

CHAPTER 74

SPECIAL CHARTER CITIES. TAX SALE. PURCHASE OF PROPERTY

S. F. 3

AN ACT to amend section sixty-nine hundred ten (6910), code, 1931, relating to the power of cities acting under special charter to purchase property at tax sale.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. That section sixty-nine hundred ten (6910), code, 1931,
2 be and the same is hereby amended by striking out of line 2 thereof
3 the words "said sale" and inserting in lieu thereof "any tax sale,
4 whether such purchase be for ordinary taxes or for special assess-
5 ments."

1 SEC. 2. This act being deemed of immediate importance shall be
2 in full force and effect from and after its publication in the Davenport
3 Democrat, a newspaper published at Davenport, Iowa, and in the
4 Davenport Times, a newspaper published at Davenport, Iowa.

Senate File 3. Approved February 6, 1935.

I hereby certify that the foregoing act was published in the Davenport Democrat and Davenport Times, February 7, 1935.

MRS. ALEX MILLER, *Secretary of State.*

CHAPTER 75

BOARD OF ASSESSMENT AND REVIEW. TAXATION OF CHAIN STORES

H. F. 311

AN ACT to impose an occupation tax on conducting a business by a system of chain stores for selling or otherwise disposing of tangible personal property, such as goods, wares and merchandise at retail, with certain exceptions; providing for the assessment and collection of said tax, and for the distribution and use of the proceeds therefrom; providing for appeals by taxpayers; providing for the administration of said law; providing penalties and fines for the violation thereof; and providing for an appropriation for the enforcement thereof and the repealing of any laws in conflict herewith.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Reference. This act shall be known as the "Chain
2 Store Tax Act of 1935."

1 SEC. 2. Definitions. The following words, terms and phrases,
2 when used in this act, shall have the meanings ascribed to them in
3 this section except where the context clearly indicates a different
4 meaning.

5 a. The word "board" means the state board of assessment and
6 review.

7 b. "Person" includes any individual, firm, copartnership, joint
8 adventure, association, corporation, estate, trust, business trust, re-
9 ceiver, or any other group or combination acting as a unit, and the
10 plural as well as the singular thereof, and all firms however or-
11 ganized and whatever be the plan of operation.

12 c. "Sale" means any transfer, exchange or barter, conditional or
13 otherwise, in any manner or by any means whatsoever, for a con-
14 sideration.

15 d. "Retail sale" or "sale at retail" means the sale to a consumer
16 or to any person for any purpose, other than for resale, of tangible
17 personal property including goods, wares and merchandise.

18 e. "Business" includes any merchandising activity engaged in by
19 any person or caused to be engaged in by him with the object of
20 gain, profit or advantage, either direct or indirect.

21 f. "Store" means any store or stores, or any mercantile or other
22 establishment in which tangible goods, wares or merchandise of
23 any kind are sold or kept for sale at retail.

24 g. "Conducting a business by a system of chain stores" when used
25 in this act shall be construed to mean and include every person, as
26 defined in this act, in the business of owning, operating or main-
27 taining, directly or indirectly, under the same general management,
28 supervision, control or ownership in this state, and/or in this state
29 and any other state, two or more stores, where goods, wares, articles,
30 commodities, or merchandise of any kind whatsoever are sold or
31 offered for sale at retail and where the person operating such store
32 or stores receive the retail profit from the commodities sold therein.
33 Two or more stores shall, for the purpose of this act, be treated
34 as being under a single or common ownership, control, supervision
35 or management, if directly or indirectly owned or controlled by
36 a single person or any group of persons, or by a common interest
37 in such stores, or if any part of the gross revenues, net revenues
38 or profits from such store shall, directly or indirectly, be required
39 to be immediately or ultimately made available for the beneficial
40 uses, or shall directly or indirectly inure to the immediate or
41 ultimate benefit, of any single person or group of persons having a
42 common interest therein. Not more than one of said stores need
43 be located in this state, if one or more of said stores of said person
44 is located in any other state. The fact that two or more retail stores
45 are ostensibly owned and operated by different persons, shall not
46 defeat the application of this act where such stores are under the
47 same general management, supervision, or ownership. Lease and
48 agency, and lease and ownership agreements or contracts, or opera-
49 tion under a common name shall, unless shown to the contrary, be
50 deemed to constitute operation under the same general management,
51 supervision, or ownership. Provided, however, that leased or licensed
52 departments, located in a store under a contract obligating such de-
53 partments to pay to the store a fixed rental or a percentage of the
54 gross receipts, shall not be deemed to be owned, operated, supervised,
55 or managed by the store in which such departments are located.

