

CHAPTER 15  
HOUSE BILL No. 2013

AN ACT concerning motor-vehicle fuel taxation; relating to licenses required; exception; amending K.S.A. 79-3403 and repealing the existing section.

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

Section 1. K.S.A. 79-3403 is hereby amended to read as follows: 79-3403. It shall be unlawful for any distributor to use, sell or deliver any motor-vehicle fuels or special fuels within this state unless such distributor at the time of such use, sale, or delivery, is the holder of a valid, unrevoked motor-vehicle-fuels distributor's license or special fuels distributor's license issued to such distributor in accordance with the provisions of this act for each particular place of business at which such distributor shall use, sell or deliver motor-vehicle fuels or special fuels. Every person desiring to operate as a distributor shall have a physical location in this state for doing business and shall file an application for a motor-vehicle-fuels or special fuels license or licenses with the director. The application for the motor-vehicle-fuels or special fuels distributor's license shall be made upon a form prescribed, prepared and furnished by the director, and shall set forth the name under which the applicant transacts or intends to transact business, the exact location of each place of business within the state where the applicant transacts or intends to transact the business of using, selling or delivering motor-vehicle fuels or special fuels, and such other information as the director may require. If the applicant is other than a natural person, the application shall set forth the name and address of each partner or person constituting the association, and if a corporation the names and addresses of the principal officers, and any other information prescribed by the director for purposes of identification.

The application shall be signed and verified by oath or affirmation by the owner, if a natural person. For any other business form the application shall be signed and verified by oath or affirmation by a member or partner, and in case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of such person's authority. The director has the authority to deny a distributor's license to any applicant. Upon approval of the application and the bond required, the director shall grant and issue to such distributor a motor-vehicle-fuels distributor's or special fuels distributor's license for each place of business, within the state as set forth in such person's application. Motor-vehicle-fuels distributor's licenses or special fuels distributor's licenses shall not be assignable and shall be valid only for the distributor in whose name issued and for the transaction of business at the place specifically designated therein, and shall at all times be conspicuously displayed at the place for which issued. All licenses issued by the director shall be in force, so long as the holder has in force a bond, as required by this act, deposited with the director, or until such license is surrendered or revoked for cause by the director. No motor-vehicle-fuels distributor's license or special fuels distributor's license shall be granted and issued until the person applying has filed with the director a bond, payable to the state of Kansas, in such amount as shall be fixed by the director, but in no event less than \$1,000, with a corporate surety authorized to do business in the state of Kansas and approved by the director, except that should a distributor be unable to secure a corporate surety bond, the director shall issue a license to such distributor upon the distributor furnishing a personal bond meeting the approval of the director, such bond to be conditioned that the distributor named will faithfully comply with all the provisions of this act during the period of the license or licenses issued to such distributor under such application.

It shall be unlawful for any manufacturer to use, sell or deliver any motor-vehicle fuels or special fuels within this state unless such manufacturer at the time of such use, sale, or delivery is the holder of a valid, unsuspended and unrevoked motor-vehicle fuel manufacturer's license or special fuel manufacturer's license issued to such manufacturer in accordance with the provisions of this act for each particular place of business at which such manufacturer shall use, sell or deliver motor-vehicle fuels or special fuels. No special fuel manufacturer's license will be re-

quired for any manufacturer who is blending products for winterization purposes if the manufacturer at the time of the blending is the holder of a valid, unsuspended and unrevoked motor-vehicle fuels or special fuels distributor's license. *No motor-vehicle fuels or special fuel manufacturer's license shall be required for any consumer who is blending motor-vehicle fuel or special fuel purchased for such consumer's own use, and not for resale, from a distributor or retailer who is the holder of a valid, unsuspended and unrevoked motor-vehicle fuels or special fuels distributor's or retailer's license.* Every person desiring to operate as a manufacturer shall file an application for a motor-vehicle fuel manufacturer's license or licenses or special fuel manufacturer's license or licenses with the director. The application for the motor-vehicle fuel manufacturer's license or special fuel manufacturer's license shall be made on a form prescribed, prepared, and furnished by the director, and shall set forth the name under which the applicant transacts or intends to transact business, the exact location of each place of business within the state where the applicant transacts or intends to transact the business of using, selling or delivering motor-vehicle fuels or special fuels, and such other information as the director may require. If the applicant is other than a natural person, the application shall set forth the name and address of each partner or person constituting the association, and if a corporation the names and addresses of the principal officers, and any other information prescribed by the director for purposes of identification.

