

SENATE BILL No. 537

By Committee on Transportation

2-7

AN ACT relating to the taxation of motor fuels; concerning the point of tax; amending K.S.A. 79-3401, 79-3403, 79-3405, 79-3406, 79-3410, 79-3411, 79-3413, 79-3414, 79-3415, 79-3417, 79-3419, 79-3420, 79-3426, 79-3453, 79-3456, 79-3457, 79-3464e and 79-3464f and K.S.A. 2001 Supp. 79-3407, 79-3408, 79-3408c, 79-3409, 79-3412 and 79-3464c and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. The director may license an out-of-state terminal supplier to precollect and remit the taxes imposed by article 34 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, with respect to taxable motor-vehicle fuel and special fuel imported from a terminal outside this state in the same manner and at the same time as taxes would arise and be paid under article 34 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, if the taxable motor-vehicle fuel and special fuel had been sold or removed from storage at a terminal in this state.

Sec. 2. K.S.A. 79-3401 is hereby amended to read as follows: 79-3401. This act, and amendments thereto, shall be known and may be cited as the "motor-fuel tax law," and as so constituted is hereinafter referred to as "this act." The following words, terms and phrases, when used in this act, shall have the meanings ascribed to them in this section, except in those instances clearly indicating a different meaning:

(a) "Aviation fuel" means motor fuels for use as fuel for aircraft;

(b) "agricultural ethyl alcohol" means a motor-vehicle fuel component with a purity of at least 99%, exclusive of any added denaturants, denatured in conformity with one of the methods approved by the United States department of the treasury, bureau of alcohol, tobacco and firearms, and distilled in the United States of America from grain produced in the United States of America;

(c) "blender" means any person who engages in the process of blending;

(d) "blend" means the mixing together by any process, at a nonterminal facility, one or more products with other products, and regardless of the original character of the products so blended, provided the resultant

1 *product so obtained is suitable or practicable for use as a motor fuel,*
2 *except such blending as may occur in the process known as refining by*
3 *the original refiner of crude petroleum;*

4 ~~(e)~~ (e) “bulk plant” means a motor fuels storage facility, other than a
5 terminal, that is primarily used to redistribute motor fuels;

6 ~~(d)~~ (f) “dealer” means any person engaged in the retail sale of motor-
7 vehicle fuels or special fuels;

8 ~~(e)~~ (g) “director” means the director of taxation, a duly authorized
9 deputy, agent or representative;

10 ~~(f)~~ (h) “distributor” means any person, who:

11 ~~— (1) Imports or causes to be imported from any other state or territory~~
12 ~~of the United States motor-vehicle fuels or special fuels for such person’s~~
13 ~~own use in the state of Kansas, or for sale and delivery therein, after the~~
14 ~~same shall have come to rest or storage therein, whether or not in the~~
15 ~~original package, receptacle or container; or~~

16 ~~— (2) imports or causes to be imported, from a foreign country, motor-~~
17 ~~vehicle fuels or special fuels for such person’s own use in the state of~~
18 ~~Kansas, or for sale and delivery therein, after the same shall have come~~
19 ~~to rest or storage, whether or not in the original package, receptacle or~~
20 ~~container;~~

21 ~~— (3) purchases or receives motor-vehicle fuels or special fuels in the~~
22 ~~original package, receptacle or container in the state of Kansas for such~~
23 ~~person’s own use therein, or for sale and delivery therein, from any person~~
24 ~~who has imported the same from any other state or territory of the United~~
25 ~~States, or any other nation, in case such motor-vehicle fuels or special~~
26 ~~fuels have not, prior to such purchase or receipt, come to rest or storage~~
27 ~~in the state of Kansas; or~~

28 ~~— (4) received and, in any manner, uses, sells or delivers motor-vehicle~~
29 ~~fuels or special fuels in the state of Kansas on which the tax provided for~~
30 ~~in this act has not been previously paid acquires motor-vehicle fuel or~~
31 ~~special fuel from a supplier or importer, or another distributor for sub-~~
32 ~~sequent sale at wholesale and distribution by tank cars or tank trucks or~~
33 ~~both;~~

34 (i) “export” means delivery across the boundaries of this state by or
35 for the seller or purchaser from a place of origin in this state;

36 ~~(g)~~ (j) “exporter” means any person who exports or causes to be ex-
37 ported motor-vehicle fuels or special fuels from Kansas to any other state
38 or territory of the United States or to a foreign country, for such person’s
39 own use or for sale or delivery therein, whether or not in the original
40 package, receptacle or container;

41 (k) “import means a delivery across the boundaries of this state by or
42 for the seller or purchaser from a place of origin outside this state;

43 ~~(h)~~ (l) “importer” means any person who imports or causes to be

1 imported motor-vehicle fuels or special fuels from any other state or ter-
2 ritory of the United States or from a foreign country, for such person's
3 own use in the state of Kansas or for sale or delivery therein, whether or
4 not in the original package, receptacle or container;

5 ~~(j)~~ (m) "liquid fuels" or "motor fuels" means any inflammable liquid
6 by whatever name such liquid shall be known or sold, which is used, or
7 practically or commercially usable, either alone or when mixed or com-
8 bined in an internal-combustion engine for the generation of power;

9 ~~(j)~~ (n) "manufacturer" or "refiner" means any person who or which
10 produces, refines, prepares, ~~blends~~, distills, manufactures or compounds
11 motor-vehicle fuels or special fuels in the state of Kansas for such person's
12 own use therein, or for sale or delivery therein. The term "manufacturer"
13 shall not include any person who or which mechanically separates liquids
14 from natural gas at production facilities or gathering system pipelines on
15 the lease. No person who produces, refines, prepares, blends, distills,
16 manufactures, or compounds motor-vehicle fuels or special fuels shall be
17 required to render a distributor's (manufacturer's) report as to any par-
18 ticular lot or lots of motor-vehicle fuels or special fuels until such motor-
19 vehicle fuels or special fuels have been loaded at a refinery or other place
20 of production into tank cars, or placed in any tank at such refinery or
21 other place of production from which any withdrawals are made direct
22 into tanks, tank wagons or other types of transportation equipment, con-
23 tainers or facilities;

24 ~~(k)~~ (o) "motor vehicle" means a motor vehicle as defined by K.S.A.
25 8-126, and amendments thereto, and which is required to be registered
26 pursuant to K.S.A. 8-126 *et seq.*, and amendments thereto;

27 ~~(h)~~ (p) "motor-vehicle fuels" means gasoline, casinghead gasoline, nat-
28 ural gasoline, drip gasoline, aviation gasoline, gasohol, gasoline-oxygenate
29 blend and any other spark-ignition motor fuel as defined by the 1995
30 United States department of commerce, national institute of standards
31 and technology handbook 130 issued December of 1994, and as may
32 subsequently be defined in rules and regulations which the director may
33 adopt pursuant to K.S.A. 79-3419, and amendments thereto;

34 ~~(m)~~ (q) "oil inspector" means the director of taxation, a duly author-
35 ized deputy, agent or representative;

36 ~~(n)~~ (r) "person" means every natural person, association, partnership,
37 limited partnership, limited liability company or corporation. When used
38 in any statute, prescribing and imposing a fine or imprisonment, or both,
39 the term "person" as applied to firms and associations means the partners
40 or members thereof and, as applied to corporations, the corporation and
41 the officers thereof;

42 ~~(l)~~ (s) "public highways" means and includes every way or place, of
43 whatever nature, generally open to the use of the public as a matter of

1 right, for the purposes of vehicular travel and notwithstanding that the
2 same shall have been temporarily closed for the purpose of construction,
3 reconstruction or repair;

4 ~~(p)~~ (t) "received" means motor-vehicle fuel or special fuel produced,
5 refined, prepared, distilled, manufactured, blended or compounded at
6 any refinery or other place, in the state of Kansas by any person, or im-
7 ported into this state from any other state, territory, or foreign country
8 by pipeline or connecting pipeline at a pipeline terminal or pipeline tank
9 farm for storage, shall be deemed to be "received" by such person thereat
10 when the same shall have been ~~loaded at such~~ *removed from a refinery,*
11 *pipeline terminal, pipeline tank farm or other place, into tank cars, tank*
12 *trucks or other container, or placed in any tank from which any with-*
13 *drawals are made direct into tank cars, tank trucks or other types of trans-*
14 *portation equipment, containers or facilities or in the case of imports,*
15 *other than by pipeline, upon entry into this state;*

16 ~~(q)~~ (u) "retailer" means a person that engages in the business of sell-
17 ing or distributing motor fuels to the end user;

18 ~~(r)~~ (v) "school bus" means every bus, as defined by K.S.A. 8-1406,
19 and amendments thereto, which is: (1) Privately owned and contracted
20 for, leased or hired by a school district or nonpublic school for the trans-
21 portation of pupils, students or school personnel to or from school or to
22 or from school-related functions or activities; or (2) owned and operated
23 by a school district or nonpublic school which is registered under the
24 provisions of K.S.A. 8-126 *et seq.*, and amendments thereto, used for the
25 transportation of pupils, students or school personnel to or from school
26 or to or from school-related functions or activities;

27 ~~(s)~~ (w) "special fuels" means all combustible liquids suitable for the
28 generation of power for the propulsion of motor vehicles including, but
29 not limited to, diesel fuel, *kerosene*, alcohol and such fuels not defined
30 under the motor-vehicle fuels definition, hereinafter referred to as motor-
31 vehicle fuel;

32 (x) "state" means *one of the 50 states of the union and the District of*
33 *Columbia. In the construction and interpretation of this act, Indian res-*
34 *ervations, Indian reserve land, Indian restricted land, Indian trust land,*
35 *Indian allotment land and any other land specifically set aside by the*
36 *federal government in trust or otherwise and under federal superinten-*
37 *dence within the geographic boundaries of the state of Kansas for the use*
38 *of Indians as Indian land shall be deemed to be in the state of Kansas;*

