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Budget Calendar

MAR 2 1978

HOUSE FILE 2289

By COMMITTEE ON BUDGET

(Formerly Study Bill 420)

Passed House, Date 3-21-78 (p. 1105) Passed Senate, Date 4-11-78 (P. 212)

Vote: Ayes 85 Nays 3 Vote: Ayes 42 Nays 0

Approved May 16, 1978

A BILL FOR

1 An Act transferring the responsibilities to administer the
2 interstate fuel use tax law from the department of revenue
3 to the state department of transportation.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2289

H-5596

Amend House File 2289 as follows:

1. Page 4, by striking lines 18 through 22 and inserting in lieu thereof the following:

"or evidence of the permit required in this section. A visible sign of a compliance with this section may at the discretion of the director of revenue be attached to the outside of a commercial motor vehicle. A fee not to exceed fifty cents shall be".

H-5596 FILED Adopted BY RINAS of Linn
MARCH 8, 1978 3/21 (p. 1104)

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

6 1. Any person operating as a common or contract carrier
7 and any distributor who is also engaged in transportation
8 within this state of motor fuel or special fuel for others,
9 shall register with the state department of revenue-or-or
10 ~~before-the-first-day-of-the-third-calendar-month-which-begins~~
11 ~~after-the-effective-date-of-this-division-and-currently~~
12 ~~thereafter~~ transportation as additional equipment is put to
13 use, each vehicle used ~~in-aforsaid-transportation~~ to transport
14 motor fuel or special fuel in this state, except railroad,
15 water-vessel or pipe-line equipment. The registration shall
16 be on forms furnished by and shall contain such information
17 as may reasonably be required by the state department of
18 revenue transportation. A fee of five dollars shall be paid
19 to the state department of revenue transportation for original
20 registration of each vehicle. The state department of revenue
21 transportation shall furnish to the registrant for each
22 vehicle registered suitable identification which shall be
23 permanently attached to the vehicle and shall be available
24 for inspection at all times. ~~Currently-as~~ When any vehicle
25 ~~is-retired-or-its~~ registered vehicle's use for the
26 transportation of motor fuel or special fuel for others is
27 discontinued, the registrant shall notify the state department
28 of ~~revenue-or-at-the-direction-of-the-department-of-revenue~~
29 transportation and shall either surrender to the state
30 department of revenue transportation or destroy, subject to
31 the approval of the state department of transportation,
32 transfer the vehicle identification issued under this section
33 to another vehicle. ~~Annually-on~~ On or before the first day
34 of July of each year, each carrier as aforesaid shall file
35 with the state department of revenue transportation a statement

1 showing each registered vehicle then in use for transportation
2 of motor fuel or special fuel for others.

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

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

11 324.51 PURPOSE. The purpose of this division is to provide
12 an additional method of collecting fuel taxes from interstate
13 motor vehicle operators commensurate with their operations
14 on Iowa highways; and to permit the state department of ~~revenue~~
15 transportation to suspend this collection as to transportation
16 entering Iowa from any other state where it appears that Iowa
17 highway fuel tax revenue and interstate highway transportation
18 moving out of Iowa will not be unduly prejudiced thereby.

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

22 324.52 FUELS IMPORTED IN SUPPLY TANKS OF MOTOR VEHICLES.
23 No person shall bring into this state in the fuel supply tanks
24 of a commercial motor vehicle, or any other container,
25 regardless of whether or not the supply tanks are connected
26 to the motor of the vehicle, any motor fuel or special fuel
27 to be used in the operation of the vehicle in this state
28 unless ~~he~~ that person has paid or made arrangements in advance
29 with the state department of ~~revenue~~ transportation for payment
30 of Iowa fuel taxes on the gallonage consumed in operating
31 the vehicle in this state; except that this division shall
32 not apply to a private passenger automobile.

33 Any person who is unable to display either of the permits
34 provided in section 324.53 and brings into the state in the
35 fuel supply tanks of a commercial motor vehicle more than

1 thirty gallons of motor fuel or special fuel in violation
2 of the provisions of the preceding paragraph is guilty of
3 a simple misdemeanor.

