

15 punished by a fine of not more than twenty dollars. Upon such failure
 16 to appear, the magistrate shall issue a warrant of arrest for the offense
 17 originally charged, and institute proceedings in contempt as provided
 18 by chapter 536, Code, 1939.

19 "If after issuing a summons the magistrate becomes satisfied that
 20 the person to whom such summons has been directed will not appear,
 21 he may at once issue a warrant of arrest without waiting for the
 22 date mentioned in the summons."

Approved April 20, 1943.

CHAPTER 165

IOWA MOTOR VEHICLE FUEL TAX LAW

S. F. 323

AN ACT to amend, revise and codify chapter two hundred fifty-one and three-tenths (251.3), code, 1939, including sections five thousand ninety-three and one one-hundredths (5093.01) to five thousand ninety-three and thirty-nine one-hundredths (5093.39), both inclusive, and all acts and laws amendatory of said chapter and sections relating to the collection of license fees or taxes on motor vehicle fuel, including fuel oil and liquefied gas used or otherwise disposed of in the state of Iowa; to define motor vehicle fuel, motor fuel, fuel oil, liquefied gas, and other terms used in this act; to impose a license fee or tax of three cents (3c) per gallon or fraction thereof on motor vehicle fuel sold or used in the state of Iowa; to provide for reports for payment and collection of said license fee or tax; to provide for the licensing of distributors, dealers, retailers, station operators and transporters and the revocation of such licenses; to provide for the keeping of records and the making of reports on the part of persons handling said fuels and transporting same; to provide for refunding the license fee or tax paid under certain conditions when fuel is not used in propelling vehicles on the highways; to provide as to the purposes and objects for which the license fees or taxes collected shall be used, and to provide penalties for the violation of the provisions of this act.

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

1 SECTION 1. That Chapter two hundred fifty-one and three-tenths
 2 (251.3), Code, 1939, including sections five thousand ninety-three and
 3 one one-hundredths (5093.01) to five thousand ninety-three and
 4 thirty-nine one-hundredths (5093.39), both inclusive, and all acts
 5 and laws amendatory of said chapter and sections, are hereby amend-
 6 ed, revised and codified to read as follows.

1 SEC. 2 "5093.01. **Purpose.** It is the intent and purpose of this
 2 chapter to amend, revise, codify and supplement the existing laws of
 3 the State of Iowa relating to the collection of license fees on motor
 4 vehicle fuel, and to continue the policy of collecting for highway
 5 purposes an excise tax or license fee on all motor vehicle fuel used to
 6 propel motor vehicles on the highways of this State, and to provide
 7 such regulations as will prevent the evasion of the payment of such
 8 license fees and to insure the collection thereof and to that end to
 9 collect the license fee on all motor vehicle fuel in the State and from
 10 the first person receiving the same in this State for sale or use in this
 11 State and to require such person and all subsequent sellers to collect
 12 such license fee from purchasers to whom the same is sold for use
 13 or resale in this State so that said license fees shall be ultimately paid

14 by the person using said motor vehicle fuel in this State and to refund
15 to such user such license fees so paid by him on all motor vehicle fuel
16 not used in connection with the operation of motor vehicles on the
17 public highway."

1 SEC. 3. "5093.02. **Definition of terms.** The following words,
2 terms and phrases, for the purpose of this chapter, are defined as
3 follows:

4 1. The term 'distributor' shall mean any person who receives from
5 outside the State or who produces, refines, manufactures, compounds,
6 or blends within the State any motor vehicle fuel to be used within
7 the State or sold or otherwise disposed of within the State for use
8 in the state, including any person who shall order the delivery of
9 any motor vehicle fuel from a refinery or marine or pipe line ter-
10 minal to a point within the state of Iowa. Provided, however, a per-
11 son coming into the state traveling by motor vehicle may transport,
12 for his own use, in the ordinary motor vehicle fuel tank attached to
13 and forming a part of such motor vehicle, not more than twenty
14 gallons of motor vehicle fuel in passenger automobiles, and not more
15 than fifty gallons in trucks and busses without being considered a
16 distributor.

17 2. The term 'person' shall mean any individual, firm, partnership,
18 joint stock company, association, trust, estate, joint adventure,
19 and/or corporation, and any group or combination acting as a unit,
20 and the plural as well as the singular number. The term 'person'
21 shall also mean any receiver, trustee, conservator or representative
22 appointed by any state or federal court.

23 3. The term 'treasurer' shall mean the treasurer of the state of
24 Iowa.

25 4. The term 'motor vehicle fuel' shall mean any petroleum product
26 or other substance which alone or in combination with any other
27 petroleum product or other substance is capable of being used to
28 operate by combustion any internal combustion engine of the type
29 used in automobiles, trucks, airplanes, motor boats, tractors, or other
30 mechanical contrivances which are propelled by their own power and
31 which is practicable for use for such purpose, including the products
32 commonly known as gasoline, kerosene, naptha,* distillate, gas oil,
33 tractor fuel, benzine, benzol and liquefied gas.

34 5. The term 'motor fuel' shall mean those motor vehicle fuels which
35 alone and without being combined with other petroleum products or
36 other substances are capable of successfully operating by combustion
37 an internal combustion engine of the type used in automobiles and
38 trucks such as gasoline or other petroleum products or other sub-
39 stances having similar qualities, which have a flash point less than
40 one hundred degrees Fahrenheit as determined by the Tagliabue
41 closed cup test, or has an initial boiling point of less than three hun-
42 dred degrees Fahrenheit as determined by the method of the Ameri-
43 can Society of Testing Materials or has a ninety-five per cent dis-
44 tillation point at less than four hundred sixty-four degrees Fahren-
45 heit as determined by the method of the American Society of Testing
46 Materials.

*Note: In accordance with enrolled bill.

- 47 6. The term 'fuel oil' shall mean those motor vehicle fuels not within
48 the above specifications for motor fuel which either alone or when
49 combined with other petroleum products or other substances are
50 capable of being used as a fuel to propel motor vehicles upon the
51 public highways such as ordinary kerosene, distillate, diesel fuel and
52 gas oil or other petroleum products or other substances having
53 similar qualities.
- 54 7. The treasurer of the state is authorized and directed to issue and
55 have published, from time to time, regulations in conformity with the
56 provisions of this chapter, which shall provide more particularly
57 descriptions and specifications of the various kinds of fuel which
58 come within the classifications provided for in subsections 4, 5 and 6
59 of this section.
- 60 8. The term 'service station' shall mean any place where motor
61 vehicle fuel is sold and delivered into the fuel tanks of motor vehicles.
- 62 9. The term 'highway' shall mean any way or place of whatever
63 nature open to the use of the public as a matter of right for the pur-
64 pose of vehicular travel.
- 65 10. The term 'motor vehicle' shall mean any mechanical contrivance
66 propelled on the highways by an internal combustion engine, includ-
67 ing those contrivances used to transport passengers or freight and
68 those used for the purpose of constructing or repairing said highway.
- 69 11. The term 'license fee' shall mean 'excise tax or license fee'.
- 70 12. The term 'fuel oil dealer' shall mean a person engaged in selling
71 fuel oil at retail for use for such purposes as shall allow the purchaser
72 to obtain the same tax free under the provisions of this chapter.
- 73 13. The term 'fuel oil distributor' shall mean any person who
74 receives fuel oil from outside the state or who produces or manufac-
75 tures fuel oil within the state to be used or resold within the state
76 for such purposes as shall allow the purchaser to obtain the same tax
77 free under the provisions of this chapter.
- 78 14. The term 'tax free' when used in connection with the sale of
79 fuel oil shall mean a sale or purchase without the payment of the
80 motor vehicle fuel license fees imposed by the provisions of this
81 chapter.
- 82 15. The term 'certificate of purchase' shall mean a certificate in
83 such form as the Treasurer shall prescribe or approve, issued by a
84 fuel oil dealer to a distributor or fuel oil distributor, covering the
85 purchase by said fuel oil dealer showing the kind and quantity of
86 fuel oil purchased, from whom purchased, and such other informa-
87 tion as the Treasurer shall prescribe and in such certificate the maker
88 shall state and agree that he will not use or sell for use any of the
89 products covered by such certificate either alone or in combination
90 with other petroleum products as fuel for motor vehicles.
- 91 16. The term 'liquefied gas distributor' shall mean any person de-
92 fined as a distributor in paragraph 1 of this section engaged in dis-
93 tributing liquefied gas, provided that any person not engaged in
94 business in the state who would come within the definition, if he was
95 engaged in business within this state, may become licensed as a
96 liquefied gas distributor under this chapter in the same manner as
97 though he was engaged in business within the state, except that sales
98 made by such a distributor to persons in the State of Iowa shall be
99 construed as importations made by the distributor and the distribu-

100 tor shall report such sales in detail to the treasurer on forms pre-
101 scribed or approved by the treasurer.

102 17. The term 'liquefied gas dealer' shall mean any person, other
103 than a liquefied gas distributor, who is licensed to sell liquefied gas
104 for use in operation by combustion in any internal combustion engine
105 of the type used in automobiles, trucks, airplanes, motor boats, trac-
106 tors or other mechanical contrivances which are propelled by their
107 own power, as well as sales for other purposes.

