

RENO EVENING GAZETTE PROOF OF PUBLICATION

STATE OF NEVADA }
COUNTY OF WASHOE } "

being first duly sworn, deposes and says:

That he is the MANAGING CLERK of
THE RENO EVENING GAZETTE, a daily news-
paper published at Reno, in Washoe County, in the
State of Nevada.

That the notice POSTED 10. 132

of which a copy is hereto attached, was first published in
said newspaper in its issue dated the 17th day of
June, 1965, and was published in
each _____ issue of said newspaper thereafter for

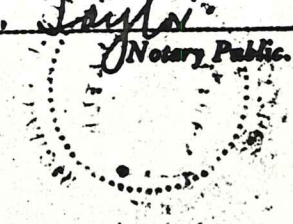
the full period of 2 days, the last publication
thereof being in the issue dated the 19th day of
June, 1965.

Signed Tommy Goeman

Subscribed and sworn to before me this

19 day of June, 1965

Richard J. Taylor
Notary Public.



NOTICE OF COUNTY ORDINANCE
NOTICE IS HEREBY GIVEN that Bill
No. 118, Ordinance No. 132, AN ORD-
INANCE IMPOSING A COUNTY MOTOR
VEHICLE FUEL TAX; CREATING A
REGIONAL STREET AND HIGHWAY
COMMISSION AND PRESCRIBING ITS
ORGANIZATION, POWERS AND DU-
TIES; PROVIDING FOR THE MODE-
OF ENFORCEMENT OF THE PROVI-
SIONS HEREOF; PROVIDING PENAL-
TIES FOR NON-COMPLIANCE WITH
THE PROVISIONS HEREOF; PROVID-
ING OTHER MATTERS PROPERLY
RELATED THERETO; AND REPEAL-
ING ORDINANCES AND PARTS OF
ORDINANCES IN CONFLICT HERE-
WITH, was proposed on June 15, 1965,
as an emergency measure, by Commis-
sioner McKissick and final action of
adoption was taken on June 15, 1965.
The vote on the above Ordinance was
as follows:
AYES: Commissioners McKenzie, Mc-
Kissick, Cunningham, Sauer and Streeter
NAYES: Commissioners None.
ABSENT: Commissioners None.
This Ordinance shall be in full force
and effect from and after Thursday,
June 24, 1965, the second date of pub-
lication. Notice is further given that
typewritten copies of the above Ord-
inances are available for inspection by
all interested parties at the office of the
County Clerk, Court House, Reno, Ne-
vada.
(SEAL) H. K. BROWN
Clerk of the Board of County
Commissioners
June 17-24, 1965

SUMMARY: An ordinance authorized by Chapter 470, 1965 Statutes of Nevada empowering the Board of County Commissioners to enact an ordinance providing for a motor vehicle fuel tax and providing for the enforcement of said tax; creating a regional street and highway commission and prescribing its organization, powers and duties; providing penalties for non-compliance with the provisions hereof; providing other matters properly relating thereto; and repealing all ordinances and parts of ordinances in conflict herewith.

BILL NO. 118

ORDINANCE NO. 132

AN ORDINANCE IMPOSING A COUNTY MOTOR VEHICLE FUEL TAX; CREATING A REGIONAL STREET AND HIGHWAY COMMISSION AND PRESCRIBING ITS ORGANIZATION, POWERS AND DUTIES; PROVIDING FOR THE MODE OF ENFORCEMENT OF THE PROVISIONS HEREOF; PROVIDING PENALTIES FOR NON-COMPLIANCE WITH THE PROVISIONS HEREOF; PROVIDING OTHER MATTERS PROPERLY RELATED THERETO; AND REPEALING ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH.

THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY DO ORDAIN:

Section 1. Authority. This Ordinance is enacted pursuant to the authorization contained in Chapter 470, 1965 Statutes of Nevada. Washoe County is a County of the State of Nevada having a population of 25,000 or more as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce and has adopted a street and highway plan for Washoe County embracing the territory of more than one municipal corporation therein.

Section 2. Definitions.

- A. Definitions to govern. Except where the context otherwise requires, the definitions given in this Ordinance shall govern the construction of this Ordinance.
- B. "Board" defined. "Board" means the Board of County Commissioners.
- C. "Commission" defined. "Commission" means the Regional Street and Highway Commission.
- D. "Dealer" defined.
1. "Dealer" means and includes every person who:
 - (a) Refines, manufactures, compounds or otherwise produces motor vehicle fuel and sells or distributes the same in this County.
 - (b) Imports motor vehicle fuel into this County and sells or distributes the same therein, whether

1.

in the original package or container in which it is imported or otherwise, or who uses the motor vehicle fuel in this County after having imported the same.

