

February 20, 1957  
Passed on File.

*Withdrawn*  
**Senate File 311**  
By SCHROEDER, RINGGENBERG,  
HOXIE, ANDERSON, WALKER.

Passed Senate, Date..... Passed House, Date.....  
Vote: Ayes..... Nays..... Vote: Ayes..... Nays.....  
Approved.....

*Hf 24 substituted  
4-12*

## A BILL FOR

An Act to amend, revise, codify, substitute for and supplement Chapter three hundred twenty-four (324), Code 1954, as amended, to impose an excise tax on motor fuel and special fuel used to propel highway motor vehicles; to provide certain exemptions, refunds, and credits; to provide for the administration and enforcement of this act and the disposition of the proceeds thereof.

*Senate*

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

1 Section 1. Chapter three hundred twenty-four (324),  
2 Code 1954, as amended by the laws of the Fifty-sixth General  
3 Assembly (56th G. A.) is hereby repealed and the following  
4 is substituted in lieu thereof:

### MOTOR VEHICLE FUEL TAX LAW

#### DIVISION I

#### MOTOR FUEL TAX

5  
6  
7  
8 324.1 Short Title.

9 This division, plus applicable provisions of Division IV  
10 of this chapter and any amendments to either shall be known  
11 and may be cited as the Motor Fuel Tax Law, and as so  
12 constituted is hereinafter referred to as this division.

13 324.2 Definitions—As Employed in this Division:

14 1 "Motor Fuel" shall mean (a) all products commonly  
15 or commercially known or sold as gasoline (including  
16 casinghead and absorption or natural gasoline) regardless  
17 of their classifications or uses; and (b) any liquid advertised,

18 offered for sale, sold for use as, or commonly or commercially  
19 used as a fuel for propelling motor vehicles, which when  
20 subjected to distillation of gasoline, naphtha, kerosene  
21 and similar petroleum products (American Society of Testing  
22 Materials Designation D-86), show not less than ten per  
23 centum distilled (recovered) below three hundred forty-seven  
24 degrees Fahrenheit (one hundred seventy-five degrees  
25 Centigrade) and not less than ninety-five per centum distilled  
26 (recovered) below four hundred sixty-four degrees Fahrenheit  
27 (two hundred forty degrees Centigrade), provided, that the  
28 term "motor fuel" shall not include liquefied gases which  
29 would not exist as liquids at a temperature of sixty degrees  
30 Fahrenheit and a pressure of 147 pounds per square inch  
31 absolute, nor naphthas and solvents as hereinafter defined  
32 unless the liquefied gases or naphthas and solvents are  
33 used as a component in the manufacture, compounding, or  
34 blending of a liquid within (b) above, in which event the  
35 resulting product shall be deemed to be motor fuel.

36 2. "Distributor" shall mean and include any person  
37 who first receives motor fuel within this state (within  
38 the meaning of the word "received" as hereinafter defined),  
39 and any person now or hereafter engaged in the business  
40 of selling motor fuel to a dealer in this state for resale,  
41 provided that a person may bring into this state not to  
42 exceed 20 gallons of motor fuel in the fuel supply tank  
43 directly connected to the motor of a motor vehicle  
44 without becoming a distributor.

45 3. "Licensee" shall mean and include any person  
46 holding an uncanceled distributor's license issued by

47 the treasurer under this Division or any prior motor fuel  
48 tax law.

49 4. "Dealer" shall mean and include any person  
50 (except distributors as herein defined) now or hereafter  
51 engaged in the business of selling motor fuel in this  
52 state.

53 5. "Motor Fuel Deemed Received." (a) Motor fuel  
54 refined at a refinery in this state and placed in tanks  
55 thereat, and motor fuel transferred from a refinery or  
56 a marine or pipe line terminal in this state or from points  
57 outside this state to a refinery or a marine or pipe line  
58 terminal in this state and placed in tanks thereat, shall  
59 be deemed received, for the purposes of this Division,  
60 at the time withdrawn from such refinery or terminal  
61 storage for sale or use in this state or for transportation  
62 to destinations in this state other than refineries or  
63 marine or pipe line terminals and not before.

64 When withdrawn from refinery or terminal storage as  
65 aforesaid, the motor fuel shall be deemed received by the  
66 person who was the owner thereof immediately prior to  
67 withdrawal, unless (a) the motor fuel is withdrawn for  
68 shipment or delivery to a licensee, in which case the motor  
69 fuel shall be deemed received by the licensee to whom  
70 shipped or delivered or (b) the motor fuel is withdrawn  
71 for shipment or delivery to a non-licensee for the account  
72 of a licensee in which case the motor fuel shall be deemed  
73 received by the licensee for whose account the shipment or  
74 delivery to the non-licensee is made.

75 (b) Motor fuel imported into this state, other than

76 that placed in storage <sup>/</sup>as refineries or terminals as set  
77 out in subparagraph (a) above, shall be deemed received  
78 at the time unloaded in this state and by the person who  
79 is the owner thereof immediately after it is unloaded in  
80 this state, except that if motor fuel so imported is used  
81 in this state directly from the transportation equipment  
82 by which imported then the motor fuel shall be deemed received  
83 at the time it is brought into this state and by the person  
84 using the motor fuel within this state; provided, however,  
85 that if motor fuel shipped or brought into this state by  
86 a licensee is sold and delivered directly to a non-licensee  
87 in this state, then the gallonage so delivered shall be  
88 deemed received by the licensee shipping or bringing the  
89 motor fuel into this state.

90 (c) Motor fuel produced, compounded, or blended in  
91 this state other than at a refinery, marine or pipe line  
92 terminal, shall be deemed to be received at the time and  
93 by the person who is the owner thereof when the same is  
94 so produced, compounded or blended.

95 (d) Motor fuel acquired in this state by any person,  
96 other than as set out in subparagraphs (a), (b), or (c)  
97 above, shall, unless the person from whom the same is  
98 acquired has paid or incurred liability with respect thereto  
99 for the tax herein imposed, or unless the same be exempt  
100 under this division, be deemed to be received by the person  
101 so acquiring the same at the time so acquired.

102 Except as hereinbefore set forth, the word "received"  
103 shall be given its usual and customary meaning.

104 6. "Naphthas and solvents" shall mean and include

105 those liquids which come within the distillations  
106 specifications for motor fuel set out under (b) of  
107 paragraph 1 of this section, but which are designed and  
108 sold for exclusive use other than as a fuel for propelling  
109 motor vehicles.

110 324.3 Levy of Excise Tax—Exemption—Credits

111 For the privilege of operating motor vehicles in this  
112 state an excise tax of four cents a gallon is hereby imposed  
113 upon the use of all motor fuel used for any purpose except  
114 as otherwise provided in this division. The tax shall be  
115 paid in the first instance by the distributor upon the  
116 invoiced gallonage of all motor fuel received by him in  
117 this state, within the meaning of the word "received" as  
118 defined in this Division, less the deductions hereinafter  
119 authorized. Thereafter, except as otherwise provided,  
120 the per gallon amount of such tax shall be added to the  
121 selling price of each and every gallon of such motor fuel  
122 sold in this state and collected from the purchaser to the  
123 end that the ultimate consumer shall bear the burden of  
124 such tax; provided, however, that no tax shall be imposed  
125 or collected under this division with respect to the following:

126 1. Motor fuel sold for export or exported from this  
127 state to any other state, territory, or foreign country.

128 2. Motor fuel sold to the United States or any agency  
129 or instrumentality thereof.

130 3. Motor fuel sold to any post exchange or other  
131 concessionaire on any federal reservation within this  
132 state; but the tax on motor fuel so sold, to the extent  
133 permitted by federal law, shall be collected by the

134 post exchange or concessionaire, reported and paid the  
135 treasurer

136 4. Motor fuel sold to the state of Iowa or any of  
137 its agencies, but this exemption shall not apply to  
138 political sub-divisions of this state

139 5. The excise tax of four cents per gallon provided  
140 for in this section shall be increased to six cents per  
141 (111) gallon for the biennium beginning July 1, 1857, and  
142 ending June 30, 1959.

143 324.4 Distributor's License. Application for Contents.

144 It shall be unlawful for any person to receive motor  
145 fuel within this state or to otherwise act as a distributor  
146 unless he holds an uncancelled distributor's license issued  
147 by the treasurer. To procure a license a distributor shall  
148 file with the treasurer an application signed under penalty  
149 for false certificate and in such form as the treasurer  
150 may prescribe, setting forth:

151 1. The name under which the distributor will transact  
152 business in the state of Iowa.

153 2. The location, with street number address, of the  
154 principal office or place of business of the distributor  
155 within this state.

156 3. The name and complete residence address of the  
157 owner or the names and addresses of the partners, if the  
158 distributor is a partnership, or the names and addresses  
159 of the principal officers, if the distributor is a corporation  
160 or association.

161 Concurrently with the filing of an application for  
162 a license, every distributor shall file with the treasurer

163 a bond of the character and in the amount provided for  
164 in this division. No license shall be issued unless  
165 application is accompanied by the bond, nor, if the  
166 applicant is a foreign corporation, unless it is at  
167 the time properly qualified under the laws of this state  
168 to do business therein.

169 If (a) any application for a license to transact  
170 business as a distributor in this state shall be filed  
171 by any person whose license shall have been cancelled  
172 for cause at any time theretofore under the provisions  
173 of the chapter or any prior motor fuel tax law, or

174 (b) the treasurer shall be of the opinion that such  
175 application is not filed in good faith, or

176 (c) the application is filed by some person as a  
177 subterfuge for the real person in interest whose license  
178 or registration shall theretofore have been cancelled  
179 for cause under the provisions of this chapter or any  
180 prior fuel tax law, the treasurer, after a hearing  
181 of which the applicant shall have been given fifteen days'  
182 notice in writing and in which said applicant shall have  
183 the right to appear in person or by counsel and present  
184 testimony, shall have and is hereby given the right and  
185 authority to refuse to issue to the applicant a distributor's  
186 license.

187 Upon the filing of the application, a filing fee of  
188 ten dollars shall be paid to the treasurer.

189 The application in proper form having been accepted  
190 for filing, the filing fee paid, the bond having been accepted  
191 and approved and the other conditions and requirements of

192 this section having been complied with, the treasurer shall  
193 issue to the applicant a license to transact business as  
194 a distributor in this state. The license shall remain in  
195 full force and effect until cancelled as provided in this  
196 chapter.

197 The license shall not be assignable, and shall be valid  
198 only for the distributor in whose name issued, and shall be  
199 displayed conspicuously in the principal place of business  
200 of the distributor in this state.

201 The treasurer shall keep and file all applications  
202 and bonds with an alphabetical index thereof, together  
203 with a record of all licensees. The treasurer shall furnish  
204 a complete list of licensees to each licensee annually on  
205 or before the fifteenth day of August of each year showing  
206 all licensees as of July first preceding, and shall also  
207 furnish to each licensee monthly supplements showing changes.

208 324.5 Permissive Licensing as Distributors of Bulk Storers.

209 For Use or Bulk Distribution.

210 Any person other than a distributor as hereinabove  
211 defined having bulk storage in this state for rail tank car  
212 or 4,000 gallon or more transport loads of motor fuel for  
213 use or for distribution in bulk by tank truck or tank car,  
214 or both, may, subject to and upon compliance with the provisions  
215 or Section 324.4, also be licensed as a distributor and  
216 thereupon for all purposes of this division shall be deemed  
217 to be the distributor with respect to any motor fuel  
218 "received" by him while the license remains in effect.

219 324.6 Continuance of Existing Distributor License.

220 Motor fuel distributor licenses issued under any

221 prior motor fuel tax law and in good standing as of the  
222 effective date of this division shall be continued in  
223 effect until cancelled as hereinafter provided.

224 324.7 Security Required of Licensed Distributor.

225 1. Every distributor shall file with the treasurer  
226 a bond:

227 (a) in an amount to be determined by the treasurer  
228 not less than two thousand dollars nor more than fifty  
229 thousand dollars on a form to be approved by the treasurer;

230 (b) with a surety company approved by the treasurer  
231 as surety thereon;

232 (c) upon which the distributor shall be the principal  
233 obligor and the state of Iowa shall be the obligee; and

234 (d) conditioned upon the prompt filing of true  
235 reports and the payment by the distributor to the treasurer  
236 of any and all motor fuel excise taxes which are nor or  
237 which hereafter may be levied or imposed by the state of  
238 Iowa, together with any and all penalties and or interest  
239 thereon, and generally upon faithful compliance with the  
240 provisions of this division.