4 Sec. 4. Section three hundred twenty-four point fifty-
5 three (324.53), Code 1977, as amended by Acts of the Sixty-
6 seventh General Assembly, 1977 Session, chapter one hundred
7 seven (107), section four (4), is amended to read as follows:

8 324.53 PERMIT--BOND. The advance arrangements referred
9 to in the preceding section shall include the procuring of
10 a permanent interstate fuel permit or single trip interstate
11 permit and may ~~is~~ at the discretion of the state department
12 of ~~revenue~~ transportation include the posting of a suitable
13 indemnity bond in a sum to be fixed by the state department
14 of ~~revenue~~ transportation to assure the required reporting,
15 tax payments and the keeping of required records.

16 Persons choosing not to make advance arrangements with
17 the state department of ~~revenue~~ transportation by ~~the~~ procuring
18 ~~of~~ a permit are not relieved of their responsibility to
19 purchase motor fuel and special fuel commensurate with their
20 use of the state's highway system. The state department of
21 transportation may audit persons not holding a permit who
22 are suspected of evading the fuel tax on commercial motor
23 vehicles. Audits shall be conducted pursuant to section
24 324.55.

25 A permanent permit may be obtained upon application to
26 the state department of ~~revenue~~ transportation. ~~The-department~~
27 ~~of-revenue-shall-charge-a~~ A fee of five dollars shall be
28 charged for each permit issued. The holder of a permanent
29 permit ~~under-this-division~~ shall have the privilege of bringing
30 into this state in the fuel supply tanks of commercial motor
31 vehicles any amount of motor fuel or special fuel to be used
32 in the operation of the vehicles and for that privilege shall
33 pay Iowa motor fuel or special fuel taxes as provided in
34 section 324.54. A single trip interstate permit as provided
35 for in this section may be obtained from the ~~department-of~~

1 ~~revenue-of-the~~ state department of transportation. A fee
2 of twelve dollars shall be charged for each individual single
3 trip interstate permit issued. A single trip interstate
4 permit shall be subject to the following provisions and
5 limitations:

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

9 2. The permit shall cover only one commercial motor vehicle
10 and is not transferable.

11 3. Single trip interstate fuel permits may be made
12 available from sources other than indicated in this section
13 at the discretion of the ~~director-of-revenue~~ state department
14 of transportation.

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

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

30 Notwithstanding any provision of this chapter to the
31 contrary, the ~~director~~, upon holder of a permanent permit
32 may make application filed-with to the state department of
33 revenue transportation for a refund, not later than thirty
34 days after the last day of the quarter in which the overpayment
35 of Iowa fuel tax paid on excess purchases of motor fuel or

1 special fuel was reported as provided in section 324.8, and
2 which application is supported by such proof as the ~~director~~
3 state department of transportation may require. The state
4 department of transportation shall ~~cause-to-be-issued-a-warrant~~
5 ~~covering-a~~ refund of Iowa fuel tax paid on motor fuel or
6 special fuel purchased in excess of the amount consumed by
7 such commercial motor vehicles in their operation on the high-
8 ways of this state.

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

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

27 324.55 RECORDS. Every person operating within the purview
28 of this division shall make and keep for a period of three
29 years such records as may reasonably be required by the state
30 department of revenue transportation for the administration
31 of this division. If in the normal conduct of the business,
32 the required records are maintained and kept at an office
33 outside the state of Iowa, it shall be a sufficient compliance
34 with this section if the records are made available for audit
35 and examination by the state department of ~~revenue~~

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

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

26 324.56 NOT APPLICABLE TO DISTRIBUTORS. The provisions
27 of this division shall not be required of a distributor
28 licensed under division I of this chapter who elects to report
29 and pay tax on motor fuel as is set out in division I and
30 on special fuel as is set out in division II of this chapter,
31 provided that a distributor so electing shall also report
32 to the state department of transportation and pay Iowa fuel
33 tax on motor fuel and special fuel purchased in another state
34 which is used to propel a commercial motor vehicle owned
35 or leased by the distributor on the highways of this state.

1 Such distributor shall be allowed to enter this state with
2 thirty gallons or more fuel in the supply tank of a commercial
3 motor vehicle, but shall not be allowed any other provision
4 of this division.

