

acids, plastic film, desensitizer emulsion, exposure chemicals, fix, developers, paper; photography, day rate; photopolymer coating; photographs; photostats; photo-display tape; phototypesetter materials; ph-indicator sticks; positives; press pack; printing cylinders; printing plates, all types; process lettering; proof paper; proofs and proof processes, all types; pumice powder; purchased author alterations; purchased composition; purchased phototypesetting; purchased stripping and paste-ups; red litho tape; reducers; roller covering; screen tints; sketches; stepped plates; stereotypes; strip types; substrate; tints; tissue overlays; toners; transparencies; tympan; typesetting; typography; varnishes; veloxes; wood mounts; and any other items used in a like capacity to any of the above enumerated items by the printer or publisher to complete a finished product for sale at retail. Expendable tools and supplies which are not enumerated in this subsection are excluded from the exemption. "Printer" means that portion of a person's business engaged in printing that completes a finished product for ultimate sale at retail or means that portion of a person's business used to complete a finished printed packaging material used to package a product for ultimate sale at retail. "Printer" does not mean an in-house printer who prints or copyrights its own materials.

Sec. 2. Refunds of taxes, interests, or penalties which arise from claims resulting from the enactment of the amendment to section 422.45, subsection 21, of this Act, for sales and rentals occurring between July 1, 1983, and June 30, 1995, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 1995, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue and finance shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 3. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1983, for sales and rentals made on or after that date.

Approved May 4, 1995

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## CHAPTER 155

### MOTOR FUEL AND SPECIAL FUEL TAXATION AND REGULATION

*H.F. 552*

**AN ACT** relating to changing the point of taxation of motor vehicle fuel by requiring supplier's, restrictive supplier's, importer's, exporter's, dealer's, user's, or blender's licenses, changing reporting periods, and adding penalties and providing an effective date.

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

Section 1. Section 323.1, subsection 4, Code 1995, is amended to read as follows:

4. "Distributor" means a person who holds a motor fuel distributor's license or a special fuel distributor's license issued as provided as defined in chapter 452A.

Sec. 2. Section 323.2, Code 1995, is amended to read as follows:

323.2 DISCONTINUING DISTRIBUTOR FRANCHISE.

Notwithstanding the terms, provisions or conditions of any distributor franchise, a franchiser shall not terminate or refuse to renew a distributor franchise except as provided in this chapter. A franchiser shall not terminate or refuse to renew a distributor

franchise unless the franchiser gives to the distributor thirty days' written notice of franchiser's intent to terminate or not renew. Notice shall be given by restricted certified mail, as defined in section 618.15. If a distributor, within thirty days after the date of delivery of the notice from the franchiser, applies to the department for a hearing under this chapter, the distributor franchise shall remain in effect pending a final order by the department. The application filed by the distributor shall state, under oath, ~~that the distributor's license as a motor fuel or special fuel distributor, as the case may be, has not been canceled pursuant to the provisions of chapter 452A,~~ that the distributor has not filed a petition in bankruptcy or been declared bankrupt within six months preceding the filing of the application, that the franchiser has not withdrawn entirely from the sale for resale of motor fuel and special fuel in this state, that there are no past due sums owing by the distributor to the franchiser, and that the distributor has not consented in writing to the termination or nonrenewal of the distributor franchise.

Sec. 3. Section 323.6, subsection 3, Code 1995, is amended to read as follows:

3. The sale or change of ownership of the distributor's business, ~~unless the transfer of the distributor's license pursuant to chapter 452A is denied or the new owner is unable to obtain a license under chapter 452A.~~

Sec. 4. Section 327A.1, subsection 4, Code 1995, is amended to read as follows:

4. "Transportation for compensation" shall, ~~in addition to~~ include all public transportation, ~~also include and~~ transportation primarily for others by a person, ~~not a distributor licensed, but does not include a distributor as defined~~ under chapter 452A, even though as an incident thereto the person buys the liquids at the point where the transportation originates and sells it at a delivered price at destination ~~and, except as otherwise provided,~~. However, transportation for compensation shall include transportation for others by a distributor licensed as defined under chapter 452A or liquid products not owned by the distributor.

Sec. 5. Section 327A.15, Code 1995, is amended to read as follows:

327A.15 VEHICLES EXCEPTED.

Sections 327A.1 to 327A.14 shall not apply to ~~(1)~~ transportation in bulk by a vehicle having a total cargo tank shell capacity of two thousand gallons or less, ~~(2)~~ transportation by a distributor licensed as defined under chapter 452A incidental to and in the regular course of the business as a distributor of petroleum products, or ~~(3)~~ reciprocal exchange between distributors licensed as defined under chapter 452A of transportation pursuant to an exchange of products between distributors ~~so licensed~~.

Sec. 6. Section 422.110, unnumbered paragraph 1, Code 1995, is amended to read as follows:

In lieu of the fuel tax refund provided in sections 452A.17 to 452A.19, a person or corporation subject to taxation under divisions II or III of this chapter, except persons or corporations licensed under section 452A.4 ~~or 452A.36~~, may elect to receive an income tax credit for tax years beginning on or after January 1, 1975. The person or corporation which elects to receive an income tax credit shall cancel its refund permit obtained under section 452A.18 within thirty days after the first day of its tax year or the permit becomes invalid at that time. For the purposes of this section, "person" includes a person claiming a tax credit based upon the person's pro rata share of the earnings from a partnership or corporation which is not subject to a tax under division II or III of this chapter as a partnership or corporation. If the election to receive an income tax credit has been made, it remains effective for at least one tax year, and for subsequent tax years unless a change is requested and a new refund permit applied for within thirty days after the first day of the person's or corporation's tax year. The income tax credit shall be the amount of the Iowa fuel tax paid on fuel purchased by the person or corporation and used as follows:

Sec. 7. Section 422.110, subsection 2, Code 1995, is amended to read as follows:

2. Special fuel as defined in section ~~452A.33, subsection 7,~~ 452A.2 used for the purpose of operation of corn shellers, roller mills and feed grinders mounted on trucks.

Sec. 8. Section 452A.1, Code 1995, is amended to read as follows:

452A.1 SHORT TITLE.

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

Sec. 9. Section 452A.2, subsections 2 and 5, Code 1995, are amended by striking the subsections and inserting in lieu thereof the following:

2. "Dealer" means a person, other than a distributor, who engages in the business of selling or distributing motor fuel or special fuel to the end user in this state.

5. "Distributor" means a person who acquires tax paid motor fuel or special fuel from a supplier, restrictive supplier or importer, or another distributor for subsequent sale at wholesale and distribution by tank cars or tank trucks or both. The department may require that the distributor be registered to have terminal purchase rights.

Sec. 10. Section 452A.2, subsection 7, Code 1995, is amended to read as follows:

7. "Licensee" ~~shall mean and include~~ means any a person holding an uncanceled distributor's supplier's, restrictive supplier's, importer's, exporter's, dealer's, user's, or blender's license issued by the department under this division or any prior motor fuel tax law or any other person who possesses fuel for which the tax has not been paid.

Sec. 11. Section 452A.2, subsection 8, Code 1995, is amended to read as follows:

8. "Motor fuel" ~~shall mean (a) all~~ means both of the following:

a. All products commonly or commercially known or sold as gasoline (including casinghead and absorption or natural gasoline) regardless of their classifications or uses; and (b) any.

b. Any liquid advertised, offered for sale, sold for use as, or commonly or commercially used as a fuel for propelling motor vehicles, which when subjected to distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society of Testing Materials Designation D-86), show not less than ten per centum distilled (recovered) below three hundred forty-seven degrees Fahrenheit (one hundred seventy-five degrees Centigrade) and not less than ninety-five per centum distilled (recovered) below four hundred sixty-four degrees Fahrenheit (two hundred forty degrees Centigrade); provided, that the term "motor.

"Motor fuel" shall does not include special fuel as defined in section 452A.33, subsection 7, and shall does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute, nor or naphthas and solvents as hereinafter defined unless the liquefied gases or naphthas and solvents are used as a component in the manufacture, compounding, or blending of a liquid within (b) above paragraph "b", in which event the resulting product shall be deemed to be motor fuel.

Sec. 12. Section 452A.2, subsection 9, Code 1995, is amended by striking the subsection.

