

Nebraska Litter Fee

Overview

The litter fee is imposed on the gross proceeds from the manufacture and sale, or sale at either wholesale or retail in Nebraska, of certain products subject to the litter fee. The litter fee applies each time the products are sold. The litter fee is imposed annually at the rate of \$175 per \$1 million of gross proceeds derived from the sale of the products subject to the litter fee.

Any business which is making both wholesale and retail sales is required to pay the litter fee on the gross proceeds from its retail operations or wholesale operations, whichever is greater.

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Terms

Gross Proceeds. Gross proceeds means the total consideration accruing from all sales of products subject to the litter fee without any deductions. Gross proceeds does not include expenditures for items purchased in this state for the purpose of recycling these items.

Businesses Subject to the Litter Fee

There are three types of businesses which are subject to the litter fee: retailers, manufacturers, and wholesalers.

Retailers:

- ❖ Engaged in business in Nebraska; and
- ❖ Which have annual gross proceeds of \$100,000 or more from retail sales in Nebraska of products subject to the litter fee.

Manufacturers:

- ❖ Engaged in business in Nebraska; and
- ❖ Which have annual gross proceeds of \$100,000 or more from sales in Nebraska of the products subject to the litter fee that the manufacturer produces, manufactures, processes, or fabricates.

Wholesalers:

- ❖ Engaged in business in Nebraska; and
- ❖ Which have annual gross proceeds of \$100,000 or more from sales in Nebraska to retailers, other merchants, or industrial, institutional, and commercial users of products subject to the litter fee.

Note. Retailers, manufacturers, or wholesalers which conduct business operations at more than one location and sell products subject to the litter fee, must calculate the litter fee on the total gross proceeds from all of the locations. Business operations are considered to be conducted at two or more locations by the same manufacturer, wholesaler, or retailer if the same person owns 80% or more of the businesses at each location.

Products Subject to the Litter Fee

Retailers are required to pay the litter fee on sales of the following products:

- ❖ Cigarettes and all other tobacco products;
- ❖ Cleaning agents (include soaps, detergents, solvents, or other cleaning substances used for cleaning buildings, places, animals, or other things). Examples include, but are not limited to: car cleaning products, cleaner/degreaser products, cleaning wipes, detergent/softener products, drain cleaners, mold and mildew removers, paint thinners, and turpentine;
- ❖ Food and beverages sold through vending machines;
- ❖ Food for human consumption, beverages, soft drinks, carbonated water, wine, beer, and other malt beverages not consumed indoors on the retailer's premises;
- ❖ Food or food products in large quantities that are packaged or subpackaged in containers that are suitable for sale to consumers in the ordinary course of retail marketing. Examples include:
 - Number 10 cans of food that are sold by the case or individually;
 - Individual meat products that are subpackaged, placed in bulk containers, and sold in Nebraska;
 - Pallets containing 4,800 6-ounce cans of peas; or
 - Individual tomatoes, apples, potatoes, or other similar items.
- ❖ Food for pet consumption;
- ❖ Household paper products (e.g., napkins, paper plates, and paper towels); and
- ❖ Kitchen supplies (e.g., plastic wrap, aluminum foil, or plastic utensils) including any nondurable supplies used in conjunction with meal preparation, consumption, or clean-up.

Manufacturers and wholesalers are required to pay the litter fee on sales of the following products:

- ❖ Cigarettes and all other tobacco products;
- ❖ Food for human or pet consumption;
- ❖ Food or food products in large quantities that are packaged or subpackaged in containers and suitable for sale to consumers in the ordinary course of retail marketing. Examples include:
 - Number 10 cans of food that are sold by the case or individually;
 - Individual meat products that are subpackaged, placed in bulk containers, and sold in Nebraska;
 - Pallets containing 4,800 6-ounce cans of peas; or
 - Individual tomatoes, apples, potatoes, or other similar items.
- ❖ Glass containers;

- ❖ Household paper products (e.g., napkins, paper towels, and paper plates);
- ❖ Liquor, wine, beer, and other malt beverages;
- ❖ Metal containers;
- ❖ Plastic or fiber containers made of synthetic materials;
- ❖ Soft drinks and carbonated waters; and
- ❖ Toiletries (e.g., soap, powder, deodorant, hair spray, cologne, perfume, cosmetics, and toothpaste) used in connection with dressing or grooming.

