

## CHAPTER 1115

## INTERSTATE TRANSPORTATION OF FUEL

H. F. 2289

AN ACT transferring the responsibilities to administer the interstate fuel use tax law from the department of revenue to the state department of transportation.

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

Section 1. Section three hundred twenty-four point eleven (324.11), subsections one (1) and three (3), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred seven (107), section two (2), are amended to read as follows:

1. Any person operating as a common or contract carrier and any distributor who is also engaged in transportation within this state of motor fuel or special fuel for others, shall register with the state department of ~~revenue-or-or~~ ~~before-the-first-day-of-the-third-calendar-month-which-begins~~ ~~after-the-effective-date-of-this-division-and-currently~~ ~~thereafter~~ transportation as additional equipment is put to use, each vehicle used ~~in-aforesaid-transportation~~ to transport motor fuel or special fuel in this state, except railroad, water-vessel or pipe-line equipment. The registration shall be on forms furnished by and shall contain such information as may reasonably be required by the state department of revenue transportation. A fee of five dollars shall be paid to the state department of revenue transportation for original registration of each vehicle. The state department of revenue transportation shall furnish to the registrant for each vehicle registered suitable identification which shall be permanently attached to the vehicle and shall be available for inspection at all times. ~~Currently-as~~ When any ~~vehicle-is-retired-or~~ ~~its registered vehicle's~~ use for the transportation of motor fuel or special fuel for others is discontinued, the registrant shall notify the state department of ~~revenue-or-at-the~~ ~~direction-of-the-department-of-revenue~~ transportation and shall either surrender to the state department of revenue transportation or ~~destry~~, subject to the approval of the state department of transportation, transfer the vehicle identification issued under this section to another vehicle. ~~Annually-on~~ On or before the first day of July of each year,

each carrier as aforesaid shall file with the state department of revenue transportation a statement showing each registered vehicle then in use for transportation of motor fuel or special fuel for others.

3. The state department of revenue transportation shall have the power to refuse to register a vehicle owned or used by any person, either directly or indirectly, who has had a license revoked for cause which license was issued under the provisions of this chapter or any prior motor fuel tax law.

Sec. 2. Section three hundred twenty-four point fifty-one (324.51), Code 1977, is amended to read as follows:

324.51 PURPOSE. The purpose of this division is to provide an additional method of collecting fuel taxes from interstate motor vehicle operators commensurate with their operations on Iowa highways; and to permit the state department of revenue transportation to suspend this collection as to transportation entering Iowa from any other state where it appears that Iowa highway fuel tax revenue and interstate highway transportation moving out of Iowa will not be unduly prejudiced thereby.

Sec. 3. Section three hundred twenty-four point fifty-two (324.52), Code 1977 Supplement, is amended to read as follows:

324.52 FUELS IMPORTED IN SUPPLY TANKS OF MOTOR VEHICLES. No person shall bring into this state in the fuel supply tanks of a commercial motor vehicle, or any other container, regardless of whether or not the supply tanks are connected to the motor of the vehicle, any motor fuel or special fuel to be used in the operation of the vehicle in this state unless ~~he~~ that person has paid or made arrangements in advance with the state department of revenue transportation for payment of Iowa fuel taxes on the gallonage consumed in operating the vehicle in this state; except that this division shall not apply to a private passenger automobile.

Any person who is unable to display either of the permits provided in section 324.53 and brings into the state in the fuel supply tanks of a commercial motor vehicle more than thirty gallons of motor fuel or special fuel in violation of the provisions of the preceding paragraph is guilty of a simple misdemeanor.

Sec. 4. Section three hundred twenty-four point fifty-three (324.53), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred

seven (107), section four (4), is amended to read as follows:

324.53 PERMIT--BOND. The advance arrangements referred to in the preceding section shall include the procuring of a permanent interstate fuel permit or single trip interstate permit and may ~~in~~ at the discretion of the state department of revenue transportation include the posting of a suitable indemnity bond in a sum to be fixed by the state department of revenue transportation to assure the required reporting, tax payments and the keeping of required records.