108 18. The term 'liquefied gas retailer' shall mean any person other
109 than a licensed liquefied gas dealer or a liquefied gas distributor who
110 sells liquefied gas at retail only for uses other than the uses provided
111 in paragraph 4 of this section, and as such is permitted to sell same
112 to purchasers tax free.

113 19. The term 'liquefied gas motor fuel user' shall mean any person
114 a resident of, or having a place of business in, the State of Iowa, who
115 uses liquefied gas for any of the purposes set out in paragraph 4
116 of this section. Any person engaged in carrying out a construction
117 contract of any kind in the State of Iowa shall for the purposes of
118 this chapter be deemed to have a place of business in the state where
119 such contract is being carried out.

120 20. The term 'liquefied gas' shall mean and include all combustible
121 gases which exist in a gaseous state at sixty degrees (60°) Fahrenheit
122 and at fourteen and seven-tenths pounds (14.7 lbs.) per square inch
123 absolute."

1 SEC. 4. "5093.03 Tax imposed. A license fee of three cents (3c)
2 per gallon or a fraction of a gallon is hereby imposed on the sale or
3 use of all motor vehicle fuel sold or used in this state for any purpose
4 whatsoever, except that no license fee shall be imposed, on motor
5 vehicle fuel sold and exported from the State of Iowa, or on motor
6 vehicle fuel refined at a refinery in this state and stored thereat, or
7 on motor vehicle fuel imported into the state by boat, barge or pipe
8 line and stored at a marine or pipe line terminal so long as the same
9 remains in storage at such refinery, marine or pipe line terminal,
10 or on motor vehicle fuel sold to the United States of America or any
11 of its instrumentalities or agencies, unless permitted by the consti-
12 tution and laws of the United States, provided however that no
13 license fee shall be imposed on the motor vehicle fuel brought into
14 this state in the ordinary fuel tanks attached to and forming a
15 part of a motor vehicle operating upon the highways where such
16 amount does not exceed twenty gallons in the ordinary automobile
17 and fifty gallons in busses and trucks. Said license fee shall be paid
18 to the state of Iowa but once on any particular gallonage of motor
19 vehicle fuel. Any person selling, using or otherwise disposing of,
20 motor vehicle fuel within the state shall be liable for the license fees
21 herein provided for, unless the same shall have been previously paid.
22 Said license fee shall be advanced, remitted, collected and paid by the
23 persons and at the time and in the manner hereinafter provided. The
24 said license fees when paid shall be disposed of in the manner herein-
25 after provided.

26 No person shall sell liquefied gas within the state of Iowa for any
27 purpose except said person be licensed under this chapter as a dis-
28 tributor, a liquefied gas distributor, a liquefied gas dealer, or a lique-
29 fied gas retailer."

1 SEC. 5. "5093.04. Tax payable by whom. Said tax shall be
2 paid to the State of Iowa by the distributor, or other person who
3 imports or first receives said motor vehicle fuel in this state, or who
4 manufactures, compounds or blends motor vehicle fuel in this state,
5 at the times and in the manner provided in this chapter; provided,
6 however, that when motor vehicle fuel is received by a licensed dis-
7 tributor from a refinery, marine or pipe line terminal in this state,
8 only the licensed distributor receiving same therefrom shall be liable
9 for the tax thereon, and that any person ordering the delivery of
10 motor vehicle fuel from a refinery, marine or pipe line terminal in
11 this state to a person in the state who is not a licensed distributor
12 shall be liable for the tax. The interstate character of the transpor-
13 tation of motor vehicle fuel coming from without the state by pipe
14 line, boat or barge shall not be deemed to have been terminated by
15 the mere storage thereof at a marine or pipe line terminal in this
16 state. Any person not a licensed distributor who exports motor
17 vehicle fuel from a refinery, marine or pipe line terminal in this state
18 to another state shall secure from the treasurer an exporter's license
19 and shall report each exportation to the treasurer by United States
20 mail within forty-eight hours after such exportation; and provided
21 further that the operator of such refinery, marine or pipe line ter-
22 minal shall be required to keep, subject to inspection at any time by
23 the state treasurer, such records, and to render to the state treasurer
24 monthly such reports as the state treasurer may require to insure
25 proper enforcement of the provisions of this chapter. Such distributor
26 or other person having paid said tax, or being liable for its payment
27 shall collect the amount thereof from any person to whom said motor
28 vehicle fuel is sold in this state along with the selling price thereof,
29 provided that payment of the tax to the State of Iowa on liquefied
30 gas shall be made in the manner provided for in this chapter for the
31 payment and collection of the tax on liquefied gas. Liquefied gas sold
32 for any purpose other than the purposes set out in paragraph 4 of
33 section 5093.02 may be sold tax free, provided that on sales for the
34 purposes set out in paragraph 4 section 5093.02 the amount of the
35 tax shall be collected from the purchaser along with the selling price
36 thereof.

37 Every distributor and other person selling motor vehicle fuel or
38 fuel oil in this state, at wholesale or at retail, shall keep posted in a
39 conspicuous place most accessible to the public at their place or places
40 of business, including bulk plants, service stations, garages and
41 motor vehicle transports, a placard showing in words and/or figures
42 the same height and size but not less than one inch in height or size,
43 the price per gallon of each grade of motor vehicle fuel and fuel oil
44 offered for sale, the amount of state license fee per gallon thereon,
45 the federal excise tax per gallon thereon, and the total thereof. If
46 any rebate, discount, commission or other concession is granted by
47 distributors or persons engaged in the sale of motor vehicle fuel or
48 fuel oil of such nature as will reduce the cost or price to any purchaser
49 or consumer of such products, the conditions, quantity and amount
50 of such rebate, discount, commission or other concession shall be
51 posted as a part of the posted price. Provided, however, at all places
52 making wholesale sales only and upon motor vehicle transports, the
53 words and figures shall be of such size as to be plainly legible to the

54 public and as approved by the treasurer. All price placards shall be
55 subject to the approval of the treasurer. Any distributor or person
56 failing to post or keep posted the placard required by this section,
57 or who posts placards not approved by the treasurer as provided in
58 this section, or who sells any motor vehicle fuel or fuel oil at a price
59 which directly or indirectly, by any means or device, deviates from
60 the posted price set forth on the price placard approved by the
61 treasurer, shall be guilty of a misdemeanor and shall be punished by
62 a fine of one hundred dollars or imprisonment in the county jail for
63 thirty days. Nothing contained herein shall prohibit or restrict the
64 distribution of earnings to the members of any distributor or person,
65 nor to the distribution to consumers of road maps, publicity and other
66 advertising media carrying the name of the distributor, person or
67 produce. Each day the required placard remains unposted or an
68 unauthorized placard remains posted, or each deviation from the
69 posted price, shall be considered a separate offense. In the event of
70 a third conviction for the violation of any of the provisions of this
71 section, the state treasurer may revoke the license of such distributor
72 or person so convicted."

1 **SEC. 6. "5093.05 Licensing of distributors.** It shall be unlaw-
2 ful for any person to engage in business as a distributor in this state
3 without first having procured a distributor's license as provided in
4 this chapter. A person who has filed a proper application with the
5 treasurer and has complied with the provisions and met the require-
6 ments of this chapter and has shown to the satisfaction of the treas-
7 urer that he is a person of good moral character and desires honestly
8 to engage in business as a distributor, shall be granted a distributor's
9 license by the treasurer, authorizing said person to engage in business
10 in this state as a distributor, unless it appears to said treasurer from
11 any sources of information available to him that said person has
12 failed to pay motor vehicle fuel license fee due from him to the state
13 of Iowa, or that a distributor's license previously issued to said
14 person has been cancelled and said person cannot now be depended
15 upon to honestly and in good faith make and keep the records and
16 reports required of distributors, and pay the motor vehicle fuel license
17 fees which he would be required to pay under the provisions of this
18 chapter.

19 "A fee of one dollar shall be collected by the treasurer from each
20 person to whom a distributor's license is issued.

21 "Every distributor licensed under the provisions of this chapter
22 as a distributor may engage in the business as a liquefied gas dis-
23 tributor and shall be subject to all the provisions of this chapter relat-
24 ing to distribution of liquefied gas. It shall be unlawful for any person
25 who is not a distributor licensed under this chapter to engage in
26 business as a liquefied gas distributor in this state without first pro-
27 curing a liquefied gas distributor's license. All the provisions of this
28 chapter relating to distributors shall apply to liquefied gas distribu-
29 tors except as modified by this act.

30 "It shall be unlawful for any person to engage in business as a
31 liquefied gas dealer without first having procured a liquefied gas
32 dealer's license.