- (c) Having acquired motor vehicle fuel in this County in the original package or container, distributes or sells the same in such original package or container, or otherwise, or in any manner uses the same.
 - (d) Otherwise acquires in this County for sale, use or distribution in this County motor vehicle fuel with respect to which there has been no prior taxable sale, use, or distribution.
2. "Dealer" shall not include any person who shall import into this County motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer under Chapter 365, Nevada Revised Statutes and who shall assume liability for the collection and remittance of the applicable excise tax to this County.
- E. "Department" defined. "Department" means the Department of Motor Vehicles.
 - F. "Distributes", "distribution" defined. All motor vehicle fuel sold, donated, consigned for sale, bartered, used or in any way voluntarily disposed of so as to terminate the ownership and possession thereof by the dealer or any other person who imports such motor vehicle fuel owned by him shall be deemed to be distributed and considered as distribution under this Ordinance.
 - G. "Highway" defined. "Highway" means every way or place of whatever nature open to the use of the public for purposes of surface traffic, including highways under construction.
 - H. "Motor vehicle" defined. "Motor vehicle" means and includes every self-propelled motor vehicle, including tractors, operated on a surface highway.
 - I. "Motor vehicle fuel" defined. "Motor vehicle fuel" means and includes gasoline, natural gasoline, casinghead gasoline and any other inflammable or combustible liquid, by whatever name such liquid may be known or sold, the chief use of which in this State is for the propulsion of motor vehicles, motorboats or airplanes. Kerosene, gas oil, fuel oil, jet aircraft fuel, diesel fuel and liquified petroleum gas shall not be considered motor vehicle fuel for the purposes of this Ordinance.
 - J. "Person" defined. "Person" means and includes every natural person, association, firm or partnership, corporation, municipal corporation, quasi-municipal corporation, political subdivision, governmental agency, trustee, receiver and the legal representative or representatives of the estate of any deceased person and their agents.
 - K. "Retailer" defined. "Retailer" means and includes every person, other than a dealer as defined in Subsection (B) engaged in the business of selling motor vehicle fuel.

- L. "Tax commission" defined. "Tax commission" means the Nevada Tax Commission and its duly authorized agents.

Section 3. Creation and organization of Regional Street and Highway Commission.

A. Creation of Commission.

The Board of County Commissioners does hereby create the Regional Street and Highway Commission of Washoe County, State of Nevada.

B. Composition of Commission; Selection of Representatives.

The Commission shall be composed of representatives to be selected as follows:

- (1) Two (2) representatives to be selected by the Board of County Commissioners.
- (2) Two (2) representatives to be selected by the City Council of the City of Reno.
- (3) One (1) additional representative to be selected by the governing board of each additional incorporated city or town in Washoe County.

C. Organization of Commission; Terms of Representatives; Rules and Regulations.

- (1) The first representatives shall be selected within thirty (30) days after passage of this Ordinance, and shall serve until December 31st of the next even numbered year. The representative of any city incorporated after passage of this Ordinance shall be selected within thirty (30) days after the first meeting of the governing body of any such incorporated city and shall serve until the next ensuing December 31st of an even numbered year. The successors of the first appointed representatives shall serve for terms of two (2) years and any vacancies shall be filled for the unexpired term.
- (2) The Commission shall adopt such rules and regulations as are not in conflict with this Ordinance, Chapter 470 of the 1965 Statutes of Nevada or any other law of the State of Nevada for the organization of the Commission and the conduct of its business.

D. Meetings.

The Commission shall meet at such times and places as the members of the Commission may deem necessary and proper; but at least one meeting shall be held in each calendar month.

E. Powers and Duties of Commission.

The Commission shall exercise or perform only those powers and duties specifically granted to them and enumerated in Chapter 470, 1965 Statutes of Nevada, and shall exercise or perform the said powers and duties in the mode and manner set forth in the aforementioned Chapter.

F. Action by Commission.

All decisions, acts and resolutions of the Commission shall be by majority vote of its membership. A tie vote shall have the effect of no decision and no action shall be taken.

Section 4. AdministrationA. Contract with Nevada Tax Commission

Prior to the effective date of this Ordinance, the Board of County Commissioners shall contract with the Nevada Tax Commission to perform all functions incident to the administration and operation of this Ordinance.