Persons choosing not to make advance arrangements with the state department of revenue transportation by the procuring of a permit are not relieved of their responsibility to purchase motor fuel and special fuel commensurate with their use of the state's highway system. The state department of transportation may audit persons not holding a permit who are suspected of evading the fuel tax on commercial motor vehicles. Audits shall be conducted pursuant to section 324.55.

A permanent permit may be obtained upon application to the state department of revenue transportation. ~~The department of revenue shall charge a~~ A fee of five dollars shall be charged for each permit issued. The holder of a permanent permit ~~under this division~~ shall have the privilege of bringing into this state in the fuel supply tanks of commercial motor vehicles any amount of motor fuel or special fuel to be used in the operation of the vehicles and for that privilege shall pay Iowa motor fuel or special fuel taxes as provided in section 324.54. A single trip interstate permit as provided for in this section may be obtained from the ~~department of revenue or the~~ state department of transportation. A fee of twelve dollars shall be charged for each individual single trip interstate permit issued. A single trip interstate permit shall be subject to the following provisions and limitations:

1. The permit shall be issued and be valid for seventy-two consecutive hours, except in emergencies, or until the time of leaving the state, whichever first occurs.
2. The permit shall cover only one commercial motor vehicle and is not transferable.
3. Single trip interstate fuel permits may be made available from sources other than indicated in this section at the discretion of the ~~director of revenue~~ state department of transportation.

Each vehicle operated into or through Iowa in interstate operations using motor fuel or special fuel acquired in any other state shall carry in or on each the vehicle a duplicate or evidence of the permit required in this section. ~~A visible sign of a compliance with this section may at the discretion of the director of revenue be attached to the outside of a commercial motor vehicle.~~ A fee not to exceed fifty cents shall be charged ~~by the department of revenue~~ for each duplicate or other evidence of permit issued ~~by him~~.

Sec. 5. Section three hundred twenty-four point fifty-four (324.54), unnumbered paragraphs two (2) and four (4), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred seven (107), section one (1), are amended to read as follows:

Notwithstanding any provision of this chapter to the contrary, the ~~director~~, upon holder of a permanent permit may make application filed with to the state department of revenue transportation for a refund, not later than thirty days after the last day of the quarter in which the overpayment of Iowa fuel tax paid on excess purchases of motor fuel or special fuel was reported as provided in section 324.8, and which application is supported by such proof as the ~~director~~ state department of transportation may require. The state department of transportation shall ~~cause to be issued a warrant covering a~~ refund of Iowa fuel tax paid on motor fuel or special fuel purchased in excess of the amount consumed by such commercial motor vehicles in their operation on the highways of this state.

To determine the amount of fuel taxes due under this division and to prevent the evasion thereof, the ~~director~~ state department of transportation shall require a quarterly report on forms prescribed by the ~~director~~ state department of transportation. It shall be filed not later than the last day of the month following the quarter reported, and each quarter thereafter. These reports shall be required of all persons who have been issued a permit under this division and shall cover actual operation and fuel consumption in Iowa on the basis of the permit holder's average consumption of fuel in Iowa, determined by the total miles traveled and the total fuel purchased and consumed for highway use by the permittee's commercial motor vehicles in ~~his~~ the permittee's entire operation in all states to establish an overall miles per gallon ratio, which ratio shall be used to compute the gallons used for the miles traveled in Iowa.

Sec. 6. Section three hundred twenty-four point fifty-five (324.55), Code 1977, is amended to read as follows:

324.55 RECORDS. Every person operating within the purview of this division shall make and keep for a period of three years such records as may reasonably be required by the state department of revenue transportation for the administration of this division. If in the normal conduct of the business, the required records are maintained and kept at an office outside the state of Iowa, it shall be a sufficient compliance with this section if the records are made available for audit and examination by the state department of revenue transportation at the office outside Iowa, ~~but such audit and examination shall be without expense to the state of Iowa.~~

~~When, as a result of such audit and examination, fuel taxes unpaid and due are found owing the state of Iowa in an amount exceeding five hundred dollars such audit and expenses shall be without cost to the state of Iowa.~~ The state department of revenue transportation within a period of one year from the issuance of a permanent interstate fuel permit may audit the records of the permittee for the two years preceding the issuance of the permit. The state department of transportation shall collect all taxes due had the permittee been licensed for the two years prior to the issuance of the permit and shall refund ~~all excess credit that would have been paid any overpayment~~ pursuant to section 324.54. When, as a result of an audit, fuel taxes unpaid and due the state of Iowa exceed five hundred dollars, such audit shall be at the expense of the person whose records are being audited. However, if an audit of records maintained under this section is made outside the state of Iowa in a state which requires payment of the costs for similar audits performed by officials or employees of the other state when made in Iowa, then all costs of audits performed outside of Iowa in such other state shall be at the expense of the person whose records are audited.