33 "Every person desiring to engage in business as a liquefied gas
34 dealer shall make under oath an application for a license therefor to

35 the treasurer on forms prescribed by him. The treasurer, if con-
 36 vinced by the showing made in the application, or from any investiga-
 37 tion he may make, that the applicant is of good moral character, and
 38 is actually engaged, or about to engage in business as a liquefied gas
 39 dealer, shall issue a license without fee. Every holder of such a license
 40 shall keep a record of receipts and sales of liquefied gas on forms pre-
 41 scribed or approved by the treasurer, and preserve said records for a
 42 period of three years, which records shall be open to the inspection
 43 of the treasurer or his agents or employees."

1 SEC. 7. "5093.06. **Application for distributor's license.** Every
 2 person desiring to engage in business as a distributor or liquefied gas
 3 distributor shall file a duly verified application with the treasurer
 4 on forms provided by the treasurer, which shall contain the name
 5 under which the business of distributor is to be transacted within the
 6 state of Iowa and the place of such business. If such applicant is a
 7 firm or copartnership, the application shall also contain the names
 8 and addresses of the several persons constituting the same and if a
 9 corporation or municipal subdivision, the correct name under which
 10 it is authorized to transact business, the name of its principal officers,
 11 resident agent or managing agent and attorney in fact.

12 "Said applicant must further state and agree in such application
 13 that he will faithfully and honestly keep and preserve all the records
 14 which the provisions of this act or the regulations of the treasurer
 15 require him to keep and that he will report to the treasurer of State
 16 all of the matter required by this chapter and that he will pay to the
 17 State of Iowa all license fees on motor vehicle fuel due from him to
 18 the State of Iowa in accordance with the provisions of this chapter.
 19 Said application shall also contain such other information as the
 20 treasurer shall demand or the forms prepared by him require."

1 SEC. 8. "5093.07. **Security required of distributor before li-**
 2 **cence issued.** Each applicant for a distributor's or liquefied gas dis-
 3 tributor's license, except agencies of the state and municipal corpora-
 4 tions in the state or other governmental subdivisions of the state
 5 shall, before the license is issued to him, file with the Treasurer of
 6 State a bond payable to the State of Iowa in the sum of one thousand
 7 dollars (\$1,000.00) and such additional sum or satisfactory property
 8 statement as the Treasurer of State shall determine, which bond or
 9 property statement is to be approved by the Treasurer of State."

1 SEC. 9. "5093.08. **Records required to be kept by distributor.**
 2 Each distributor must keep a true and accurate record on such form
 3 as the Treasurer of State may approve or prescribe of each con-
 4 signment of motor vehicle fuel received by him showing the person
 5 from whom received, the method of transportation employed in de-
 6 livering the same to the distributor, and the identification of the
 7 tank car, and of the truck if delivered by truck, the character of the
 8 product and the disposition made thereof. Such distributor must
 9 also preserve all invoices, bills of lading and other pertinent papers
 10 in connection with the purchase and receipt of motor vehicle fuel
 11 and all sales tickets, invoices and other pertinent papers in connection
 12 with the sale of motor vehicle fuel, and to keep such records of pur-
 13 chases and sales as the Treasurer of State shall prescribe. Said

14 distributor must likewise keep a record of his receipts and sales of
15 motor vehicle fuel on such form as the Treasurer of State may ap-
16 prove or prescribe and must make and transmit to the Treasurer of
17 State an inventory of all petroleum products on hand upon call
18 of the Treasurer of State, and each distributor must upon demand
19 of the Treasurer of State furnish a statement under oath reflecting
20 the contents of any records to be kept under the provisions of this
21 chapter. The records required by this section must be preserved by
22 the distributor for a period of three years after the making thereof
23 and all such records must be available at all times for the inspection
24 of the Treasurer of State or his representatives.

25 "The provisions of this section shall apply to and govern each
26 liquefied gas distributor. In addition each liquefied gas distributor
27 shall keep a record of all sales of liquefied gas for all purposes and
28 showing all sales of liquefied gas for use in automobiles, trucks, air-
29 planes, motor boats, tractors, and/or other mechanical contrivances
30 which are propelled by their own power, the said record to show the
31 date of sale, and the name and address of person to whom sold."

1 SEC. 10. "5093.09. **Monthly reports of distributors.** On or be-
2 fore the 20th day of each calendar month, each distributor of motor
3 vehicle fuel shall file in the office of the Treasurer of State at Des
4 Moines, Iowa, a report, duly verified under oath, on forms prescribed
5 and furnished by said treasurer, showing

6 "1. The total number of gallons of motor vehicle fuel received by
7 him from outside the state during the preceding calendar month, the
8 person from whom received, the date of receipt, unloading point, tank
9 car identification and invoiced gallonage of each tank car or other
10 receptacle in which motor vehicle fuel is imported into the State
11 of Iowa. If said motor vehicle fuel was imported by truck, said
12 report shall show the name of person from whom received, date of
13 receipt, the unloading point, the invoiced gallonage of each truck
14 load, the name of the manufacturer of the truck, the name of the
15 owner, the name of the person in charge of the truck when delivery
16 was made, and motor vehicle transport license number of the truck,
17 and number of the manifest covering each shipment, or load, and
18 (a) the total number of gallons thereof imported by boat, barge or
19 pipe line and stored at a marine or pipe line terminal and (b) the
20 total number of gallons thereof taken from such marine or pipe line
21 terminal storage during the preceding calendar month for sale or
22 use in this state or for transportation or shipment to points within
23 this state.

24 "2. The total number of gallons of motor vehicle fuel produced,
25 refined, manufactured, blended or compounded, and the date thereof,
26 and the place where such processing occurred and the materials used
27 therein and the source from which obtained, and (a) the total
28 number of gallons thereof refined at a refinery in this state and
29 stored at such refinery and (b) the total number of gallons thereof
30 taken from such refinery storage for sale or use in this state or for
31 transportation or shipment to points within this state.

32 "3. The total number of gallons of motor vehicle fuel received by
33 him from points within the state during the preceding calendar
34 month, the name of the person from whom received, the date of
35 receipt, unloading point, tank car identification and invoiced gallonage

36 of each tank car or other receptacle in which received. And if received
37 by truck, said report shall show the name of the person from whom
38 received, the date of receipt, unloading point, invoiced gallonage of
39 each truck load, the name of the manufacturer of the truck, the
40 name of the owner, the name of the person in charge of the truck
41 when delivery was made, and motor vehicle transport license number
42 of the truck. Said report shall also show whether the price paid for
43 such motor vehicle fuel included the license fee payable under the
44 provisions of this chapter. All such information as to gallonage re-
45 ceived from points within the state shall be only for the use and
46 guidance of the treasurer, if the license fee has been previously paid
47 on such gallonage and such gallonage shall not be included in the
48 gallonage on which the license fees are payable by said distributor
49 unless the license fees thereon have not been previously paid to the
50 State of Iowa.

51 "4. The total number of gallons exported from the State of Iowa,
52 the date of export, name of person to whom exported, destination,
53 tank car identification and railroad handling shipment, if by rail,
54 and if shipped by truck, name of manufacturer of truck, name of
55 owner, name of person in charge of truck, manifest number and
56 motor vehicle transport license number of truck.

57 "5. The total number of gallons of motor vehicle fuel sold to the
58 United States or its agencies on which the collection of a license fee
59 is not permitted by the constitution or laws of the United States,
60 and the name of the officer or particular agency of the United States
61 to whom sold.

62 "6. If said distributor holds a permit to sell, or use fuel oil as
63 provided by this chapter without the collection or payment of a tax
64 thereon, such report shall also show, the amount of fuel oil received
65 during the preceding calendar month and the amount disposed of and
66 the purpose for which it was used or sold for use, and such other
67 information in connection therewith as the treasurer may require.
68 Said report shall also be accompanied by the certificates of purchase
69 covering fuel oil sold for resale, and the distributor shall pay the tax
70 on such amount as was used or sold for use in motor vehicles.

71 "A distributor handling fuel oil may, if he desires, make his report
72 as to fuel oil on an inventory basis, by giving the treasurer thirty
73 (30) days' notice of an intention to so report. In that event he may
74 deduct the fuel oil on hand at the end of each month to determine
75 the gallonage on which the tax is to be computed. In such case, he
76 must show on his monthly report the gallonage on hand at the
77 commencement of each month, and so make his report on forms
78 prescribed by the treasurer as to show the amount of fuel oil sold or
79 used during the month, and the amount thereof covered by purchase
80 certificates and sales for non-taxable use and pay the tax on any
81 balance.

82 "A distributor may with the approval of the treasurer, in con-
83 nection with his fuel oil report, merely list the certificates of pur-
84 chase held by him covering fuel oil used or sold by him during the
85 preceding calendar month, and such certificates so listed may be
86 retained by the distributor subject to be inspected by the treasurer
87 or his representative.

88 "7. Said report shall contain such other information as the treas-
89 urer may demand or may be called for by the forms prepared by
90 him.

91 "If no motor vehicle fuel be received or produced during the pre-
92 ceding calendar month, a report shall be made to that effect on the
93 forms prescribed herein, and in the same manner. At the same time
94 he shall remit to the treasurer the amount of the license fee on motor
95 vehicle fuel produced or received by said distributor for sale or use
96 within the State of Iowa during the preceding calendar month on
97 which a license fee is payable under the provisions of this chapter;
98 provided, however, that in computing said amount a deduction of
99 three per cent of the invoiced gallonage received from outside the
100 state or produced, manufactured, compounded or blended within the
101 state, and which remained within the state may be made for evapora-
102 tion and loss.

