

CHAPTER 452A

MOTOR FUEL AND SPECIAL FUEL TAXES

Referred to in §312.1, 321.40, 321.56, 323.1, 326.24, 423.14, 423B.5, 423E.3

[P]

This chapter not enacted as a part of this title; transferred from chapter 324 in Code 1993

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## DIVISION I

## MOTOR FUEL AND SPECIAL FUEL TAX

Referred to in §452A.54, 452A.57, 452A.76

**452A.1 Short title.**

This division, plus applicable provisions of division IV of this chapter, shall be known and may be cited as the “*Motor Fuel and Special Fuel Tax Law*”.

[C35, §5093-f40; C39, §5093.39; C46, 50, 54, §324.66; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.1]

C93, §452A.1

95 Acts, ch 155, §8

**452A.2 Definitions.**

As employed in this division:

1. “*Aviation gasoline*” means any gasoline which is capable of being used for propelling aircraft, which is invoiced as aviation gasoline or is received, sold, stored, or withdrawn from storage by any person for the purpose of propelling aircraft. Motor fuel capable of being used for propelling motor vehicles is not aviation gasoline.

2. “*Biodiesel*” means the same as defined in section 214A.1.

3. “*Biodiesel blended fuel*” means the same as defined in section 214A.1.

4. “*Biofuel*” means the same as defined in section 214A.1.

5. “*Blender*” means a person who owns and blends ethanol with gasoline to produce ethanol blended gasoline and blends the product at a nonterminal location. The person is not restricted to blending ethanol with gasoline. Products blended with gasoline other than ethanol are 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. This blend is taxed as a special fuel.

6. “*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.

7. “*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.

8. “*Denatured ethanol*” means ethanol that is to be blended with gasoline, has been derived from cereal grains, complies with ASTM (American society for testing and materials) international designation D-4806-95b, and may be denatured only as specified in Code of Federal Regulations, Titles 20, 21, and 27. Alcohol and denatured ethanol have the same meaning in this chapter.

9. “*Department*” means the department of revenue.

10. “*Director*” means the director of revenue.

11. “*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.

12. “*E-85 gasoline*” means the same as defined in section 214A.1.

13. “*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.

14. “*Ethanol*” means the same as defined in section 214A.1.

15. “*Ethanol blended gasoline*” means the same as defined in section 214A.1.

16. “*Export*” means delivery across the boundaries of this state by or for the seller or purchaser from a place of origin in this state.

17. “*Exporter*” means a person or other entity who acquires fuel in this state for export to another state.

18. “*Flexible fuel vehicle*” means a motor vehicle as defined in section 321M.1 which is powered by an engine capable of operating using E-85 gasoline.

19. “*Gasoline*” means the same as defined in section 214A.1.

20. “*Import*” means delivery across the boundaries of this state by or for the seller or purchaser from a place of origin outside this state.

21. “*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.

22. “*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.

23. “*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 fuel 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.

24. “*Licensee*” means a person holding an uncanceled 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.

25. a. “*Motor fuel*” means motor fuel as defined in section 214A.1 and includes all of the following:

(1) All products commonly or commercially known or sold as gasoline, including ethanol blended gasoline, casinghead, and absorption or natural gasoline, regardless of the products’ classifications or uses, and including transmix which serves as a buffer between fuel products in the pipeline distribution process.

(2) 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 [ASTM (American society for testing and materials) international designation D-86], shows 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).

b. “*Motor fuel*” does not include special fuel, and 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, or naphthas and solvents unless the liquefied gases or naphthas and solvents are used as a component in the manufacture, compounding, or blending of a liquid within paragraph “a”, subparagraph (2), in which event the resulting product shall be deemed to be motor fuel. “*Motor fuel*” does not include methanol unless blended with other motor fuels for use in an aircraft or for propelling motor vehicles.

26. “*Motor fuel pump*” means the same as defined in section 214.1.

27. “*Naphthas and solvents*” shall mean and include those liquids which come within the distillation specifications for motor fuel set out under subsection 25, paragraph “a”, subparagraph (2), but which are designed and sold for exclusive use other than as a fuel for propelling motor vehicles.

28. “*Nonethanol blended gasoline*” means gasoline other than ethanol blended gasoline.

29. “*Nonterminal storage facility*” means a facility where motor fuel or special fuel, other than liquefied petroleum gas, is stored that is not supplied by a pipeline or a marine vessel.

“Nonterminal storage facility” includes a facility that manufactures products such as ethanol as defined in section 214A.1, biofuel, blend stocks, or additives which may be used as motor fuel or special fuel, other than liquefied petroleum gas, for operating motor vehicles or aircraft.

30. “*Racing fuel*” means leaded gasoline of one hundred ten octane or more that does not meet ASTM (American society for testing and materials) international designation D-4814 for gasoline and is sold in bulk for use in nonregistered motor vehicles.

31. “*Regional transit system*” means regional transit system as defined in section 452A.57, subsection 11.

32. “*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.

33. “*Retail dealer*” means the same as defined in section 214A.1.

34. “*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. Kerosene shall not be considered to be a special fuel, unless blended with other special fuels for use in a motor vehicle with a diesel engine. Methanol shall not be considered to be a special fuel unless blended with other special fuels for use in a motor vehicle with a diesel engine.

35. “*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, biofuel, biodiesel, 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 or biofuel with diesel 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.

36. “*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 is removed.

37. “*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.

38. “*Urban transit system*” means Iowa urban transit system as defined in section 452A.57, subsection 6.

39. “*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.

40. “*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.

[C27, 31, §5093-a2; C35, §5093-f2; C39, §5093.02; C46, 50, 54, §324.1; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.2]

85 Acts, ch 231, §12; 86 Acts, ch 1116, §1; 86 Acts, ch 1245, §414; 88 Acts, ch 1205, §2; 91 Acts, ch 87, §3

## C93, §452A.2

95 Acts, ch 155, §9 – 13; 96 Acts, ch 1066, §2, 21; 99 Acts, ch 151, §50, 51, 89; 2001 Acts, ch 150, §22, 23; 2002 Acts, ch 1050, §39, 40; 2002 Acts, ch 1151, §20; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, §129; 2004 Acts, ch 1086, §106; 2005 Acts, ch 140, §60, 61; 2006 Acts, ch 1142, §50 – 53, 79, 80; 2008 Acts, ch 1184, §62

Referred to in §323.1, 422.11N, 570A.1

[P] Additional definitions, see §452A.57

**452A.3 Levy of excise tax.**

1. Except as otherwise provided in this section and in this division, until June 30, 2013, this subsection shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

a. The rate of the excise tax shall be based on the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel distributed in this state, which is referred to as the distribution percentage. For purposes of this subsection, only ethanol blended gasoline and nonblended gasoline, not including aviation gasoline, shall be used in determining the percentage basis for the excise tax. The department shall determine the percentage basis for each determination period beginning January 1 and ending December 31. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period.

b. The rate for the excise tax shall be as follows:

(1) If the distribution percentage is not greater than fifty percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty cents for motor fuel other than ethanol blended gasoline.

(2) If the distribution percentage is greater than fifty percent but not greater than fifty-five percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and one-tenth cents for motor fuel other than ethanol blended gasoline.

(3) If the distribution percentage is greater than fifty-five percent but not greater than sixty percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and three-tenths cents for motor fuel other than ethanol blended gasoline.

(4) If the distribution percentage is greater than sixty percent but not greater than sixty-five percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and five-tenths cents for motor fuel other than ethanol blended gasoline.

(5) If the distribution percentage is greater than sixty-five percent but not greater than seventy percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and seven-tenths cents for motor fuel other than ethanol blended gasoline.

(6) If the distribution percentage is greater than seventy percent but not greater than seventy-five percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty-one cents for motor fuel other than ethanol blended gasoline.

(7) If the distribution percentage is greater than seventy-five percent but not greater than eighty percent, the rate shall be nineteen and three-tenths cents for ethanol blended gasoline and twenty and eight-tenths cents for motor fuel other than ethanol blended gasoline.

(8) If the distribution percentage is greater than eighty percent but not greater than eighty-five percent, the rate shall be nineteen and five-tenths cents for ethanol blended gasoline and twenty and seven-tenths cents for motor fuel other than ethanol blended gasoline.

(9) If the distribution percentage is greater than eighty-five percent but not greater than ninety percent, the rate shall be nineteen and seven-tenths cents for ethanol blended gasoline and twenty and four-tenths cents for motor fuel other than ethanol blended gasoline.

(10) If the distribution percentage is greater than ninety percent but not greater than ninety-five percent, the rate shall be nineteen and nine-tenths cents for ethanol blended gasoline and twenty and one-tenth cents for motor fuel other than ethanol blended gasoline.

(11) If the distribution percentage is greater than ninety-five percent, the rate shall be twenty cents for ethanol blended gasoline and twenty cents for motor fuel other than ethanol blended gasoline.

1A. Except as otherwise provided in this section and in this division, after June 30, 2013,

an excise tax of twenty cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

1B. An excise tax of seventeen cents is imposed on each gallon of E-85 gasoline as defined in section 214A.1, subject to the determination provided in subsection 1C.

1C. The rate of the excise tax on E-85 gasoline imposed in subsection 1B shall be determined based on the number of gallons of E-85 gasoline that are distributed in this state during the previous calendar year. The department shall determine the actual tax paid for E-85 gasoline for each period beginning January 1 and ending December 31. The amount of the tax paid on E-85 gasoline during the past calendar year shall be compared to the amount of tax on E-85 gasoline that would have been paid using the tax rate for gasoline imposed in subsection 1 or 1A and a difference shall be established. If this difference is equal to or greater than twenty-five thousand dollars, the tax rate for E-85 gasoline for the period beginning July 1 following the end of the determination period shall be the rate in effect as stated in subsection 1 or 1A.

2. 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.

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, unless otherwise specified in this section, 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 the dyed fuel may be used only for an exempt purpose.

3A. For liquefied petroleum gas used as a special fuel, the rate of tax shall be twenty cents per gallon.