Sec. 7. Section three hundred twenty-four point fifty-six (324.56), Code 1977, is amended to read as follows:

324.56 NOT APPLICABLE TO DISTRIBUTORS. The provisions of this division shall not be required of a distributor licensed under division I of this chapter who elects to report and pay tax on motor fuel as is set out in division I and on special fuel as is set out in division II of this chapter, provided that a distributor so electing shall also report to the state department of transportation and pay Iowa fuel

tax on motor fuel and special fuel purchased in another state which is used to propel a commercial motor vehicle owned or leased by the distributor on the highways of this state. Such distributor shall be allowed to enter this state with thirty gallons or more fuel in the supply tank of a commercial motor vehicle, but shall not be allowed any other provision of this division.

Sec. 8. Section three hundred twenty-four point fifty-seven (324.57), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred six (106), section three (3), is amended by adding the following new subsection:

NEW SUBSECTION. "Appropriate state agency" or "state agency" means the department of revenue or the state department of transportation, whichever is responsible for control, maintenance or supervision of the power, requirement or duty referred to in the provision. The department of revenue shall administer the provisions of divisions one (I) and two (II) of this chapter of the Code, and the state department of transportation shall administer the provisions of division three (III) of this chapter of the Code.

Sec. 9. Section three hundred twenty-four point sixty (324.60), Code 1977, is amended to read as follows:

324.60 FORMS OF REPORT, REFUND CLAIM AND RECORDS. The department of revenue or the state department of transportation shall prescribe and furnish all forms, as applicable, upon which reports and applications shall be made and claims for refund presented under this chapter and may prescribe forms of record to be kept by motor fuel distributors, motor fuel dealers, motor fuel carriers, special fuel dealers, special fuel users, and interstate commercial motor vehicle operators.

Whenever in this chapter the department of revenue or the state department of transportation is authorized to prescribe the form of record to be kept, the department appropriate state agency may in lieu thereof approve the form of record being kept, and shall approve the form of record where it furnishes in reasonably accessible form the information which ~~the department of revenue requires,~~ is required and which substantially complies with the prescribed form.

Sec. 10. Section three hundred twenty-four point sixty-one (324.61), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The department of revenue or the state department of transportation upon application may grant a reasonable extension of time for the filing of any required report or tax payment, or both.

Sec. 11. Section three hundred twenty-four point sixty-two (324.62), Code 1977, is amended to read as follows:

324.62 INSPECTION OF RECORDS. The department of revenue or the state department of transportation, whichever is applicable, is hereby given the authority within the time prescribed for keeping records (1) to examine, during the usual business hours of the day, the records, books, papers, receipts, invoices, storage tanks, and any other equipment of (a) any distributor, dealer, purchaser, or common, contract or other carrier, pertaining to motor fuel received, used, sold, delivered, or otherwise disposed of, or (b) of any special fuel dealer, special fuel user or person supplying special fuel to any dealer ~~therein~~ or user thereof of special fuel and (c) of any interstate operator of motor vehicles to verify the truth and accuracy of any statement, report or return, or to ascertain whether or not the taxes imposed by this chapter have been paid; (d) any person selling fuel oil that can be used for highway use; and (2) to examine the records, books, papers, receipts, and invoices of any distributor, special fuel dealer or special fuel user to determine financial responsibility for the payment of the taxes imposed by this chapter.

If any person within the purview of this section shall refuse access to pertinent records, books, papers, receipts, invoices, storage tanks or any other equipment, then the ~~said department-of-revenue~~ appropriate state agency shall certify the names and facts to any court of competent jurisdiction, and the said court shall enter such order in the premises as the enforcement of this chapter and justice shall require.