39 (y) "supplier" means *any person who imports or acquires immedi-*
40 *ately upon import, motor-vehicle fuel or special fuel by pipeline, tank*
41 *truck, railcar or marine vessel from a state, territory or possession of the*
42 *United States or from a foreign country into a terminal. Supplier also*
43 *includes a person who produces in this state or imports into a terminal*

1 *or bulk plant or acquires immediately upon import by truck, railcar or*
 2 *barge into a terminal, alcohol or alcohol derivative substances. Supplier*
 3 *includes any person who produces, manufactures or refines motor-vehicle*
 4 *fuel or special fuel in this state. Supplier includes any person who pro-*
 5 *duces, manufactures or refines motor-vehicle fuel or special fuel in this*
 6 *state. Supplier also includes a person who acquires motor-vehicle fuel*
 7 *pursuant to an industry terminal exchange agreement;*

8 ~~(z)~~ *(z)* "terminal" means a fuel storage and distribution facility that is
 9 supplied by motor vehicle, pipeline or marine vessel, and from which
 10 motor fuels may be removed at a rack. "Terminal" does not include any
 11 facility at which motor fuel blend stocks and additives are used in the
 12 manufacture of products other than motor fuels and from which no motor
 13 fuels are removed;

14 ~~(aa)~~ *(aa)* "terminal operator" means the person who by ownership or
 15 contractual agreement is charged with the responsibility for, or physical
 16 control over, and operation of a terminal;

17 *(bb)* "territory" means Puerto Rico, Guam, the U.S. Virgin Islands;

18 ~~(cc)~~ *(cc)* "transporter" means a person who has been issued a liquid-
 19 fuels carrier's license pursuant to K.S.A. 55-506 *et seq.*, and amendments
 20 thereto.

21 Sec. 3. K.S.A. 79-3403 is hereby amended to read as follows: 79-
 22 3403. It shall be unlawful for any ~~distributor~~ *supplier* to use, sell or deliver
 23 any motor-vehicle fuels or special fuels within this state unless such ~~dis-~~
 24 ~~tributor~~ *supplier* at the time of such use, sale, or delivery, is the holder
 25 of a valid, unrevoked motor-vehicle fuels ~~distributor's~~ *supplier's* license
 26 or special fuels ~~distributor's~~ *supplier's* license issued to such ~~distributor~~
 27 *supplier* in accordance with the provisions of this act for each particular
 28 place of business at which such ~~distributor~~ *supplier* shall use, sell or de-
 29 liver motor-vehicle fuels or special fuels. Every person desiring to operate
 30 as a ~~distributor~~ *supplier* shall have a physical location in this state for doing busi-
 31 ~~ness and~~ *supplier* shall file an application for a motor-vehicle fuels or
 32 special fuels license or licenses with the director. The application for the
 33 motor-vehicle fuels or special fuels ~~distributor's~~ *supplier's* license shall be
 34 made upon a form prescribed, prepared and furnished by the director,
 35 and shall set forth the name under which the applicant transacts or in-
 36 tends to transact business, the exact location of each place of business
 37 within the state where the applicant transacts or intends to transact the
 38 business of using, selling or delivering motor-vehicle fuels or special fuels,
 39 and such other information as the director may require. If the applicant
 40 is other than a natural person, the application shall set forth the name
 41 and address of each partner or person constituting the association, and if
 42 a corporation the names and addresses of the principal officers, and any
 43 other information prescribed by the director for purposes of

1 identification.

2 The application shall be signed and verified by oath or affirmation by
3 the owner, if a natural person. For any other business form the application
4 shall be signed and verified by oath or affirmation by a member or part-
5 ner, and in case of a corporation, by an executive officer or some person
6 specifically authorized by the corporation to sign the application, to which
7 shall be attached written evidence of such person's authority. The director
8 has the authority to deny a ~~distributor's supplier's~~ license to any applicant.
9 Upon approval of the application and the bond required, the director
10 shall grant and issue to such ~~distributor~~ *supplier* a motor-vehicle fuels
11 ~~distributor's supplier's~~ or special fuels ~~distributor's supplier's~~ license for
12 each place of business, within the state as set forth in such person's ap-
13 plication. Motor-vehicle fuels ~~distributor's supplier's~~ licenses or special
14 fuels ~~distributor's supplier's~~ licenses shall not be assignable and shall be
15 valid only for the ~~distributor~~ *supplier* in whose name issued and for the
16 transaction of business at the place specifically designated therein, and
17 shall at all times be conspicuously displayed at the place for which issued.
18 All licenses issued by the director shall be in force, so long as the holder
19 has in force a bond, as required by this act, deposited with the director,
20 or until such license is surrendered or revoked for cause by the director.
21 No motor-vehicle fuels ~~distributor's supplier's~~ license or special fuels ~~dis-~~
22 ~~tributor's supplier's~~ license shall be granted and issued until the person
23 applying has filed with the director a bond, ~~payable to the state of Kansas,~~
24 ~~in such amount as shall be fixed by the director, but in no event less than~~
25 ~~\$1,000, with a corporate surety authorized to do business in the state of~~
26 ~~Kansas and approved by the director, except that should a distributor be~~
27 ~~unable to secure a corporate surety bond, the director shall issue a license~~
28 ~~to such distributor upon the distributor furnishing a personal bond meet-~~
29 ~~ing the approval of the director, such bond to be conditioned that the~~
30 ~~distributor named will faithfully comply with all the provisions of this act~~
31 ~~during the period of the license or licenses issued to such distributor~~
32 ~~under such application as provided by K.S.A. 79-3405, and amendments~~
33 ~~thereto.~~

34 It shall be unlawful for any manufacturer to use, sell or deliver any
35 motor-vehicle fuels or special fuels within this state unless such manu-
36 facturer at the time of such use, sale, or delivery is the holder of a valid,
37 unsuspended and unrevoked motor-vehicle fuel manufacturer's license
38 or special fuel manufacturer's license issued to such manufacturer in ac-
39 cordance with the provisions of this act for each particular place of busi-
40 ness at which such manufacturer shall use, sell or deliver motor-vehicle
41 fuels or special fuels. No special fuel manufacturer's license will be re-
42 quired for any manufacturer who is blending products for winterization
43 purposes if the manufacturer at the time of the blending is the holder of

1 a valid, unsuspended and unrevoked motor-vehicle fuels or special fuels
2 distributor's license. Every person desiring to operate as a manufacturer
3 shall file an application for a motor-vehicle fuel manufacturer's license or
4 licenses or special fuel manufacturer's license or licenses with the direc-
5 tor. The application for the motor-vehicle fuel manufacturer's license or
6 special fuel manufacturer's license shall be made on a form prescribed,
7 prepared, and furnished by the director, and shall set forth the name
8 under which the applicant transacts or intends to transact business, the
9 exact location of each place of business within the state where the appli-
10 cant transacts or intends to transact the business of using, selling or de-
11 livering motor-vehicle fuels or special fuels, and such other information
12 as the director may require. If the applicant is other than a natural person,
13 the application shall set forth the name and address of each partner or
14 person constituting the association, and if a corporation the names and
15 addresses of the principal officers, and any other information prescribed
16 by the director for purposes of identification.

17 The application shall be signed and verified by oath or affirmation by
18 the owner, if a natural person. For any other business form, the appli-
19 cation shall be signed and verified by oath or affirmation by a member
20 or a partner, and in case of a corporation, by an executive officer or some
21 person specifically authorized by the corporation to sign the application,
22 to which shall be attached written evidence of such person's authority.
23 The director has the authority to deny a manufacturer's license to any
24 applicant. Upon approval of the application and the bond required, the
25 director shall grant and issue to manufacturer a motor-vehicle fuels or
26 special fuels manufacturer's license for each place of business, within the
27 state as set forth in such person's application. Motor-vehicle fuels man-
28 ufacturer's licenses or special fuels manufacturer's licenses shall not be
29 assignable and shall be valid only for the manufacturer in whose name
30 and issued for the transaction of business at the place specifically desig-
31 nated therein, and shall at all times be conspicuously displayed at the
32 place for which issued. All licenses issued by the director shall be in force,
33 so long as the holder has in force a bond, as required by this act, deposited
34 with the director, or until such license is surrendered or revoked by the
35 director. *No motor-vehicle fuels or special fuels manufacturer's license*
36 *shall be granted and issued until the person applying has filed with the*
37 *director a bond, as provided by K.S.A. 79-3405, and amendments thereto.*

38 Any person ~~not licensed as a motor-vehicle fuels or special fuels dis-~~
39 ~~tributor under this act,~~ desiring to import motor-vehicle fuels or special
40 fuels from any other state or territory of the United States, or from a
41 foreign country for such person's own use in the state of Kansas, or for
42 sale or delivery therein, or desiring to export motor-vehicle fuels or special
43 fuels from Kansas to any other state or territory of the United States, or

1 to a foreign country for such person's own use or for sale or delivery
2 therein, shall file application for a motor-vehicle fuel or special fuel im-
3 porter's or exporter's license with the director. The application shall be
4 made upon a form prescribed, prepared, and furnished by the director,
5 and shall set forth the name under which the applicant transacts, or in-
6 tends to transact, business of using, selling or delivering motor-vehicle
7 fuels or special fuels and such other information as the director may
8 require. If the applicant is other than a natural person, the application
9 shall set forth the name and address of each partner or person constituting
10 the association, and if a corporation the names and address of the prin-
11 cipal officers, and any other information prescribed by the director for
12 purposes of identification.

