

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 619

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS McKENNA AND LYBYER.

Pre-filed December 19, 1997, and 1,000 copies ordered printed.

Read 2nd time January 12, 1998, and referred to the Committee on Transportation.

Reported from the Committee January 29, 1998, with recommendation that the bill do pass with Senate Committee Amendments Nos. 1 and 2.

Taken up for Perfection February 10, 1998. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

S2293.02P

AN ACT

To repeal sections 142.009, 142.010, 142.020, 142.025, 142.030, 142.040, 142.050, 142.060, 142.070, 142.080, 142.090, 142.100, 142.110, 142.120, 142.130, 142.140, 142.150, 142.160, 142.165, 142.166, 142.167, 142.170, 142.180, 142.190, 142.200, 142.210, 142.220, 142.230, 142.240, 142.250, 142.260, 142.270, 142.280, 142.290, 142.295, 142.300, 142.330, 142.340, 142.350, 142.362, 142.364, 142.366, 142.372, 142.374, 142.403, 142.404, 142.406, 142.412, 142.422, 142.432, 142.442, 142.452, 142.462, 142.466, 142.472, 142.482, 142.492, 142.511, 142.513, 142.515, 142.517, 142.521, 142.531, 142.541, 142.551, 142.561, 142.563, 142.571, 142.573, 142.575, 142.577, 142.579, 142.583, 142.584, 142.591, 142.611, 142.617, 142.621, 155.080 and 414.102, RSMo 1994, and section 319.132, RSMo Supp. 1997, relating to motor fuel, and to enact in lieu thereof fifty-nine new sections relating to the same subject, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 142.009, 142.010, 142.020, 142.025, 142.030, 142.040, 142.050, 142.060, 142.070, 142.080, 142.090, 142.100, 142.110, 142.120, 142.130, 142.140, 142.150, 142.160, 142.165, 142.166, 142.167, 142.170, 142.180, 142.190, 142.200, 142.210, 142.220, 142.230, 142.240, 142.250, 142.260, 142.270, 142.280, 142.290, 142.295, 142.300, 142.330, 142.340, 142.350, 142.362, 142.364, 142.366, 142.372, 142.374, 142.403, 142.404, 142.406, 142.412, 142.422, 142.432, 142.442, 142.452, 142.462, 142.466, 142.472, 142.482, 142.492, 142.511, 142.513, 142.515, 142.517, 142.521, 142.531,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

142.541, 142.551, 142.561, 142.563, 142.571, 142.573, 142.575, 142.577, 142.579, 142.583, 142.584, 142.591, 142.611, 142.617, 142.621, 155.080 and 414.102, RSMo 1994, and section 319.132, RSMo Supp. 1997, are repealed and fifty-nine new sections enacted in lieu thereof, to be known as sections 142.009, 142.200, 142.350, 142.617, 142.800, 142.803, 142.806, 142.809, 142.812, 142.815, 142.818, 142.821, 142.824, 142.827, 142.830, 142.833, 142.836, 142.839, 142.842, 142.845, 142.848, 142.851, 142.854, 142.857, 142.860, 142.863, 142.866, 142.869, 142.872, 142.875, 142.878, 142.881, 142.884, 142.887, 142.890, 142.893, 142.896, 142.899, 142.902, 142.905, 142.908, 142.911, 142.914, 142.917, 142.920, 142.923, 142.926, 142.929, 142.932, 142.935, 142.938, 142.941, 142.944, 142.947, 142.950, 142.953, 155.080, 319.132 and 414.102, to read as follows:

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 [sections 142.025 and 142.372] **section 142.803**, and section 226.200, RSMo, to match federal funds available to Missouri, or if in the opinion of the general assembly revenues generated by [sections 142.025 and 142.372] **section 142.803**, and section 226.200, RSMo, are not being used for the purposes outlined in the 15 year road and bridge program as adopted by the Missouri highways and 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 [sections 142.025 and 142.372] **section 142.803**, shall be implemented or shall be repealed.

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 [sections 142.010 to 142.350] **this chapter** and for such purpose any and all civil suits and actions for the enforcement of any provision of [sections 142.010 to 142.350] **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 [sections 142.010 to 142.350] **this chapter** shall be chargeable against and paid out of funds appropriated for such purpose.

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 [under sections 142.010 to 142.350] **pursuant to this chapter** before any distribution of funds is made as herein provided.

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 [sections 142.362 to 142.621] **this chapter**. The director [of revenue] may adopt rules pursuant to [section 142.621] **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.

142.800. As used in chapter 142, 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 non-licensed 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. Code,**

sections 4081 and 4082, as amended. However, the term does not include any substance that:

- (a) Will be ultimately used for consumer non motor fuel use; and
- (b) Is sold or removed in drum quantities (55 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;

(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 190 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) "Indian country":

(a) Land held in trust by the United States of America for the benefit of a federally recognized Indian tribe or nation;

(b) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(c) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(d) All Indian allotments, the Indian titles to which have not been extinguished, including individual allotments held in trust by the United States or allotments owned in fee by individual Indians subject to federal law restrictions regarding disposition of said allotments and including rights-of-way running through the same. The term shall also include the definition of Indian country as found in 18 U.S.C., Section 1151;

(33) "Indian tribe", "tribes", or "federally recognized Indian tribe or nation", an Indian tribal entity which is recognized by the United States Bureau of Indian Affairs as having a special relationship with the United States. The term shall also include the definition of a tribe as defined in 25 U.S.C., Section 479a;

(34) "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;

(35) "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;

(36) "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;

(37) "Kerosene", the petroleum fraction containing hydrocarbons that are slightly heavier than those found in gasoline and naphtha, with a boiling range of 149 to 300 degrees Celsius;

(38) "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;

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

(40) "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;

(41) "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);

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

(43) "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;

(44) "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;

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

(46) "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;

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

(48) "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;

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

(50) "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;

(51) "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;

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

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

(a) Registered or required to be registered pursuant to 26 U.S. Code, 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;

(54) "Tank wagon", a straight truck having multiple compartments designed or

used to carry motor fuel;

(55) "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;

(56) "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;

(57) "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;

(58) "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;

(59) "Transport truck", a semi-trailer combination rig designed or used to transport motor fuel over the highways;

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

(61) "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;

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

(63) "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

(64) "Vehicle fuel tank", any receptacle on a motor vehicle from which fuel is

supplied for the propulsion of the motor vehicle.

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. Beginning April 1, 2008, the tax rate shall become eleven cents per gallon;

(2) Alternative fuels, not subject to the decal fees as provided in section 142.866, 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, RSMo to be collected as required under this chapter.

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.

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.

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.

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.

142.815. 1. Motor fuel used for the following non-highway purposes is exempt from the fuel tax imposed by this chapter, and a refund may be claimed by the consumer if the tax has been paid and no refund has been previously issued:

(1) Motor fuel used for non-highway purposes including fuel for farm tractors or stationary engines owned or leased and operated by any person and used exclusively for agricultural purposes;

(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 non-highway purposes other

than as expressly exempted under 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 non-barricaded 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 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 under this subsection, may apply for a refund of the tax upon 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 142.824;

(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) Motor fuel sold within an Indian reservation or within Indian country by a federally recognized Indian tribe to a member of that tribe and used in motor vehicles owned by a member of the tribe within Indian country. This exemption does not apply to sales within an Indian reservation or within Indian country by a federally recognized Indian tribe to non-Indian consumers or to Indian consumers who are not members of the tribe selling the motor fuel. This exemption shall be administered as provided in section 142.821;

(6) 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;

(7) 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;

(8) 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;

(9) 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;

(10) Motor fuel used by an interstate transportation authority, as defined in sections 92.400 and 94.600, RSMo.

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.

142.821. The exemption for motor fuel sold within an Indian reservation or Indian country under section 142.815 shall be administered as follows:

(1) At the discretion of the director the exemption from taxation set forth in this section shall be administered as set out in either paragraph (a) or (b) of this subdivision. In the event a court of competent jurisdiction should strike down, enjoin, or issue any form of temporary restraining order against either paragraph (a) or (b) of this subdivision, then the remaining paragraph shall immediately become effective and shall be administered by the director. The two alternative methods are as follows:

(a) The tribal member shall apply for a refund with respect to the motor fuel purchased in this state for consumption within Indian country in this state as to which the tax imposed by this chapter has previously been paid and no refund previously issued; or

(b) The director shall determine, by the procedure set out herein, the annual probable demand for motor fuel for consumption by tribal members within Indian country for each ultimate vendor location owned and operated by a federally recognized Indian Tribe on Indian country. Tribally owned and operated ultimate vendors shall be permitted a monthly allocation equal to one-twelfth the annual probable demand. No motor fuel shall be removed from a terminal or imported into this state tax free for sale at a tribally owned and operated location except pursuant to this section. The director shall issue exemption certificate coupons equal to the probable demand to each federally recognized tribe which owns and operates an ultimate vendor location in Indian country. The tribally owned and operated ultimate vendor shall transmit the coupons to its distributor who shall grant the ultimate vendor a credit in the amount of the tax exemption equal to the amount which would be due pursuant to section 142.803 absent the coupons. The distributor shall transmit said used coupons up its chain of distribution to the supplier charged with precollection of tax in accordance with this chapter who has granted the same tax exemption to the distributor. The supplier shall then claim the coupons as a credit against the tax liability otherwise owing on motor fuel removed from its terminals;

(2) The probable demand used in the method described in paragraph (b) of subdivision (1) of this section shall be determined in the first instance by the director by multiplying the number of members of the tribe which owns and operates an ultimate vendor location in Indian country who live within the service area of that location by the average per capita motor fuel consumption for residents of this state by a ratio whose numerator is the amount of motor fuel consumed in nonhighway uses (not on state maintained highways) and whose denominator is the amount of that motor fuel consumed in this state;

(3) In determining the number of members of the tribe living with the service area, the director may rely upon information including, but not limited to:

- (a) Verified information voluntarily submitted by the affected Tribe;**
- (b) Data derived from the most recent U. S. decennial census; and**
- (c) Data derived from the U. S. Bureau of Indian Affairs;**

(4) The service area of a tribally owned and operated ultimate vendor location shall be presumed to be a radius around the location with a diameter of:

(a) Ten miles in counties whose population exceeds three hundred fifty thousand; and

(b) Twenty-five miles in counties whose population does not exceed three hundred fifty thousand.

An affected tribe may rebut this presumption by competent evidence in a proceeding to adjust the probable demand determination pursuant to subdivision (7) of this subsection;

(5) In determining the per capita consumption of motor fuel and the ratio of nonhighway use of fuel to that consumed the director may rely upon information including, but not limited to:

(a) Filings with the director regarding total fuels removed from terminals versus the amount used upon highways in this state;

(b) Fuel consumption reports issued by the Federal Highway Administration; and

(c) Energy consumption reports issued by the U. S. Energy Information Service;

(6) The director may adjust his determination of probable demand periodically at his discretion, but not less often than upon receipt of a new federal decennial census;

(7) Should any affected federally recognized Indian tribe wish to contest the director's determination of probable demand, it may do so before the administrative hearing commission. At such hearing the tribe shall have the right to submit witnesses and evidence and shall have the burden of proof by a preponderance of the evidence to establish error in the director's determination and by establishing the tribe's own calculation. At the conclusion of such hearing, the administrative law judge shall prepare findings of fact, conclusions of law and an order which shall be subject to any and all rights of appeal enjoyed by the director or any other taxpayers. In such a hearing the affected tribe may introduce testimony under oath or other competent evidence to establish:

(a) The number of its tribal members living within the service area of a tribally owned and operated ultimate vendor location;

(b) The actual radius of the service area of the location, if different from those distances presumed in subdivision (4) of this section;

(c) Per capita motor fuel consumption of tribal members living within the service area if different from that calculated by the director in accordance with subdivision (5) of this section; or

(d) The ratio of non-highway to highway use fuels within the service area if different from that calculated by the director under subdivision (5) of this section;

(8) Should the director determine that an affected tribe or its suppliers have been violating or evading its determination of probable demand hereunder or securing or selling untaxed motor fuel to consumers other than members of the affected tribe, the director may, after notice and hearing, cancel the tax exemption coupons granted to the tribe and prohibit removal of tax free motor fuel from a terminal or import into this state for delivery to the tribally owned and operated ultimate vendor locations. Upon such action, the tribal members must use the method provided in subdivision (1) of this section to obtain refunds, no further coupons shall be provided to the affected tribe, and the suppliers shall not be permitted to claim a credit upon receipt of the coupons.

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 not later than April fifteenth following the year of purchase. 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, he 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 under 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 the filing required by this chapter, the director shall pay interest at the rate set out in section 32.065 RSMo, accruing after the expiration of the ninety-day period until the date the refund is issued.

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.

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 weight 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. Any person operating under revoked status or who is found to have not purchased a trip permit when so required by law, in addition to all other penalties provided by law, shall be assessed a civil penalty of fifty dollars by the director. 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.

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.

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.**

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.

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.

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.

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 truck loads 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.

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 the effective date of sections 142.800 to 142.953, each purchaser holding a valid distributor's license issued prior to the effective date of sections 142.800 to 142.953 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 canceled 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.

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.

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 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.

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.

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.

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.

142.869. 1. The tax imposed by this chapter shall not apply to passenger motor

vehicles, buses as defined in section 301.010, RSMo, 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. 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, RSMo, 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, RSMo; 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.

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, 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. 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.

4. 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.

5. 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.

6. 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.

7. No person shall cause to be put, or put, LP gas or natural 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.

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

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

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 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 multi-state 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.

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 under section 142.899, or as otherwise provided, within fifteen days, make a report as required under 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 the effective date of sections 142.800 to 142.953 and who is not licensed as a supplier under this chapter shall be deemed to have the license terminated under this section as of the effective date of sections 142.800 to 142.953.

3. Any distributor licensed prior to the effective date of sections 142.800 to 142.953 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 32.067 RSMo, 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 the effective date of sections 142.800 to 142.953.

4. If a person elects under 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 the effective date of sections 142.800 to 142.953. Should such determination not be complete before the effective date, 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 the effective date of sections 142.800 to 142.953 as part of the conversion from the predecessor act.

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 the effective date of sections 142.800 to 142.953 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.

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 canceled 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.

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.

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.

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.

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.

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 under 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 under subsection 3 of section 142.851 and was not required to have a bond posted under 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 of one-fourth of one percent of the prevailing motor fuel tax rate until such fund equals one-fourth of one percent of the prior year's motor fuel tax collections. 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 one-eighth of one percent of prior year's motor fuel tax collections, at which time the director shall notify the distributors and suppliers to resume contributions at the above 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 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.

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 canceled.

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.

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.

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 under 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 32.067, RSMo.

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 under section 570.030, RSMo.

7. If any person liable for the tax under 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 32.067, RSMo, shall be added, collected and paid.