56 h. "Gross receipts" when used in this act shall be construed to
57 mean and include the total amount of all sales at retail valued in
58 money, whether received in money or otherwise, provided, however,
59 that discounts for any purpose allowed or taken on sales shall not
60 be included, nor shall the sale price of property returned by customers
61 when the full sale price thereof is refunded either by cash or in credit
62 be included. Provided, however, that on sales at retail valued in
63 money when such sales are made under a conditional sales contract,
64 or under other forms of sale wherein the payment of the principal

65 sum thereunder be extended over a period longer than sixty (60)
66 days, that only such portion of the sale amount thereof shall be
67 accounted for, for the purpose of the imposition of the tax in this
68 act as has actually been received in cash by the retailer during the
69 taxable year as herein defined. Gross receipts as interpreted under
70 this section shall not include any federal or state sales tax or any
71 special taxes now or hereafter imposed by the state or federal gov-
72 ernment which special tax or taxes are added to or included in the
73 retail selling price of any merchandise sold under this act. Gross
74 receipts shall not include the consideration received by the vendor
75 from the purchaser residing without this state unless the purchaser
76 is present within this state at the time of such sale or purchase.

77 i. "Taxable year" means the year commencing on July first and
78 ending on June thirtieth of each calendar year.

1 SEC. 3. Exemptions. There are specifically exempted from the
2 provisions of the act and from the computation of the amount of
3 tax imposed by it the following:

4 a. Cooperative associations not organized for profit under the laws
5 of this state in good faith and not for the purpose or with the intent
6 of evading the tax hereby imposed.

7 b. Persons exclusively engaged in gardening and/or farming, sell-
8 ing in this state products of their own raising.

9 c. Persons selling at retail one or more of the following products:
10 coal, ice, lumber, grain, feed, building materials (not including
11 builders and general hardware, glass and paints) if the total retail
12 sales of any such person or persons of such products within the
13 state shall, during such taxable year, exceed ninety-five (95) per
14 cent of the total retail sales of all sources within the state of any
15 such person or persons.

16 d. Liquor stores, established and operated by the state liquor con-
17 trol commission.

18 e. Hotels or rooming houses, including dining rooms or cafes op-
19 erated in connection therewith and by the same management.

1 SEC. 4. Tax imposed. There is hereby imposed upon every person
2 within the state of Iowa engaged in conducting a business by a system
3 of chain stores from any of which stores are sold or otherwise dis-
4 posed of at retail tangible personal property such as goods, wares,
5 and merchandise, an annual occupation tax for each taxable year
6 during which year or any part thereof, such person is so engaged, as
7 follows to wit:

8 a. A specific amount on each person engaged in conducting a busi-
9 ness by a system of chain stores to be determined as follows:

10 1. Five (5) dollars for each store in excess of one (1) and not in
11 excess of ten (10) if said business is conducted at not in excess of
12 ten (10) stores within this state under a single or common ownership,
13 supervision or management.

14 2. Fifteen (15) dollars for each store in excess of ten (10) and
15 not in excess of twenty (20) if said business is conducted at in excess
16 of ten (10) but not in excess of twenty (20) stores within this state
17 under a single or common ownership, supervision or management.

18 3. Thirty-five (35) dollars for each store in excess of twenty (20)
19 and not in excess of thirty (30) if said business is conducted at in

20 excess of twenty (20) but not in excess of thirty (30) stores within
21 this state under a single or common ownership, supervision or man-
22 agement.