Sec. 12. Section three hundred twenty-four point sixty-three (324.63), Code 1977 Supplement, is amended to read as follows:

324.63 INFORMATION CONFIDENTIAL. All information obtained by the department of revenue or the state department of transportation from the examining of reports or records required to be filed or kept under the provisions of this chapter shall be treated as confidential and shall not be divulged except to other state officers, a member or members of the general assembly or any duly appointed committee of either or both houses thereof of the general assembly or to

a representative of the state having some responsibility in connection with the collection of the taxes imposed or in proceedings brought under the provisions of this chapter; provided, however, that the ~~department-of-revenue~~ appropriate state agency shall make available for public information on or before the last day of the month following the month in which the tax is required to be paid the names of the distributors and as to each of them the total gallons received in the state and separately, the received gallons (1) exported or sold for export, (2) sold tax-free in the state to entities that are exempt from the tax and (3) sold tax-free in the state to entities required to report and account for the tax thereon. The department of revenue shall also make available to the public information with respect to special fuel dealers and users and as to each of them the gallonage used and taxes paid. The department of revenue or the state department of transportation, upon request of officials entrusted with enforcement of the motor vehicle fuel tax laws of the federal government or any other state, may forward to such officials any pertinent information which the ~~department~~ appropriate state agency may have relative to motor fuel and special fuel provided the officials of the other state furnish ~~to-the-department-of-revenue~~ like information.

Any person violating the provisions of this section, and disclosing the contents of any records or reports required to be kept or made under the provisions of this chapter, except as hereinabove otherwise provided, shall be guilty of a simple misdemeanor.

Sec. 13. Section three hundred twenty-four point sixty-four (324.64), Code 1977, is amended to read as follows:

324.64 ~~DEPARTMENT-OF-REVENUE~~ THE APPROPRIATE STATE AGENCY MAY ESTIMATE TAXABLE GALLONAGE. If any person fails to make and file a report required ~~of-him~~ or files an incorrect report, the ~~department-of-revenue~~ appropriate state agency shall, after investigation, determine the gallonage with respect to which the person incurred liability for fuel taxes under this chapter in any month or months and fix the amount of taxes thereon. ~~If the-department-of-revenue-should-at-any time-receive-complaints-or-reports~~ a complaint or report is received from any source that a licensee or other person is suspected of evading fuel taxes imposed by this chapter or has failed to report all the gallonage the reporting of which



is required under this chapter, or is suspected of acting as a distributor or special fuel dealer or user without a license or of withholding payment of fuel taxes, the ~~department of-revenue~~ appropriate state agency, upon five days' notice to the person complained against of the nature of the complaint or report and of the time and place of a hearing ~~thereon~~ on the complaint, may proceed to hold the hearing and determine the amount of fuel taxes, if any, due from that person. ~~The department-of-revenue-may-adjourn-the~~ hearing may be adjourned from time to time until the completion ~~thereof~~ of the hearing. ~~The-department-may-use-any~~ Any information available may be used in determining the amount, if any, of fuel taxes for which the person is liable. Upon determining the amount ~~thereof-the-department~~ of liability there shall ~~add be added~~ the penalties and interest provided for in section 324.65 and make a copy of an assessment for the amount of the unpaid taxes, penalties and interest, shall ~~furnish-a-copy-thereof~~ be furnished to the person against whom the assessment is made and ~~his~~ the person's surety and the appropriate state agency shall certify the same for collection or other appropriate action by the proper public official. The findings ~~of-the-department-of-revenue~~ as to the amount of fuel taxes due from any person shall be presumed to be the correct amount and in any litigation which may follow, the certificate of the department of revenue or the state department of transportation, whichever is the appropriate state agency, shall be admitted in evidence, shall constitute a prima-facie case, shall impose upon the other party the burden of showing any error in the ~~department's~~ finding and the extent ~~thereof~~ of any error or that the finding was contrary to law.