Sec. 13. Section 452A.2, Code 1995, is amended by adding the following new subsections:

**NEW SUBSECTION.** 1A. "Blender" means a person who owns and blends alcohol with gasoline to produce ethanol blended gasoline and blends the product at a nonterminal location. The blender is not restricted to blending alcohol with gasoline. Products blended with other than grain alcohol are treated and taxed as gasoline. "Blender" also means a person blending two or more special fuel products at a nonterminal location where the tax has not been paid on all of the products blended. The blend is taxed as a special fuel.

**NEW SUBSECTION.** 1B. "Common carrier" or "contract carrier" means a person involved in the movement of motor fuel or special fuel from the terminal or movement of the motor fuel or special fuel imported into this state, who is not an owner of the motor fuel or special fuel.

**NEW SUBSECTION.** 5A. "Eligible purchaser" means a distributor of motor fuel or special fuel or an end user of special fuel who has purchased a minimum of two hundred forty thousand gallons of special fuel each year in the preceding two years. Eligible purchasers who elect to make delayed payments to a licensed supplier shall use electronic funds transfer. Additional requirements for qualifying as an eligible purchaser shall be established by rule.

**NEW SUBSECTION.** 6A. "Export" means delivery across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

**NEW SUBSECTION.** 6B. "Exporter" means a person or other entity who acquires fuel in this state exclusively for export to another state.

**NEW SUBSECTION.** 6C. "Import" means delivery across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

**NEW SUBSECTION.** 6D. "Importer" means a person who imports motor fuel or undyed special fuel in bulk or transport load into the state by truck, rail, or barge.

**NEW SUBSECTION.** 6E. "Licensed compressed natural gas and liquefied petroleum gas dealer" means a person in the business of handling untaxed compressed natural gas or liquefied petroleum gas who delivers any part of the fuel into a fuel supply tank of any motor vehicle.

**NEW SUBSECTION.** 6F. "Licensed compressed natural gas and liquefied petroleum gas user" means a person licensed by the department who dispenses compressed natural gas or liquefied petroleum gas, upon which the special tax has not been previously paid, for highway use from fuel sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial vehicle owned or controlled by the person.

**NEW SUBSECTION.** 11A. "Restrictive supplier" means a person who imports motor fuel or undyed special fuel into this state in tank wagons or in small tanks not otherwise licensed as an importer.

**NEW SUBSECTION.** 11B. "Special fuel" means fuel oils and all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles or turbine-powered aircraft, and includes any substance used for that purpose, except that it does not include motor fuel.

**NEW SUBSECTION.** 11C. "Supplier" means a person who acquires motor fuel or special fuel by pipeline or marine vessel from a state, territory, or possession of the United States, or from a foreign country for storage at and distribution from a terminal and who is registered under 26 U.S.C. § 4101 for tax-free transactions in gasoline, a person who produces in this state or acquires by truck, railcar, or barge for storage at and distribution from a terminal, alcohol or alcohol derivative substances, or a person who produces, manufactures, or refines motor fuel or special fuel in this state. "Supplier" includes a person who does not meet the jurisdictional connection to this state but voluntarily agrees to act as a supplier for purposes of collecting and reporting the motor fuel or special fuel tax. "Supplier" does not include a retail dealer or wholesaler who merely blends alcohol with gasoline before the sale or distribution of the product or a terminal operator who merely handles, in a terminal, motor fuel or special fuel consigned to the terminal operator.

**NEW SUBSECTION.** 11D. "Terminal" means a motor fuel or special fuel storage and distribution facility that is supplied by a pipeline or a marine vessel and from which the fuel may be removed at a rack. "Terminal" does not include a facility at which motor fuel or special fuel blend stocks and additives are used in the manufacture of products other than motor fuel or special fuel and from which no motor fuel or special fuel are removed.

**NEW SUBSECTION.** 11E. "Terminal operator" means the person who by ownership or contractual agreement is charged with the responsibility for, or physical control over, and operation of a terminal. If co-venturers own a terminal, "terminal operator" means the

person who is appointed to exercise the responsibility for, or physical control over, and operation of the terminal.

**NEW SUBSECTION.** 12A. "Use" means the receipt, delivery, or placing of liquefied petroleum gas by a licensed liquefied petroleum gas user into a fuel supply tank of a motor vehicle while the vehicle is in the state, except that with respect to natural gas used as a special fuel, "use" means the receipt, delivery, or placing of the natural gas into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle.

**NEW SUBSECTION.** 12B. "Withdrawn from terminal" means physical movement from a supplier to a distributor or eligible end user and includes an importer going out of state and obtaining fuel from a terminal and bringing the fuel into the state, and a restrictive supplier bringing fuel into the state even though not purchased directly from a terminal.

Sec. 14. Section 452A.3, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

**452A.3 LEVY OF EXCISE TAX.**

1. For the privilege of operating motor vehicles in this state, an excise tax of twenty cents per gallon is imposed upon the use of all motor fuel used for any purpose except aviation gasoline and except motor fuel containing at least ten percent alcohol distilled from cereal grains grown in the United States for the period ending June 30, 2000, and except as otherwise provided in this division. For the privilege of operating aircraft in this state an excise tax of eight cents per gallon is imposed on the use of all aviation gasoline.

2. For the privilege of operating motor vehicles in this state, an excise tax of nineteen cents per gallon until June 30, 2000, is imposed upon the use of motor fuel containing at least ten percent alcohol distilled from cereal grains grown in the United States and used for any purpose except as otherwise provided in this division.

3. For the privilege of operating motor vehicles or aircraft in this state, there is imposed an excise tax on the use of special fuel in a motor vehicle or aircraft. The tax rate on special fuel for diesel engines of motor vehicles is twenty-two and one-half cents per gallon. The rate of tax on special fuel for aircraft is three cents per gallon. On all other special fuel the per gallon rate is the same as the motor fuel tax. Indelible dye meeting United States environmental protection agency and internal revenue service regulations must be added to fuel before or upon withdrawal at a terminal or refinery rack for that fuel to be exempt from tax and may be used only for an exempt purpose.

4. For compressed natural gas used as a special fuel, the rate of tax that is equivalent to the motor fuel tax shall be sixteen cents per hundred cubic feet adjusted to a base temperature of sixty degrees Fahrenheit and a pressure of fourteen and seventy-three hundredths pounds per square inch absolute.

5. The tax shall be paid by the following:

a. The supplier, upon the invoiced gross gallonage of all motor fuel or undyed special fuel withdrawn from a terminal for delivery in this state.

b. The person who owns or causes the fuel to be brought into the state by a restrictive supplier or importer, upon the invoiced gross gallonage of motor fuel or undyed special fuel imported.

c. The blender on total invoiced gross gallonage of alcohol or other product sold to be blended with gasoline or special fuel.

d. Any other person who possesses taxable fuel upon which the tax has not been paid to a licensee.

However, the tax shall not be imposed or collected under this division with respect to motor fuel or special fuel sold for export or exported from this state to any other state, territory, or foreign country.

6. Thereafter, except as otherwise provided in this division, the per gallon amount of the tax shall be added to the selling price of every gallon of such motor fuel or undyed special fuel sold in this state and shall be collected from the purchaser so that the ultimate consumer bears the burden of the tax.

Sec. 15. Section 452A.4, Code 1995, is amended to read as follows:

452A.4 DISTRIBUTOR'S SUPPLIER'S, RESTRICTIVE SUPPLIER'S, IMPORTER'S, EXPORTER'S, DEALER'S, AND USER'S LICENSE.

1. It shall be unlawful for any person to receive sell motor fuel or undyed special fuel within this state or to otherwise act as a distributor supplier, restrictive supplier, importer, exporter, dealer, or user unless the person holds an uncanceled distributor's license issued by the department. To procure a license a distributor supplier, restrictive supplier, importer, exporter, dealer, or user shall file with the department an application signed under penalty for false certificate and in such form as the department may prescribe, setting forth and complying with all of the following:

1. a. The name under which the distributor licensee will transact business in the this state of Iowa.