8. All civil penalties imposed under this chapter, with any interest, shall be deposited to the credit of the motor fuel tax fund created in section 142.345.

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 32.067, RSMo.

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.

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.

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.

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.

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.

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.

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.

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; or

(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.

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. Code, Section 6715 or its successor section.

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.

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.

142.941. 1. The director, his 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. 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.

3. 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.

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.

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.

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.

142.953. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, 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, RSMo. All rulemaking authority under this chapter delegated prior to the effective date of this section 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 the effective date of this section if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, 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 the effective date of this section shall be invalid and void.

155.080. 1. There is hereby imposed a use tax on each gallon of aviation fuel used in propelling aircraft with reciprocating engines. The tax is imposed at the rate of nine cents per gallon. Such tax is to be collected and remitted to this state or paid to this state in the same manner and method and at the same time as is [now] prescribed by [sections 142.010 to 142.350] **chapter 142**, RSMo, for the collection of the motor fuel tax imposed on each gallon of motor fuel used in propelling motor vehicles upon the public highways of Missouri.

2. [Each distributor of aviation fuel upon which a tax is imposed under subsection 1 of this section shall report all aviation fuel receipts to the department of revenue not later than the last day of the month next following the month of delivery on such form and in such manner as shall be prescribed by the director of revenue. Such form shall be attached to the distributor's motor fuel distributor report. Within thirty days of the last day of the month next following the month of delivery, the director of revenue shall provide a summary report of the total number of gallons of aviation fuel sold and the total revenue collected during the month of delivery to the director of aviation.] **All applicable provisions contained in chapter 142, RSMo, governing administration, collection and enforcement of the state motor fuel tax shall apply to this section, including but not limited to reporting, penalties and interest.**

3. Each commercial agricultural aircraft operator may apply for a refund of the tax it has paid for aviation fuel used in a commercial agricultural aircraft. All such applications for refunds shall be made in accordance with the procedures specified in [section 142.230] **chapter 142**, RSMo, for refunds of motor fuel taxes paid. If any person who is eligible to receive a refund of aviation fuel tax fails to apply for a refund as provided in [section 142.230] **chapter 142**, RSMo, he makes a gift of his refund to the aviation trust fund.

319.132. 1. The board shall assess a surcharge on [persons first receiving] all petroleum products within this state which are enumerated by section 414.032, RSMo. Except as specified

by this section, such surcharge shall be administered pursuant to the provisions of sections 414.102 and 414.152, RSMo. Such surcharge shall be imposed upon [persons first receiving] such petroleum products within this state and shall be assessed on each transport load, or the equivalent of an average transport load if moved by other means. All revenue generated by the assessment of such surcharges shall be deposited to the credit of the special trust fund known as the petroleum storage tank insurance fund.

2. The board shall assess and annually reassess the financial soundness of the petroleum storage tank insurance fund.

3. The board shall set, by rule, the rate of the surcharge that is to be assessed on each such transport load or equivalent but such rate shall be no more than twenty-five dollars per transport load or an equivalent thereof. A transport load shall be deemed to be eight thousand gallons.

4. The board shall ensure that the fund retain a balance of at least twelve million dollars but not more than one hundred million dollars. If, at the end of any quarter, the fund balance is above one hundred million dollars, the treasurer shall notify the board thereof. The board shall suspend the collection of fees under this section beginning on the first day of the first quarter following the receipt of notice. If, at the end of any quarter, the fund balance is below twenty million dollars, the treasurer shall notify the board thereof. The board shall reinstate the collection of fees under this section beginning on the first day of the first quarter following the receipt of notice.

5. Railroad corporations as defined in section 388.010, RSMo, and airline companies as defined in section 155.010, RSMo, shall not be subject to the load fee described in this chapter nor permitted to participate in or make claims against the petroleum storage tank insurance fund created in section 319.129.

414.102. 1. Every person [first receiving] **importing or removing** within this state, [within the meaning of the word "received", as] **as import and removal are** defined in section [142.010] **142.800**, RSMo, any of the petroleum products regulated by this chapter shall file with the director of revenue on forms prescribed by the director of revenue, [on or before the last day of each month,] a report listing thereon the amount of such products [received] **imported or removed** by said person during the [preceding calendar month] **reporting period as defined in chapter 142, RSMo**, and attach thereto remittance in payment of inspection fees due.

2. Fees on all regulated products shall be paid on gallons [received] **imported or removed**, less [any] **all** exports [out of state and any sales to other motor fuel distributors licensed under section 142.070, RSMo]. **Notwithstanding any other provision to the contrary, the deduction in this subsection shall be the only one allowed.**

3. Payment of fees and the report required by this section shall be paid and filed annually if the total fees paid during the previous year amounted to less than twenty-five dollars. The annual report and payment of fees allowed by this subsection shall be due during the month of

January. If a business filing annual reports is discontinued at any time, the report and payment of fees shall be due at the time of discontinuance of business.

4. When the inspection fee has been paid on any product regulated by this chapter which is then shipped outside of this state for use, sale or distribution, credit or refund shall be allowed for the amount so paid.

5. All applicable provisions contained in chapter 142, RSMo, governing administration, collection and enforcement of the state motor fuel tax shall apply to this section, including but not limited to reporting, penalties and interest.

[142.010. When used in sections 142.010 to 142.350 the following words shall have the meaning indicated:

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

(2) "Dealer", any person, except distributors, now or hereafter engaged in the business of selling or dispensing motor fuel in the state of Missouri;

(3) "Distributor", any person who first receives motor fuel within this state, within the meaning of the word "received" as defined in subdivision (10) of this section; except that a person may bring motor fuel into this state in the usual and ordinary fuel supply tank attached to the engine of a motor vehicle without becoming a distributor and without liability for any tax imposed pursuant to section 142.020;

(4) "Limited alcohol manufacturer", a person who manufactures alcohol on his own property under federal permit for use in vehicles for purposes other than highway use;

(5) "Motor fuels", "gasoline" means

(a) All products, except aviation fuel, commonly or commercially known or sold as gasoline regardless of their classification or uses; and

(b) Any liquid prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society for Testing Materials Designation D-86) shows not less than ten percentum distilled (recovered) below three hundred forty-seven degrees Fahrenheit and not less than ninety-five percentum distilled (recovered) below four hundred sixty-four degrees Fahrenheit; provided, however, that "gasoline" shall not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit and at a pressure of fourteen and seven-tenths pounds per square inch absolute; and provided further, that "gasoline" shall not include commercial solvents or naphthas which distill, by the American Society for Testing Materials Method D-86, not more than nine percentum at one hundred seventy-six degrees Fahrenheit and which have a distillation range of one hundred twenty-five degrees or less

or raw petroleum products or petrochemical intermediates when used as or sold for use in production or manufacture of plastics, detergents, synthetic rubber, herbicides, insecticides or other chemicals or products which are not prepared, advertised, offered for sale or sold for use or suitable for use as fuel for generating power in internal combustion engines;

(6) "Motor vehicle", all vehicles, except those operated on rails, which are propelled by internal combustion engines or motors and are used or are designed for use in the transportation of a person or persons or property upon public highways;

(7) "Person" includes every natural person, fiduciary, partnership, association or corporation, municipal corporation, county or other political subdivision;

(8) "Political subdivisions of the state", as used in sections 142.010 to 142.350, is intended to be all inclusive and shall include any county, township, road district, sewer district, school district, municipality, town or village, or any other public corporation, whether of like character as those enumerated in this subdivision or not, that is an agency for the administration of civil government;

(9) "Public highways", every way or place of whatever nature, generally open to the use of the public as a matter of right, for the purposes of vehicular travel, notwithstanding that the same may be temporarily closed for the purposes of construction, reconstruction, maintenance or repair;

(10) "Received", for the purpose of determining liability for payment of the tax imposed in section 142.020, motor fuel shall be deemed to be "received" as follows:

(a) Motor fuel refined at a refinery in this state and placed in tanks thereat, or motor fuel transferred from a refinery or from a boat, barge or pipeline terminal in this state or transferred from points outside this state to a refinery, or to a boat, barge, or pipeline terminal in this state and placed in tanks thereat, shall be deemed to be received, for the purpose of sections 142.010 to 142.350, at the time the motor fuel is withdrawn from such refinery or terminal storage for sale or use in this state or for transportation to destinations in this state other than further transfers to other refineries or boat, barge, or pipeline terminals in this state, and not before. When withdrawn from such refinery or terminal storage, such motor fuel shall be deemed to be received by the person who is the owner of such refinery or terminal storage immediately prior to the time of withdrawal, unless the motor fuel is withdrawn for delivery or transportation to the holder of an unrevoked distributor license, in which case such motor fuel shall be deemed to be received by the distributor to whom the motor fuel is so delivered or transported;

(b) Motor fuel imported into this state other than that placed in tanks at a refinery, or a boat, barge, or pipeline terminal in this state shall be deemed to be received at the time and by the person who is the owner of such motor fuel immediately after the motor fuel is unloaded from the transportation equipment by which the motor fuel was imported,

except that if any motor fuel shall be used in this state directly from the equipment by which the motor fuel is imported, then such motor fuel shall be deemed to have been received by the person who is the owner of the equipment which used the motor fuel at the time the motor fuel is brought into this state;

(c) Motor fuel produced, compounded, or blended in this state other than at a refinery, or a boat, barge, or pipeline terminal shall be deemed to be received at the time and by the person who is the owner of such other place when such motor fuel is so produced, compounded, or blended;

(d) Motor fuel acquired in this state by any person other than as set out in paragraphs (a), (b) and (c) of this subdivision shall, unless the person from whom the motor fuel is acquired has paid or incurred liability with respect to such motor fuel for the tax imposed in section 142.020, or unless the same be exempt under the provisions of section 142.030, be deemed to be received by the person so acquiring at the time so acquired;

(e) Motor fuel shipped from outside this state to within this state shall not be deemed to have been received by the person to whom delivery is made in this state if the seller is a licensed distributor in this state and has charged or collected the tax from the person to whom such motor fuel is delivered. In this event such motor fuel shall be deemed to have been received by such licensed distributor. For all other purposes of sections 142.010 to 142.350 the word "received" shall be given its usual and customary meaning.]

[142.020. 1. In order to provide funds for the construction and maintenance of the public highways of this state, there is hereby provided for a license tax to produce a sum equal to the rate provided in section 142.025 on each gallon of motor fuel used propelling motor vehicles upon the public highways of Missouri to be collected as herein provided.

2. For the privilege of receiving motor fuel to be sold for use in propelling motor vehicles upon the public highways of this state, there is hereby imposed upon every person receiving motor fuel in this state a license tax equal to the rate provided in section 142.025 on all motor fuel received to be sold for use in propelling motor vehicles upon the public highways of this state. It shall be presumed that all motor fuel received in this state is to be sold for use and will be used in propelling motor vehicles upon the public highways.

3. The distributor receiving motor fuel in this state shall be liable for said license tax on the gross number of gallons of motor fuel received by him as shown by invoices thereof less deductions in sections 142.010 to 142.350 provided for, and shall pay the license tax to the director of revenue.

4. Every distributor who shall receive motor fuel in this state shall, except as otherwise provided in section 142.030, upon selling such motor fuel, add to the selling price of each and every gallon of such motor fuel the per gallon amount of said tax and collect

the same from the purchaser thereof. Thereafter, except as otherwise provided in section 142.030, if said motor fuel is again sold the per gallon amount of the tax shall be added to the selling price of the fuel by any person who shall sell the same, and shall be collected from the purchaser, and so on, so that the ultimate consumer shall bear the burden of the tax as a part of the price of the motor fuel he purchases.

5. Every person purchasing motor fuel in this state from any distributor or other person shall pay, except as otherwise provided in section 142.030, to the distributor or other person from whom said motor fuel is purchased, the amount of the license tax which the distributor or other person is required by sections 142.010 to 142.350 to add to the selling price of the motor fuel. It shall be presumed that all motor fuel purchased by any person in this state is intended to be used and will be used to propel motor vehicles upon the public highways of this state.

6. All money collected by any distributor as a part of the sale price of motor fuel, that is added to the selling price to cover the license tax required to be so added by sections 142.010 to 142.350, shall be and remain, except the three percent allowance authorized in paragraph (b) of subdivision (1) of subsection 1 of section 142.140, public money, the property of the state of Missouri, unless and until the distributor collecting said money shall pay to the director of revenue the license tax imposed upon him that is measured by the receipt of the fuel which he sold and upon which sale the money was collected.]

[142.025. The rate of the license tax imposed by section 142.020 on motor fuel used in propelling motor vehicles upon the public highways of Missouri is eleven cents per gallon through March 31, 1992. The rate shall be increased to thirteen cents per gallon on April 1, 1992, to fifteen cents per gallon on April 1, 1994, and to seventeen cents per gallon on April 1, 1996. Beginning April 1, 2008, the tax shall again become eleven cents per gallon.]

[142.030. No tax shall be imposed, charged or collected with respect to the following:

(1) Motor fuel exported or sold for export from this state to any other state, territory, or foreign country, except in the usual and ordinary fuel supply tank connected with the engine of a motor vehicle leaving this state;

(2) Motor fuel used by any licensed distributor for any purpose other than the generation of power for the propulsion of motor vehicles upon the public highways;

(3) Motor fuel received by any licensed distributor and thereafter lost or destroyed while such distributor is the owner thereof as a result of theft, leakage, fire, accident, explosion, lightning, flood, storm, act of war, or public enemy, or other like cause.]

[142.040. 1. Each distributor having received motor fuel which is thereafter exported, sold, used, lost or destroyed, as set forth under subdivisions (1) to (3) of section

142.030, upon furnishing such proof thereof as the director of revenue shall by regulation require, shall be entitled to deduct from the gallonage on which his liability for payment of the motor fuel tax would otherwise be computed all gallonage so exported, sold, used, lost or destroyed.

2. Each distributor having received motor fuel which is thereafter delivered to or for the account of another duly licensed distributor shall be entitled to deduct from the gallonage on which his liability for payment of the motor fuel tax would otherwise be computed all gallonage so delivered and the distributor to or for whose account such delivery is made shall be deemed to have received such motor fuel in this state.

3. Deductions which must be supported by exemption certificates shall be taken on the motor fuel tax report for the month in which such certificates are obtained by the distributor. Deductions for motor fuel lost or destroyed may be taken on any report rendered within sixty days after the discovery of such loss or destruction by the distributor.

4. If the deductions to be taken by any distributor in any month shall exceed the gallonage on which the tax would otherwise be computed, the excess of such deduction may be taken on the next subsequent report. If the distributor be unable to take a tax credit, the director of revenue shall make a proper adjustment by way of a refund to such distributor by a requisition on the commissioner of administration for a warrant payable to such distributor for the amount due him.