Sec. 14. Section three hundred twenty-four point sixty-five (324.65), Code 1977, is amended to read as follows:

324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL TAXES. If a licensee or other person fails to file a required report with the ~~department-of-revenue~~ appropriate state agency on or before the due date, unless it is shown that such failure was due to reasonable cause there shall be added to the amount required to be shown as tax due on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which such failure continues, not exceeding twenty-five percent in the aggregate. If a licensee or other person fails to remit the tax due with

the filing of the return on or before the due date or fails to pay any amount of the tax required to be shown on the return, there shall be added to the tax a penalty of five percent of the amount of the tax due, unless it is shown that such failure was due to reasonable cause. The taxpayer shall also pay interest on the tax or additional tax at the rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. The ~~department of revenue~~ appropriate state agency shall not remit any part of a penalty for delinquent payment where the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn. Provided, further, that if it appears as a result of an investigation ~~by the department of revenue~~ or from a preponderance of the evidence adduced at a hearing ~~before the department of revenue~~ that there has been a deliberate attempt on the part of a licensee or other person to evade payment of fuel taxes there shall be added to the assessment against the offending person and collected a penalty of fifty percent of the tax due. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file shall be in lieu of the penalty for failure to pay the tax due or required on the return, except in the case of a deliberate attempt on the part of the licensee or other person to evade payment of fuel taxes. Any report required of licensees or persons operating under divisions I, II and III, upon which no tax may be due, shall be subject to a penalty of ten dollars if such report is not timely filed with the appropriate state agency.

Sec. 15. Section three hundred twenty-four point sixty-six (324.66), subsections two (2), three (3), five (5), six (6), and seven (7), Code 1977, are amended to read as follows:

2. The certificate of the department of revenue or the state department of transportation, whichever is applicable, assessing the amount of fuel taxes and penalty due from a licensee or other person, ascertained in accordance with the provisions of this chapter or from a report of the person may be filed in the office of the clerk of the district court in the county in which the place of business of the licensee or other person is located. The clerk of the district court upon receipt of the certificate shall, without requiring

payment of any fee, file and index the same in manner now provided for judgments. The department-of-revenue appropriate state agency may in like manner, file a duplicate of the certificate in any other county where it shall be indexed in a like manner. The claim of the state of Iowa as shown by the certificate or duplicate so filed shall be a lien on the real estate of the person named therein in the certificate as owing fuel taxes and located in the county where the certificate or duplicate is recorded, for the amount shown by the certificate to be due including penalty and interest from the date of filing to the same extent as a mortgage lien.

3. The department-of-revenue appropriate state agency may give notice of the amount of fuel taxes and penalty due as-ascertained-by-the-department by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to a licensee or other person or to any person owing any debts to the licensee or other person. Thereafter the person notified shall neither transfer nor make any other disposition of credit or other personal property or debts until thirty days shall have elapsed from and after the receipt of the notice unless the department-of-revenue notifying state agency shall consent to a previous transfer or other disposition. At the expiration of the thirty-day period, the property shall be released, unless in the meantime it shall have been attached by process of court or the holder thereof of the property garnished. All persons so notified, must, within five days after receipt of the notice, advise the department-of-revenue notifying state agency of any and all credits or personal property or debts in their possession or under their control belonging or owed to the licensee or other person from whom the fuel taxes are due.

5. No sheriff, receiver, assignee, master or other officer shall sell the property or franchises of any licensee without first filing with the department of revenue, which shall forward notice to the state department of transportation, a statement containing the following information: Name or names of the plaintiff or party at whose instance or upon whose account the sale is made; name of the person whose property or franchise is to be sold; the time and place of sale; and the nature of the property and the location of the same. It shall be the duty of the department-of-revenue appropriate state agency, after receiving notice as-aforsaid,

to furnish to the sheriff, receiver, trustee, assignee, master or other officer, having charge of the sale, a certified copy or copies of all assessments for fuel taxes, penalties, and interest on file in the department-of-revenue state agency as liens against such person, and in the event there are no such liens a certificate showing that fact, which certified copy or copies of certificate shall be publicly read by such officer at and immediately before the sale of the property or franchise of such person.

6. It shall be the duty of the department of revenue or the state department of transportation to furnish to any person applying therefor a certificate showing the amount of all liens for fuel taxes, penalties, and interest that may be of record in the files of the department-of-revenue state agency against any person under the provisions of this chapter.