23 4. Sixty-five (65) dollars for each store in excess of thirty (30)
24 and not in excess of forty (40) if said business is conducted at in
25 excess of thirty (30) but not in excess of forty (40) stores within
26 this state under a single or common ownership, supervision or man-
27 agement.

28 5. One hundred five (105) dollars for each store in excess of forty
29 (40) and not in excess of fifty (50) if said business is conducted at
30 in excess of forty (40) and not in excess of fifty (50) stores within
31 the state under a single or common ownership, supervision or man-
32 agement.

33 6. One hundred fifty-five (155) dollars for each store in excess of
34 fifty (50) if said business is conducted at in excess of fifty (50)
35 stores within this state under a single or common ownership, super-
36 vision or management.

37 b. An amount based on the combined gross receipts of each person
38 on all of said business of each and all stores within this state under
39 a single or common ownership, control, supervision, or management,
40 conducting a business by a system of chain stores, but which shall
41 be computed by applying the following rates to the entire or combined
42 gross receipts:

43 1. \$25.00 when the gross receipts are not in excess of fifty thousand
44 (50,000) dollars.

45 2. \$10.00 for each additional \$10,000 or fraction thereof of gross
46 receipts in excess of fifty thousand (50,000) dollars but not in excess
47 of one hundred thousand (100,000) dollars.

48 3. \$25.00 for each additional \$10,000 or fraction thereof of gross
49 receipts in excess of one hundred thousand (100,000) dollars but not
50 in excess of one hundred fifty thousand (150,000) dollars.

51 4. \$60.00 for each additional \$10,000 or fraction thereof of gross
52 receipts in excess of one hundred fifty thousand (150,000) dollars but
53 not in excess of two hundred thousand (200,000) dollars.

54 5. \$75.00 for each additional \$10,000 or fraction thereof of gross
55 receipts in excess of two hundred thousand (200,000) dollars but not
56 in excess of three hundred thousand (300,000) dollars.

57 6. \$100.00 for each additional \$10,000 or fraction thereof of gross
58 receipts in excess of three hundred thousand (300,000) dollars but
59 not in excess of four hundred thousand (400,000) dollars.

60 7. \$125.00 for each additional \$10,000 or fraction thereof of gross
61 receipts in excess of four hundred thousand (400,000) dollars but not
62 in excess of five hundred thousand (500,000) dollars.

63 8. \$150.00 for each additional \$10,000 or fraction thereof of gross
64 receipts in excess of five hundred thousand (500,000) dollars but not
65 in excess of six hundred thousand (600,000) dollars.

66 9. \$175.00 for each additional \$10,000 or fraction thereof of gross
67 receipts in excess of six hundred thousand (600,000) dollars but not
68 in excess of seven hundred thousand (700,000) dollars.

69 10. \$200.00 for each additional \$10,000 or fraction thereof of gross
70 receipts in excess of seven hundred thousand (700,000) dollars but
71 not in excess of eight hundred thousand (800,000) dollars.