103 "If, after the prescribed license fees are so remitted and paid, any
104 motor vehicle fuel in the possession of a licensed distributor is de-
105 stroyed by fire, lightning, storm or accident not caused by the fault
106 of such distributor or any employee thereof, before being sold or
107 used by him, upon proper application therefor and proof of such de-
108 struction or loss satisfactory to the Treasurer of State, the said
109 treasurer is authorized to certify to the amount of license fees so
110 paid thereon to the Comptroller of State as a refund. The Comp-
111 troller of State shall issue his warrant drawn on the motor vehicle
112 fuel fund in payment thereof and the same shall be paid in the same
113 manner and from the same fund as those refunds authorized in
114 section 5093.29 of this chapter. But no such claim for refund shall
115 be paid unless the treasurer was notified of said loss within ten days
116 after the same occurred and the claim was filed within thirty days
117 after such loss.

118 "If any distributor of motor vehicle fuel shall fail to remit on or
119 before the twentieth of each month to the Treasurer of State to cover
120 the license fees due on that date as shown by his report, a penalty
121 of ten per cent of the amount thereof shall immediately accrue and
122 become due and payable when such license fees are paid or collected.

123 "The provisions of this section shall apply to liquefied gas dis-
124 tributors, except as hereinafter provided. Liquefied gas distributors
125 shall also report under oath on forms prescribed and furnished by
126 the treasurer, the total number of gallons of liquefied gas imported
127 from outside the state, and also the total number of gallons of lique-
128 fied gas produced, refined, manufactured, blended or compounded
129 within the state, and the date thereof, and the place where such
130 processing occurred, and the materials used therein, and the date of
131 sale, name and address of the person to whom sold, and the quantity
132 in gallons of all liquefied gas sold or used by the liquefied gas dis-
133 tributor, for use in automobiles, trucks, airplanes, motor boats, trac-
134 tors and/or other mechanical contrivances which are propelled by
135 their own power, during the preceding calendar month. At the same
136 time each liquefied gas distributor shall remit to the treasurer the
137 amount of the license fees on the liquefied gas sold or used by him,
138 for use in automobiles, trucks, airplanes, motor boats, tractors,
139 and/or other mechanical contrivances propelled by their own power,
140 and on the liquefied gas sold by him to liquefied gas dealers."

1 SEC. 11. "5093.10. **Cancellation of distributor's license.** The
2 Treasurer may revoke any distributor's license issued under the pro-
3 visions of this chapter, where it appears to the satisfaction of the
4 treasurer, that the distributor holding such license has failed to
5 accurately or correctly make the reports, or keep the records re-
6 quired by this chapter, or has refused to give to the treasurer or
7 his representatives free access to his books and records, or has failed
8 to pay the license fees shown to be due by his reports, or determined
9 to be due by the Treasurer in accordance with the provisions of this
10 chapter, provided, however, that if said distributor disputes the cor-
11 rectness of the treasurer's finding as to the amount of tax due, he
12 may pay the amount demanded by the treasurer, under protest and
13 avoid a cancellation of his license on that account until the matter
14 has been determined by the court. And should the court determine
15 in the manner provided by this chapter that the amount thus paid is
16 in excess of the amount actually owing by said distributor at said
17 time, the excess shall be repaid to said distributor.

18 "Before the treasurer shall cancel any distributor's license he shall
19 advise the distributor of the charges against him, and shall give the
20 distributor an opportunity to be heard and to be represented by coun-
21 sel and to show cause why the license should not be cancelled. Such
22 notice of the charges and opportunity to show cause may be furnished
23 to the distributor by registered mail, addressed to him at his place
24 of business and must be mailed or served at least five days before the
25 day fixed by the treasurer for the hearing."

1 SEC. 12. "5093.11. **Treasurer may assess amount of license**
2 **fees due.** If the Treasurer of State should at any time receive com-
3 plaints or reports from any source that any licensed distributor is
4 suspected of evading the payment of the license fees provided by this
5 chapter or is failing to report all of the motor vehicle fuel received
6 by him and sold, used or otherwise disposed of by him in this state,
7 or should receive complaints or reports from any source that some
8 person is suspected of acting as a distributor without a license and
9 without the payment of the license fees imposed by this chapter upon
10 distributors, the Treasurer of State may, upon five days' notice to
11 such distributor or other person of the time and place of hearing and
12 the nature thereof, proceed to hold a hearing and to determine the
13 amount of license fee, if any, due from such licensed distributor or
14 other person on motor vehicle fuel not reported to the treasurer as
15 provided by this chapter, and said treasurer may adjourn said hear-
16 ing from time to time until the completion thereof. Said Treasurer
17 of State may use any information available to him to determine what
18 amount, if any, of license fees are owing by said distributor or other
19 persons. And he shall immediately assess the license fees in the
20 amount found due together with a penalty of one hundred per cent
21 of such amount. The findings of the said treasurer as to the amount
22 of license fees due, if any, shall be presumed to be the correct amount;
23 and in any litigation which may follow over the amount of said license
24 fees due, the certificate of the treasurer assessing the motor vehicle
25 fuel license fees and penalty shall be admitted in evidence and shall
26 constitute a prima facie case, and the burden shall be upon the dis-
27 tributor or other person to show the error in the treasurer's finding

28 and the extent of such error. In any litigation involving the amount
29 of motor vehicle fuel license fees due the State of Iowa, it shall be
30 presumed that the distributor or other person receiving motor vehicle
31 fuel from outside of this state, sold or used or otherwise disposed of
32 the same within this state, unless such distributor or other person
33 can show a different disposition of the product and it will be pre-
34 sumed that all petroleum products capable of being blended with
35 other petroleum products to produce motor vehicle fuel were so
36 blended unless the contrary appears by clear and satisfactory evi-
37 dence.

38 "The Treasurer of State may remit in whole or in part the penalty
39 herein provided for, if convinced that there was no intent to evade
40 the payment of the motor vehicle fuel license fees. And said penalty
41 in all events shall be considered as cumulative and shall not relieve
42 the person against whom it is assessed from the penal provisions of
43 this chapter."

1 **SEC. 13. "5093.12. Hearings before treasurer.** Hearings before
2 the treasurer authorized under the provisions of this chapter may be
3 held at the seat of government in Des Moines or elsewhere in the
4 state as the treasurer may direct. Any power granted to the treas-
5 urer in this chapter may also be exercised by his deputy, and the
6 treasurer is hereby authorized to appoint special deputies for the
7 purpose of conducting said hearings. The treasurer or his deputy
8 shall have the power to issue subpoenas, including subpoenas duces
9 tecum and to require the attendance of witnesses and the production
10 of books, records and papers. In the event any person shall refuse to
11 obey such subpoena, or after appearing refuses to testify, the treas-
12 urer shall certify the name of such person or persons to the District
13 Court of the county where said hearing is being held or any judge
14 thereof, and the Court or any judge thereof shall proceed with said
15 witness in the same manner as if said refusal had occurred in a pro-
16 ceeding in open Court."

1 **SEC. 14. "5093.13. Lien of license fees.** The certificate of the
2 treasurer assessing the amount of motor vehicle fuel license fees and
3 penalty due from a distributor or other person ascertained in accord-
4 ance with the provisions of this chapter, or from a distributor ascer-
5 tained from the report of such distributor, may be filed in the office
6 of the Clerk of the District Court of the county in which the place
7 of business of such distributor or other person is located. The Clerk
8 of the District Court upon receipt of the certificate shall, without
9 requiring the payment of any fee, file and index the same in the
10 manner now provided for judgments. And said treasurer may in like
11 manner, file a duplicate of said certificate in any other county where
12 the same shall in like manner be indexed. And the claim of the state
13 of Iowa as shown by said certificate or duplicate so filed shall be a
14 lien on the real estate of the person named therein as owing motor
15 vehicle fuel license fees, located in the county where said certificate
16 or a duplicate thereof is recorded for the amount shown by said cer-
17 tificate to be due, including penalty and interest from the date of said
18 filing to the same extent as a mortgage lien. Said lien may be fore-
19 closed in the same manner as real estate mortgage liens are fore-

20 closed, and the court in said proceedings shall enter judgment against
21 such distributor or other person for the amount found by the court
22 in the manner provided by this act to be due to the state, with interest
23 and the penalty as assessed by the treasurer, and may in the same
24 proceedings foreclose on any security which it may hold for the pay-
25 ment of said license fees, and may in the same proceedings entertain
26 suit on any bond which it may hold as security for the payment of
27 said fees.