7. It shall be the duty of the department-of-revenue appropriate state agency, upon receipt of notice of the opening of the administration of an estate of any individual who was a licensee, to file a claim as a preferred creditor for all fuel taxes, penalties and interest due the state of Iowa, if any, in the court having jurisdiction over the administration of said estate.

Sec. 16. Section three hundred twenty-four point sixty-seven (324.67), subsections one (1), two (2), and four (4), Code 1977, are amended to read as follows:

1. It shall be unlawful for any distributor to sell or offer for sale motor fuel or for any special fuel dealer or user to dispense or offer to dispense special fuel into a fuel supply tank of a motor vehicle, while in default of or delinquent in the payment of the whole or any part of fuel taxes imposed under this chapter, and in the event of the failure or refusal to pay the whole of any of these taxes after assessment and notice ~~thereof~~ by the department-of-revenue appropriate state agency, the delinquent fuel taxes, together with penalties and interest provided for shall be recovered by and in the name of the state of Iowa and the attorney general of the state of Iowa or the county attorney of any county in which the distributor, dealer or user resides or is engaged in business is hereby authorized and directed to institute suit therefor for taxes, penalties and interest in any court of competent jurisdiction against the distributor or special fuel dealer or user or his the person's surety or sureties, if any, or both.

2. A fuel tax lien filed in the office of the clerk of the district court of any county may be foreclosed in the same manner as real estate mortgage liens are foreclosed, and the court in the proceedings shall enter judgment against the licensee or other person for the amount found by the court to be due to the state, with interest and the penalty as assessed by the ~~department-of-revenue~~ appropriate state agency, and may in the same proceedings foreclose on any security ~~which-the-department-of-revenue-may-hold~~ held for the payment of the fuel taxes, and may in the same proceedings entertain suit on any bond filed as security for the payment of the fuel taxes.

4. No action or other proceeding shall be maintained to enforce collection of any amount of fuel tax, penalty, or interest over and above the amount shown to be due by reports filed by a licensee except upon an assessment by the ~~department of-revenue~~ appropriate state agency as authorized in this chapter or unless brought within one year after the date of the assessment. No assessment shall be made covering any period beyond three years prior to the date of assessment.

Sec. 17. Section three hundred twenty-four point sixty-eight (324.68), Code 1977, is amended to read as follows:

324.68 POWER OF DEPARTMENT OF REVENUE OR THE STATE DEPARTMENT OF TRANSPORTATION TO CANCEL LICENSES. If a licensee shall at any time file a false monthly report of the data or information required by this chapter, or shall fail, refuse, or neglect to file a monthly report required by this chapter, or to pay the full amount of fuel tax as required by this chapter, then after ten days' written notice by registered mail directed to the last known address of the licensee setting a time and place at which ~~he~~ the person may appear and show cause why ~~his~~ the licensee's license should not be canceled, and if the licensee fails to appear or if upon the hearing it is shown by a preponderance of the evidence that the failure to correctly report or pay was with intent to evade the tax, the ~~department-of-revenue~~ appropriate state agency may cancel the license and shall notify the licensee of the cancellation by registered mail to ~~his~~ the licensee's last known address.

If a licensee shall at any time abuse the privileges for which the license was issued, fail to produce records reasonably requested ~~by-the-department-of-revenue,~~ or fail to extend reasonable co-operation to the ~~department~~ appropriate state agency, the licensee shall be advised in writing of

a hearing scheduled to determine if said license shall be canceled. The department appropriate state agency upon the presentation of a preponderance of evidence shall be allowed to cancel a license for cause.

Upon receipt of written request from any licensee the department-of-revenue appropriate state agency shall cancel the license of the licensee effective sixty days from the date of receipt of the request but no such license shall be canceled upon request unless and until the licensee shall, prior to the date of cancellation, have paid to the department of-revenue appropriate state agency all fuel taxes payable under this chapter, together with any and all penalties, interest and fines appertaining thereto. If, upon investigation, the department-of-revenue-shall-find appropriate state agency finds that a licensee is no longer engaged in the activities for which a license was issued ~~to him~~ and has not been so engaged for a period of six months, the department-of-revenue state agency shall cancel the license and give sixty days' notice of the cancellation mailed to the last known address of the licensee.