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

3. c. The name and complete residence address of the owner or the names and addresses of the partners, if the distributor licensee is a partnership, or the names and addresses of the principal officers, if the distributor licensee is a corporation or association.

d. A dealer's or user's license shall be required for each separate place of business or location where compressed natural gas or liquefied petroleum gas is delivered or placed into the fuel supply tank of a motor vehicle.

e. An applicant for an exporter's license shall provide verification as required by the department that the applicant has the appropriate license valid in the state or states into which the motor fuel or undyed special fuel will be exported.

2. a. The department may deny the issuance of a license to an applicant who is substantially delinquent in the payment of a tax due, or the interest or penalty on the tax, administered by the department. If the applicant is a partnership, a license may be denied if a partner owes any delinquent tax, interest, or penalty. If the applicant is a corporation, a license may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, interest, or penalty of the applicant corporation.

b. If (a) any The department may deny the issuance of a license if an application for a license to transact business as a distributor supplier, restrictive supplier, importer, exporter, dealer, or user in this state shall be is filed by any a person whose license shall have or registration has been canceled for cause at any time theretofore under the provisions of the this chapter or any prior motor fuel tax law, or (b) if the department shall be of the opinion has reason to believe that such the application is not filed in good faith, or (c) if the application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have has been canceled for cause under the provisions of this chapter or any prior motor fuel tax law, the department, after a hearing of which the applicant shall have been given fifteen days' notice in writing and in which said. The applicant shall be given fifteen days' notice in writing of the date of the hearing and shall have the right to appear in person or by counsel and present testimony, shall have and is hereby given the right and authority to refuse to issue to the applicant a distributor's license.

Upon the filing of the application, a filing fee of ten dollars shall be paid to the department.

3. a. The application in proper form having been accepted for filing, the filing fee paid and the other conditions and requirements of this section and division IV having been complied with, the department shall issue to the applicant a license to transact business as a distributor supplier, restrictive supplier, importer, exporter, dealer, or user in this state. The license shall remain in full force and effect until canceled as provided in this chapter.

b. The license shall not be assignable and shall be valid only for the distributor licensee in whose name it is issued.

c. The department shall keep and file all applications and bonds ~~with an alphabetical index thereof, together with~~ and a record of all licensees.

Sec. 16. Section 452A.5, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

452A.5 DISTRIBUTION ALLOWANCE.

A supplier shall retain a distribution allowance of not more than one and six-tenths percent of all gallons of motor fuel and a distribution allowance of not more than seven-tenths percent of all gallons of undyed special fuel removed from the terminal during the reporting period for purposes of tax computation under section 452A.8.

The distribution allowance shall be prorated between the supplier and the distributor as follows:

1. Motor fuel: four-tenths percent retained by the supplier, one and two-tenths percent to the distributor.
2. Undyed special fuel: thirty-five hundredths percent retained by the supplier, thirty-five hundredths percent to the distributor or dealer purchasing directly from a supplier. Gallons exported outside of the state shall not be included in the calculation of the distribution.

Sec. 17. Section 452A.6, Code 1995, is amended to read as follows:

452A.6 ETHANOL BLENDED GASOLINE BLENDER'S LICENSE.

A person other than a ~~distributor~~ supplier, restrictive supplier, or importer licensed under this division, who blends ~~motor fuel containing at least ten percent gasoline with alcohol distilled from agricultural products~~ cereal grains so that the blend contains at least ten percent alcohol distilled from cereal grains, shall obtain a blender's license. The license shall be obtained by following the procedure ~~as set forth in~~ under section 452A.4 and the license is subject to the same restrictions as contained in that section. ~~Each~~ A blender shall maintain records as required by section 452A.10 as to motor fuel, alcohol, and ethanol blended gasoline.

Sec. 18. NEW SECTION. 452A.7 FOREIGN SUPPLIERS.

The director, upon application, may authorize the collection and reporting of the tax by any supplier not having jurisdictional connections with this state. A foreign supplier shall be issued a license to collect and report the tax and shall be subject to the same regulations and requirements as suppliers having a jurisdictional connection with the state, or other regulations and agreements as prescribed by the director.

Sec. 19. Section 452A.8, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

452A.8 TAX REPORTS – COMPUTATION AND PAYMENT OF TAX – CREDITS.

1. For the purpose of determining the amount of the supplier's, restrictive supplier's, or importer's tax liability, a supplier or restrictive supplier shall file, not later than the last day of the month following the month in which this division becomes effective and not later than the last day of each calendar month thereafter, and an importer shall file a report semi-monthly with the department, signed under penalty for false certification. For an importer for the reporting period from the first day of the month through the fifteenth of the month, the report is due on the last day of the month. For an importer for the reporting period from the sixteenth of the month through the last day of the month the report is due on the fifteenth day of the following month. The reports shall include the following:

a. A statement of the number of invoiced gallons of motor fuel and undyed special fuel withdrawn from the terminal by the licensee within this state during the preceding calendar month in such detail as determined by the department. This includes on-site blending reports at the terminal.

b. For information purposes only, a supplier, restrictive supplier, or importer shall show the number of invoiced gallons of dyed special fuel withdrawn from the terminal.

c. A statement showing the deductions authorized in this division in such detail and with such supporting evidence as required by the department.

d. Any other information the department may require for the enforcement of this chapter.

2. At the time of filing of a report, a supplier, restrictive supplier, or importer shall pay to the department the full amount of the fuel tax due for the preceding calendar month computed as follows:

a. From the total number of invoiced gallons of motor fuel or undyed special fuel withdrawn from the terminal by the licensee within the state during the preceding calendar month the following deductions shall be made:

(1) The gallonage of motor fuel or undyed special fuel withdrawn from a terminal by a licensee and exported outside Iowa.

(2) For suppliers only, the one and six-tenths percent of the number of gallons of motor fuel or seven-tenths percent of the number of gallons of undyed special fuel of the invoiced gallons of motor fuel or undyed special fuel withdrawn from a terminal within this state during the preceding calendar month.

b. The number of invoiced gallons remaining after the deductions in paragraph "a" shall be multiplied by the per gallon fuel tax rate.

c. The tax due under paragraph "b" shall be the amount of fuel tax due from the supplier, restrictive supplier, or importer for the preceding reporting period. The director may require by rule that the payment of taxes by suppliers, restrictive suppliers, and importers be made by electronic funds transfer. The director may allow a tax float by rule where the eligible purchaser is not required to pay the tax to the supplier until one business day prior to the date the tax is due. Any credit calculated by the supplier, restrictive supplier, or importer may be applied against the amount due.

A licensed supplier who is unable to recover the tax from an eligible purchaser is not liable for the tax, upon proper documentation, and may credit the amount of unpaid tax against a later remittance of tax. Under this provision, a supplier does not qualify for a credit if the purchaser did not elect to use the eligible purchaser status, or otherwise does not qualify to be an eligible purchaser. To qualify for the credit, the supplier must notify the department of the uncollectible account no later than ten calendar days after the due date for payment of the tax. If a supplier sells additional motor fuel or undyed special fuel to a delinquent eligible purchaser after notifying the department that the supplier has an uncollectible debt with that eligible purchaser, the limited liability provision does not apply to the additional fuel. The supplier is liable for tax collected from the purchaser.

d. The director may require by rule that reports be filed by electronic transmission.

e. The tax for compressed natural gas and liquefied petroleum gas delivered by a licensed compressed natural gas or liquefied petroleum gas dealer for use in this state shall attach at the time of the delivery and shall be collected by the dealer from the consumer and paid to the department as provided in this chapter. The tax, with respect to compressed natural gas and liquefied petroleum gas acquired by a consumer in any manner other than by delivery by a licensed compressed natural gas or liquefied petroleum gas dealer into a fuel supply tank of a motor vehicle, attaches at the time of the use of the fuel and shall be paid over to the department by the consumer as provided in this chapter.

The department shall adopt rules governing the dispensing of compressed natural gas and liquefied petroleum gas by licensed dealers and licensed users. For purposes of this paragraph "dealer" and "user" means a licensed compressed natural gas or liquefied petroleum gas dealer or user and "fuel" means compressed natural gas or liquefied petroleum gas. The department shall require that all pumps located at dealer locations and user locations through which liquefied petroleum gas can be dispensed, metered, inspected, tested for accuracy, and sealed and licensed by the state department of agriculture and land stewardship, and that fuel delivered into the fuel supply tank of any motor vehicle shall be dispensed only through tested metered pumps and may be sold without temperature



correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature-corrected, only a temperature-compensated meter shall be used. Natural gas used as fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship.

