, prior to manually preparing the papers, provide, in the case of a terminal not having the ability to prepare automated shipping papers, written notice to the director, or in the case of extraordinary circumstances, telephonic notice to the director and obtain a service interruption authorization number which the employees of the terminal operator shall add to the manually prepared papers prior to removal of each affected transport load from the terminal. The service interruption authorization number shall be valid for use by the terminal operator for a period not to exceed twenty-four hours. If the interruption has not been corrected within the twenty-four-hour period, additional notice or notices to the director shall be required and interruption authorization number or numbers may be issued upon explanation by the terminal operator satisfactory to the director. If the terminal operator acquires the ability to prepare automated machine-printed shipping papers, the

terminal operator shall notify the director no later than ten days prior to the initial use of such capability.

3. An operator of a bulk plant in this state delivering motor fuel into a tank wagon for subsequent delivery to a consumer in this state shall be exempt from this section. An operator of a bulk plant in this state shall not be required to identify net gallons on the shipping documents as provided by this section.

4. A refinery or terminal operator may load motor fuel, a portion of which fuel is destined for sale or use in this state and a portion of which fuel is destined for sale or use in another state or states. However, such split loads removed shall be documented by the terminal operator by issuing shipping papers designating the state of destination for each portion of the fuel.

5. Each refinery or terminal operator shall post a conspicuous notice proximately located to the point of receipt of shipping papers by transport truck operators, which notice shall describe in clear and concise terms the duties of the transport operator and supplier under section [142.914](#), provided that the director may establish the language, type, style and format of the notice.

6. No terminal operator shall imprint, and no supplier shall knowingly permit a terminal operator to imprint on behalf of the supplier, any false statement on a shipping paper relating to motor fuel to be delivered to this state or to a state having substantially the same shipping paper requirements with respect to the supplier of the fuel, whether or not it was dyed for the intended destination.

7. Any terminal operator who shall knowingly imprint any false statement in violation of this section shall be jointly and severally liable for all the taxes levied by this chapter which are not collected by this state as a result of such action.

8. Any supplier who knowingly violates this section shall be jointly and severally liable with the terminal operator.

9. A person who knowingly violates or knowingly aids and abets another to violate this section with the intent to evade the tax levied by this chapter shall be guilty of a class E felony.

10. The director may impose a civil penalty of one thousand dollars for the first occurrence against every terminal operator that fails to meet shipping paper issuance requirements under this chapter. Each subsequent occurrence described in this subsection is subject to a civil penalty of five thousand dollars.

(L. 1998 S.B. 619, A.L. 2014 S.B. 491)

Effective 1-01-17

**Until December 31, 2016--Shipping documents, contents--manuallyprepared shipping papers--exemption--split loads--postednotice--penalties.**

[142.911](#). 1. Each person operating a refinery, terminal, or bulk plant in this state shall prepare and provide to the driver of every fuel transportation vehicle receiving motor fuel into the vehicle storage tank at the facility a shipping document setting out on its face:

(1) Identification by city and state of the terminal, refinery or bulk plant from which the motor fuel was removed;

(2) The date the motor fuel was removed;

(3) The amount of motor fuel removed, gross gallons and net gallons;

(4) The state of destination as represented to the terminal operator by the transporter, the shipper or the agent of the shipper;

(5) Any other information required by the director for the enforcement of this chapter; and

(6) The supplier, consignee and carrier of the motor fuel.

2. A terminal operator may manually prepare shipping papers if the terminal does not have the ability to prepare automated shipping papers or as a result of extraordinary unforeseen circumstances, including acts of God, which temporarily interfere with the ability of the terminal operator to issue automated machine-generated shipping papers. However, the terminal operator shall, prior to manually preparing the papers, provide, in the case of a terminal not having the ability to prepare automated shipping papers, written notice to the director, or in the case of extraordinary circumstances, telephonic notice to the director and obtain a service interruption authorization number which the employees of the terminal operator shall add to the manually prepared papers prior to removal of each affected transport load from the terminal. The service interruption authorization number shall be valid for use by the terminal operator for a period not to exceed twenty-four hours. If the interruption has not been corrected within the twenty-four-hour period, additional notice(s) to the director shall be required and interruption authorization number(s) may be issued upon explanation by the terminal operator satisfactory to the director. If the terminal operator acquires the ability to prepare automated machine-printed shipping papers, the terminal operator shall notify the director no later than ten days prior to the initial use of such capability.