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. *a.* The tax shall be paid by the following:

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

(2) Tax shall not be paid when the sale of alcohol occurs within a terminal from an alcohol manufacturer to an Iowa licensed supplier. The tax shall be paid by the Iowa licensed supplier when the invoiced gross gallonage of the alcohol or the alcohol part of ethanol blended gasoline is withdrawn from a terminal for delivery in this state.

(3) The person who owns the fuel at the time it is brought into the state by a restrictive supplier or importer, upon the invoiced gross gallonage of motor fuel or undyed special fuel imported.

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

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

*b.* 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.

7. All excise taxes collected under this chapter by a supplier, restrictive supplier, importer, dealer, blender, user, or any individual are deemed to be held in trust for the state of Iowa.

[C27, 31, §4755-b38, 5093-a1; C35, §5093-f3, -f4; C39, §5093.03, 5093.04; C46, 50, 54, §324.2, 324.3; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.3; 81 Acts, 2nd Ex, ch 2, §7 – 9; 82 Acts, ch 1170, §3, 4]

83 Acts, ch 150, §1, 2; 84 Acts, ch 1141, §1; 84 Acts, ch 1253, §5; 85 Acts, ch 231, §13, 14; 86 Acts, ch 1116, §2, 3; 88 Acts, ch 1019, §13, 14; 88 Acts, ch 1205, §3; 91 Acts, ch 87, §4; 91 Acts, ch 254, §19, 20

C93, §452A.3

95 Acts, ch 155, §14, 44; 96 Acts, ch 1034, §43; 98 Acts, ch 1108, §1; 99 Acts, ch 151, §52, 89; 2001 Acts, ch 123, §4 – 6; 2001 Acts, ch 150, §24; 2002 Acts, ch 1150, §15, 16; 2004 Acts, ch 1073, §35; 2005 Acts, ch 3, §73; 2005 Acts, ch 150, §83, 84, 86; 2006 Acts, ch 1142, §81; 2007 Acts, ch 215, §113, 114; 2009 Acts, ch 130, §44; 2012 Acts, ch 1021, §79; 2012 Acts, ch 1114, §1 – 3

Referred to in §312.2

[T] Subsection 1, unnumbered paragraph 1 amended

[T] Subsections 1A and 5 amended

#### **452A.4 Supplier's, restrictive supplier's, importer's, exporter's, dealer's, and user's license.**

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

a. The name under which the licensee will transact business in this state.

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

c. The name and complete residence address of the owner or the names and addresses of the partners, if the licensee is a partnership, or the names and addresses of the principal officers, if the 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. The department may deny the issuance of a license if an application for a license to transact business as a supplier, restrictive supplier, importer, exporter, dealer, or user in this state is filed by a person whose license or registration has been canceled for cause at any time under the provisions of this chapter or any prior motor fuel tax law, if the department has reason to believe that the application is not filed in good faith, or if the application is filed by some person as a subterfuge for the real person in interest whose license or registration has been canceled for cause under the provisions of this chapter or any prior motor fuel tax law. 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.

3. a. The application in proper form having been accepted for filing, 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 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 licensee in whose name it is issued.

c. The department shall keep and file all applications and bonds and a record of all licensees.

[C31, §5093-c2; C35, §5093-f5, -f6, -f7; C39, §5093.05 – 5093.07; C46, 50, 54, §324.5, 324.6, 324.8 – 324.10; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.4]

86 Acts, ch 1007, §10; 89 Acts, ch 251, §4

C93, §452A.4

94 Acts, ch 1165, §35; 95 Acts, ch 155, §15, 44

Referred to in §452A.6

**452A.5 Distribution allowance.**

1. 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.

2. The distribution allowance shall be prorated between the supplier and the distributor or dealer as follows:

a. Motor fuel: four-tenths percent retained by the supplier, one and two-tenths percent to the distributor.

b. 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.

3. Gallons exported outside of the state shall not be included in the calculation of the distribution.

[C27, 31, §5093-a3, -a4; C39, §5093.04, 5093.05; C46, 50, 54, §324.4, 324.6; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.5]

C93, §452A.5

95 Acts, ch 155, §16, 44; 96 Acts, ch 1066, §3, 21; 2012 Acts, ch 1023, §52

[T] Section amended

**452A.6 Ethanol blended gasoline and other products — blender’s license.**

1. a. A person other than a supplier, restrictive supplier, or importer licensed under this division, who blends gasoline with ethanol as defined in section 214A.1 in order to formulate ethanol blended gasoline, shall obtain a blender’s license.

b. A person who blends two or more special fuel products or sells one hundred percent biofuel shall obtain a blender’s license.

2. A blender’s license shall be obtained by following the procedure under section 452A.4 and the blender’s license is subject to the same restrictions as contained in that section.

3. A blender required to obtain a license pursuant to this section shall maintain records as required by section 452A.10 as to motor fuel, ethanol, ethanol blended gasoline, and special fuels.

[C81, §324.6]

92 Acts, ch 1163, §79

C93, §452A.6

95 Acts, ch 155, §17, 44; 2002 Acts, ch 1151, §21; 2006 Acts, ch 1142, §82

**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.

95 Acts, ch 155, §18

**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 a return, 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 return semimonthly 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 return 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 return is due on the fifteenth day of the following month. The returns 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 a return, a supplier or restrictive supplier shall pay to the department the full amount of the fuel tax due for the preceding calendar month. An importer shall pay to the department the full amount of fuel tax due for the preceding semimonthly period. The tax shall be 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 during the preceding calendar month or semimonthly period 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. 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 and returns be filed by electronic transmission.

e. (1) 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.

(2) The department shall adopt rules governing the dispensing of compressed natural gas and liquefied petroleum gas by licensed dealers and licensed users. The director may require by rule that reports and returns be filed by electronic transmission. For purposes of this paragraph “e”, “dealer” and “user” mean 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 shall be 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.

(3) (a) 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.

(b) 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.

(c) 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.

(4) (a) 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.

(b) 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.

(c) 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 or a blend of special fuel products, 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 return, signed under penalty for false certificate, containing information required by rules adopted by the director. The director may require by rule that reports and returns be filed by electronic transmission.

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

[C27, 31, §5093-a5, -b1; C35, §5093-f9; C39, §5093.09; C46, 50, 54, §324.13 – 324.15, 324.17, 324.29; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.8; 81 Acts, 2nd Ex, ch 2, §10, 11]

91 Acts, ch 87, §5, 6

C93, §452A.8

94 Acts, ch 1165, §36; 95 Acts, ch 155, §19, 44; 96 Acts, ch 1066, §4 – 7, 21; 99 Acts, ch 151, §53 – 56, 89; 2002 Acts, ch 1151, §22; 2005 Acts, ch 140, §62, 63; 2012 Acts, ch 1023, §53

Referred to in §452A.5, 452A.21, 452A.54

[T] Subsection 2, paragraph e amended

**452A.9 Returns from persons not licensed as suppliers, restrictive suppliers, importers, or blenders.**

Every person other than a licensed supplier, restrictive supplier, importer, or blender, who purchases, brings into this state, or otherwise acquires within this state motor fuel or undyed special fuel, not otherwise exempted, which 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 to the provisions of this division that apply to suppliers, restrictive suppliers, importers, and blenders of motor fuel or undyed special fuel and shall file the same returns and make the same tax payments and be subject to the same penalties for delinquent filing or nonfiling or delinquent payment or nonpayment as apply to suppliers, restrictive suppliers, importers, and blenders.

[C31, §5093-c2; C35, §5093-f6; C39, §5093.06; C46, 50, 54, §324.8, 324.9; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.9]

C93, §452A.9

95 Acts, ch 155, §20, 44; 99 Acts, ch 151, §57, 89; 2002 Acts, ch 1151, §23

**452A.10 Required records.**

A motor fuel or special fuel supplier, restrictive supplier, importer, exporter, blender, dealer, user, common carrier, contract carrier, terminal, or nonterminal storage facility shall maintain, for a period of three years, records of all transactions by which the supplier, restrictive supplier, or importer withdraws from a terminal or a nonterminal storage facility 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 required by the department.

If in the normal conduct of a supplier's, restrictive supplier's, importer's, exporter's, blender's, dealer's, user's, common carrier's, contract carrier's, terminal's, or nonterminal storage facility's business the records are maintained and kept at an office outside this state, the records shall be made available for audit and examination by the department at the office outside this state, but the audit and examination shall be without expense to this state.

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

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

[C27, 31, §5093-a4, -a5; C35, §5093-f5, -f8; C39, §5093.05, 5093.08; C46, 50, 54, §324.7, 324.11; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.10]

C93, §452A.10

95 Acts, ch 155, §21, 44; 2005 Acts, ch 140, §64

Referred to in §452A.6

**452A.11 Reserved.**

**452A.12 Loading and delivery evidence on transportation equipment.**

1. A serially numbered manifest shall be carried on every vehicle, except small tank wagons, while in use in transportation service, 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 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 shall be preserved by the carrier for inspection by the department. A carrier subject to this subsection when distributing for a licensee may with the approval of the department substitute the loading and delivery evidence required in subsection 2 for the manifest.

2. 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 over the highways of this state in service other than that under subsection 1 shall carry in the vehicle a loading invoice showing the 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 and the name and address of each purchaser or consignee. An invoice carried pursuant to this subsection for ethanol blended gasoline or biodiesel blended fuel shall state its designation as provided in section 214A.2.

[C35, §5093-f19; C39, §5093.19; C46, 50, 54, §324.34, 324.35; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.12]

84 Acts, ch 1174, §1

C93, §452A.12

95 Acts, ch 155, §22, 44; 2009 Acts, ch 179, §140

**452A.13** Repealed by 95 Acts, ch 155, § 43, 44.

**452A.14** Reserved.

**452A.15 Transportation reports — refinery and pipeline and marine terminal reports.**

1. *a.* Every railroad and common carrier or contract 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 into this state shall, subject to penalties for false certificate, report to 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, blender, or distributor is also engaged in the transportation of motor fuel or special fuel for others, the supplier, restrictive supplier, importer, blender, or distributor shall make the same reports as required of common carriers and contract carriers.