All gallonage which is not for highway use, dispensed through metered pumps as licensed under this section on which fuel tax is not collected, must be substantiated by exemption certificates as provided by the department or by valid exemption certificates provided by the dealers, signed by the purchaser, and retained by the dealer. A "valid exemption certificate provided by a dealer" is an exemption certificate which is in the form prescribed by the director to assist a dealer to properly account for fuel dispensed for which tax is not collected and which is complete and correct according to the requirements of the director.

For the privilege of purchasing liquefied petroleum gas, dispensed through licensed metered pumps, on a basis exempt from the tax, the purchaser shall sign exemption certificates for the gallonage claimed which is not for highway use.

The department shall disallow all sales of gallonage which is not for highway use unless proof is established by the certificate. Exemption certificates shall be retained by the dealer for a period of three years.

(1) For the purpose of determining the amount of liability for fuel tax, each dealer and each user shall file with the department not later than the last day of the month following the month in which this division becomes effective and not later than the last day of each calendar month thereafter a monthly tax return certified under penalties for false certification. The return shall show, with reference to each location at which fuel is delivered or placed by the dealer or user into a fuel supply tank of any motor vehicle during the next preceding calendar month, information as required by the department.

(2) The amount of tax due shall be computed by multiplying the appropriate tax rate per gallon by the number of gallons of fuel delivered or placed by the dealer or user into supply tanks of motor vehicles.

(3) The return shall be accompanied by remittance in the amount of the tax due for the month in which the fuel was placed into the supply tanks of motor vehicles.

3. For the purpose of determining the amount of the tax liability on alcohol blended to produce ethanol blended gasoline, each licensed blender shall, not later than the last day of each month following the month in which the blending is done, file with the department a monthly report, signed under penalty for false certificate, containing information required by rules adopted by the director.

4. A person who possesses fuel or uses fuel in a motor vehicle upon which no tax has been paid by a licensee in this state is subject to reporting and paying the applicable tax.

Sec. 20. Section 452A.9, Code 1995, is amended to read as follows:

**452A.9 REPORT FROM PERSONS NOT LICENSED AS ~~DISTRIBUTORS~~ SUPPLIERS, RESTRICTIVE SUPPLIERS, OR IMPORTERS.**

Every person other than a licensed ~~distributor~~ supplier, restrictive supplier, or importer, who ~~shall purchase purchases, bring brings~~ into this state, or otherwise ~~acquire acquires~~ within this state motor fuel or undyed special fuel, not otherwise exempted, with respect to which ~~such~~ the person has knowingly not paid or incurred liability to pay either to a licensee or to a dealer the motor fuel or special fuel tax, shall be subject with respect to the ~~motor fuel~~ to all the provisions of this division that apply to ~~distributors on~~ suppliers, restrictive suppliers, and importers of motor fuel received by them in this state or undyed special fuel and shall make the same reports and tax payments thereon and be subject to the same penalties for delinquent reporting or nonreporting or delinquent payment or nonpayment as apply to ~~distributors~~ suppliers, restrictive suppliers, and importers.

Sec. 21. Section 452A.10, Code 1995, is amended to read as follows:

**452A.10 REQUIRED ~~DISTRIBUTOR AND DEALER~~ RECORDS.**

~~Each A motor fuel distributor or special fuel supplier, restrictive supplier, importer, exporter, blender, dealer, user, common carrier, contract carrier, or terminal shall maintain and keep for a period of three years, records of all transactions by which the distributor receives, uses, sells, delivers or otherwise disposes of motor fuel within this state, supplier, restrictive supplier, or importer withdraws from a terminal within this state or imports into this state motor fuel or undyed special fuel together with invoices, bills of lading, and other pertinent records and papers as may reasonably be required by the department for the administration of this division.~~

~~If in the normal conduct of a distributor's supplier's, restrictive supplier's, importer's, exporter's, blender's, dealer's, user's, common carrier's, contract carrier's, or terminal's business the distributor's records are maintained and kept at an office outside the this state, of Iowa, it shall be a sufficient compliance with this section if the records are shall be made available for audit and examination by the department at the office outside Iowa this state, but such the audit and examination outside Iowa shall be without expense to the this state.~~

Each dealer distributor handling motor fuel or special fuel in this state shall maintain ~~and keep~~ for a period of ~~two~~ three years records of all motor fuel or undyed special fuel purchased or otherwise acquired by the dealer distributor, together with delivery tickets, invoices, and bills of lading, and ~~such any other pertinent records as required by the department shall require.~~

The department, after an audit and examination of ~~the records of a distributor or dealer required to be maintained under this section,~~ may authorize their disposal, ~~the authorization to be in writing after upon the written request by of the supplier, restrictive supplier, importer, exporter, blender, dealer, user, carrier, terminal, or distributor or dealer.~~

Sec. 22. Section 452A.12, Code 1995, is amended to read as follows:

452A.12 LOADING AND DELIVERY EVIDENCE ON TRANSPORTATION EQUIPMENT.

1. ~~There A serially numbered manifest shall be carried on every vehicle, except small tank wagons, while in use in transportation service, a serially numbered manifest in form satisfactory to the department on which shall be entered the following information as to the cargo of motor fuel or special fuel being moved in the vehicle: The date and place of loading, the place to be unloaded, the person for whom it is to be delivered, the nature and kind of product, the amount of product, and other information called for in the forms prescribed or approved required by the department. The manifest for small tank wagons shall be retained at the home office. The manifest covering each load transported, upon consummation of the delivery, shall be completed by showing the date and place of actual delivery and the person to whom actually delivered and shall be kept as a permanent record for a period of three years. However, the record of the manifest of past cargoes need not be carried on the conveyance but must shall be preserved by the carrier for the inspection of by the department. A carrier subject to this subsection when distributing for a licensee may with the approval of the department when distributing for a licensee substitute the loading and delivery evidence required in subsection 2 for the manifest.~~

2. ~~Every distributor or other A person while transporting motor fuel or undyed special fuel from a refinery or marine or pipeline terminal in this state or from a point outside this state via over the highways of this state in service other than that covered in under subsection 1 of this section shall carry in the vehicle a loading invoice showing the true name and address of the seller or consignor, the date and place of loading and the kind and quantity of motor fuel or special fuel loaded, together with invoices showing the kind and quantity of each delivery therefrom, and the name and address of each purchaser or consignee.~~

Sec. 23. Section 452A.15, Code 1995, is amended to read as follows:

452A.15 TRANSPORTATION REPORTS - REFINERY AND PIPELINE AND MARINE TERMINAL REPORTS.

1. Every railroad and common carrier or contract ~~motor~~ carrier transporting motor fuel or special fuel either in interstate or intrastate commerce within this state and every person

transporting motor fuel or special fuel by whatever manner ~~from a point outside this state to any point in this~~ into this state shall, subject to penalties for false certificate, report to the department ~~on forms prescribed by the department~~ all deliveries of motor fuel or special fuel to points within this state other than refineries or marine or pipeline terminals. If any supplier, restrictive supplier, importer, or distributor ~~or dealer~~ is also engaged in the transportation of motor fuel or special fuel for others, the supplier, restrictive supplier, importer, or distributor ~~or dealer~~ shall make the same reports as required of common carriers and contract carriers.

The report shall cover monthly periods and shall show as to each delivery:

- a. The name and address of the person to whom delivery was actually ~~and in fact~~ made.
- b. The name and address of the originally named consignee, if delivered to any other than the originally named consignee.
- c. The point of origin, the point of delivery, and the date of delivery.
- d. The number and initials of each tank car and the number of gallons contained ~~therein~~ in the tank car, if shipped by rail.
- e. The name of the boat, barge, or vessel, and the number of gallons contained ~~therein~~ in the boat, barge, or vessel, if shipped by water.
- f. The registration number of each tank truck and the number of gallons contained ~~therein~~ in the tank truck, if transported by motor truck.
- g. The manner, if delivered by other means, in which the delivery is made.
- h. ~~Such additional~~ Additional information relative to shipments of motor fuel or special fuel as the department may require.