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

10 NEW SUBSECTION. "Appropriate state agency" or "state
11 agency" means the department of revenue or the state depart-
12 ment of transportation, whichever is responsible for control,
13 maintenance or supervision of the power, requirement or duty
14 referred to in the provision. The department of revenue shall
15 administer the provisions of divisions one (I) and two (II)
16 of this chapter of the Code, and the state department of
17 transportation shall administer the provisions of division
18 three (III) of this chapter of the Code.

19 Sec. 9. Section three hundred twenty-four point sixty
20 (324.60), Code 1977, is amended to read as follows:

21 324.60 FORMS OF REPORT, REFUND CLAIM AND RECORDS. The
22 department of revenue or the state department of transpor-
23 tation shall prescribe and furnish all forms, as applicable,
24 upon which reports and applications shall be made and claims
25 for refund presented under this chapter and may prescribe
26 forms of record to be kept by motor fuel distributors, motor
27 fuel dealers, motor fuel carriers, special fuel dealers,
28 special fuel users, and interstate commercial motor vehicle
29 operators.

30 Whenever in this chapter the department of revenue or the
31 state department of transportation is authorized to prescribe
32 the form of record to be kept, the ~~department~~ appropriate
33 state agency may in lieu thereof approve the form of record
34 being kept, and shall approve the form of record where it
35 furnishes in reasonably accessible form the information which

1 ~~the-department-of-revenue-requires,~~ is required and which
2 substantially complies with the prescribed form.

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

6 The department of revenue or the state department of trans-
7 portation upon application may grant a reasonable extension
8 of time for the filing of any required report or tax payment,
9 or both.

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

12 324.62 INSPECTION OF RECORDS. The department of revenue
13 or the state department of transportation, whichever is
14 applicable, is hereby given the authority within the time
15 prescribed for keeping records (1) to examine, during the
16 usual business hours of the day, the records, books, papers,
17 receipts, invoices, storage tanks, and any other equipment
18 of (a) any distributor, dealer, purchaser, or common, contract
19 or other carrier, pertaining to motor fuel received, used,
20 sold, delivered, or otherwise disposed of, or (b) of any
21 special fuel dealer, special fuel user or person supplying
22 special fuel to any dealer ~~therein~~ or user ~~thereof~~ of special
23 fuel and (c) of any interstate operator of motor vehicles
24 to verify the truth and accuracy of any statement, report
25 or return, or to ascertain whether or not the taxes imposed
26 by this chapter have been paid; (d) any person selling fuel
27 oil that can be used for highway use; and (2) to examine the
28 records, books, papers, receipts, and invoices of any
29 distributor, special fuel dealer or special fuel user to
30 determine financial responsibility for the payment of the
31 taxes imposed by this chapter.

32 If any person within the purview of this section shall
33 refuse access to pertinent records, books, papers, receipts,
34 invoices, storage tanks or any other equipment, then the ~~said~~
35 ~~department-of-revenue~~ appropriate state agency shall certify

1 the names and facts to any court of competent jurisdiction,
2 and the said court shall enter such order in the premises
3 as the enforcement of this chapter and justice shall require.

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

7 324.63 INFORMATION CONFIDENTIAL. All information obtained
8 by the department of revenue or the state department of
9 transportation from the examining of reports or records
10 required to be filed or kept under the provisions of this
11 chapter shall be treated as confidential and shall not be
12 divulged except to other state officers, a member or members
13 of the general assembly or any duly appointed committee of
14 either or both houses ~~thereof~~ of the general assembly or to
15 a representative of the state having some responsibility in
16 connection with the collection of the taxes imposed or in
17 proceedings brought under the provisions of this chapter;
18 provided, however, that the ~~department-of-revenue~~ appropriate
19 state agency shall make available for public information on
20 or before the last day of the month following the month in
21 which the tax is required to be paid the names of the
22 distributors and as to each of them the total gallons re-
23 ceived in the state and separately, the received gallons (1)
24 exported or sold for export, (2) sold tax-free in the state
25 to entities that are exempt from the tax and (3) sold tax-
26 free in the state to entities required to report and account
27 for the tax ~~thereon~~. The department of revenue shall also
28 make available to the public information with respect to
29 special fuel dealers and users and as to each of them the
30 gallonage used and taxes paid. The department of revenue
31 or the state department of transportation, upon request of
32 officials entrusted with enforcement of the motor vehicle
33 fuel tax laws of the federal government or any other state,
34 may forward to such officials any pertinent information which
35 the ~~department~~ appropriate state agency may have relative

1 to motor fuel and special fuel provided the officials of the
2 other state furnish ~~to the department of revenue~~ like
3 information.