5. The director of revenue shall give credit or a refund to a distributor for overpayment. The director shall also give credit or a refund to a distributor for the tax on fuels on which the tax is paid to Missouri but which is consumed in another state and on which a fuel tax is paid to such other state. The director shall require and the distributor shall furnish adequate proof of such overpayment or payment to such other state. When such proof is furnished, the director, at his discretion, shall give either a credit or a refund.]

[142.050. 1. The tax imposed by sections 142.010 to 142.350 upon the distributor receiving the motor fuel, together with any penalties and interest that may accrue, shall constitute a first lien on all property, both real and personal, of that distributor. 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 of revenue shall file notice of such lien in duplicate with the recorder of deeds in the county in which the distributor resides or in which the distributor'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 of revenue may file a like notice in the same manner in any county in which the distributor shall own real estate and it shall be accorded the same effect. The recorder shall receive no fee for filing or recording the notice.

3. Upon payment of the tax, penalty and interest set forth in the assessment attached to the notice of lien, the director of revenue 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 of revenue shall keep a record of all 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.]

[142.060. 1. Distributors and all other persons selling motor fuel shall state the rate of the tax separately from the price of the motor fuel on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of motor fuels.

2. The state of Missouri hereby preempts the field of regulating the manner of posting the price of motor fuels as in this section provided, and no county, city, town, or other political subdivision shall have the right to impose by ordinance or regulation any restrictions, regulations, or directions with respect to the manner of displaying the price of motor fuels on a dispensing device used at retail locations in Missouri.]

[142.070. 1. No distributor shall receive, use, sell or distribute any motor fuel, or engage in business within this state, unless he is the holder of an uncanceled license to engage in such business issued by the director of revenue.

2. To procure such license every distributor shall file with the director of revenue an application upon oath and in such form as the director of revenue may prescribe, setting forth:

(1) The name under which the distributor will transact business within the state of Missouri;

(2) The location, with street number address, of its principal office or place of business within this state;

(3) The name and complete residence of the owner or the names and addresses of the partners, if such distributor is a partnership, or the names and addresses of the principal officers, if such distributor is a corporation or association.

3. At the time of filing his application, every distributor shall file with the director

of revenue a bond of the character and amount provided in section 142.100. No license shall issue upon any application unless accompanied by such a bond, nor, if the applicant is a foreign corporation, unless it is at such time properly qualified under the laws of the state to do business therein. Every distributor shall have filed with the secretary of state's office and shall conform with all legal requirements of the secretary's office or fictitious name requirements whether or not a domestic or foreign corporation, for operating under a fictitious name. Such compliance with these requirements shall be made before date of application for a distributor's license and any failure by the applicant to meet these requirements shall justify the refusal by the director of revenue to issue such a license. Any misrepresentation by the applicant at time of making his application, shall be cause for prompt cancellation of the license.

4. Upon the applicant's compliance with this section, the director of revenue shall issue a license certificate to transact business as a distributor which license shall remain in full force and effect until revoked. The license shall be unassignable and shall be displayed conspicuously in the principal place of business of the distributor in this state.

5. The director of revenue shall keep and file all applications and bonds in an alphabetical index thereof, together with a record of all licensed distributors, and shall furnish annually to all licensed distributors a statement showing all such distributors together with monthly supplements of changes.]

[142.080. 1. The director of revenue shall refuse to issue a license certificate in any of the following situations:

(1) Where the application for a license to transact business as a distributor in this state shall be filed by any person whose license shall at any time theretofore have been canceled for cause;

(2) Where the director of revenue shall be of the opinion that such application is not in good faith;

(3) Where such application is filed by some person as a subterfuge to enable some other person whose license has been canceled for cause to continue in the business as a distributor;

(4) Where such application is filed by any person who held a license under the provisions of sections 142.010 to 142.350 and who is indebted to the state for any taxes, penalties, or interest accruing hereunder;

(5) Where such application is filed by a person who managed, operated, owned or controlled, directly or indirectly, a corporation which held a license under sections 142.010 to 142.350, which corporation is indebted to the state for any tax, penalties or interest accruing hereunder;

(6) Where such application is filed by a corporation that is managed, operated,

owned or controlled, directly or indirectly, by any person who held a license under the provisions of sections 142.010 to 142.350, who is indebted to the state for any tax, penalties, or interest accruing hereunder;

(7) Where such application is filed by a corporation that is managed, operated, owned, or controlled, directly or indirectly, by any person who managed, operated, owned or controlled, directly or indirectly, a corporation licensed under sections 142.010 to 142.350, which is indebted to the state for any tax, penalties, or interest accruing hereunder.

2. Any applicant whose application for a license certificate has been refused by the director pursuant to the provisions of this section may seek review of the director of revenue's determination by the administrative hearing commission.】

【142.090. Any person other than a distributor as defined in section 142.010 having bulk storage for wholesale quantities of motor fuel for actual distribution in bulk by tank truck or tank wagon may also be licensed as a distributor as set forth in section 142.070 upon compliance with the provisions thereof and shall thereupon be deemed to be the distributor for all purposes of sections 142.010 to 142.350 with respect to any motor fuel received by him while such license remains unrevoked.】

【142.100. 1. Every distributor, except the state, its departments and political subdivisions, the United States and any department, agency or instrumentality thereof, shall file with the director of revenue a bond in an amount not less than twice the average monthly tax liability of the applicant, estimated in the case of a new applicant, otherwise based on the previous twelve months' experience, but in no case less than five thousand dollars nor more than one hundred thousand dollars, on a form to be approved and furnished by the director of revenue with a corporate surety licensed to do such business in this state and approved by the director of revenue as surety thereon, upon which such distributor shall be the principal obligor and the state of Missouri shall be the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by such distributor to the director of revenue of any and all motor fuel license taxes which are now or which hereafter may be levied or imposed by the state of Missouri, upon the distributor, together with any and all penalties and interest thereon, and generally upon the faithful compliance with the provisions of sections 142.010 to 142.350.

2. In the event that liability upon the bond thus filed by the distributor shall be discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the director of revenue any surety on the bond theretofore given shall have become unsatisfactory or unacceptable, then the director of revenue may require the distributor to file a new bond with a satisfactory surety in the same form and amount, failing which the director of revenue shall forthwith cancel the license certificate of said

distributor. If such new bond shall be furnished by such distributor as provided in this section, the director of revenue shall upon satisfaction of any liability that has accrued, release the surety on the old bond of the distributor.

3. Any surety on any bond furnished by any distributor as provided in this section shall be released and discharged from any and all liability to the state of Missouri accruing on such bond after the expiration of sixty days from the date upon which such surety shall have lodged with the director of revenue written request to be released and discharged; however, the request shall not operate to relieve, release or discharge such surety from any liability already accrued or which shall accrue during and before the expiration of such sixty-day period. The director of revenue shall promptly on receipt of notice of such request notify the distributor who furnished such bond, and unless such distributor shall on or before the expiration of such sixty-day period file with the director of revenue a new bond with a surety company satisfactory to the director of revenue in the amount and form in this section provided, the director of revenue shall immediately cancel the license of that distributor.

4. Notwithstanding the limitation as to the amount of any bond fixed by this law, if a taxpayer

(1) Becomes delinquent in the payment of any tax, or

(2) Tenders a check in payment of tax which check is returned unpaid because of insufficient funds, the director may demand an additional bond of such taxpayer in an amount necessary, in the judgment of the director, to protect the revenue of the state, except that the penal sum of the additional bond and the bond furnished under the provisions of the law requiring such bond, may not, in total amount, exceed three months' tax liability.]

[142.110. 1. Whenever a distributor ceases to engage in business as a distributor within this state by reason of the discontinuance, sale or transfer of the business of such distributor, it shall be the duty of such distributor to notify the director of revenue in writing at least ten days prior to the time the discontinuance, sale or transfer takes effect.

2. Such notice shall give the date of the proposed discontinuance, and in the event of a proposed sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee thereof.

3. All taxes, penalties and interest under sections 142.010 to 142.350 not yet due and payable under the provisions of sections 142.010 to 142.350 shall, together with any and all interest accruing or penalties imposed under sections 142.010 to 142.350, notwithstanding any provisions thereof, become due and payable concurrently with such discontinuance, sale or transfer, and thereupon it shall be the duty of any such distributor to make a report and pay all such taxes, interest, and penalties, and to surrender to the

director of revenue the license certificate theretofore issued to said distributor.

4. Unless the notice above provided for shall have been given to the director of revenue as above provided, such purchaser or transferee shall be liable to the state of Missouri for the amount of all taxes, penalties, and interest under sections 142.010 to 142.350 accrued against the seller or transferor on the date of such sale or transfer, but only to the extent of the value of the real and tangible personal property thereby acquired from such distributor.]

[142.120. 1. If a distributor shall at any time file a false monthly report of the data or information required by sections 142.010 to 142.350, or shall fail, refuse or neglect to file the monthly report required by sections 142.010 to 142.350, or to pay the full amount of the tax as required by sections 142.010 to 142.350, the director of revenue may after ten days' written notice by registered or certified mail directed to the last known address of such distributor, setting a time and place at which such distributor may appear and show cause why his license should not be canceled, cancel the license of said distributor and notify such distributor in writing of such cancellation by registered or certified mail to the last known address of such distributor on the files of the director of revenue.

2. Upon receipt of a written request from any distributor licensed under sections 142.010 to 142.350 to cancel the license issued to such distributor, the director of revenue shall have the power to cancel such license effective sixty days from the date of the receipt of such written request, but no such license shall be canceled upon the request of any distributor until and unless the distributor shall, prior to the date of such cancellation, have paid to the state of Missouri all taxes payable under sections 142.010 to 142.350, together with any and all penalties, and interest accruing under any of the provisions of sections 142.010 to 142.350, and until and unless the distributor shall have surrendered to the director of revenue the license certificate theretofore issued to such distributor.

3. If, upon investigation, the director of revenue shall ascertain and find that any person to whom a license has been issued under sections 142.010 to 142.350 is no longer engaged in the receipt, use or sale of motor fuel as a distributor and has not been so engaged for a period of ninety days, the director of revenue shall have the power to cancel such license by giving such person thirty days' notice of such cancellation mailed to the last known address of such person.

4. In the event that the license of any distributor shall be canceled as in this section provided, and in the further event that the distributor shall have paid to the state of Missouri all taxes due and payable by it under sections 142.010 to 142.350, together with any and all penalties and interest accruing under any of the provisions of sections 142.010 to 142.350, then the director of revenue shall cancel the bond theretofore filed by that distributor, and release and discharge the surety thereon.]

[142.130. 1. For the purpose of determining the amount of his liability for the tax imposed in section 142.020, each distributor shall, not later than the last day of the month next following the month in which sections 142.010 to 142.350 become effective, and not later than the last day of each calendar month thereafter, file with the director of revenue, on forms prescribed by him, monthly reports which shall include the following:

(1) An itemized statement of the number of invoiced gallons of motor fuel received (within the meaning of the term "received" as defined in section 142.010) by such distributor within this state during the next preceding calendar month. Such statement shall show the date, place and quantity of each receipt of motor fuel, the point of origin, the method by which and the name of the person from whom motor fuel was received, and such other detail of each transaction or operation by which motor fuel was received as the director of revenue may deem necessary for the proper administration of sections 142.010 to 142.350.

(2) An itemized statement showing the number of gallons of motor fuel received and thereafter disposed of by exempt transactions authorized in section 142.030, together with such supporting details of each such transaction as the director of revenue may deem necessary for the proper administration of sections 142.010 to 142.350.

2. In addition to the data required herein, the report rendered by any distributor for the first calendar month following the effective date of sections 142.010 to 142.350 shall contain:

(1) A statement of the number of gallons of motor fuel on hand within this state (other than at refineries or boat, barge or pipeline terminals) and not reported for taxation under sections 142.010 to 142.350 or any prior law. Such motor fuel shall be deemed to be received by such distributor on the effective date of sections 142.010 to 142.350.

(2) A statement of the number of gallons, if any, of any product on hand in this state on the effective date of sections 142.010 to 142.350 not subject to the tax imposed in section 142.020 or not yet received for the purpose of computing said tax but with respect to which such distributor has paid or incurred liability for motor fuel taxes under a prior law. Such distributor shall be entitled to take credit against any amount due from him under sections 142.010 to 142.350 for the amount of any motor fuel tax on such gallonage paid by him or for which he has incurred liability under a prior law.]

[142.140. 1. At the time of filing each monthly report with the director of revenue, each distributor shall enclose with such report to the director of revenue a bank draft, check, or postal, express or telegraph money order, payable to the director of revenue in the full amount of the motor fuel tax due from such distributor for the next preceding calendar month which shall be computed as follows:

(1) From the total number of invoiced gallons of motor fuel received by such

distributor within this state during the next preceding calendar month shall be made the following deductions:

(a) Total number of gallons of motor fuel received by the distributor within this state and disposed of by exempt transactions authorized in section 142.030; and

(b) Three percent of the number of gallons of motor fuel remaining after the deduction authorized in paragraph (a) of subdivision (1) of subsection 1 is taken, this being a flat allowance to cover evaporation, shrinkage, and losses, also such distributor's expenses and losses in collecting, accounting for, and paying over the tax imposed in section 142.020.

(2) The number of invoiced gallons remaining after the deductions set forth in section 142.040 shall be multiplied by the rate provided in section 142.025, and the resulting figure shall be the amount of motor fuel tax due from such distributor for the next preceding calendar month.

2. The report from each distributor covering any month during which any increase in the rate of tax first becomes effective shall include a statement of the number of gallons of motor fuel which such distributor has received and has on hand at the time of opening for business on the date such increase is first effective, which gallonage less a deduction equivalent to that authorized in paragraph (b) of subdivision (1) of subsection 1 shall be subject to the increase in the rate of tax. Said additional tax shall be paid with the report for said month.

3. Any report, claim, tax return, statement or other document required to be filed or any payment required to be made under sections 142.010 to 142.350 which is:

(1) Transmitted through the United States mail, shall be deemed filed and received on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it; or

(2) Mailed but not received or where received and the cancellation marking is illegible, erroneous or omitted, shall be deemed filed and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing; and in cases of such nonreceipt of a report, tax return, statement, remittance, or other document required by law to be filed, the sender files a duplicate within thirty days after written notification is given to the sender of the nonreceipt of such report, tax return, statement, remittance, or other document.

4. If any report, claim, tax return, statement, remittance, or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States post office of such registration, certification or certificate shall be considered competent evidence that the report, claim, tax return,

statement, remittance, or other document was mailed to the addressee, and the date of registration, certification or certificate shall be deemed the postmarked date.

5. If the date for filing any report, claim, tax return, statement, remittance, or other document falls upon a Saturday, Sunday or legal holiday, or on a date on which the postal service is not in operation due to a strike by the employees thereof, the filing shall be considered timely if performed on the next business day or on the next day in which postal operations are resumed.