3. An operator of a bulk plant in this state delivering motor fuel into a tank wagon for subsequent delivery to a consumer in this state shall be exempt from this section. An operator of a bulk plant in this state shall not be required to identify net gallons on the shipping documents as provided by this section.

4. A refinery or terminal operator may load motor fuel, a portion of which fuel is destined for sale or use in this state and a portion of which fuel is destined for sale or use in another state or states. However, such split loads removed shall be documented by the terminal operator by issuing shipping papers designating the state of destination for each portion of the fuel.

5. Each refinery or terminal operator shall post a conspicuous notice proximately located to the point of receipt of shipping papers by transport truck operators, which notice shall describe in clear and concise terms the duties of the transport operator and supplier under section [142.914](#), provided that the director may establish the language, type, style and format of the notice.

6. No terminal operator shall imprint, and no supplier shall knowingly permit a terminal operator to imprint on behalf of the supplier, any false statement on a shipping paper relating to motor fuel to

be delivered to this state or to a state having substantially the same shipping paper requirements with respect to the supplier of the fuel, whether or not it was dyed for the intended destination.

7. Any terminal operator who shall knowingly imprint any false statement in violation of this section shall be jointly and severally liable for all the taxes levied by this chapter which are not collected by this state as a result of such action.

8. Any supplier who knowingly violates this section shall be jointly and severally liable with the terminal operator.

9. A person who knowingly violates or knowingly aids and abets another to violate this section with the intent to evade the tax levied by this chapter shall be guilty of a class D felony.

10. The director may impose a civil penalty of one thousand dollars for the first occurrence against every terminal operator that fails to meet shipping paper issuance requirements under this chapter. Each subsequent occurrence described in this subsection is subject to a civil penalty of five thousand dollars.

(L. 1998 S.B. 619)

Effective 1-01-99

\*This section was amended by S.B. 491, 2014, effective 1-01-17. Due to the delayed effective date, both versions of this section are printed here.

### **Transporters' duties--penalties.**

142.914. 1. Each person transporting motor fuel in a fuel transportation vehicle upon the public highways of this state shall:

(1) Carry on board the shipping document issued by the terminal operator or the bulk plant operator of the facility where the motor fuel was obtained, whether within or without this state. The shipping paper shall set out on its face the state of destination of the motor fuel transported in the vehicle as represented to the terminal operator at the time the fuel transportation vehicle was loaded, or as otherwise provided in subdivision (3) of this subsection;

(2) Show and permit duplication of the shipping document by a law enforcement officer, or representative of the director, upon request, when transporting, holding or off-loading the motor fuel described in the shipping document;

(3) Deliver motor fuel described in the shipping document to a point in the destination state shown on the face of the document unless the person or the agent of the person does all of the following:

(a) Notifies the director before the earlier of removal from the state in which the shipment originated, or the initiation of delivery, that the person received instructions after the shipping document was issued to deliver the motor fuel to a different destination state;

(b) Receives from the director a verification number authorizing the diversion; and



(c) Writes on the shipping document the change in destination state and the verification number for the diversion;

(4) Provide a copy of the shipping document to the distributor or other person who controls the facility to which the motor fuel is delivered; and

(5) Meet such other conditions as the director may reasonably require for the enforcement of this chapter. The director shall provide by regulation for handwritten designations and alternative procedures for operators of tank wagons that have received motor fuel at a bulk plant for delivery within or without this state.

2. Every person transporting motor fuel in fuel transportation vehicles upon the public highways of this state shall provide the original or a copy of the terminal-issued shipping document accompanying the shipment to the operator of the retail outlet, bulk plant or bulk end user bulk storage facility to which delivery of the shipment was made.

3. Each operator of a motor fuel retail outlet, bulk plant or bulk end user bulk storage facility shall receive, examine, and retain for a period of thirty days at the delivery location the terminal-issued shipping document received from the transporter for every shipment of motor fuel that is delivered to that location with record retention of the shipping paper of three years required off-site. If the delivery location is an unattended location, the operator may retain the shipping documents at the normal billing address of the operator.