241 2. The treasurer shall contact annually for surety  
242 bonds to be filed by distributors. A distributor may furnish  
243 other surety satisfactory to the treasurer in equal form  
244 and amount. The premiums on the surety bonds contracted  
245 for by the treasurer shall be paid from the funds appropriated  
246 by Section 324.80.

247 3. In the event that liability upon the bond thus  
248 filed by a distributor shall be discharged or reduced,  
249 whether by judgment rendered, payment made or otherwise,

250 or if in the opinion of the treasurer any surety on the  
251 bond theretofore given shall have the distributor to file  
252 a new bond meeting the requirements in sub-section 1.

253 If the new bond is not filed within 10 days after demand,  
254 therefor, the treasurer shall forthwith cancel the license  
255 of the distributor. If a new bond shall be furnished by  
256 the distributor as above provided, the treasurer shall  
257 release in writing the surety under the old bond from any  
258 liability accruing after the effective date of the new bond.

259 4. In the event that upon hearing, of which the  
260 distributor shall be given five days' notice in writing,  
261 the treasurer shall decide that the amount of the existing  
262 bond is insufficient to insure payment to the state of  
263 Iowa of the amount of the tax and any penalties and interest  
264 for which the distributor is or may at any time become liable,  
265 then the distributor shall forthwith, upon the written demand  
266 of the treasurer, file a new bond meeting the requirements  
267 in sub-section 1 and in such amount, not to exceed in total  
268 fifty thousand dollars, as is determined by the treasurer  
269 to be necessary to secure at all times the required reports  
270 and payments. If the new bond is not filed within ten  
271 days after demand therefor, the treasurer shall forthwith  
272 cancel the license of the distributor.

273 5. Any surety on bond furnished by distributor shall  
274 be released and discharged from any and all liability to  
275 the state of Iowa accruing on the bond after the expiration  
276 of sixty days from the date upon which such surety shall  
277 have lodged with the treasurer written request to be  
278 released and discharged; provided, however, that the

279 request shall not operate to relieve, release or discharge  
280 the surety from any liability already accrued, or which  
281 shall accrue, before the expiration of the sixty day period.  
282 The treasurer shall promptly on receipt of notice of the  
283 request notify the distributor who furnished the bond, and  
284 unless the distributor shall on or before expiration of the  
285 sixty day period file with the treasurer a new bond with a  
286 surety company satisfactory to the treasurer in the amount  
287 and form hereinbefore in this section provided, the  
288 treasurer shall forthwith cancel the license of said  
289 distributor.

290 6. In lieu of a surety bond in excess of the minimum  
291 amount the treasurer may accept a financial statement of  
292 the distributor showing ability to make any and all payments  
293 that may be due from the distributor under this division.

294 324.8 Tax Reports. Computation and Payment of Tax. Credits.

295 For the purpose of determining the amount of his liability  
296 for the tax herein imposed, each distributor shall, not  
297 later than the last day of the month next following the  
298 month in which this division becomes effective and not later  
299 than the last day of each calendar month thereafter, file  
300 with the treasurer a monthly report, signed under penalty  
301 for false certificate, which shall include the following:

302 1. A statement of the number of invoiced gallons  
303 of motor fuel received (within the meaning of the term  
304 "received" as defined in this division) by the distributor  
305 within this state during the next preceding calendar month  
306 in such detail as is prescribed by the treasurer and as  
307 may be necessary for the proper administration of this

308 division.

309 2 A statement showing the deductions authorized  
310 in this division in such detail and with such supporting  
311 evidence as is prescribed by the treasurer and as may  
312 be for proper administration of this division.

313 At the time of filing each monthly report, each  
314 distributor shall pay to the treasurer the full amount  
315 of the motor fuel tax due from the distributor for the  
316 next preceding calendar month computed as follows:

317 1. From the total number of invoiced gallons of  
318 motor fuel "received" by the distributor within the state  
319 during the next preceding calendar month shall be made  
320 the following deductions:

321 First, the gallonage of motor fuel received and  
322 thereafter sold within the exemptions provided for in  
323 Section 324.3; and

324 second, the number of gallons of motor fuel equal  
325 to three per centum of the net number of invoiced gallons  
326 of motor fuel received by the distributor within this state  
327 during the next preceding calendar month, this percentage  
328 being a flat allowance to cover evaporation, shrinkage, and  
329 losses, other than those provided for in Section 324.3,  
330 and the distributor's expenses and losses in collection,  
331 accounting for, and paying over the motor fuel tax.

332 2. The number of invoiced gallons remaining after  
333 the deductions hereinabove set forth shall be multiplied  
334 by the per gallon motor fuel tax rate and resulting figure  
335 shall be the amount of motor fuel tax in dollars and cents  
336 due from the distributor for the next preceding calendar

337 month. Any outstanding credit memoranda issued by the  
338 treasurer to the distributor may be applied against the  
339 amount due.

340 324.9 Report from Persons not Licensed as Distributors.

341 Every person other than a licensed distributor, who  
342 shall purchase, bring into this state or otherwise acquire  
343 within this state motor fuel, not otherwise exempted, with  
344 respect to which such person has knowingly not paid or  
345 incurred liability to pay either to a licensee or to a  
346 dealer the motor fuel tax shall be subject with respect  
347 to the motor fuel to all the provisions of this division  
348 that apply to distributors on motor fuel received by them  
349 in this state and shall make the same reports and tax payments  
350 thereon and be subject to the same penalties for delinquent  
351 or non-reporting or delinquent or non-payment as apply to  
352 distributors.

353 324.10. Required Distributor and Dealer Records.

354 Each motor fuel distributor shall maintain and keep  
355 for a period of three years, such records of all transactions  
356 by which he receives, uses, sells, delivers or otherwise  
357 disposes of motor fuel within this state, together with  
358 invoices, bills of lading and other pertinent records and  
359 papers as may reasonably be required by the treasurer for  
360 the administration of this division.

361 If in the normal conduct of a distributor's business  
362 his records are maintained and kept at an office outside  
363 the state of Iowa, it shall be a sufficient compliance  
364 with this section if the records are made available for  
365 audit and examination by the treasurer at the office outside

366 Iowa.

367 Each dealer handling motor fuel in this state shall  
368 maintain and keep for a period of two years records of all  
369 motor fuel purchased or otherwise acquired by him, together  
370 with delivery tickets, invoices, and bills of lading, and  
371 such other pertinent records as the treasurer shall require.

372 The treasurer, after an audit and examination of the  
373 records of a distributor or dealer may authorize their  
374 disposal, the authorization to be in writing after request  
375 by the distributor or dealer.

376 324.11 Registration of Carrier Transportation Equipment—

377 Identification of all Highway Transportation Equipment.

378 1. Any person operating as a common or contract carrier  
379 and any distributor who is also engaged in transportation  
380 within this state of motor fuel for others, shall register  
381 with the treasurer on or before the first day of the 3rd  
382 calendar month which begins after the effective date of  
383 this division and currently thereafter as additional  
384 equipment is put to use, each vehicle used in aforesaid  
385 transportation in this state, except railroad, water vessel  
386 or pipe line equipment. The registration shall be on forms  
387 furnished by and shall contain such information as may  
388 reasonably be required by the treasurer. A fee of one dollar  
389 shall be paid to the treasurer for original registration  
390 of each vehicle. The treasurer shall furnish to the  
391 registrant for each vehicle registered suitable identification  
392 which shall be permanently attached to the vehicle and shall  
393 be available for inspection at all times. Currently as any  
394 vehicle is retired or its use for the transportation of motor

395 fuel for others is discontinued, the registrant shall notify  
396 the treasurer or at the direction of the treasurer shall  
397 either surrender to the treasurer or destroy the vehicle  
398 identification issued under this section. Annually on or  
399 before the first day of July of each year, each carrier  
400 as aforesaid shall file with the treasurer a statement  
401 showing each vehicle then in use for transportation of  
402 motor fuel for others and thereupon the treasurer shall  
403 issue to the registrant at a fee of twenty-five cents a  
404 renewal identification for each vehicle for the ensuing year.

405 2. Each vehicle used by a carrier, distributor or  
406 any person in the transportation on the highways in this  
407 state of fuels for motor vehicles shall be identified by  
408 having shown thereon, in lettering at least six inches in  
409 height made with a stroke of not less than three-fourths  
410 inch in width and of a color contrasting to that of the  
411 background upon which the lettering is placed, the name  
412 and address of the person transporting the fuel. The  
413 identification shall be placed on both sides of the vehicle,  
414 provided, that, transportation equipment operated by a  
415 licensee shall be identified with his distributor's license  
416 number in which case the trade or produce name or insignia  
417 generally used in identifying the highway transportation  
418 equipment of the licensee and well known and recognized  
419 throughout the area in which the transportation equipment  
420 is operated, may be shown in lieu of the name and address  
421 of the licensee.

422 3. The treasurer shall have the power to refuse to  
423 register a vehicle owned or used by any person, either

421 directly or indirectly, who has had a license revoked for  
425 cause which license was issued under the provisions of  
426 this chapter or any prior motor fuel tax law.

427 324.12 Loading and Delivery Evidence on Transportation  
428 Equipment.

429 1. There shall be carried on every vehicle, while  
430 in use in transportation service requiring that it be  
431 registered under the preceding section, a serially numbered  
432 manifest in form satisfactory to the treasurer on which shall  
433 be entered the following information as to the cargo of  
434 motor fuel being moved in the vehicle; the date and place  
435 of loading, the place to be unloaded, the person from whom  
436 it is to be delivered, the nature and kind of product, and  
437 the amount thereof and such other information as is called  
438 for in the forms prescribed or approved by the treasurer.

439 The manifest covering each load transported upon consumation  
440 of the delivery shall be completed showing the date and place  
441 of actual delivery and the person to whom actually delivered  
442 and shall be kept as a permanent record for a period of three  
443 years, provided, however, that the record of the manifest of  
444 past cargoes need not be carried on the conveyance but must  
445 be preserved by the carrier for the inspection of the treasurer  
446 or his representatives.

447 2. Every distributor or other person while  
448 transporting motor fuel from a refinery or marine or pipe  
449 line terminal in this state or from a point outside this  
450 state via the highways of this state in service other than  
451 that covered in paragraph 1 of this section shall carry  
452 in the vehicle a loading invoice showing the true name

453 and address of the seller or consignor, the date and place  
454 of loading and the kind and quantity of motor fuel loaded,  
455 together with invoices showing the kind and quantity  
456 of each delivery therefrom, and the name and address of  
457 each purchaser or consignee.

458 324.13 Evidence Produced Upon Request.

459 The operator of any vehicle transporting motor fuel  
460 as covered in the preceding section shall, at the request  
461 of any sheriff, deputy sheriff or other peace officer or  
462 person authorized by law to inquire into or investigate  
463 said matters, produce and offer for inspection the manifest  
464 or loading and delivery invoices pertaining to the load  
465 and trip in question and shall permit the officer to inspect  
466 and measure the contents of the vehicle. If the vehicle  
467 operator fails to produce the covering evidence or if, when  
468 produced, it fails to contain the required information and  
469 if it appears that there is an attempt to evade payment  
470 of the motor fuel tax, then the officer or other person  
471 authorized to make the inquiry may take and impound the  
472 motor fuel together with the conveying vehicle until the  
473 tax on the motor fuel together with penalty, if an attempt  
474 to evade payment of the motor fuel is involved, amounting  
475 to one hundred per cent of the tax have been paid. In  
476 case the tax and penalty found to be due are not paid  
477 within forty-eight hours after the taking of the property,  
478 the treasurer may proceed to sell the vehicle and its cargo  
479 in the manner provided by law for the sale of personal property  
480 by the sheriff under execution.

481 324.14 Penalty for Operating Unregistered Transport.

482 It shall be unlawful for any person to transport motor  
483 fuel in bulk upon the highways of this state in a conveyance  
484 the registration of which is required without the evidence  
485 of registration provided for and any person found guilty of  
486 the unlawful act shall be fined not to exceed one hundred  
487 dollars or imprisoned in the county jail not more than  
488 thirty days, and each cargo so transported shall be considered  
489 a separate offense. This penalty shall be in addition to  
490 penalties imposed under other provisions of this chapter.

491 324.15 Transportation Reports—Refinery and Pipe Line and  
492 Marine Terminal Reports.