6. Where the distributor making remittance is the United States or a department, agency or instrumentality thereof, or is the state, a department or political subdivision thereof, the remittance need not be in the form prescribed in subsection 1, but may be in any medium of exchange which the distributor is authorized by law to issue.】

【142.150. Distributors may for tax purposes report the motor fuel received by them on either the basis of gallons corrected to a temperature of sixty degrees Fahrenheit at fourteen and seven-tenths pounds pressure per square inch absolute, or on the basis of measured gallons, at the election of the distributor. Each distributor shall at the time a license is applied for, and on the first day of each year thereafter, file with the director of revenue a written statement, signed by said distributor, electing which basis said distributor desires to use in making its tax reports. Thereafter, the basis chosen must be used throughout the balance of the year.】

【142.160. 1. Each distributor shall maintain and keep for a period of three years such record or records of all transactions by which motor fuel is received, used, sold, delivered or otherwise disposed of within this state by such distributor, together with invoices, bills of lading, and other pertinent records and papers as may be required by the director of revenue for the reasonable administration of sections 142.010 to 142.350.

2. It shall be the duty of every dealer to maintain and keep for a period of three years a record of motor fuel purchased by him and the purchase price, together with delivery tickets, invoices, and bills of lading, and such other records as the director of revenue shall require.

3. The director of revenue shall prescribe and furnish all forms upon which reports shall be made under sections 142.010 to 142.350 or claims for refund presented to the director of revenue, and may prescribe forms of record to be used by distributors; provided, however, that the director of revenue shall not require a change in the form of records kept by any distributor if such records contain such information as may reasonably be required for the administration of sections 142.010 to 142.350.】

【142.165. 1. Each distributor of motor vehicle fuel upon which a tax is imposed under chapter 142, shall forward to the department of revenue 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 fuel to a marina or other retailer who sells such fuel to the ultimate consumer for use in a boat or ship operating on the waterways of the state and which is located in a county containing any part of a lake having one hundred miles of shoreline or more.

2. Each invoice submitted to the department of revenue shall include the name and address of the purchaser, the county in which the fuel was delivered, the quantity of fuel delivered and the amount of motor vehicle fuel tax collected thereon.]

[142.166. 1. Prior to July first of each year, each county described in section 142.165 and the state highways and transportation commission shall jointly file with the department of revenue 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 motor fuel tax collected within that county under the provisions of sections 142.165 to 142.167 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 motor fuel tax derived from that county under the provisions of sections 142.165 to 142.167. If no such statement is filed, the department of revenue 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 motor fuel 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 sections 142.165 to 142.167.

2. No later than August fifteenth of each year, the department of revenue shall compare the invoices for delivery of fuel 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 motor vehicle fuel tax as provided in section 142.230, and shall, with the approval of the highways and transportation department, 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 fuel for use in boats and ships exceeds the tax refunded on fuel purchased in the county. The balance of the unclaimed boat or ship fuel tax refunds for the county shall be deposited in the state road fund to the use of the highways and transportation commission.]

[142.167. 1. The refunds of motor fuel tax received by each county under the provisions of sections 142.165 to 142.167 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.

2. 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.]

[142.170. 1. The director of revenue or any deputy, employee, or agent authorized by him is hereby given the authority to examine, during the usual business hours of the day, the records, books, papers, receipts, invoices, storage tanks, and any other equipment, of any distributor, dealer, purchaser or common, contract or other carrier, pertaining to motor fuel received, used, sold, delivered, or otherwise disposed of, as the case may be, to verify the truth and accuracy of any statement, report or return, or to ascertain whether or not the tax imposed by sections 142.010 to 142.350 has been paid.

2. The director of revenue shall have the power, in the enforcement of the provisions of sections 142.010 to 142.350, to hold hearings, to administer oaths to witnesses, to take the sworn testimony of any person and cause it to be transcribed into writing, and for such purposes shall be authorized to issue subpoenas and subpoenas duces tecum and compel the attendance of witnesses, and shall have the power to conduct such investigations as he may deem necessary.

3. If any distributor, dealer, purchaser or carrier shall refuse access to such records, books, papers, receipts, invoices, storage tanks or any other equipment, or if any person shall fail or refuse to obey such subpoena or subpoena duces tecum, or shall fail or refuse to testify before the said director of revenue, then the said director of revenue shall certify the names and facts to the circuit court of any county, and the court shall enter such order against such distributor, dealer, purchaser, common carrier, contract or private carrier, or person in the premises as the enforcement of sections 142.010 to 142.350 and justice shall require.]

[142.180. 1. If any distributor or other person liable to collect and pay over the tax shall neglect or refuse to make and file any report as herein required, or shall file an incorrect or fraudulent report and shall fail to pay the proper amount of the tax due, or having properly reported shall fail to pay the amount of the tax due, or if for any other reason a distributor or other person liable for the tax shall fail to pay the same, the

director of revenue shall make a written statement showing the following:

- (1) The name and address of such distributor or other person;
- (2) The license held by such distributor or other person and the date it was issued;
- (3) The number of gallons of motor fuel received by such distributor or other person and the month in which received;
- (4) The deductions and number of gallons to which the distributor is entitled, stated by kinds or types;
- (5) The number of gallons of motor fuel on which a tax is due and the amount of the tax due;
- (6) Whether any of the tax has been paid and the date and amount of such payments, if any;
- (7) The name and address of the corporate surety on the bond of such distributor and the date of such bond and amount thereof. Such statement shall, when made, constitute the tax assessment against the delinquent taxpayer.

2. There is hereby imposed for delinquency in paying any tax due a penalty of five percent for each calendar month or fraction thereof that such tax remains unpaid, to be cumulative only to twenty-five percent of the total amount of such tax. The unpaid tax shall also bear interest at the rate determined by section 32.065, RSMo, for the period the tax remains unpaid after the date such tax was due.

3. The director of revenue upon making the assessment shall date the same and, over his signature, transmit the assessment to the attorney general who shall stamp thereon the date he receives the assessment and proceed to collect the amount of tax due, together with any penalties and interest which have accrued. If the tax, penalties and interest shall not be paid to the attorney general within thirty days of the date he received the tax assessment, he shall commence in the county in which the defendant resides, or in the county in which a corporate defendant keeps and maintains its principal office and place of business, and prosecute an action to enforce payment of the tax due, together with any penalties and interest which may be due. The prosecuting attorney of any county in which such an action shall be brought, shall, if called upon by the attorney general, render all assistance necessary to prosecuting said action to a final conclusion.

4. In any such action, the assessment transmitted to the attorney general by the director of revenue shall be admitted in evidence and shall constitute prima facie evidence of all statements made therein.

5. No action or other proceeding shall be maintained to enforce collection of any tax, penalties or interest from the distributor or other person liable to collect and pay over the tax for an amount over and above the amount shown to be due by the reports filed by such distributor or other person except upon an assessment made by the director of

revenue and unless brought within one year after the date of such assessment. No such assessment shall be made covering any period beyond five years prior to the date of such assessment.

6. The attorney general may, at his option, and in his discretion, bring said action jointly against the distributor and the surety on his bond, or against either of them without joining the distributor and the surety as codefendants in the same action. Where such action is against the surety of a distributor alone, said action may be maintained in any county in the state in which service of process may be had on said surety. In any action against the surety alone, the assessment made by the director of revenue shall have the same force and effect provided in the case of an action against the distributor.]

[142.190. When any distributor shall fail to pay to the director of revenue the amount of taxes due under sections 142.010 to 142.350 when the same shall be payable, and by reason thereof, penalties and interest accrue as provided in section 142.180, if it appears to the director of revenue that the failure to pay the tax within the time prescribed by law or where error or omission in reports or payments are the result of mistake or arise from circumstances beyond the reasonable control of the distributor and the delinquency or inaccuracy was unavoidable or devoid of intent to evade the tax, the director of revenue may, in his discretion, waive the penalties and interest.]

[142.210. It is expressly provided that all of the remedies and prosecutions of the state provided in sections 142.010 to 142.350 shall, except as otherwise provided, be cumulative, and that no action taken by the state, whether civil or criminal, shall be or be construed to be an election on the part of the state or any of its officers to pursue any remedy or prosecution provided hereunder to the exclusion of any other remedy or prosecution for which provision is made in sections 142.010 to 142.350.]

[142.220. 1. Every person other than a distributor who shall have purchased motor fuel in this state and shall have paid the tax imposed in section 142.020 on such motor fuel shall be entitled to a refund of the amount of tax for each claim, when such tax has been paid by him on any such motor fuel which is lost or destroyed through theft, leakage, fires, explosion, lightning, flood, storm, or other casualty, except evaporation, shrinkage, or unknown cause.

2. Such person shall notify the director of revenue in writing of such loss or destruction and the amount of motor fuel lost or destroyed within ten days from the date of discovery of such loss or destruction, and within thirty days after such notice, shall file with the director of revenue an affidavit sworn to by the person having immediate custody of such motor fuel at the time of such loss or destruction, setting forth in full the circumstances and amount of the loss or destruction and such other information with respect thereto as the director of revenue may require.

3. In the event that the director of revenue is satisfied that the fuel was lost or destroyed as claimed, he shall cause the amount of the tax paid by such person to be refunded by a requisition upon the commissioner of administration for a warrant on the state treasury for the amount due such person.]

[142.230. 1. All motor fuels distributed or sold in this state by any person shall be presumed to have been sold for use in propelling motor vehicles upon the public highways of this state.

2. Any person who shall buy and use motor fuel for any purpose whatever, except in the operation of motor vehicles upon the highways of this state, who shall have paid the license tax required by section 142.020 to be paid, either directly or indirectly through the amount of such tax being included in the price of the fuel, shall be reimbursed and repaid the amount of the tax, upon presenting a claim for the amount of the tax paid to the director of revenue.

3. The claim to the director of revenue shall be in the form of an affidavit, stating the purpose for which the fuel was used, and shall be supported by the original sales slip or invoice covering the purchase of the fuel. The term "original sales slip or invoice", as used in this subsection, shall mean the top copy and not any duplicate original or carbon copy of the invoice or sales slip. The original sales slip or invoice must bear the following legend: "This is customer's invoice", or some similar legend, and shall in addition contain the following information:

- (1) Date of sale;
- (2) Name and address of purchaser, which must be the name of the claimant;
- (3) Name and address of seller;
- (4) Number of gallons purchased and price per gallon;
- (5) Missouri motor fuel tax, as a separate item.

4. If an original is lost or destroyed, a statement containing all of the information prescribed in subsection 3 of this section shall accompany the claim for refund, and such statement shall also set forth the date of delivery, the serial number of the invoice, number of gallons of motor fuel purchased, and the name of the distributor from whom purchased; and if the director of revenue finds that the claim is otherwise regular, he may allow such claim for refund.

5. The forms upon which claims are to be made shall be prescribed by the director of revenue, and he shall keep the clerks of the county commissions and the comptroller of the city of St. Louis supplied with quantities of such forms.

6. No claim for refund of motor fuel tax under this section shall be allowed unless the supporting original invoice or sales slip is marked paid by the seller and indicates on its face that the purchaser at the time of purchase declared to the seller of such motor fuel

his intention to use the motor fuel purchased for purposes other than the propelling of motor vehicles upon the public highways of this state, and declared his intention to claim a refund of the tax paid as part of the purchase price of the fuel. As evidence of this declaration of intention, the seller of the fuel, at the time of the sale, shall indicate, by stamp or otherwise, on the face of the original invoice or sales slip, a certification that such declaration of intention was made. The certification shall be in substantially the following form:

"The undersigned, as agent for, the seller, hereby certified that the purchaser of the motor fuel invoiced, which this statement is stamped on, written on, or otherwise attached to, at the time of purchase expressly declared his intention to use such motor fuel for a purpose other than propelling motor vehicles upon the public highways of this state, and declared his intention to file a claim for refund of the tax included in the purchase price.

Agent for Seller"

7. All applications for refunds under this section, except for applications for refunds for taxes paid on fuel specifically compounded for use in reciprocating aircraft engines, shall be filed with the director of revenue within one year of the date of purchase, as shown on the original invoice or sales slip. Upon the receipt and approval of such affidavit and invoice or sales slip, the director of revenue shall cause the amount of the tax that such claimant paid to be refunded by a requisition upon the commissioner of administration, supported by the claim, for a warrant upon the state treasurer, payable to the claimant. The warrant shall be paid by the treasurer out of any funds appropriated by the general assembly for such purpose.

8. Any person who makes any false affidavit in any claim or invoice filed with the director of revenue, or who shall knowingly file with the director of revenue any affidavit or invoice containing any false statement, or collects or causes to be paid to him a refund without being entitled to such a refund, shall forfeit the full amount of the claim and shall be prohibited the recovery of any claim for refund upon motor fuel purchased within one year after such violation.]

[142.240. 1. Where, in any case, it appears to the satisfaction and approval of the director of revenue that any person, licensed and bonded in the state of Missouri, as a motor fuel distributor, has paid to the state of Missouri, any motor fuel license tax in error, then, in that event, the director of revenue is hereby authorized and empowered to certify to the commissioner of administration a requisition for a warrant in favor of such person, for such sum or sums erroneously paid to the state of Missouri, and the treasurer of the state is hereby authorized and required to accept and pay the same out of any funds appropriated for refund purposes; or the director of revenue may elect, and is hereby

authorized and empowered, in lieu of such warrant, to permit the deduction of such overpayments of motor fuel tax from subsequent reports as a credit against and upon any motor fuel tax which may thereafter be due and payable to the state of Missouri by such person.

2. No refunds shall be made under the provisions of this section except upon a written claim therefor setting forth the circumstances by reason of which such refund shall be allowed. The claim shall be in such form as the director of revenue shall prescribe and shall be sworn to by the claimant, and filed with the director of revenue within five years from the date of payment of the taxes illegally or erroneously collected.]

[142.250. 1. Any motor fuel taxes illegally or erroneously collected, or any interest or penalty thereon collected without authority, or any sum excessively or wrongfully collected, or any refund required to be made under the provisions of sections 142.010 to 142.350 which shall be denied or withheld wrongfully, may be recovered by the person paying the same in a suit at law against the state of Missouri whether or not such taxes, interest or penalty have been paid voluntarily or under protest.

2. The circuit court of Cole County shall have original jurisdiction of any suit or proceedings against the state of Missouri for the recovery of any such sums.

3. Such suit shall be commenced within three years from the date of the payment of the sum or of final rejection of the claim by the director of revenue.

4. The consent of the state of Missouri is hereby given to the institution, maintenance, and prosecution to final judgment of any and all such suits or proceedings.

5. In the event any person bringing such a suit shall recover a judgment against the state of Missouri, when the judgment becomes final and person bringing the suit shall cause the clerk of the court to file a certified copy of the final judgment with the director of revenue who shall issue a requisition upon the commissioner of administration for a warrant to pay the judgment, which warrant when issued shall be paid from funds appropriated by the general assembly for such purposes.]