4. No retail dealer, bulk plant operator, wholesale distributor or bulk end user shall knowingly accept delivery of motor fuel into bulk storage facilities in this state if that delivery is not accompanied by a shipping paper issued by the terminal operator, or bulk plant operator as provided by regulations, that sets out on its face this state as the state of destination of the motor fuel or a diversion verification number pursuant to section [142.917](#), and such other information as is required under sections [142.926](#) and [142.929](#).

5. Any person who knowingly violates or knowingly aids and abets another to violate this section shall be jointly and severally liable for the tax on the motor fuel transported or delivered.

6. Any person owning or operating a motor vehicle in violation of this section and section [142.926](#) and [142.929](#) shall be guilty of a class B misdemeanor for the first offense. For the second and each subsequent offense, violators shall be guilty of a class A misdemeanor.

7. The director shall impose a civil penalty of one thousand dollars for the first occurrence of transporting motor fuel without adequate shipping papers annotated as required under this section and sections [142.926](#) and [142.929](#). Each subsequent occurrence described in this subsection is subject to a civil penalty of five thousand dollars.

8. The failure of the operator of a motor vehicle to have on board, once loaded and the transportation started, the proper shipping papers pursuant to this chapter, shall be presumptive evidence of a violation sufficient to warrant impoundment and seizure of the vehicle and its cargo.

(L. 1998 S.B. 619)

Effective 1-1-99

## **Diverted shipment or incorrect information on shipping paper, relief, rulemaking authority.**

[142.917](#). 1. The director shall promulgate rules and regulations for relief in a case where a shipment of motor fuel is legitimately diverted from the represented destination state after the shipping paper has been issued by the terminal operator or where the terminal operator failed to cause proper information to be printed on the shipping paper.

2. The relief rules and regulations shall include a provision requiring that the shipper, the transporter, or an agent of either provide notification before the diversion or correction to the director if an intended diversion or correction is to occur, that a verification number be assigned and manually added to the face of the terminal-issued shipping paper, and the relief provision shall be consistent with the refund provisions of this chapter, including section [142.845](#).

3. The relief provisions shall establish a protest procedure so that any person found to be in violation of section [142.911](#) and subsection 3 of section [142.914](#) may establish a defense to any civil penalty imposed under this chapter for violation of such section or sections upon establishing substantial evidence satisfactory to the director that the violation was the result of an honest error made in the context of a good faith and reasonable effort to properly account for and report fuel shipments and taxes.

4. The director shall provide toll-free telephone service for persons to call to report a diversion and obtain a verification number under this section. The director shall make reasonable efforts to coordinate with neighboring states and the Federation of Tax Administrators for the operation of a common telephonic diversion verification number assignment system including the shared cost thereof.

(L. 1998 S.B. 619)

Effective 1-1-99

## **Supplier's and operator's reliance on transporters and shippers, joint liability, operator's reliance on supplier.**

[142.920](#). The supplier and the terminal operator shall be entitled to rely for all purposes of this chapter on the representation by the transporter, the shipper or the agent of the shipper as to the intended state of destination and tax-exempt use of the shipper. The shipper, importer, transporter, agent of the shipper and any purchaser, not the supplier or terminal operator, shall be jointly liable for any tax otherwise due to the state as a result of a diversion of the motor fuel from the represented destination state. A terminal operator shall be entitled to rely on the representation of a licensed supplier with respect to the obligation of the supplier to precollect tax and the related shipping paper representation to be as shown on the shipping paper as provided by subsection 1 of section [142.911](#).

(L. 1998 S.B. 619)

Effective 1-1-99

### **Motor fuel tax evasion, exceptions, penalty.**

[142.923](#). 1. Except as expressly provided in subsection 2 of this section, no person shall sell, use, deliver, or store in this state, or import for sale, use, delivery or storage in this state, motor fuel as to which the tax imposed by section [142.803](#) has not been previously paid to or accrued by either a licensed supplier, or permissive supplier, at the time of removal from a terminal, or a licensed distributor provided all the conditions of section [142.929](#) applicable to lawful import by the distributor shall have been met.