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

(1) The name and address of the person to whom delivery was actually made.

(2) The name and address of the originally named consignee, if delivered to any other than the originally named consignee.

(3) The point of origin, the point of delivery, and the date of delivery.

(4) The number and initials of each tank car and the number of gallons contained in the tank car, if shipped by rail.

(5) The name of the boat, barge, or vessel, and the number of gallons contained in the boat, barge, or vessel, if shipped by water.

(6) The registration number of each tank truck and the number of gallons contained in the tank truck, if transported by motor truck.

(7) The manner, if delivered by other means, in which the delivery is made.

(8) Additional information relative to shipments of motor fuel or special fuel as the department may require.

*c.* If 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, a separate transportation report of that information shall not be required.

2. A person operating storage facilities at a refinery or at a terminal in this state shall make a monthly accounting to the department of all motor fuel, alcohol, and undyed special fuel

withdrawn from the refinery and all motor fuel, alcohol, and undyed special fuel delivered into, withdrawn from, and on hand in the refinery or terminal.

3. Persons operating storage facilities at a nonterminal location shall file a monthly report with the department accounting for all motor fuel, alcohol, and special fuel that is delivered into, stored within, withdrawn from, or sold from the storage facility.

4. 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 suppliers' and restrictive suppliers' returns of motor fuel or special fuel withdrawn from a terminal within this state or imported into this state.

5. The director may impose a civil penalty against any person who fails to file the reports or keep the records required under this section. The penalty shall be one hundred dollars for the first violation and shall increase by one hundred dollars for each additional violation occurring in the calendar year in which the first violation occurred.

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

[C27, 31, §5093-a6, -b1; C35, §5093-f25, -f26, -f27; C39, §5093.25 – 5093.27; C46, 50, 54, §324.46 – 324.48; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.15]

C93, §452A.15

95 Acts, ch 155, §23; 99 Acts, ch 151, §58, 89; 2002 Acts, ch 1150, §17; 2002 Acts, ch 1151, §24 – 26; 2011 Acts, ch 25, §143

**452A.16** Repealed by 95 Acts, ch 155, § 43, 44.

#### **452A.17 Refunds.**

1. A person who uses motor fuel or undyed special fuel for any of the nontaxable purposes listed in this subsection, and who has paid the motor fuel or special fuel tax 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 directly to and 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, or a company operating a taxicab service under contract with 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, any political subdivision of the state, or any benefited fire district 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, implements used in agricultural production, and machinery and equipment used for nonhighway purposes.

(5) Fuel used for producing denatured alcohol.

(6) Fuel used for idle time, power takeoffs, reefer units, pumping credits, and transport diversions, fuel lost through casualty, exports by distributors, 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 gear issued pursuant to section 482.4.

(8) For motor fuel or undyed 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.

(9) Undyed special fuel used in watercraft.

(10) Racing fuel.

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

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

(2) The claim shall 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) 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 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. However, with respect to refund invoices made on a billing machine, the department may waive any of the requirements of this subparagraph.

(4) The claim shall state the gallonage of motor fuel that was used or will be used by the claimant other than in aircraft, watercraft, or to propel motor vehicles and the gallonage of undyed special fuel that was or will be used by the claimant other than in 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) The claim shall state whether the claimant used fuel for aircraft, watercraft, or to propel motor vehicles from the same tanks or receptacles in which the claimant kept the motor fuel on which the refund is claimed or whether the claimant used fuel for aircraft or to propel motor vehicles from the same tanks or receptacles in which the claimant kept the undyed special fuel on which the refund is claimed.

(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.

(7) Claim shall be made by and the amount of the refund 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. A governmental agency may be designated as an agent for another governmental agency for purposes of filing and receiving the refund under this section.

(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.

2. 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 not used in motor vehicles, aircraft, or watercraft or as to undyed special fuel not used in motor vehicles or aircraft.

3. a. A claim for refund shall not be allowed unless the claimant has accumulated sixty dollars in credits for one calendar year. A claim for refund may be filed anytime 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 three years following the end of the month in which the earliest invoice is dated.

b. A refund shall not be paid with respect to any motor fuel taken out of this state in supply

tanks of watercraft, aircraft, or motor vehicles or with respect to any undyed special fuel taken out of this state in supply tanks of aircraft or motor vehicles.

[C27, 31, §5093-a8; C35, §5093-f29, -f30, -f36; C39, §5093.29, 5093.30, 5093.36; C46, 50, 54, §324.50, 324.52 – 324.57, 324.64; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.17; 82 Acts, ch 1176, §1]

86 Acts, ch 1141, §18; 88 Acts, ch 1205, §5, 6; 89 Acts, ch 251, §5  
C93, §452A.17

95 Acts, ch 155, §24, 44; 96 Acts, ch 1066, §8 – 11, 21; 97 Acts, ch 158, §42, 43, 53; 99 Acts, ch 151, §59 – 63, 89; 2001 Acts, ch 150, §25; 2002 Acts, ch 1150, §18; 2003 Acts, ch 50, §1; 2005 Acts, ch 8, §43; 2009 Acts, ch 144, §13

Referred to in §422.110, 452A.18, 452A.21, 452A.65, 452A.84  
[P] See §452A.81

#### **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 an applicant claiming a refund under this chapter for motor fuel used to blend ethanol blended gasoline. Application for a refund permit shall be made to 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 the motor fuel 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.

[C27, 31, §5093-a8; C35, §5093-f29, -f30; C39, §5093.29, 5093.30; C46, 50, 54, §324.52, 324.57; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.18]

86 Acts, ch 1241, §6; 88 Acts, ch 1205, §7; 91 Acts, ch 87, §7  
C93, §452A.18

95 Acts, ch 155, §25, 44  
Referred to in §422.110, 452A.19, 452A.21

#### **452A.19 Revocation of refund permit.**

1. Any refund permit issued under this chapter may be revoked by the department for any of the following violations, but only after the holder of the permit has been given reasonable notice of the intention to revoke the permit and reasonable opportunity to be heard:

- a. Using in support of a refund claim a false or altered invoice.
- b. Making a false statement in a claim for refund or in response to an investigation by the department of a claim for refund.
- c. Refusal to submit the holder's books and records for examination by the department.

2. A person whose refund permit is revoked for cause may not obtain another refund permit for a period of one year after the revocation. A refund permit under which a refund is not claimed for a period of three years or a refund permit whose holder has moved from the county in which the holder resided at the time of application for the permit is invalid subject to reinstatement or issuance of a new permit upon application as provided in section 452A.18.

[C27, 31, §5093-a4, -a6, -a7, -a8; C35, §5093-f22, -f31; C39, §5093.22, 5093.31; C46, 50, 54, §324.43, 324.58, 324.59; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.19]

86 Acts, ch 1241, §7  
C93, §452A.19

2002 Acts, ch 1150, §19; 2011 Acts, ch 25, §143  
Referred to in §452A.74

**452A.20** Repealed by 95 Acts, ch 155, § 43, 44.

#### **452A.21 Refund — credit.**

1. Persons 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 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 licensee's total tax liability for that month, the licensee is entitled to a credit. The claim for credit shall be filed as part of the return required by section 452A.8.

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

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

3. A refund shall not be issued unless the claim is filed within three years following the end of the month during which the ethanol blended gasoline was actually blended. An income tax credit is not allowed under this section.

[C81, §324.21]

91 Acts, ch 87, §8, 9

C93, §452A.21

95 Acts, ch 155, §26, 44; 96 Acts, ch 1066, §12, 21; 99 Acts, ch 151, §64, 65, 89; 2002 Acts, ch 1150, §20; 2011 Acts, ch 25, §143

Referred to in §452A.18, 452A.65

**452A.22 Tax collected on exempt fuel.**

If an amount of tax represented by a licensee to a purchaser as constituting tax due is computed upon gallonage that is not taxable or the amount represented is in excess of the actual amount of tax due and the amount represented is actually paid by the purchaser to the licensee, the excess amount of tax paid shall be returned to the purchaser by the licensee. If the licensee fails to return the excess tax paid to the purchaser, the amount which the purchaser has paid to the licensee shall be remitted by the licensee to the department.

99 Acts, ch 151, §66, 89

**452A.23 through 452A.30** Reserved.

DIVISION II

MOTOR FUEL GALLONAGE —  
FLEXIBLE FUEL VEHICLES

**452A.31 Special terms.**

For purposes of this division, all of the following shall apply:

1. A determination period is any twelve-month period beginning on January 1 and ending on December 31.

2. a. A retail dealer's total gasoline gallonage is the total number of gallons of gasoline which the retail dealer sells and dispenses from all motor fuel pumps operated by the retail dealer in this state during a twelve-month period beginning January 1 and ending December 31. The retail dealer's total gasoline gallonage is divided into the following classifications:

(1) The total ethanol blended gasoline gallonage which is the retail dealer's total number of gallons of ethanol blended gasoline and which includes all of the following subclassifications:

(a) The total E-xx gasoline gallonage which is the total number of gallons of ethanol blended gasoline other than E-85 gasoline.

(b) The total E-85 gasoline gallonage which is the total number of gallons of E-85 gasoline.

(2) The total nonblended gasoline gallonage which is the total number of gallons of nonblended ethanol gasoline.

b. A retail dealer's total ethanol gallonage is the total number of gallons of ethanol which is a component of ethanol blended gasoline which the retail dealer sells and dispenses from motor fuel pumps as provided in paragraph "a" during a twelve-month period beginning January 1 and ending December 31.

3. a. A retail dealer's total diesel fuel gallonage is the total number of gallons of diesel fuel which the retail dealer sells and dispenses from all motor fuel pumps operated by the retail dealer in this state during a twelve-month period beginning January 1 and ending December 31. The retail dealer's total diesel fuel gallonage is divided into the following classifications:

(1) The total biodiesel blended fuel gallonage which is the retail dealer's total number of gallons of biodiesel blended fuel.

