

Recorded By: LMCAFFEE

BILL NO. 2020-B

ORDINANCE NO. 121

TITLE: A PROPOSED ORDINANCE ADDING CHAPTER 4.11, ENTITLED "CHURCHILL COUNTY DIESEL FUEL TAX," TO TITLE 4 OF THE CHURCHILL COUNTY CODE BY IMPOSING A FIVE CENT (\$0.05) TAX ON DIESEL FUEL SOLD WITHIN CHURCHILL COUNTY; EXEMPTING CERTAIN DIESEL FUEL FROM TAXATION; PROVIDING FOR THE ADMINISTRATION, DEPOSIT AND DISBURSEMENT OF TAX REVENUE; REQUIRING ANNUAL REPORTING TO THE DEPARTMENT OF TAXATION; ADOPTING SUBSEQUENT AMENDMENTS TO CERTAIN NEVADA REVISED STATUTES; LIMITING REPEAL; ADDING A SEVERABILITY CLAUSE; AND OTHER MATTERS PROPERLY RELATING THERETO.

Summary: An ordinance adding Chapter 4.11 to Title 4 of the Churchill County Code to impose a five cent (\$0.05) per gallon tax on special fuel that consists of diesel fuel sold within Churchill County, exempting certain diesel fuel from taxation.

WHEREFORE, for many years rural counties have been authorized to impose a nine cent (\$0.09) tax on gasoline but lacked legislative authorization to impose a corresponding tax on diesel fuel; and

WHEREFORE, such disparity between the taxation of gasoline and diesel fuel means that owners of gasoline vehicles contribute to the local road construction and maintenance while owners of diesel fuel vehicles do not; and

WHEREFORE, revenue from gasoline tax is insufficient to fund the construction and maintenance requirements of Churchill County's road system; and

WHEREFORE, the lack of adequate funding for Churchill County's roads negatively impacts public safety and economic development; and

WHEREFORE, in 2019, Nevada's Legislature passed Senate Bill No. 48, which authorizes Churchill County to impose a five cent (\$0.05) tax on diesel fuel sold within the County; and

WHEREFORE, a tax on diesel fuel sold within the County will be deposited into the Regional Transportation Commission Fund and used for the construction and maintenance of County Roads;

THEREFORE, the Board of County Commissioners of the County of Churchill, State of Nevada does hereby enact Title 4, Chapter 4.11 of the Churchill County Code to read as follows:

4.11: DIESEL FUEL TAX

4.11.010: TITLE:

This chapter shall be known as and may be cited as the Churchill County Diesel Fuel Tax.

4.11.020: DEFINITIONS:

COUNTY: All references to "county" herein and within the incorporated provisions of chapters 365 and 373 of the Nevada Revised Statutes shall mean the County of Churchill, State of Nevada.

DIESEL FUEL: Any petroleum-based fuel meeting the ASTM D975 standards. The term includes, without limitation, diesel, biodiesel, as defined in NRS 366.022, biodiesel blend, as defined in NRS 366.023, biomass-based diesel, as defined in NRS 366.0235, biomass-based diesel blend, as defined in NRS 366.024, and kerosene blended with diesel, or as that term may be defined by state law.

4.11.030: IMPOSITION AND RATE OF TAX:

A. In addition to any other taxes provided by law, an excise tax is imposed on special fuel that consists of diesel fuel sold in the county at the rate of five cents (\$0.05) per gallon.

B. A tax imposed pursuant to this Chapter is in addition to other special fuel taxes or fees imposed pursuant to the provisions of chapters 366 and 445C of the Nevada Revised Statutes.

4.11.040: EXEMPTION OF CERTAIN SALES OR USES:

Any tax imposed by this Chapter does not apply to sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any diesel fuel to which dye has not been added pursuant to federal law or the law of this State of a type which is lawfully sold in this State both:

A. As diesel fuel to which dye has been added pursuant to such law, and

B. As diesel fuel to which dye has not been added pursuant to such law.

4.11.050: PLACE OF SALE OF DIESEL FUEL:

For the purpose of the tax imposed by this Chapter, diesel fuel is sold at the place where it is delivered into a vehicle not belonging to the seller or into a stationary tank on the premises of the buyer.

4.11.060: REGIONAL TRANSPORTATION FUND; DEPOSITS AND DISBURSEMENTS:

All net proceeds of the county diesel fuel tax received by the county pursuant to this chapter shall be deposited by the county treasurer in a fund known as the Regional Transportation Fund in the county treasury, and distributed only in accordance with the provisions of Chapter 373 and 277A of the Nevada Revised Statutes.

4.11.070: ANNUAL REPORT TO THE DEPARTMENT OF TAXATION:

The regional transportation commission shall submit an annual report to the department of taxation for the fiscal year showing the amount of receipts from the county motor vehicle fuel tax and the nature of the expenditure for each transportation project.

4.11.080: ADOPTION OF CHAPTERS 365 AND 373 OF THE NEVADA REVISED STATUTES:

The provisions contained in chapters 365 and 373 of the Nevada Revised Statutes on the enactment date hereof, insofar as applicable, except that Churchill County is the taxing agency and an additional dealer's license is not required, are adopted by reference and incorporated in this Chapter as codified herein.

4.11.090: LEGISLATIVE AMENDMENTS:

All amendments to Chapter 365 of the Nevada Revised Statutes subsequent to the enactment date hereof, not inconsistent with Chapter 373 of the Nevada Revised Statutes, shall automatically become part of this Chapter on their respective effective dates.

4.11.100: ADMINISTRATION OF TAX:

Prior to the effective date hereof, the county shall contract with the Nevada Department of Taxation to perform all functions incident to the administration and operation of this Chapter.

4.11.110: VIOLATIONS AND PENALTY:

Any person violating any provisions of this chapter is guilty of a misdemeanor and shall be punished in accordance with the laws of the State of Nevada.

4.11.120: DATE OF IMPOSITION:

The provisions of this Chapter shall become effective on XXX, 2020.

4.11.130: RESTRICTION ON REPEAL:

This Chapter shall not be repealed until all obligations for which the revenues from the tax imposed herein have been pledged, pursuant to Nevada Revised Statutes Chapter 373, have been discharged in full.

4.11.140: SEVERABILITY:

If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance and the provisions of this ordinance are declared severable.

THIS ORDINANCE shall take effect from and after passage, and after final adoption, the Churchill County Commissioners are hereby authorized and directed to have this published by title together with the names of the Commissioners voting for or against its passage once a week for a period of two (2) weeks in the a newspaper published in a general circulation in the County of Churchill, State of Nevada. The effective date of this Ordinance is February 1, 2021.

PROPOSED and ADOPTED this 3rd day of December, 2020.

THOSE VOTING AYE: H. Peter Olsen, Jr.

Harry Scharmann

Carl Erquiaga

THOSE VOTING NAY: N/A

APPROVED:



H. Peter Olsen, Chair
Board of County Commissioners

ATTEST:

Linda Rothery, Clerk/Treasurer


Deputy Clerk of the Board