28 "The treasurer may give notice of the amount of motor vehicle
29 fuel license fees and penalty due as ascertained by him by registered
30 mail to all persons having in their possession or under their control
31 any credits or other personal property belonging to such distributor
32 or other person or to any person owing any debts to such distributor
33 or other person. And thereafter such person so notified shall neither
34 transfer nor make any other disposition of such credit or other per-
35 sonal property or debts until thirty days shall have elapsed from and
36 after the receipt of such notice unless the Treasurer of State shall
37 have given his consent to a previous transfer or other disposition.
38 At the expiration of said thirty-day period said property shall be
39 released, unless in the meantime it shall have been attached by
40 process of Court or the holder thereof garnished. All persons so
41 notified, must, within five days after receipt of such notice, advise
42 the Treasurer of State, of any and all such credits or personal prop-
43 erty or debts in their possession or under their control, or owing by
44 them as the case may be.

45 "The amount of license fees imposed by this chapter, including
46 interest and penalty and costs that may accrue, shall be a lien in
47 favor of the state upon all franchises, property and rights to prop-
48 erty, whether real or personal, then belonging to or thereafter ac-
49 quired by the person liable for the payment of such license fees from
50 the date such taxes are due and payable as provided in this chapter
51 and remaining until the amount of the lien is paid or the property
52 sold in payment thereof. Such lien shall have priority over any lien
53 or encumbrance whatsoever except the lien of other state taxes hav-
54 ing priority by law, and except that such lien shall not have priority
55 over any bona fide mortgagee, pledgee, attaching creditor or pur-
56 chaser whose right shall have attached prior to the time the treas-
57 urer shall have filed his certificate in the office of the Clerk of the
58 Court as provided in this section.

1 SEC. 15 "5093.14. Permits to sell fuel oil tax free. Every
2 person desiring to engage in business as a fuel oil dealer shall apply
3 to the treasurer for a fuel oil dealer's permit, which permit shall be
4 in a form prescribed by the treasurer and shall entitle the holder
5 thereof to purchase fuel oil tax free from a distributor or a fuel oil
6 distributor in this state by issuing to the seller a certificate of pur-
7 chase therefor. But no such permit shall be issued until the applicant
8 therefor files with the treasurer a verified application on forms pre-
9 pared and furnished by the treasurer, stating the purpose for which
10 the permit is desired, the use the holder desires to make of it and
11 the nature of the business in which the applicant is engaged. In said
12 application the applicant must also agree not to use said fuel oils
13 either alone or in combination with other substances as fuel for motor

14 vehicles or sell any of said products for such use or to sell said prod-
15 ucts for resale and report to the treasurer of State promptly any sales
16 which may have been made where the amounts involved or the cir-
17 cumstances are such as to arouse suspicion that said products have
18 been purchased for use as fuel for motor vehicles either alone or in
19 combination with other substances. Said application must have en-
20 dorsed thereon the affidavit of a freeholder of the state as to the good
21 moral character of the applicant, if an individual or a group of in-
22 dividuals, and the officers of the corporation if a corporation. The
23 treasurer, if convinced by the showing made in the application or
24 from any investigation he desires to make that the applicant is of
25 good moral character and is actually engaged, or about to engage,
26 in business as a fuel oil dealer, shall issue a permit as herein provided.
27 The holder of a fuel oil permit may purchase fuel oil tax free only
28 from distributors or fuel oil distributors within this state and shall
29 sell tax free only for the purpose or use otherwise than as fuel for
30 motor vehicles.

31 "Every holder of such fuel oil permit shall keep a record of all
32 purchases and receipts of fuel oil and of all sales and deliveries there-
33 of, which record is to be kept in the manner and form prescribed by
34 the treasurer or approved by the treasurer or his representative and
35 which record is to be at all reasonable times open to the inspection of
36 the treasurer or his representatives.

37 "Every person desiring to engage in business as a liquefied gas
38 retailer shall make under oath, an application for license therefor to
39 the treasurer on forms prescribed by him, and in which the applicant
40 shall agree not to sell liquefied gas either alone or in combination
41 with other substances as motor vehicle fuel or sell same for resale
42 and report to the treasurer promptly any sales when the amounts or
43 circumstances are such as to arouse suspicion that liquefied gas has
44 been purchased for use as motor vehicle fuel. The treasurer, if con-
45 vinced by the showing made in the application or from any investi-
46 gation he may make that the applicant is of good moral character
47 and is actually engaged or about to engage in business as a liquefied
48 gas retailer, shall issue a permit without fee. Every holder of a per-
49 mit as liquefied gas retailer shall keep a record of receipts and sales
50 of liquefied gas sales on forms prescribed by the treasurer, and shall
51 preserve said records for a period of three years which records shall
52 be open to the inspection of the treasurer, or his agents and em-
53 ployees.

54 "Liquefied gas dealers and liquefied gas retailers shall purchase
55 liquefied gas only from distributors licensed under this chapter to
56 distribute liquefied gas. Sales by distributors to liquefied gas dealers
57 shall be made with the amount of the tax added; sales to liquefied
58 gas retailers shall be made tax free."

1 . SEC. 16 "5093.15 Fuel oil distributors. Every person desir-
2 ing to engage in business as a fuel oil distributor, except those who
3 already hold a distributor's license, shall apply to the treasurer for a
4 fuel oil distributor's license on forms to be prescribed and furnished
5 by the treasurer. The treasurer shall, if satisfied that the applicant
6 desires to honestly and in good faith engage in distributing fuel oil,
7 issue to such applicant a fuel oil distributor's license in a form pre-

8 scribed by the treasurer. The holder of a fuel oil distributor's license
9 may receive fuel oil from outside the state or manufacture or com-
10 pound fuel oil within the state either for sale or use, and may sell
11 for non-taxable resale or non-taxable use, and shall obtain a certifi-
12 cate of purchase covering each sale to fuel oil dealers.

13 "Each fuel oil distributor shall keep his fuel oil purchase certifi-
14 cates for a period of three years, and shall keep a record on such
15 form as the treasurer shall prescribe or approve of all purchases and
16 sales of fuel oil, and said purchase certificates and record shall at all
17 reasonable times be open to the inspection of the treasurer or his
18 representatives.

19 "A fee of one dollar (\$1.00) shall be collected by the treasurer for
20 each fuel oil distributor's license."

1 **SEC. 17. "5093.16. Revocation of fuel oil permits.** Any fuel
2 oil permit or fuel oil distributor's license issued under the provisions
3 of this chapter may be revoked by the treasurer upon five days' notice
4 to the holder to show cause why it should not be revoked, when the
5 treasurer is convinced from any information available to him that
6 the holder thereof has violated the undertaking in his application or
7 has issued or knowingly received any false certificates of purchase
8 and is knowingly either directly or indirectly, a party to the use of
9 the fuel oil received by him as fuel for motor vehicles, or has violated
10 any of the provisions of this chapter."

1 **SEC. 18. "5093.17. Treasurer may issue specifications.** The
2 treasurer is hereby authorized in regulations promulgated and pub-
3 lished by him to fix tests and specifications by end points and flash
4 points or otherwise for products which may be sold as fuel oil, and
5 to change and modify such tests and specifications from time to time
6 as conditions may in his judgment require."

1 **SEC. 19. "5093.18. Motor vehicle transport licenses.** Every
2 person desiring to operate any conveyance for the purpose of hauling,
3 transporting or delivering motor vehicle fuel in bulk, shall, before
4 entering upon the public highways of this state with such convey-
5 ance, apply for the registration thereof with the treasurer on such
6 forms as he shall provide and the treasurer, if satisfied that such ap-
7 plicant is of good moral character and desires to honestly engage in
8 the lawful and legitimate transportation of motor vehicle fuels on
9 the public highways, shall upon the payment by said applicant of a
10 motor vehicle fuel transport license fee in the sum of one dollar for
11 each conveyance, assign a license number to such person and shall
12 issue separate license cards for each conveyance to be operated over
13 the highways of this state. Said card shall show the license number
14 assigned, the motor number, if any, of the conveyance, and such other
15 information as the treasurer may prescribe and shall be conspicuously
16 displayed on the conveyance at all times during its operation on the
17 public highways of this state. The treasurer shall also furnish to the
18 licensee duplicate license plates for such conveyance so operated,
19 containing the number assigned to the licensee and the words 'Iowa
20 Motor Vehicle Fuel Transport License' or any abbreviation thereof
21 authorized by the treasurer. The authorized number plates shall be
22 attached conspicuously on the front and rear of such conveyance and

23 in such manner that they can be plainly seen and read at all times.
24 It shall be the duty of each holder of the motor vehicle fuel transport
25 license to secure from the treasurer under such conditions as the
26 treasurer may require, new number plates to replace any such plates
27 which may have been damaged to such an extent that the figures
28 thereon cannot be plainly read. The treasurer shall charge and
29 collect from each licensee a sum of one dollar for each set of two
30 license plates and seventy-five cents for each single plate assigned
31 as replacement of the damaged plate. Nothing contained in this section
32 shall be construed as relieving the owner or operator of such
33 conveyance from complying with any and all other provisions of the
34 existing law, including the law with reference to motor vehicles and
35 trucks.