If ~~any~~ a person required under this section to file transportation reports is a licensee under this division and if the information required in the transportation report is contained in any other report rendered by the person under this division, ~~no~~ a separate transportation report of that information shall not be required.

2. ~~Every~~ A person operating storage facilities at a refinery or at a ~~marine or pipeline~~ terminal in this state shall ~~monthly~~ make an a monthly accounting to the department ~~on forms prescribed by the department~~ of all motor fuel, alcohol, and undyed special fuel withdrawn from the refinery storage and all motor fuel, alcohol, and undyed special fuel delivered into, withdrawn from and on hand in the refinery or terminal storage.

3. The reports required in this section shall be for information purposes only and the department may in its discretion waive the filing of any of these reports not necessary for proper administration of this division. The reports required in this section shall be certified under penalty for false certificate and filed with the department within the time allowed for filing of ~~distributors'~~ suppliers' and restrictive suppliers' reports of motor fuel received or special fuel withdrawn from a terminal within this state or imported into this state.

Sec. 24. Section 452A.17, Code 1995, is amended to read as follows:

452A.17 ~~REFUND TO NONLICENSEE FUEL USED OTHER THAN IN WATERCRAFT, AIRCRAFT, OR MOTOR VEHICLES~~ REFUNDS.

1. A person ~~other than a distributor, dealer or user licensed under this chapter~~ who uses motor fuel or undyed special fuel for any of the purpose of operating or propelling farm tractors, corn shellers, roller mills, truck mounted feed grinders, stationary gas engines, for producing denatured alcohol within the state, for cleaning or dyeing or for any purpose other than in watercraft or aircraft or for propelling motor vehicles operated or intended to be operated upon the public highways nontaxable purposes listed in this subsection, and who has paid the motor fuel or special fuel tax ~~on the fuel~~ either directly to the department or by having the tax added to the price of the fuel, and who has a refund permit, upon presentation to and approval by the department of a claim for refund, shall be reimbursed and repaid the amount of the tax which the claimant has paid on the gallonage so used, except that the amount of a refund payable under this division may be applied by the department against any tax liability outstanding on the books of the department against the claimant.

a. The refund is allowable for motor fuel or undyed special fuel sold to or used for the following:

(1) The United States or any agency or instrumentality of the United States or where collection of the tax would be prohibited by the Constitution of the United States or the laws of the United States or by the Constitution of the State of Iowa.

(2) An Iowa urban transit system which is used for a purpose specified in section 452A.57, subsection 6.

(3) A regional transit system, the state, any of its agencies, or any political subdivision of the state which is used for a purpose specified in section 452A.57, subsection 11, or for public purposes, including fuel sold for the transportation of pupils of approved public and nonpublic schools by a carrier who contracts with the public school under section 285.5.

(4) Fuel used in unlicensed vehicles, stationary engines, and implements used in agricultural production.

(5) Fuel used for producing denatured alcohol.

(6) Fuel used for idle time, power takeoffs, reefer units, pumping credits, transport diversions, fuel lost through casualty, exports by eligible purchasers, and blending errors for special fuel. The department shall adopt rules setting forth specific requirements relating to refunds for idle time, power takeoffs, reefer units, pumping credits and transport diversions, fuel lost through casualty, and blending errors for special fuel.

(7) A bona fide commercial fisher, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to section 482.4.

(8) For motor fuel or special fuel placed in motor vehicles and used, other than on a public highway, in the extraction and processing of natural deposits, without regard to whether the motor vehicle was registered under section 321.18. An applicant under this subparagraph shall maintain adequate records for a period of three years beyond the date of the claim.

b. Every A claim for refund is subject to the following conditions:

~~1-~~ (1) The claim shall be on a form prescribed by the department and be certified by the claimant under penalty for false certificate.

~~2-~~ (2) The claim shall ~~have attached thereto the original invoice or other~~ include proof as prescribed by the department showing the purchase of the motor fuel or undyed special fuel on which a refund is claimed.

~~3-~~ (3) An invoice shall not be acceptable in support of a claim for refund unless it is a separate serially numbered invoice covering no more than one purchase of motor fuel or undyed special fuel, prepared by the seller on a form approved by the department which will prevent erasure or alteration; ~~nor~~ and unless it is legibly written with no corrections or erasures and shows the date of sale, the name and address of the seller and of the purchaser, the kind of fuel, the gallonage in figures, the per gallon price of the motor fuel or undyed special fuel, the total purchase price including the Iowa motor fuel or undyed special fuel tax and that the total purchase price including tax has been paid; ~~provided, that as.~~ However, with respect to refund invoices made on a billing machine, the department may waive any of the requirements of this subsection subparagraph.

~~4-~~ (4) The claim shall state the gallonage of motor fuel or undyed special fuel that was used or will be used by the claimant other than in watercraft or aircraft or to propel motor vehicles, the manner in which the motor fuel or undyed special fuel was used or will be used and the equipment in which it was used or will be used.

~~5-~~ (5) The claim shall ~~also~~ state whether ~~or not~~ the claimant used fuel for watercraft or aircraft or to propel motor vehicles from the same tanks or receptacles in which the claimant kept the motor fuel or undyed special fuel on which the refund is claimed.

~~6-~~ A refund shall not be paid with respect to any motor fuel or special fuel taken out of this state in fuel supply tanks of watercraft, aircraft, or motor vehicles.

~~7-~~ A refund shall not be paid with respect to motor fuel or special fuel purchased more than four calendar months prior to the date the claim was filed with the department.

~~8. A refund shall not be paid with respect to motor fuel or special fuel used in the performance of a contract which is paid out of state funds unless the contract for the work contains a certificate made under penalty for false certificate that the estimate, bid or price to be paid for the work includes no amount representing motor fuel or special fuel tax subject to refund.~~

9. (6) If an original invoice is lost or destroyed the department may in its discretion accept a copy identified and certified by the seller as being a true copy of the original.

~~10. (7) The right of a person to a refund under this section shall not be assignable. Claim shall be made by and the amount of the refund when determined by the department shall be paid to the person who purchased the motor fuel or undyed special fuel as shown in the supporting invoice unless that person designates another person as an agent for purposes of filing and receiving the refund for idle time, power takeoff, reefer units, pumping credits, and transport diversions.~~

11. (8) In order to verify the validity of a claim for refund the department shall have the right to require the claimant to furnish such additional proof of validity as the department may determine and to examine the books and records of the claimant. Failure of a claimant to furnish the claimant's books and records for examination shall constitute a waiver of all rights to refund related to the transaction in question.

~~12. Refunds shall be made of motor vehicle fuel taxes paid on motor fuel or special fuel placed in motor vehicles and used, other than on public highways, in the extraction and processing of natural deposits, without regard to whether such motor vehicles are registered under section 321.18. An applicant for a refund under this subsection must maintain adequate records for a period of three years beyond the filing of the claim. The department will pay the claim upon the presentation of proof which may reasonably be required.~~

13. A bona fide commercial fisher, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to section 482.4 is entitled to receive a motor fuel or special fuel tax refund under this section.

14. 4. In lieu of the refund provided in this section, a person may receive an income tax credit as provided in chapter 422, division IX, but only as to motor fuel or undyed special fuel not used in motor vehicles, aircraft, or watercraft.

5. a. A claim for refund shall not be allowed ~~which is in an amount of less than ten dollars unless the claimant has accumulated sixty dollars in credits for one calendar year. A claim for refund may be filed any time the sixty dollar minimum has been met within the calendar year. If the sixty dollar minimum has not been met in the calendar year, the credit shall be claimed on the claimant's income tax return unless the taxpayer is not required to file an income tax return in which case a refund shall be allowed. Once the sixty dollar minimum has been met, the claim for refund must be filed within one year.~~

b. A refund shall be paid with respect to any motor fuel or undyed special fuel taken out of this state in supply tanks of watercraft, aircraft, or motor vehicles.

c. A refund shall not be paid with respect to motor fuel or special fuel used in the performance of a contract which is paid out of state funds unless the contract for the work contains a certificate made under penalty for false certificate that the estimate, bid, or price to be paid for the work does not include any amount representing motor fuel or special fuel tax subject to refund.

Sec. 25. Section 452A.18, Code 1995, is amended to read as follows:  
452A.18 REFUND PERMIT.