[142.260. 1. Every person, whether engaged in interstate commerce or intrastate commerce, transporting motor fuel by whatever manner from a point outside this state to any point in this state, other than to refineries, or to boat, barge, or pipeline terminals, who is not a licensed distributor shall report to the director of revenue on forms prescribed by said director of revenue, all deliveries of motor fuel from points without the state to points within this state.

2. Such reports shall cover monthly periods and shall show:

(1) The name and address of the person to whom the deliveries of motor fuel have actually and in fact been made;

(2) The name and address of the originally named consignee, if motor fuel has been

delivered to any other than the originally named consignee;

(3) The point of origin, the point of delivery, the date of delivery, and the number and initials of each tank car and the number of gallons contained therein, if shipped by rail;

(4) The name of the boat, barge, or vessel, and the number of gallons contained therein, if shipped by water;

(5) The license number of each tank truck and the number of gallons contained therein, if transported by motor truck;

(6) The manner, if delivered by other means, in which delivery is made; and

(7) Such additional information relative to shipments of motor fuel as the director of revenue may require.

3. Every person, whether engaged in interstate commerce or intrastate commerce, transporting motor fuel from a point within this state to a point without the state, who is not a licensed distributor in this state, shall report to the director of revenue on forms prescribed by him, all motor fuel transported from within the state to points without the state.

4. Such reports shall cover monthly periods and shall show:

(1) The name and address of the person from whom said fuel was obtained in this state;

(2) The name and address of the person to whom said fuel was actually delivered in the other state;

(3) The name and address of the originally named consignee, if the motor fuel has been delivered to any other than the originally named consignee;

(4) The number and initials of each tank car and the number of gallons contained therein, if shipped by rail;

(5) The name of the boat, barge, or vessel, and the number of gallons contained therein, if shipped by water;

(6) The license number of each tank truck and the number of gallons contained therein, if transported by motor truck;

(7) The manner, if delivered by other means, in which delivery is made; and

(8) Such additional information relative to shipments of motor fuel as the director of revenue may require.

5. If any person included within the terms of subsections 1 and 3 of this section shall fail to make the reports required of him, it shall thereafter be unlawful for any distributor, after being notified by the director of revenue of the failure of such person to make reports, to accept delivery of the fuel from, or make any delivery of fuel to, such person, and any distributor who does shall be subject to having his license canceled as

provided in section 142.120. The notice herein provided may be given by mail and it shall be presumed, until the contrary is shown, that such notice was received by the addressee within three days after it was placed in the mail. Thereafter, if said person shall make the delinquent reports, the director of revenue shall so notify the distributors to whom the notices of failure were sent, and such distributors may again accept delivery of fuel from or make delivery of fuel to any such person.

6. In addition to the foregoing, every person owning or operating a boat, barge, or pipeline terminal in this state, shall monthly make an accounting to the director of revenue on forms prescribed or approved by the director of revenue of all motor fuel delivered to or withdrawn from such terminal.

7. The reports required in this section shall be for information purposes only, and shall be filed with the director of revenue within time allowed for distributor's reports.]

[142.270. 1. Every person included within the terms of subsections 1 and 3 of section 142.260 shall, before engaging in said activities, register with the director of revenue. The director of revenue shall thereupon issue to such person a serially numbered transportation license.

2. Every person included within the terms of subsection 1 of section 142.260, who transports motor fuel in a vehicle upon the public highways of this state for purposes other than use and consumption by himself, shall not make delivery of such motor fuel to any person in the state other than a licensed distributor except where the tax imposed by sections 142.010 to 142.350 on the receipt of the motor fuel so transported has been charged or collected by the parties and under the circumstances described in paragraph (e), subdivision (8) of section 142.010.

3. Every person included within the terms of subsection 3 of section 142.260, who transports motor fuel in a vehicle upon the public highways of the state for purposes other than use and consumption by himself, shall not on the journey carrying said motor fuel to points outside this state make delivery of such fuel to any person in this state.

4. Every transporter of motor fuel included within the terms of subsections 1 and 3 of section 142.260, who transports motor fuel upon the public highways of this state for purposes other than use and consumption by himself, shall, at the time of registration, list with the director of revenue a description of all vehicles to be used on the highways of this state in transporting motor fuel from points without to points within this state and from points within to points without this state.

5. The description shall be such as may be required by the director of revenue including the carrying capacity of the vehicle. Where the vehicle is of a tractor-trailer type, the trailer shall be the vehicle to be described. When additional vehicles are placed in service or when a vehicle previously listed is retired from service, the director of

revenue shall be notified within ten days of such change so that the listing of said vehicles may be kept accurate. Each vehicle so listed shall be assigned an identifying number.

6. The transporter shall, at all times, have painted on the rear of said vehicle the following: "Missouri Transportation License No. Vehicle No.". In said blank spaces shall be shown the number of the transportation license and the number assigned to the vehicle by the director of revenue. All safety markings shall be in conformity with regulations promulgated by the director of revenue.

7. The operator of such vehicle shall at all times, when so engaged in transporting motor fuel upon the highways, have with him an invoice or manifest showing the origin, quantity, nature and destination of the motor fuel being transported.

8. It shall be unlawful for any person to transport motor fuel in a vehicle with a total tank capacity of eight hundred fifty gallons or more upon the public highways from any point in this state to another point in this state without displaying his distributor or Missouri transportation license number. The intent of this section is to require a distributor's or a Missouri transportation license for any person or his agent acting in his behalf and operating a vehicle for the purpose of delivering motor fuel within the boundaries of this state and such a vehicle has a total tank capacity of eight hundred fifty gallons or more.]

[142.280. 1. Every person included within the terms of subsection 1 of section 142.260 who transports motor fuel in a vehicle upon the public highways of this state in a vehicle having a total tank capacity less than eight hundred fifty gallons shall be liable, except as provided in subsection 3, to the state for a penalty equal to the rate provided in section 142.025 on all motor fuel transported into this state and delivered to any person other than a licensed distributor.

2. Every person included within the terms of subsection 3 of section 142.260 who transports motor fuel in a vehicle upon the public highways of this state shall be liable, except as provided in subsection 3 of this section, to the state for a penalty equal to the rate provided in section 142.025 on all motor fuel received by him for transportation to a point without the state, which is not in fact transported to a point without the state, but which is delivered to any person in this state, other than a licensed distributor.

3. In computing any liability of such transporter, there shall be excluded all deliveries of motor fuel where the tax imposed by this law has been charged or collected by the parties and under the circumstances described in paragraph (e), subdivision (8), of section 142.010; also there shall be excluded deliveries of motor fuel exempted from being used in computing the tax by section 142.030.]

[142.290. 1. Transporters of motor fuel, who are by section 142.280 made liable for a penalty for misdelivery of such motor fuel, shall in addition to registering and receiving

a license, file with the director of revenue a corporate surety bond payable to the state and conditioned upon the payment of all sums for which said transporter may become liable under sections 142.010 to 142.350. The surety on said bond shall be a company licensed to engage in such business in this state and approved by the director of revenue, and the obligation of said bond shall be in a sum not less than two thousand dollars, nor more than fifteen thousand dollars, and in such amount as will protect the state, to be determined by the director of revenue.

2. It shall be unlawful for any such transporter to transport motor fuel in a vehicle upon the highways of this state without filing such bond.

3. In the event the principal of the bond of any such transporter shall be impaired by any payment, judgment, or liability accruing, the director of revenue may require a new bond, and if not filed within ten days of the demand thereof the license of such transporter shall be canceled and it shall be unlawful for him to thereafter transport motor fuel. Such demand shall be in writing and shall be sent by registered or certified mail to the address of said transporter as shown upon his license.

4. In the event any such transporter shall become liable to the state under section 142.280, the director shall prepare a statement showing:

(1) The name, address and license number of the transporter and the date of the license;

(2) The number of gallons of motor fuel disposed of in this state in violation of section 142.280, excepting those gallons excluded in computing the amount for which said transporter is liable;

(3) The amount of the penalty owed to the state by such transporter;

(4) The name and address of said transporter's surety and the amount of the bond.

5. Said statement shall be dated and signed by the director of revenue and he shall transmit a copy of the same to the attorney general.

6. The attorney general shall thereupon commence an action to enforce payment of the amount of the penalty due, and in any such action said statement as made by the director of revenue shall be admissible in evidence and shall constitute prima facie evidence of the facts stated therein.

7. The action may be brought in the same manner and place, against the transporter and his surety or either of them, without joining them as codefendants, as is provided in cases for suits upon tax assessments.]

[142.295. 1. No person shall operate a waterway or pipeline terminal in this state at which motor fuel is stored or handled unless he is the holder of a valid terminal license issued by the state director of revenue for each such terminal. Notwithstanding terminal storage or any part thereof is leased or assigned for the use of others or in the event of

pooled or commingled storage the person who has charge of the physical operations thereof shall be deemed the terminal operator responsible for compliance with this section unless the leased, assigned, pooled or commingled storage is covered by a terminal operator's license obtained by and in the name of one of the other parties to the terminaling arrangement who shall then be deemed to be the operator responsible for compliance with the requirements of this section with respect to the storage and operations covered thereby.

2. The application for a terminal license shall be in writing and shall contain such information as the director of revenue may reasonably require to enable him to have full information concerning the extent of all storage, operations and activities to be carried on under the license.

3. No terminal license shall be issued or continued in force unless the licensee maintains on file with the director of revenue a surety bond with like qualifications as are required in sections 142.010 to 142.350 for a distributor's bond, in a penal sum to be fixed by the director of revenue at not less than five thousand dollars nor more than fifty thousand dollars. Notwithstanding the limitation as to the amount of any bond fixed by sections 142.010 to 142.350, if a taxpayer:

(a) Becomes delinquent in the payment of any tax, or

(b) Tenders a check in payment of tax which check is returned unpaid because of insufficient funds, the director may demand an additional bond of such taxpayer in an amount necessary, in the judgment of the director, to protect the revenue of the state. Provided, that the penal sum of the additional bond and the bond furnished under the provisions of the law requiring such bond, may not, in total amount, exceed three months' tax liability--all conditioned that the licensee will keep available for examination by the director of revenue during reasonable business hours true and correct detailed records as prescribed or approved by the director of revenue of all storage, operations and transactions at the covered terminal during the preceding five-year period and will each month, within the time required under sections 142.010 to 142.350 for the filing of monthly reports by distributors, file with the director of revenue in writing full inventory control reports in such detail as is prescribed or approved by the director of revenue accounting for all motor fuel on hand at the terminal at the beginning of the covered month, the quantities put into terminal storage or handled through the terminal during the month, the quantities withdrawn, delivered, shipped or used from terminal stock or through-put during the covered month and the closing inventory for the covered month. More than one terminal may be covered by one bond and if the person filing a terminal report is a distributor licensed under sections 142.010 to 142.350 he may have his obligation under this section included in his distributor's bond and if in his distributor's motor fuel tax report for the covered month withdrawals from the terminals are detailed as required by

the director of revenue they need not be detailed in the terminal report.

4. The monthly inventory control reports herein required shall be for information purposes only, except that if any report fails to account for all gallonage stored or handled during the covered month any deficiency beyond actual and reasonable terminal shrinkage and handling loss shall be presumed to have been received in this state by the terminal operator and he shall forward to the director of revenue with the terminal report a remittance in the amount of the motor fuel tax thereon. The provisions of section 142.180 apply to any amount of tax which becomes due under this section.

5. The director of revenue may require as to any waterway or pipeline terminal that all deliveries to the terminal, unless measured by meters, be measured by adequate tank gauging before and after delivery and all withdrawals, shipments, deliveries or use from the terminal stock or through-put (other than shipments via railroad tank car) be measured by registering meters which may be examined and the accuracy of which may be calibrated by or under the supervision of the director of revenue or his authorized representative, without cost to the operator, with such frequency as the director of revenue may reasonably require. All receipts and deliveries, when such receipts and deliveries are measured without the benefit of meters but by tank gauging, shall be accurately reported to the director of revenue by furnishing, on prescribed forms, the results of measurement for each receipt or delivery.

6. Any person who fails to obtain a terminal license as required by this section or who fails or refuses to file a monthly inventory control report as required by this section or who keeps any fraudulent terminal record or who files a fraudulent report covering any terminal or who, if metered measurement is required by the director of revenue, and except as to an emergency during which any metering device is inoperative, accepts or causes any delivery of motor fuel to the terminal or makes or authorizes any withdrawal, shipment or delivery from terminal stock or through-put not measured and recorded as required shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars nor more than one thousand dollars or in the case of an individual shall undergo imprisonment in the county jail for not more than six months or both.

7. The remedy of injunction and other relief against unlicensed operation as a distributor, provided in subsection 7 of section 142.340, shall be available to prevent any person from operating a waterway or pipeline terminal in this state without being licensed as required in this section or without otherwise complying with all the provisions of this section.]

[142.300. The director of revenue shall prescribe and publish all needful rules and regulations for the enforcement of sections 142.010 to 142.350.]

[142.330. The records and papers in the office of the director of revenue pertaining to any person holding a license under sections 142.010 to 142.350 that are over three years old may be destroyed; except the records and papers over three years old pertaining to persons who are indebted to the state of Missouri for any tax, penalties or interest, shall not be destroyed until the amounts due have been paid, or until the amounts due shall have been sued for and reduced to a final judgment.]

[142.340. 1. Except as herein otherwise provided any distributor who shall fail, neglect or refuse to make the returns or statements, and to pay over the license taxes as herein prescribed, or who shall refuse to keep true and correct records and books and accounts required by sections 142.010 to 142.350, or who shall refuse to permit the director of revenue to examine the books, records, papers, receipts, invoices, storage tanks and any other equipment of such distributor, pertaining to the handling of motor fuel, the receipt of which is subject to a license tax by the provisions of sections 142.010 to 142.350 or any person who shall use any motor fuel knowing that the license tax thereon has not been paid, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars and not more than one thousand dollars, or, in the case of an individual, shall undergo imprisonment in the county jail for a term not to exceed six months or both.

2. If any person or any officer, agent, employee or representative of any person, who shall receive or collect as a part of the purchase price of motor fuel any money as license taxes imposed under the provisions of sections 142.010 to 142.350 on motor fuel with respect to which he has not paid such tax as herein provided, shall willfully fail to pay the same to the director of revenue at the time or times required by sections 142.010 to 142.350, he or it, as the case may be, shall be guilty of embezzlement of public money, the property of the state of Missouri, and on conviction thereof shall be imprisoned in the state prison for not less than two years nor more than five years, or fined not less than one hundred dollars, nor more than one thousand dollars, or both.

3. Any person who makes an oath before the director of revenue, required to be made under the provisions of sections 142.010 to 142.350, or who makes or files any affidavit, certificate, or verified statement or return, required or permitted to be made and filed under the provisions of sections 142.010 to 142.350, or who, upon oath, or affidavit, or verified statement or return, shall swear, or affirm willfully, corruptly and falsely touching a matter material to the subject matter of such oath, or affidavit or verified statement or return, shall be deemed guilty of a misdemeanor and on conviction thereof shall be imprisoned in the county jail not to exceed one year or may be fined not less than fifty dollars, nor more than one thousand dollars, or both.