- 72 11. \$225.00 for each additional \$10,000 or fraction thereof of gross
73 receipts in excess of eight hundred thousand (800,000) dollars but not
74 in excess of nine hundred thousand (900,000) dollars.
- 75 12. \$250.00 for each additional \$10,000 or fraction thereof of gross
76 receipts in excess of nine hundred thousand (900,000) dollars but
77 not in excess of one million (1,000,000) dollars.
- 78 13. \$275.00 for each additional \$10,000 or fraction thereof of gross
79 receipts in excess of one million (1,000,000) dollars but not in excess
80 of one million two hundred fifty thousand (1,250,000) dollars.
- 81 14. \$300.00 for each additional \$10,000 or fraction thereof of gross
82 receipts in excess of one million two hundred fifty thousand (1,250,-
83 000) dollars but not in excess of one million five hundred thousand
84 (1,500,000) dollars.
- 85 15. \$325.00 for each additional \$10,000 or fraction thereof of gross
86 receipts in excess of one million five hundred thousand (1,500,000)
87 dollars but not in excess of one million seven hundred fifty thousand
88 (1,750,000) dollars.
- 89 16. \$350.00 for each additional \$10,000 or fraction thereof of gross
90 receipts in excess of one million seven hundred fifty thousand (1,-
91 750,000) dollars but not in excess of two million (2,000,000) dollars.
- 92 17. \$375.00 for each additional \$10,000 or fraction thereof of gross
93 receipts in excess of two million (2,000,000) dollars but not in excess
94 of two million five hundred thousand (2,500,000) dollars.
- 95 18. \$400.00 for each additional \$10,000 or fraction thereof of gross
96 receipts in excess of two million five hundred thousand (2,500,000)
97 dollars but not in excess of three million (3,000,000) dollars.
- 98 19. \$425.00 for each additional \$10,000 or fraction thereof of gross
99 receipts in excess of three million (3,000,000) dollars but not in excess
100 of three million five hundred thousand (3,500,000) dollars.
- 101 20. \$450.00 for each additional \$10,000 or fraction thereof of gross
102 receipts in excess of three million five hundred thousand (3,500,000)
103 dollars but not in excess of four million (4,000,000) dollars.
- 104 21. \$475.00 for each additional \$10,000 or fraction thereof of gross
105 receipts in excess of four million (4,000,000) dollars but not in excess
106 of four million five hundred thousand (4,500,000) dollars.
- 107 22. \$500.00 for each additional \$10,000 or fraction thereof of gross
108 receipts in excess of four million five hundred thousand (4,500,000)
109 dollars but not in excess of five million (5,000,000) dollars.
- 110 23. \$600.00 for each additional \$10,000 or fraction thereof of gross
111 receipts in excess of five million (5,000,000) dollars but not in excess
112 of six million (6,000,000) dollars.
- 113 24. \$700.00 for each additional \$10,000 or fraction thereof of gross
114 receipts in excess of six million (6,000,000) dollars but not in excess
115 of seven million (7,000,000) dollars.
- 116 25. \$800.00 for each additional \$10,000 or fraction thereof of gross
117 receipts in excess of seven million (7,000,000) dollars but not in
118 excess of eight million (8,000,000) dollars.
- 119 26. \$900.00 for each additional \$10,000 or fraction thereof of gross
120 receipts in excess of eight million (8,000,000) dollars but not in excess
121 of nine million (9,000,000) dollars.
- 122 27. \$1,000 for each additional \$10,000 or fraction thereof of gross
123 receipts in excess of nine million (9,000,000) dollars.

124 The tax imposed by subsection "b" hereof shall be computed for the
125 annual period commencing July 1, 1935, and terminating June 30,
126 1936, and for each succeeding twelve month period thereafter. The
127 tax imposed by subsection "a" hereof shall be due and payable on
128 July 1, 1935, and on July first of each succeeding year thereafter;
129 the tax imposed hereby as far as measured by subsection "a" hereof,
130 shall be computed on the basis of the number of stores operated by
131 any person under a system of chain stores in this state as of July
132 first of each taxable year. The tax imposed by subsection "b" hereof
133 shall be due and payable on August 1, 1936, and on August first of
134 each succeeding year thereafter or within thirty days after any person
135 liable for such tax shall cease entirely to do business within this state
136 of the kind on which the tax is imposed.

1 SEC. 5. Returns. Every person subject to the payment of a tax
2 as provided in subsection "b" of section four (4) hereof shall on or be-
3 fore August 1, 1936, and on or before August first of each succeeding
4 year thereafter file with the board a verified return in such form
5 and manner as may be prescribed by the board, showing the gross
6 receipts of such person for the taxable year as herein defined, the
7 amount of the tax due, and such further information as the board
8 may require to enable it to compute and collect the tax herein im-
9 posed; provided, however, that the board may, upon the request of
10 any such person and a proper showing for the necessity therefor,
11 grant an extension of time not to exceed thirty (30) days in which
12 to make such return and to pay such tax.