493 1. Every railroad and common or contract motor carrier  
494 transporting motor fuel either in interstate or intrastate  
495 commerce within this state and every person transporting  
496 motor fuel by whatever manner from a point outside this  
497 state to any point in this state shall, subject to penalties  
498 for false certificate, report to the treasurer on forms  
499 prescribed by the treasurer all deliveries of motor fuel  
500 to points within this state other than refineries or marine  
501 or pipe line terminals. If any distributor or dealer is also  
502 engaged in the transportation of motor fuel for others, he  
503 shall make the same reports as required of common and contract  
504 carriers.

505 The reports shall cover monthly periods and shall show  
506 as to each delivery:

507 (a) the name and address of the person to whom actually  
508 and in fact made:

509 (b) the name and address of the originally named  
510 consignee, if delivered to any other than the originally

511 named consignee;

512 (c) the point of origin, the point of delivery, and  
513 the date of delivery;

514 (d) the number and initials of each tank car and the  
515 number of gallons contained therein, if shipped by rail;

516 (e) the name of the boat, barge, or vessel, and the  
517 number of gallons contained therein, if shipped by water;

518 (f) the registration number of each tank truck and  
519 the number of gallons contained therein, if transported  
520 by motor truck;

521 (g) the manner, if delivered by other means, in which the  
522 delivery is made; and

523 (h) such additional information relative to shipments  
524 of motor fuel as the treasurer may require.

525 If any person required under this section to file  
526 transportation reports is a licensee under this division  
527 and if the information required in his transportation report  
528 is contained in any other report rendered by him under  
529 this division no separate transportation report of that  
530 information shall be required.

531 2. Every person operating storage facilities at a  
532 refinery or at a marine or pipe line terminal in this state  
533 shall monthly make an accounting to the treasurer on forms  
534 prescribed by the treasurer of all motor fuel withdrawn  
535 from the refinery storage and all motor fuel delivered  
536 into, withdrawn from and on hand in the terminal storage.

537 3. The reports required in this section shall be for  
538 information purposes only and the treasurer may in his  
539 discretion waive the filing of any of these reports not

540 necessary for proper administration of this division. The  
541 reports required in this section shall be certified under  
542 penalty for false certificate and filed with the treasurer  
543 within the time allowed for filing of distributors' reports  
544 of motor fuel received.

545 324.16 Credit to Licensee for Non-Motor Vehicle Use, for  
546 Casualty Losses and for Tax-Paid Inventory of Non-  
547 Taxable Products. Refund in Certain Cases.

548 1. A licensee having received motor fuel which  
549 thereafter (a) he uses for any purpose other than as fuel  
550 for propelling motor vehicles or (b) while owned by him  
551 is lost or destroyed through accountable leakage or through  
552 fire, accident, lightning, flood, storm, act of war or public  
553 enemy or other like cause, shall upon application to the  
554 treasurer supported by proof as the treasurer may reasonably  
555 require, be entitled to a memorandum of credit which he may  
556 apply against subsequent liability under this chapter, or,  
557 if an applicant having paid the tax on the gallonage covered  
558 in the application is no longer engaged in activity for which  
559 his license was issued, the treasurer shall refund the  
560 appropriate amount to the applicant.

561 2. A licensee who on July 1, 1957 has on hand gallonage  
562 of any product not subject to the tax imposed under this  
563 division, but which he reported and paid or is liable to  
564 pay the Iowa motor fuel tax under any prior law, shall  
565 upon application to the treasurer with such supporting  
566 data as the treasurer may require be entitled to a  
567 memorandum of credit which may be applied against the  
568 applicant's liability under this chapter or under the prior

569 law, or, if an applicant under this paragraph, having paid  
570 the tax on the gallonage covered in his application, is  
571 no longer engaged in activity for which his license was  
572 issued, the treasurer shall refund the appropriate amount  
573 to the applicant.

574 324.17 Refund to Non-Licensee of Tax Paid on Motor Fuel  
575 Used Other Than in Motor Vehicles.

576 Any person other than a licensee who shall use motor  
577 fuel for the purpose of operating or propelling farm  
578 tractors within the limits hereinafter provided, stationary  
579 gas engines, aircraft or boats, for cleaning or dyeing or  
580 for any purpose other than in motor vehicles, and having  
581 paid the motor fuel tax on the fuel either directly to the  
582 treasurer or by having the tax added to the price of the  
583 fuel, and who has a refund permit shall, upon presentation  
584 to and approval by the treasurer of a claim for refund  
585 be reimbursed and repaid the amount of the tax which the  
586 claimant has paid on the gallonage so used. Every claim  
587 filed subsequent to the effective date of this chapter shall  
588 be subject to the following conditions:

589 1. The claim shall be on a form prescribed by the  
590 treasurer and be certified by the claimant under penalty  
591 for false certificate;

592 2. The claim shall have attached thereto the original  
593 invoice or invoices showing the purchase of the motor fuel  
594 on which a refund is claimed;

595 3. No invoice shall be acceptable in support of a  
596 claim for refund unless it is a separate serially numbered  
597 invoice covering no more than one purchase of motor fuel,

598 prepared by the seller on a form approved by the treasurer  
599 with double faced carbon paper under the original; nor unless  
600 it is legibly written with no corrections or erasures and  
601 shows the date of sale, the name and address of the seller  
602 and of the purchaser, the kind of motor fuel, the gallonage  
603 in words and figures, the per gallon price of the motor  
604 fuel, the per gallon rate of any tax added to the product  
605 price, the total purchase price including the Iowa motor  
606 fuel tax and that the total purchase price including tax  
607 has been paid; provided, that as to refund invoices made  
608 on a billing machine the treasurer may waive any of the  
609 requirements of this paragraph;

610 1. The claim shall state the gallonage of motor fuel  
611 used by the claimant other than in motor vehicles, the manner  
612 in which the motor fuel was used and the equipment in which  
613 it was used;

614 5. The claim shall also state whether or not the  
615 claimant used fuel for motor vehicles from the same tanks  
616 or receptacles in which the claimant kept the motor fuel  
617 on which the refund is claimed;

618 6. No refund will be paid with respect to any  
619 motor fuel taken out of this state in fuel supply tanks  
620 of motor vehicles;

621 7. No refund shall be paid with respect to motor fuel  
622 purchased more than three calendar months prior to the date  
623 the claim was filed with the treasurer;

624 8. No refund shall be paid with respect to motor fuel  
625 used in the performance of a contract which is paid out  
626 of public funds unless the contract for the work contains

627 a certificate made under penalty for false certificate  
628 that the estimate, bid or price to be paid for the work  
629 includes no amount representing motor fuel tax subject  
630 to refund;

631 9. If an original invoice is lost or destroyed the  
632 treasurer may in his discretion approve a refund supported  
633 by a copy identified and certified by the seller as being  
634 a true copy of the original;

635 10. The right of a person to a refund under this section  
636 shall not be assignable. Claim shall be made by and the amount  
637 of the refund when determined by the treasurer shall be  
638 paid to the person who purchased the motor fuel as shown  
639 in the supporting invoice; and

640 11. in order to verify the validity of a claim for  
641 refund the treasurer shall have the right to require the  
642 claimant to furnish such additional proof of validity as  
643 the treasurer may determine and by himself or his representative  
644 to examine the books and records of the claimant. Failure  
645 of a claimant to furnish his books and records for examination  
646 shall constitute a waiver of all rights to refund related  
647 to the transaction in question.

648 324.18 Refund Permit.

649 No person may claim a refund under Section 324.17 until  
650 he shall have obtained a refund permit from the treasurer  
651 and paid the fee therefor. Application for a refund permit  
652 shall be made to the treasurer on a form provided by the  
653 treasurer, shall be certified by the applicant under penalty  
654 for false certificate and shall contain among other things,  
655 the name, the address and occupation of the applicant, the

656 nature of his business and a sufficient description for  
657 identification of the machines and equipment in which is to  
658 be used motor fuel for which refund may be claimed under  
659 the permit. Each permit shall bear a separate number and each  
660 claim for refund shall bear the number of the permit under  
661 which it is made. The treasurer shall keep a permanent record  
662 of all permits issued and a cumulative record of the amount  
663 of refund claimed and paid under each. A fee of one dollar  
664 shall be collected by the treasurer from each person to whom  
665 a refund permit is issued. A refund permit shall continue in  
666 effect until revoked as hereinafter provided or until the  
667 claimant shall have moved from the county with which his refund  
668 permit is identified.

669 324.19 Revocation of Refund Permit.

670 The treasurer, after ten days written notice by registered  
671 or certified mail and an opportunity to be heard has been given  
672 to the holder of a refund permit may revoke the permit if,  
673 in case of failure of the holder to attend it appears from the  
674 treasurer's investigation, or upon the hearing it appears  
675 from a preponderance of the evidence adduced thereat, that the  
676 holder of the permit is guilty of any of the following:

- 677 1. Using in support of a refund claim a false or  
678 altered invoice;
  - 679 2. Making a false statement in a claim for refund  
680 or in response to an investigation by the treasurer of a  
681 claim for refund; or
  - 682 3. Refusal to submit his books and records for  
683 examination by the treasurer or his authorized representative.
- 684 A person whose refund permit is revoked for cause

685 (except non-use) may not obtain another refund permit for  
686 a period of one year after the revocation. A refund permit  
687 under which no refund is claimed for a period of one year—  
688 shall be revoked by the treasurer subject to reinstatement  
689 or issuance of a new permit upon application as provided  
690 in Section 324.18.

691 324.20 Posting Price and Discounts.

692 Every distributor and other person selling motor fuel  
693 in this state for resale to dealers in this state, shall  
694 keep posted in a conspicuous place most accessible to the  
695 public at their place or places of business, including bulk  
696 plants, a placard showing in legible words and or figures  
697 the same height and size, the price per gallon of each grade  
698 of motor fuel offered for sale, the amount of state excise  
699 tax per gallon thereon, the federal excise tax per gallon  
700 thereon, and the total thereof. If any rebate, discount,  
701 commission, or other concession is granted by distributors  
702 or persons engaged in the sale of motor fuel for resale to  
703 dealers of such nature as will reduce the cost or price to  
704 any purchaser or dealer in such products, the conditions,  
705 quantity, and amount of such rebate, discount, commission  
706 or other concession shall be posted as a part of the posted  
707 price. All price placards shall be subject to the approval  
708 of the treasurer. Any distributor or person failing to post  
709 or keep posted the placard required by this section, or  
710 who posts placards not approved by the treasurer as provided  
711 in this section, or who sells any motor fuel for resale  
712 at a price which directly or indirectly, by any means or  
713 device, deviates from the posted price set forth on the

714 price placard approved by the treasurer, shall be guilty  
715 of a misdemeanor and shall be punished by a fine of one  
716 hundred dollars or imprisonment in the county jail for  
717 thirty days. Nothing contained herein shall prohibit or  
718 restrict the distribution of earnings to the members of  
719 any distributor or person, nor to the distribution to  
720 consumers of road maps, publicity and other advertising  
721 media carrying the name of the distributor, person, or  
722 produce. Each day the required placard remains unposted  
723 or an unauthorized placard remains posted, or each  
724 deviation from the posted price, shall be considered a  
725 separate offense. In the event of a second conviction  
726 for the violation of any of the provisions of this section,  
727 the state treasurer may revoke the license of such distributor  
728 or person so convicted.

## 729 MOTOR VEHICLE FUEL TAX LAW

### 730 DIVISION II

#### 731 SPECIAL FUEL TAX

732 324.31 Short Title.

733 This division, applicable provisions of Division IV  
734 of this chapter and any amendments to either shall be known,  
735 and may be cited, as the Special Fuel Tax Law, and as so  
736 constituted is hereinafter referred to as this division

737 324.32 Purpose.

738 The purpose of this division is to supplement  
739 Division I of this chapter, by imposing an excise tax upon  
740 the receipt, delivery or placing into the fuel supply tanks  
741 of motor vehicles which are within this state, of all fuels  
742 not taxed under Division I.

743 324.33 Definitions. As Used in this Division.

744 1. "Special fuel" means and includes all combustible  
745 gases and liquids suitable for the generation of power for  
746 propulsion of motor vehicles also any substance used for  
747 that purpose, except that it does not include motor fuel  
748 as defined in the motor fuel tax law.

749 2. "Use" means the receipt, delivery or placing of  
750 special fuels by a special fuel user into a fuel supply  
751 tank of a motor vehicle while the vehicle is in this state.

752 3. "Special fuel dealer" means any person in the  
753 business of handling special fuel who delivers any part  
754 thereof into a fuel supply tank of any motor vehicle not  
755 then owned or controlled by him.