2. The provisions of subsection 1 of this section shall not apply to:

(1) A supplier with respect to motor fuel held within the bulk transfer/terminal system in this state which was manufactured in this state or imported into this state in a bulk transfer;

(2) A consumer with respect to motor fuel placed in the vehicle supply tank of that person outside of this state, except an interstate motor fuel user;

(3) Diesel fuel dyed in accordance with this chapter;

(4) Motor fuel in the process of exportation by a supplier or a distributor in accordance with the shipping papers required by section [142.914](#) and a statement meeting the requirements of section [142.926](#) is shown on the shipping papers;

(5) Kerosene used in aircraft subject to the conditions and exceptions in subsection 1 of section [142.815](#);

(6) Fuel in possession of a consumer as to which a refund has been issued;

(7) Government and other exempt fuel under subdivisions (3) and (4) of subsection 2 of section [142.815](#) and section [142.617](#); or

(8) A distributor who has met the conditions of section [142.926](#).

3. A person who violates this section shall be guilty of a class A misdemeanor and shall be subject to impoundment and seizure of the vehicle and its cargo.

(L. 1998 S.B. 619)

Effective 1-1-99

### **Notice of exempt use on shipping papers--penalty--enforcement authority.**

[142.926](#). 1. Except as provided in subsection 3 of this section, no person shall operate a transport truck that is engaged in the shipment of motor fuel on the public highways of this state without having on board a terminal-issued shipping paper bearing, in addition to the requirements of subsection 1 of section [142.914](#), a notation indicating that, with respect to diesel fuel acquired under claim of exempt use, a statement indicating the fuel is "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for the load or the appropriate portion of the load. With respect to kerosene acquired under claim of exempt use, a statement shall indicate the fuel is

"DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for the load or the appropriate portion of the load.

2. A person is in violation of subsection 1 of this section upon boarding the vehicle with a shipping paper which does not meet the requirements set forth in this section.

3. The director may in his discretion provide an advance notification procedure with respect to documentation for imported motor fuel as to which the importer is unable to obtain terminal-issued shipping papers which comply with this section.

4. Any person who knowingly violates any part of this section shall be guilty of a class A misdemeanor.

5. The director, his appointee, or representative may hold the transport conveyance and seize, confiscate and dispose of any motor fuel which is not accompanied by the required shipping paper.

6. The director and his duly appointed agents and the highway patrol and its officers shall have full authority in enforcing the provisions of this section.

(L. 1998 S.B. 619)

Effective 1-1-99

**Distributor and transporter duties when fuel not dyed and tax not paid to supplier--penalties--enforcement authority.**

142.929. 1. In the event that a distributor acquires motor fuel destined for this state which has neither been dyed in accordance with the Internal Revenue Code and the regulations issued thereunder, nor tax paid to or accrued by the supplier at the time of removal from the out-of-state terminal, any licensed distributor and transporter operating on behalf of the licensed importer shall meet all of the following conditions prior to entering motor fuel onto the highways of this state by loaded transport truck:

(1) The importer or the transporter shall have obtained an import verification number from the director not sooner than twenty-four hours prior to entering this state;

(2) The import verification number shall have been set out prominently and indelibly on the face of each copy of the terminal-issued shipping paper carried on board the transport truck;

(3) The terminal origin and the name and address of the importer shall also be set out prominently on the face of each copy of the terminal-issued shipping paper;

(4) The terminal-issued shipping paper data otherwise required by this chapter shall be present; and

(5) All tax imposed by this chapter with respect to previously requested import verification number activity on the account of the distributor or the transporter shall have been timely precollected or remitted.

2. Any person who knowingly violates or knowingly aids and abets another to violate this provision shall be guilty of a class A misdemeanor, provided that a first offense related to a good faith belief that the distributor could import under the conditions will be punishable only by a fine.

3. The director, his appointee, or representative may hold the transport conveyance and seize, confiscate and dispose of any motor fuel which is not accompanied by the required shipping paper.

4. The director and his duly appointed agents and the highway patrol and its officers shall have full authority in enforcing the provisions of this section.

(L. 1998 S.B. 619)

Effective 1-1-99

**Highway operation of vehicle with dyed fuel prohibited, when--unlawful use of dyed fuel--penalties.**

142.932. 1. No person shall operate or maintain a motor vehicle on any public highway in this state with motor fuel contained in the fuel supply tank for the motor vehicle that contains dye as provided pursuant to this chapter.

