

555 Wright Way
Carson City, Nevada 89711-0900
Telephone (775) 684-4368
www.dmv.nv.com

April 1, 2014

Regulation Small Business Impact Statement

LCB File No. *To Be Assigned*

The Department of Motor Vehicles is proposing regulations as required by the passage of AB413 in the 2013 Legislative Session.

AB413 authorizes the reimbursement of taxes paid on special fuels purchased in a county that imposes additional county taxes (index tax) by a person who uses special fuel in a motor vehicle operated or intended to operate interstate. Clark and Washoe County currently charge an index tax. However, other counties may impose an index tax upon voter approval in the 2016 General Election.

NRS 373.083 requires the Department of Motor Vehicles to adopt regulations "establishing a system to provide for the auditing of the records of a person who files such a return to determine whether the person is entitled to reimbursement of or owes any amounts pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or 373.0663.

NRS 366.175 refers to a cooperative agreement that the Department may enter into with other jurisdictions for the purpose of exchanging information and auditing persons who use special fuel in motor vehicles operated or intended to operate interstate.

NRS 373.066 and 373.0663 are the provisions which authorize the imposition of fuel taxes in Washoe and Clark Counties respectively. NRS 373.0665 allows for other counties to implement an index tax upon voter approval.

The system established by the Department must:

- Authorize a person who uses special fuel in motor vehicles operated or intended to operate interstate to file a request for reimbursement of any amounts owed to the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or 373.0663.

555 Wright Way
Carson City, Nevada 89711-0900
Telephone (775) 684-4368
www.dmv.nv.com

- Must provide that any reimbursement authorized by the Department be paid from only money received by a county pursuant to any tax imposed on special fuels pursuant to NRS 373.066 or 373.0663.
- Must provide that the total amount of money which must be paid by any county in any fiscal year to reimburse any amounts owed to persons who use special fuel in motor vehicles operated or intended to operate interstate must not exceed twenty (20) percent of the total amount of money collected by that county from any tax imposed on special fuels pursuant to NRS 373.066 or 373.0663; and
- Must not apply to any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding on the effective date of this section secured by those taxes or of any bonds that refund such bonds provided that the term of the refunding bonds is not longer than the term of the refunded bonds.
- NRS 373.083(2): The Department is also required to charge and collect a fee "in an amount not to exceed \$100 for each request for reimbursement filed by a person pursuant to the system established by the Department..."

Determination and Methodology

The Department has determined the proposed regulations do not impose a direct and significant economic burden on small businesses, nor will they restrict the formation, operation or expansion of small businesses.

The Department held meetings with members of the trucking industry, Department Attorney General (AG) staff, affected counties and Legislative Counsel Bureau staff to review and discuss these proposed regulations. Some statistical analysis based on industry resources has been included.

The three areas of potential impact to small businesses that the agency considered were reimbursement eligibility, the twenty (20) percent cap on reimbursement funds and the reimbursement filing fee.

555 Wright Way
Carson City, Nevada 89711-0900
Telephone (775) 684-4368
www.dmv.nv.com

Eligibility for Reimbursement

The county special fuel tax is paid by all users that purchase special fuel in that county. This includes private and commercial vehicles. However, in order to be eligible for reimbursement of any county tax paid on special fuel, the user or "person" must be an interstate motor carrier. Intrastate (Nevada only) carriers are not eligible for reimbursement.

This restriction does impact some businesses but is based on statutory language; "a person who uses special fuel in a motor vehicle operated or intended to operate interstate..." Interstate means "of, connecting, or existing between two or more states..." Intrastate means "occurring within a state."

A "person" is considered an interstate motor carrier since filing for reimbursement is pursuant to an agreement entered into pursuant to NRS.366.175. The only compact that the Department has entered into pursuant to this provision is the International Fuel Tax Agreement (IFTA) which governs the redistribution of taxes from collecting States to States that the tax is due. The redistribution of taxes is based on the number of miles driven in each State and the number of tax paid gallons of special fuel purchased in each State. Taxes collected and redistributed by IFTA are at the State level; not the County level.

A vehicle qualifies for IFTA membership if:

The vehicle has two axles and a gross vehicle weight over 26,000 pounds;

The vehicle has three or more axles regardless of weight; and/or

The vehicle is one of a combination of vehicles when the Combined Gross Vehicle Weight exceeds 26,000 pounds.

IFTA members are required to file quarterly special fuel tax returns. It is from these returns that the Department will obtain the necessary information to determine reimbursement eligibility and amounts.

All motor carrier businesses, large and small, operating intrastate will be impacted since they are not eligible for reimbursement. However, this impact is a result of the statute and a requirement for Department regulations.