The application shall be signed and verified by oath or affirmation by the owner, if a natural person. For any other business form, the application shall be signed and verified by oath or affirmation by a member or a partner, and in case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of such person's authority. The director has the authority to deny a manufacturer's license to any applicant. Upon approval of the application and the bond required, the director shall grant and issue to manufacturer a motor-vehicle fuels or special fuels manufacturer's license for each place of business, within the state as set forth in such person's application. Motor-vehicle fuels manufacturer's licenses or special fuels manufacturer's licenses shall not be assignable and shall be valid only for the manufacturer in whose name and issued for the transaction of business at the place specifically designated therein, and shall at all times be conspicuously displayed at the place for which issued. All licenses issued by the director shall be in force, so long as the holder has in force a bond, as required by this act, deposited with the director, or until such license is surrendered or revoked by the director.

Any person not licensed as a motor-vehicle fuels or special fuels distributor under this act, desiring to import motor-vehicle fuels or special fuels from any other state or territory of the United States, or from a foreign country for such person's own use in the state of Kansas, or for sale or delivery therein, or desiring to export motor-vehicle fuels or special fuels from Kansas to any other state or territory of the United States, or to a foreign country for such person's own use or for sale or delivery therein, shall file application for a motor-vehicle fuel or special fuel importer's or exporter's license with the director. The application shall be made upon a form prescribed, prepared, and furnished by the director, and shall set forth the name under which the applicant transacts, or intends to transact, business of using, selling or delivering motor-vehicle fuels or special fuels and such other information as the director may require. If the applicant is other than a natural person, the application shall set forth the name and address of each partner or person constituting the association, and if a corporation the names and address of the principal officers, and any other information prescribed by the director for purposes of identification.

The application shall be signed and verified by oath or affirmation by the owner, if a natural person. For any other business form the application shall be signed and verified by oath or affirmation by a member or partner, and in case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of such person's authority. The director has the authority to deny an importer's or exporter's license to any applicant. Upon approval of the application and the bond required, the director shall grant and issue to an importer or exporter a motor-vehicle

fuels or special fuels importer's or exporter's license. The written consent of the applicant, irrevocable, that actions may be commenced against it in the proper court of any county in this state in which a cause of action may arise or in which the plaintiff may reside, by the service of process on the secretary of state, and stipulating and agreeing that such service shall be taken and held, in all courts, to be as valid and binding as if due service had been made upon the applicant personally, or upon the president and secretary, if a corporation. The secretary of state shall notify the applicant of any action started against such applicant by mailing a copy of the summons to the address set out in the application by registered mail. Motor-vehicle fuels importer's or exporter's licenses or special fuels importer's or exporter's licenses shall not be assignable and shall be valid only for the importer or exporter in whose name such license is issued. All licenses issued by the director shall be in force, so long as the holder has in force a bond, as required by this act, deposited with the director or until such license is surrendered by the director.

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

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

It shall be unlawful for any retailer to sell or deliver any motor-vehicle fuels or special fuels within this state unless such retailer at the time of such sale or delivery, is the holder of a valid, unrevoked retailer's license issued to such retailer in accordance with the provisions of this act for each particular place of business at which such retailer shall sell or deliver motor-vehicle fuels or special fuels. Every person desiring to operate as a retailer shall have a physical location in this state for doing business and shall file an application for a retailer's license with the director. The application for the retailer's license shall be made upon a form prescribed, prepared and furnished by the director, and shall set forth the name under which the applicant transacts or intends to transact business, the exact location of the place of business within the state where the applicant transacts or intends to transact the business of selling or delivering motor-vehicle fuels or special fuels, and such other information as the director may require. If the applicant is other than a natural person, the application shall set forth the name and address of each partner or person constituting the association, and if a corporation the names and addresses of the principal officers, and any other information prescribed by the director for purposes of identification.

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

Each licensee licensed under this act shall furnish annually to the director any changes occurring in the members, corporate or company officers, directors and stock ownership of those owning more than 5% of total outstanding shares of the licensee.

Sec. 2. K.S.A. 79-3403 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved March 16, 2007.

Published in the *Kansas Register* March 22, 2007.

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