B. Administration and Enforcement of Ordinance

The Nevada Tax Commission, upon execution of the aforesaid contract, shall be empowered to administer and enforce all of the provisions of this Ordinance pertaining to the collection of all taxes provided herein.

C. Rules, regulations of tax commission. The Nevada Tax Commission shall have power to make all necessary rules and regulations and prescribe all necessary forms or other requirements for the purpose of making the administration of this Ordinance effective.D. Audit, Examination and Inquiry

1. The Nevada Tax Commission, for and on behalf of Washoe County, shall have power, by itself or by its duly authorized agents, to make any audit, examination or inquiry of and concerning the records, stocks, facilities, equipment and transactions of dealers, retailers of petroleum products and carriers thereof, and such other investigations as it may deem necessary in carrying out the provisions of this Ordinance.
2. If any investigation discloses that any report or any payment has been incorrect, the Nevada Tax Commission may make such changes in subsequent reports and payments as may be necessary to correct the error so disclosed.

E. Enforcement by Sheriffs, Peace Officers

County sheriffs and all other peace officers and traffic officers of this State shall, without further compensation, assist in the enforcement of this Ordinance, and they shall make arrests for this purpose when requested by the Nevada Tax Commission or its duly authorized agents.

Section 5. Imposition of TaxA. Imposition and rate of tax; statements of motor vehicle fuel sold, distributed or used.

- (1) In addition to any other taxes provided by law, every dealer shall, not later than the 25th day of each calendar month render to the Nevada Tax Commission a statement of all motor vehicle fuel sold, distributed or used by him in the County of Washoe, as well as any motor vehicle fuel sold, distributed or used in this County by a purchaser thereof upon

which sale, distribution or use, the dealer has assumed liability for the tax thereon under Section 2 (D) of this Ordinance, during the preceding calendar month; and pay an excise tax of one cent per gallon on all motor vehicle fuel so sold, distributed or used, in the manner and within the time prescribed in this Ordinance.

- (2) The Nevada Tax Commission, for good cause, may extend, for not to exceed thirty (30) days, the time for making any report or return required under this Ordinance. The extension may be granted at any time if:
- (a) A request therefor has been filed with the Nevada Tax Commission within or prior to the period for which the extension may be granted; and
 - (b) A remittance of the estimated tax is made when due. Any dealer to whom an extension is granted shall pay, in addition to any delinquent tax due, interest at the rate of one half of one percent per month, or fraction thereof, from the date on which the tax would have been due without the extension to the date of payment.
- (3) Any report, return, remittance to cover a payment, or claim for credit or refund required by this Ordinance which is transmitted through the United States mail, shall be deemed filed or received by the Nevada Tax Commission on the date shown by the post office cancellation mark stamped upon the envelope containing it, or on the date it was mailed, if proof satisfactory to the Nevada Tax Commission establishes that such document or remittance was timely-deposited in the United States mails properly addressed to the Nevada Tax Commission.
- (4) For the purposes of this Ordinance, motor vehicle fuel is sold where it is delivered into a vehicle not belonging to the seller or into a stationary tank on the premises of the buyer.

B. Imposition of excise tax on other inflammable, combustible liquids.

- (1) In addition to any other taxes provided for by this Ordinance, every person who shall use any inflammable or combustible liquid or other material other than motor vehicle fuel as defined in Section 2 (I) of this Ordinance to operate a motor vehicle on the highways of this State, except special fuel as defined in Section 2 (I) of this Ordinance, shall pay an excise tax as provided by Subsection (A) of this Section for each gallon thereof so used, and shall render monthly statements and make monthly payments at the times and in the manner prescribed for dealers in this Ordinance.
- (2) Any owner or operator of a motor vehicle who shall import motor vehicle fuel or other fuel or material, except special fuel as defined in Section 2 (I) of

this Ordinance, into this County, from another state or from Federal Proprietary lands or reservations, in the fuel tank or tanks of any such motor vehicle in a quantity exceeding twenty-five (25) gallons shall, upon demand of the Nevada Tax Commission or its duly authorized agent, pay to said Tax Commission on such excess motor vehicle fuel the excise tax required to be paid by dealers under this Ordinance.

- (3) Nothing in this Section shall be construed to require more than one payment of any excise tax upon, or in respect to, the same fuel.