A person shall not claim a refund under section 452A.17 or section 452A.21 until the person has obtained a refund permit from the department. A special permit shall be obtained by applicants an applicant claiming a refund under this chapter ~~on account of~~ for motor fuel used to blend ethanol blended gasoline. Application for a refund permit shall be made to the department ~~on a form provided by the department~~, shall be certified by the applicant under penalty for false certificate, and shall contain among other things, the name, address, and occupation of the applicant, the nature of the applicant's business, and

a sufficient description for identification of the machines and equipment in which is to be used the motor fuel for which refund may be claimed under the permit or undyed special fuel is to be used. Each permit shall bear a separate number and each claim for refund shall bear the number of the permit under which it is made. The department shall keep a permanent record of all permits issued and a cumulative record of the amount of refund claimed and paid under each. A refund permit shall continue in effect until it is revoked or becomes invalid.

Sec. 26. Section 452A.21, Code 1995, is amended to read as follows:

452A.21 REFUND - CREDIT — ~~PENALTY.~~

Persons ~~other than distributors~~ not licensed under this division who blend motor fuel and alcohol to produce ethanol blended gasoline may file for a refund for the difference between taxes paid on the motor fuel purchased to produce ethanol blended gasoline and the tax due on the ethanol blended gasoline blended. If, during any month, a person licensed ~~as a distributor~~ under this division uses tax paid motor fuel to blend ethanol blended gasoline and the refund otherwise due under this section is greater than the ~~distributor's~~ licensee's total tax liability for that month, the ~~distributor~~ will be licensee is entitled to a credit. The claim for credit shall be filed as part of the report required by section 452A.8.

In order to obtain the refund established by this section, the person shall do all of the following:

1. Obtain a blender's permit as provided in section 452A.18.
2. File a refund claim containing the information as required by the department and certified by the claimant under penalty for false certificate.
3. Retain invoices meeting the requirements of section 452A.17, subsection ~~3 1~~, paragraph "b", subparagraph (3), for the motor fuel purchased.
4. Retain invoices for the purchase of alcohol.

A refund or credit memorandum will not be issued unless the claim is filed within ninety days following the end of the month during which the ethanol blended gasoline was actually blended.

~~If a person files an incorrect refund claim, there shall be added a penalty of five percent to the amount by which the amount claimed and refunded exceeds the amount actually due. If a fraudulent refund claim is filed with intent to evade the tax, the penalty shall be fifty percent in lieu of five percent. The person shall also pay interest on the excess refunded at a rate of three fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the refund was issued to the date the excess refund is repaid to the state.~~

Sec. 27. Section 452A.54, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Fuel tax liability under this division shall be computed on the total number of gallons of each kind of motor fuel and special fuel consumed in the operation in Iowa by commercial motor vehicles subject to this division at the same rate for each kind of fuel as would be applicable if taxed under division I ~~or division H~~ of this chapter. A refund against the fuel tax liability so computed shall be allowed, on excess Iowa motor fuel purchased, in the amount of fuel tax paid at the prevailing rate per gallon set out under division I ~~or division H~~ of this chapter on motor fuel and special fuel consumed by commercial motor vehicles, the operation of which is subject to this division.

Sec. 28. Section 452A.57, subsections 1 and 5, Code 1995, are amended to read as follows:

1. "Appropriate state agency" or "state agency" means the department of revenue and finance or the state department of transportation, whichever is responsible for control, maintenance, or supervision of the power, requirement, or duty referred to in the provision.

The department of revenue and finance shall administer the provisions of ~~divisions~~ division I and H of this chapter, and the state department of transportation shall administer the provisions of division III. The state department of transportation shall have enforcement authority for division I as agreed upon by the director of revenue and finance and the director of transportation.

5. "Fuel taxes" means ~~and includes~~ the per gallon excise taxes imposed under ~~divisions~~ division I, H and III of this chapter with respect to motor fuel and undyed special fuel.

Sec. 29. Section 452A.59, Code 1995, is amended to read as follows:

452A.59 ADMINISTRATIVE RULES.

The department of revenue and finance ~~is~~ and the state department of transportation are authorized and empowered to ~~make such reasonable~~ adopt rules under chapter 17A, relating to the administration and enforcement of this chapter as ~~the department may deem~~ needed deemed necessary by the departments. ~~These rules shall be effective when the provisions of chapter 17A have been complied with.~~

Sec. 30. Section 452A.60, Code 1995, is amended to read as follows:

452A.60 FORMS OF REPORT, REFUND CLAIM AND RECORDS.

The department of revenue and finance or the state department of transportation shall prescribe and furnish all forms, as applicable, upon which reports and applications shall be made and claims for refund presented under this chapter and may prescribe forms of record to be kept by ~~motor fuel distributors, motor fuel dealers, motor fuel suppliers, restrictive suppliers, importers, exporters, blenders, common carriers, contract carriers, special fuel licensed compressed natural gas and liquefied petroleum gas dealers, special fuel~~ and users, terminal operators, and interstate commercial motor vehicle operators.

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

Sec. 31. Section 452A.62, Code 1995, is amended to read as follows:

452A.62 INSPECTION OF RECORDS.

The department of revenue and finance or the state department of transportation, whichever is applicable, is hereby given the authority within the time prescribed for keeping records ~~(1)~~ to do the following:

1. ~~to~~ To examine, during the usual business hours of the day, the records, books, papers, receipts, invoices, storage tanks, and any other equipment of ~~(a)~~ any of the following:

a. A distributor, dealer, purchaser, or supplier, restrictive supplier, importer, exporter, blender, terminal operator, common, contract or other carrier, or contract carrier, pertaining to motor fuel received, used, sold, delivered, or otherwise disposed of, or (b) of any special fuel or undyed special fuel withdrawn from a terminal or brought into this state.

b. A licensed compressed natural gas or liquefied petroleum gas dealer, special fuel user, or person supplying special fuel compressed natural gas or liquefied petroleum gas to any a licensed compressed natural gas or liquefied petroleum gas dealer or user of special fuel and (c) of any.

c. An interstate operator of motor vehicles to verify the truth and accuracy of any statement, report, or return, or to ascertain whether or not the taxes imposed by this chapter have been paid; ~~(d).~~

d. ~~any~~ Any person selling ~~fuel oil fuels~~ fuels that can be used for highway use; ~~and (2).~~

2. ~~to~~ To examine the records, books, papers, receipts, and invoices of any distributor, ~~special fuel dealer or special fuel user~~ supplier, restrictive supplier, importer, exporter, terminal operator, licensed compressed natural gas or liquefied petroleum gas dealer or user, or any other person who possesses fuel upon which the tax has not been paid to determine financial responsibility for the payment of the taxes imposed by this chapter.

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

Sec. 32. Section 452A.63, unnumbered paragraph 1, Code 1995, is amended to read as follows:

All information obtained by the department of revenue and finance or the state department of transportation from the examining of reports or records required to be filed or kept under ~~the provisions of~~ this chapter shall be treated as confidential and shall not be divulged except to other state officers, a member or members of the general assembly, or any duly appointed committee of either or both houses of the general assembly, or to a representative of the state having some responsibility in connection with the collection of the taxes imposed or in proceedings brought under the provisions of this chapter; ~~provided, however, that the appropriate state agency shall make available for public information on or before the last day of the month following the month in which the tax is required to be paid the names of the distributors and as to each of them the total gallons received in the state and separately, the received gallons (1) exported or sold for export, (2) sold tax free in the state to entities that are exempt from the tax and (3) sold tax free in the state to entities required to report and account for the tax. The department of revenue and finance shall also make available to the public information with respect to special fuel dealers and users and as to each of them the gallonage used and taxes paid.~~ The department of revenue and finance or the state department of transportation, upon request of officials entrusted with enforcement of the motor vehicle fuel tax laws of the federal government or any other state, may forward to such officials any pertinent information which the appropriate state agency may have relative to motor fuel and special fuel provided the officials of the other state furnish like information.