4. Except as otherwise permitted herein, any person purchasing motor fuel from

any distributor tax-exempt for export, who shall with intent to evade payment of the tax imposed in section 142.020 use or permit to be used any of such motor fuel in this state or shall sell any of the same in this state, except for export, satisfactory proof thereof being furnished at the time and in the manner prescribed by the director of revenue, shall be guilty of a misdemeanor and in the event of conviction thereof, be punished by a fine of not less than five hundred dollars, nor more than ten thousand dollars, or imprisonment in the county jail for a term of not less than thirty days or not more than one year, or both such fine and imprisonment.

5. Any person violating any of the provisions of sections 142.010 to 142.350 for which a specific penalty is not provided, or any member of any firm or officer of any corporation knowingly suffering or permitting such firm or corporation to violate any of such provisions of sections 142.010 to 142.350, or any agent, employee or representative of such person, firm or corporation, who violates or aids or assists in the violation of any of such provisions of sections 142.010 to 142.350 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars, nor more than one thousand dollars, to which may be added imprisonment in the county jail for not less than ten days nor more than three months.

6. Any person, not a licensed distributor, who shall sell or purchase, acquire or otherwise come into possession in this state for purpose of resale any motor fuel on which the tax has not been paid or assumed by a licensed distributor, with the intent to evade the payment of the tax on the motor fuel so sold, or purchased or otherwise acquired, shall be guilty of a misdemeanor and shall upon conviction be fined not less than fifty dollars, nor more than one thousand dollars, or be imprisoned in the county jail for not more than one year, or both.

7. When any person, required to file a bond and secure a license under the provisions of sections 142.010 to 142.350, shall fail or refuse to file with the director of revenue a bond and to secure such license or when any person whose bond has been canceled and his license revoked, shall continue operating as a distributor, then such person shall be notified by the director of revenue, either by registered or certified mail or in any statutory manner, of such failure to comply with the provisions of sections 142.010 to 142.350, and if such person does not within five days after the serving of such notice file the required bond and secure the required license provided for in sections 142.010 to 142.350, then the director of revenue is directed to request the attorney general to institute proceedings in the circuit court of any county or city in which such person is doing business and to enjoin such person, as in sections 142.010 to 142.350 defined, from the further sale of motor fuels in this state, either temporarily or permanently, or for such injunction or dissolution of the business being conducted by such person and the

settlement or winding up of such person's affairs or for any or all of said remedies combined and for such other decrees and relief as the court shall deem advisable, and the attorney general may apply for a receiver for such person to take over and hold the properties of such person, including real estate, buildings, tanks, trucks and other equipment so used by such person in the sale of motor fuels and to sell the same upon order of court to satisfy any claim for unpaid taxes and penalties the state may have against such person by reason of the failure to comply with provisions of sections 142.010 to 142.350. In the event the court appoints a receiver for any such person, the director of revenue may be appointed as such receiver, or any other person may be appointed in the discretion of the court. The compensation paid to any receiver appointed shall in all cases be fair and reasonable and, when approved by the court, shall be paid out of any assets which may be in the hands of the receiver.

8. In case any person acting as a distributor is a corporation, then the officer or officers, agent or agents, employee or employees, of such corporation responsible for any act of such corporation, or failure of such corporation to act, which act or failure to act constitutes a violation of any of the provisions of this law as enumerated above, shall be punished by such fine or imprisonment, or by both such fine and imprisonment as herein provided.]

[142.362. As used in sections 142.362 to 142.621, the following terms mean:

(1) "Alternative fuel", LP gas, natural gas or electricity;

(2) "Director", the director of revenue of the state of Missouri;

(3) "Distributor", any person who first receives motor fuel or special fuel within this state within the meaning of the word "received" as defined in subdivision (8) of this section including users whose monthly purchases within this state are sixty thousand gallons or more of special fuel, except that a person may bring special fuel into this state in the usual and ordinary fuel supply tank attached to the engine of a motor vehicle without becoming a distributor and without liability for any tax imposed thereunder unless such person is an "interstate special fuel user";

(4) "Highway", every way or place of whatever nature generally open to the use of the public as a matter of right, for the purpose of vehicular travel, notwithstanding that the same way be temporarily closed for the purpose of construction, maintenance, repair or reconstruction;

(5) "Interstate special fuel user", any person who operates a special fuel powered truck 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. Any person who operates a commercial vehicle with an apportioned registration license shall also be licensed as an "interstate special fuel user";

(6) "Motor vehicle", all vehicles, except those operated on rails and except farm tractors, which are used or designed for use in the transportation of a person or persons or property upon highways;

(7) "Person", any natural person, fiduciary, partnership, association or corporation, municipal corporation, county or other political subdivision;

(8) "Received", for the purposes of determining liability of payment of tax imposed in sections 142.362 to 142.621, special fuel shall be deemed to be "received" as follows:

(a) Special fuel refined at a refinery in this state and placed in tanks thereat, or special fuel transferred from a refinery or from a boat, barge or pipeline terminal in this state or transferred from points outside this state to a refinery, or to a boat, barge or pipeline terminal in this state and placed in tanks thereat, shall be deemed to be received, for the purpose of sections 142.362 to 142.621, at the time the same is withdrawn from such refinery or terminal storage for sale or use in this state or for transportation to destinations in this state other than further transfers to other refineries or boat, barge or pipeline terminals in this state, and not before. When withdrawn from such refinery or terminal storage as aforesaid, such special fuel shall be deemed to be received by the person who is the owner thereof immediately prior to the time of withdrawal, unless the same is withdrawn for delivery or transportation to the holder of an unrevoked distributor license, in which case such special fuel shall be deemed to be received by the distributor to whom the same is so delivered or transported;

(b) Special fuel imported into this state other than that placed in tanks at a refinery, or a boat, barge or pipeline terminal in this state shall be deemed to be received at the time and by the person who is the owner of such special fuel immediately after the same is unloaded from the transportation equipment by which the same was imported, except that if any special fuel shall be used in this state directly from the equipment by which the same is imported, then such special fuel shall be deemed to have been received by the person who is the owner thereof at the time the same is brought into this state;

(c) Special fuel produced, compounded, or blended in this state other than at a refinery, or a boat, barge or pipeline terminal shall be deemed to be received at the time and by the person who is the owner thereof when the same is so produced, compounded or blended;

(d) Special fuel acquired in this state by any person other than as set out in paragraphs (a), (b) and (c) of this subdivision shall, unless the person from whom the same is acquired has paid or incurred liability with respect thereto for the tax imposed in section 142.372, or unless the same be exempt under the provisions of section 142.404, be deemed to be received by the person so acquiring at the time so acquired;

(e) Special fuel shipped from without this state to within this state shall not be

deemed to have been received by the person to whom delivery is made in this state if the seller is a licensed distributor in this state and has charged or collected the tax from the person to whom such special fuel is delivered unless the person to whom delivery is made is a licensed distributor and elects to be deemed to have received the special fuel. In this event such special fuel shall be deemed to have been received by such licensed distributor. For all other purposes of sections 142.362 to 142.621, the word "received" shall be given its usual and customary meaning;

(9) "Special fuel", diesel fuel, liquefied petroleum gas and all other gases, liquids and substances used or suitable for use to propel motor vehicles except motor fuels or gasoline as defined in section 142.010;

(10) "Use", the placing of special fuel into any receptacle on or attached to a motor vehicle. With respect to special fuel brought into this state in any such receptacle, "use" means the consumption of the special fuel in this state;

(11) As used in this chapter "volume" shall mean number of gallons. "Power volume" means the amount of gallons. In the event special 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 special fuel measured by the nearest power potential equivalent to that of one gallon of regular grade gasoline, and the determination of the director, of the power potential equivalent of such special fuel shall be prima facie correct.]

[142.364. Persons and corporations which are not Missouri residents or Missouri corporations, who operate passenger buses, vans, or other motor vehicles in interstate commerce exclusively on a charter basis shall be liable for the tax imposed by sections 142.362 to 142.621 on special fuel purchased in Missouri at the time of purchase. No provision of sections 142.362 to 142.621, or any rules promulgated under sections 142.362 to 142.621, which imposes any duty or liability other than the payment of such tax on any special fuel user shall apply to persons and corporations described in this section.]

[142.366. 1. The tax imposed by sections 142.362 to 142.621 shall not apply to passenger motor vehicles, buses as defined in section 301.010, RSMo, or commercial motor vehicles registered in this state which are powered by LP gas, natural gas or electricity, and for which a valid 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 sections 142.362 to 142.621, 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, RSMo, 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, RSMo; 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.

2. Except interstate special fuel users as defined in section 142.362 and vehicles licensed under a reciprocity agreement as defined in section 142.617, the tax imposed by sections 142.362 to 142.621 shall not apply to motor vehicles registered outside this state which are powered by LP gas, natural gas or electricity, 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 sections 142.362 to 142.621, 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 142.412. 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. 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.

4. Upon the payment of the fee required by subsection 1 of this section, the director of revenue 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.

5. 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 promulgated by the director.

6. 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.

7. No person shall cause to be put, or put, LP gas or natural 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.

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

9. Motor vehicles displaying a valid alternative fuel decal are exempt from the licensing and reporting requirements stated in sections 142.362 to 142.591.

10. As used in this section, the term "LP gas" means liquefied petroleum gas as defined in section 323.010, RSMo.]

[142.372. For the purpose of partially compensating the state for the use of its highways, a tax is imposed upon special fuel used in the propulsion of motor vehicles upon any highway within this state. The tax is imposed at the rate of eleven cents per gallon through March 31, 1992. The rate shall be increased to thirteen cents per gallon on April 1, 1992, to fifteen cents per gallon on April 1, 1994, and to seventeen cents per gallon on April 1, 1996. Beginning April 1, 2008, the tax shall again become eleven cents per gallon. This tax shall be collected and remitted to this state or paid to this state by distributors, measured by the volume of special fuel received.]

[142.374. 1. Except as otherwise provided in this chapter, every interstate special fuel user shall be liable for the tax on special fuel used by them on highways of this state in the propulsion of motor vehicles leased to them to the same extent as special fuel used in motor vehicles owned by them.

2. A lessor who is regularly engaged in the business of leasing for compensation motor vehicles he owns, without drivers, to carriers or other lessees, may be deemed to be the interstate special fuel user when he supplies or pays for the special fuel consumed in such vehicles and such lessor may be issued a license as an interstate special fuel user when application and bond have been properly filed and approved by the director. Any lessee may exclude such motor vehicles of which he is lessee from his reports and from his liabilities pursuant to this chapter, but only if the motor vehicles have been leased from a lessor holding a valid permit as an interstate special fuel user for the period in which such motor vehicles are operated.

3. Every such lessor shall file with his application for an interstate special fuel user's license, one copy of the form of lease or service contracts he enters into with various lessees of his motor vehicles. When the interstate special fuel user license has been secured, the lessor shall make and assign to each motor vehicle he leases, a photocopy of the license to be carried in the cab compartment of the motor vehicle and on which shall be typed or printed on the back, the unit or motor number of the motor vehicle to which it is assigned and the name of the lessee. Such lessor shall be responsible for the proper use of the photocopy and for its return to him with the motor vehicle to which it is assigned.]

[142.403. 1. For the privilege of receiving special fuel to be sold for use in propelling motor vehicles upon the public highways of this state, there is hereby imposed upon every person receiving special fuel in this state a license tax equal to the rate provided in section 142.372 on all special fuel received to be sold for use in propelling motor vehicles upon the public highways of this state. It shall be presumed that all special fuel received in this state is to be sold for use and shall be used in propelling motor vehicles upon the public highways.

2. The distributor receiving special fuel in this state shall be liable for such license tax on the gross number of gallons of special fuel received by him as shown by invoices thereof less deductions in sections 142.362 to 142.621 provided for, and shall pay the license tax to the director of revenue.

3. Every distributor who shall receive special fuel in this state shall, except as otherwise provided in section 142.404, upon selling such special fuel, add to the selling price of each and every gallon of such special fuel the per gallon amount of such tax and collect the same from the purchaser thereof. Thereafter, except as otherwise provided in section 142.404, if such special fuel is again sold the per gallon amount of the tax shall be added to the selling price of the fuel by any person who shall sell the same, and shall be collected from the purchaser, and so on, so that the ultimate consumer shall bear the burden of the tax as a part of the price of the special fuel he purchases.

4. Every person purchasing special fuel in this state from any distributor or other person shall pay, except as otherwise provided in section 142.404, to the distributor or other person from whom such special fuel is purchased, the amount of the license tax which the distributor or other person is required by sections 142.362 to 142.621 to add to the selling price of the special fuel. It shall be presumed that all special fuel purchased by any person in this state is intended to be used and shall be used to propel motor vehicles upon the public highways of this state.

5. All money collected by any distributor as a part of the sale price of special fuel, that is added to the selling price to cover the license tax required to be so added by sections

142.362 to 142.621 shall be and remain public money, the property of the state of Missouri, unless and until the distributor collecting such money shall pay to the director of revenue the license tax imposed upon him that is measured by the receipt of the fuel which he sold and upon which sale the money was collected.]

[142.404. No special fuel tax shall, at the discretion of the seller, be imposed, charged or collected with respect to the following:

(1) Special fuel exported by a licensed distributor from this state to any other state, territory, or foreign country, except in the usual and ordinary fuel supply tank connected with the engine of a motor vehicle leaving this state;

(2) Special fuel used by a licensed distributor for any purpose other than the generation of power for the propulsion of motor vehicles upon the public highways;

(3) Special fuel received by any licensed distributor and thereafter lost or destroyed while such distributor is the owner thereof as a result of theft, leakage, fire, accident, explosion, lightning, flood, storm, act of war, or public enemy, or other like cause;

(4) Special fuel sold for use in motor vehicles required to be licensed as an interstate special fuel user, in the operation of auxiliary equipment and not for the propulsion of such motor vehicles;

(5) Special fuel sold for use exclusively in farm machinery as defined in subdivision (22) of subsection 2 of section 144.030, RSMo;

(6) Special fuel sold for use as a home heating oil as defined in subdivision (23) of subsection 2 of section 144.030, RSMo;

(7) Special fuel sold to railroad companies to be used exclusively for purposes other than propelling motor vehicles on the public highways.]

[142.406. 1. Each distributor having received special fuel which is thereafter exported, sold, used, lost or destroyed, as set forth under subdivisions (1) to (6) of section 142.404, upon furnishing such proof as is required by section 142.584 or the director of revenue by regulation, shall be entitled to deduct from the gallonage on which his liability for payment of the special fuel tax would otherwise be computed all gallonage so exported, sold, used, lost or destroyed.