555 Wright Way
Carson City, Nevada 89711-0900
Telephone (775) 684-4368
www.dmv.nv.com

The 20% Reimbursement Cap:

NRS 373.083(1.) (c) limits the amount the Department can pay out in reimbursements. Total reimbursements cannot exceed 20 percent of the total fuel tax collected by the county in a fiscal year.

This is also a statutory requirement rather than an agency regulatory proposal. However, the Department has considered the potential impact to business and has determined that the 20 percent cap on reimbursement funds will not create a significant impact on business in general since it is unlikely that the cap will be reached. From the total pool of drivers that pay the county tax, private vehicles, intrastate vehicles and non-IFTA member interstate carriers are not eligible for reimbursement. In addition, in determining reimbursement amounts, calculations will apportion out of state miles versus miles driven in Nevada. As presented in the following section, it may take a large amount of fuel purchased before a business will file for a reimbursement.

\$100 Reimbursement Request Filing Fee

NRS 373.083 requires the Department to charge a reimbursement filing fee in an amount not to exceed \$100. This fee is to offset the costs incurred by the Department to administer the reimbursement system. The Department is proposing to establish this fee in regulations at \$100. Businesses will pay this non-refundable fee when filing for a reimbursement, no matter the amount of reimbursement for which they qualify, or the frequency at which they file. Although the filing fee is paid separately from the reimbursement (it will not be deducted from the total reimbursement amount), businesses will figure it into their calculations in determining if and when to file a reimbursement request.

What is the potential impact of the \$100 filing fee on small businesses? If all businesses, large and small, pay the same filing fee amount, it may seem that small businesses would have a disadvantage since it will take longer for a small business to accumulate tax reimbursement amounts based on the amount of fuel purchased. However, larger businesses will pay a proportionally greater amount of fuel tax. A business that purchases 10 times as much fuel will also pay 10 times the fuel tax.

| Filing Fee | Tax | Breakeven Point: gallons of fuel required to equal filing fee |
|------------|-----|---|
| \$100 | .03 | 3,333 |

555 Wright Way
Carson City, Nevada 89711-0900
Telephone (775) 684-4368
www.dmv.nv.com

Once the average fuel consumption is figured in, the impact to small businesses is that it may take a considerably greater amount of time to reach the breakeven point. Based on an average fuel consumption of 360 gallons per month for one vehicle, if a small business with 10 vehicles purchases one-tenth of the fuel that a large business purchases, it would take a small business just over a month to reach the breakeven point, where a large business could potentially reach this point in a matter of days.

| Business | Average fuel consumption per vehicle per month (gallons) | Fuel consumption required to reach \$100 breakeven point (gallons) | Time to consume enough fuel to reach the \$100 breakeven point (months) |
|----------------------|--|--|---|
| Small (10 vehicles) | 3,600 | 3,333 | 1.08 |
| Large (100 vehicles) | 36,000 | 3,333 | .108 |

*The average fuel consumption of 360 gallons is based on the average fuel tank capacity of 180 gallons and a two tank per month consumption rate (DMV Motor Carrier Division).

In order to ease this impact the agency is proposing to allow businesses a maximum of 12 months to file a reimbursement request. Rather than requiring businesses to pay the \$100 filing fee on a quarterly basis, they may pay \$100 and file annually.

Summary


The Department has made a determination that the proposed regulations will not impose a direct and significant economic burden on small businesses, nor will they restrict the formation, operation or expansion of small businesses. It is assumed in this analysis that smaller businesses will make a rational business decision to file a reimbursement request once a year rather than quarterly, thus reducing their annual filing fees from \$400 to \$100.

The Department has made a determination that a \$100 filing fee for all businesses would be necessary in order to cover the costs of administering the reimbursement system as well as the automation and maintenance of the system. The Department does not have a completed cost estimate at this time. However, based on an earlier analysis by the Department's Motor Carrier Division, approximately 4,100 businesses could potentially file reimbursement claims per quarter. This analysis looked at carriers in Nevada and five surrounding states that purchased 1,000 gallons or more in Nevada during one quarter of fiscal year 2012. Due to the option to file less often than quarterly and the apportioning out of miles driven in Nevada, the number of claims filed may be significantly lower. If, in the future, other Nevada Counties implement their own special fuel tax, the cost associated to the processing of claims would increase significantly with the number of claims filed.



555 Wright Way
Carson City, Nevada 89711-0900
Telephone (775) 684-4368
www.dmvnm.com

I certify that to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement is accurate.



Troy Dillard, Director



Date