13 The application shall be signed and verified by oath or affirmation by
14 the owner, if a natural person. For any other business form the application
15 shall be signed and verified by oath or affirmation by a member or part-
16 ner, and in case of a corporation, by an executive officer or some person
17 specifically authorized by the corporation to sign the application, to which
18 shall be attached written evidence of such person's authority. The director
19 has the authority to deny an importer's or exporter's license to any ap-
20 plicant. Upon approval of the application and the bond required, the
21 director shall grant and issue to an importer or exporter a motor-vehicle
22 fuels or special fuels importer's or exporter's license. The written consent
23 of the applicant, irrevocable, that actions may be commenced against it
24 in the proper court of any county in this state in which a cause of action
25 may arise or in which the plaintiff may reside, by the service of process
26 on the secretary of state, and stipulating and agreeing that such service
27 shall be taken and held, in all courts, to be as valid and binding as if due
28 service had been made upon the applicant personally, or upon the pres-
29 ident and secretary, if a corporation. The secretary of state shall notify
30 the applicant of any action started against such applicant by mailing a
31 copy of the summons to the address set out in the application by regis-
32 tered mail. Motor-vehicle fuels importer's or exporter's licenses or special
33 fuels importer's or exporter's licenses shall not be assignable and shall be
34 valid only for the importer or exporter in whose name such license is
35 issued. All licenses issued by the director shall be in force, so long as the
36 holder has in force a bond, as required by this act, deposited with the
37 director or until such license is surrendered by the director. *No motor-*
38 *vehicle fuels or special fuels importer's or exporter's license shall be*
39 *granted and issued until the person applying has filed with the director*
40 *a bond, as provided by K.S.A. 79-3405, and amendments thereto.*

41 ~~No motor-vehicle fuel or special fuel manufacturer's license shall be~~
42 ~~granted and issued until the person applying has filed with the director a~~
43 ~~bond payable to the state of Kansas, in such amount as shall be fixed by~~

1 the director, but in no event less than \$5,000, with a corporate surety
2 authorized to do business in the state of Kansas and approved by the
3 director.

4 — No motor vehicle fuel or special fuel importer's or exporter's license
5 shall be granted and issued until the person applying has filed with the
6 director a bond, payable to the state of Kansas, in such amount as shall
7 be fixed by the director, but in no event less than \$5,000, with a corporate
8 surety authorized to do business in the state of Kansas and approved by
9 the director.

10 — It shall be unlawful for any retailer to sell or deliver any motor vehicle
11 fuels or special fuels within this state unless such retailer at the time of
12 such sale or delivery, is the holder of a valid, unrevoked retailer's license
13 issued to such retailer in accordance with the provisions of this act for
14 each particular place of business at which such retailer shall sell or deliver
15 motor vehicle fuels or special fuels. Every person desiring to operate as
16 a retailer shall have a physical location in this state for doing business and
17 shall file an application for a retailer's license with the director. The ap-
18 plication for the retailer's license shall be made upon a form prescribed,
19 prepared and furnished by the director, and shall set forth the name
20 under which the applicant transacts or intends to transact business, the
21 exact location of the place of business within the state where the applicant
22 transacts or intends to transact the business of selling or delivering motor-
23 vehicle fuels or special fuels, and such other information as the director
24 may require. If the applicant is other than a natural person, the applica-
25 tion shall set forth the name and address of each partner or person con-
26 stituting the association, and if a corporation the names and addresses of
27 the principal officers, and any other information prescribed by the direc-
28 tor for purposes of identification.

29 — The application shall be signed and verified by oath or affirmation by
30 the owner, if a natural person. For any other business form the application
31 shall be signed and verified by oath or affirmation by a member or part-
32 ner, and in case of a corporation, by an executive officer or some person
33 specifically authorized by the corporation to sign the application, to which
34 shall be attached written evidence of such person's authority. The director
35 has the authority to deny a retailer's license to any applicant. Upon ap-
36 proval of the application, the director shall grant and issue to such retailer
37 a motor vehicle fuels or special fuels retailers' license. Retailers licenses
38 shall not be assignable and shall be valid only for the retailer in whose
39 name and issued for the transaction of business at the place specifically
40 designated therein, and shall at all times be conspicuously displayed at
41 the place for which issued. All licenses issued by the director shall be in
42 force until such license is surrendered or revoked by the director.

43 *It shall be unlawful for any distributor to defer payments of the motor-*

1 vehicle fuel or special fuel taxes to their supplier unless such distributor
2 at the time of purchase of such motor-vehicle fuel or special fuel is the
3 holder of a valid, unsuspended and unrevoked motor-vehicle fuel or special
4 fuel distributor license issued to such distributor in accordance with
5 the provisions of this act. It shall be unlawful for any person to blend
6 motor fuels unless such person at the time of blending is the holder of a
7 valid, unsuspended and unrevoked motor-vehicle fuel or special fuel distributor
8 license. Every person desiring to operate as a distributor shall
9 have a physical location in this state for doing business and shall file an
10 application for a motor-vehicle fuel distributor's license or licenses or special
11 fuel distributor's license or licenses with the director. The application
12 for the motor-vehicle fuel distributor's license or special fuel distributor's
13 license shall be made on a form prescribed, prepared and furnished by
14 the director. The application shall set forth the name under which the
15 applicant transacts or intends to transact business, the exact location of
16 each place of business within the state where the applicant transacts or
17 intends to transact the business of using, selling or delivering motor-vehicle
18 fuels or special fuels and such other information as the director may
19 require. If the applicant is other than a natural person, the application
20 shall set forth the name and address of each partner or person constituting
21 the association, and if a corporation, the names and addresses of the principal
22 officers, and any other information prescribed by the director for
23 purposes of identification.

24 The application shall be signed and verified by oath or affirmation by
25 the owner, if a natural person. For any other business form, the application
26 shall be signed and verified by oath or affirmation by a member
27 or a partner, and in case of a corporation, by an executive officer or some
28 person specifically authorized by the corporation to sign the application,
29 to which shall be attached written evidence of such person's authority.
30 The director has the authority to deny a distributor's license to any applicant.
31 Upon approval of the application and the bond required, the
32 director shall grant and issue to the distributor a motor-vehicle fuels or
33 special fuels distributor's license for each place of business, within the
34 state as set forth in such person's application. Motor-vehicle fuels distributor's
35 licenses or special fuels distributor's licenses shall not be assignable
36 and shall be valid only for the distributor in whose name and issued for
37 the transaction of business at the place specifically designated therein,
38 and shall at all times be conspicuously displayed at the place for which
39 issued. All licenses issued by the director shall be in force, so long as the
40 holder has in force a bond, as required by this act, deposited with the
41 director, or until such license is surrendered or revoked by the director.
42 No motor-vehicle fuels or special fuels distributor's license shall be granted
43 and issued until the person applying has filed with the director a bond,

1 *as provided by K.S.A. 79-3405, and amendments thereto.*

2 Each licensee licensed under this act shall furnish annually to the di-
3 rector any changes occurring in the members, corporate or company of-
4 ficers, directors and stock ownership of those owning more than 5% of
5 total outstanding shares of the licensee.

6 Sec. 4. K.S.A. 79-3405 is hereby amended to read as follows: 79-
7 3405. *(a) Every supplier, distributor, importer, exporter or manufacturer*
8 *shall furnish and maintain a bond in such form, amount with such sureties*
9 *as the director approves, but such amount shall be not less than \$5,000*
10 *nor more than \$750,000 for suppliers and not less than \$5,000 nor more*
11 *than \$100,000 for distributors, importers, exporters or manufacturers*
12 *conditioned upon the supplier, distributor, importer or manufacturer*
13 *complying with the provisions of the statutes applicable to the licensee*
14 *and as indemnity for any loss sustained by any person by reason of any*
15 *act by the licensee tending to prejudice, jeopardize or render wholly or*
16 *partly ineffectual the collection of the tax imposed by this act. To comply*
17 *with this subsection, every bond shall be a corporate surety bond issued*
18 *by a company authorized to do business in the state of Kansas and shall*
19 *be executed in the name of the state of Kansas for the benefit of any*
20 *aggrieved party. The aggregate liability of the surety for all breaches of*
21 *the conditions of the bond in no event shall exceed the amount of such*
22 *bond. The surety on the bond shall have the right to cancel the bond by*
23 *giving 60 days' notice to the director, and thereafter the surety shall be*
24 *relieved of liability for any breach of condition occurring after the effective*
25 *date of cancellation. The director shall promptly, upon receiving any such*
26 *request, notify the supplier, distributor, manufacturer, importer or ex-*
27 *porter who furnished the bond and unless the supplier, distributor, man-*
28 *ufacturer, importer or exporter, shall, on or before the expiration of such*
29 *sixty-day period, file with the director a new bond fully complying with*
30 *the provisions of this act, the director shall revoke and cancel such sup-*
31 *plier's, distributor's, manufacturer's, importer's or exporter's license or*
32 *licenses and notify the supplier, distributor, manufacturer, importer or*
33 *exporter by registered mail or otherwise.*

34 *(b) The director may at any time require any supplier, distributor,*
35 *manufacturer, importer or exporter to furnish such additional bond with*
36 *authorized corporate surety, as shall be necessary to secure at all times*
37 *the payment by such person to the state of all taxes, penalties and interest*
38 *due under the provisions of this act. If any supplier, distributor, manu-*
39 *facturer, importer or exporter shall fail to file such additional bond within*
40 *10 days after receipt of written notice mailed or otherwise delivered to*
41 *such person by the director, the director may suspend or revoke the*
42 *license or licenses issued to such person, and collect all taxes, penalties*
43 *and interest accrued against such supplier, distributor, manufacturer, im-*

1 porter or exporter. For the purpose of determining whether an existing
2 bond or bonds are sufficient, the director may at any time, by mailed
3 written notice, or otherwise delivered, require any *supplier*, distributor,
4 manufacturer, importer or exporter to furnish a financial statement in
5 such form as the director may prescribe. Upon failure of any *supplier*,
6 distributor, manufacturer, importer or exporter to furnish a sworn finan-
7 cial statement within 20 days after receipt of such written notice, the
8 director may suspend or revoke any or all licenses issued to such person,
9 and shall collect all taxes, penalties, and interest accrued against such
10 *supplier*, distributor, manufacturer, importer or exporter.