(2) The total nonblended diesel fuel gallonage which is the total number of gallons of diesel fuel which is not biodiesel or biodiesel blended fuel.

b. A retail dealer's total biodiesel gallonage is the total number of gallons of biodiesel which may or may not be a component of biodiesel blended fuel, and which the retail dealer sells and dispenses from motor fuel pumps as provided in paragraph "a" during a twelve-month period beginning January 1 and ending December 31.

4. a. The aggregate gasoline gallonage is the total number of gallons of gasoline which all retail dealers sell and dispense from all motor fuel pumps operated by the retail dealers in this state during a twelve-month period beginning January 1 and ending December 31. The aggregate gasoline gallonage is divided into the following classifications:

(1) The aggregate ethanol blended gasoline gallonage which is the aggregate total number of gallons of ethanol blended gasoline and which includes all of the following subclassifications:

(a) The aggregate E-xx gasoline gallonage which is the aggregate total number of gallons of ethanol blended gasoline other than E-85 gasoline.

(b) The aggregate E-85 gasoline gallonage which is the aggregate total number of gallons of E-85 gasoline.

(2) The aggregate nonblended gasoline gallonage, which is the aggregate number of gallons of nonblended ethanol gasoline.

b. The aggregate ethanol gallonage is the total number of gallons of ethanol which is a component of ethanol blended gasoline which all retail dealers sell and dispense from motor fuel pumps as provided in paragraph "a" during a twelve-month period beginning January 1 and ending December 31.

5. a. The aggregate diesel fuel gallonage is the total number of gallons of diesel fuel which all retail dealers sell and dispense from all motor fuel pumps operated by the retail dealers in this state during a twelve-month period beginning January 1 and ending December 31. The aggregate diesel fuel gallonage is divided into the following classifications:

(1) The aggregate biodiesel blended fuel gallonage which is the aggregate number of gallons of biodiesel blended fuel.

(2) The aggregate nonblended diesel fuel gallonage which is the aggregate number of gallons of diesel fuel which is not biodiesel or biodiesel blended fuel.

b. The aggregate biodiesel gallonage is the total number of gallons of biodiesel which may or may not be a component of biodiesel blended fuel, and which all retail dealers sell and dispense from motor fuel pumps as provided in paragraph "a" during a twelve-month period beginning January 1 and ending December 31.

6. a. The aggregate ethanol distribution percentage is the aggregate ethanol gallonage expressed as a percentage of the aggregate gasoline gallonage calculated for a twelve-month period beginning January 1 and ending December 31.

b. The aggregate per gallon distribution percentage is the aggregate ethanol blended gasoline gallonage expressed as a percentage of the aggregate gasoline gallonage calculated for a twelve-month period beginning January 1 and ending December 31.

7. a. The aggregate biodiesel distribution percentage is the aggregate biodiesel gallonage expressed as a percentage of the aggregate diesel fuel gallonage calculated for a twelve-month period beginning January 1 and ending December 31.

b. The aggregate per gallon distribution percentage is the aggregate biodiesel blended fuel gallonage expressed as a percentage of the aggregate diesel fuel gallonage calculated for a twelve-month period beginning January 1 and ending December 31.

8. The aggregate biofuel distribution percentage is the sum of the aggregate ethanol gallonage plus the aggregate biodiesel gallonage expressed as a percentage of the sum of the aggregate gasoline gallonage plus the aggregate diesel fuel gallonage calculated for a twelve-month period beginning January 1 and ending December 31.

2006 Acts, ch 1142, §54; 2007 Acts, ch 22, §78

Referred to in §422.11N, 422.11O, 422.11P, 422.11Y, 452A.32, 452A.33

#### **452A.32 Schedule for averaging ethanol content in E-85 gasoline.**

The department shall establish a schedule listing the average amount of ethanol contained in E-85 gasoline as defined in section 214A.1, for use by a retail dealer in calculating the retail dealer's total ethanol gallonage, as provided in section 452A.31. In establishing the schedule, the department shall assume that a retail dealer begins selling and dispensing E-85 gasoline from a motor fuel pump on the first day of a month and ceases selling and distributing E-85 gasoline on the last day of a month.

2006 Acts, ch 1142, §55

Referred to in §422.11O

#### **452A.33 Reporting requirements.**

1. a. Each retail dealer shall report its total motor fuel gallonage for a determination period as follows:

(1) Its total gasoline gallonage and its total ethanol gallonage, including for each classification and subclassification as provided in section 452A.31.

(2) Its total diesel fuel gallonage and its total biodiesel gallonage, including for each classification and subclassification as provided in section 452A.31.

b. The report shall include information required in paragraph "a" on a company-wide and site-by-site basis, as required by the department.

(1) The information submitted on a company-wide basis shall include the total motor fuel gallonage, including for each classification and subclassification, sold and dispensed by the retail dealer as provided in paragraph "a" for all retail motor fuel sites from which the retail dealer sells and dispenses motor fuel.

(2) The information submitted on a site-by-site basis shall include the total motor fuel gallonage, including for each classification and subclassification, sold and dispensed by the retail dealer as provided in paragraph "a" separately for each retail motor fuel site from which the retail dealer sells and dispenses motor fuel.

c. The retail dealer shall prepare and submit the report in a manner and according to procedures required by the department. The department may require that retail dealers report to the department on an annual, quarterly, or monthly basis.

d. The information included in a report submitted by a retail dealer is deemed to be a trade secret, protected as a confidential record pursuant to section 22.7.

2. On or before April 1 the department shall deliver a report to the governor and the legislative services agency. The report shall compile information reported by retail dealers to the department as provided in this section and shall at least include all of the following:

a. (1) The aggregate gasoline gallonage for the previous determination period, including for all classifications and subclassifications as provided in section 452A.31.

(2) The aggregate diesel fuel gallonage for the previous determination period, including for all classifications and subclassifications as provided in section 452A.31.

b. (1) The aggregate ethanol distribution percentage for the previous determination period.

(2) The aggregate biodiesel distribution percentage for the previous determination period.

c. The report shall not provide information regarding motor fuel or biofuel which is sold and dispensed by an individual retail dealer or at a particular retail motor fuel site. The report shall not include a trade secret protected as a confidential record pursuant to section 22.7.

3. On or before February 1 of each year, the state department of transportation shall

deliver a report to the governor and the legislative services agency providing information regarding flexible fuel vehicles registered in this state during the previous determination period. The information shall state all of the following:

- a. The aggregate number of flexible fuel vehicles.
- b. Of the aggregate number of flexible fuel vehicles, all of the following:
  - (1) The number of flexible fuel vehicles according to the year of manufacture.
  - (2) The number of passenger vehicles and the number of passenger vehicles according to the year of manufacture.
  - (3) The number of light pickup trucks and the number of light pickup trucks according to the year of manufacture.

2006 Acts, ch 1142, §56; 2008 Acts, ch 1184, §63; 2011 Acts, ch 113, §10, 13, 14

Referred to in §422.11N

[SP] 2011 amendment to subsection 1, paragraph b, takes effect May 26, 2011, and applies retroactively to tax years beginning on and after January 1, 2011; 2011 Acts, ch 113, §13, 14

**452A.34 through 452A.49** Reserved.

### DIVISION III

#### MOTOR FUEL AND SPECIAL FUEL USE TAX FOR INTERSTATE MOTOR VEHICLE OPERATIONS

Referred to in §452A.57, 452A.58, 452A.65, 452A.76

#### **452A.50 Short title.**

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

[C35, §5093-f40; C39, §5093.39; C46, 50, 54, §324.66; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.50]

C93, §452A.50

#### **452A.51 Purpose.**

The purpose of this division is to provide an additional method of collecting fuel taxes from interstate motor vehicle operators commensurate with their operations on Iowa highways; and to permit the state department of transportation to suspend this collection as to transportation entering Iowa from any other state where it appears that Iowa highway fuel tax revenue and interstate highway transportation moving out of Iowa will not be unduly prejudiced thereby. Further, all motor vehicle operators from jurisdictions not participating in the international fuel tax agreement are required to comply with this chapter using the guidelines from the international fuel tax agreement for Iowa fuel tax compliance reporting purposes, penalty, interest, refunds, and credential display.

[C27, 31, §4755-b38, 5093-a1; C35, §5093-f3; C39, §5093.03; C46, 50, 54, §324.2; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.51]

C93, §452A.51

97 Acts, ch 108, §42

#### **452A.52 Fuels imported in supply tanks of motor vehicles.**

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

2. Any person who is unable to display either of the permits or the license provided in

section 452A.53 and brings into the state in the fuel supply tanks of a commercial motor vehicle more than thirty gallons of motor fuel or special fuel in violation of subsection 1 commits a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 13, paragraph “c”.

[C35, §5093-f19; C39, §5093.19; C46, 50, 54, §324.34, 324.37; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.52]

C93, §452A.52

98 Acts, ch 1100, §61; 2001 Acts, ch 176, §57, 59

Referred to in §452A.53, 805.8A(13c)

#### **452A.53 Permit or license.**

1. The advance arrangements referred to in section 452A.52 shall include the procuring of a permanent international fuel tax agreement permit or license or single-trip interstate permit.

2. Persons choosing not to make advance arrangements with the state department of transportation by procuring a permit or license are not relieved of their responsibility to purchase motor fuel and special fuel commensurate with their use of the state’s highway system. When there is reasonable cause to believe that there is evasion of the fuel tax on commercial motor vehicles, the state department of transportation may audit persons not holding a permit or license. Audits shall be conducted pursuant to section 452A.55 and in accordance with international fuel tax agreement guidelines. The state department of transportation shall collect all taxes due and refund any overpayment.

3. A permanent international fuel tax agreement permit or license may be obtained upon application to the state department of transportation. A fee of ten dollars shall be charged for each permit or license issued. The holder of a permanent permit or license shall have the privilege of bringing into this state in the fuel supply tanks of commercial motor vehicles any amount of motor fuel or special fuel to be used in the operation of the vehicles and for that privilege shall pay Iowa motor fuel or special fuel taxes as provided in section 452A.54.