1 SEC. 6. Failure to file return—Incorrect return. If a return re-
2 quired by this act is not filed, or if a return when filed is incorrect or
3 insufficient and the maker fails to file a corrected or sufficient return
4 within twenty (20) days after the same is required by notice from
5 the board, such board shall determine the amount of tax due from
6 such information as it may be able to obtain and, if necessary, may
7 estimate the tax on the basis of external indices, such as number of
8 employees of the person concerned, rentals paid by him, his stock on
9 hand, and/or other factors. The board shall give notice of such de-
10 termination to the person liable for the tax. Such determination shall
11 finally and irrevocably fix the tax unless the person against whom it
12 is assessed shall, within thirty (30) days after the giving of notice
13 of such determination, apply to the board for a hearing or unless the
14 board of its own motion shall reduce the same. At such hearing
15 evidence may be offered to support such determination or to prove
16 that it is correct. After such hearing the board shall give notice of
17 its decision to the person liable for the tax.

1 SEC. 7. Appeals. 1. An appeal may be taken by the taxpayer to
2 the district court of the county in which he resides, or in which his
3 principal place of business is located, within sixty (60) days after
4 he shall have received notice from the board of its determination
5 as provided for in the preceding section.

6 2. The appeal shall be taken by a written notice to the chairman
7 of the board and served as an original notice. When said notice is
8 so served it shall, with the return thereon, be filed in the office of
9 the clerk of said district court, and docketed as other cases, with the

10 taxpayer as plaintiff and the board as defendant. The plaintiff shall
 11 file with such clerk a bond for the use of the defendant, and the state
 12 of Iowa with sureties approved by such clerk, in penalty at least
 13 double the amount of tax appealed from, and in no case shall the
 14 bond be less than fifty (50) dollars, and conditioned that the plaintiff
 15 shall pay any amount found to be due the defendant and/or the state
 16 of Iowa and will perform the orders of the court.

17 3. The court shall hear the appeal in equity and determine anew
 18 all questions submitted to it on appeal from the determination of the
 19 board. The court shall render its decree thereon and a certified
 20 copy of said decree shall be filed by the clerk of said court with the
 21 board who shall then correct the assessment in accordance with said
 22 decree. An appeal may be taken by the taxpayer or the board to the
 23 supreme court of this state in the same manner that appeals are
 24 taken in suits of equity, irrespective of the amount involved.

1 SEC. 8. Lien of tax—Collection—Action authorized. Whenever
 2 any taxpayer liable to pay a tax and/or penalty imposed refuses or
 3 neglects to pay the same, the amount, including any interest, penalty,
 4 or addition to such tax, together with the court costs that may accrue
 5 in the collection thereof, shall be a lien in favor of the state of Iowa
 6 upon all property and rights to property, whether real or personal,
 7 belonging to said taxpayer.

8 The lien aforesaid shall attach at the time the tax becomes due and
 9 payable and shall continue until the liability for such amount is sat-
 10 isfied.

11 In order to preserve the aforesaid lien against subsequent mort-
 12 gagees, purchasers or judgment creditors, for value and without
 13 notice of the lien, on any property situated in a county, the board
 14 shall file with the recorder of the county, in which said property is
 15 located, a notice of said lien.

16 The county recorder of each county shall prepare and keep in his
 17 office a book to be known as "Index of chain store tax liens" so ruled
 18 as to show in appropriate columns the following data, under the names
 19 of taxpayers, arranged alphabetically:

- 20 1. The name of the taxpayer.
- 21 2. The name "state of Iowa" as claimant.
- 22 3. Time notice of lien was received.
- 23 4. Date of notice.
- 24 5. Amount of lien when due.
- 25 6. When satisfied.

26 The recorder shall indorse on each notice of lien the day, hour, and
 27 minute when received and preserve the same, and shall forthwith
 28 index said notice in said index book and shall forthwith record said
 29 lien in the manner provided for recording real estate mortgages,
 30 and the said lien shall be effective from the time of the indexing
 31 thereof.

32 The board shall pay a recording fee as provided in section fifty-
 33 one hundred seventy-seven (5177), code, 1931, for the recording of
 34 such lien, or for the satisfaction thereof.