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

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

11 324.64 ~~DEPARTMENT OF REVENUE~~ THE APPROPRIATE STATE AGENCY
12 MAY ESTIMATE TAXABLE GALLONAGE. If any person fails to make
13 and file a report required ~~of him~~ or files an incorrect report,
14 the ~~department of revenue~~ appropriate state agency shall,
15 after investigation, determine the gallonage with respect
16 to which the person incurred liability for fuel taxes under
17 this chapter in any month or months and fix the amount of
18 taxes thereon. If ~~the department of revenue should at any~~
19 ~~time receive complaints or reports~~ a complaint or report is
20 received from any source that a licensee or other person is
21 suspected of evading fuel taxes imposed by this chapter or
22 has failed to report all the gallonage the reporting of which
23 is required under this chapter, or is suspected of acting
24 as a distributor or special fuel dealer or user without a
25 license or of withholding payment of fuel taxes, the ~~department~~
26 ~~of revenue~~ appropriate state agency, upon five days' notice
27 to the person complained against of the nature of the complaint
28 or report and of the time and place of a hearing ~~thereon~~ on
29 the complaint, may proceed to hold the hearing and determine
30 the amount of fuel taxes, if any, due from that person. The
31 ~~department of revenue may adjourn the~~ hearing may be adjourned
32 from time to time until the completion ~~thereof~~ of the hearing.
33 ~~The department may use any~~ Any information available may
34 be used in determining the amount, if any, of fuel taxes for
35 which the person is liable. Upon determining the amount

1 ~~thereof-the-department~~ of liability there shall ~~add~~ be added
2 the penalties and interest provided for in section 324.65
3 and ~~make a copy of~~ an assessment for the amount of the unpaid
4 taxes, penalties and interest, shall ~~furnish-a-copy-thereof~~
5 be furnished to the person against whom the assessment is
6 made and ~~his~~ the person's surety and the appropriate state
7 agency shall certify the same for collection or other
8 appropriate action by the proper public official. The findings
9 ~~of-the-department-of-revenue~~ as to the amount of fuel taxes
10 due from any person shall be presumed to be the correct amount
11 and in any litigation which may follow, the certificate of
12 the department of revenue or the state department of
13 transportation, whichever is the appropriate state agency,
14 shall be admitted in evidence, shall constitute a prima-facie
15 case, shall impose upon the other party the burden of showing
16 any error in the ~~department's~~ finding and the extent ~~thereof~~
17 of any error or that the finding was contrary to law.

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

20 324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL
21 TAXES. If a licensee or other person fails to file a required
22 report with the ~~department-of-revenue~~ appropriate state agency
23 on or before the due date, unless it is shown that such failure
24 was due to reasonable cause there shall be added to the amount
25 required to be shown as tax due on the return five percent
26 of the amount of the tax if the failure is for not more than
27 one month, with an additional five percent for each additional
28 month or fraction of a month during which such failure
29 continues, not exceeding twenty-five percent in the aggregate.
30 If a licensee or other person fails to remit the tax due with
31 the filing of the return on or before the due date or fails
32 to pay any amount of the tax required to be shown on the
33 return, there shall be added to the tax a penalty of five
34 percent of the amount of the tax due, unless it is shown that
35 such failure was due to reasonable cause. The taxpayer shall