4. A single-trip interstate permit may be obtained from the state department of transportation. A fee of twenty dollars shall be charged for each individual single-trip interstate permit issued. A single-trip interstate permit is subject to the following provisions and limitations:

a. The permit shall be issued and be valid for seventy-two consecutive hours, except in emergencies, or until the time of leaving the state, whichever first occurs.

b. The permit shall cover only one commercial motor vehicle and is not transferable.

c. Single-trip interstate fuel permits may be made available from sources other than indicated in this section at the discretion of the state department of transportation.

5. Each vehicle operated into or through Iowa in interstate operations using motor fuel or special fuel acquired in any other state shall carry in or on the vehicle a duplicate or evidence of the permit or license required in this section. A fee not to exceed fifty cents shall be charged for each duplicate or other evidence of a permit or license issued.

[C35, §5093-f19, -f20; C39, §5093.19, 5093.20; C46, 50, 54, §324.38; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.53]

84 Acts, ch 1174, §2

C93, §452A.53

97 Acts, ch 108, §43; 98 Acts, ch 1100, §62; 2008 Acts, ch 1032, §54

Referred to in §452A.52

#### **452A.54 Fuel tax computation — refund — reporting and payment.**

1. 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 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 of this chapter on motor fuel

and special fuel consumed by commercial motor vehicles, the operation of which is subject to this division.

2. Notwithstanding any provision of this chapter to the contrary, except as provided in this section, the holder of a permanent international fuel tax agreement permit or license may make application to the state department of transportation for a refund, not later than the last day of the third month following the quarter in which the overpayment of Iowa fuel tax paid on excess purchases of motor fuel or special fuel was reported as provided in section 452A.8, and which application is supported by such proof as the state department of transportation may require. The state department of transportation shall refund Iowa fuel tax paid on motor fuel or special fuel purchased in excess of the amount consumed by such commercial motor vehicles in their operation on the highways of this state.

3. Application for a refund of fuel tax under this division must be made for each quarter in which the excess payment was reported, and will not be allowed unless the amount of fuel tax paid on the fuel purchased in this state, in excess of that consumed for highway operation in this state in the quarter applied for, is in an amount exceeding ten dollars. An application for a refund of excess Iowa fuel tax paid under this division which is filed for any period or in any manner other than herein set out shall not be allowed.

4. To determine the amount of fuel taxes due under this division and to prevent the evasion thereof, the state department of transportation shall require a quarterly report on forms prescribed by the state department of transportation. It shall be filed not later than the last day of the month following the quarter reported, and each quarter thereafter. These reports shall be required of all persons who have been issued a permit or license under this division and shall cover actual operation and fuel consumption in Iowa on the basis of the permit or license holder's average consumption of fuel in Iowa, determined by the total miles traveled and the total fuel purchased and consumed for highway use by the permittee's or licensee's commercial motor vehicles in the permittee's or licensee's entire operation in all states to establish an overall miles per gallon ratio, which ratio shall be used to compute the gallons used for the miles traveled in Iowa. Failure to receive a quarterly report or fuel credentials by mail, facsimile transmission, or any other means of delivery does not relieve a person from the person's fuel tax liability or from the requirement to display current fuel credentials.

5. Subject to compliance with rules adopted by the department, annual reporting may be permitted in lieu of quarterly reporting. A licensee permitted to report annually shall maintain records in compliance with this chapter.

[C27, 31, §5093-b1; C35, §5093-f18, -f25; C39, §5093.18, 5093.25; C46, 50, 54, §324.32, 324.46; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.54; 81 Acts, 2nd Ex, ch 2, §14]

87 Acts, ch 170, §15

C93, §452A.54

95 Acts, ch 155, §27; 97 Acts, ch 108, §44, 45; 2007 Acts, ch 143, §29

Referred to in §452A.53, 452A.55, 452A.71

#### **452A.55 Records.**

Every person operating within the purview of this division shall make and keep for a period of four years such records as may reasonably be required by the state department of transportation for the administration of this division. If in the normal conduct of the business, the required records are maintained and kept at an office outside the state of Iowa, it shall be a sufficient compliance with this section if the records are made available for audit and examination by the state department of transportation at the office outside Iowa.

The state department of transportation within a period of one year from the issuance of a permanent international fuel tax agreement fuel permit or license may audit the records of the permittee or licensee for the two years preceding the issuance of the permit or license. The state department of transportation shall collect all taxes due had the permittee or licensee been licensed for the two years prior to the issuance of the permit or license and shall refund any overpayment pursuant to section 452A.54. When, as a result of an audit, fuel taxes unpaid and due the state of Iowa exceed five hundred dollars, the audit shall be at the expense of the person whose records are being audited. However, if an audit of records maintained under

this section is made outside the state of Iowa in a state which requires payment of the costs for similar audits performed by officials or employees of the other state when made in Iowa, then all costs of audits performed outside of Iowa in the other state shall be at the expense of the person whose records are audited.

[C27, 31, §5093-a8; C35, §5093-f14, -f21; C39, §5093.14, 5093.21; C46, 50, 54, §324.27, 324.28, 324.41; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.55]

84 Acts, ch 1174, §3

C93, §452A.55

97 Acts, ch 108, §46

Referred to in §452A.53

#### **452A.56 Interstate motor fuel tax — reciprocity agreements.**

The director of transportation may enter into motor fuel tax agreements on behalf of this state with authorized representatives of other states. The director of transportation may enter into and the state department of transportation may become a member of a motor fuel tax agreement for the collection and refund of interstate motor fuel tax. The director of transportation may adopt rules pursuant to chapter 17A to implement the agreement for the collection and refund of interstate motor fuel tax.

The department may enter into an agreement for the collection and refund of interstate motor fuel tax which conflicts with sections 452A.57, 452A.58, 452A.65, and 452A.68 and the agreement shall govern carriers covered by the agreement. Copies of the agreement shall be filed with the secretary of the senate and the chief clerk of the house.

[82 Acts, ch 1071, §1]

C83, §324.56

86 Acts, ch 1245, §1942

C93, §452A.56

### DIVISION IV

#### PROVISIONS COMMON TO TAXES IMPOSED UNDER DIVISIONS I AND III

Referred to in §452A.1, 452A.4, 452A.50

#### **452A.57 Definitions.**

1. “*Appropriate state agency*” or “*state agency*” means the department of revenue or the state department of transportation, whichever is responsible for control, maintenance, or supervision of the power, requirement, or duty referred to in the provision. The department of revenue shall administer the provisions of division I 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 the director of transportation.

2. “*Carrier*” means and includes any person who operates or causes to be operated any commercial motor vehicle on any public highway in this state.

3. “*Commercial motor vehicle*” means a passenger vehicle that has seats for more than nine passengers in addition to the driver, any road tractor, any truck tractor, or any truck having two or more axles which passenger vehicle, road tractor, truck tractor, or truck is propelled on the public highways by either motor fuel or special fuel. “*Commercial motor vehicle*” does not include a motor truck with a combined gross weight of less than twenty-six thousand pounds, operated as a part of an identifiable one-way fleet and which is leased for less than thirty days to a lessee for the purpose of moving property which is not owned by the lessor.

4. “*Department of revenue*” includes the director of revenue or the director’s authorized representative.

5. “*Fuel taxes*” means the per gallon excise taxes imposed under divisions I and III of this chapter with respect to motor fuel and undyed special fuel.

6. An “*Iowa urban transit system*” is a system whereby motor buses are operated primarily

upon the streets of cities for the transportation of passengers for an established fare and which accepts passengers who present themselves for transportation without discrimination up to the limit of the capacity of each motor bus. “*Iowa urban transit system*” also includes motor buses operated upon the streets of adjoining cities, whether interstate or intrastate, for the transportation of passengers without discrimination up to the limit of the capacity of the motor bus. Privately chartered bus services, motor carriers and interurban carriers subject to the jurisdiction of the state department of transportation, school bus services and taxicabs shall not be construed to be an urban transit system nor a part of any such system.

7. “*Mobile machinery and equipment*” means vehicles self-propelled by an internal combustion engine but not designed or used primarily for the transportation of persons or property on public highways and only incidentally operated or moved over a highway including but not limited to corn shellers, truck-mounted feed grinders, roller mills, ditch digging apparatus, power shovels, drag lines, earth moving equipment and machinery, and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers and earth moving scrapers. However, “*mobile machinery and equipment*” does not include dump trucks or self-propelled vehicles originally designed for the transportation of persons or property on public highways and to which machinery, such as truck-mounted transit mixers, cranes, shovels, welders, air compressors, well-boring apparatus or lime spreaders, has been attached.

8. “*Motor vehicle*” shall mean and include all vehicles (except those operated on rails) which are propelled by internal combustion engines and are of such design as to permit their mobile use on public highways for transporting persons or property. A farm tractor while operated on a farm or for the purpose of hauling farm machinery, equipment or produce shall not be deemed to be a motor vehicle. “*Motor vehicle*” shall not include “*mobile machinery and equipment*” as defined in this section.

9. “*Person*” shall mean and include natural persons, partnerships, firms, associations, corporations, representatives appointed by any court and political subdivisions of this state and use of the singular shall include the plural.

10. “*Public highways*” shall mean and include any way or place available to the public for purposes of vehicular travel notwithstanding that it is temporarily closed.

11. “*Regional transit system*” means a public transit system serving one county or all or part of a multicounty area whose boundaries correspond to the same boundaries as those of the regional planning areas designated by the governor, except as agreed upon by the department. Each county board of supervisors within the region is responsible for determining the service and funding within its county. However, the administration and overhead support services for the overall regional transit system shall be consolidated into one existing or new agency to be mutually agreed upon by the participating members. Privately chartered bus services and uses other than providing services that are open and public on a shared ride basis shall not be construed to be a regional transit system.

