

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 907

Final Reading

Introduced by Carlson, 38; Bloomfield, 17; Brasch, 16; Harr, 8;
Karpisek, 32; Larson, 40; Lathrop, 12; Price, 3;
Wallman, 30.

Read first time January 09, 2012

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend sections 2-2701,
2 2-2701.01, 2-2707, 2-2709, 2-2710, and 77-2704.36,
3 Reissue Revised Statutes of Nebraska; to change
4 provisions relating to tractor permitting and a sales tax
5 exemption for agricultural machinery and equipment; to
6 harmonize provisions; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-2701, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-2701 (1) No person shall be permitted to sell or
4 dispose of any current tractor model of one hundred or more
5 horsepower in the State of Nebraska without first having (a) made
6 application for a permit and obtained a permit to sell the tractor
7 model, (b) the model tested by the University of Nebraska onsite or
8 offsite or by any Organization for Economic Cooperation and
9 Development test station, and (c) the model passed upon by the board.

10 (2) A person may obtain a permit to sell or dispose of a
11 current tractor model of less than one hundred horsepower by meeting
12 the permit requirements of sections 2-2701 to 2-2711. A purchaser of
13 a current tractor model is not eligible to claim the exemption from
14 sales and use tax for agricultural machinery and equipment under
15 section 77-2704.36 unless the current tractor model has been
16 permitted for sale pursuant to sections 2-2701 to 2-2711.

17 (3) Each and every tractor model presented for testing
18 shall be a stock model and shall not be equipped with any special
19 accessory unless regularly supplied to the trade. Any tractor model
20 not complying with this section shall not be tested under sections
21 2-2701 to 2-2711. Applications shall be made to the board and shall
22 be accompanied by specifications of the tractor model required by the
23 board and by the applicable fees specified in sections 2-2705 and
24 2-2705.01.

25 ~~(2)~~(4) If an official test application, with the

1 required specifications and fees, is submitted to any Organization
2 for Economic Cooperation and Development test station or to the
3 University of Nebraska and an application for a temporary permit and
4 the fee prescribed in section 2-2705.01 are submitted, the
5 department, with the approval of the board, may issue a temporary
6 permit for the sale of the tractor model specified in the official
7 test application. The date on which the temporary permit terminates
8 shall be fixed by the board. All temporary permits shall be
9 conditioned upon such tractor model being tested at a mutually
10 agreed-upon date, and the person to whom a temporary permit has been
11 issued shall submit a tractor model for testing which conforms to the
12 specifications filed with the official test application. Such tractor
13 model shall be delivered for testing at the mutually agreed-upon
14 date. Upon failure so to do, all such fees deposited by such person
15 shall be forfeited to the University of Nebraska Tractor Test Cash
16 Fund, except that the fee imposed in section 2-2705.01 shall be
17 deposited in and forfeited to the Tractor Permit Cash Fund, and in
18 addition such person shall not be issued any temporary permit for a
19 period of five years from the date such tractor was to be delivered
20 for testing and until such person meets the obligations required
21 under subsection ~~(3)~~(5) of this section to the department's
22 satisfaction. ~~Any person who, prior to April 17, 1986, has been~~
23 ~~barred from applying for temporary permits may again make~~
24 ~~applications for temporary permits if five years have passed from the~~
25 ~~date such person last failed to deliver a tractor as specified by the~~

1 ~~board.~~

2 ~~(3)~~(5) All sales of tractors upon which a temporary
3 permit has been issued shall be made subject to the final official
4 test and approval of the tractor model as follows:

5 (a) If a tractor model upon which a temporary permit has
6 been issued was not submitted for the official test and approval on
7 the mutually agreed-upon date, the person to whom the temporary
8 permit was issued shall repurchase any such tractor sold in Nebraska
9 under the temporary permit. A claim by a purchaser under this
10 subdivision shall be brought within two years after the date of the
11 expiration of the temporary permit; and

12 (b) If a tractor model upon which a temporary permit has
13 been issued fails in the official test to meet the specifications of
14 the tractor model which were filed with the application and fees, the
15 person to whom the temporary permit was issued shall send a notice,
16 as approved by the department, to any person in Nebraska who has
17 purchased a tractor sold under the temporary permit. The person to
18 whom the temporary permit was issued shall either modify the tractor
19 to meet the specifications filed with the board or remedy to the
20 satisfaction of the purchaser any injury incurred by the purchaser
21 which was caused by the failure of the tractor to meet the
22 specifications claimed. Such person shall be prohibited from
23 modifying sales literature, advertisement claims, or specifications
24 of the tractor to avoid such notice.

25 Sec. 2. Section 2-2701.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 2-2701.01 For purposes of sections 2-2701 to 2-2711,
3 unless the context otherwise requires:

4 (1) Board ~~shall mean~~ means the University of Nebraska
5 Board of Tractor Test Engineers which shall consist of three
6 engineers under the control of the university;

7 (2) Current tractor model ~~shall mean~~ means any model
8 included in the manufacturer's annual price list of tractors being
9 offered for sale by its dealers or distributors;

10 (3) Department ~~shall mean~~ means the Department of
11 Agriculture;

12 (4) Director ~~shall mean~~ means the Director of Agriculture
13 or his or her authorized representative;

14 (5) Person ~~shall mean~~ means bodies politic and corporate,
15 societies, communities, the public generally, individuals,
16 partnerships, limited liability companies, joint-stock companies, and
17 associations; and

18 (6) Tractor ~~shall mean an agricultural tractor of forty~~
19 ~~or more horsepower which is~~ means a traction machine designed and
20 advertised primarily to supply power to agricultural implements and
21 farmstead equipment. An agricultural tractor propels itself and
22 provides a force in the direction of travel and may provide
23 mechanical, hydraulic, and electrical power and control to enable
24 attached soil-engaging and other agricultural implements to perform
25 their intended function.

1 Sec. 3. Section 2-2707, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-2707 The report of the official test required by
4 section 2-2701 shall be published by the board and made available in
5 the ~~Agricultural~~ Biological Systems Engineering Department of the
6 University of Nebraska and in such other places as may be designated
7 by the board. All information pertaining to the official testing of a
8 tractor shall be public record and available for inspection during
9 normal business hours.

10 Sec. 4. Section 2-2709, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 2-2709 Except when a temporary permit has been issued
13 pursuant to subsection ~~(2)~~ (4) of section 2-2701, tractors shall be
14 tested by the board in the order in which they are presented for such
15 tests, and no discrimination shall be made for or against any person
16 in any manner whatsoever. Complaints alleging a violation of this
17 section shall be heard by the department.

18 Sec. 5. Section 2-2710, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 2-2710 Any person selling a current tractor model of one
21 hundred or more horsepower for use in the State of Nebraska without a
22 permit issued by the department for such tractor model shall be
23 required to repurchase any such tractor model sold in Nebraska for
24 which a permit has not been issued. A claim by a purchaser under this
25 section shall be brought within two years from the date of purchase.

1 Sec. 6. Section 77-2704.36, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2704.36 Sales and use tax shall not be imposed on the
4 gross receipts from the sale, lease, or rental of depreciable
5 agricultural machinery and equipment purchased, leased, or rented on
6 or after January 1, 1993, for use in commercial agriculture. For
7 purposes of this section, agricultural machinery and equipment
8 excludes any current tractor model as defined in section 2-2701.01
9 not permitted for sale in Nebraska pursuant to sections 2-2701 to
10 2-2711.

11 Sec. 7. Original sections 2-2701, 2-2701.01, 2-2707,
12 2-2709, 2-2710, and 77-2704.36, Reissue Revised Statutes of Nebraska,
13 are repealed.