2. This section does not apply to:

(1) Persons operating motor vehicles that have received fuel into their fuel tanks outside of this state in a jurisdiction that permits introduction of dyed motor fuel of that color and type into the motor fuel tank of highway vehicles;

(2) Uses of dyed fuel on the highway which are lawful under the Internal Revenue Code and regulations thereunder and as set forth in this chapter unless otherwise prohibited by this chapter; or

(3) Persons operating motor vehicles during a state of emergency declaration by the governor, when such motor vehicles are engaged in public safety matters or in restoration of utility services attributable to the state of emergency. This exception shall apply to public utility and rural electric cooperative motor vehicles and the motor vehicles of persons contracting with such entities for the purpose of restoring utility service attributable to the state of emergency.

3. No person shall sell or hold for sale dyed diesel fuel or dyed kerosene for any use that the person knows or has reason to know is a taxable use of the diesel fuel.

4. No person shall use or hold for use any dyed diesel fuel for a taxable use when the person knew or had reason to know that the diesel fuel was so dyed.

5. No person shall willfully, with intent to evade tax, alter or attempt to alter the strength or composition of any dye or marker in any dyed diesel fuel or dyed kerosene.

6. Any person who knowingly violates or knowingly aids and abets another to violate the provisions of this section with the intent to evade the tax levied by this chapter shall be guilty of a class A misdemeanor.

7. Any person or business entity, each officer, employee, or agent of the entity who willfully participates in any act in violation of this section shall be jointly and severally liable with the entity for the tax and penalty which shall be the same as imposed pursuant to 26 U.S.C., Section 6715 or its successor section.

(L. 1998 S.B. 619, A.L. 2012 H.B. 1402 merged with S.B. 470)

#### **Notice of dyed fuels.**

142.935. A notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" or "DYED KEROSENE, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" shall be:

(1) Provided by the terminal operator to any person that receives dyed diesel fuel or dyed kerosene at a terminal rack of that terminal operator;

(2) Provided by any seller of dyed diesel fuel or dyed kerosene to its buyer if the diesel fuel or kerosene is located outside the bulk transfer/terminal system and is not sold from a retail pump posted in accordance with the requirements of subdivision (3) of this section; and

(3) Posted by a seller on any retail pump where it sells dyed diesel fuel or dyed kerosene for use by its buyer. The form of notice required under subdivisions (1) and (2) of this section shall be provided by the time of the removal or sale and shall appear on shipping papers, bills of lading, and invoices accompanying the sale or removal of the dyed diesel fuel or dyed kerosene.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Tamper-resistant standards for shipping papers.**

142.938. Each terminal operator in this state and every supplier licensed by this state for the collection of tax on motor fuel shall cause terminal-issued shipping papers to meet such tamper-resistant standards as the director may by regulation require including, but not limited to messages which identify whether shipping papers have been photocopied, numbering systems, nonreproducible coding and other devices. However, the director may not make any such regulations effective earlier than twenty-four months after the promulgation of a final regulation imposing the requirements.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Inspections, requirements, limitations.**

142.941. 1. The director, his or her agents or appointees, including federal government employees or persons operating under contract with this state, upon presenting appropriate credentials may conduct inspections and remove samples of fuel to determine the coloration of diesel fuel, or to identify shipping paper violations at any place where motor fuel is or may be

produced, stored or loaded into transport vehicles. Inspections shall be performed in a reasonable manner consistent with the circumstances, but in no event is prior notice required. Inspectors may physically inspect, examine or otherwise search any tank, reservoir, or other container that can or might be used for the production, storage, or transportation of fuel. Inspections may be made of any equipment used for, or in connection with, the production, storage, or transportation of fuel. Upon demand by the inspectors all shipping papers, documents and records required to be kept by a person transporting fuel shall be produced for immediate inspection. The places where inspections may occur include, but are not limited to:

(1) A terminal;

(2) A fuel storage facility that is not a terminal;

(3) A retail fuel facility;

(4) Highway rest stops; or

(5) A designated inspection site. For purposes of this section, a "designated inspection site" means any state highway or waterway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the director, either fixed or mobile.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, in no event shall the director, his agents or appointees, including federal government employees or persons operating under contract with this state, conduct inspections and remove samples of fuel to determine the coloration of diesel fuel from any individual who is not holding the fuel for wholesale or retail sale, and who is not located at a terminal, a fuel storage facility that is not a terminal, a retail fuel facility, a highway rest stop, or a designated inspection site, unless the director, his or her agents or appointees, including federal government employees or persons operating under contract with this state, have reasonable suspicion to believe that violations under this chapter are being committed at a location not listed in this subsection.