36 "Each person operating such a conveyance must carry a manifest
37 record in permanent form to be designed and prescribed by the treasurer
38 of State, in which he shall enter under a separate number the
39 following information as to each cargo of motor vehicle fuel moved
40 in said conveyance, the date and place of loading, the date and place
41 of unloading, the person from whom the motor vehicle fuel was received
42 and the person to whom delivered, the nature and kind of
43 product, and the amount thereof and such other information as the
44 treasurer may in the forms prescribed by him, require. Said record
45 shall be kept for a period of three years, provided, however, that the
46 record of the manifest of past cargoes need not be carried on the
47 conveyance but must be preserved for the inspection of the treasurer
48 or his representatives at all reasonable times.

49 "All such persons must have and possess during the entire time
50 they are hauling or transporting motor vehicle fuel upon the highways
51 of this state an invoice, bill of sale, or other statement showing
52 the true name and address of the seller or consignor, the name of the
53 purchaser or consignee, or if said motor vehicle has not been sold, a
54 statement of the consignor of the purpose for which said motor
55 vehicle fuel is to be used and the number of gallons, and shall, at the
56 request of any sheriff, deputy sheriff, constable or any other representative
57 of the treasurer or other person authorized by law to inquire into or
58 investigate said matters, produce and offer for inspection said invoice,
59 bill of sale or other statement and shall permit such officer to inspect
60 and measure the contents of the vehicle. If any such person fails to
61 produce said invoice, bill of sale or other statement or if, when produced,
62 it fails to disclose the aforesaid information, then the said officer or
63 other person authorized to make said inquiry shall take and impound the
64 motor vehicle fuel together with the conveying equipment until the license
65 fees on said motor vehicle fuel together with penalty amounting to one
66 hundred per cent of said license fees have been paid. In case the license
67 fees, and penalty are not paid within forty-eight hours after taking of
68 said property, the treasurer may proceed to sell the same in the mode
69 and manner provided by law for the sale of personal property by the
70 sheriff under execution.

71 "Where a distributor desires to license more than one conveyance
72 he may apply for the licensing of all such conveyances in one application
73 on forms prescribed by the treasurer. But separate licenses shall
74 be issued for each conveyance.
75

76 "Every vehicle or conveyance using liquefied gas as a fuel for the
77 purpose of propelling said vehicle or conveyance shall be equipped
78 with a liquefied gas fuel tank separate from and in no way connected
79 with any cargo tank on any such vehicle or conveyance, or on any
80 truck, trailer or semi-trailer, and it shall be unlawful for any vehicle
81 or conveyance, while in operation, to use liquefied gas as a fuel from
82 cargo or transport tanks, trailers, or semi-trailer containers connected
83 with said vehicle or conveyance; a violation of this provision shall
84 be a misdemeanor on the part of either the operator or the owner,
85 and punishable by a fine of not more than two hundred dollars
86 (\$200.00) or imprisonment in the county jail for not more than
87 thirty (30) days."

1 SEC. 20. "5093.19. **Penalty for operating transport without**
2 **license.** It shall be unlawful for any person to operate a conveyance
3 transporting motor vehicle fuel in bulk upon the highways of this
4 state without the transport license provided by section 5093.18 and
5 any person found guilty of such unlawful act shall be fined not to
6 exceed one hundred dollars or imprisoned in the county jail not more
7 than thirty days, and each cargo transported shall be considered a
8 separate offense. The penalty herein provided shall be in addition to
9 any penalties which may have been suffered under the provisions of
10 section 5093.18.

11 "Persons transporting for their own use not to exceed one hundred
12 sixty-five (165) gallons in barrels or drums, shall not be regarded as
13 transporting in bulk."

1 SEC. 21. "5093.20 **Service station license.** Every person des-
2 siring to operate a service station in this state shall apply to the
3 treasurer for a service station license on such forms as the treasurer
4 may prescribe and the treasurer shall, if satisfied that the applicant
5 will faithfully comply with all the provisions of the law with reference
6 to motor vehicle fuels, issue to such person a service station license.
7 No person shall operate a service station in this state without such
8 license and shall keep said license conspicuously posted at such service
9 station and such license must be obtained for each service station
10 operated. Each license issued by the treasurer shall be assigned a
11 number.

12 "Each service station shall keep a record on forms prescribed by
13 the Treasurer of State of all motor vehicle fuel received at said service
14 station and the kind and character of the product, that is whether
15 distillate, kerosene, gasolene, etc., and the amount thereof and the
16 date of receipt and shall keep a record of the sales of all motor vehicle
17 fuel, provided, however, that the record of sales through the regular
18 pumps through which motor vehicle fuel is conveyed to the fuel
19 tanks of motor vehicles need not be shown in detail but the total of
20 such sales for each kind of motor vehicle fuel must be shown by days,
21 and a detailed record must be kept of sales made in any other manner
22 than through said pumps.

23 "Each service station shall keep such additional records as the
24 treasurer shall require and in such form as the treasurer shall pre-
25 scribe, and shall make and transmit to the treasurer whenever the
26 treasurer shall so demand a report reflecting the contents of such
27 records or any part thereof.

28 "Where one person operates more than one service station, he
29 may apply for the licensing of all in one application on forms pre-
30 scribed and furnished by the treasurer. But separate licenses shall
31 be issued for each service station."

1 **SEC. 22. "5093.21. Revocation of service station license.** A
2 service station license may be revoked by the treasurer upon five
3 days' notice to the holder to show cause why the same should not be
4 revoked if the treasurer finds the holder thereof is not making the
5 records or reports required of him, or is attempting to engage in
6 business as a distributor without a license to conduct said business,
7 or is in any other way directly or indirectly evading the laws of the
8 State of Iowa with reference to motor vehicle fuel license fees or is
9 aiding or encouraging others in such evasion."

1 **SEC. 23. "5093.22. Penalty for operating service station with-**
2 **out license.** It shall be unlawful for any person to operate a service
3 station in this state without a service station license and any person
4 convicted of such violation of the law shall be fined not less than
5 twenty-five dollars nor more than one hundred dollars or imprisoned
6 in the county jail not less than thirty days. And each day such person
7 so operates without a license may be considered a separate offense."

1 **SEC. 24. "5093.23. Trust funds.** Every sale of motor vehicle
2 fuel in this state, except the sale of fuel oil for purposes other than
3 use in propelling vehicles on the highway, shall be presumed to in-
4 clude as a part of the purchase price the license fee due the State of
5 Iowa under the provisions of this chapter. And every distributor or
6 other person selling motor vehicle fuel in this state and collecting the
7 license fees thereon as a part of the purchase price, shall hold said
8 license fees in trust for the State of Iowa unless the license fees on
9 said motor vehicle fuel have been previously paid to the State of Iowa.
10 And any person so receiving said license fees in trust and failing to
11 remit them to the Treasurer of State on or before the 20th of the
12 following month shall be guilty of embezzlement and upon conviction
13 shall be subjected to the penalty provided by law for such offense."

1 **SEC. 25. "5093.24. Report by carriers.** Every railroad com-
2 pany, pipe line, water transportation company and every operator of
3 a truck or other conveyance transporting motor vehicle fuel and
4 every carrier transporting motor vehicle fuel in bulk to a point in
5 the State of Iowa from any point within or outside of the State of
6 Iowa shall, through its local agent or agents, if a railroad company,
7 or water transportation company or pipe line and through the opera-
8 tor of the conveyance, if operating upon the public highway, on or
9 before the 10th of each calendar month, forward to the Treasurer of
10 State a report on forms furnished by him, showing the name of the
11 railroad or other carrier, the date of unloading, the identification of
12 each tank car or other conveyance, the place where said motor fuel
13 was delivered, the character or kind of product, the name of the con-
14 signor, the name of the consignee and the number of gallons of motor
15 vehicle fuel thus transported and delivered during the preceding cal-
16 endar month.

17 "Any carrier or operator of a conveyance transporting motor ve-
18 hicle fuel on the highways who violates the provisions of this chapter

19 shall upon conviction be fined not less than one hundred dollars, nor
20 more than two thousand dollars or be imprisoned in the county jail
21 not less than thirty days nor more than six months."

1 SEC. 26. "5093.25. **Records open to inspection of treasurer.**
2 All books and records required to be kept under the provisions of
3 this chapter or which the treasurer is authorized to require under
4 the provisions of this chapter, whether by the distributor, a service
5 station operator, a motor vehicle transport license holder or a railroad
6 company or other carrier, shall at all times be open to the inspection
7 of the Treasurer of State or his duly authorized representatives, and
8 it shall be lawful for the Treasurer of State or his representatives or
9 agents, or employees, to enter upon the premises where the business
10 of any such person is conducted, or wherever said records may be
11 found for the purpose of examining the same or any other records
12 relating to the payment or the liability for payment of any motor
13 vehicle fuel license fees due the State of Iowa and remain as long
14 as necessary to complete said inspection and examination. It shall
15 be lawful also for said treasurer or his agents, employees, or repre-
16 sentatives, to examine all of the equipment used by any of said
17 persons in the transaction of such business and to enter upon the
18 premises of any such persons for that purpose and they may examine
19 the storage tanks, and the connections and the facilities for trans-
20 ferring motor vehicle fuel from one tank to another and the facilities
21 that exist, if any, for the mixing or blending of such fuels and may
22 measure the capacity and contents of all tanks or other receptacles
23 containing motor vehicle fuel or capable of containing motor vehicle
24 fuel on the premises of any such person or being used by any such
25 person."