756 4. "Special fuel user" means the owner or other person  
757 responsible for the operation of a motor vehicle at the time  
758 special fuel is placed in a fuel supply tank thereof while  
759 the vehicle is in this state.

760 5. "Licensee" shall mean and include any person  
761 who holds an uncanceled special fuel dealer license or  
762 special fuel user license, issued pursuant to this division.

763 324.34 Tax Imposed.

764 For the privilege of operating motor vehicles in  
765 this state, there is hereby levied and imposed an excise  
766 tax on the use (as defined herein) of special fuel in any  
767 motor vehicle. The rate of tax on special (diesel engine)  
768 fuel shall be 7 cents per gallon. On all other special  
769 fuel the per gallon rate shall be the same as the motor  
770 fuel tax. The tax, with respect to all special fuel  
771 delivered by a special fuel dealer for use in this state

772 as defined by Section 324.33, shall attach at the time  
773 of the delivery and shall be collected by the dealer from  
774 the special fuel user and shall be paid over to the  
775 treasurer as hereinafter provided. The tax, with respect  
776 to special fuel acquired by a special fuel user in any manner  
777 other than by delivery by a special fuel dealer into a fuel  
778 supply tank of a motor vehicle, shall attach at the time  
779 of the use (as herein defined) of the fuel and shall be  
780 paid over to the treasurer by the user as hereinafter  
781 provided.

782 The treasurer shall make reasonable rules and  
783 regulations governing the dispensing of special fuel at  
784 retail service stations and may require that special fuel  
785 delivered into the fuel supply tank of any motor vehicle  
786 shall be dispensed through a metered pump

787 324.35 Exemptions.

788 No tax is imposed under this division on special fuel  
789 used by the United States or any of its agencies or  
790 instrumentalities, but the tax on special fuel used or  
791 delivered into fuel supply tanks of motor vehicles by any  
792 post exchange or concessionaire on any federal reservation  
793 in this state, to the extent permitted by federal law,  
794 shall be collected by the post exchange or concessionaire  
795 and paid to the treasurer.

796 No tax is imposed under this division on special fuel  
797 used by the state of Iowa or any of its agencies, but this  
798 exemption shall not apply to political subdivisions of  
799 this state.

800 324.36 Special Fuel Dealers' and Special Fuel Users'

801 Licenses.

802 1. Required: It shall be unlawful for any person to  
803 act as a special fuel dealer in this state unless he holds  
804 an uncanceled special fuel dealer's license issued to him  
805 by the treasurer. Except for special fuel which is delivered  
806 by a fuel dealer into a fuel supply tank of any motor vehicle  
807 in this state, the use (as herein defined) of special fuel  
808 in this state by any person shall be unlawful unless he  
809 holds an uncanceled special fuel user's license issued  
810 to him by the treasurer.

811 2. Application: Application for a special fuel dealer's  
812 license or a special fuel user's license shall be made to the  
813 treasurer. A special fuel dealer's license or a special fuel  
814 user's license, whichever is applicable, shall be required  
815 for each separate place of business or location where special  
816 fuels are regularly delivered or placed into the fuel supply  
817 tank of a motor vehicle. Provided, that, if a special fuel  
818 dealer also operates one or more bulk plants from which the  
819 distribution of special fuel is primarily by tank vehicle,  
820 he need not obtain a separate license for any of these plants  
821 not provided with fixed equipment designed for fueling vehicles.

822 3. Form of Application: The application shall be filed  
823 upon a form prepared and furnished by the treasurer and shall  
824 contain such information as the treasurer deems necessary.

825 4. Bond: No special fuel dealer's license or special  
826 fuel user's license shall be issued to any person or continued  
827 in force unless he has on file with the treasurer a surety  
828 bond in such form and amount as the treasurer may require,  
829 but not less than \$500.00, nor more than \$5,000.00, to secure

830 his compliance with this division, and the payment of any  
831 and all taxes, interest and penalties due and to become due  
832 hereunder. The provisions of subsections 1, 2, 3 and 4  
833 of Section 324.7 with respect to distributors' bonds, except  
834 the amount of bond, shall apply to bonds furnished by  
835 licensees under this division. A special fuel dealer or  
836 special fuel user who is also a licensed distributor under  
837 Division I of this chapter may have his obligation under  
838 this section and under Section 324.7 covered by one bond.

839 5. Issuance: Upon receipt of the application and  
840 bond in proper form, the treasurer shall issue to the  
841 applicant a license to act as a special fuel dealer or a  
842 special fuel user; provided, however, the treasurer may  
843 refuse to issue a special fuel dealer's license or a special  
844 fuel user's license to any person: (1) who formerly held  
845 either type of license and which has been revoked for cause;  
846 or (2) who is subterfuge for the real party in interest  
847 whose license has been revoked for cause; or (3) upon other  
848 sufficient cause being shown. Before refusal, the treasurer  
849 shall grant the applicant a hearing and give him at least 15  
850 days written notice of the time and place thereof.

851 6. Expiration of License: Each special fuel dealer's  
852 license and special fuel user's license shall be valid until  
853 suspended or revoked for cause or otherwise cancelled.

854 7. Assignment Forbidden: No special fuel dealer's  
855 license or special fuel user's license shall be transferable.

856 324.37 Special Fuel Dealers' and Special Fuel Users'  
857 Records.

858 For each location where special fuel is delivered or

859 placed into the fuel supply tank of a motor vehicle, the  
860 special fuel dealer or user making the delivery shall prepare  
861 and maintain for a period of three years such records as the  
862 treasurer may reasonably require with respect to all these  
863 deliveries, and with respect to inventories, receipts, purchases,  
864 and sales or other dispositions of special fuel.

865 324.38 Monthly Returns and Tax Payments.

866 1. Returns: For the purpose of determining the amount  
867 of his liability for special fuel tax each special fuel  
868 dealer and each special fuel user shall file with the treasurer  
869 not later than the last day of the month next following the  
870 month in which this division becomes effective and not later  
871 than the last day of each calendar month thereafter a monthly  
872 tax return certified under penalties for false certificate.  
873 The return shall show, with reference to each location at  
874 which special fuel is delivered or placed by the dealer or  
875 user into a fuel supply tank of any motor vehicle during  
876 the next preceding calendar month, such information as the  
877 treasurer may reasonably require for the proper  
878 administration and enforcement of this division; provided,  
879 however, that if a special fuel dealer or user is also a  
880 wholesale distributor of special fuel at a location where  
881 special fuel is delivered into the supply tank of a motor  
882 vehicle, the monthly return to the treasurer covering the  
883 location need not include inventory control data covering  
884 bulk storage from which wholesale distribution of special  
885 fuel is made.

886 2. Computation: The amount of tax due shall be  
887 computed by multiplying the appropriate tax rate per gallon

888 by the number of gallons of special fuel delivered or placed  
889 by the special fuel dealer or user into supply tanks of  
890 motor vehicles.

891 3. Payments: The return shall be accompanied by  
892 remittance in the amount of the tax due for the month in  
893 which the special fuel was placed in the fuel tanks of motor  
894 vehicles.

895 4. Reporting Exemption for Authorized Tax-Paid Purchases:

896 Any special fuel dealer or user licensed under this division  
897 may upon application in writing to the treasurer be authorized,  
898 subject to regulations prescribed by the treasurer, to  
899 purchase on a tax-paid basis from any supplier licensed as  
900 a distributor under Division 1 of this chapter all special  
901 fuel acquired by the dealer or user for subsequent delivery  
902 into the fuel supply tanks of motor vehicles. Every supplier  
903 so licensed who sells or delivers special fuel on a tax-paid  
904 basis to special fuel users or special fuel dealers authorized  
905 as aforesaid shall make a return of these tax-paid sales to  
906 the treasurer accompanied by payment of the special fuel tax  
907 on the tax-paid gallonage so sold or delivered. The return  
908 and payment shall be made at the same time as the supplier's  
909 motor fuel tax return or special fuel tax return for the  
910 month in which the covered sales or deliveries were made.  
911 A special fuel dealer or user shall be exempt from making  
912 any return or tax payment to the treasurer on special fuel  
913 which, under authority from the treasurer, he acquires on a  
914 tax-paid basis from a supplier licensed as aforesaid.

915 5. Exemption for Fueling by Licensed Dealers: No  
916 return need be made by any special fuel user, not licensed

917 as a special fuel dealer, whose entire use of special fuels  
918 in this state is limited solely to special fuels delivered  
919 into the fuel supply tank of the user's motor vehicles by  
920 special fuel dealers.

921 6. Presumption: For purposes of this section there  
922 shall be a prima facie presumption that all special fuel  
923 received by a special dealer or special fuel user into storage  
924 and dispensing equipment designed to fuel motor vehicles  
925 is to be delivered by the special fuel dealer or special  
926 fuel user into the fuel supply tanks of motor vehicles.

927 MOTOR VEHICLE FUEL TAX LAW

928 DIVISION III

929 MOTOR FUEL AND SPECIAL FUEL USE TAX FOR INTERSTATE

930 MOTOR VEHICLE OPERATIONS

931 324.50 Short Title.

932 This division and applicable provisions of Division IV  
933 of this chapter and any amendments to either shall be known  
934 and may be cited as the Interstate Fuel Use Tax Law, and as  
935 so constituted is hereinafter referred to as this division.

936 324.51 Purpose.

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

945 324.52 Fuels Brought Into the State in Fuel Supply Tanks of

## 946                    Motor Vehicles.

947        No person shall bring into this state in the fuel supply  
948 tanks of a motor vehicle, regardless of whether or not the  
949 supply tanks are connected to the motor of the vehicle, any  
950 motor fuel or special fuel to be used in the operation of  
951 the vehicle in this state unless he has paid or made arrangements  
952 in advance with the treasurer for payment of Iowa fuel taxes  
953 on the gallonage consumed in operating the vehicle in this  
954 state; except that this division shall not apply to a private  
955 passenger automobile.

956        Any person who brings into the state in the fuel supply  
957 tanks of a motor vehicle more than 20 gallons of motor fuel  
958 or special fuel in violation of the provisions of the preceding  
959 paragraph is guilty of a misdemeanor and upon conviction shall  
960 be fined not more than one hundred dollars or shall be  
961 imprisoned in the county jail not more than thirty days.

## 962        324.53    Permit—Bond.

963        The advance arrangements referred to in the preceding  
964 section shall include the procuring of a permit and may in  
965 the discretion of the treasurer include the posting of a  
966 suitable indemnity bond in a sum to be fixed by the treasurer  
967 to assure the required reporting, tax payments and the  
968 keeping of required records.

969        Permit may be obtained upon application to the treasurer.  
970 The treasurer shall charge a fee of one dollar for each  
971 permit issued. The holder of a permit under this division  
972 shall have the privilege of bringing into this state in  
973 the fuel supply tanks of motor vehicles any amount of motor  
974 fuel or special fuel to be used in the operation of the

975 vehicles and for that privilege shall pay Iowa motor fuel  
976 or special fuel taxes as provided in Section 324.54.

977 Each vehicle operated into or through Iowa in interstate  
978 operations using motor fuel or special fuel acquired in any  
979 other state shall carry in or on each vehicle a duplicate  
980 or evidence of the permit required in this section. A fee  
981 not to exceed twenty-five cents shall be charged by the  
982 treasurer for each duplicate or other evidence of permit  
983 issued by him.

984 324.54 Fuel Tax Computation, Reporting and Payment.

985 Fuel tax liability under this division shall be computed  
986 on the total number of gallons of each kind of motor fuel  
987 and special fuel consumed in the operation in Iowa of motor  
988 vehicles subject to this division at the same rate for each  
989 kind of fuel as would be applicable thereto if taxed under  
990 Divisions I or II of this chapter. Credit against the tax  
991 liability to computed shall be allowed in the amount of fuel  
992 taxes paid under Divisions I or II of this chapter on motor  
993 fuel and special fuel used in motor vehicles the operation  
994 of which is subject to this division, but no amount so paid  
995 on fuel in excess of that consumed in this state shall be  
996 refunded.

997 To determine the amount of fuel taxes due under this  
998 division and to prevent the evasion thereof, the treasurer  
999 may require reports on forms prescribed by the treasurer  
1000 and fuel tax payments in the some manner and at the same  
1001 time as required in this chapter for reporting and payment  
1002 by distributors. These reports and tax payments may be  
1003 required covering actual operation and fuel consumption in

1004 Iowa for vehicles the operation of which is subject to this  
1005 division or on a basis of their average consumption of fuel  
1006 in Iowa determined by taking that proportion of the total  
1007 gallons consumed everywhere in these vehicles that their  
1008 mileage in Iowa is to their total mileage everywhere.