11 ~~Any surety on a bond furnished by a distributor, manufacturer, im-
12 porter or exporter as provided shall be released and discharged from any
13 and all liability to the state accruing on such bond after the expiration of
14 60 days from the date upon which such surety shall have lodged with the
15 director a written request to be released and discharged, but this provi-
16 sion shall not operate to relieve, release, or discharge the surety from any
17 liability already accrued or which shall accrue before the expiration of the
18 sixty-day period. The director shall promptly, upon receiving any such
19 request, notify the distributor, manufacturer, importer or exporter who
20 furnished the bond and unless the distributor, manufacturer, importer or
21 exporter shall, on or before the expiration of such sixty-day period, file
22 with the director a new bond fully complying with the provisions of this
23 act, the director shall revoke and cancel such distributor's, manufac-
24 turer's, importer's or exporter's license or licenses and notify the distri-
25 butor, manufacturer, importer or exporter by registered mail or otherwise.~~

26 (c) *An applicant or licensee may elect to satisfy the bonding require-
27 ments of subsections (a) and (b) by depositing with the state treasurer
28 cash, negotiable bonds of the United States or of the state of Kansas or
29 negotiable certificates of deposit of any bank organized under the laws of
30 the United States or of the state of Kansas. In the event a licensee elects
31 to deposit a surety bond in lieu of the negotiable bonds or negotiable
32 certificates of deposit previously deposited with the state treasurer, the
33 state treasurer shall not release the negotiable bonds or negotiable certifi-
34 cates of deposits until at least 45 days after the date of the last transaction
35 in which the licensee engaged prior to the date of the deposit of the surety
36 bond. The cash deposit or market value of any such securities shall be
37 equal to or greater than the amount of the bond required for the bonded
38 area and any interest on those funds shall accrue to the benefit of the
39 depositor.*

40 (d) *Upon determination by the director that a judgment from a Kan-
41 sas court of competent jurisdiction is a final judgment and that the judg-
42 ment resulted from an act in violation of this act or would constitute
43 grounds as an act by the licensee tending to prejudice, jeopardize or ren-*

1 *der wholly or partly ineffectual the collection of the tax imposed by this*
2 *act, the proceeds of the bond on deposit or in lieu of bond provided by*
3 *subsection (c), shall be paid over to the director. The determination by*
4 *the director under this subsection is hereby specifically exempted from*
5 *the Kansas administrative procedure act (K.S.A. 77-501 through 77-549,*
6 *and amendments thereto,) and the act for judicial review and civil en-*
7 *forcement of agency actions (K.S.A. 77-601 through 77-627, and amend-*
8 *ments thereto). Any proceeding to enforce payment against a surety fol-*
9 *lowing a determination by the director shall be prosecuted by the*
10 *judgment creditor named in the final judgment sought to be enforced.*
11 *Upon a finding by the court in such enforcement proceeding that a surety*
12 *has wrongfully failed or refused to pay, the court shall award reasonable*
13 *attorney fees to the judgment creditor.*

14 (e) Licenses issued under the provisions of this act may be renewed
15 annually before the first day of November upon an application to the
16 director, but no licenses shall be renewed until the applicant shall file
17 with the director a bond in such amounts as shall be fixed by the director
18 and fully complying with the provisions of this act. Nothing contained in
19 this act shall require the filing of an application or bond, or the possession
20 or display of a motor-vehicle fuels or special fuels license, for the use,
21 sale and delivery of motor-vehicle fuels or special fuels exclusively in
22 interstate or foreign commerce not within the taxing power of the state,
23 or for use by, or sale or delivery to, the United States government.

24 Sec. 5. K.S.A. 79-3406 is hereby amended to read as follows: 79-
25 3406. Any *supplier*, distributor; *or* manufacturer ~~or retailer~~ who is the
26 holder of any valid and unrevoked license or licenses and who shall sub-
27 sequent to the issuance procure or propose to procure or operate addi-
28 tional places or stations for using, selling or delivering motor-vehicle fuels
29 or special fuels, upon making application to the director, showing as to
30 each proposed new place or station the same information as required for
31 an original application, may secure from the director a license or licenses
32 for each of such new or proposed places or stations, which new license
33 or licenses shall be in the same form and contain the same statements as
34 the original license or licenses.

35 Sec. 6. K.S.A. 2001 Supp. 79-3407 is hereby amended to read as
36 follows: 79-3407. Whenever any *supplier*, distributor, manufacturer, im-
37 porter or exporter is 10 days delinquent in the payment of any such tax,
38 penalty or interest, or any *supplier*, distributor, manufacturer, importer;
39 *or* exporter ~~or retailer~~ is 10 days delinquent in the making of any such
40 report, or shall make any false report or statement or application pur-
41 porting to be under the provisions of this act, or shall make any false
42 statement in any application, report or statement required by or pur-
43 porting to be under the provisions of this act, or purporting to be under

1 the rules and regulations promulgated by the director under such provi-
2 sions, or shall have willfully or persistently violated any of the provisions
3 of this act or of any rules and regulations made thereunder, the director
4 upon conducting a hearing as provided in this section and upon finding
5 to the director's satisfaction upon such hearing, that such *supplier*, dis-
6 tributor, manufacturer, importer; *or* exporter ~~or retailer~~ has been delin-
7 quent, or has violated provisions of this act, may revoke any or all licenses
8 issued to such *supplier*, distributor, manufacturer, importer; *or* exporter
9 ~~or retailer~~.

10 Hearings under this section shall be conducted in accordance with the
11 Kansas administrative procedure act. In the event that the director re-
12 vokes any license or licenses the *supplier*, distributor, manufacturer, im-
13 porter; *or* exporter ~~or retailer~~ to whom such license or licenses were
14 issued shall immediately, upon service of the director's order, surrender
15 the same to the director and cease using, selling, delivering or manufac-
16 turing any motor-vehicle fuels or special fuels at or from any places of
17 business or stations for which the license or licenses have been revoked.

18 Sec. 7. K.S.A. 2001 Supp. 79-3408 is hereby amended to read as
19 follows: 79-3408. (a) A tax per gallon or fraction thereof, at the rate com-
20 puted as prescribed in K.S.A. 79-34,141, and amendments thereto, is
21 hereby imposed on the use, sale or delivery of all motor vehicle fuels or
22 special fuels which are used, sold or delivered in this state for any purpose
23 whatsoever.

24 (b) Every retail pump for motor-vehicle fuels shall be conspicuously
25 labeled to show the content and percentage of any ethyl alcohol or other
26 alcohol combined or alone in excess of 1% by volume.

27 (c) Unless otherwise specified in K.S.A. 79-3408c, and amendments
28 thereto, the incidence of this tax is imposed ~~on the distributor of the first~~
29 ~~receipt of the motor fuel and such taxes shall be paid but once when the~~
30 ~~motor fuel is received.~~ Such tax shall be computed on all motor-vehicle
31 fuels or special fuels received by each *supplier*, distributor, manufacturer
32 or importer in this state and paid in the manner provided for herein,
33 except that an allowance of 2.5% shall be made and deducted by the
34 ~~distributor~~ *supplier*, to cover all ordinary losses which may have resulted
35 from physical loss while handling such motor-vehicle fuels or special fuels.
36 No such allowance shall be made on any motor-vehicle fuel or special
37 fuel exported from the state or sold to the United States of America or
38 any of its agencies or instrumentalities *or special fuel which is indelibly*
39 *dyed in accordance with regulations prescribed pursuant to 26 U.S.C.*
40 *4082* as are now or hereinafter exempt by law from liability to state tax-
41 ation. ~~No such allowance shall be made for any motor-vehicle fuel or~~
42 ~~special fuel sold or disposed of to a consumer in tank car, transport or~~
43 ~~pipeline lots. The allowance shall be prorated between the supplier and~~

1 *the licensed distributor. The supplier shall retain .25% and the distributor*
2 *shall retain 2.25%.*

3 (d) No tax is hereby imposed upon or with respect to the following
4 transactions:

5 (1) The sale or delivery of motor-vehicle fuel or special fuel for export
6 from the state of Kansas to any other state or territory or to any foreign
7 country, if:

8 (A) *The exporter has designated to the terminal supplier the desti-*
9 *nation for delivery of the fuel to a location outside the state; and*

10 (B) *the exporter is licensed in the state of destination and has supplied*
11 *the terminal supplier with that license number; or*

12 (C) *the supplier collects and remits to the state of destination all taxes*
13 *imposed on such fuel by the destination state.*

14 (2) The sale or delivery of motor-vehicle fuel or special fuel to the
15 United States of America and such of its agencies as are now or hereafter
16 exempt by law from liability to state taxation.

17 ~~(3) The sale or delivery of motor-vehicle fuel or special fuel to a~~
18 ~~contractor for use in performing work for the United States or those~~
19 ~~agencies of the United States above mentioned, provided such contractor~~
20 ~~has in effect with the United States or any such agency a cost plus a~~
21 ~~fixed-fee contract covering the work.~~

22 ~~(4)~~ (3) The sale or delivery of motor-vehicle fuel or special fuel which
23 is aviation fuel.

24 ~~(5) The first sale or delivery of motor-vehicle fuel or special fuel from~~
25 ~~a refinery, pipeline terminal, pipeline tank farm or other place to a duly~~
26 ~~licensed distributor who in turn resells to another duly licensed distrib-~~
27 ~~utor.~~

28 ~~(6)~~ (4) The sale or delivery of special fuel which is indelibly dyed in
29 accordance with regulations prescribed pursuant to 26 U.S.C. 4082 and
30 such special fuel is only used for nonhighway purposes.

31 (e) Each *supplier*, distributor, manufacturer, importer, *or* exporter ~~or~~
32 ~~retailer~~ shall make full reports and furnish such further information as
33 the director may require with reference to all transactions upon which
34 no tax is to be paid.