1 also pay interest on the tax or additional tax at the rate
2 of three-fourths of one percent per month counting each
3 fraction of a month as an entire month, computed from the
4 date the return was required to be filed. The ~~department~~
5 ~~of-revenue~~ appropriate state agency shall not remit any part
6 of a penalty for delinquent payment where the delinquency
7 results from the fact that a check given in payment is not
8 honored because of insufficient funds in the account upon
9 which the check was drawn. Provided, further, that if it
10 appears as a result of an investigation by-the-department
11 ~~of-revenue~~ or from a preponderance of the evidence adduced
12 at a hearing ~~before-the-department-of-revenue~~ that there has
13 been a deliberate attempt on the part of a licensee or other
14 person to evade payment of fuel taxes there shall be added
15 to the assessment against the offending person and collected
16 a penalty of fifty percent of the tax due. When penalties
17 are applicable for failure to file a return and failure to
18 pay the tax due or required on the return, the penalty
19 provision for failure to file shall be in lieu of the penalty
20 for failure to pay the tax due or required on the return,
21 except in the case of a deliberate attempt on the part of
22 the licensee or other person to evade payment of fuel taxes.
23 Any report required of licensees or persons operating under
24 divisions I, II and III, upon which no tax may be due, shall
25 be subject to a penalty of ten dollars if such report is not
26 timely filed with the appropriate state agency.

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

30 2. The certificate of the department of revenue or the
31 state department of transportation, whichever is applicable,
32 assessing the amount of fuel taxes and penalty due from a
33 licensee or other person, ascertained in accordance with the
34 provisions of this chapter or from a report of the person
35 may be filed in the office of the clerk of the district court

1 in the county in which the place of business of the licensee
2 or other person is located. The clerk of the district court
3 upon receipt of the certificate shall, without requiring
4 payment of any fee, file and index the same in manner now
5 provided for judgments. The ~~department-of-revenue~~ appropriate
6 state agency may in like manner, file a duplicate of the
7 certificate in any other county where it shall be indexed
8 in a like manner. The claim of the state of Iowa as shown
9 by the certificate or duplicate so filed shall be a lien on
10 the real estate of the person named ~~therein~~ in the certificate
11 as owing fuel taxes and located in the county where the
12 certificate or duplicate is recorded, for the amount shown
13 by the certificate to be due including penalty and interest
14 from the date of filing to the same extent as a mortgage lien.

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

1 5. No sheriff, receiver, assignee, master or other officer
2 shall sell the property or franchises of any licensee without
3 first filing with the department of revenue, which shall
4 forward notice to the state department of transportation,
5 a statement containing the following information: Name or
6 names of the plaintiff or party at whose instance or upon
7 whose account the sale is made; name of the person whose
8 property or franchise is to be sold; the time and place of
9 sale; and the nature of the property and the location of
10 the same. It shall be the duty of the ~~department-of-revenue~~
11 appropriate state agency, after receiving notice ~~as-aforesaid~~,
12 to furnish to the sheriff, receiver, trustee, assignee, master
13 or other officer, having charge of the sale, a certified copy
14 or copies of all assessments for fuel taxes, penalties, and
15 interest on file in the ~~department-of-revenue~~ state agency
16 as liens against such person, and in the event there are no
17 such liens a certificate showing that fact, which certified
18 copy or copies of certificate shall be publicly read by such
19 officer at and immediately before the sale of the property
20 or franchise of such person.

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

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

35 Sec. 16. Section three hundred twenty-four point sixty-

1 seven (324.67), subsections one (1), two (2), and four (4),
2 Code 1977, are amended to read as follows:

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

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

33 4. No action or other proceeding shall be maintained to
34 enforce collection of any amount of fuel tax, penalty, or
35 interest over and above the amount shown to be due by reports

1 filed by a licensee except upon an assessment by the ~~department~~
2 ~~of-revenue~~ appropriate state agency as authorized in this
3 chapter or unless brought within one year after the date of
4 the assessment. No assessment shall be made covering any
5 period beyond three years prior to the date of assessment.

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

8 324.68 POWER OF DEPARTMENT OF REVENUE OR THE STATE
9 DEPARTMENT OF TRANSPORTATION TO CANCEL LICENSES. If a licensee
10 shall at any time file a false monthly report of the data
11 or information required by this chapter, or shall fail, refuse,
12 or neglect to file a monthly report required by this chapter,
13 or to pay the full amount of fuel tax as required by this
14 chapter, then after ten days' written notice by registered
15 mail directed to the last known address of the licensee setting
16 a time and place at which he the person may appear and show
17 cause why ~~his~~ the licensee's license should not be canceled,
18 and if the licensee fails to appear or if upon the hearing
19 it is shown by a preponderance of the evidence that the failure
20 to correctly report or pay was with intent to evade the tax,
21 the ~~department-of-revenue~~ appropriate state agency may cancel
22 the license and shall notify the licensee of the cancellation
23 by registered mail to ~~his~~ the licensee's last known address.