1009 324.55 Records.

1010 Every person operating within the purview of this  
1011 division shall make and keep for a period of three years  
1012 such records as may reasonably be required by the treasurer  
1013 for the administration of this division. If in the normal  
1014 conduct of the business, the required records are maintained  
1015 and kept at an office outside the state of Iowa, it shall  
1016 be a sufficient compliance with this section if the records  
1017 are made available for audit and examination by the treasurer  
1018 at the office outside Iowa.

1019 324.56 Reciprocal Arrangements with other States.

1020 The treasurer in his discretion may by reciprocal  
1021 agreement with the appropriate officials of any other state,  
1022 or by regulation, exempt from compliance with all or any  
1023 part of this division interstate operators coming into  
1024 this state from any other state with motor vehicles fueled  
1025 tax-paid in the other state, provided that the laws of  
1026 the other state contain no requirements similar in effect  
1027 to this division or if they contain requirements similar  
1028 in effect that the other state exempts therefrom the operation  
1029 in that state of vehicles fueled tax-paid in Iowa. In  
1030 exercising his discretion under this section, the treasurer  
1031 may take into consideration any condition or circumstance  
1032 likely to encourage inordinate fueling of vehicles in the

1033 other state for operation in Iowa.  
1034 324.57 Not Applicable to Distributors.  
1035 The provisions of this division shall not apply to  
1036 distributors so licensed under Division I of this chapter.  
1037 Distributors so licensed shall report and pay the tax on  
1038 motor fuel and special fuel consumed in propelling vehicles  
1039 on the public highways of this state as provided for  
1040 respectively in Divisions I and II.

1041                   MOTOR VEHICLE FUEL TAX LAW  
1042                   DIVISION IV  
1043 PROVISIONS COMMON TO TAXES IMPOSED UNDER  
1044                   DIVISIONS I, II AND III

1045 324.60 Definitions:

- 1046 1. "Fuel taxes" means and includes the per gallon  
1047 excise taxes imposed under Divisions I, II and III of  
1048 this chapter with respect to motor fuel and special fuel.
- 1049 2. "Motor vehicle" shall mean and include all vehicles  
1050 (except those operated on rails) which are propelled by  
1051 internal combustion engines and are of such design as to  
1052 permit their mobile use on public highways for transporting  
1053 persons or property. A farm tractor while operated on a  
1054 farm or for the purpose of hauling farm machinery, equipment  
1055 or produce within five miles of the tractor owner's farm  
1056 shall not be deemed to be a motor vehicle. "Motor vehicle"  
1057 shall not include "mobile machinery and equipment" as  
1058 hereinafter defined.
- 1059 3. "Mobile machinery and equipment" shall mean and  
1060 include vehicles self-propelled by an internal combustion  
1061 engine but not designed or used primarily for the transportation

1062 of persons or property on public highways and only incidentally  
1063 operated or moved over a highway such as ditch digging  
1064 apparatus, power shovels, drag lines, earth moving equipment  
1065 and machinery, and road construction and maintenance machinery  
1066 such as asphalt spreaders, bituminous mixers, bucket loaders,  
1067 ditchers, leveling graders, finishing machines, motor  
1068 graders, paving mixers, road rollers, scarifiers and earth  
1069 moving scrapers. The foregoing enumeration shall not operate  
1070 to exclude other vehicles which are within the general  
1071 terms of this definition. "Mobile machinery and equipment"  
1072 shall not however include dump trucks or self-propelled  
1073 vehicles originally designed for the transportation of persons  
1074 or property on public highways and to which machinery, such  
1075 as truck mounted transit mixers, cranes, shovels, welders,  
1076 air compressors, well boring apparatus, corn shellers, lime  
1077 spreaders or feed grinders, has been attached.

1078 4. "public highways" shall mean and include any way  
1079 or place available to the public for purposes of vehicular  
1080 travel notwithstanding temporarily closed.

1081 5. "Person" shall mean and include natural persons,  
1082 partnerships, firms, associations, corporations, representatives  
1083 appointed by any court and political subdivisions of this  
1084 state and use of the singular shall include the plural.

1085 6. "Treasurer" shall mean the treasurer of the state  
1086 of Iowa.

1087 § 324.61 Administrative Rules and Regulations.

1088 The treasurer is authorized and empowered to make such  
1089 reasonable rules and regulations relating to the administration  
1090 and enforcement of this chapter, as he may deem needful.

1091 These rules and regulations shall be effective when the  
1092 provisions of Chapter 17A have been complied with.

1093 <sup>3</sup> 324.62 Forms of Report, Refund Claim and Records.

1094 The treasurer shall prescribe and furnish all forms  
1095 upon which reports and applications shall be made and claims  
1096 for refund presented under this chapter and may prescribe  
1097 forms of record to be kept by motor fuel distributors, motor  
1098 fuel dealers, motor fuel carriers, special fuel dealers,  
1099 special fuel users, and interstate motor vehicle operators.

1100 Whenever in this chapter the treasurer is authorized  
1101 to prescribe the form of record to be kept, he may in lieu  
1102 thereof approve the form of record being kept, and shall  
1103 approve the form of record where it furnishes in reasonably  
1104 accessible form the information which the treasurer required,  
1105 and substantially complies with the prescribed form.

1106 <sup>3</sup> 324.63 Timely Filing of Reports—Extension.

1107 The reports and remittances required under this chapter  
1108 shall be deemed filed within the required time if postpaid,  
1109 properly addressed and postmarked on or before midnight  
1110 of the day on which due and payable. If the final filing  
1111 date falls on a Saturday, Sunday or legal holiday the next  
1112 secular or business day shall be the final filing date.

1113 The treasurer upon application may grant a reasonable  
1114 extension of time for the filing of any required report or  
1115 tax payment, or both.

1116 <sup>3</sup> 324.64 Inspection of Records.

1117 The treasurer or any deputy, employee or agent authorized  
1118 by him is hereby given the authority within the time  
1119 prescribed for keeping records (1) to examine, during the

1120 usual business hours of the day, the records, books, papers,  
1121 receipts, invoices, storage tanks, and any other equipment  
1122 of (a) any distributor, dealer, purchaser, or comon, contract  
1123 or other carrier, pertaining to motor fuel received, used,  
1124 sold, delivered, or otherwise disposed of, or (b) of any  
1125 special fuel dealer, special fuel user or person supplying  
1126 special fuel to any dealer therein or user thereof and (c) of  
1127 any interstate operator of motor vehicles to verify the truth  
1128 and accuracy of any statement, report or return, or to  
1129 ascertain whether or not the taxes imposed by this chapter  
1130 have been paid; and (2) to examine the records, books, papers,  
1131 receipts, and invoices of any distributor, special fuel  
1132 dealer or special fuel user to determine financial  
1133 responsibility for the payment of the taxes imposed by  
1134 this chapter.

1135 If any person within the purview of this section shall  
1136 refuse access to pertinent records, books, papers, receipts,  
1137 invoices, storage tanks or any other equipment, then the  
1138 said treasurer shall certify the names and facts to any  
1139 court of competent jurisdiction, and the said court shall  
1140 enter such order in the premises as the enforcement of this  
1141 act and justice shall require.

1142 324.65 Information Confidential.

1143 All information obtained by the treasurer or his  
1144 representatives, agents or employees from the examing of  
1145 reports or records required to be filed or kept under the  
1146 provisions of this chapter shall be treated as confidential  
1147 and shall not be divulged except to a representative of  
1148 the state having some responsibility in connection with

1149 the collection of the taxes imposed or in proceedings brought  
1150 under the provisions of this chapter; provided, however,  
1151 that the treasurer shall make available for public information  
1152 on or before the last day of the month following the month  
1153 in which the tax is required to be paid the names of the  
1154 distributors and as to each of them the total gallons received  
1155 in the state and separately, the received gallons (a) exported  
1156 or sold for export, (b) sold tax-free in the state to entities  
1157 that are exempt from the tax, and (c) sold tax-free in the  
1158 state to entities required to report and account for the tax  
1159 thereon. The treasurer may also make available to the public  
1160 information with respect to special fuel dealers and users  
1161 and as to each of them the gallonage used and taxes paid.  
1162 The treasurer, upon request of officials entrusted with  
1163 enforcement of the motor vehicle fuel tax laws of the federal  
1164 government or any other state, may forward to such officials  
1165 any pertinent information which he may have relative to  
1166 motor fuel and special fuel provided the officials of the  
1167 other state furnish to the treasurer like information.

1168 Any person violating the provisions of this section,  
1169 and disclosing the contents of any records or reports required  
1170 to be kept or made under the provisions of this chapter,  
1171 except as hereinabove provided shall upon conviction be  
1172 fined not less than one hundred dollars nor more than one  
1173 thousand dollars or be confined in the county jail not less  
1174 than thirty days nor more than six months.

1175 324.66 Treasurer May Estimate Taxable Gallonage.

1176 If any person fails to make and file a report required  
1177 of him or files an incorrect report, the treasurer shall

1178 after investigation determine the gallonage with respect  
1179 to which the person incurred liability for fuel taxes under  
1180 this chapter in any month or months and fix the amount of  
1181 taxes thereon. If the treasurer should at any time receive  
1182 complaints or reports from any source that a licensee or  
1183 or other person is suspected of evading fuel taxes imposed  
1184 by this chapter or has failed to report all the gallonage  
1185 the reporting of which is required under this chapter, or  
1186 is suspected of acting as a distributor or special fuel  
1187 dealer or user without a license or of withholding payment  
1188 of fuel taxes, the treasurer may upon five days notice  
1189 to the person complained against of the nature of the  
1190 complaint or report and of the time and place of a hearing  
1191 thereon and shall proceed to hold the hearing and determine  
1192 the amount of fuel taxes, if any, due from that person.  
1193 The treasurer may adjourn the hearing from time to time  
1194 until the completion thereof. He may use any information  
1195 available in determining the amount, if any, of fuel taxes  
1196 for which the person is liable. Upon determining the amount  
1197 thereof he shall add the penalties and interest provided  
1198 for in Section 324.68 and make an assessment for the amount  
1199 of the unpaid taxes, penalties and interest. shall furnish  
1200 a copy thereof to the person against whom the assessment is  
1201 made and his surety and shall certify the same for collection  
1202 or other appropriate action by the proper public official.  
1203 The findings of the treasurer as to the amount of fuel taxes  
1204 due from any person shall be presumed to be the correct amount  
1205 and in any litigation which may follow, the certificate of  
1206 the treasurer shall be admitted in evidence, shall constitute

1207 a prima facie case, shall impose upon the other party the  
1208 burden of showing any error in the treasurer's finding and  
1209 the extent thereof or that the finding was contrary to law.

1210 324.67 Penalty for Failure to Promptly Report or Pay Fuel  
Taxes.

1211 If a licensee or other person fails to file a required report  
1212 with the treasurer on or before the time fixed for the filing  
1213 thereof or if a licensee or other person fails to pay to the  
1214 treasurer an amount of fuel taxes when due, a penalty of ten  
1215 per cent of the tax unpaid and due shall be added, the unpaid  
1216 tax and penalty shall immediately accrue and thereafter shall  
1217 bear interest at the rate of one-half of one per cent per  
1218 month until paid. Provided that the treasurer may remit the  
1219 penalty in whole or in part if it appears that the licensee  
1220 or other person has made an honest effort to properly report  
1221 and pay and that the failure was due to mistake, accident  
1222 or oversight; but the treasurer shall not remit any part of  
1223 a penalty for delinquent payment where the delinquency results  
1224 from the fact that a check given in payment is not honored  
1225 because of insufficient funds in the account upon which the  
1226 check was drawn. Provided, further, that if it appears as  
1227 a result of investigation by the treasurer or from a  
1228 preponderance of the evidence adduced at a hearing before  
1229 the treasurer that there has been a deliberate attempt on  
1230 the part of a licensee or other person to evade payment of  
1231 fuel taxes there shall be added to the assessment against the  
1232 offending person and collected a penalty of one hundred per  
1233 cent of the tax, the evasion of which was attempted, and the  
1234 tax and penalty shall immediately accrue and shall thereafter  
1235 bear interest at the rate of one-half of one per cent per

1236 month until paid.

1237 324.68 Lien of Fuel Taxes—Priority.