35 Sec. 8. K.S.A. 2001 Supp. 79-3408c is hereby amended to read as
36 follows: 79-3408c. (a) A tax is hereby imposed on the use, sale or delivery
37 of all motor-vehicle fuel or special fuel owned at 12:01 a.m. July 1, 1999,
38 and on July 1 of each year thereafter, by any ~~licensed~~ *supplier*, distributor
39 or ~~licensed~~ retailer at a rate per gallon, or fraction thereof, equal to the
40 amount, if any, by which the tax per gallon, or fraction thereof, in effect
41 on such date as prescribed by K.S.A. 79-3408, and amendments thereto,
42 exceeds the rate of tax upon such motor-vehicle fuel or special fuel which
43 was in effect on the preceding day. Such tax shall be paid by the ~~licensed~~

1 *supplier*, distributor or ~~licensed~~ retailer owning such motor-vehicle fuel
2 or special fuel at such time and date. On or before the ~~25th~~ last day of
3 the month in which a tax is imposed under this section, *or if the last day*
4 *of the month falls on a Saturday, a Sunday or a federal or state legal*
5 *holiday, the next succeeding workday*, every such *supplier*, distributor and
6 retail dealer shall make a report to the director on a form prescribed and
7 furnished by the director showing the total number of gallons, or fraction
8 thereof, of such motor-vehicle fuel or special fuel owned at the time the
9 tax is imposed under this section and such report shall be accompanied
10 by a remittance of the tax due.

11 Any ~~licensed supplier~~, distributor or ~~licensed~~ retailer who shall fail to
12 make such report or pay such tax, within the time prescribed, shall be
13 subject to the same penalties and interest charges prescribed by the mo-
14 tor-vehicle fuel or special fuel tax law for failure of a licensed ~~distributor~~
15 *supplier* to make monthly reports and payments of motor-vehicle fuel or
16 special fuel tax. The provisions of the motor-fuel tax law relating to rem-
17 edies for the collection of delinquent motor-fuel taxes from ~~distributors~~
18 *suppliers* shall apply to the collection of taxes imposed by this section
19 which have become delinquent from ~~licensed suppliers~~, distributors and
20 ~~licensed~~ retailers. All taxes, penalties and interest collected by the director
21 under the tax imposed by this section shall be remitted by the director
22 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
23 and amendments thereto. Upon receipt of each such remittance, the state
24 treasurer shall deposit the entire amount in the state treasury to the credit
25 of the funds and in the amounts specified in K.S.A. 79-34,142, and
26 amendments thereto.

27 (b) Whenever the rate of tax upon motor-vehicle fuels or special fuels
28 fixed pursuant to K.S.A. 79-3408, and amendments thereto, which be-
29 come effective on July 1, 1999, or on July 1 in any year thereafter is less
30 than the rate of tax upon such fuel in effect on the preceding day, the
31 ~~licensed supplier~~, distributor or ~~licensed~~ retailer owning such fuel at 12:01
32 a.m. on the date such reduction in taxes becomes effective shall be en-
33 titled to a refund of taxes paid upon such fuel in an amount equal to the
34 amount by which taxes were reduced from the amount of motor-vehicle
35 fuels or special fuels taxes per gallon, or fraction thereof, actually paid
36 upon each gallon, or fraction thereof, of motor-vehicle fuels or special
37 fuels multiplied by the number of gallons of motor-vehicle fuels or special
38 fuels owned by the *supplier*, distributor or dealer on such date. On or
39 before the ~~25th~~ last day of the month in which such tax is reduced, *or if*
40 *the last day of the month falls on a Saturday, a Sunday or a federal or*
41 *state legal holiday, the next succeeding workday*, every such *supplier*,
42 distributor and retailer shall make a report to the director on a form
43 prescribed and furnished by the director showing the total number of

1 gallons of such motor-vehicle fuel or special fuel owned by such *supplier*,
2 distributor or retailer at 12:01 a.m. on the date upon which such tax was
3 reduced. It shall be the duty of the director of taxation to examine all
4 such claims and determine the amount to which each claimant is entitled.
5 In the event any *supplier*, distributor or retailer entitled to such refund
6 shall owe the state any motor-vehicle fuel or special fuel tax, penalties,
7 or interest, the refund authorized by this section shall upon being deter-
8 mined by the director be credited upon the amount of such taxes, pen-
9 alties and interest. Whenever the director shall determine that any *sup-*
10 *plier*, distributor or retailer shall be entitled to a refund under any of the
11 provisions of this section, and such refund cannot be effected by giving
12 credit therefor, as hereinbefore provided, or against the future motor-
13 vehicle fuel or special fuel tax liability of such taxpayer the director shall
14 certify the amount of the refund to the state director of accounts and
15 reports, who shall draw a warrant for the amount so certified on the state
16 treasurer in favor of the *supplier*, distributor or retailer entitled to such
17 refund, and mail, or otherwise deliver, the same to the *supplier*, distrib-
18 *utor or retailer* entitled thereto. Such warrant shall be paid by the state
19 treasurer to such *supplier*, distributor or retailer from the motor-vehicle
20 fuel or special fuel tax refund fund.

21 (c) The provisions of this section shall not apply to any licensed re-
22 tailer who is a native American whose licensed place of business or busi-
23 nesses are located on such retailer's reservation, nor to any native Amer-
24 ican tribes having licensed places of business or businesses located on
25 such tribe's reservation.

26 Sec. 9. K.S.A. 2001 Supp. 79-3409 is hereby amended to read as
27 follows: 79-3409. ~~Every distributor paying such tax or being liable for the~~
28 ~~payment shall be entitled to charge and collect an amount, including the~~
29 ~~cost of doing business that could include such tax on motor-vehicle fuels~~
30 ~~or special fuels sold or delivered by such distributor, as a part of the selling~~
31 ~~price. For the privilege of selling or dealing in motor fuels, in this state~~
32 ~~by any person engaged in business as a supplier, distributor, manufac-~~
33 ~~turer or importer thereof, there is hereby levied and there shall be col-~~
34 ~~lected and remitted a tax upon all motor fuels sold, distributed, given~~
35 ~~away, used or possessed in the state by any person for sale within the~~
36 ~~state of Kansas. Such tax is intended to be imposed but once on the same~~
37 ~~gallon of motor fuel. It shall be presumed that all motor fuel within the~~
38 ~~state is subject to tax until the contrary is established, and the burden of~~
39 ~~proof that any motor fuel is not taxable hereunder shall be upon the person~~
40 ~~in possession thereof. When the price of motor-vehicle fuels or special~~
41 ~~fuels posted on a price sign does not include the state and federal tax~~
42 ~~which such retail dealer's distributor paid or for which the distributor was~~
43 ~~liable, the total of the taxes must be shown in numbers the same size as~~

1 the price of the motor fuel. Any deviation from the maximum price
2 charged for a given grade of motor-vehicle fuels or special fuels must be
3 stated in letters at least six inches high and legible. Fractions of cents
4 must be posted in numbers at least $\frac{1}{2}$ the height of the whole number.

5 Sec. 10. K.S.A. 79-3410 is hereby amended to read as follows: 79-
6 3410. (a) Except as hereinafter provided, every *supplier*, distributor, man-
7 ufacturer, importer, ~~or exporter or retailer~~ of motor-vehicle fuels or spe-
8 cial fuels, on or before the ~~25th last~~ day of each month, *or if the last day*
9 *of the month falls on a Saturday, a Sunday or a federal or state legal*
10 *holiday, the next succeeding workday*, shall render to the director at the
11 director's office in Topeka, Kansas, upon a form prescribed, prepared and
12 furnished by the director a report certified to be true and correct showing
13 the number of gallons of motor-vehicle fuels or special fuels received by
14 such *supplier*, distributor, manufacturer, importer, ~~or exporter or retailer~~
15 during the preceding calendar month, and such further information as
16 the director shall require. Every *supplier*, distributor and importer shall
17 be exempt from reporting to the director exempt sales to the end user of
18 special fuel which is indelibly dyed in accordance with regulations pre-
19 scribed pursuant to 26 U.S.C. 4082. Every *supplier*, distributor, manu-
20 facturer or importer within the time herein fixed for the rendering of
21 such reports, shall compute and shall ~~pay~~ *remit* to the director at the
22 director's office the amount of taxes due to the state on all motor-vehicle
23 fuels or special fuels received by such *supplier*, distributor, manufacturer
24 or importer during the preceding calendar month.

25 (b) (1) *Every licensed distributor, upon complying with the provi-*
26 *sions of K.S.A. 79-3405, and amendments thereto, may elect to defer pay-*
27 *ment of the the tax to its supplier until two business days prior to the date*
28 *the tax is due and payable to the state by the supplier, provided such*
29 *payment is made by the distributor to the supplier by electronic funds*
30 *transfer.*

31 (2) *In the event a distributor fails to pay its supplier by the date*
32 *specified in paragraph (1), the distributor no longer qualifies to defer*
33 *payment of the tax.*

34 ~~(b)~~ (c) The director may waive the requirement for monthly reports
35 from licensed manufacturers, who are also licensed ~~distributors~~ *suppliers*,
36 when all taxes accrued under either or both licenses or which might ac-
37 cure are paid under the ~~distributor~~ *supplier* license. All taxes imposed
38 under the provisions of this act not paid on or before the ~~25th last~~ day of
39 the month succeeding the calendar month in which the motor-vehicle
40 fuels or special fuels were received by the *supplier*, distributor, manufac-
41 turer or importer shall be deemed delinquent and shall bear interest at
42 the rate per month, or fraction thereof, prescribed by subsection (a) of
43 K.S.A. 79-2968, and amendments thereto, from such due date until paid,

1 and in addition thereto there is hereby imposed upon all amounts of such
2 taxes remaining due and unpaid after such due date a penalty in the
3 amount of 5%, and the penalty shall be by the director added to and
4 collected as a part of the taxes. If the *supplier*, distributor, manufacturer
5 or importer furnishes evidence to the director that the delinquency was
6 due to causes beyond such person's reasonable control, and if in the
7 opinion of the director the delinquency was not the result of willful neg-
8 ligence of the *supplier*, distributor, manufacturer or importer the penalty
9 or interest or both may be waived or reduced by the director.

10 If any person shall file a false or fraudulent return or fail to file a return
11 with intent to evade the tax imposed by this act, there shall be added to
12 the amount of deficiency determined by the director a penalty equal to
13 100% of the deficiency together with the interest at the rate per month
14 or fraction thereof, prescribed by subsection (a) of K.S.A. 79-2968, and
15 amendments thereto, on such deficiency from the date such tax was due
16 to the date of payment, in addition to all other penalties prescribed by
17 law. Every manufacturer, refiner or terminal operator of motor-vehicle
18 fuels or special fuels shall daily send reports to the director of all sales of
19 liquid fuels. The reports are to be made on forms prescribed, prepared
20 and furnished by the director or on forms furnished by the manufacturer
21 and approved by the director.