Products Not Subject To The Litter Fee

The litter fee does not apply to the sale of the following products:

- ❖ Animal life or products derived from animal life, if the person performs only the raising of the animal;
- ❖ Building materials;
- ❖ Clothing;
- ❖ Drugs;
- ❖ Fertilizers, seeds, annual plants, or animal life and feed, that is either sold for resale, or used in the agricultural food industry;
- ❖ Food, beverages, soft drinks, carbonated water, liquor, wine, beer, and other malt beverages sold by retailers which are for consumption indoors on the retailer's premises;
- ❖ Food and food products for human and pet consumption sold in bulk form. "Bulk form" means a size or quantity not suitable for sale to consumers in the ordinary course of retail marketing. Examples of items in bulk form include:
 - A quarter, or side, of beef;
 - A railcar load of grain; or
 - Containers of food products where shoppers may withdraw smaller portions for purchase.
- ❖ Furniture;
- ❖ Magazines, periodicals, newspapers, literary works, or commercial papers such as catalogs or other advertising;
- ❖ Products of farmers and ranchers; and
- ❖ Products stored in grain elevators which do not undergo milling or other processing.

General Tax Information

Licensing Procedures. If your business is subject to the litter fee as described above, you must obtain a Nebraska litter fee license. The license is obtained by filing a [Nebraska Tax Application, Form 20](#). A separate application for a litter fee license is required for each place of business in Nebraska. Each out-of-state retailer, manufacturer, or wholesaler required to obtain a litter fee license must file an application.

The Litter Fee Return. Licensed businesses will file **only one** [Nebraska Litter Fee Return, Form 28](#), annually, regardless of the number of business locations that hold a valid litter fee license. Those licensees with multiple business locations must calculate the litter fee on the total gross proceeds from **all** their locations. Business operations are considered to be conducted at multiple locations if the same person owns 80% or more of each licensed location.

Form 28 is due October 1. The litter fee is calculated on the total gross proceeds from the sale of products that are subject to the litter fee for the preceding 12-month period, beginning July 1 and ending June 30.

Any business which is making both wholesale and retail sales is required to pay the litter fee on the gross proceeds from its retail operations or wholesale operations, whichever is greater.

Retail businesses may report and pay the litter fee based on a percentage of sales instead of separately accounting for sales subject to the fee per [Litter Fee Reg. 28-008](#). This regulation authorizes the use of the percentage method for retail businesses, such as grocery stores and home improvement stores.

Penalty and Interest Provisions. A penalty in the amount of \$25, or ten percent of the litter fee due, whichever is greater, will be assessed for any of the following situations:

- ❖ Failure to file a Form 28;
- ❖ Filing the form after October 1;
- ❖ Failure to remit the net amount of the litter fee due; or
- ❖ Remitting the litter fee due after the required due date.

Interest at the statutory rate will be assessed on any unpaid litter fee from the due date until the date the fee is paid.

Operating without a litter fee license may subject a business to a \$500 fine for each day of illegal operation.

Distribution and Use of the Litter Fee Funds

The Department of Environmental Quality allocates and distributes litter fee funds for the following activities:

- ❖ Programs of public education to create public awareness and compliance with anti-litter laws;
- ❖ Cleanup of public highways, waterways, recreation areas, and other public places;
- ❖ Recycling programs; and
- ❖ Source separation programs that require homeowners, businesses, and other entities to separate recyclable materials such as aluminum cans, glass bottles and jars, plastic bottles, newspapers, used motor oil, and lawn waste from other solid waste materials.

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