1238 1. The amount of fuel taxes imposed by this chapter,

1239 including interest and penalty and costs that may accrue,

1240 shall be a lien in favor of the state upon franchises,

1241 property and rights to property, whether real or personal,

1242 then belonging to or thereafter acquired by a person liable

1243 for the payment of the fuel taxes from the date the taxes

1244 are due and payable as provided in this chapter and until

1245 the amount of the lien is paid or the property sold in

1246 payment thereof. Fuel tax liens shall have priority over

1247 any lien or encumbrance whatsoever except the lien of

1248 other state taxes having priority by law, and except that

1249 a fuel tax lien shall not have priority over any bona fide

1250 mortgagee, pledgee, attaching creditor or purchaser whose

1251 right shall have attached prior to the time the treasurer

1252 shall have filed his certificate in the office of the clerk

1253 of the court

1254 2. The certificate of the treasurer assessing the amount

1255 of fuel taxes and penalty due from a licensee or other person,

1256 ascertained in accordance with the provisions of this chapter

1257 or from a report of the person may be filed in the office of

1258 the clerk of the district court in the county in which the

1259 place of business of the licensee or other person is located.

1260 The clerk of the district court upon receipt of the certificate

1261 shall, without requiring payment of any fee, file and index

1262 the same in manner now provided for judgments. The treasurer

1263 may in like manner, file a duplicate of the certificate in

1264 any other county where it shall be indexed in a like manner.

1265 The claim of the state of Iowa as shown by the certificate  
1266 or duplicate so filed shall be a lien on the real estate of  
1267 the person named therein as owing fuel taxes and located in  
1268 the county where the certificate or duplicate is recorded,  
1269 for the amount shown by the certificate to be due including  
1270 penalty and interest from the date of filing to the same  
1271 extent as a mortgage lien.

1272 3. The treasurer may give notice of the amount of fuel  
1273 taxes and penalty due as ascertained by him by registered  
1274 mail to all persons having in their possession or under  
1275 their control any credits or other personal property belonging  
1276 to a licensee or other person or to any person owing any  
1277 debts to the licensee or other person. Thereafter the person  
1278 notified shall neither transfer nor make any other disposition  
1279 of credit or other personal property or debts until thirty  
1280 days shall have elapsed from and after the receipt of the  
1281 notice unless the treasurer of state shall give his consent  
1282 to a previous transfer or other disposition. At the expiration  
1283 of the thirty-day period, the property shall be released,  
1284 unless in the meantime it shall have been attached by process  
1285 of court or the holder thereof garnished. All persons so  
1286 notified, must, within five days after receipt of the notice,  
1287 advise the treasurer of state of any and all credits or personal  
1288 property or debts in their possession or under their control  
1289 belonging or owed to the licensee or other person from whom  
1290 the fuel taxes are due.

1291 4. When the property of a licensee is seized upon any  
1292 mesne or final process of any court of this state or of the  
1293 United States, or when the business of a licensee shall be

1294 suspended by the action of creditors or put into the hands  
1295 of any assignee, receiver or trustee, or when a petition in  
1296 voluntary or involuntary bankruptcy has been filed by or  
1297 against a licensee, then and in all such cases, all fuel  
1298 taxes collected by the licensee under the provisions of  
1299 this chapter or due and owing to the state shall be considered  
1300 and treated as preferred claims, and the state shall be a  
1301 preferred creditor and shall be paid in full.

1302 5. No sheriff, receiver, assignee, master or other  
1303 officer shall sell the property or franchises of any licensee  
1304 without first filing with the treasurer a statement containing  
1305 the following information: name or names of the plaintiff  
1306 or party at whose instance or upon whose account the sale  
1307 is made; name of the person whose property or franchise is  
1308 to be sold; the time and place of sale; and the nature of  
1309 the property and the location of the same. It shall be the  
1310 duty of the treasurer, after receiving notice as aforesaid,  
1311 to furnish to the sheriff, receiver, trustee, assignee, master  
1312 or other officer, having charge of the sale, a certified  
1313 copy or copies of all assessments for fuel taxes, penalties,  
1314 and interest on file in the office of the treasurer as liens  
1315 against such person, and in the event there are no such liens  
1316 a certificate showing that fact, which certified copy or copies  
1317 of certificate shall be publicly read by such officer at and  
1318 immediately before the sale of the property or franchise of  
1319 such person.

1320 6. It shall be the duty of the treasurer to furnish to  
1321 any person applying therefor a certificate showing the amount  
1322 of all liens for fuel taxes, penalties, and interest that may

1323 be of record in the files of the treasurer against any person  
1324 under the provisions of this chapter.

1325 7. It shall be the duty of the treasurer, upon receipt  
1326 of notice of the opening of the administration of an estate  
1327 of any individual who was a licensee, to file a claim as a  
1328 preferred creditor for all fuel taxes, penalties and interest  
1329 due the state of Iowa, if any, in the court having jurisdiction  
1330 over the administration of said estate.

1331 324.69 Procedure When Tax Payment in Default.

1332 1. It shall be unlawful for any distributor to sell or  
1333 offer for sale motor fuel or for any special fuel dealer or  
1334 user to dispense or offer to dispense special fuel into a  
1335 fuel supply tank of a motor vehicle, while in default of or  
1336 delinquent in the payment of the whole or any part of fuel  
1337 taxes imposed under this chapter, and in the event of the  
1338 failure or refusal to pay the whole of any of these taxes  
1339 after assessment and notice thereof by the treasurer, the  
1340 delinquent fuel taxes, together with penalties and interest  
1341 provided for shall be recovered by and in the name of the  
1342 state of Iowa and the attorney general of the state of Iowa  
1343 or the county attorney of any county in which the distributor,  
1344 dealer or user resides or is engaged in business is hereby  
1345 authorized and directed to institute suit therefor in any court  
1346 of competent jurisdiction against the distributor or special  
1347 fuel dealer or user or his surety or sureties, if any, or both.

1348 2. A fuel tax lien filed in the office of the clerk of  
1349 the district court of any county may be foreclosed in the same  
1350 manner as real estate mortgage liens are foreclosed, and the  
1351 court in the proceedings shall enter judgement against the

1352 licensee or other person for the amount found by the court  
1353 to be due to the state, with interest and the penalty as assessed  
1354 by the treasurer, and may in the same proceedings foreclose  
1355 on any security which the treasurer may hold for the payment  
1356 of the fuel taxes, and may in the same proceedings entertain  
1357 suit on any bond filed as security for the payment of the fuel  
1358 taxes.

1359 3. In the event suit is instituted upon application made  
1360 by the attorney general or other proper public official the  
1361 court may issue a writ of injunction, without requiring bond,  
1362 enjoining and restraining the defendant from engaging in any  
1363 or all activities covered in subsection 1 of this section until  
1364 any judgement and costs recovered in the suit or attached  
1365 have been paid, and the court shall, upon application therefor  
1366 by the attorney general or other proper public official appoint  
1367 a receiver of the property and business of the delinquent  
1368 defendant, for the purpose of impounding the same as security  
1369 for any judgement recovered. The delinquent fuel taxes,  
1370 penalties and interest shall also be collectible and enforceable  
1371 by a writ of attachment brought by the attorney general or  
1372 other proper public officials in the name of the state of Iowa  
1373 against the lands, goods, chattels, credits and other personal  
1374 property of the defendant. No attachment bond shall be required,  
1375 nor shall an indemnity bond be required or demanded by any  
1376 officer serving the writ of attachment, and no officer shall  
1377 be liable in damages on account of levying the attachment when  
1378 acting under the direction of the attorney general or other  
1379 proper public official. The serving officer shall also summon  
1380 the persons named in the writ as garnishees, and all other

1381 persons within his county whom the attorney general or other  
1382 proper public officials shall designate as having any property,  
1383 effects, choses in action, or credits in their possession  
1384 or power, belonging to the defendant, or who are in anywise  
1385 indebted to the defendant, the same as if their names had  
1386 been inserted in the writ. The persons so summoned shall  
1387 be considered as garnishees, and the officer shall state, in  
1388 his return, the names of all persons so summoned, and the date  
1389 of service on each. All proceedings and hearings, civil or  
1390 criminal, arising under this chapter shall have precedence  
1391 over all other cases in any court where the same shall be  
1392 brought excepting criminal or other cases in which the public  
1393 is a moving party.

1394 4. No action or other proceeding shall be maintained to  
1395 enforce collection of any amount of fuel tax, penalty, or  
1396 interest over and above the amount shown to be due by reports  
1397 filed by a licensee except upon an assessment by the treasurer  
1398 as authorized in this chapter or unless brought within one  
1399 year after the date of the assessment. No assessment shall  
1400 be made covering any period beyond three years prior to the  
1401 date of assessment.

1402 324.70 Power of Treasurer to Cancel Licenses.

1403 If a licensee shall at any time file a false monthly report  
1404 of the data or information required by this chapter, or shall  
1405 fail, refuse, or neglect to file a monthly report required  
1406 by this chapter, or to pay the full amount of fuel tax as  
1407 required by this chapter, then after ten days written notice  
1408 by registered mail directed to the last known address of the  
1409 licensee setting a time and place at which he may appear

1410 and show cause why his license should not be cancelled, and  
1411 if the licensee fails to appear or if upon the hearing it is  
1412 shown by a preponderance of the evidence that the failure  
1413 to correctly report or pay was with intent to evade the tax,  
1414 the treasurer may cancel the license and shall notify the  
1415 licensee of the cancellation by registered mail to his last  
1416 known address.

1417 Upon receipt of written request from any licensee the  
1418 treasurer shall cancel the license of the licensee effective  
1419 sixty days from the date of receipt of the request but no  
1420 such license shall be cancelled up request unless and until  
1421 the licensee shall, prior to the date of cancellation, have  
1422 paid to the treasurer all fuel taxes payable under this chapter,  
1423 together with any and all penalties, interest and fines  
1424 appertaining thereto. If, upon investigation, the treasurer  
1425 shall find that a licensee is no longer engaged in the  
1426 activities for which a license was issued to him and has not  
1427 been so engaged for a period of six months, the treasurer  
1428 shall cancel the license and give sixty days notice of the  
1429 cancellation mailed to the last known address of the licensee.

1430 324.71 Hearings Before Treasurer.

1431 Hearings before the treasurer authorized under the provisions  
1432 of this chapter may be held at the seat of government in Des  
1433 Moines or elsewhere in the state as the treasurer may direct.  
1434 Any power granted to the treasurer in this chapter may be  
1435 exercised by his deputy, and the treasurer is hereby authorized  
1436 to appoint special deputies for the purpose of conducting  
1437 hearings. The treasurer, his deputy or special deputy shall  
1438 have the power to issue subpoenas including subpoenas duces

1439 tecum and to require the attendance of witnesses and the  
1440 production of books, records and papers. In the event any  
1441 person shall refuse to obey subpoena, or after appearing refuses  
1442 to testify, the treasurer, his deputy or special deputy shall  
1443 certify the name of the person to the district court of the  
1444 county where the hearing is being held or to any judge thereof,  
1445 and the court or judge shall proceed with the witness in the  
1446 same manner as if the refusal had occurred in open court.

1447 324.72 Discontinuance of Licensed Activity. Liability of  
1448 Successor.

1449 If a licensee ceased to engage in the state in activities  
1450 for which his license was issued or discontinues, sells, or  
1451 transfers the business in which he has carried on that activity  
1452 he shall notify the treasurer in writing at least ten days  
1453 prior to the time the cessation, discontinuance, sale or  
1454 transfer takes effect. The notice shall give the date of  
1455 proposed cessation or discontinuance, and, in the event of  
1456 a proposed sale or transfer of the business, the date thereof  
1457 and the name and address of the purchaser or transferee  
1458 thereof. All fuel taxes, penalties and interest under this  
1459 chapter not yet due and payable shall, together with any and  
1460 all interest accruing or penalties imposed under this chapter,  
1461 notwithstanding any provisions thereof becomes due and payable  
1462 concurrently with the cessation, discontinuances, sale or  
1463 transfer, and thereupon it shall be the duty of the licensee  
1464 to make a report and pay all the fuel taxes, interest, and  
1465 penalties within ten days.

1466 324.73 Refunds to Persons Other Than Distributors on Tax-Paid  
1467 Motor Fuel or Special Fuel Lost or Destroyed.