[C27, 31, §5093-a2; C35, §5093-f2; C39, §5093.02; C46, 50, 54, §324.1; C58, 62, 66, 71, 73, 75, 77, 79, 81, §324.57; 81 Acts, ch 108, §4; 82 Acts, ch 1140, §1]

84 Acts, ch 1253, §7; 86 Acts, ch 1245, §416

C93, §452A.57

95 Acts, ch 155, §28, 44; 96 Acts, ch 1034, §44; 2003 Acts, ch 145, §286

Referred to in §325A.13, 452A.2, 452A.17, 452A.56, 452A.58

[P] See §452A.2

#### **452A.58 Commercial motor vehicles on lease.**

Every commercial motor vehicle as defined in section 452A.57, subsection 3, leased to a carrier shall be subject to the provisions of this division and rules and regulations enforced pursuant thereto to the same extent and in the same manner as commercial vehicles owned by such carrier.

A lessor of a commercial motor vehicle shall be deemed a carrier with respect to such vehicles leased to others by the lessor and motor fuel or special fuel consumed thereby if the

lessor supplies or pays for the motor fuel or special fuel consumed by such vehicle or makes rental or other charges calculated to include the cost of such fuel.

The provisions of this section shall govern the primary liability pursuant to this section if either lessor or lessee primarily fails in whole or in part to discharge this liability. Such failing party as lessor or lessee party to the transaction shall be jointly and severally responsible and liable for the provisions of division III of this chapter and for payment of any tax unpaid and due pursuant thereto, provided that any taxes collected by this state shall not exceed the total amount or amounts of the taxes due on account of the transaction in question and such penalties and costs, if any, as may be imposed.

[C71, 73, 75, 77, 79, 81, §324.58]

C93, §452A.58

Referred to in §452A.56

#### **452A.59 Administrative rules.**

The department of revenue and the state department of transportation are authorized and empowered to adopt rules under chapter 17A, relating to the administration and enforcement of this chapter as deemed necessary by the departments. However, when in the opinion of the director it is necessary for the efficient administration of this chapter, the director may regard persons in possession of motor fuel, special fuel, biofuel, alcohol, or alcohol derivative substances as blenders, dealers, eligible purchasers, exporters, importers, restrictive suppliers, suppliers, terminal operators, or nonterminal storage facility operators.

[C35, §5093-f18, -f21, -f36; C39, §5093.18, 5093.21, 5093.36; C46, 50, 54, §324.32, 324.40, 324.64; C58, 62, 66, §324.58; C71, 73, 75, 77, 79, 81, §324.59]

C93, §452A.59

95 Acts, ch 155, §29; 2003 Acts, ch 145, §286; 2008 Acts, ch 1184, §64

#### **452A.60 Forms of report, refund claim, and records.**

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

The department of revenue or the state department of transportation may approve a form of record, other than a prescribed form, if the required information is presented in a reasonably accessible form which substantially complies with the prescribed form.

[C35, §5093-f21, -f36; C39, §5093.21, 5093.36; C46, 50, 54, §324.42, 324.64; C58, 62, 66, §324.59; C71, 73, 75, 77, 79, 81, §324.60]

C93, §452A.60

95 Acts, ch 155, §30; 99 Acts, ch 151, §67, 89; 2002 Acts, ch 1151, §27; 2003 Acts, ch 145, §286

#### **452A.61 Timely filing of reports and returns — extension.**

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

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

[C27, 31, §5093-a5, -b1; C35, §5093-f9, -f21, -f25; C39, §5093.09, 5093.21, 5093.25; C46, 50, 54, §324.13, 324.41, 324.46; C58, 62, 66, §324.60; C71, 73, 75, 77, 79, 81, §324.61]

C93, §452A.61

99 Acts, ch 151, §68, 89; 2003 Acts, ch 145, §286

**452A.62 Inspection of records.**

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

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

(1) A distributor, supplier, restrictive supplier, importer, exporter, blender, terminal operator, nonterminal storage facility, common carrier, or contract carrier, pertaining to motor fuel or undyed special fuel withdrawn from a terminal or a nonterminal storage facility, or brought into this state.

(2) A licensed compressed natural gas or liquefied petroleum gas dealer, user, or person supplying compressed natural gas or liquefied petroleum gas to a licensed compressed natural gas or liquefied petroleum gas dealer or user.

(3) 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.

(4) Any person selling fuels that can be used for highway use.

b. To examine the records, books, papers, receipts, and invoices of any distributor, supplier, restrictive supplier, importer, blender, exporter, terminal operator, nonterminal storage facility, 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.

2. If a person under this section refuses access to pertinent records, books, papers, receipts, invoices, storage tanks, or any other equipment, the appropriate state agency shall certify the names and facts to any court of competent jurisdiction, and the court shall enter an order to enforce this chapter.

[C27, 31, §5093-a6; C35, §5093-f26, -f29; C39, §5093.26, 5093.29; C46, 50, 54, §324.47, 324.52; C58, 62, 66, §324.61; C71, 73, 75, 77, 79, 81, §324.62]

C93, §452A.62

95 Acts, ch 155, §31, 44; 2002 Acts, ch 1151, §28; 2003 Acts, ch 145, §286; 2005 Acts, ch 140, §65, 66; 2011 Acts, ch 25, §143

**452A.63 Information confidential.**

All information obtained by the department of revenue or the state department of transportation from the examining of reports, returns, or records required to be filed or kept under 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 this chapter. The appropriate state agency may make available to the public on or before forty-five days following the last day of the month in which the tax is required to be paid, the names of suppliers, restrictive suppliers, and importers and as to each of them the total gallons of motor fuel, undyed special fuel, and ethanol blended gasoline withdrawn from terminals or imported into the state during that month. The department of revenue or the state department of transportation, upon request of officials entrusted with enforcement of the motor fuel tax laws of the federal government or any other state, may forward to these 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.

Any person violating this section, and disclosing the contents of any records, returns, or

reports required to be kept or made under this chapter, except as otherwise provided, shall be guilty of a simple misdemeanor.

[C27, 31, §5093-a6; C35, §5093-f27; C39, §5093.27; C46, 50, 54, §324.48; C58, 62, 66, §324.62; C71, 73, 75, 77, 79, 81, §324.63]

C93, §452A.63

95 Acts, ch 155, §32, 44; 96 Acts, ch 1066, §13, 21; 99 Acts, ch 151, §69, 89; 2003 Acts, ch 145, §286; 2006 Acts, ch 1142, §83

Referred to in §421.28, 422.20, 422.72, 452A.66

**452A.64 Failure to file return — incorrect return.**

If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient and the filer fails to file a corrected or sufficient return within twenty days after the same is required by notice from the appropriate state agency, the appropriate state agency shall determine the amount of tax due. The determination shall be made from all information that the appropriate state agency may be able to obtain and, if necessary, the agency may estimate the tax on the basis of external indices. The appropriate state agency shall give notice of the determination to the person liable for the tax. The determination shall fix the tax unless the person against whom it is assessed shall, within sixty days after the giving of notice of the determination, apply to the director of the appropriate state agency for a hearing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. At the hearing, evidence may be offered to support the determination or to prove that it is incorrect. After the hearing, the director shall give notice of the decision to the person liable for the tax. The findings of the appropriate state agency as to the amount of fuel taxes, penalties and interest due from any person shall be presumed to be the correct amount and in any litigation which may follow, the certificate of the agency shall be admitted in evidence, shall constitute a prima facie case and shall impose upon the other party the burden of showing any error in the findings and the extent thereof or that the finding was contrary to law.

[C35, §5093-f11, -f12; C39, §5093.11, 5093.12; C46, 50, 54, §324.19, 324.20, 324.21; C58, 62, 66, §324.63; C71, 73, 75, 77, 79, 81, §324.64; 81 Acts, ch 131, §2]

C93, §452A.64

94 Acts, ch 1133, §12, 16

Referred to in §421.10

**452A.65 Failure to promptly pay fuel taxes — refunds — interest and penalties — successor liability.**

In addition to the tax or additional tax, the taxpayer shall pay a penalty as provided in section 421.27. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 counting each fraction of a month as an entire month, computed from the date the return was required to be filed. If the amount of the tax as determined by the appropriate state agency is less than the amount paid, the excess shall be refunded with interest, the interest to begin to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest, at the rate in effect under section 421.7 counting each fraction of a month as an entire month under the rules prescribed by the appropriate state agency. Claims for refund filed under sections 452A.17 and 452A.21 shall accrue interest beginning with the first day of the second calendar month following the date the refund claim is received by the department.

A report required of licensees or persons operating under division III, upon which no tax is due, is subject to a penalty of ten dollars if the report is not timely filed with the state department of transportation.

If a licensee or other person sells the licensee's or other person's business or stock of goods or quits the business, the licensee or other person shall prepare a final return and pay all tax due within the time required by law. The immediate successor to the licensee or other person, if any, shall withhold sufficient of the purchase price, in money or money's worth, to pay the amount of any delinquent tax, interest or penalty due and unpaid. If the immediate successor of the business or stock of goods intentionally fails to withhold any amount due from the

purchase price as provided in this paragraph, the immediate successor is personally liable for the payment of the taxes, interest and penalty accrued and unpaid on account of the operation of the business by the immediate former licensee or other person, except when the purchase is made in good faith as provided in section 421.28. However, a person foreclosing on a valid security interest or retaking possession of premises under a valid lease is not an “*immediate successor*” for purposes of this paragraph. The department may waive the liability of the immediate successor under this paragraph if the immediate successor exercised good faith in establishing the amount of the previous liability.

[C27, 31, §5093-a5; C35, §5093-f9, -f11; C39, §5093.09, 5093.11; C46, 50, 54, §324.16, 324.19; C58, 62, 66, §324.64; C71, 73, 75, 77, 79, 81, §324.65; 81 Acts, ch 131, §3; 82 Acts, ch 1180, §1, 8]

84 Acts, ch 1173, §3; 86 Acts, ch 1246, §30; 86 Acts, ch 1007, §11 – 13; 89 Acts, ch 251, §7; 90 Acts, ch 1172, §3, 4; 91 Acts, ch 159, §2

C93, §452A.65

97 Acts, ch 158, §44

Referred to in §421.26, 421.28, 452A.56

[P] Personal liability of officers and partners; see §421.26

#### **452A.66 Statutes applicable to motor fuel tax.**

The appropriate state agency shall administer the taxes imposed by this chapter in the same manner as and subject to section 422.25, subsection 4, and section 423.35.