Sec. 33. Section 452A.71, Code 1995, is amended to read as follows:

**452A.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS AND SPECIAL FUEL COMPRESSED NATURAL GAS AND LIQUEFIED PETROLEUM GAS DEALERS AND USERS.**

Except as provided in section 452A.54, any person other than a ~~licensed distributor, licensed special fuel dealer, or licensed special fuel user~~ person who has paid or has had charged to the person's account with a distributor, dealer, or ~~special fuel dealer~~ user fuel taxes imposed under this chapter with respect to motor fuel or undyed special fuel in excess of one hundred gallons, which is subsequently lost or destroyed, while the person is the owner, through leakage, fire, explosion, lightning, flood, storm, or other casualty, except evaporation, shrinkage, or unknown causes, the person shall be entitled to a refund of the tax so paid or charged. To qualify for the refund, the person shall notify the department of revenue and finance in writing of the loss or destruction and the gallonage lost or destroyed within ten days from the date of discovery of the loss or destruction. Within sixty days after filing the notice, the person shall file with the department of revenue and finance an affidavit sworn to by the person having immediate custody of the motor fuel or undyed special fuel at the time of the loss or destruction setting forth in full the circumstances and amount of the loss or destruction and such other information as the department of revenue and finance may require. Any refund payable under this section may be applied by the department against any tax liability outstanding on the books of the department against the claimant.

Sec. 34. Section 452A.73, Code 1995, is amended to read as follows:

**452A.73 EMBEZZLEMENT OF FUEL TAX MONEY - PENALTY.**

Every sale of motor fuel in this state and every sale of undyed special fuel dispensed by the seller into a fuel supply tank of a motor vehicle shall, unless otherwise provided, be



presumed to include as a part of the purchase price the fuel tax due the state of Iowa under the provisions of this chapter. Every person collecting fuel tax money as part of the selling price of motor fuel or undyed special fuel, shall hold the tax money in trust for the state of Iowa unless the fuel tax on the fuel has been previously paid to the state of Iowa. Any person receiving fuel tax money in trust and failing to remit it to the department of revenue and finance on or before time required shall be guilty of theft.

Sec. 35. Section 452A.74, Code 1995, is amended to read as follows:

452A.74 UNLAWFUL ACTS – PENALTY.

It shall be unlawful:

1. For any person to knowingly fail, neglect, or refuse to make any required return or statement or pay over fuel taxes ~~as herein required~~ under this section.

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

3. For any seller to issue or any purchaser to receive and retain any incorrect or false invoice or sales ticket in connection with the sale or purchase of motor fuel or undyed special fuel.

4. For any claimant to alter any invoice or sales ticket, whether the invoice or sales ticket is to be used to support a claim for refund or income tax credit or not, provided, however, if a claimant's refund permit ~~shall have~~ has been revoked for cause as provided in section 452A.19 ~~such~~ the revocation shall be serve as a bar to prosecution for violation of this subsection.

5. For any person to act as a ~~motor fuel distributor, special fuel supplier, restrictive supplier, importer, exporter, blender, compressed natural gas or liquefied petroleum gas dealer or special fuel user~~ without the required license.

6. For any person to use motor fuel ~~or, undyed special fuel, or illegal use of dyed special fuel~~ in the fuel supply tank of a vehicle with respect to which the person knowingly has not paid or had charged to the person's account with a distributor or dealer, or with respect to which does not within the time required in this chapter report and pay the applicable fuel tax.

7. For any ~~special fuel licensed compressed natural gas or liquefied petroleum gas dealer or user~~ to dispense ~~special fuel~~ compressed natural gas or liquefied petroleum gas into the fuel supply tank of any motor vehicle without collecting the fuel tax.

8. ~~For special fuel dealers or special fuel distributors to deliver special fuel on a tax paid basis into a tank with a capacity greater than one thousand fifty gallons.~~

9. 8. Any delivery by a distributor of ~~special fuel~~ compressed natural gas or liquefied petroleum gas to a compressed natural gas or liquefied petroleum gas dealer or user for the purpose of evading the state tax on ~~special fuels~~ compressed natural gas or liquefied petroleum gas, into facilities other than those licensed above knowing that ~~said~~ the fuel will be used as ~~special fuel~~ for highway use shall constitute a violation of this section. Any compressed natural gas or liquefied petroleum gas dealer or user for purposes of evading the state tax on ~~special fuel~~ compressed natural gas or liquefied petroleum gas, who allows a distributor to place ~~special fuel~~ compressed natural gas or liquefied petroleum gas for highway use in facilities other than those licensed above ~~will, shall~~ also be deemed in violation of this section.

A person found guilty of an offense specified in this section is guilty of a fraudulent practice. For purposes of determining the place of trial, the situs of an offense specified in this section is in the county of the residence of the person charged with the offense. However, if the person is a nonresident or the person's residence cannot be determined, the situs of the offense is in Polk county. Prosecution for an offense specified in this section shall be commenced within six years following its commission.

Sec. 36. NEW SECTION. 452A.74A PENALTY AND ENFORCEMENT PROVISIONS.

In addition to the tax or additional tax, the following fines and penalties shall apply:

1. **ILLEGAL USE OF DYED FUEL.** The illegal use of dyed fuel in the supply tank of a motor vehicle shall result in a civil penalty assessed against the owner or operator of the motor vehicle as follows:

- a. A two hundred dollar fine for the first violation.
- b. A five hundred dollar fine for a second violation within three years of the first violation.
- c. A one thousand dollar fine for third and subsequent violations within three years of the first violation.

2. **ILLEGAL IMPORTATION OF UNTAXED FUEL.** A person who illegally imports motor fuel or undyed special fuel without a valid importer's license or supplier's license shall be assessed a civil penalty as provided in this subsection. However, the owner or operator of the importing vehicle shall not be guilty of violating this subsection if it is shown by the owner or operator that the owner or operator reasonably did not know or reasonably should not have known of the illegal importation.

a. For a first violation, the importing vehicle shall be detained and a fine of two thousand dollars shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable for payment of the fine.

b. For a second violation, the importing vehicle shall be detained and a fine of five thousand dollars shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable to pay the fine.

c. For third and subsequent violations, the importing vehicle and the fuel shall be seized and a fine of ten thousand dollars shall be paid before the vehicle will be released. The owner or operator of the importing vehicle or the owner of the fuel may be held liable to pay the fine.

d. If the owner or operator of the importing vehicle or the owner of the fuel fail to pay the tax and fine for a first or second offense, the importing vehicle and the fuel may be seized. The department of revenue and finance, the state department of transportation, or any peace officer, at the request of either department, may seize the vehicle and the fuel.

e. If the operator or owner of the importing vehicle or the owner of the fuel move the vehicle or the fuel after the vehicle has been detained and a sticker has been placed on the vehicle stating that "This vehicle cannot be moved until the tax, penalty, and interest have been paid to the Department of Revenue and Finance", an additional penalty of five thousand dollars shall be assessed against the operator or owner of the importing vehicle or the owner of the fuel.

f. For purposes of this subsection, "vehicle" means as defined in section 321.1.

3. **IMPROPER RECEIPT OF FUEL CREDIT OR REFUND.** If a person files an incorrect refund claim, in addition to the amount of the claim, a penalty of ten percent shall be added to the amount by which the amount claimed and refunded exceeds the amount actually due and shall be paid to the department. If a person knowingly files a fraudulent refund claim with the intent to evade the tax, the penalty shall be seventy-five percent in lieu of the ten percent. The person shall also pay interest on the excess refunded at the rate per month specified in section 421.7, counting each fraction of a month as an entire month, computed from the date the refund was issued to the date the excess refund is repaid to the state.

4. **ILLEGAL HEATING OF FUEL.** The deliberate heating of taxable motor fuel or special fuel by dealers prior to consumer sale is a simple misdemeanor.

5. **PREVENTION OF INSPECTION.** The department of revenue and finance or the state department of transportation may conduct inspections for coloration, markers, and shipping papers at any place where taxable fuel is or may be loaded into transport vehicles, produced, or stored. Any attempts by a person to prevent, stop, or delay an inspection of fuel or shipping papers by authorized personnel shall be subject to a civil penalty of

not more than one thousand dollars per occurrence. Any law enforcement officer or department of revenue and finance or state department of transportation employee may physically inspect, examine or otherwise search any tank, reservoir, or other container that can or may be used for the production, storage, or transportation of any type of fuel.