2. Each distributor having received special fuel which is thereafter delivered to or for the account of another duly licensed distributor shall be entitled to deduct from the gallonage on which his liability for payment of the special fuel tax would otherwise be computed all gallonage so delivered and the distributor to or for whose account such delivery is made shall be deemed to have received such special fuel in this state.

3. Deductions which shall be supported by exemption certificates shall be taken on the special fuel tax report for the month in which such certificates are obtained by the distributor. Deductions for special fuel lost or destroyed may be taken on any report

rendered within sixty days after the discovery of such loss or destruction by the distributor or special fuel dealer.

4. If the deductions to be taken by any distributor in any month shall exceed the gallonage on which the tax would otherwise be computed, the excess of such deduction may be taken on the next subsequent report. If the distributor is unable to take a tax credit, the director of revenue shall make a proper adjustment by way of a refund to such distributor by a requisition on the commissioner of administration for a warrant payable to such distributor for the amount due him.

5. The director of revenue shall give credit or a refund to a distributor for overpayment. The director shall also give credit or a refund to a distributor for the tax on fuels on which the tax is paid to Missouri but which is consumed in another state and on which a fuel tax is paid to such other state. The director shall require and the distributor shall furnish adequate proof of such overpayment or of the distributor's payment to such other state. When such proof is furnished, the director shall give either a credit or a refund.]

[142.412. The special fuel tax accrued in any calendar month shall be paid on or before the last day of the next succeeding month or as prescribed in section 142.515 to the director who shall promptly deposit all such revenue in the treasury to the credit of the motor fuel tax fund.]

[142.422. 1. It is unlawful for any person to act as a distributor or interstate special fuel user without being licensed as such, except for owners of privately operated passenger vehicles exempt from the reporting requirements under this chapter. All licenses shall be valid until canceled, surrendered or revoked. However, as to a motor vehicle propelled by special fuel and operated in this state in the course of interstate traffic by an unlicensed interstate special fuel user, a single trip special 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. The fee for each permit shall be ten dollars and the permit shall be valid for a period of seventy-two hours and such permit shall be made available at official highway weight stations. This fee shall be in lieu of the tax required by section 142.521 and all reports required by sections 142.362 to 142.611.

2. Each applicant for a license shall file with the director an application in such form and manner as the director prescribes, stating the name and address of the applicant, and such other information as may be required by the director. The application shall not be made under oath but shall contain or be accompanied by written declaration that it is made under the penalties of perjury.

3. The application in proper form having been accepted for filing, and the other conditions and requirements of the chapter having been complied with, the director shall issue a license to the applicant.]

[142.432. 1. Licenses issued hereunder shall be conspicuously displayed in the principal place of business of the distributor or interstate special fuel user. Interstate special fuel users shall display duplicate licenses at each location in this state and in each vehicle operating in this state.

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. Evidence of the issuance of such trip permit shall be furnished to the director, his authorized agents or any officer of the Missouri highway patrol upon demand.

3. A licensee who operates a motor vehicle which uses special fuel on the highways of this state shall reproduce his license by any acceptable reproduction process that produces a clear copy and place a copy in the cab of each vehicle operated in this state, which copy shall be displayed to the director, his authorized agents or any officer of the Missouri highway patrol upon demand.]

[142.442. 1. The director may refuse to issue a license or trip permit if he finds the application therefor:

(1) Is filed by any person whose license or permit at any time theretofore has been revoked for cause by the director, or

(2) Contains any misrepresentation, misstatement of material information required by the application, or

(3) Is filed by some person as subterfuge for the real person in interest whose license or permit theretofore has been revoked for cause by the director, or

(4) Is filed by any person who is delinquent in the payment of any fee, tax, penalty.

2. Any applicant whose application for a license or trip permit has been refused by the director pursuant to the provisions of this section may seek review of the director of revenue's decision by the administrative hearing commission.]

[142.452. 1. When any person ceases to be a licensee, by reason of discontinuance, sale or transfer of his business at any location, he shall notify the director in writing at the time the discontinuance, sale or transfer takes effect. The notice shall give the date of discontinuance and in the event of a sale or transfer of the business, the name and address of the purchaser or transferee. All taxes, penalties and interest not yet due and payable under the provisions of this chapter shall, notwithstanding such provisions, be due and payable concurrently with the discontinuance, sale or transfer and the licensee shall make a report and pay all taxes, penalties and interest and surrender to the director the license certificate issued to him, together with all duplicates and copies. Unless such notice has

been given to the director, the seller and his surety shall be liable for the taxes, penalties and interest accruing against the transferee, but only to the extent of the value of the property transferred.

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

[142.462. 1. No person required to be licensed as a distributor by this chapter shall be issued a license until the applicant has filed with the director a surety bond or other acceptable security on which the applicant shall be the principal obligor and the state the obligee and which bond or other surety amount shall be in the sum of approximately three times the average monthly tax estimated by the director to become due by such licensee except that the amount shall never be less than five thousand dollars nor more than one hundred thousand dollars. The surety shall be approved by the director and the bond or other type security shall be conditioned upon the licensee faithfully complying with the provisions of this chapter and the prompt filing of true reports and payments by the licensee of all tax due under this chapter, together with all penalties and interest thereon.

2. No person required to be licensed as an interstate special fuel user by this chapter shall be issued a license until the applicant has filed with the director a surety bond or other acceptable security on which the applicant shall be the principal obligor and the state the obligee and which bond or other surety amount shall be in the sum of approximately three times the average monthly tax estimated by the director to become due by such licensee except that the amount shall never be less than five hundred dollars nor more than one hundred thousand dollars. The surety shall be approved by the director and the bond or other security shall be conditioned upon the licensee faithfully complying with the provisions of this chapter and the prompt filing of true reports and payments by the licensee of all tax due under this chapter, together with all penalties and interest thereon.

3. Notwithstanding the limitation as to the amount of any bond fixed by law, if a taxpayer becomes delinquent in the payment of any tax or tenders a check in payment of tax which check is returned unpaid because of insufficient funds, the director may demand an additional bond of such taxpayer in an amount necessary, in the judgment of the director, to protect the revenue of the state.

4. The total amount of bonds or other security required of a licensee shall be fixed by the director and may be increased or decreased by him as any time subject to the limitations imposed by sections 142.362 to 142.611, however the increases or decreases shall only occur in increments of one thousand dollars or more.

5. If the liability upon a bond filed by a licensee with the director becomes discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the director any surety on a bond theretofore given has become unsatisfactory or unacceptable, the director shall require the licensee to file a new bond, with satisfactory sureties, in the same amount, and upon failure to do so, the director shall immediately revoke the license of that licensee.

6. If a licensee fails or refuses to furnish additional bonds as required by the director within thirty days after written notice mailed to his address of record in the office of the director, his license shall immediately be revoked.

7. A motor fuel distributor who is also licensed as a distributor under this chapter may, in lieu of furnishing a separate bond as required by this section, have the conditions of the bond furnished under section 142.100 extended to cover compliance with the responsibilities imposed upon him by this section.]

[142.466. The director shall release a distributor from the bonding requirements of sections 142.100 and 142.462, after such distributor completes five consecutive years of satisfactory tax compliance, as determined by the director.]

[142.472. Any surety on a bond furnished by a licensee pursuant to this chapter, upon written request to the director, shall be discharged from any liability to the state accruing on the bond after the expiration of sixty days from the date of filing of the request, but not from liability already accrued or accruing before the expiration of the sixty-day period. The director, upon receipt of such a request, shall promptly notify the licensee who furnished the bond in question. Unless the licensee, prior to the expiration of the sixty-day period, files a new bond satisfactory to the director, the director shall forthwith revoke the licensee's license.]

[142.482. 1. Each licensee under this chapter shall make and retain for a period of not less than three years, such records as may be prescribed and deemed necessary by the director to substantiate compliance with this chapter. The director or his agents may examine the books, papers, records and equipment of any licensee or any other person dealing in, transporting or storing special fuel in order to determine whether the taxes due under this chapter are properly reported and paid.

2. Each sale or transfer of special fuel that is delivered into the supply receptacle of motor vehicles shall be recorded upon an invoice which shall show the following information:

- (1) Date of sale,
- (2) Name and station address of the vendor, either machine printed or printed with a credit card imprinter,
- (3) Name and address of the purchaser or licensee,

(4) Number of gallons,
(5) Name of the product,
(6) Rate of tax in state of delivery,
(7) Signature of the purchaser,
(8) Company unit number and motor vehicle license number and state of registry. Copies of each invoice covering the sale of special fuel shall be retained by both purchaser and seller for not less than a period of three years from date of sale.]

[142.492. 1. The director or any person designated by him may, in the enforcement of sections 142.362 to 142.611, conduct investigations he deems necessary.

2. The director may prescribe the forms upon which reports are made to him and other forms and information he deems necessary in the enforcement of sections 142.362 to 142.611, and may require periodic submission of information from any person dealing in, transporting or storing special fuel.

3. A person who violates any provision of sections 142.362 to 142.611, including 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, his 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 punishable as prescribed by law. Any person who violates any of the provisions of this subsection, with the purpose to defraud, is guilty of a felony.]

[142.511. 1. Every distributor under sections 142.362 to 142.611, on or before the last day of each month or as the director may require under section 142.515, shall file with the director on forms prescribed by the director a report signed by the distributor or his legal representative stating the amount of special fuel received or used during the next preceding calendar month. A distributor may deduct two percent of the number of gallons of special fuel received in this state remaining after the deductions allowed in sections 142.362 to 142.621 are taken, this being a flat allowance to cover evaporation, shrinkage and losses, also such distributor's expenses and losses in collecting, accounting for, and paying over the tax imposed in section 142.372. All interstate special fuel users shall file a quarterly usage report and any other information that may be required by the director. The reports shall not be under oath, but shall contain or be accompanied by a written declaration that such are made under the penalties of perjury. Such reports shall be filed with the director even though no special fuel was received or used and no tax is due.

2. Failure to receive the prescribed report forms does not relieve a licensee from the obligation of submitting a report to the director but the licensee may make a written report to the director setting forth all information as is required by prescribed form. The

report, together with remittance payable to the director for the amount of tax, penalty or interest due shall be filed with the director on or before the due date and will be accepted in lieu of a report on the prescribed form.]

[142.513. Any person whose sole use of special fuel is for the propulsion of a privately operated passenger automobile, a motor vehicle, other than a commercial motor vehicle with a licensed gross weight in excess of twenty-six thousand pounds, or for the propulsion of a two-axle truck which the user has rented for a period of thirty days or less for the primary purpose of moving his household goods is excused from the filing of special fuel tax reports on the condition that all special fuel used in this state, except special fuel brought into the state in the fuel receptacle of the vehicle, is purchased and the tax paid in this state. A privately operated passenger automobile includes a station wagon, but does not include a motor vehicle used for the transportation of persons for hire or for compensation or designed, used or maintained primarily for the transportation of property.]

[142.515. The director, if he deems it necessary to facilitate the administration of sections 142.362 to 142.611, may require individual reports and payment of the tax to be made for either monthly, quarterly or annual periods.]

[142.517. 1. Any report, claim, tax return, statement or other document required to be filed or any payment required to be made under sections 142.362 to 142.611 which is:

(1) Transmitted through the United States mail, shall be deemed filed and received on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it; or

(2) Mailed but not received or where received and the cancellation marking is illegible, erroneous or omitted, shall be deemed filed and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, statement, remittance or other document was deposited in the United States mail on or before the date due for filing; and in case of such nonreceipt of a report, tax return, statement, remittance or other document required by law to be filed, the sender files a duplicate within thirty days after written notification is given to the sender of the nonreceipt of such report, tax return, statement, remittance or other document.

2. If any report, claim, tax return, statement, remittance or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of such registration, certification or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed to the addressee, and the date of registration, certification or certificate shall be deemed the postmarked date.

3. If the date for filing any report, claim, tax return, statement, remittance or other document falls upon a Saturday, Sunday or legal holiday, or on a date on which the postal service is not in operation due to a strike by the employees thereof, the filing shall be considered timely if performed on the next business day or on the next day in which postal operations are resumed.]

[142.521. 1. Each report required under section 142.511 shall be accompanied by a remittance payable to the director for the amount of tax due. As to interstate special fuel users, the amount of the tax due shall be the volume used by them in the propulsion of motor vehicles on the highways of this state, multiplied by a rate of tax equal to the tax imposed on special fuel by section 142.372. The volume so used shall be deemed to be the proportion of the total amount of special fuel consumed in their entire operations within and without the state, as the total number of miles traveled on the highways of this state bears to the total number of miles traveled within and without this state. From the amount due there shall be deducted the amount of tax on the special fuel purchased in this state on which the tax has previously been paid provided such purchases are supported by copies of invoices meeting the requirements of section 142.482. The director shall give either a credit or a refund to an interstate special fuel user for the amount of tax previously paid on special fuel purchased in this state in excess of the amount of tax due on the volume of special fuel used by them in the propulsion of motor vehicles on the highways of this state. If the refund is not issued within ninety days of the date of filing a proper application for such refund, the claim shall bear interest at the rate determined by section 32.065, RSMo, from the date such refund should have been issued until the date it is issued.

2. In the event the director determines that the volume of special fuel used by any interstate special fuel user in the propulsion of motor vehicles on the highways of this state cannot be determined with reasonable accuracy from an examination of the taxpayer's records, the director shall require the tax to be computed in accordance with the following schedule:

TABLE

Com. Vehicles

26,001 lbs. to 42,000 lbs. 6 mi. per gal.

Com. Vehicles

42,001 lbs. to 66,000 lbs. 5 mi. per gal.

Com. Vehicles

66,001 lbs. and over 4 1/2 mi. per gal.

Note: "Pounds" as used in this table means "licensed gross weight" of vehicle.]

[142.531. If the director is not satisfied that the report filed or the amount of tax paid by a licensee is accurate, he may, after investigating and upon finding such inaccuracy, make an additional assessment of tax due from such licensee based upon such investigation. Penalties and interest as prescribed by section 142.551 shall be added to any additional assessment made under the provisions of this section. The director shall give written notice by registered or certified mail to the licensee of the additional assessment at his address of record in the office of the director.]

[142.541. Except in the case of a fraudulent report or neglect or refusal to make a report, every notice of additional tax proposed to be assessed shall be served on the licensee within three years after the alleged erroneous report was filed.]

[142.551. 1. Any person who fails to pay any tax when due, except tax assessed pursuant to section 142.561, shall pay in addition to the tax a penalty of five percent for each calendar month or fraction thereof that such tax remains unpaid to be cumulative only to twenty-five percent of the total amount of such tax. The unpaid tax shall also bear interest at the rate determined by section 32.065, RSMo, for the period the tax remains unpaid after the date such tax was due.