All the provisions of section 422.26 shall apply in respect to the taxes, penalties, interest, and costs imposed by this chapter excepting that as applied to any tax imposed by this chapter, the lien therein provided shall be prior and paramount over all subsequent liens upon any personal property within this state, or right to such personal property, belonging to the taxpayer without the necessity of recording as therein provided. The requirements for recording shall, as applied to the tax imposed by this chapter, apply only to the liens upon real property. When requested to do so by any person from whom a taxpayer is seeking credit, or with whom the taxpayer is negotiating the sale of any personal property, or by any other person having a legitimate interest in such information, the director shall, upon being satisfied that such a situation exists, inform such person as to the amount of unpaid taxes due by such taxpayer under the provisions of this chapter. The giving of such information under such circumstances shall not be deemed a violation of section 452A.63 as applied to this chapter.

[C35, §5093-f13; C39, §5093.13; C46, 50, 54, §324.22 – 324.24; C58, 62, 66, §324.65; C71, 73, 75, 77, 79, 81, §324.66]

86 Acts, ch 1007, §14; 87 Acts, ch 233, §132

C93, §452A.66

2003 Acts, 1st Ex, ch 2, §196, 205; 2006 Acts, ch 1142, §83

Referred to in §602.8102(56)

#### **452A.67 Limitation on collection proceedings.**

The department shall examine the return and enforce collection of any amount of tax, penalty, fine, or interest over and above the amount shown to be due by the return filed by a licensee as soon as practicable but no later than three years after the return is filed. An assessment shall not be made covering a period beyond three years after the return is filed except that the period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return.

The three-year period of limitation may be extended by a taxpayer by signing a waiver agreement form to be provided by the department. The agreement must stipulate the period of extension and the tax period to which the extension applies. The agreement must also provide that a claim for refund may be filed by the taxpayer at any time during the period of extension.

[C58, 62, 66, §324.66; C71, 73, 75, 77, 79, 81, §324.67]

89 Acts, ch 251, §8

C93, §452A.67

96 Acts, ch 1066, §14, 21; 99 Acts, ch 151, §70, 89

Referred to in §602.8102(56)

**452A.68 Power of department of revenue or the state department of transportation to cancel licenses.**

1. If a licensee files a false return of the data or information required by this chapter, or fails, refuses, or neglects to file a return required by this chapter, or to pay the full amount of fuel tax as required by this chapter, or is substantially delinquent in paying a tax due, owing, and administered by the department of revenue, and interest and penalty if appropriate, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the licensee corporation, or interest or penalty on the tax, administered by the department, then after ten days' written notice by mail directed to the last known address of the licensee setting a time and place at which the licensee may appear and show cause why the license should not be canceled, and if the licensee fails to appear or if upon the hearing it is shown that the licensee failed to correctly report or pay the tax, the appropriate state agency may cancel the license and shall notify the licensee of the cancellation by mail to the licensee's last known address.

2. If a licensee abuses the privileges for which the license was issued, fails to produce records reasonably requested, fails to extend reasonable cooperation to the appropriate state agency, or has been suspended for nonpayment of fees under chapter 326 and still owes fees to the department, the licensee shall be advised in writing of a hearing scheduled to determine if the license shall be canceled. The appropriate state agency upon the presentation of a preponderance of evidence may cancel a license for cause.

3. The director of the appropriate state agency may reissue a license which has been canceled for cause. As a condition of reissuance of a license, in addition to requirements for issuing a new license, the director may require a waiting period not to exceed ninety days before a license can be reissued or a new license issued. The director shall adopt rules specifying those instances for which a waiting period will be required.

4. Upon receipt of written request from any licensee the appropriate state agency shall cancel the license of the licensee effective on the date of receipt of the request. If, upon investigation, the appropriate state agency finds that a licensee is no longer engaged in the activities for which a license was issued and has not been so engaged for a period of six months, the state agency shall cancel the license and give thirty days' notice of the cancellation mailed to the last known address of the licensee.

[C27, 31, §5093-a5; C35, §5093-f10, -f18, -f37; C39, §5093.10, 5093.18, 5093.37; C46, 50, 54, §324.18, 324.32, 324.65; C58, 62, 66, §324.67; C71, 73, 75, 77, 79, 81, §324.68; 82 Acts, ch 1045, §1]

86 Acts, ch 1007, §15; 86 Acts, ch 1241, §8; 89 Acts, ch 251, §9

C93, §452A.68

99 Acts, ch 151, §71, 89; 2003 Acts, ch 145, §286; 2007 Acts, ch 143, §30

Referred to in §452A.56

**452A.69 Hearings before state agency.**

Hearings before a state agency authorized under the provisions of this chapter may be held at a site in the state as the state agency may direct. The state agency shall have the power to issue subpoenas including subpoenas duces tecum and to require the attendance of witnesses and the production of books, records and papers. In the event any person shall refuse to obey subpoena, or after appearing refuses to testify, the state agency shall certify the name of the person to the district court of the county where the hearing is being held and the court shall proceed with the witness in the same manner as if the refusal had occurred in open court.

[C27, 31, §5093-a5; C35, §5093-f10, -f11, -f12; C39, §5093.10, 5093.11, 5093.12; C46, 50, 54, §324.18 – 324.21; C58, 62, 66, §324.68; C71, 73, 75, 77, 79, 81, §324.69]

C93, §452A.69

**452A.70 Discontinuance of licensed activity — liability for taxes and penalties.**

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

[C27, 31, §5093-a5; C35, §5093-f10; C39, §5093.10; C46, 50, 54, §324.18; C58, 62, 66, §324.69; C71, 73, 75, 77, 79, 81, §324.70]

C93, §452A.70

2003 Acts, ch 145, §286

**452A.71 Refund of tax on fuel lost as result of casualty.**

Except as provided in section 452A.54, a person who has paid or has had charged to the person's account with a distributor, dealer, or user fuel taxes imposed under this chapter with respect to motor fuel or undyed special fuel in excess of one hundred gallons, which, while the person is the owner, is subsequently lost or destroyed through leakage, fire, explosion, lightning, flood, storm, or other casualty, except evaporation or unknown causes, 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 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 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 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.

[C27, 31, §5093-a5; C35, §5093-f9; C39, §5093.09; C46, 50, 54, §324.14, 324.15; C58, 62, 66, §324.70; C71, 73, 75, 77, 79, 81, §324.71]

C93, §452A.71

95 Acts, ch 155, §33, 44; 96 Acts, ch 1034, §45; 96 Acts, ch 1066, §15, 21; 2003 Acts, ch 145, §286

**452A.72 Refund for fuel taxes erroneously or illegally collected or paid.**

If any fuel taxes, penalties, or interest have been erroneously or illegally collected by the appropriate state agency from a licensee, the appropriate state agency may apply the overpayment against any tax liability outstanding on the books of the department against the claimant, or shall certify the amount to the director of the department of administrative services, who shall draw a warrant for the certified amount on the treasurer of state payable to the licensee. The refund shall be paid to the licensee immediately.

A refund shall not be made under this section unless a written claim setting forth the circumstances for which the refund should be allowed is filed with the appropriate state agency within three years from the date of the payment of the taxes erroneously or illegally collected or paid.

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

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

[C27, 31, §5093-a5, -b1; C35, §5093-f9; C39, §5093.09; C46, 50, 54, §324.13, 324.15; C58, 62, 66, §324.71; C71, 73, 75, 77, 79, 81, §324.72]

C93, §452A.72

96 Acts, ch 1066, §16, 21; 2002 Acts, ch 1150, §21; 2003 Acts, ch 145, §286

#### **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 on or before time required shall be guilty of theft.

[C27, 31, §5093-a5; C35, §5093-f9, -f13; C39, §5093.09 – 5093.13; C46, 50, 54, §324.16 – 324.22; C58, 62, 66, §324.72; C71, 73, 75, 77, 79, 81, §324.73]

C93, §452A.73

95 Acts, ch 155, §34, 44; 2003 Acts, ch 145, §286

[P] Theft, chapter 714

#### **452A.74 Unlawful acts — penalty.**

1. It shall be unlawful:

a. For any person to knowingly fail, neglect, or refuse to make any required return or statement or pay over fuel taxes required under this chapter.

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

c. 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.

d. 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 has been revoked for cause as provided in section 452A.19, the revocation shall serve as a bar to prosecution for violation of this paragraph.

e. For any person to act as a supplier, restrictive supplier, importer, exporter, blender, or compressed natural gas or liquefied petroleum gas dealer or user without the required license.

f. For any person to use motor fuel, undyed special fuel, or 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 the person does not, within the time required in this chapter, report and pay the applicable fuel tax.

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

2. Any delivery of 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 compressed natural gas or liquefied petroleum gas, into facilities other than those licensed above knowing that the fuel will be used 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 compressed natural gas or liquefied petroleum gas, who allows

a distributor to place compressed natural gas or liquefied petroleum gas for highway use in facilities other than those licensed above, shall also be deemed in violation of this section.

3. A person found guilty of an offense specified in this section is guilty of a fraudulent practice. Prosecution for an offense specified in this section shall be commenced within six years following the date of commission of the offense.

[C27, 31, §5093-a4, -a6, -a7, -a8; C35, §5093-f31; C39, §5093.31; C46, 50, 54, §324.58; C58, 62, 66, §324.73; C71, 73, 75, 77, 79, 81, §324.74]

83 Acts, ch 160, §1

C93, §452A.74

95 Acts, ch 155, §35, 44; 96 Acts, ch 1066, §17, 18, 21; 99 Acts, ch 152, §35, 40; 2003 Acts, ch 145, §286; 2011 Acts, ch 34, §102

[P] See §452A.19

[P] Fraudulent practices, see §714.8 – 714.14

#### **452A.74A Additional 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 five hundred dollar penalty for the first violation.

b. A one thousand dollar penalty for a second violation within three years of the first violation.

c. A two thousand dollar penalty for third and subsequent violations within three years of the first violation.