1 SEC. 27. "5093.26. **Information confidential - penalty.** All in-
2 formation obtained by the treasurer or his representatives, agents or
3 employees from the examining of the records required to be kept
4 under the provisions of this chapter shall be treated as confidential
5 and shall not be divulged except to a representative of the State hav-
6 ing some responsibility in connection with the collection of motor ve-
7 hicle license fees, or in proceedings brought to determine or collect
8 motor vehicle fuel license fees, or other proceedings brought under
9 the provisions of this chapter; provided, however, that the treasurer
10 shall make available for public information on or before the last day
11 of the month following the month in which the tax is required to be
12 paid the names of the distributors and the amount of the tax paid by
13 each and the amount due, if any, from each of said distributors. The
14 Treasurer, upon request of officials entrusted with enforcement of
15 the motor vehicle fuel tax laws of any other state, may forward to
16 such officials any information which he may have relative to the
17 exportation of motor vehicle fuel and fuel oil from this state to such
18 other state, provided said officials of such other state furnish to the
19 treasurer like information.

20 "Any person violating the provisions of this section, and disclosing
21 the contents of any records or reports required to be kept or made
22 under the provisions of this chapter, except as hereinabove provided
23 shall upon conviction be fined not less than one hundred dollars nor

24 more than one thousand dollars or be confined in the county jail not
25 less than thirty days nor more than six months."

1 SEC. 28. "5093.27. **Rewards.** The Treasurer is hereby author-
2 ized to pay out of funds collected under this chapter to any person
3 other than a state officer or employee receiving a regular salary, who
4 brings to his attention any evasion of the license fees imposed by this
5 chapter, such sum as he may deem proper not exceeding twenty-five
6 per cent of the amount of the license fees due the State of Iowa under
7 this chapter and the payment of which has been evaded, but such
8 reward shall not be paid hereunder until the collection of the license
9 fees, the evasion of which has been reported, has been made or the
10 person convicted of such evasion."

1 SEC. 29. "5093.28. **Refund.** Any person who shall use any mo-
2 tor vehicle fuel for the purpose of operating or propelling stationary
3 gas engines, farm tractors, air-crafts or boats or for cleaning or dye-
4 ing purposes or for any other purpose except in motor vehicles oper-
5 ated or intended to be operated upon the public highways of the
6 State and who shall have paid the license fees for such motor vehicle
7 fuel imposed by this chapter, either directly to the Treasurer or in-
8 directly by having the same added to the price of such fuel, and who
9 shall have obtained a permit therefor as provided in this chapter,
10 shall be reimbursed and repaid the amount of such license fees so
11 paid, upon presenting to the treasurer a claim for refund, which
12 claim shall be in a form prescribed by the treasurer and shall be
13 verified* by the oath of the claimant and shall have attached thereto
14 the original invoice or invoices showing the purchase of the motor
15 vehicle fuel on which a refund is claimed, and shall state the name
16 of the person from whom the motor vehicle fuel was purchased, the
17 date of purchase, the total amount of such motor vehicle fuel, that
18 the purchase price thereof has been paid and that said price included
19 the motor vehicle fuel license fee payable to the State of Iowa under
20 the provisions of this act, that such fuel was used by the claimant
21 otherwise than in motor vehicles operated or intended to be operated
22 upon the public highways of this state, the manner in which said
23 motor vehicle fuel was used and the equipment in which used. Said
24 claim shall also show whether or not the claimant used fuel for motor
25 vehicles operated upon the public highway from the same tanks or
26 other receptacles from which the motor fuel on which a refund is
27 claimed was kept or withdrawn.

28 "No refund shall be made on claims for motor vehicle fuel pur-
29 chased more than three calendar months prior to the filing of the
30 claim for refund.

31 "If the gross receipts from or the use of any stationary engine,
32 tractor, boat, aircraft, or other type of power driven machinery con-
33 stituting with the engine one unit, are subject to the tax imposed by
34 division IV of chapter 329.3 and chapter 329.4, no refund for motor
35 vehicle fuel used in the operating or propelling such machinery shall
36 be made until the person claiming such refund has established to the
37 satisfaction of the treasurer that such tax for such machinery has
38 been paid.

*Note: In accordance with enrolled bill.

39 "The treasurer shall have the right in order to establish the validity
40 of any claim for refund of motor vehicle fuel license fees, to require
41 the claimant to furnish such additional proof of the validity of the
42 claim as the treasurer may determine and by himself or through
43 his representatives, employees or agents to examine the books and
44 records of the claimant for such purpose and the failure of the
45 claimant to furnish such books and/or records for examination, shall
46 constitute a waiver of all rights to the refund on account of the trans-
47 action questioned.

48 "When motor vehicle fuel is sold to a person who shall claim to be
49 entitled to a refund of the motor vehicle fuel license fees herein im-
50 posed, the seller of such motor vehicle fuel, shall make out separate
51 invoices for each purchase on forms which shall be approved by the
52 treasurer showing the name and address of the seller and the name
53 and address of the purchaser, the number of gallons of motor vehicle
54 fuel so sold, written in words and figures, and the nature and kind
55 of fuel so sold, and the date of purchase, and shall state that the
56 purchase price includes the motor vehicle fuel license fee payable to
57 the State of Iowa, such invoice shall be legibly written and shall not
58 be the basis of a refund, if any corrections or erasures appear on the
59 face thereof.

60 "No tax refund shall be paid to any person, firm, or corporation
61 on any motor vehicle fuel used in any construction or maintenance
62 work which is paid for from public funds, but this provision shall not
63 not be construed as requiring payment of the tax herein imposed
64 with respect to the sale or use of fuel oil so used unless the same is
65 used as a fuel to propel motor vehicles operated upon the public high-
66 ways for the purposes of transportation.

67 "The right of any person to a refund under this chapter shall not
68 be assignable and the application for a refund shall be made by the
69 same person who purchased the motor vehicle fuel as shown in the
70 invoice by the person selling the same and by no other person and
71 the proceeds or amount of such refund, as determined by the treas-
72 urer, shall be paid to the person whose name appears on the seller's
73 invoice and to no other person.

74 "A liquefied gas dealer shall be entitled to refund of the tax on all
75 sales made by him for purposes other than the purposes set out in
76 paragraph 4 of section 5093.02. Application for such refund shall be
77 made within two months of sale, under oath on forms prescribed by
78 the treasurer.

79 "Any person licensed under this chapter to sell liquefied gas who
80 uses liquefied gas for any of the purposes set out in paragraph 4 of
81 section 5093.02 shall keep a record of all liquefied gas so used by him
82 on records prescribed by the treasurer."

1 **SEC. 30. "5093.29. Permits for refunds.** All applicants claim-
2 ing a refund under the provisions of this chapter, except distributors
3 applying for refund on motor vehicle fuel destroyed by accident be-
4 fore the use or sale thereof, shall obtain a permit from the treasurer
5 by application therefor on such form as he shall prescribe, which
6 application therefor shall be made under oath and shall contain among
7 other things, the name, address and occupation of the applicant, and
8 the nature of the business and a sufficient description for identifica-

9 tion of the machines and/or equipment in which the motor fuel is to
10 be used, for which refund may be claimed under such permit. The
11 permit shall bear a permit number and all applications for refund
12 shall bear the number of the permit under which it is claimed. It is
13 the duty of the treasurer to keep a permanent record of all permits
14 issued and a cumulative record of the amount of refund claimed and
15 paid thereunder. Such permit shall be obtained before or at the time
16 that the first application for refund is made under the provisions of
17 this chapter."

1 SEC. 31. "5093.30. **Certain acts made unlawful.** It shall be un-
2 lawful-

3 1. For any seller to issue or any purchaser to receive and retain
4 incorrect or false invoice or sales ticket in connection with the pur-
5 chase or sale of motor vehicle fuel, or fuel oil.

6 2. For any claimant to make any false statement in a claim for
7 refund or to alter any invoices or sales tickets, whether said invoice
8 or sales ticket is to be used to support a claim for refund or not.

9 3. For any holder of a distributor's license, a service station li-
10 cense, a fuel oil license, or motor vehicle transport license to make
11 any false, incorrect or materially incomplete records or reports re-
12 quired to be kept or made under the provisions of this chapter, or to
13 refuse to report to the treasurer as required by this chapter, or to
14 refuse to offer his books and records to the treasurer or his repre-
15 sentatives for inspection on demand.

16 4. For any person to display or attempt to use any license issued
17 under this chapter after the same has been revoked.

18 5. For any person to receive in this state from outside the state
19 any motor vehicle fuel for sale or use in this state, without report-
20 ing the same to the treasurer and paying the motor vehicle fuel
21 license fees thereon before the 20th of the calendar month following
22 the calendar month in which it was received in this state.