Section 6. Exemptions

A. Exempt transactions and sales. The provisions of this Ordinance requiring the payment of excise taxes shall not apply to any of the following:

- (1) Motor vehicle fuel so long as it remains in interstate or foreign commerce.
- (2) Motor vehicle fuel exported from this State by a dealer.
- (3) Motor vehicle fuel sold to the United States Government for official use of the United States Armed Forces.
- (4) Motor vehicle fuel distributed; or delivered on the order of the owner, to a dealer who has furnished bond and security in the amount prescribed, and who has established to the satisfaction of the Nevada Tax Commission that the bond is sufficient security to assure payment of all excise taxes as they may become due to the County from him under this Ordinance. Every dealer claiming exemption shall report the distributions to the Nevada Tax Commission in such detail as said Tax Commission may require; otherwise, the exemptions granted in this Subsection shall be void and all fuel shall be considered distributed in Washoe County subject fully to the provisions of this Ordinance.

B. Exempt sales by dealer in individual quantities of 500 gallons or less for export.

- (1) The provisions of this Ordinance requiring the payment of excise taxes shall not apply to motor vehicle fuel sold by a dealer in individual quantities of 500 gallons or less for export to another state by the purchaser other than in the supply tank of a motor vehicle, provided such dealer is licensed in the state of destination to collect and remit the applicable destination state taxes thereon.
- (2) In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his files for at least three (3) years an export certificate executed by the purchaser in such form and containing such

information as shall be prescribed by the Nevada Tax Commission. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith. However, should the purchaser not export any part of the motor vehicle fuel covered by the certificate he shall be required to remit to the Tax Commission immediately thereafter the applicable amount in taxes due on such part not exported. Upon failure to do so, the purchaser shall be subject to all penalties provided herein for delinquency in payment of taxes.

C. Forms and contents of reports of exempt exports and sales

- (1) Every dealer shall report such exports and sales to the Nevada Tax Commission at such times, on such forms, and in such detail as said Tax Commission may require.
- (2) Every dealer shall mark clearly upon each invoice rendered for sales upon which no excise tax is required under Section 6 (A) and Section 6 (B) "Ex Nevada Motor Vehicle Fuel Tax".

D. Time to claim exemption on dealer's export to another state

Any claim for exemption from excise tax on account of motor vehicle fuel exported by a dealer to another state, other than stock transfers or deliveries in his own equipment, must be made by the dealer within six (6) months after the date of the export unless the state or territory of destination would not be prejudiced with respect to its collection of taxes thereon should the claim not be made within such time.

E. When motor vehicle fuel not deemed to be exported

Motor vehicle fuel carried out of this County into another state or on to Federal Proprietary lands or reservations, to an amount not exceeding 25 gallons in the fuel tank or tanks of such motor vehicle shall not be deemed to be exported for the purposes of Section 6, Subsections A, B, C, and D of this Ordinance.

Section 7. Bonds

A. Dealer's bond: Form, conditions and amount; deposit in lieu of bond

- (1) Every dealer shall file with the Tax Commission a bond duly executed by the dealer as principal and by a corporation qualified under the laws of this state as surety, payable to the State of Nevada, conditioned upon faithful performance of all the requirements of this Ordinance and upon the punctual payment of all excise taxes, penalties and other obligations of the dealer.
- (2) The total amount of the bond or bonds required of any dealer shall be fixed by the Nevada Tax Commission at twice the estimated maximum monthly tax, determined in such manner as said Tax Commission

shall deem proper, and may be increased or reduced by the Tax Commission at any time, subject to the limitations prescribed in this Ordinance; but the total amount of the bond or bonds of any dealer shall never exceed \$10,000.

- (3) No recovery on any bond, nor the execution of any new bond, nor the revocation, cancellation or suspension of any license, shall affect the validity of any bond.
- (4) In lieu of any bond or bonds, a dealer may deposit with the State Treasurer, under such terms and conditions as the Tax Commission may prescribe, a like amount of lawful money of the United States, or bonds of the United States or the State of Nevada of an actual market value not less than the amount fixed by the Tax Commission as provided in subsection (2).

Section 8. Determinations and Payments

A. Monthly payment of taxes; percentage allowed dealer, user for costs of collection, handling losses.

- (1) The excise taxes prescribed in this Ordinance shall be paid on or before the 25th day of each calendar month to the Nevada Tax Commission. The Tax Commission shall deliver all such taxes to the State Treasurer, who shall receipt the dealer or user therefor.
- (2) From the tax found to be due upon any statement duly and punctually rendered, the dealer or user shall be allowed to deduct 2 percent thereof to cover the dealer's or user's costs of collection of the tax and of compliance with this Ordinance and the dealer's or user's handling losses occasioned by evaporation, spillage or other similar causes.