2. *Illegal importation of untaxed fuel.* A person who 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 penalty of four 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 penalty.

b. For a second violation, the importing vehicle shall be detained and a penalty 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 penalty.

c. For third and subsequent violations, the importing vehicle and the fuel shall be seized and a penalty of twenty 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 penalty.

d. If the owner or operator of the importing vehicle or the owner of the fuel fails to pay the tax and penalty for a first or second offense, the importing vehicle and the fuel may be seized. The department of revenue, 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 moves 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", an additional penalty of ten 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 refund.* If a person files an incorrect refund claim, in addition to the excess 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 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 two thousand dollars per occurrence. Any law enforcement officer or department of revenue 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 report or 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 return, 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 report or return or false statement in any report or return with the intent to evade payment of tax shall be guilty of a fraudulent practice.

95 Acts, ch 155, §36, 44; 96 Acts, ch 1066, §19 – 21; 99 Acts, ch 151, §72, 89; 2003 Acts, ch 145, §286; 2009 Acts, ch 179, §141

Referred to in §321.56, 452A.76

[P] Fraudulent practices, see §714.8 – 714.14

#### **452A.75 Penalty for false certificate — place of trial.**

Any person who makes a false certificate, false fuel invoice, false fuel receipt, or false fuel sales ticket in any report, return, application, claim, or evidence required or provided for by this chapter or under any rule or regulation shall be guilty of a fraudulent practice.

Prosecution for an offense specified in this section shall be commenced within six years following its commission.

[C27, 31, §5093-a4, -a6, -a7, -a8; C35, §5093-f31; C39, §5093.31; C46, 50, 54, §324.58, 324.59; C58, 62, 66, §324.74; C71, 73, 75, 77, 79, 81, §324.75]

83 Acts, ch 160, §2

C93, §452A.75

99 Acts, ch 152, §36, 40

[P] Fraudulent practices, see §714.8 – 714.14

#### **452A.76 Enforcement authority.**

Authority to enforce division III is given to the state department of transportation. Employees of the state 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 state patrol. The state 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 state patrol. Enforcement employees shall be furnished and shall conspicuously display badges of authority.

Authority is given to the department of revenue, 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 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.

[C35, §5093-f18, -f32; C39, §5093.18, 5093.32; C46, 50, 54, §324.32, 324.60; C58, 62, 66, §324.75; C71, 73, 75, 77, 79, 81, §324.76]

84 Acts, ch 1174, §4

C93, §452A.76

95 Acts, ch 155, §37, 44; 98 Acts, ch 1074, §29; 2003 Acts, ch 145, §286; 2005 Acts, ch 35, §31

Referred to in §331.653

#### **452A.77 Moneys deposited in treasury — refunds — administration.**

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

The general assembly may appropriate from the motor fuel tax fund such amounts as it determines are necessary for administrative expenses. Allocations and transfers of fees, taxes, interest and penalties imposed under this chapter, pursuant to any provision of the Code, shall be made from the motor fuel tax fund.

[C27, 31, §5093-a11; C35, §5093-f33; C39, §5093.33; C46, 50, 54, §324.61; C58, 62, 66, §324.76; C71, 73, 75, 77, 79, 81, §324.77]

C93, §452A.77

2003 Acts, ch 145, §261

#### **452A.78 Other remedies available.**

The special remedies provided under the provisions of this chapter to enable the state to collect motor fuel excise tax shall not be construed as depriving the state of any other remedy it might have either at law or in equity independent of this chapter. The state shall have the right to maintain an action at law for the collection of said taxes required to be paid herein and in connection therewith shall be entitled to a writ of attachment without bond.

[C35, §5093-f34; C39, §5093.34; C46, 50, 54, §324.62; C58, 62, 66, §324.77; C71, 73, 75, 77, 79, 81, §324.78]

C93, §452A.78

2006 Acts, ch 1142, §83

#### **452A.79 Use of revenue.**

Except as provided in sections 452A.79A, 452A.82, and 452A.84, the net proceeds of the excise tax on the diesel special fuel and the excise tax on motor fuel and other special fuel,

and penalties collected under the provision of this chapter, shall be credited to the road use tax fund.

[C27, 31, §4755-b38, 5093-a9; C35, §5093-f35; C39, §5093.35; C46, 50, 54, §324.63; C58, 62, 66, §324.78; C71, 73, 75, 77, 79, 81, §324.79]

88 Acts, ch 1134, §69, 70; 91 Acts, ch 260, §1227

C93, §452A.79

93 Acts, ch 131, §17; 94 Acts, ch 1107, §68, 69; 98 Acts, ch 1219, §18; 99 Acts, ch 204, §37; 2005 Acts, ch 178, §12; 2006 Acts, ch 1179, §59, 66

Referred to in §24.14

[P] See §24.14

#### **452A.79A Marine fuel tax fund.**

1. A marine fuel tax fund is created under the authority of the department of natural resources.

a. The fund shall consist of all revenues derived from the excise tax on the sale of motor fuel used in watercraft as provided in section 452A.84 and other moneys appropriated to the fund.

b. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund. Notwithstanding section 8.33, any moneys credited to the fund from another fund shall not revert to the fund from which appropriated at the close of a fiscal year.

2. Moneys in the marine fuel tax fund are appropriated to the department of natural resources for use by the department in its recreational boating program, which may include but is not limited to any of the following:

a. Dredging and renovation of lakes of this state.

b. Acquisition, development, and maintenance of access to public boating waters.

c. Development and maintenance of boating facilities and navigation aids.

d. Administration, operation, and maintenance of recreational boating activities of the department of natural resources.

e. Acquisition, development, and maintenance of recreation facilities associated with recreational boating.

2006 Acts, ch 1179, §60, 66; 2007 Acts, ch 211, §44, 45

Referred to in §452A.79

#### **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 the tax. If the forms and records have been reproduced in accordance with this section, the state agency may destroy the originals and the reproductions shall be competent evidence in any court in accordance with the provision of section 622.30.

[C35, §5093-f36; C39, §5093.36; C46, 50, 54, §324.64; C58, 62, 66, §324.79; C71, 73, 75, 77, 79, 81, §324.80]

C93, §452A.80

95 Acts, ch 155, §38

#### **452A.81 Agreement for refund of federal tax.**

1. The department of revenue is hereby authorized to enter into and empowered to carry out the provisions of agreements with any duly authorized agent or department of the United States government for joint or cooperative action by the state and the United States government in the making of refunds of the federal tax on gasoline. Such agreements may provide that the department of revenue may receive applications for and make refunds of the federal tax on gasoline as an agent of the United States. Such agreements shall provide that the United States shall provide the department of revenue with sufficient funds in advance to pay all costs to the state in the performance of such agreements and in the making of

such refunds. In the event such an agreement is concluded, the director of revenue is hereby designated, appointed and empowered, through the motor vehicle fuel tax division of the department, to, as an agent of the United States government, accept applications for refunds of the federal tax on gasoline and to make such refunds from such moneys provided to the director in advance by the federal government.

2. All moneys that may be paid in advance by the United States to the state to pay the cost to the state of performing such agreements and the cost of making such refunds are hereby appropriated to the department of revenue for such purposes. Neither the state nor the department of revenue shall be liable in any manner for the actions of the department of revenue or employees of the department in the receipt, administration, and expenditure of such federal funds including the making of refunds.

[C58, 62, 66, §324.80; C71, 73, 75, 77, 79, 81, §324.81]

C93, §452A.81

2003 Acts, ch 145, §286

[P] See refunds, §452A.17

#### **452A.82 Aviation fuel tax fund.**

The portion of the moneys collected under this chapter received on account of aviation gasoline and special fuel used in aircraft shall be deposited in a separate fund to be maintained by the treasurer. All moneys remaining in the separate fund after the cost of administering the fund has been paid shall be credited to the state aviation fund created in section 328.56.

[C71, 73, 75, 77, 79, 81, §324.82]

88 Acts, ch 1205, §17

C93, §452A.82

94 Acts, ch 1107, §70; 2006 Acts, ch 1179, §61, 66

Referred to in §328.56, 422.112, 452A.79

#### **452A.83 Reserved.**

#### **452A.84 Transfer to marine fuel tax fund.**

The treasurer of state shall transfer from the motor fuel tax fund to the marine fuel tax fund 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 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 marine fuel tax fund.

[C73, 75, 77, 79, 81, §324.84]

84 Acts, ch 1012, §1

C93, §452A.84

94 Acts, ch 1107, §71; 95 Acts, ch 155, §39, 44; 2006 Acts, ch 1179, §62, 66

Referred to in §452A.79, 452A.79A

#### **452A.85 Tax payment for stored motor fuel, ethanol blended gasoline, special fuel, compressed natural gas, and liquefied petroleum gas — penalty.**

1. Persons having title to motor fuel, ethanol blended gasoline, 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, undyed special fuel, compressed natural gas, or liquefied petroleum gas under this chapter shall be subject to an inventory tax based upon the gallonage in storage as of the close of the business day preceding the effective date of the increased excise tax rate of motor fuel, ethanol blended gasoline, 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 the gallonage and pay the tax due within thirty days of the prescribed inventory date. The department of revenue shall adopt rules pursuant to chapter 17A as are necessary to 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.

4. This section does not apply to an increase in the tax rate of a specified fuel, except for compressed natural gas, unless the increase in the tax rate of that fuel is in excess of one-half cent per gallon.

[C81, §324.85]

91 Acts, ch 87, §10

C93, §452A.85

95 Acts, ch 155, §40, 44; 2003 Acts, ch 145, §286; 2005 Acts, ch 140, §67

#### **452A.86 Method of determining gallonage.**

The exclusive method of determining gallonage of any purchases or sales of motor fuel, 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 returns or records required to be made, kept, and maintained by a 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.

[81 Acts, 2nd Ex, ch 2, §16]

C83, §324.86

C93, §452A.86

95 Acts, ch 155, §41, 44; 99 Acts, ch 151, §73, 89