23 6. For any person holding a fuel oil permit, to sell by virtue of
24 said permit any fuel oil for use either alone or in combination with
25 other substances as motor vehicle fuel, or to issue any invoices or
26 sales tickets which do not have endorsed thereon the statement in
27 substance 'motor vehicle fuel license fees not included'.

28 7. For any fuel oil dealer or permit holder to sell fuel oil for any
29 purpose except for use for purposes other than as fuel for motor
30 vehicles.

31 8. For any fuel oil distributor to receive in this state from out-
32 side the state any motor vehicle fuel, except those fuels which class-
33 ify as fuel oil under the provisions of this chapter, to sell fuel oils
34 except to the holders of fuel oil dealers' permits where a certificate of
35 purchase is obtained from the purchaser, but nothing herein con-
36 tained shall be construed to prevent a person being both a fuel oil
37 distributor and a fuel oil dealer.

38 9. For any person to engage in business as a fuel oil dealer or a
39 fuel oil distributor without the permit or license provided for in this
40 chapter.

41 10. For any distributor or person to change or alter the price
42 placard until the same shall have been posted for a period of twenty-
43 four hours except to meet a posted competitive price in that com-
44 munity.

45 11. For any person employed or engaged in the sale or distribu-
46 tion of motor vehicle fuel, either directly or indirectly, to prepare or
47 notarize, for or on behalf of purchasers of motor vehicle fuel, any ap-
48 plication for a permit for refunds, as provided in section 5093.29, or
49 for any claim for refund of motor fuel tax, as provided in section
50 5093.28.

51 12. For any person to use liquefied gas for any of the purposes
52 set out in paragraph 4 of section 5093.02 without paying the tax.

53 13. For any person to sell or use liquefied gas for any of the pur-
54 poses set out in paragraph 4 of section 5093.02 without collecting the
55 tax.

56 14. For any person other than the holder of a license as a dis-
57 tributor, liquefied gas distributor, liquefied gas dealer, or liquefied
58 gas retailer, to sell liquefied gas for any purpose.

59 "Any person found guilty of any of the foregoing illegal acts shall
60 be fined not less than one hundred dollars nor more than one thou-
61 sand dollars or shall be imprisoned in the county jail not less than
62 thirty days nor more than six months.

63 "Any person who makes a false affidavit, whenever an affidavit is
64 required by this chapter or required under any rule or regulation
65 made by the treasurer, or required or provided on any form prescribed
66 by the treasurer shall be punished by imprisonment in the peniten-
67 tiary for not more than one year, or by imprisonment in the county
68 jail for such term as the court may determine, not exceeding six
69 months, or by a fine of not more than two thousand (\$2,000.00) dol-
70 lars, or by such combination of either imprisonment and fine as the
71 court may determine."

1 SEC. 32. "5093.31. **Duties imposed on sheriffs, constables and**
2 **peace officers.** It is hereby made the duty of all sheriffs, deputy
3 sheriffs, constables and other peace officers to see that the provisions
4 of this chapter are not violated, and to respond to the call of the
5 treasurer to make investigations in their respective counties and re-
6 port to the treasurer or his representatives and said officers are
7 authorized to stop conveyances suspected of transporting motor
8 vehicle fuel on the highways, and to investigate the cargo for that
9 purpose and to seize and impound said cargo and conveyance where
10 it appears that said conveyance is being operated in violation of the
11 provisions of this chapter."

1 SEC. 33. "5093.32. **Treasurer to employ necessary help.** The
2 treasurer is hereby empowered to employ such inspectors, auditors
3 and other help as he may deem necessary for the effective enforce-
4 ment of this chapter, the number and compensation of such employees
5 to be fixed by the Executive Council.

6 "There is hereby appropriated out of the money received under
7 the provisions of this chapter sufficient funds to pay for help em-
8 ployed by the treasurer in enforcing the chapter and for making such
9 refunds and paying such rewards as are provided for herein, and to
10 pay the cost of postage, equipment, supplies and printing, used by
11 the department."

1 SEC. 34. "5093.33. **Other remedies available.** The special rem-
2 edies provided under the provisions of this chapter to enable the

3 state to collect motor vehicle fuel license fees shall not be construed
 4 as depriving the state of any other remedy it might have either at
 5 law or in equity independent of this chapter. And the state shall have
 6 the right to maintain an action at law for the collection of said license
 7 fees and in connection therewith shall be entitled to a writ of attach-
 8 ment without bond."

1 **SEC. 35. "5093.34. Distribution of proceeds.** The net proceeds
 2 of all license fees and penalties collected under the provisions of this
 3 chapter shall be distributed as follows:

4 "Four-ninths thereof shall be credited to the secondary road con-
 5 struction fund of the several counties of the state. The treasurer
 6 shall apportion said four-ninths portion among the counties of the
 7 state in the ratio that the area of each county bears to the total area
 8 of the state and shall on the first day of each month remit to the
 9 treasurer of each county the amount apportioned to the secondary
 10 road construction fund of the county.

11 "Three-ninths of said net proceeds shall be placed to the credit
 12 of the State Highway Commission and such amount thereof as may be
 13 required for said purpose shall be paid by the Highway Commission
 14 to the counties of the state each year to reimburse said counties for
 15 expenditures made by them for bridges, culverts, and rights-of-way*
 16 on primary roads under the direction of the Highway Commission
 17 and paid for out of county road fund or county bridge fund. Said pay-
 18 ments are to be made at the times and in the manner and under the
 19 circumstances prescribed by Section 4755-b5, Code of 1931. The
 20 amount of said three-ninths portion not required for such purpose,
 21 shall be credited to the primary road funds of the state.

22 "Two-ninths of said net proceeds shall be credited to the primary
 23 road fund of the state."

1 **SEC. 36. "5093.35. Rules, regulations and approval forms.** The
 2 treasurer is authorized and empowered to make such reasonable rules
 3 and regulations relating to the administration and enforcement of
 4 this chapter, as he may deem reasonable. Such rules and regulations
 5 shall be effective on 30 days after one publication in a daily news-
 6 paper published in the state of Iowa, certificate of publication to be
 7 filed in the office of the treasurer.

8 "Whenever in this chapter the treasurer is authorized to prescribe
 9 the form of record to be kept, he may in lieu thereof approve the
 10 form of record being kept, and shall so approve such form of record
 11 where it furnishes in reasonably accessible form the information
 12 which the treasurer desires, and substantially complies with the pre-
 13 scribed form."

1 **SEC. 37. "5093.36. Construction of chapter.** This chapter shall
 2 not be construed or applied as to interfere with interstate commerce,
 3 or to impose a license fee on any motor vehicle fuel before it comes to
 4 rest in this state."

1 **SEC. 38. "5093.37. Pending actions not affected by repeal.** All
 2 laws in conflict with this chapter are hereby repealed, and it is the
 3 intention herein to substitute the provisions of this act for Chapter

*Note: In accordance with enrolled bill.

4 251.3, Code, 1939, and any and all acts amendatory thereof. The re-
 5 peal effected by the adoption of this chapter shall not be construed
 6 as relieving any person whatsoever from the payment of any motor
 7 vehicle license fee penalty or interest due or owing to the State of
 8 Iowa under any law hereby repealed, or to affect or terminate any
 9 prosecutions or other proceedings pending under such laws or to
 10 prevent the commencement or prosecution of any proceedings, legal
 11 or equitable, civil or criminal, for a violation of any such laws or for
 12 the collection of any motor vehicle fuel license fees with interest and
 13 penalty or for the obtaining of any refund or the enforcement of any
 14 other right accruing under the law as it existed prior to the taking
 15 effect of this chapter."

1 SEC. 39. "5093.38. Every liquefied motor fuel user shall an-
 2 nually before January 1st register with the treasurer on forms pre-
 3 scribed and provided by him every automobile, truck, airplane, motor
 4 boat, tractor or other mechanical contrivance owned by him and
 5 equipped to use liquefied gas for the purpose of propelling same. Upon
 6 registration of same the treasurer shall issue a serially numbered
 7 certificate which shall be carried on the windshield, or if there is no
 8 windshield, in a prominent place in the compartment occupied by the
 9 operator. A failure to so register shall constitute a misdemeanor
 10 punishable by fine of not more than one hundred (\$100.00) dollars, or
 11 imprisonment in the county jail for not more than thirty (30) days."

1 SEC. 40. "5093.39. This chapter may be cited as and shall be
 2 known as the Iowa Motor Vehicle Fuel Tax Law."

Approved March 30th, 1943.

CHAPTER 166

MOTOR VEHICLE FUEL SPECIFICATIONS

S. F. 289

AN ACT to amend section five thousand ninety-five and two-hundredths (5095.02), code, 1939, relating to motor vehicle fuel specifications.

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

1 SECTION 1. Section five thousand ninety-five and two-hundredths
 2 (5095.02), Code, 1939, is amended by striking all of lines two (2),
 3 three (3), and four (4) of subsection four (4) of said section and by
 4 inserting in lieu thereof the words:
 5 "exceed twenty-five hundredths of one per cent."

Approved March 17th, 1943.