Sec. 18. Section three hundred twenty-four point sixty-nine (324.69), Code 1977, is amended to read as follows:

324.69 HEARINGS BEFORE DEPARTMENT OF REVENUE OR THE STATE DEPARTMENT OF TRANSPORTATION. Hearings before ~~the department of-revenue~~ a state agency authorized under the provisions of this chapter may be held at ~~the seat of government in Des Moines or elsewhere~~ a site in the state as the department of-revenue state agency may direct. The department-of-revenue state agency shall have the power to issue subpoenas including subpoenas duces tecum and to require the attendance of witnesses and the production of books, records and papers. In the event any person shall refuse to obey subpoena, or after appearing refuses to testify, the department-of-revenue state agency shall certify the name of the person to the district court of the county where the hearing is being held and the court shall proceed with the witness in the same manner as if the refusal had occurred in open court.

Sec. 19. Section three hundred twenty-four point seventy (324.70), Code 1977, is amended to read as follows:

324.70 DISCONTINUANCE OF LICENSED ACTIVITY--LIABILITY FOR TAXES AND PENALTIES. If a licensee ceases to engage in the state in activities for which ~~his~~ the person's license was issued or discontinues, sells, or transfers the business

in which he the person has carried on that activity he the licensee shall notify the department of revenue, which shall forward notice to the state department of transportation, in writing at least ten days prior to the time the cessation, discontinuance, sale or transfer takes effect. The notice shall give the date of proposed cessation or discontinuance, and, in the event of a proposed sale or transfer of the business, the date ~~thereof~~ and the name and address of the purchaser or transferee ~~thereof~~. All fuel taxes, penalties and interest under this chapter not yet due and payable shall, together with any and all interest accruing or penalties imposed under this chapter, ~~notwithstanding any provisions thereof~~ shall become due and payable concurrently with the cessation, discontinuances, sale or transfer, and ~~thereupon~~ it shall be the duty of the licensee to make a report and pay all the fuel taxes, interest, and penalties within ten days.

Sec. 20. Section three hundred twenty-four point seventy-one (324.71), Code 1977, is amended to read as follows:

324.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS. Any Except as provided in section three hundred twenty-four point fifty-four (324.54) of the Code, any person other than a distributor who has paid or has had charged to his the person's account with a distributor, dealer or special fuel dealer fuel taxes imposed under this chapter with respect to motor fuel or special fuel in excess of one hundred gallons, which is subsequently lost or destroyed, while ~~he shall be the person is the owner thereof,~~ through leakage, fire, explosion, lightning, flood, storm, or other casualty, except evaporation, shrinkage, or unknown causes, the person shall be entitled to a refund of the tax so paid or charged. To qualify for the refund, he the person shall notify the department of revenue in writing of the loss or destruction and the gallonage lost or destroyed within ten days from the date of discovery of the loss or destruction. Within sixty days after filing the notice, he the person shall file with the department of revenue an affidavit sworn to by the person having immediate custody of the motor fuel or special fuel at the time of the loss or destruction setting forth in full the circumstances and amount of the loss or destruction and such other information ~~with respect thereto~~ as the department of revenue may require.

Sec. 21. Section three hundred twenty-four point seventy-

four (324.74), subsection two (2), Code 1977, is amended to read as follows:

2. For any person to knowingly make any false, incorrect or materially incomplete record required to be kept or made under the provisions of this chapter, to refuse to offer his required books and records to the department of revenue or the state department of transportation for inspection on demand or to refuse to permit the department of revenue or the state department of transportation to examine his the person's motor fuel or special fuel storage tanks and handling or dispensing equipment.

Sec. 22. Section three hundred twenty-four point seventy-five (324.75), Code 1977 Supplement, is amended to read as follows:

324.75 PENALTY FOR FALSE CERTIFICATE. Any person who makes a false certificate, false fuel invoice, false fuel receipt, or false fuel sales ticket in any report, return, application, claim, or evidence required or provided for by this chapter or under any rule or regulation ~~made-by-the department-of-revenue~~ shall be guilty of a fraudulent practice.

Sec. 23. Section three hundred twenty-four point seventy-six (324.76), unnumbered paragraphs one (1) and two (2), Code 1977, are amended to read as follows:

Authority is ~~hereby~~ given to the department of revenue to enforce the provisions of this chapter except division three (III) of the Code, and sections 324.14 and 324.52. Employees of the department of revenue designated as enforcement ~~officers~~ employees shall have the power of peace officers in the performance of such duties.