3. Inspections to determine violations under this chapter may be conducted by the agents and appointees of the director, the Missouri department of public safety, the Missouri department of agriculture, and motor carrier inspectors in this state in addition to their duties otherwise defined, and any other law enforcement officer through procedures established by the director. Agents and appointees of the director have the same power and authority provided to authorized personnel under the applicable statute.

4. Inspectors may reasonably detain any person or equipment transporting fuel in or through this state for the purpose of determining whether the person is operating in compliance with the provisions of this chapter and any rules and regulations promulgated pursuant to this chapter. Detainment may continue for such time only as is necessary to determine whether the person is in compliance.

(L. 1998 S.B. 619, A.L. 2014 S.B. 842)

#### **Audits.**

142.944. 1. The director and his agents or appointees are authorized to audit and examine the records, books, papers, and equipment of any licensee or other person selling, transporting, storing or using motor fuel in order to verify the completeness, truth and accuracy of any statement or report and ascertain whether or not the tax imposed by this chapter has been paid. Except in the case of a fraudulent report or neglect or failure to file a report, additional tax shall be assessed on the licensee within three years after the alleged erroneous report was filed.

2. Records shall be made available to the director during normal business hours at the physical location of the person in this state, or at the offices of the director within three business days after request if the location at which records are located is outside of this state.

3. The director, his agents or appointees, including federal government employees and persons contracting with this state, may, upon showing credentials, inspect and each fuel vendor, motor fuel transporter or bulk purchaser shall disclose, immediately upon request, any shipping paper required by this chapter to be maintained at the physical location where the request is made which may include any place motor fuel is stored or held for sale or transportation.

4. Any person who shall refuse to permit any inspection or audit authorized by this chapter shall be subject to a civil penalty of five thousand dollars in addition to any penalty imposed by any other provision of this chapter.

5. Any person who refuses, for the purpose of evading tax, to allow an inspection shall, in addition to being liable for any other penalties imposed by this chapter, be guilty of a class A misdemeanor.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Liens, motor fuel tax--notice of, satisfaction--record content.**

142.947. 1. The tax imposed by this chapter, together with any penalties and interest that may accrue, shall constitute a first lien on all property, both real and personal, of the person owing such tax. Such lien shall have priority over any other lien, except the liens for state, county and municipal real and personal property taxes and liens of any bona fide mortgagee, pledgee, judgment creditor, or title of any purchaser whose rights have attached prior to the time the delinquent tax shall have become payable.

2. The director or his agents or appointees shall file notice of such lien in duplicate with the recorder of deeds in the county in which such person resides or in which such person's, if other than a natural person, principal place of business is located. To such notice shall be securely attached a copy of the assessment of the director of revenue as to the delinquent tax. Upon notice being filed, the recorder shall record one copy in the land records of his office and the other shall be filed as are chattel mortgages, and after being so filed the notice shall impart the same notice as do other instruments there filed or recorded. The director may file a like notice in the same manner in any county in which such person shall own real estate and personal property and it shall be accorded the same effect.



3. Upon payment of the tax, penalty and interest set forth in the assessment attached to the notice of lien, the director shall satisfy the lien record by notifying the recorder of deeds by registered or certified letter that such payment has been made. Upon the receipt of any such letter, the recorder shall mark the record satisfied and note the date of such satisfaction.

4. The director shall keep a record of such liens filed; the date of filing; the tax due; and the date satisfied, and shall upon request furnish such information to any person desiring the same.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Enforcement authority.**

[142.950](#). The director, his agents and appointees and the Missouri state highway patrol and its officers shall have full authority in enforcing the provisions of this chapter.

(L. 1998 S.B. 619)

Effective 1-1-99

#### **Director may conduct investigations.**

[142.951](#). The director of the department of revenue or any person designated by the director may conduct investigations as necessary to enforce the provisions of this chapter.

(L. 1999 S.B. 414 § 1)

#### **Rulemaking procedures.**

[142.953](#). Any rule or portion of a rule, as that term is defined in section [536.010](#), that is promulgated under the authority delegated in this chapter shall become effective only if it has been promulgated pursuant to the provisions of chapter 536. All rulemaking authority under this chapter delegated prior to January 1, 1999, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to January 1, 1999, if it fully complied with the provisions of chapter 536. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 1999, shall be invalid and void.

(L. 1998 S.B. 619)

Effective 1-1-99