2. When a licensee shall fail to pay to the director the amount of tax, interest and penalties due under sections 142.531, 142.541 and this section, when they are payable, and by reason thereof, penalty and interest accrue as provided, if it appears to the director that the failure to pay the tax within the time prescribed by law or where error or omission in reports or payments are the result of mistake or arise from circumstances beyond the reasonable control of the licensee and the delinquency or inaccuracy was unavoidable or devoid of intent to evade the tax, the director may in his discretion waive the penalty and interest.]

[142.561. 1. If a licensee fails to make any report required by sections 142.362 to 142.611, the director shall make an estimate, based upon information available to him, for the period for which the licensee failed to make the report, and, upon the basis of the estimate, shall assess the tax due from such licensee, adding to the amount thus determined by section 32.065, RSMo, from the day the tax is due until paid. The director shall give to the licensee written notice of the assessment by registered or certified mail.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, any assessment against a carrier licensed under any reciprocity agreement entered into pursuant to section 142.617 shall bear penalty and interest at the rates established by such agreement.]

[142.563. 1. If any of the conditions specified in subdivision (1), (2) or (3) of this subsection occur, the director of revenue may seal a special fuel pump, alternative fuel pump, or both. The director of revenue may take action by sealing a pump if:

(1) A licensed distributor becomes delinquent in payment of any amount due under this chapter;

(2) A distributor is operating without the license required by this chapter; or

(3) A distributor is operating without the bond, letter of credit, or cash deposit required by this chapter.

2. The pumps may be sealed until all reports are filed and the tax, penalties, and interest imposed by this chapter are paid in full, the license required by this chapter is obtained, and the bond, letter of credit or cash deposit is provided.】

【142.571. A licensee against whom assessment is made pursuant to section 142.531 or 142.561 may have the decision of the director of revenue reviewed by the administrative hearing commission.】

【142.573. 1. Every person, whether engaged in interstate commerce or intrastate commerce, transporting special fuel by whatever manner from a point outside this state to any point in this state, other than to refineries, or to boat, barge or pipeline terminals, who is not a licensed distributor shall report to the director of revenue on forms prescribed by the director of revenue, all deliveries of special fuel from points without the state to points within the state.

2. Such reports shall cover monthly periods and shall show:

(1) The name and address of the person to whom the deliveries of special fuel have actually and in fact been made;

(2) The name and address of the originally named consignee, if special fuel has been delivered to any other than the originally named consignee;

(3) The point of origin, the point of delivery, the date of delivery, and the number and initials of each tank car and the number of gallons contained therein, if shipped by rail;

(4) The name of the boat, barge, or vessel, and the number of gallons contained therein, if shipped by water;

(5) The license number of each tank truck and the number of gallons contained therein, if transported by motor truck;

(6) The manner, if delivered by other means, in which delivery is made; and

(7) Such additional information relative to shipments of special fuel as the director of revenue may require.

3. Every person, whether engaged in interstate commerce or intrastate commerce, transporting special fuel from a point within this state to a point without the state, who is not a licensed distributor in this state, shall report to the director of revenue on forms prescribed by him, all special fuel transported from within the state to points without the state.

4. Such reports shall cover monthly periods and shall show:

(1) The name and address of the person from whom such fuel was obtained in this state;

(2) The name and address of the person to whom such fuel was actually delivered in the other state;

(3) The name and address of the originally named consignee, if the special fuel has been delivered to any other than the originally named consignee;

(4) The number and initials of each tank car and the number of gallons contained therein, if shipped by rail;

(5) The name of the boat, barge, or vessel, and the number of gallons contained therein, if shipped by water;

(6) The license number of each tank truck and the number of gallons contained therein, if transported by motor truck;

(7) The manner, if delivered by other means, in which delivery is made; and

(8) Such additional information relative to shipments of special fuel as the director of revenue may require.

5. If any person included within the terms of subsections 1 and 3 of this section shall fail to make the reports required of him, it shall thereafter be unlawful for any distributor, after being notified by the director of revenue of the failure of such person to make reports, to accept delivery of the fuel from, or make any delivery of the fuel to, such person, and any distributor who shall be subject to having his license canceled as provided in section 142.452. The notice herein provided may be given by mail and it shall be presumed, until the contrary is shown, that such notice was received by the addressee within three days after it was placed in the mail. Thereafter, if such person shall make the delinquent reports, the director of revenue shall so notify the distributors to whom the notices of failure were sent, and such distributors may again accept delivery of fuel from or make delivery of fuel to any such person.

6. In addition to the foregoing, every person owning or operating a boat, barge or pipeline terminal in this state shall monthly make an accounting to the director of revenue on forms prescribed or approved by the director of revenue of all special fuel delivered to or withdrawn from such terminal.

7. The reports required in this section shall be for information purposes only, and shall be filed with the director of revenue within time allowed for distributor's reports.

8. For the purposes of this section the term "special fuel" shall not include alternative fuels.]

[142.575. 1. Every person included within the terms of subsections 1 and 3 of section 142.573 shall, before engaging in such activities, register with the director of

revenue. The director of revenue shall thereupon issue to such person a serially numbered transportation license.

2. Every person included within the terms of subsection 1 of section 142.573, who transports special fuel in a vehicle upon the public highways of this state for purposes other than use and consumption by himself, shall not make delivery of such special fuel to any person in the state other than a licensed distributor except where the tax imposed by sections 142.362 to 142.621 on the receipt of the special fuel so transported has been charged or collected by the parties and under the circumstances described in paragraph (e) of subdivision (7) of section 142.362.

3. Every person included within the terms of subsection 3 of section 142.573, who transports special fuel in a vehicle upon the public highways of the state for purposes other than use and consumption by himself, shall not on the journey carrying such special fuel to points outside this state make delivery of such fuel to any person in this state.

4. Every transporter of special fuel included within the terms of subsections 1 and 3 of section 142.573, who transports special fuel upon the public highways of this state for purposes other than use and consumption by himself, shall, at the time of registration, list with the director of revenue a description of all vehicles to be used on the highways of this state in transporting special fuel from points without to points within this state and from points within to points without this state.

5. The description shall be such as may be required by the director of revenue including the carrying capacity of the vehicle. Where the vehicle is of a tractor-trailer type, the trailer shall be the vehicle to be described. When additional vehicles are placed in service or when a vehicle previously listed is retired from service, the director of revenue shall be notified within ten days of such change so that the listing of such vehicles may be kept accurate. Each vehicle so listed shall be assigned an identifying number.

6. The transporter shall, at all times, have painted on the rear of such vehicle the following: "Missouri Transportation License No. Vehicle No.". In the blank spaces shall be shown the number of the transportation license and the number assigned to the vehicle by the director of revenue. All safety markings shall be in conformity with regulations promulgated by the director of revenue.

7. The operator of such vehicle shall at all times, when so engaged in transporting special fuel upon the highways, have with him an invoice or manifest showing the origin, quantity, nature and destination of the special fuel being transported.

8. It shall be unlawful for any person to transport special fuel in a vehicle with a total tank capacity of eight hundred fifty gallons or more upon the public highways from any point in this state to another point in this state without displaying his distributor or Missouri transportation license number. The intent of this section is to require a

distributor's or a Missouri transportation license for any person or his agent acting in his behalf and operating a vehicle for the purpose of delivering special fuel within the boundaries of this state and such a vehicle has a total tank capacity of eight hundred fifty gallons or more.]

[142.577. 1. Every person included within the terms of subsection 1 of section 142.573 who transports special fuel in a vehicle upon the public highways of this state in a vehicle having a total tank capacity less than eight hundred fifty gallons shall be liable, except as provided in subsection 3 of this section to the state for a penalty equal to the rate provided in section 142.372 on all special fuel transported into this state and delivered to any person other than a licensed distributor.

2. Every person included within the terms of subsection 3 of section 142.573 who transports special fuel in a vehicle upon the public highways of this state shall be liable, except as provided in subsection 3 of this section, to the state for a penalty equal to the rate provided in section 142.372 on all special fuel received by him for transportation to a point without the state, which is not in fact transported to a point without the state, but which is delivered to any person in this state, other than a licensed distributor.

3. In computing any liability of such transporter, there shall be excluded all deliveries of special fuel where the tax imposed by this law has been charged or collected by the parties and under the circumstances described in paragraph (e) of subdivision (8) of section 142.362, also there shall be excluded deliveries of special fuel exempted from being used in computing the tax by section 142.404.]

[142.579. 1. Transporters of special fuel, who are by section 142.577 made liable for a penalty for misdelivery of such special fuel, shall in addition to registering and receiving a license, file with the director of revenue a corporate surety bond payable to the state and conditioned upon the payment of all sums for which such transporter may become liable under sections 142.362 to 142.621. The surety on such bond shall be a company licensed to engage in such business in this state and approved by the director of revenue, and the obligation of such bond shall be in a sum not less than two thousand dollars, nor more than fifteen thousand dollars, and in such amount as will protect the state, to be determined by the director of revenue.

2. It shall be unlawful for any such transporter to transport special fuel in a vehicle upon the highways of this state without filing such bond.

3. In the event the principal of the bond of any such transporter shall be impaired by any payment, judgment, or liability accruing, the director of revenue may require a new bond, and if not filed within ten days of the demand thereof the license of such transporter shall be canceled and it shall be unlawful for him to thereafter transport special fuel. Such demand shall be in writing and shall be sent by registered or certified mail to the address

of such transporter as shown upon his license.

4. In the event any such transporter shall become liable to the state under section 142.577, the director shall prepare a statement showing:

(1) The name, address and license number of the transporter and the date of the license;

(2) The number of gallons of special fuel disposed of in this state in violation of section 142.577, excepting those gallons excluded in computing the amount for which such transporter is liable;

(3) The amount of the penalty owed to the state by such transporter;

(4) The name and address of such transporter's surety and the amount of the bond.

5. Such statement shall be dated and signed by the director of revenue and he shall transmit a copy of the same to the attorney general.

6. The attorney general shall thereupon commence an action to enforce payment of the amount of the penalty due, and in any such action the statement as made by the director of revenue shall be admissible in evidence and shall constitute prima facie evidence of the facts stated therein.

7. The action may be brought in the same manner and place, against the transporter and his surety or either of them, without joining them as codefendants, as is provided in cases for suits upon tax assessments.]

[142.583. If the director determines that the tax, penalty, interest or fee required by this chapter has been paid more than once, or has been illegally or erroneously collected or computed, he shall set forth that fact in his records. The excess shall be credited against any amount then due from the licensee, if any, and the balance refunded to such licensee or his successor administrators, executors or assigns from funds appropriated for this purpose. No credit or refund shall be allowed after three years from the date of overpayment unless the licensee, within three years, files with the director a written claim for credit or refund. The claim shall state the specific grounds on which it is based, and any refund resulting from such claim shall be subject to the same limitations and shall be refunded in the same manner as prescribed in section 142.584.]

[142.584. 1. All special fuels distributed or sold in this state by any person shall be presumed to have been sold for use in propelling motor vehicles upon the public highways of this state.

2. Any person who shall have sold special fuel to any purchaser for use as specified in subdivision (4), (5), or (6) of section 142.404 without charging the license tax, or any person who shall buy and use special fuel for any purpose whatever except in the operation of motor vehicles upon the highways of this state, and who shall have paid the license tax required by this law to be paid, either directly or indirectly through the amount of such tax

being included in the price of the fuel, shall be reimbursed and repaid the amount of the license tax less any sales tax previously collected, or if not previously collected, any state tax due under chapter 144, RSMo, and sections 43(a) and 47(a), article IV, Constitution of Missouri, upon presenting a claim therefor to the director of revenue.

3. The claim to the director of revenue shall be in the form of an affidavit, stating the purpose for which the fuel was used, and shall be supported by the original sales slip or invoice covering the purchase of the fuel. The term "original sales slip or invoice", as used herein, shall mean the top copy and not any duplicate original or carbon copy of the invoice or sales slip. The original sales slip or invoice shall contain 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 special fuel tax, as a separate item;
- (6) Number of gallons purchased and charged sales tax, if applicable, as a separate item.

4. If an original is lost or destroyed, a statement to that effect shall accompany the claim for refund, and such statement shall in addition to the requirements of subsection 3 of this section also set forth the serial number of the invoice, and if the director of revenue finds that the claim is otherwise regular, he may allow such claim for such refund.

5. The forms upon which claims are to be made shall be prescribed by the director of revenue, and he shall keep the clerks of the counties of this state and the comptroller of the city of St. Louis supplied with quantities of such forms.

6. No claim for refund of special fuel tax under this section shall be allowed unless the supporting original invoice or sales slip is marked paid by the seller and indicates on its face that the purchaser at the time of purchase declared to the seller of such special fuel his intention to use the special fuel thus purchased for purposes other than the propelling of motor vehicles upon the public highways of this state. As evidence of this declaration of intention, the purchaser of the fuel, at the time of the sale, shall indicate on the face of the original invoice or sales slip, a certification that such declaration of intention was made. The certification shall be in substantially the following form:

"The undersigned, as agent for, the purchaser, hereby certifies that it is his intention to use such special fuel for a purpose other than propelling motor vehicles upon the public highways of this state.

..... Agent for Purchaser."

7. All applications for refunds under this section shall be filed with the director of revenue within one year of the date of purchase, as shown on the original invoice or sales slip. Upon the receipt of such affidavit and invoice or sales slip, the director of revenue, upon approving the same, shall cause the refund to be made by a requisition upon the commissioner of administration, supported by the claim, for a warrant upon the state treasurer, payable to such claimant. If the warrant is not issued within ninety days of the date of filing a proper application for refund, the claim shall bear interest at the rate determined by section 32.065, RSMo, from the date such warrant should have been issued until the date the warrant is issued. Warrants shall be paid by the treasurer out of any funds appropriated by the general assembly for such purpose.

8. Any person who makes any false affidavit in any claim or invoice filed with the director of revenue, or who shall knowingly file with the director of revenue any affidavit or invoice containing any false statement, or collects or causes to be paid to him a refund without being entitled thereto, shall forfeit double the full amount of the claim, shall be prohibited the recovery of any claim for refund upon special fuel purchased within one year after such violation and shall be guilty of a misdemeanor and punishable as prescribed by law.]

[142.591. 1. The tax imposed by sections 142.362 to 142.621, 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 of revenue 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 of revenue may file a like notice in the same manner in any county in which such person shall own real estate and it shall be accorded the same effect. The recorder shall receive no fee for filing or recording this notice.

3. Upon payment of the tax, penalty and interest set forth in the assessment attached to the notice of lien, the director of revenue 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 of revenue 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.]

[142.611. The director and his duly appointed agents and the highway patrol and its officers shall have full authority in enforcing the provisions of this chapter.]

[142.621. The director of revenue shall make such reasonable rules and regulations as are necessary to carry out the provisions of sections 142.362 to 142.611.]

Section B. This act shall become effective on January 1, 1999.

✓
Unofficial

Bill

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