1468 Any person other than a distributor who has paid or has  
1469 had charged to his account with a distributor, dealer or  
1470 special fuel dealer fuel taxes imposed under this chapter  
1471 with respect to motor fuel or special fuel in excess of one  
1472 hundred gallons, which is subsequently lost or destroyed,  
1473 while he shall be the owner thereof, through leakage, fire,  
1474 explosion, lightning, flood, storm, or other casualty, except  
1475 evaporation, shrinkage, or unknown causes, shall be entitled  
1476 to a refund of the tax so paid or charged. To qualify for  
1477 the refund, he shall notify the treasurer in writing of the  
1478 loss or destruction and the gallonage lost or destroyed within  
1479 10 days from the date of discovery of the loss or destruction.  
1480 Within sixty days after filing the notice, he shall file with  
1481 the treasurer an affidavit sworn to by the person having  
1482 immediate custody of the motor fuel or special fuel at the time  
1483 of the loss or destruction setting forth in full the circumstances  
1484 and amount of the loss or destruction and such other information  
1485 with respect thereto as the treasurer may require.

1486 324.74 Refund of or Credit for Fuel Taxes Erroneously or  
1487 Illegally Collected.

1488 In the event that any fuel taxes, penalties, or interest  
1489 have been erroneously or illegally collected from a licensee,  
1490 the treasurer may permit the licensee to take credit against  
1491 a subsequent tax return for the amount of the erroneous or  
1492 illegal overpayment or, shall certify the amount thereof to  
1493 the comptroller of this state, who shall thereupon draw his  
1494 warrant for the certified amount on the treasurer of state  
1495 payable to the licensee. The refund shall be paid to the  
1496 licensee forthwith.

1497 No refund shall be made under the provisions of this  
1498 section unless a written claim therefor setting forth the  
1499 circumstances by reason of which the refund should be  
1500 allowed, nor unless the claim is filed with the treasurer  
1501 within one year from the date of the payment of the taxes  
1502 erroneously or illegally collected.

1503 324.75 Suits for Recovery of the Fuel Taxes Illegally or  
1504 Erroneously Collected or Withheld.

1505 Any fuel taxes illegally or erroneously collected, or  
1506 interest or penalty thereon collected without authority or  
1507 any sum excessively or wrongfully collected under this  
1508 chapter, or any refund provided for in this chapter which  
1509 shall wrongfully be denied or withheld, may be recovered  
1510 by the person who paid the fuel taxes in a suit at law against  
1511 the state of Iowa whether or not the taxes, interest or  
1512 penalty were paid voluntarily or under protest. The district  
1513 court in and for Polk county shall have original jurisdiction  
1514 of any suit or proceeding against the state, commenced after  
1515 the effective date of this chapter for the recovery of any  
1516 fuel taxes, penalty or interest alleged to have been erroneously  
1517 or illegally assessed or collected, or any sum alleged to  
1518 have been excessive or in any manner wrongfully denied or  
1519 withheld; provided, that the suit or proceeding shall be  
1520 commenced within four years from the date of payment of the  
1521 fuel tax, interest or penalty or within four years from the  
1522 date of final rejection of the claim therefor by the treasurer  
1523 and the consent of the state of Iowa is hereby given to the  
1524 institution, maintenance, and prosecution to final judgement  
1525 of the suit or proceeding.

1526 324.76 Embezzlement of Fuel Tax Money—Penalty.

1527 Every sale of motor fuel in this state and every sale of  
1528 special fuel dispensed by the seller into a fuel supply tank  
1529 of a motor vehicle, shall unless otherwise provided, be  
1530 presumed to include as a part of the purchase price the fuel  
1531 tax due the state of Iowa under the provisions of this chapter.  
1532 Every person collecting fuel tax money as part of the selling  
1533 price of motor fuel or special fuel, shall hold the tax money  
1534 in trust for the state of Iowa unless the fuel tax on the fuel  
1535 has been previously paid to the state of Iowa. Any person  
1536 receiving fuel tax money in trust and failing to remit it  
1537 to the treasurer of state on or before time required shall  
1538 be guilty of embezzlement of public funds and upon conviction  
1539 shall be subjected to the penalty provided by law for that  
1540 offense.

1541 324.77 Unlawful Acts. Penalty.

1542 It shall be unlawful—

1543 1. For any person to knowingly fail, neglect or refuse  
1544 to make any required return or statement or pay over fuel  
1545 taxes as herein required.

1546 2. For any person to knowingly make any false, incorrect  
1547 or materially incomplete record required to be kept or made  
1548 under the provisions of this chapter, to refuse to offer his  
1549 books and records to the treasurer or his representatives  
1550 for inspection on demand or to refuse to permit the treasurer  
1551 to examine his motor fuel or special fuel storage tanks and  
1552 handling or dispensing equipment.

1553 3. For any seller to issue or any purchaser to receive  
1554 and retain any incorrect or false invoice or sales ticket in

1555 connection with the sale or purchase of motor fuel or special  
1556 fuel.

1557 4. For any claimant to alter any invoice or sales ticket,  
1558 whether the invoice or sales ticket is to be used to support  
1559 a claim for refund or not, provided, however, if claimant's  
1560 refund permit shall have been revoked for cause as provided  
1561 in Section 324.19 such revocation shall be a bar to prosecution  
1562 for violation of this paragraph.

1563 5. For any person to act as a motor fuel distributor,  
1564 special fuel dealer or special fuel user without the required  
1565 license.

1566 6. For any person to display or attempt to use any  
1567 license issued or authorized under this chapter after the  
1568 license has been cancelled.

1569 7. For any person employed or engaged in the sale or  
1570 distribution of motor fuel, either directly or indirectly,  
1571 to prepare for or on behalf of purchasers of motor fuel,  
1572 any application for a refund permit, or any claim for refund  
1573 of tax on account of other than motor vehicle use of motor fuel.

1574 8. For any person to use motor fuel or special fuel with  
1575 respect to which he knowingly has not paid or had charged  
1576 to his account with a distributor or dealer, or with respect  
1577 to which does not within the time required in this chapter  
1578 report and pay the applicable fuel tax.

1579 9. For any special fuel dealer to dispense special fuel  
1580 into the fuel supply tank of any motor vehicle without collecting  
1581 the fuel tax.

1582 Any person found guilty of any of the foregoing illegal  
1583 acts shall for the first offense be fined not more than one

1584 hundred dollars or be imprisoned in the county jail for not  
1585 more than 30 days and for subsequent offenses shall be fined  
1586 not less than one hundred dollars nor more than one thousand  
1587 dollars, or shall be imprisoned in the county jail not less  
1588 than thirty days nor more than six months or both such fine  
1589 and imprisonment in the discretion of the court.

1590 324.78 Penalty for False Certificate.

1591 Any person who makes a false certificate in any report,  
1592 return, application or claim required or provided for by this  
1593 chapter or under any rule or regulation made by the treasurer  
1594 shall be punished by imprisonment in the penitentiary for  
1595 not more than one year, or by imprisonment in the county jail  
1596 for such term as the court may determine, not exceeding six  
1597 months, or by a fine of not more than two thousand (\$2,000.00)  
1598 dollars, or by such combination of either imprisonment and  
1599 fine as the court may determine.

1600 324.79 Enforcement Authority.

1601 Authority is hereby given to the treasurer to enforce  
1602 the provisions of this chapter and employees of the treasurer  
1603 designated as enforcement officers shall have the power of  
1604 peace officers in the performance of such duties.

1605 It is hereby made the duty of all sheriffs, deputy  
1606 sheriffs, constables, and all other peace officers to see  
1607 that the provisions of this chapter are not violated, and  
1608 to respond to the call of the treasurer to make investigations  
1609 in their respective counties and report to the treasurer or  
1610 his representatives and said officers are authorized to stop  
1611 conveyance suspected to be illegally transporting motor fuel  
1612 on the highways, and to investigate the cargo for that purpose

1613 and to seize and impound said cargo and conveyance where it  
1614 appears that said conveyance is being operated in violation  
1615 of the provisions of this chapter.

1616 324.80 Treasurer to Employ Necessary Help.

1617 The treasurer is hereby empowered to employ such inspectors,  
1618 auditors and other help as he may deem necessary for the  
1619 effective enforcement of this chapter, the number and  
1620 compensation of such employees to be fixed by the executive  
1621 council.

1622 There is hereby appropriated out of the money received  
1623 under the provisions of this chapter sufficient funds to pay  
1624 the expenses of the treasurer's office in administrating  
1625 and enforcing this chapter, the premiums on bonds contracted  
1626 for by the treasurer, such refunds as are provided for in  
1627 this chapter, and the cost of postage, equipment, supplies  
1628 and printing used by the treasurer in administering this  
1629 chapter.

1630 324.81 Other Remedies Available.

1631 The special remedies provided under the provisions of  
1632 this chapter to enable the state to collect motor vehicle  
633 fuel excise tax shall not be construed as depriving the state  
1634 of any remedy it might have either at law or in equity  
1635 independent of this chapter. —

1636 324.82 Use of Revenue.

1637 The net proceeds of five cents per gallon excise tax on  
1638 the diesel special fuel and four cents per gallon excise tax  
1639 on motor fuel and other special fuel, and penalties collected  
1640 under the provision of this chapter, shall be credited to  
1641 the road use tax fund.

1642 (a) The net proceeds of one cent per gallon of the excise  
1643 tax collected under the provisions of this chapter shall, for  
1644 the biennium beginning July 1, 1957, and ending June 30,  
1645 1959, be credited by the treasurer of state to the primary  
1646 road fund, to be used for construction of such primary roads  
1647 as are presently surfaced with gravel or crushed rock only,  
1648 on the basis of need as determined by the state highway  
1649 commission.

1650 (b) The net proceeds of one cent per gallon excise tax  
1651 collected under the provisions of this chapter shall, for the  
1652 biennium beginning July 1, 1957, and ending June 30, 1959,  
1653 be credited by the treasurer of state to the primary road  
1654 fund for the purpose of widening and modernization of highways  
1655 and bridges.

1656 324.83 Microfilm or Photographic Copies—Originals Destroyed.

1657 The treasurer shall have the power and authority to record,  
1658 copy or reproduce by any photographic, photostatic, microfilm,  
1659 microcard, miniature photographic or other process which  
1660 accurately reproduces or forms a durable medium for so  
1661 reproducing the original of any forms or records pertaining  
1662 to motor fuel tax or special fuel tax, or any paper or document  
1663 with respect to refund of such tax, and when such forms and  
1664 records shall have been so reproduced, the treasurer shall have  
1665 the power to destroy the originals and such reproductions shall  
1666 be competent evidence in any court in accordance with the  
1667 provision of Section 622.30.

1668 324.84 Rights and Obligations Preserved.

1669 All laws in conflict with this chapter are hereby superseded  
1670 by this chapter, and it is the intention herein to substitute

1671 the provisions of this act for Chapter 324, Code 1954, and  
 1672 any and all acts amendatory thereof. The repeal effected  
 1673 by the adoption of this chapter shall not be construed as  
 1674 relieving any person whatsoever from the payment of any  
 1675 excise tax, referred to in Chapter 324, Code 1954, as "motor  
 1676 vehicle fuel license fee", penalty or interest due or owing  
 1677 to the state of Iowa under any law hereby repealed, or to  
 1678 affect or terminate any prosecutions or other proceedings  
 1679 pending under such laws or to prevent the commencement or  
 1680 prosecutions of any proceedings, legal or equitable, civil  
 1681 or criminal, for a violation of any such laws or for the  
 1682 collection of any excise tax with interest and penalty or for  
 1683 the obtaining of any refund or the enforcement of any other  
 1684 right accruing under the law as it existed prior to the taking  
 1685 effect of this chapter.

1686 324.85 Provisions Severable.

1687 If any provision of this act or the application thereof  
 1688 to any person or circumstance is held invalid, such invalidity  
 1689 shall not affect other provisions or applications of this  
 1690 act which can be given effect without the invalid provision  
 1691 or application, and to this end the provisions of this act  
 1692 are declared severable.

HOUSE FILE 440 52311

- 1 Amend House File 440 by inserting after the word "used" in
- 2 line six hundred twelve (612), the words "or will be used".
- 3 Further amend House File 440, line six hundred thirteen
- 4 (613), by inserting after the word "used", the words "or will
- 5 be used".

*Amended  
4-3-57*

Filed  
April 3, 1957.

Goode of Davis.

HOUSE FILE 440 52311

- 1 Amend House File 440 as follows.
- 2 1. Amend House File 440 by striking all of subsection
- 3 five (5) from section three hundred twenty-four point three
- 4 (324.3).
- 5 2. Amend House File 440 by striking all of
- 6 subparagraphs (a) and (b) from section three hundred
- 7 twenty-four point eighty-two (324.82).
- 8 3. Amend House File 440 by striking all of section
- 9 three hundred twenty-four point seventy-five (324.75) and
- 10 renumbering the subsequent sections.