Authority to enforce division three (III) of the Code, and sections 324.14 and 324.52, is given to the state department of transportation. Employees of the department of transportation designated enforcement ~~officers~~ employees shall have the power of peace officers in the performance of their duties; however, they shall not be considered members of the Iowa highway safety patrol. The department of transportation shall furnish enforcement ~~officers~~ employees with necessary equipment and supplies in the same manner as provided in section 80.18, including uniforms which are distinguishable in color and design from those of the Iowa highway safety patrol. Enforcement ~~officers~~ employees shall be furnished and shall conspicuously display badges of authority.

Sec. 24. Section three hundred twenty-four point seventy-



seven (324.77), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

All fees, taxes, interest and penalties imposed under this chapter must be paid to the department of revenue ~~in the form of remittances payable to the treasurer of state, and the department of revenue~~ or the state department of transportation, whichever is responsible for the collection. The appropriate state agency shall transmit each payment daily to the treasurer of state. Such payments shall be deposited by the treasurer of state in a fund, hereby created, within the state treasury which shall be known as the "motor fuel tax fund," the net proceeds of which fund, after deductions by lawful transfers and refunds, shall be known as the "motor vehicle fuel tax fund". The department of revenue and the state department of transportation shall certify monthly to the state comptroller amounts of refunds of tax approved ~~or determined by the department~~ during each month, and the state comptroller shall draw warrants in such amounts on the motor fuel tax fund and transmit them. There is hereby appropriated out of the money received under the provisions of this chapter and deposited in the motor fuel tax fund sufficient funds to pay such refunds as may be authorized in this chapter.

Sec. 25. Section three hundred twenty-four point eighty (324.80), Code 1977, is amended to read as follows:

324.80 MICROFILM OR PHOTOGRAPHIC COPIES--ORIGINALS DESTROYED. The ~~department of revenue~~ appropriate state agency shall have the power and authority to record, copy or reproduce by any photographic, photostatic, microfilm, microcard, miniature photographic or other process which accurately reproduces or forms a durable medium for so reproducing the original of any forms or records pertaining to motor fuel tax or special fuel tax, or any paper or document with respect to refund of such tax, and when such forms and records shall have been so reproduced, the ~~department of revenue~~ state agency shall have the power to destroy the originals and such reproductions shall be competent evidence in any court in accordance with the provisions of section 622.30.

Sec. 26.

1. All rules, forms, orders and directives promulgated by and in effect for the department of revenue on the effective date of this Act shall continue in full force and effect as rules, forms, orders and directives of the state department of transportation until amended or supplemented by affirmative action of the state department of transportation.

The state department of transportation shall promulgate rules to implement the provisions of this Act prior to June 30, 1979.

2. Any employee of the department of revenue whose duty assignments will be terminated because of this Act may be reassigned to other duties or may be transferred to the state department of transportation. The Iowa merit employment commission shall arbitrate and decide any written appeal made by any employee concerning any transfer, reassignment or reclassification made necessary by this Act.

3. The department of revenue and the state department of transportation shall begin to transfer the responsibilities, as provided in this Act, on July 1, 1978. The transfer of responsibilities shall be completed by June 30, 1979. The department of revenue and the state department of transportation are granted the discretion to transfer funds for salaries and support of those personnel functions transferred by this Act.

Sec. 27. The provisions of this Act shall become effective July 1, 1978 to provide for the transfer of duties prior to June 30, 1979.

Approved May 16, 1978

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CHAPTER 1116  
RAILROAD SPUR TRACKS  
H. F. 2283

AN ACT relating to railroad spur tracks.

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

Section 1. Section three hundred twenty-seven G point sixty-one (327G.61), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. 3. "Spur track" means a railroad track located wholly within the state connected to a main or branch line of a railroad and used to originate or terminate traffic at one or more industries or a railroad track not subject to the jurisdiction of the interstate commerce commission. A spur track shall not include a railroad line used to provide line-haul or intercity transportation.

Sec. 2. Section three hundred twenty-seven G point sixty-