B. Penalties for delinquencies in payment of tax; allocation of penalty assessments

- (1) If the amount of the excise tax for any month is not paid to the Tax Commission on or before the 25th day of the next month thereafter as prescribed by this Section, it shall become delinquent at the close of business on that day, and a penalty of 1 percent of such excise tax must be added thereto for delinquency; but in no case shall the penalty be less than \$25 nor more than \$500.
- (2) If such tax is not received on or before the close of business on the last day of the month in which payment is due, a penalty of 10 percent must be added thereto in addition to the penalty provided for in Subsection (1).
- (3) The proceeds from any such penalty assessments so levied shall be allocated to the County gas tax funds by the Nevada Tax Commission.

Section 9. Collection of TaxA. Commencement and prosecution of action to collect delinquent tax, penalties and interest.

- (1) At the request of the Nevada Tax Commission, the attorney general or the district attorney for Washoe County shall collect any delinquent tax with penalties and interest. To that end the attorney general or the district attorney forthwith shall commence and prosecute to final determination an action in the name of the State of Nevada in any court of competent jurisdiction.
- (2) In any action on a bond filed by a dealer, recovery may be had against the surety without exhausting or seeking a remedy against the dealer.

B. Evidentiary effect of Nevada Tax Commission's certificate

In any action commenced and prosecuted under the provisions of Subsection (A) the certificate of the Tax Commission shall be prima facie evidence of the amount of the tax and penalty and of the obligation therefor of the person named in such certificate.

Section 10. Credits, Overpayments and RefundsA. Tax refunds: Persons entitled

Any person who shall export any motor vehicle fuel from this State, or who shall sell any such fuel to the United States Government for official use of the United States Armed Forces, or who shall buy and use any such fuel for purposes other than, in, and for, the propulsion of motor vehicles, and who shall have paid any tax on such fuel levied or directed to be paid as provided by this Ordinance either directly by the collection of such tax by the vendor from such consumer or indirectly by the addition of the amount of such tax to the price of such fuel, shall be reimbursed and repaid the amount of such tax so paid by him, except as follows:

- (1) Refund claims shall be submitted and paid once every six months and the dates for submission shall be prescribed by classes by the Nevada Tax Commission's rules and regulations.
- (2) The minimum claim for refund shall be based on at least 200 gallons purchased and used in a six month period.
- (3) No refund of County Motor Vehicle fuel taxes shall be made for off-highway use of motor vehicle fuel consumed in watercraft in this State for recreational purposes.

B. Presentation of claim: Affidavit; original invoices

- (1) A claimant for refund shall present to the Tax Commission a refund claim form accompanied by the original invoices showing the purchase. The refund forms shall state the total amount of such

fuel so purchased and used by the consumer otherwise than for the propulsion of motor vehicles and the manner and the equipment in which the claimant has used the same.

- (2) A claimant for refund of tax on motor vehicle fuel purchased and exported from this State shall execute and furnish to the Tax Commission a certificate of exportation on such form as may be prescribed by the Tax Commission.
- (3) An invoice to qualify for refund shall contain at least:
 - (a) The number of gallons of motor vehicle fuel purchased;
 - (b) The price per gallon;
 - (c) The total purchase price of the motor vehicle fuel; and
 - (d) Such other information as may be prescribed by the Tax Commission.
- (4) The signature on the refund claim form shall subject the claimant to the charge of perjury for false statements contained on the refund application.
- (5) Daily records shall be maintained and preserved for a period of three (3) years for audit purposes of all motor vehicle fuel used. The record shall set forth:
 - (a) The piece of equipment being supplied with the fuel;
 - (b) The number of gallons of fuel used in each fill; and
 - (c) The purpose for which the piece of equipment will be used.

The gasoline fills shall be further classified as to on or off-highway use. Any motor vehicle fuel used in any licensed motor vehicle does not qualify for refund.
- (6) In accounting for motor vehicle fuel used for refund purposes direct measures shall be used and estimates are prohibited. Self-propelled vehicles with mounted auxiliary equipment consuming motor vehicle fuel shall only be allowed refunds if a separate motor vehicle fuel tank and a separate motor is used to operate the auxiliary equipment.
- (7) No person may be granted a refund of motor vehicle fuel taxes for off-highway use when such consumption takes place on highways constructed and maintained by public funds, on Federal Proprietary lands or reservations where the claimant has no ownership or control over such land or highways, except when

such person is under a contractual relationship with the Federal Government or one of its agencies and is engaged in the performance of his duties pursuant to such relationship. Employment of an individual by the Federal Government or any of its agencies does not constitute a contractual relationship for the purpose of this Subsection.