35 Upon the payment of a tax as to which the board has filed notice
 36 with a county recorder, the board shall forthwith file with said re-
 37 corder a satisfaction of said tax and the recorder shall enter said

38 satisfaction on the notice on file in his office and indicate said fact
39 on the index aforesaid.

40 Upon any tax herein provided for becoming delinquent the board
41 may notify the county treasurer of any county in which the person
42 owing the tax owns real or personal property of the amount of
43 such delinquent tax with interest and penalties. Upon receiving
44 such notification the treasurer shall spread the amount of such tax
45 with interest and penalties upon the records in his office against
46 the person owing the same and shall proceed to collect such amount
47 in the manner provided for the collection of delinquent taxes under
48 chapters 346, 347, 348, 349 of the code, 1931, as amended.

49 The amount realized by the method provided in this paragraph
50 shall not discharge the lien of such tax unless the full amount owing
51 is received. Any amount received by the treasurer shall be remitted
52 by him to the board.

53 The attorney general, shall, upon the request of the board, bring
54 an action at law or in equity, as the facts may justify, without bond,
55 to enforce payment of any taxes and/or penalties, and in such action
56 he shall have the assistance of the county attorney of the county in
57 which the action is pending.

58 It is expressly provided that the foregoing remedies of the state
59 shall be cumulative and that no action taken by the board or attor-
60 ney general shall be construed to be an election on the part of the
61 state or any of its officers to pursue any remedy hereunder to the
62 exclusion of any other remedy provided by law.

1 SEC. 9. Service of notices. Any notice, except notice of appeal,
2 authorized or required under the provisions of this act may be given
3 by mailing the same to the person for whom it is intended by reg-
4 istered mail, addressed to such person at the address given in the
5 last return filed by him pursuant to the provisions of this act, or if
6 no return has been filed, then to such address as may be obtainable.
7 The mailing of such notice shall be presumptive evidence of the re-
8 ceipt of the same by the person to whom addressed. Any period of
9 time which is determined according to the provisions of this act by
10 the giving of notice shall commence to run from the date of regis-
11 tration and posting of such notice.

1 SEC. 10. The provisions of the Iowa code relative to the limita-
2 tion of time for the enforcement of a civil remedy shall not apply
3 to any proceeding or action taken to levy, appraise, assess, determine
4 or enforce the collection of any tax or penalty provided by this act.

1 SEC. 11. Board to administer act. The Iowa state board of assess-
2 ment and review shall administer and enforce the assessment of the
3 tax imposed by this act. It may make and publish such rules and
4 regulations, not inconsistent with this act, and shall distribute the
5 same throughout the state and furnish them on application, but fail-
6 ure to receive or secure them shall not relieve any person from the
7 obligation of making any return required of him by this act.

1 SEC. 12. Board may examine books. For the purpose of determin-
2 ing the correctness of any return, or of determining whether or not
3 any person should have made a return or paid tax hereunder, the
4 board of assessment and review shall have the power to examine or

5 cause to be examined any books, papers, records or memoranda which
6 are the property of or in the possession of the taxpayer or any other
7 person. It shall further have the power to require the attendance
8 of any taxpayer or other person having knowledge, or information
9 relevant to such determinations aforementioned, to compel the pro-
10 duction of books, papers, records or memoranda by persons so re-
11 quired to attend, to take testimony on matters material to such de-
12 terminations, and to administer oaths or affirmations in any such
13 connection. The board of assessment and review is empowered to
14 any time and from time to time to require any owner, manager, or
15 employee of any store in the state of Iowa to file with the board of
16 assessment and review, a statement under oath, showing the owner-
17 ship, management and control of such store for the purpose of de-
18 termining whether or not such store is subject to the tax hereby
19 imposed. Such statement shall be in such form as the board shall
20 prescribe.