24 If a licensee shall at any time abuse the privileges for
25 which the license was issued, fail to produce records
26 reasonably requested ~~by-the-department-of-revenue~~, or fail
27 to extend reasonable co-operation to the ~~department~~ appropriate
28 state agency, the licensee shall be advised in writing of
29 a hearing scheduled to determine if said license shall be
30 canceled. The ~~department~~ appropriate state agency upon the
31 presentation of a preponderance of evidence shall be allowed
32 to cancel a license for cause.

33 Upon receipt of written request from any licensee the
34 ~~department-of-revenue~~ appropriate state agency shall cancel
35 the license of the licensee effective sixty days from the

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

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

16 324.69 HEARINGS BEFORE DEPARTMENT OF REVENUE OR THE STATE
17 DEPARTMENT OF TRANSPORTATION. Hearings before ~~the-department~~
18 ~~of-revenue~~ a state agency authorized under the provisions
19 of this chapter may be held at ~~the-seat-of-government-in-Des~~
20 ~~Moines-or-elsewhere~~ a site in the state as the ~~department~~
21 ~~of-revenue~~ state agency may direct. The ~~department-of-revenue~~
22 state agency shall have the power to issue subpoenas including
23 subpoenas duces tecum and to require the attendance of
24 witnesses and the production of books, records and papers.
25 In the event any person shall refuse to obey subpoena, or
26 after appearing refuses to testify, the ~~department-of-revenue~~
27 state agency shall certify the name of the person to the
28 district court of the county where the hearing is being held
29 and the court shall proceed with the witness in the same
30 manner as if the refusal had occurred in open court.

31 Sec. 19. Section three hundred twenty-four point seventy
32 (324.70), Code 1977, is amended to read as follows:

33 324.70 DISCONTINUANCE OF LICENSED ACTIVITY--LIABILITY
34 FOR TAXES AND PENALTIES. If a licensee ceases to engage in
35 the state in activities for which ~~his~~ the person's license

1 was issued or discontinues, sells, or transfers the business
2 in which ~~he~~ the person has carried on that activity ~~he~~ the
3 licensee shall notify the department of revenue, which shall
4 forward notice to the state department of transportation,
5 in writing at least ten days prior to the time the cessation,
6 discontinuance, sale or transfer takes effect. The notice
7 shall give the date of proposed cessation or discontinuance,
8 and, in the event of a proposed sale or transfer of the
9 business, the date ~~thereof~~ and the name and address of the
10 purchaser or transferee ~~thereof~~. All fuel taxes, penalties
11 and interest under this chapter not yet due and payable shall,
12 together with any and all interest accruing or penalties
13 imposed under this chapter, ~~notwithstanding any provisions~~
14 thereof shall become due and payable concurrently with the
15 cessation, discontinuances, sale or transfer, and ~~thereupon~~
16 it shall be the duty of the licensee to make a report and
17 pay all the fuel taxes, interest, and penalties within ten
18 days.

19 Sec. 20. Section three hundred twenty-four point seventy-
20 one (324.71), Code 1977, is amended to read as follows:
21 324.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS. Any
22 Except as provided in section three hundred twenty-four point
23 fifty-four (324.54) of the Code, any person other than a
24 distributor who has paid or has had charged to ~~his~~ the person's
25 account with a distributor, dealer or special fuel dealer
26 fuel taxes imposed under this chapter with respect to motor
27 fuel or special fuel in excess of one hundred gallons, which
28 is subsequently lost or destroyed, while ~~he shall be the~~
29 person is the owner ~~thereof~~, through leakage, fire, explosion,
30 lightning, flood, storm, or other casualty, except evaporation,
31 shrinkage, or unknown causes, the person shall be entitled
32 to a refund of the tax so paid or charged. To qualify for
33 the refund, ~~he~~ the person shall notify the department of
34 revenue in writing of the loss or destruction and the gallonage
35 lost or destroyed within ten days from the date of discovery

1 of the loss or destruction. Within sixty days after filing
2 the notice, ~~he~~ the person shall file with the department of
3 revenue an affidavit sworn to by the person having immediate
4 custody of the motor fuel or special fuel at the time of the
5 loss or destruction setting forth in full the circumstances
6 and amount of the loss or destruction and such other
7 information ~~with-respect-thereto~~ as the department of revenue
8 may require.