- (8) When in the opinion of the Tax Commission it would be beneficial to the State for a refund claimant to become a licensed dealer, such claimant may, at the option of the Tax Commission, be required to become a licensed dealer rather than a refund claimant unless such claimant chooses to claim refunds at the tax rate, less 2 percent.

C. Payment of refund.

Upon the presentation of such affidavits, invoices, written statements, tax exemption certificates or exportation certificates, the Tax Commission shall cause to be repaid to the claimant from the taxes collected under this Ordinance an amount equal to the taxes so paid by the claimant.

D. Payment of refund based on duplicate invoice.

In the event of the loss of an original invoice, the person claiming a refund may submit in lieu thereof a duplicate copy of the invoice, which shall be retained by the Tax Commission until the expiration of the period specified for filing of refund applications. No payment of refund based upon a duplicate invoice shall be made until after the expiration of such statutory period.

E. Examination of claimant's books, records; effect of refusal to permit examination

In order to establish the validity of any claim the Tax Commission may, upon demand, examine the books and records of the claimant for such purpose. The failure of the claimant to accede to such demand constitutes a waiver of all rights to the refund claimed on account of the transactions questioned.

F. Time for application for refund

All applications for refund based upon exportation of motor vehicle fuel from this State shall be filed with the Tax Commission within three (3) months from the date of exportation. All other applications, together with the necessary supporting evidence, shall be filed with the Tax Commission within six (6) months from the date of purchase. All rights to refunds shall be forfeited if applications are not filed with the Tax Commission within the times herein prescribed.

G. Payment of refunds from County gas tax funds

- (1) All claims for refunds under this Section shall be paid from County gasoline tax funds collected under this Ordinance upon claims presented by the

Tax Commission, approved by the State Board of Examiners, and allowed and paid as other claims against the State are allowed and paid.

H. Granting of credit in lieu of refund

In lieu of the collection and refund of the tax on motor vehicle fuel used by a dealer in such a manner as would entitle a purchaser to claim refund under the provisions of this section, or in lieu of the refund of any prior erroneous payment of tax on motor vehicle fuel to the Tax Commission made by a dealer, credit may be given the dealer upon his tax return and assessment.

I. Refunds to farmers, ranchers on basis of bulk purchases; procedure

- (1) For the purposes of this Section "bulk purchases" means purchases in excess of 50 gallons of regular motor vehicle fuel which are not placed directly into the tank of motor vehicles.
- (2) Any person determined by the Tax Commission to be a bona fide farmer, rancher, not engaged in other activities which would distort his highway useage, may claim a refund only on the basis of 80% of his bulk purchases, without necessity of maintaining records of use.
- (3) Any farmer or rancher desiring to claim a refund under the provisions of this Section must first secure a permit from the Tax Commission, and such a permit shall bind the permittee to file claims for refunds under the provisions of this Section until a request has been made for a change of basis for filing, which request has been approved by the Tax Commission.
- (4) The Tax Commission is empowered to issue reasonable rules and regulations to carry out the purposes of this Section.

J. Injunction or other process to prevent collection prohibited.

No injunction or writ of mandate or other legal or equitable process shall ever issue in any suit, action or proceeding in any court against this State or Washoe County or any officer thereof to prevent or enjoin the collection under this Ordinance of any excise tax assessed by the Tax Commission.

K. Right to bring action against State Treasurer; Venue

After payment of any excise tax under protest duly verified, served on the Tax Commission, and setting forth the grounds of objection to the legality of the excise tax, the dealer paying the excise tax may bring an action against the State Treasurer in the District Court in and for Ormsby County for the recovery of the excise tax so paid under protest.

L. Action to recover amount paid: Time to sue; waiver of right; consideration of grounds of illegality

- (1) No action authorized by Subsection K of this Section may be instituted more than 90 days after the last day prescribed for the payment of the excise tax without penalty. Failure to bring suit within the 90 days shall constitute a waiver of any and all demands against the State on account of alleged overpayment of excise taxes.
- (2) No grounds of illegality of the excise tax shall be considered by the court other than those set forth in the protest filed at the time of the payment of the excise tax.