6. FAILURE TO CONSPICUOUSLY LABEL A FUEL PUMP. A retailer who does not conspicuously label a fuel pump or other delivery facility as required by the internal revenue service, that dispenses dyed diesel fuel so as to notify customers that it contains dyed diesel fuel, shall pay to the department a penalty of one hundred dollars per occurrence.

7. FALSE OR FRAUDULENT RETURN. Any person, including an officer of a corporation or a manager of a limited liability company, who is required to make, render, sign, or verify any report or return required by this chapter and who makes a false or fraudulent report, or who fails to file a report or return with the intent to evade the tax, shall be guilty of a fraudulent practice. Any person who aids, abets, or assists another person in making any false or fraudulent return or false statement in any return with the intent to evade payment of tax shall be guilty of a fraudulent practice.

Sec. 37. Section 452A.76, Code 1995, is amended to read as follows:

452A.76 ENFORCEMENT AUTHORITY.

~~Authority is given to the department of revenue and finance to enforce the provisions of this chapter except division III. Employees of the department of revenue and finance designated as enforcement employees have the power of peace officers in the performance of such duties.~~

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

~~It is the duty of all peace officers to see that the provisions of this chapter are not violated, and to respond to the call of the department of revenue and finance and state department of transportation to make investigations in their respective counties and report to the department of revenue and finance and state department of transportation. Peace officers are authorized to stop a conveyance suspected to be illegally transporting motor fuel on the highways, to investigate the cargo for that purpose and to seize and impound the cargo and conveyance when it appears that the conveyance is being operated in violation of the provisions of this chapter.~~

Authority is given to the department of revenue and finance, the state department of transportation, the department of public safety, and any peace officer as requested by such departments to enforce the provisions of division I and this division of this chapter. The department of revenue and finance shall adopt rules providing for enforcement under division I and this division of this chapter regarding the use of motor fuel or special fuel in implements of husbandry. Enforcement personnel or requested peace officers are authorized to stop a conveyance suspected to be illegally transporting motor fuel or special fuel on the highways, to investigate the cargo and also have the authority to inspect or test the fuel in the supply tank of a conveyance to determine if legal fuel is being used to power the conveyance. The operator of any vehicle transporting motor fuel or special fuel shall, upon request, produce and offer for inspection the manifest or loading and delivery invoices pertaining to the load and trip in question and shall permit the authority to inspect and measure the contents of the vehicle. If the vehicle operator fails to produce the evidence or if, when produced, the evidence fails to contain the required information and it appears that there is an attempt to evade payment of the fuel tax, the vehicle operator will be subject to the penalty provisions contained in section 452A.74A. For purposes of this section, "vehicle" means as defined in section 321.1.

Sec. 38. Section 452A.80, Code 1995, is amended to read as follows:

**452A.80 MICROFILM OR PHOTOGRAPHIC COPIES – ORIGINALS DESTROYED.**

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

Sec. 39. Section 452A.84, Code 1995, is amended to read as follows:

**452A.84 TRANSFER TO STATE GENERAL FUND.**

The treasurer of state shall transfer from the motor fuel tax fund to the general fund of the state that portion of moneys collected under this chapter attributable to motor fuel used in watercraft computed as follows:

1. Determine monthly the total amount of motor fuel tax collected under this chapter and multiply the amount by nine-tenths of one percent.
2. Subtract from the figure computed pursuant to subsection 1 of this section three percent of the figure for administrative costs and further subtract from the figure the amounts refunded to commercial fishers pursuant to section 452A.17, subsection ~~13~~ 1, paragraph "a", subparagraph (7). All moneys remaining after claims for refund and the cost of administration have been made shall be transferred to the general fund of the state.

Sec. 40. Section 452A.85, Code 1995, is amended to read as follows:

**452A.85 TAX PAYMENT FOR STORED MOTOR FUEL, ETHANOL BLENDED GASOLINE, AND SPECIAL FUEL, COMPRESSED NATURAL GAS, AND LIQUEFIED PETROLEUM GAS – PENALTY.**

1. Persons having title to motor fuel, ethanol blended gasoline, ~~or undyed special fuel, compressed natural gas, or liquefied petroleum gas~~ or undyed special fuel, compressed natural gas, or liquefied petroleum gas in storage and held for sale on the effective date of an increase in the excise tax rate imposed on motor fuel, ethanol blended gasoline, ~~or undyed special fuel, compressed natural gas, or liquefied petroleum gas~~ or undyed special fuel, compressed natural gas, or liquefied petroleum gas which will be subject to the increased excise tax rate.
2. Persons subject to the tax imposed under this section shall take an inventory to determine the gallonage in storage for purposes of determining the tax and shall report ~~that the gallonage on forms provided by the department of revenue and finance~~ and pay the tax due within thirty days of the prescribed inventory date. The department of revenue and finance shall adopt rules pursuant to chapter 17A as are necessary to ~~carry out the provisions of~~ administer this section.
3. The amount of the inventory tax is equal to the inventory tax rate times the gallonage in storage as determined under subsection 1. The inventory tax rate is equal to the difference of the increased excise tax rate less the previous excise tax rate.

Sec. 41. Section 452A.86, Code 1995, is amended to read as follows:

**452A.86 METHOD OF DETERMINING GALLONAGE.**

The exclusive method of determining gallonage of any purchases or sales of motor fuel ~~and undyed special fuel, compressed natural gas, or liquefied petroleum gas~~ and undyed special fuel, compressed natural gas, or liquefied petroleum gas as defined in this chapter and distillate fuels shall be on a gross volume basis. A temperature-adjusted or other method shall not be used, except as it applies to liquefied petroleum gas and the sale or exchange of petroleum products between petroleum refiners. All invoices, bills of lading, or other records of sale or purchase and all reports or records required to be made,

kept, and maintained by a ~~distributor or dealer~~ supplier, restrictive supplier, importer, exporter, blender, or compressed natural gas or liquefied petroleum gas dealer or user shall be made, kept, and maintained on the gross volume basis. For purposes of this section, "distillate fuels" means any fuel oil, gas oil, topped crude oil, or other petroleum oils derived by refining or processing crude oil or unfinished oils which have a boiling range at atmospheric pressure which falls completely or in part between five hundred fifty and twelve hundred degrees Fahrenheit.

Sec. 42. INVENTORY OF UNDYED SPECIAL FUEL. Licensed dealers and users shall take inventory of the gallonage of undyed special fuel held in storage as of the effective date of this Act and pay to the department of revenue and finance, as specified in section 452A.85, subsection 2, a tax of twenty-two and one-half cents per gallon. However, on-farm storage of undyed special fuel shall be exempt from the inventory requirements and the tax imposed under this section.

Sec. 43. Sections 452A.13, 452A.16, 452A.20, and 452A.31 through 452A.38, Code 1995, are repealed.

Sec. 44. This Act takes effect January 1, 1996. All licenses\* and permits existing prior to the effective date of this Act, except for licenses and permits issued under division III of chapter 452A, shall be canceled at that time, notwithstanding the provisions of chapter 17A.

Approved May 4, 1995

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## CHAPTER 156

### FRUIT-TREE OR FOREST RESERVATION RECAPTURE TAX

H.F. 558

AN ACT relating to the recapture tax on property maintained as a fruit-tree or forest reservation for which a property tax exemption was granted and providing effective and applicability date provisions.

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

Section 1. Section 427C.12, unnumbered paragraph 2, Code 1995, is amended to read as follows:

The board of supervisors shall designate the county conservation board or the assessor who shall inspect the area for which an application is filed for a fruit-tree or forest reservation tax exemption before the application is accepted. Use of aerial photographs may be substituted for on-site inspection when appropriate. The application can only be accepted if it meets the criteria established by the natural resource commission to be a fruit-tree or forest reservation. Once the application has been accepted, the area shall continue to receive the tax exemption during each year in which the area is maintained as a fruit-tree or forest reservation without the owner having to refile. If the property is sold or transferred, ~~the buyer or transferee does not have to refile for the tax exemption~~ the seller shall notify the buyer that all, or part of, the property is in fruit-tree or forest reservation and subject to the recapture tax provisions of this section. The tax exemption shall continue to be granted for the remainder of the eight-year period for fruit-tree reservation and for the following years for forest reservation or until the property no longer qualifies as a fruit-tree or forest

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\*The word "licenses" probably intended