

CHAPTER 1112
MOTOR FUEL AND SPECIAL FUEL
H. F. 2587

AN ACT relating to the administration of the motor fuel and special fuel tax laws.

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

Section 1. Section three hundred twenty-four point three (324.3), unnumbered paragraph three (3), Code 1979, is amended by striking the unnumbered paragraph.

Sec. 2. Section three hundred twenty-four point eleven (324.11), subsection one (1), Code 1979, is 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 transportation as additional equipment is put to use, each vehicle used 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 transportation. A fee of five dollars shall be paid to the state department of transportation for original registration of each vehicle. The state department of 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. When any 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 transportation and shall either surrender to the state department of transportation or, subject to the approval of the state department of transportation, transfer the vehicle identification issued under this section to another vehicle. On or before the first day of July of each year, each carrier as aforesaid shall file with the state department of transportation a statement showing each registered vehicle then in use for transportation of motor fuel or special fuel for others. Failure to file the required statement by the specified date shall be cause for cancellation of a vehicle's registration. A registration so cancelled may be reinstated in the same manner as an original registration.

Sec. 3. Section three hundred twenty-four point thirty-six (324.36), subsections one (1) and two (2), Code 1979, as amended by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter seventy-five (75), section ten (10), are amended to read as follows:

1. REQUIRED. It ~~shall--be~~ is unlawful for any a person to act as a special fuel dealer in this state unless the person holds a special fuel dealer's license issued to the person by the department of revenue, except as

provided in section three (3) of this Act. A person who holds a special fuel distributor's license may dispense special fuel into a motor vehicle special fuel holding tank without obtaining a special fuel dealer's license. Except for special fuel which is delivered by a special fuel dealer into a fuel supply tank of any a motor vehicle or into a motor vehicle special fuel holding tank in this state or delivered by a special fuel distributor into a motor vehicle special fuel holding tank, the use, ~~(as herein defined),~~ of special fuel in this state by any a person ~~shall-be~~ is unlawful unless the person holds a special fuel user's license issued to the person by the department of revenue. It ~~shall--be~~ is unlawful for any a person to sell special fuel in this state in bulk for highway use without first obtaining a special fuel ~~distributor~~ distributor's license. The license shall be issued under the same procedure and subject to the same requirements and limitations as provided in section 324.4.

2. APPLICATION. Application for a special fuel dealer's license or a special fuel user's license shall be made to the department of revenue. A special fuel dealer's license or a special fuel user's license, whichever is applicable, shall be required for each separate place of business or location where special fuels are regularly delivered or placed into the fuel supply tank of a motor vehicle. Provided, that, if a special fuel dealer also operates one or more bulk plants from which the distribution of a special fuel is primarily by tank vehicle, the special fuel dealer need not obtain a separate license for any of these plants not provided with fixed equipment designed for fueling vehicles. Upon written application and at the discretion of the director, a special fuel user whose business operations require mobile special fuel storage may obtain a single special fuel user's license to be issued to the user's permanent principal place of business.

Sec. 4. Section three hundred twenty-four point thirty-eight (324.38), subsection five (5), Code 1979, as amended by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter seventy-five (75), section twelve (12), is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. Special fuel delivered by a special fuel distributor into the fuel supply tank of a motor vehicle which is stranded, provided the delivery is limited to twenty gallons and the distributor collects and remits the tax to the department.

Sec. 5. Section three hundred twenty-four point fifty-four (324.54), unnumbered paragraph two (2), Code 1979, is amended to read as follows:

Notwithstanding any provision of this chapter to the contrary, the holder of a permanent permit may make application to the state department of transportation for a refund, not later than ~~thirty-days-after~~ the month following 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 state department of transportation may require. The state department of transportation shall refund 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.

Sec. 6. Section three hundred twenty-four point fifty-seven (324.57), subsection three (3), Code 1979, is amended to read as follows:

3. "Mobile machinery and equipment" ~~shall mean and include~~ means vehicles self-propelled by an internal combustion engine but not designed or used primarily for the transportation of persons or property on public highways and only incidentally operated or moved over a highway ~~such as including but not limited to~~ including but not limited to corn shellers, truck-mounted feed grinders, roller mills, ditch digging apparatus, power shovels, drag lines, earth moving equipment and machinery, and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers and earth moving scrapers. ~~The foregoing enumeration shall not operate to exclude other vehicles which are within the general terms of this definition.~~ However, "mobile machinery and equipment" shall does not however include dump trucks or self-propelled vehicles originally designed for the transportation of persons or property on public highways and to which machinery, such as truck-mounted transit mixers, cranes, shovels, welders, air compressors, well-boring apparatus or lime spreaders, has been attached. ~~Mobile machinery or equipment originally designed as motor vehicles which are owned by the counties and cities of Iowa shall not be exempt from payment of fuel taxes on fuel used when operating on the public highways.~~

Sec. 7. Section three hundred twenty-four point seventy-two (324.72), Code 1979, as amended by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter seventy-six (76), section three (3), is amended to read as follows:

324.72 REFUND OR CREDIT FOR FUEL TAXES ERRONEOUSLY OR ILLEGALLY COLLECTED OR PAID. If any fuel taxes, penalties, or interest have been erroneously or illegally collected by the appropriate state agency from a licensee, the ~~department of revenue~~ appropriate state agency may permit the licensee to take credit against a subsequent tax return for the amount of the erroneous or illegal overpayment, may apply the overpayment against any tax liability outstanding on the books of the department against the claimant, or shall certify the amount ~~thereof~~ to the state comptroller of this state, who shall ~~thereupon~~ draw ~~his or her~~ a warrant for the certified amount on the treasurer of state payable to the licensee. The refund shall be paid to the licensee ~~forthwith~~ immediately.

No A refund or credit shall not be made under the provisions of this section unless a written claim therefor setting forth the circumstances by reason of for which the refund or credit should be allowed, nor unless the claim is filed with the department of revenue appropriate state agency within one year from the date of the payment of the taxes erroneously or illegally collected or paid.

However, if it is found during an examination by the appropriate state agency that a licensee paid, as a result of a mistake, an amount of tax, penalty, or interest which was not due, and the mistake is found within three years of the overpayment, the appropriate state agency shall credit the

amount against any penalty, interest or taxes due, or to become due, or shall refund the amount to the person.

Approved May 19, 1980

CHAPTER 1113

TAX PENALTIES

S. F. 2327

AN ACT to provide or increase the penalty for failure to file or pay the state motor vehicle fuel, freight line and equipment car mileage, income, franchise, sales and use, or inheritance and estate taxes or local hotel and motel tax.

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

Section 1. Section three hundred twenty-four point sixty-five (324.65), Code 1979, 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 appropriate state agency on or before the due date, unless it is shown that such the 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 the 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, unless it is shown that the failure was due to reasonable cause, 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 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 the failure continues, not exceeding twenty-five percent in the aggregate. 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 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~~ However, if it appears as a result of an investigation or from a preponderance of the evidence adduced at a hearing 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