22 ~~(e)~~ (d) Whenever the secretary or the secretary's designee determines
23 that the failure of the taxpayer to comply with the provisions of subsection
24 ~~(b)~~ (c) was due to reasonable causes, the secretary or the secretary's des-
25 ignee may waive or reduce any of the penalties and may reduce the in-
26 terest rate to the underpayment rate prescribed and determined for the
27 applicable period under section 6621 of the federal internal revenue code
28 as in effect on January 1, 1994, upon making a record of the reasons
29 therefor.

30 Sec. 11. K.S.A. 79-3411 is hereby amended to read as follows: 79-
31 3411. If any *supplier*, distributor, manufacturer, importer, exporter or
32 retailer shall fail, neglect or refuse to render any report required by the
33 provisions of this act within the period specified, or if the director is not
34 satisfied of the correctness of any report or tax payment made by any
35 *supplier*, distributor, manufacturer, importer, exporter or retailer, the di-
36 rector is hereby authorized and empowered to determine from any in-
37 formation in the director's possession the true amount of taxes, penalties
38 and interest due the state from such *supplier*, distributor, manufacturer,
39 importer, exporter or retailer and such determination shall, in all actions
40 or proceedings, be taken as prima facie correct. Promptly after making
41 such determination the director shall send, or deliver, by registered mail
42 or otherwise, a statement to such *supplier*, distributor, manufacturer, im-
43 porter, exporter or retailer and shall proceed to collect the amounts so

1 determined.

2 Sec. 12. K.S.A. 2001 Supp. 79-3412 is hereby amended to read as
3 follows: 79-3412. Whenever any person shall be in default for more than
4 10 days in payment of any taxes, penalties or interest accruing or accrued
5 under the provisions of this act, and no seizure of property of such person
6 has been made under any other provisions of this act, the director shall,
7 unless the director has good reason to the contrary, issue a warrant under
8 the secretary's or the secretary's designee's hand and official seal, directed
9 to the sheriff of any county of the state, commanding the sheriff to levy
10 upon and sell the real and personal property of the ~~taxpayer~~ *person* found
11 within the sheriff's county for the payment of the amount thereof with
12 the added penalties, interest and cost of executing the warrant and to
13 return the warrant to the secretary or the secretary's designee and to pay
14 to the secretary or the secretary's designee the money collected by virtue
15 of it not more than 60 days from the date of the warrant. The sheriff,
16 within five days after the receipt of the warrant, shall file with the clerk
17 of the district court of the county a copy thereof, and thereupon the clerk
18 shall enter in the appearance docket the name of the person specified in
19 the warrant, the amount of the tax or portion of it, interest and penalties
20 for which the warrant is issued and the date such copy is filed and note
21 the ~~taxpayer's person's~~ *person's* name in the general index. No fee shall be charged
22 for either entry. The amount of such warrant so docketed shall thereupon
23 become a lien upon the title to and interest in the real property of the
24 ~~taxpayer~~ *person* against whom it is issued. The sheriff shall proceed in
25 the same manner and with the same effect as prescribed by law with
26 respect to executions issued against property upon judgments of a court
27 of record and shall be entitled to the same fees for services to be collected
28 in the same manner.

29 The court in which the warrant is docketed shall have jurisdiction over
30 all subsequent proceedings as fully as though a judgment had been ren-
31 dered in the court. At the discretion of the secretary or the secretary's
32 designee, a warrant of like terms, force and effect may be issued and
33 directed to any officer or employee of the secretary, and in the execution
34 thereof, such officer or employee shall have all the powers conferred by
35 law upon sheriffs, with respect to executions issued against property upon
36 judgments of a court of record, and the subsequent proceedings there-
37 under shall be the same as provided where the warrant is issued directly
38 to the sheriff. The ~~taxpayer~~ *person* shall have the right to redeem the real
39 estate within a period of 18 months from the date of such sale. If a warrant
40 is returned, unsatisfied in full, the secretary or the secretary's designee
41 shall have the same remedies to enforce the claim for taxes as if the state
42 of Kansas had recovered judgment against the ~~taxpayer~~ *person* for the
43 amount of the tax. No law exempting any goods and chattels, lands and

1 tenements from forced sale under execution shall apply to a levy and sale
2 under any such warrant or upon any execution issued upon any judgment
3 rendered in any action for motor fuel taxes. The secretary or the secre-
4 tary's designee shall have the right at any time after a warrant has been
5 returned unsatisfied or satisfied only in part, to issue alias warrants until
6 the full amount of the tax is collected.

7 Sec. 13. K.S.A. 79-3413 is hereby amended to read as follows: 79-
8 3413. Whenever any person, liable to this state for any taxes, penalties
9 and interest imposed by, or accumulated under, the provisions of this act,
10 shall fail, neglect or refuse to pay the full amount of such taxes, penalties
11 and interest when the same is due, the director shall deliver by mail or
12 otherwise to the register of deeds of the county in which such person
13 resides, or has its principal place of business in this state, a certified notice
14 of lien setting forth the name and address of the person so liable, the
15 amount of all taxes, penalties and interest due from such person to the
16 state, and that such sums are due under the provisions of this act.

17 The director may also deliver such notice of lien ~~as aforesaid~~ to the
18 register of deeds of any county in this state in which the person liable for
19 such taxes, interest or penalties has any property, real or personal. All
20 such taxes, interest and penalties shall be and constitute a lien upon all
21 the personal property of the person so liable located in this state and
22 upon all real estate belonging to such person and located in the county
23 in which such notice of lien shall be filed, from the time of the filing of
24 such notice of lien and until all ~~said~~ such taxes, interest and penalties are
25 paid in full. It shall be the duty of each register of deeds in this state to
26 index and file immediately all such notices of lien in the manner provided
27 in cases of chattel mortgages, and no fee shall be charged for such filing
28 and indexing. The director may issue a certificate of release of lien upon
29 request whenever all taxes, interest and penalties for which such person
30 is liable, whether set forth in such notice of lien or not, have been fully
31 paid and satisfied, and such person may file the same with the register of
32 deeds of any county in which such notice of lien has been filed. The lien
33 provided in favor of the state by this section shall be superior to all other
34 liens which shall accrue or attach on the property of the person liable
35 subsequent to the filing of such notice of lien.

36 The state director or ~~his or her~~ *the director's* deputy or agent may, or
37 any sheriff ~~or constable~~, in ~~his or her~~ *such sheriff's* jurisdiction, upon
38 written instruction of the director, shall, at any time after such lien ac-
39 crues, seize and hold all personal property subject thereto and proceed
40 to advertise and sell the same, or so much thereof as shall be necessary
41 to satisfy the amount of the state's lien, together with all expenses of
42 selling, at public sale for cash, upon such notice as is provided by law in
43 the case of a chattel-mortgage sale. Any surplus of the proceeds of such

1 sale, after paying the amount of the lien of the state thereon and the costs
2 of the officers in giving notice of and holding such sale, and securing and
3 preserving the property pending such sale, shall be delivered to the per-
4 son or persons lawfully entitled thereto.

5 Every assignee, sheriff, receiver, trustee or other officer who shall seize
6 or take possession of any property or estate of any *supplier*, distributor,
7 manufacturer or importer or of any person liable to the state for any taxes,
8 interest or penalties accruing under the provisions of this act, shall
9 promptly, upon so doing, notify the director in writing of the title of the
10 cause or proceeding in which such officer was appointed or is acting, and
11 the property which has been seized or taken into possession, with the
12 purpose for which same was taken; and in case of an order on creditors
13 to file claims, shall furnish notice ~~thereof~~ to the director. It shall be the
14 duty of the director to furnish to any person having an interest therein,
15 and applying therefor, a true statement of the amount of taxes, penalties
16 and interest shown in the records of ~~said~~ the director to be due from any
17 *supplier*, distributor, manufacturer or importer but such statement shall
18 not preclude the director from asserting any claim or lien for taxes, in-
19 terest or penalties which shall subsequently accrue or be discovered.

20 Sec. 14. K.S.A. 79-3414 is hereby amended to read as follows: 79-
21 3414. Whenever a *supplier*, distributor, manufacturer, importer; *or* ex-
22 porter ~~or retailer~~ ceases to engage in business as a *supplier*, distributor,
23 manufacturer, importer; *or* exporter ~~or retailer~~ at any place or station
24 within the state of Kansas by reason of the discontinuance, sale or transfer
25 of the business of such *supplier*, distributor, manufacturer, importer; *or*
26 exporter ~~or retailer~~ it shall be the duty of such *supplier*, distributor, man-
27 ufacturer, importer; *or* exporter ~~or retailer~~ to notify the director in writing
28 at least five days prior to the time the discontinuance, sale or transfer
29 takes effect. The notice, as to each such place or station, shall give the
30 date of discontinuance and, in the event of a sale or transfer of the busi-
31 ness, the date thereof and the name and address of the purchaser or
32 transferee.

33 All taxes, penalties, and interest accrued under the provisions of this
34 act, whether or not due and payable under other provisions of this act,
35 shall become due and payable concurrently with such discontinuance, sale
36 or transfer, and it shall be the duty of any such *supplier*, distributor,
37 manufacturer, importer; *or* exporter ~~or retailer~~ to render to the director
38 the report herein required, and pay all such taxes, interest and penalties,
39 and to surrender to the director all licenses issued to the *supplier*, dis-
40 tributor, manufacturer, importer; *or* exporter ~~or retailer~~ for such places
41 or stations. Unless all taxes, penalties and interest accrued and due under
42 the provisions of this act from a *supplier*, distributor, manufacturer, im-
43 porter; *or* exporter ~~or retailer~~ making such sale or transfer have been paid

1 at the time such sale or transfer becomes effective, the purchaser or
2 transferee shall be liable to the state of Kansas for the amount of all such
3 taxes, penalties and interest, but only to the extent of the value of the
4 property and business acquired from such *supplier*, distributor, manufac-
5 turer, importer, or exporter ~~or retailer~~.