M. Judgment for plaintiff: Disposition of amount; interest

- (1) If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any excise taxes due from the plaintiff under this Ordinance, and the balance of the judgment shall be refunded to the plaintiff.
- (2) In any judgment, interest shall be allowed at the rate of 6 percent per annum upon the amount of the excise tax found to have been collected illegally from the date of payment thereof to the date of allowance of credit on account of such judgment or to a date preceding the date of the refund warrant by not more than 30 days, such date to be determined by the Tax Commission.

N. Judgment not to be rendered for plaintiff when action is by or in name of assignee

A judgment shall not be rendered in favor of the plaintiff in any action brought against the State Treasurer to recover any excise tax paid under this Ordinance when such action is brought by or in the name of an assignee of the dealer paying the excise tax, or by any person, company or corporation which has paid the excise tax.

O. Illegal Claim for refund

Any person who files a refund claim based on an altered invoice, unless the alteration of such invoice is certified by the dealer as made for the purpose of correcting an error in good faith, or whose claim is not based on records of use as required in this act or by the tax Commission rules and regulations, shall at the option of the Tax Commission, in lieu of other penalties provided, be denied refunds for a period of 3 years from the date of the illegal claim filed. The claimant shall have the right to appeal the decision to the Tax Commission, and after exhausting his administrative remedies to appeal to the district court of Ormsby County.

Section 11. Records and Reports

A. Dealers' records: Contents; examinations

- (1) Every dealer shall cause to be kept a true record, in such form as may be prescribed or approved by the Tax Commission, of all stocks of motor vehicle fuel and of other inflammable or combustible

liquids, and of all manufacture, refining, compounding, blending, purchases, receipts, transportations, use, sales and distribution thereof.

- (2) Such records shall be subject to inspection at all times within business hours by the Tax Commission or its duly authorized agents, and shall remain so available for inspection for a period of three (3) years from the date of any entry therein.
- (3) Should any dealer wish to keep proper books and records pertaining to business done in Washoe County elsewhere than within the State of Nevada for inspection as provided in this Section, he shall pay a fee for such examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the examiner is actually engaged in examining the dealer's books, plus the actual expenses of the examiner during the time that the examiner is absent from Carson City, Nevada, for the purposes of making such examination; but such time shall not exceed one day going to and one day coming from the place where the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing the dealer's books. Not more than two (2) such examinations shall be charged against any dealer in any year.
- (4) Any monies received shall be deposited by the Tax Commission to the credit of the fund from which the expenditures for the examination were made.
- (5) Upon the demand of the Tax Commission or at such times as the Tax Commission may prescribe by regulation, every dealer shall furnish a statement showing the contents of the records to such extent, in such detail and in such form as the Tax Commission may require.

B. Retailers' records: Contents; inspection.

- (1) Every retailer shall maintain and keep within the State for a period of three (3) years a true record of motor vehicle fuel received, of the price thereof and the name of the person supplying the same, together with delivery tickets, invoices and such other records as the Tax Commission may require.
- (2) Such records shall be subject to inspection by the Tax Commission or its duly authorized agents at all times within business hours.

C. Carriers' delivery reports: Contents; examination of records

- (1) Every carrier, whether common, contract or private except a dealer licensed under Chapter 365, Nevada Revised Statutes or a wholesale distributor transporting the products of a dealer licensed under said Chapter, transporting motor vehicle fuel as

defined in Section 2 (I) in interstate commerce to or from any point within the County of Washoe shall report to the Tax Commission all deliveries so made.

- (2) Such report shall cover the period of each calendar month and shall be filed within 25 days after the end of such month. The report shall show:
- (a) The name and address of every consignor and consignee and of every person other than the designated consignee to whom delivery has actually been made.
 - (b) The date of every delivery.
 - (c) The amount of every delivery in gallons.
 - (d) Such other information as the Tax Commission may require.
- (3) The Tax Commission, or its duly authorized agents, may examine the books and records of any carrier during business hours to determine if the provisions of this Section have been or are being complied with.

D. Invoices, other documents required of carriers when transporting motor vehicle fuel, other liquids

- (1) Every person transporting on any highway of the County of Washoe motor vehicle fuel or other inflammable or combustible liquids in an amount of 25 gallons or more must have in his possession at all times during such transportation an invoice, bill of sale or other document showing the name and address of the seller or consignor and of the buyer or consignee, if any, of the product so transported. He shall produce and exhibit the same to any sheriff, deputy sheriff, police officer or authorized agent of the Tax Commission upon request or demand.
- (2) Any person engaged in transporting motor vehicle fuel or other inflammable or combustible liquids by tank truck or tank truck and trailer to be delivered to a dealer or any reseller of such products or to persons known to the trade as commercial consumers shall be required only to have in his possession adequate evidence showing the amount of the motor vehicle fuel or other inflammable or combustible liquids loaded in his conveyance at the time the conveyance left its loading point, and the name and address of the dealer who has assumed or is charged with the responsibility for the payment of the tax due thereon, if any. The date of delivery thereto must be furnished the Tax Commission upon request.