1 SEC. 13. Appropriation. For expenditure by the board in carry-
2 ing out the provisions of this act, there is hereby appropriated from
3 the general fund of the state, not otherwise appropriated, the sum
4 of twenty-five thousand (25,000) dollars for the taxable year 1935-
5 1936 and thereafter, an amount equal to three (3) per cent of the
6 amount of taxes collected under this act; provided, however, that
7 any balance of said amount equal to said three (3) per cent remain-
8 ing after the payment of administrative expense, shall be trans-
9 ferred back to the special tax fund, and provided, further, that be-
10 fore any distribution shall be made hereunder during the first tax-
11 able year that the sum of twenty-five thousand (25,000) dollars here-
12 inbefore appropriated out of the general fund of the state shall be
13 repaid to the general fund of the state.

1 SEC. 14. All fees, taxes, interest and penalties imposed under this
2 act must be paid to the board in the form of remittances payable to
3 the treasurer of the state of Iowa, and said board shall transmit each
4 payment daily to the state treasurer, to be deposited in the state
5 treasury to the credit of the general fund.

1 SEC. 15. Penalties—Offenses. 1. Any person failing to file a return
2 or corrected return or to pay any tax within the time required shall
3 be subject to a penalty of five (5) per cent of the amount of tax due,
4 plus one (1) per cent of such tax for each month of delay or fraction
5 thereof, excepting the first month after such return was required
6 to be filed or such tax became due; but the board, if satisfied that
7 the delay was excusable, may remit all or any part of such penalty.
8 Such penalty shall be paid to the board and disposed of in the same
9 manner as other receipts under this act. Unpaid penalties may be
10 enforced in the same manner as the tax imposed.

11 2. Any person required to make, render, sign, or verify any return
12 or supplementary return, who makes any false or fraudulent return
13 with the intent to defeat or evade the assessment required by law to
14 be made, shall be guilty of a felony and shall, for each such offense,
15 be fined not less than five hundred (500) dollars, nor not more than
16 five thousand (5,000) dollars, or be imprisoned not exceeding one (1)

17 year, or be subject to both fine and imprisonment, in the discretion
18 of the court.

19 3. The certificate of the board to the effect that the tax has not
20 been paid, that a return has not been filed, or that information has
21 not been supplied pursuant to the provisions of this act, shall be
22 prima facie evidence thereof.

1 SEC. 16. The tax levied and collected under this act shall not be
2 affected or be in lieu of the Iowa retail sales tax or any other tax
3 levied under any other act but the taxes levied and collected here-
4 under are levied and collected as an occupation tax.

1 SEC. 17. If any section, provision or clause of this act should be
2 declared invalid, such invalidity shall not be construed to affect the
3 portions of this act not so held invalid.

1 SEC. 18. This act shall not apply to any stores owned or operated
2 by any person, firm, or corporation when all of said stores so owned
3 or operated, are located in unincorporated villages and no store is
4 more than six (6) miles distant from every other store so owned or
5 operated.

1 SEC. 19. Constitutionality. If any section, subsection, clause, sen-
2 tence, or phrase of this act is for any reason held to be unconstitu-
3 tional and invalid, such decision shall not affect the validity of the
4 remaining portions of this act. The legislature hereby declares that
5 in the passage of this act it is the expressed intent of the legislature
6 to impose an occupation tax upon any and all persons engaged in con-
7 ducting a business by a system of chain stores, as herein defined and
8 provided, as far as the same is constitutional and valid, and the
9 legislature hereby further declares that it would have passed this
10 act and each section, subsection, clause, sentence and phrase hereof
11 irrespective of whether any one or more of the sections, subsections,
12 clauses, sentences or phrases be declared unconstitutional.

1 SEC. 20. Repealing clause. All laws and parts of laws, if any,
2 in conflict with this act are hereby repealed.

1 SEC. 21. Publication clause. This act being deemed of immediate
2 importance shall be in full force and effect after its passage and
3 publication in the Sioux City Journal, a newspaper published at
4 Sioux City, Iowa, and in the Anthon Herald, a newspaper published
5 at Anthon, Iowa.

House File 311. Approved April 29, 1935.

I hereby certify that the foregoing act was published in the Sioux City Journal, May
2, 1935, and the Anthon Herald, May 8, 1935.

MRS. ALEX MILLER, *Secretary of State.*