6 Sec. 15. K.S.A. 79-3415 is hereby amended to read as follows: 79-
7 3415. Each *supplier*, distributor, manufacturer, importer, exporter, re-
8 tailer or user shall maintain and keep, for a period of three years, a full
9 record or records of all motor-vehicle fuels or special fuels received, used
10 or sold and delivered within this state by such *supplier*, distributor, man-
11 ufacturer, importer, exporter, retailer or user, together with invoices and
12 bills of lading thereof, and such other pertinent papers as may be required
13 by the director.

14 Sec. 16. K.S.A. 79-3417 is hereby amended to read as follows: 79-
15 3417. Every *supplier or* distributor shall be entitled to a refund from the
16 state of the amount of motor-vehicle fuels or special fuels tax paid on any
17 motor-vehicle fuels or special fuels of 100 gallons or more in quantity,
18 which are lost or destroyed at any one time while such *supplier or* distri-
19 butor is the owner thereof, through theft, leakage, fire, explosion, light-
20 ning, flood, storm or other cause beyond the control of the *supplier or*
21 distributor. Such *supplier or* distributor shall notify the director in writing
22 of such loss or destruction, the specific cause thereof, and the amount of
23 motor-vehicle fuel or special fuel so lost or destroyed, within 60 days from
24 the date of such loss or destruction. Within 30 days after notifying the
25 director of such loss or destruction such *supplier or* distributor shall file
26 with the director an affidavit on oath, stating the full circumstances and
27 amount of the loss or destruction and other information requested by the
28 director.

29 The director shall examine all such claims and determine the amount
30 to which the claimant is entitled. If any *supplier or* distributor entitled to
31 a refund owes the state any motor-vehicle fuel or special fuel tax, pen-
32 alties, or interest, the refund authorized by this section shall be credited
33 upon such taxes, penalties and interest. When the director determines
34 that any *supplier or* distributor is entitled to a refund under this section,
35 and such refund cannot be effected by giving credit therefor, the director
36 shall sign a voucher for the refund. Such amount shall be paid to the
37 *supplier or* distributor from the revenue administration fee fund.

38 Sec. 17. K.S.A. 79-3419 is hereby amended to read as follows: 79-
39 3419. The director of taxation shall enforce the provisions of this act. The
40 secretary of revenue shall adopt rules and regulations for the administra-
41 tion of this act. In the performance of the director's duties, the director
42 of taxation may call upon the law enforcement officers of this state to
43 perform their several duties within their respective jurisdiction, and it

1 shall be the duty of each such law enforcement officer to render aid in
2 the enforcement of the provisions of this act.

3 The county attorneys of the several counties of this state shall prosecute
4 all violations of the provisions of this act, and all civil proceedings arising
5 or pending in their respective counties for recovery of taxes, penalties or
6 interest, arising under the provisions of this act. The director of taxation
7 may request of the attorney general the aid and assistance of the Kansas
8 bureau of investigation for investigation of special cases. The director of
9 taxation, the director of vehicles and the attorney general shall commu-
10 nicate to each other all information received concerning violations of the
11 provisions of the motor-fuel tax law and also all information concerning
12 suspected violations which in the opinion of any one of them requires
13 investigation.

14 The director of taxation shall designate auditors, appointed in writing
15 by the director, to engage in the enforcement of the provisions hereof.
16 Such auditors shall check *suppliers*, distributors, *importers*, *exporters*, re-
17 tailers, refund permit holders or any person who uses, stores, transports,
18 sells or delivers liquid fuels, motor-vehicle fuels or special fuels to insure
19 strict compliance with the provisions of the motor-fuel tax law. The di-
20 rector or such auditor shall have authority to administer oaths, issue sub-
21 poenas, compel the attendance of witnesses and the production of books,
22 papers, accounts, documents and testimony.

23 In case of disobedience on the part of any person to comply with any
24 subpoena issued hereunder, or the refusal of any witness to testify to any
25 matter regarding which such person may be lawfully interrogated, it shall
26 be the duty of the district court of the proper county, or the judge thereof
27 on application of such director or auditor to compel obedience by pro-
28 ceedings for contempt, as in the case of disobedience of the requirements
29 of a subpoena issued from such court or a refusal to testify therein.

30 Sec. 18. K.S.A. 79-3420 is hereby amended to read as follows: 79-
31 3420. The director, or any deputy or agent appointed in writing by the
32 director, is hereby authorized to examine the books, papers, records, stor-
33 age tanks, tank wagons, trucks and any other equipment of any *supplier*,
34 distributor, dealer, transporter, manufacturer, importer, exporter, re-
35 tailer, user or any other person, pertaining to the use, storage, transpor-
36 tation or sale and delivery of liquid fuels, motor-vehicle fuels or special
37 fuels, to verify the accuracy of any report, statement or payment made
38 under the provisions of this act, or to ascertain whether or not all reports
39 and tax payments required by this act have been made. Any information
40 gained by the director, the director's deputies or agents, as the result of
41 the reports, investigations and verifications herein required to be made,
42 shall be confidential, and shall not be divulged by any person except as
43 herein provided. Every *supplier*, distributor, dealer, transporter, manu-

1 factorer, importer, exporter, retailer or user and every person handling
2 or possessing any liquid fuels, motor-vehicle fuels or special fuels shall
3 give the director, or the director's deputy or agent appointed in writing,
4 full and free access during reasonable business hours to all the papers,
5 records and property mentioned, with full opportunity to examine the
6 same. The director, or any deputy or agent appointed in writing by the
7 director, shall examine returns and shall determine the correct amount
8 of the tax. If the tax found due shall be greater than the amount paid, or
9 if a claim for a refund is denied, notice shall be mailed to the taxpayer.
10 Within 60 days after the mailing of such notice, the taxpayer may request
11 an informal conference with the secretary of revenue or the secretary's
12 designee relating to the tax liability by filing a written request with the
13 secretary of revenue or the secretary's designee. Based on the evidence
14 presented at such informal conference, the secretary of revenue or the
15 secretary's designee shall make a final determination within the period
16 prescribed by K.S.A. 79-3226, and amendments thereto, and shall notify
17 the taxpayer of such decision and, if additional amounts are found to be
18 due, such decision shall be accompanied by a notice and demand for
19 payment. Notice under this section shall be sent by first-class mail. The
20 tax shall be paid within 20 days thereafter, together with interest at the
21 rate per month prescribed by subsection (a) of K.S.A. 79-2968, and
22 amendments thereto, on the additional tax from the date the tax was due
23 unless an appeal is taken in the manner provided by law, but no additional
24 tax shall be assessed for less than \$5. Interest at such rate shall continue
25 to accrue on any additional tax liability during the course of any appeal.

26 Whenever the director of taxation has reason to believe that a person
27 liable for tax under any provisions of the motor-fuel tax law is about to
28 depart from the state or to remove such person's property therefrom, or
29 to conceal oneself or such person's property therein, or to do any other
30 act tending to prejudice, jeopardize or render wholly or partly ineffectual
31 the collection of such motor-fuel tax unless proceedings be brought with-
32 out delay, the director shall immediately make an assessment for all mo-
33 tor-fuel tax due from such taxpayer, noting such finding on the assess-
34 ment. The assessment shall be made on the basis of emergency
35 proceedings in accordance with the provisions of K.S.A. 77-536, and
36 amendments thereto. Thereupon, a warrant shall be issued for the col-
37 lection of the tax as provided in K.S.A. 79-3412, and amendments thereto,
38 except that there shall be no 10-day waiting period before assessment is
39 issued. The taxpayer, within 15 days from the date of filing of such war-
40 rant, may request an informal conference with the secretary of revenue
41 or the secretary's designee on the correctness of the assessment. The
42 director may publish the gallons received by each licensed motor-vehicle
43 fuel or special fuel *supplier and* distributor and the deductions claimed

1 by such *supplier and* distributor and such publication shall be an excep-
2 tion to the confidentiality provisions of K.S.A. 75-5133, and amendments
3 thereto. The director may also make available or furnish information to
4 the taxing officials of any other state or of the federal government, or the
5 director of property valuation, in the manner as provided in K.S.A. 74-
6 2424, and amendments thereto.

7 Sec. 19. K.S.A. 79-3426 is hereby amended to read as follows: 79-
8 3426. (a) The director, upon the request of the official of any other state
9 entrusted with the enforcement of the motor-vehicle fuels tax law of such
10 other state, may forward to such official any information which the di-
11 rector may have in the director's possession relative to the manufacture,
12 receipt, sale, delivery, use, transportation or shipment by any person of
13 liquid fuels, and the director, upon request of any *supplier*, distributor,
14 importer; ~~or exporter or retailer~~ holding a valid license, shall furnish to
15 such *supplier*, distributor, importer; ~~or exporter or retailer~~ a list of the
16 names and addresses of all the persons holding *supplier's*, distributor's,
17 importer's; ~~or exporter's or retailer's~~ licenses issued and outstanding in
18 this state.

19 (b) The director, upon the request of the official entrusted with the
20 enforcement of the fuel tax laws of any other state, the District of Co-
21 lumbia, the United States, its territories and possessions, the provinces of
22 the Dominion of Canada, may forward to such official any information
23 which the director may have in the director's possession relative to the
24 manufacture, receipt, sale, delivery, use, transportation or shipment by
25 any person of special fuel as defined in this act.