Section 12. Distribution and Use of Proceeds

- A. All motor vehicle fuel taxes collected by the Tax Commission pursuant to this Ordinance shall be transmitted to Washoe County periodically as promptly as feasible,

and the Tax Commission shall charge the County, for the tax commission services specified in this Ordinance, such amount as will reimburse the Tax Commission for the cost to it of rendering the services.

- B. The transmittal required under subsection A of this Section shall be made at least four (4) times in each fiscal year.
- C. All net proceeds of the motor vehicle fuel tax imposed by this Ordinance received by the County from the Tax Commission shall be deposited by the County Treasurer in a fund to be known as the Regional Street and Highway Fund in the County Treasury and disbursed only in accordance with the provisions of Chapter 470, 1965 Statutes of Nevada.

Section 13. Violations

A. Unlawful acts; penalties.

- (1) It is unlawful for any person:
 - (a) To refuse or neglect to make any statement, report or return required by the provisions of this Ordinance.
 - (b) Knowingly to make, or aid or assist any other person in making, a false statement in a report to the Tax Commission or in connection with an application for refund of any tax;
 - (c) Knowingly to collect or attempt to collect or cause to be repaid to him or to any person, either directly or indirectly, any refund of any tax without being entitled to the same;
 - (d) To sell any motor vehicle fuel upon which the tax imposed by this Ordinance shall not be paid; or
 - (e) To act as an agent to sell any motor vehicle fuel, obtained in any manner, upon which the tax imposed by this Ordinance shall not be paid.
- (2) Each day or part thereof during which any person shall engage in business as a dealer without being the holder of an uncanceled license shall constitute a separate offense within the meaning of this section.
- (3) Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment in the county jail for not less than 30 days nor more than six (6) months, or by both fine and imprisonment.

- B. Other violations. Any violation of the provisions of this Ordinance, except as otherwise provided, shall be a misdemeanor, and any person violating any of such

provisions of this Ordinance shall, upon conviction thereof, be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment in the County Jail for not less than 30 days nor more than six (6) months, or by both fine and imprisonment.

Section 14. Amendments.

All amendments to Chapter 365 of Nevada Revised Statutes which become effective subsequent to the effective date of this Ordinance, and which are not inconsistent with this Ordinance shall automatically become a part of this Ordinance.

Section 15. Restrictions on repeal of this Ordinance.

- A. This Ordinance shall not be repealed until all obligations for which the revenues from it have been pledged, pursuant to Chapter 470, 1965 Statutes of Nevada, have been discharged in full.
- B. The Board of County Commissioners may at any time dissolve the Commission and provide that no further obligations shall be incurred.

Section 16. Date of imposition of County motor vehicle fuel tax.

The County motor vehicle fuel tax, provided for herein shall be imposed and become effective on the first day of the second calendar month next following the enactment of this Ordinance.

Section 17. Repealer clause.

All by-laws, ordinances, resolutions and orders, or parts of by-laws, ordinances, resolutions and orders, in conflict or inconsistent with this Ordinance, are hereby repealed but only to the extent of such conflict or inconsistency.

Section 18. Severability of provisions.

If any Section, or portion thereof, of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 19. Effective Date.

This Ordinance shall be in full force and effect from and after its passage, approval and publication as prescribed by NRS §244.100.

Proposed on the 15th day of June, 1965, as an emergency measure.

Proposed by Commissioner McKissick

Passed on the 15th day of June, 1965

Vote:

Ayes:	Commissioners:	<u>McKenzie, McKissick, Cunningham, Sauer and Streeter</u>
Nays:	Commissioners:	<u>None</u>
Absent:	Commissioners:	<u>None</u>

[Signature]
Chairman of the Board

ATTEST: *[Signature]*
County Clerk

This Ordinance shall be in force and effect from and after the
24th day of June, 1965.

ORDINANCE 132

Amended by Bill 601, Ordinance 430, Item 79-1369, Effective 9-12-79

SECTION 5 amended by Ord. 520, Bill 691, effective 11-25-81 (fuel tax increase to 4¢)