*Amended  
4-3-57*

Filed  
April 3, 1957.

MILROY of Benton.



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HOUSE FILE 440 SF 311

1 Amend House File 440 as follows:

2 1. By striking from line 76 the word "as" and inserting  
3 in lieu thereof the word "at".

4 2. By striking from line 141 the figure "1857" and inserting *withdrown*  
5 in lieu thereof the figure "1957".

6 3. By inserting after the word "have" in line 251 the following:  
7 "become unsatisfactory or unacceptable, then the Treasurer may re-  
quire".

8 4. By striking from line 435 the word "from" and inserting in lieu  
9 thereof the word "for"

10 5. By inserting after the period in line 446 a sentence as follows:  
11 "A carrier subject to this paragraph may with the approval of the  
12 Treasurer when distributing for a licensee substitute the loading and  
13 delivery evidence required in paragraph two (2) of this section."

14 6. By inserting in line 610 after the word "fuel" the words "that  
15 was" and by inserting after the word "used" in line 611 the words "or  
16 will be used".

17 7. By striking lines 670 through 676 and inserting in lieu  
18 thereof the following: "Any refund permit issued under this chapter  
19 may be revoked by the treasurer for any of the following violations,  
20 but only after the holder of the permit has been given reasonable  
21 notice of the intention to revoke the permit and reasonable oppor-  
tunity

22 to be heard."

23 8. By inserting after the word "year" in line 687 the following:  
24 "from date of issuance or a refund permit whose holder has moved  
from

25 the county wherein he resided at the time of application for said  
26 permit".

27 9. Further amend House File 440 by striking the word "may" in  
28 line 1,188

29 10. By striking from line 1,191 the words "and shall" and  
30 inserting in lieu thereof the word "may".

Filed  
April 2, 1957.

SWISHER of Johnson.  
PAUL of Poweshiek.  
WHITNEY of Cherokee.

HOUSE FILE 440

1 Amend House File 440 as follows:

2 1. Amend section 1, by striking from 324.4 the following in lines 58  
through

3 62: "The treasurer shall furnish a complete list of licensees to each  
licensee

4 annually on or before the fifteenth day of August of each year  
showing all

5 licensees as of July first preceding, and shall also furnish to each  
6 licensee monthly supplements showing changes."

7 2. Further amend section 1, by inserting in 324.7, line 17, after the  
word

8 "annually" the following: "with the lowest responsible bidder li-  
censed to do

9 business in Iowa".

10 Further amend 324.7, subsection 2 by striking the following sentence:

11 "A distributor may furnish other surety satisfactory to the treasurer  
in

12 equal form and amount."

13 Further amend 324.7 by striking all of subsection 6.

14 3. Further amend section 1, by inserting the following new sub-  
section in

15 324.8, after line 18:

16 "Such other information as the treasurer may require for the  
17 enforcement of this Act."

18 4. Further amend section 1, by inserting in 324.10, line 13, after  
the

19 word "Iowa" the following: ", but such audit and examination  
outside

20 Iowa shall be without expense to the state".

*revised*  
*lost*  
*accepted*  
*accepted*  
*accepted*

21. 5. Further amend section 1, by inserting in 324.14, line 10, after  
22 the  
23 period the following: "Persons transporting motor fuel in bulk  
24 upon the  
25 highways of this state in an amount of not to exceed four thousand  
26 (4,000)  
27 gallons shall not be regarded as transporting in bulk." *adopted*

28 6. Further amend section 1, by striking in 324.17 the following  
29 in lines *adopted*  
30 4 and 5: "within the limits hereinafter provided". *adopted*

31 Further amend 324.17, line 7, by striking the comma (,) and in-  
32 serting  
33 in lieu thereof the following: "operated or intended to be operated  
34 upon the  
35 public highways". *defered*

36 Further amend 324.17 by striking all of subsection 8 and renum-  
37 bering  
38 the remaining subsections. *4-12*

39 7. Further amend section 1, by striking from 324.18 the following  
40 in  
41 lines 13, 14, 15 and 16: "The treasurer shall keep a permanent  
42 record of all  
43 permits issued and a cumulative record of the amount of refund  
44 claimed  
45 and paid under each." *lost*

46 8. Further amend section 1, by striking from 324.33 the word  
47 "diecel"  
48 in line 24 and inserting in lieu thereof the word "diesel". Further  
49 amend  
50 line 24 of 324.33 by striking the numeral "7" and inserting in  
51 lieu thereof  
52 "6". *lost*

53 9. Further amend section 1, by inserting in 324.55, line 10, after the  
54 word "Iowa" the following: ", but such audit and examination shall  
55 be  
56 without expense to the state of Iowa". *adopted*

57 10. Further amend section 1 by striking all of 324.56 and renumber  
58 the remainder in numerical order. *4-12 considered*

59 11. Further amend section 1, by striking from 324.60, the following  
60 in line 11: "within five miles of the tractor owner's farm". Further  
61 amend 324.60 by striking the following in lines 12, 13 and 14:  
62 "Motor  
63 vehicle' shall not include 'mobile machinery and equipment' as here-  
64 inafter  
65 defined." *adopted*

66 Further amend 324.60 by striking all of subsection 3 and renum-  
67 bering  
68 the remaining subsections. *4-12*

69 12. Further amend section 1, by striking from 324.65, line 4 the  
70 following: "or records required to be filed or". *4-12*

71 Further amend 324.65, line 6, by inserting after the word "except"  
72 the following: "to a member or members of the general assembly  
73 or any  
74 duly appointed committee of either or both houses thereof or". *adopted*

75 Further amend 324.65, line 18 by striking the word "may" and  
76 inserting in lieu thereof the word "shall". *4-12*

77 13. Further amend section 1, by striking from 324.67 the following  
78 in  
79 lines 9 through 17: "Provided that the treasurer may remit the  
80 penalty  
81 in whole or in part if it appears that the licensee or other person has  
82 made an honest effort to properly report and pay and that the failure  
83 was  
84 due to mistake, accident or oversight; but the treasurer shall not  
85 part of a penalty for delinquent payment where the delinquency  
86 results from  
87 the fact that a check given in payment is not honored because of  
88 insufficient  
89 funds in the account upon which the check was drawn." *Sec 13 considered & adopted*

- 67 14. Further amend section 1, by striking from 324.79, line 8, the  
word  
68 "expenses" and insert in lieu thereof the word "help".  
69 15. Further amend section 1, by inserting in 324.80, following the  
period  
70 in line 6: "The state shall have the right to maintain an action at  
law for  
71 the collection of said taxes required to be paid herein and in con-  
nection  
72 therewith shall be entitled to a writ of attachment without bond."  
73 16. Further amend section 1, by striking in 324.81, line 2 the word  
"five"  
74 and inserting in lieu thereof the word "six".

Filed

April 10, 1957.

*Senate rec'd 4-24 (881009)*

*14-15+16  
Adopted as Amended  
By DAILEY. 4-12*

HOUSE FILE 440

- 1 Amend House File 440 as follows:  
2 1. By striking the period in line 21 on page 57 and inserting in lieu  
3 thereof the following: ", by the treasurer of the state on the first  
4 day of each month in the following manner and amounts:  
5 (1) To the primary road fund, fifty-five (55) percent.  
6 (2) To the secondary road construction fund of the  
7 counties, twenty (20) percent.  
8 (3) To the farm to market road fund, fifteen (15) percent.  
9 (4) To the street construction fund of the cities and  
10 incorporated towns of the state, ten (10) percent."  
11 2. Further amend House File 440 by adding the following as a new  
12 section:  
13 "Section three hundred twelve point two (312.2), Code 1954,  
14 is hereby repealed."

Filed

April 10, 1957.

By MCMANUS.

*not germane  
to Bill  
4-11*

HOUSE FILE 440

- 1 Amend House File 440, section 1, by inserting in  
2 324.52, line 4, after the comma (,) the following:  
3 "or any other container."

Filed

April 11, 1957.

By HOXIE.

*adopted  
4-12*

HOUSE FILE 440

- 1 Amend House File 440, section 1, by striking from 324.17,  
2 subsection 8, line 2, the word "public" and inserting in lieu thereof  
3 the word "state".

Filed

April 11, 1957.

By SCHROEDER.

*adopted  
4-12*

HOUSE FILE 440

- 1 Amend House File 440, section 1, by striking from  
2 324.17, subsection 7, line 2, the word "three" and inserting  
3 in lieu thereof the word "six".

Filed and lost

April 11, 1957.

By HOFFMAN.

- 1 Amend House File 440 as follows:  
2 1. By striking the period in line 21 on page 57 and  
3 inserting in lieu thereof the following: ", and said road  
4 use tax fund, any statute to the contrary notwithstanding,  
5 shall be distributed in the following manner and amounts:  
6 (1) To the primary road fund, forty-five (45) percent.  
7 (2) To the secondary road construction fund of the  
8 counties, twenty-eight (28) percent.  
9 (3) To the farm to market road fund, fifteen (15)  
10 percent.  
11 (4) To the street construction fund of the cities and  
12 incorporated towns of the state, twelve (12) percent."

Filed

April 11, 1957.

By MCMANUS and BYERS.

*not germane to Bill  
4-12*

HOUSE FILE 440

- 1 Amend the Dailey amendment filed April 10, 1957 to House File
- 2 440, division 16, line 2, by striking the word "six" and inserting
- 3 in lieu thereof the word "seven".

Filed  
April 11, 1957.

*adopted*  
By DAILEY.

- 1 Amend House File 440 as follows:
- 2 1. Amend section 1 by striking from 324.7 all of sub-
- 3 section 2 and by renumbering the remaining subsections.
- 4 2. Further amend section 1 by striking from 324.79
- 5 lines 9 and 10, the following: "the premiums on bonds
- 6 contracted for by the treasurer."

Filed and division 1 of the amendment lost.  
Division 2 of the amendment withdrawn.  
April 11, 1957.

X  
By TATE.

HOUSE FILE 440

- 1 Amend the Dailey amendment filed April 10, 1957 to House
- 2 File 440 by striking all of division 12 and inserting in lieu thereof
- 3 the following:
- 4 "13. Further amend section 1, by striking from 324.67 the
- 5 following lines 9 through 13: 'Provided that the treasurer may
- 6 the penalty in whole or in part if it appears that the licensee or
- 7 other person has made an honest effort to properly report and
- 8 pay and that the failure was due to mistake, accident or oversight;
- 9 but the', and inserting in lieu thereof the word 'The'."

Filed and adopted  
April 12, 1957.

By DAILEY.

HOUSE FILE 440

- 1 Amend House File 440, section 1, line 3, by inserting before
- 2 the comma (,) the following: "and the Fifty-seventh General
- 3 Assembly (57th G. A.)."

Filed and withdrawn  
April 12, 1957.

*W*  
By SCHROEDER.

HOUSE FILE 440

- 1 Amend House File 440, section 1, by inserting in 324.2,
- 2 subsection 2, line 7, after the word "tank" the following:
- 3 " , or any other container,".

Filed and adopted  
April 12, 1957.

By HOXIE.

HOUSE FILE 440

- 1 Amend House File 440 as follows:
- 2 1. Section 1, by inserting in 324. 3 after subsection 4 the
- 3 following as a new subsection:
- 4 "The excise tax of four cents per gallon provided for in
- 5 this section shall be increased to six cents per gallon for the
- 6 period beginning July 4, 1957, and ending June 30, 1961."
- 7 2. Further amend section 1 by adding to 324.81 the following:
- 8 "(a) The net proceeds of one cent per gallon of the excise
- 9 tax collected under the provisions of this chapter shall, for the
- 10 period beginning July 4, 1957, and ending June 30, 1961, be
- 11 credited by the treasurer of state to the primary road fund, to
- 12 be used for construction of such primary roads as are presently
- 13 surfaced with gravel or crushed rock only, on the basis of need
- 14 as determined by the state highway commission.
- 15 (b) The net proceeds of one cent per gallon excise tax
- 16 collected under the provisions of this chapter shall, for the
- 17 period beginning July 4, 1957 and ending June 30, 1961, be credited
- 18 by the treasurer of state to the primary road fund for the
- 19 purpose of widening and modernization of highways and bridges

Filed and adopted  
April 17, 1957.

By SCHROEDER.