26 Sec. 20. K.S.A. 79-3453 is hereby amended to read as follows: 79-
27 3453. Any person who uses any motor-vehicle fuels or special fuels on
28 which the motor-fuel or special fuel tax has been paid for use in school
29 buses or for any purpose other than operating motor vehicles on the
30 public highways, such person shall be entitled to be refunded the tax paid
31 upon complying with the requirements of this act. Such person shall not
32 be entitled to a refund of such tax unless the amount of the refund exceeds
33 \$25. ~~The words "licensed distributor," as used in this act, shall also include~~
34 ~~a licensed importer.~~

35 Sec. 21. K.S.A. 79-3456 is hereby amended to read as follows: 79-
36 3456. (a) At the time of making each delivery of motor-vehicle fuel or
37 special fuel upon which a refund of the tax may be claimed, the ~~licensed~~
38 distributor or ~~licensed~~ retailer delivering the same shall make out an in-
39 voice which shall contain a serial number which shall not be repeated
40 through any one calendar year, and which shall state the following:

- 41 (1) The name of the distributor or retailer (printed or rubber
42 stamped) selling the refund motor fuel;
43 (2) the name of the purchaser;

1 (3) the number of gallons of motor-vehicle fuel containing less than
2 10% agricultural ethyl alcohol thus purchased and delivered;

3 (4) the number of gallons of motor-vehicle fuels containing 10% or
4 more of agricultural ethyl alcohol thus purchased and delivered;

5 (5) the date and place of delivery;

6 (6) the number of gallons of special fuel purchased and delivered;
7 and

8 (7) the price paid for such motor-vehicle fuel or special fuel.

9 (b) The invoice prepared by a distributor or retailer shall be made
10 out in triplicate unless the invoice is generated by automated procedures
11 approved by the director. One copy of each invoice made out in triplicate
12 shall be delivered to the purchaser at the time of purchase. Upon receiv-
13 ing payment in full for such motor-vehicle fuel or special fuel the distrib-
14 utor or retailer shall receipt for payment on the original invoices. A du-
15 plicate shall be retained by the distributor or retailer for a period of three
16 years and shall be subject to examination by the director. Carbon or con-
17 tact-type paper shall be used in making the first and second duplicate
18 invoices unless the invoice is generated by automated procedures ap-
19 proved by the director.

20 (c) Invoices generated by automated procedures approved by the di-
21 rector shall be made out in duplicate. The original of each such invoice
22 shall be delivered to the purchaser and upon receiving payment for such
23 motor-vehicle fuel or special fuel the distributor or retailer shall receipt
24 for payment on another original invoice. Duplicates of all such invoices
25 shall be retained by the distributor or retailer for a period of three years.

26 (d) If the invoice of any distributor or retailer is not printed in trip-
27 licate or does not meet the requirements of this section then such dis-
28 tributor or retailer shall use the uniform invoice prepared and furnished
29 free of cost by the director as provided in this act.

30 Sec. 22. K.S.A. 79-3457 is hereby amended to read as follows: 79-
31 3457. The director shall issue free of cost the blank invoices required by
32 this act to those distributors or retailers who do not provide their own
33 invoices approved by the director. The director shall keep accurate re-
34 cords of all invoices issued and furnished to each ~~licensed~~ distributor or
35 ~~licensed~~ retailer, and the ~~licensed~~ distributor or retailer shall, at all times,
36 account for all such invoices received by such distributor or retailer. The
37 director shall not issue any additional invoices to a ~~licensed~~ distributor or
38 ~~licensed~~ retailer until such distributor or retailer has made proper ac-
39 counting for such invoices issued to such distributor or retailer. The in-
40 voices shall not be transferable or assignable unless such transfer or as-
41 signment is authorized by the director.

42 Sec. 23. K.S.A. 2001 Supp. 79-3464c is hereby amended to read as
43 follows: 79-3464c. (a) The director may require a *supplier*, licensed dis-

1 tributor *or importer* receiving 50,000 gallons of motor fuel or more in a
2 calendar month to file by electronic or magnetic media, in a standard
3 format, such information as specified by the director. A *supplier*, licensed
4 distributor *or importer*, that can show just cause, may request a waiver
5 from these requirements.

6 (b) Any distributor filing information prescribed by the director in
7 accordance with subsection (a), who continues to file in accordance with
8 subsection (a), shall be entitled to a onetime tax credit against the motor
9 fuel tax imposed by article 34 of chapter 79 of the Kansas Statutes An-
10 notated. Distributors filing in accordance with subsection (a):

11 (1) On or before July 1, 1999, shall be entitled to an amount equal
12 to \$8,000;

13 (2) after July 1, 1999, but on or before July 1, 2000, shall be entitled
14 to an amount equal to \$6,400; and

15 (3) after July 1, 2000, but on or before June 30, 2001, shall be entitled
16 to an amount equal to \$4,000.

17 (c) Any distributor electing to cease filing in accordance with subsec-
18 tion (a) within 10 years of the taxable year in which the taxpayer claimed
19 the credit pursuant to subsection (b), shall be liable to reimburse the state
20 for the amount of any such credit claimed.

21 (d) The secretary of revenue shall adopt rules and regulations estab-
22 lishing the criteria and procedures for claiming the tax credit under sub-
23 section (b).

24 Sec. 24. K.S.A. 79-3464e is hereby amended to read as follows: 79-
25 3464e. (a) It shall be unlawful for any *supplier*, distributor, importer,
26 exporter, manufacturer, retailer, user, carrier, transporter or any other
27 person to:

28 ~~(1) Use, sell, manufacture or deliver any motor vehicle fuels or spe-~~
29 ~~cial fuels at any place without having a valid, unsuspended and unrevoked~~
30 ~~license as required by this act;~~

31 ~~(2)~~ (1) Fail, neglect or refuse to render to the director at the director's
32 office, within the time required by the provisions of this act, any report
33 or statement required by or purporting to be under the provisions of this
34 act, or purporting to be under the rules and regulations promulgated by
35 the director under such provisions;

36 ~~(3) fail, neglect or refuse to pay the director, within the time required~~
37 ~~by this act, any tax, taxes, interest or penalties for which such person is~~
38 ~~liable under the provisions of this act;~~

39 (4) (2) fail, neglect or refuse to keep and maintain for a period of
40 three years, or fail to make fully and freely accessible during business
41 hours to the director, the director's deputy or agent, all books, papers and
42 records required by this act to be kept and maintained and so made
43 accessible;

- 1 ~~(5)~~ (3) use any motor fuels purchased as exempt in a taxable manner;
2 ~~(6)~~ (4) sell, receive or transport motor fuels without proper and cor-
3 rect manifests;
4 ~~(7)~~ (5) sell or hold for sale dyed fuel that such person knows or has
5 reason to know will not be used for a nontaxable purpose;
6 ~~(8)~~ (6) violate any other provision of this act not specified in this
7 section;
8 ~~(9)~~ (7) aid and abet in violations contained in paragraphs (1) through
9 ~~(8)~~ (6);
10 (8) *use, sell, manufacture or deliver any motor-vehicle fuels or special*
11 *fuels at any place without having a valid, unsuspended and unrevoked*
12 *license as required by this act;*
13 (9) *fail, neglect or refuse to pay the director, within the time required*
14 *by this act, any tax, taxes, interest or penalties for which such person is*
15 *liable under the provisions of this act;*
16 (10) falsify, forge or willfully conceal from the director or director's
17 agent, any books, papers and records required by this act;
18 (11) knowingly submit a false or forged application for licensure un-
19 der this act;
20 (12) knowingly make any false or forged application for a refund per-
21 mit or claim for refund or to knowingly make any false statement in any
22 application for a refund permit, or in any claim for a refund;
23 (13) present, or cause to be presented, to the director for credit, or
24 for refund, any false, forged or altered invoice of refund;
25 (14) falsify, forge or alter any documents associated with the use, sale,
26 manufacture or delivery of any motor fuels;
27 (15) deliver or accept delivery, with the intent to evade the obligation
28 of collecting, remitting or accounting for motor fuel tax to this state, any
29 motor fuel, knowing that the manifest or bill of lading indicates that the
30 motor fuel was intended to be delivered to a tax exempt entity or intended
31 to be delivered to a location outside the state of Kansas;
32 (16) use dyed fuel other than for a nontaxable use;
33 (17) willfully alters or attempts to alter, the strength or composition
34 of any dye in any dyed fuel; or
35 (18) aid and abet in violations contained in paragraphs ~~(10)~~ (8)
36 through (17).
37 (b) Violation of paragraphs (1) through ~~(9)~~ (7) is a misdemeanor. Any
38 person convicted of such violation shall be punished by a fine of not less
39 than \$1,000 nor more than \$10,000, or imprisoned in the county jail for
40 not less than 30 days nor more than one year, or by both such fine and
41 imprisonment. Upon a second or subsequent conviction, such person
42 shall be punished by a fine of not less than \$5,000 nor more than \$50,000,
43 or by imprisonment in the county jail for not less than 60 days nor more

1 than two years, or by both such fine and imprisonment.

2 (c) Violation of paragraphs ~~(10)~~ (8) through (18) is a severity level 10,
3 nonperson felony.

4 (d) For any violations of this section, the director may suspend or
5 revoke any license issued to any person found to be in violation and assess
6 an administrative penalty of \$10 per gallon of motor fuels involved, or a
7 penalty of not less than \$1,000 nor more than \$10,000; and upon a second
8 or subsequent violation, a penalty of \$25 per gallon of motor fuels in-
9 volved or a penalty of not less than \$5,000 nor more than \$50,000.

10 Sec. 25. K.S.A. 79-3464f is hereby amended to read as follows: 79-
11 3464f. K.S.A. 79-3464a through 79-3464e, *and amendments thereto, and*
12 *section 1, and amendments thereto*, shall be a part of and supplemental
13 to, the motor-fuel tax law, K.S.A. 79-3401 et seq., and amendments
14 thereto.

15 Sec. 26. K.S.A. 79-3401, 79-3403, 79-3405, 79-3406, 79-3410, 79-
16 3411, 79-3413, 79-3414, 79-3415, 79-3417, 79-3419, 79-3420, 79-3426,
17 79-3453, 79-3456, 79-3457, 79-3464e and 79-3464f and K.S.A. 2001
18 Supp. 79-3407, 79-3408, 79-3408c, 79-3409, 79-3412 and 79-3464c are
19 hereby repealed.

20 Sec. 27. This act shall take effect and be in force from and after
21 January 1, 2003, and its publication in the statute book.

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