9 Sec. 21. Section three hundred twenty-four point seventy-
10 four (324.74), subsection two (2), Code 1977, is amended to
11 read as follows:

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

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

24 324.75 PENALTY FOR FALSE CERTIFICATE. Any person who
25 makes a false certificate, false fuel invoice, false fuel
26 receipt, or false fuel sales ticket in any report, return,
27 application, claim, or evidence required or provided for by
28 this chapter or under any rule or regulation ~~made-by-the~~
29 ~~department-of-revenue~~ shall be guilty of a fraudulent practice.

30 Sec. 23. Section three hundred twenty-four point seventy-
31 six (324.76), unnumbered paragraphs one (1) and two (2), Code
32 1977, are amended to read as follows:

33 Authority is ~~hereby~~ given to the department of revenue
34 to enforce the provisions of this chapter except division
35 three (III) of the Code, and sections 324.14 and 324.52.

1 Employees of the department of revenue designated as
2 enforcement ~~officers~~ employees shall have the power of peace
3 officers in the performance of such duties.

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

18 Sec. 24. Section three hundred twenty-four point seventy-
19 seven (324.77), unnumbered paragraph one (1), Code 1977, is
20 amended to read as follows:

21 All fees, taxes, interest and penalties imposed under this
22 chapter must be paid to the department of revenue ~~in the form~~
23 ~~of remittances payable to the treasurer of state, and the~~
24 ~~department of revenue~~ or the state department of trans-
25 portation, whichever is responsible for the collection. The
26 appropriate state agency shall transmit each payment daily
27 to the treasurer of state. Such payments shall be deposited
28 by the treasurer of state in a fund, hereby created, within
29 the state treasury which shall be known as the "motor fuel
30 tax fund," the net proceeds of which fund, after deductions
31 by lawful transfers and refunds, shall be known as the "motor
32 vehicle fuel tax fund". The department of revenue and the
33 state department of transportation shall certify monthly to
34 the state comptroller amounts of refunds of tax approved ~~or~~
35 ~~determined by the department~~ during each month, and the state

1 comptroller shall draw warrants in such amounts on the motor
2 fuel tax fund and transmit them. There is hereby appropriated
3 out of the money received under the provisions of this chapter
4 and deposited in the motor fuel tax fund sufficient funds
5 to pay such refunds as may be authorized in this chapter.

6 Sec. 25. Section three hundred twenty-four point eighty
7 (324.80), Code 1977, is amended to read as follows:

8 324.80 MICROFILM OR PHOTOGRAPHIC COPIES--ORIGINALS

9 ~~DESTROYED.~~ The ~~department-of-revenue~~ appropriate state agency
10 shall have the power and authority to record, copy or reproduce
11 by any photographic, photostatic, microfilm, microcard,
12 miniature photographic or other process which accurately
13 reproduces or forms a durable medium for so reproducing the
14 original of any forms or records pertaining to motor fuel
15 tax or special fuel tax, or any paper or document with respect
16 to refund of such tax, and when such forms and records shall
17 have been so reproduced, the ~~department-of-revenue~~ state
18 agency shall have the power to destroy the originals and such
19 reproductions shall be competent evidence in any court in
20 accordance with the provisions of section 622.30.

21 Sec. 26.

22 1. All rules, forms, orders and directives promulgated
23 by and in effect for the department of revenue on the effec-
24 tive date of this Act shall continue in full force and effect
25 as rules, forms, orders and directives of the state depart-
26 ment of transportation until amended or supplemented by af-
27 firmative action of the state department of transportation.
28 The state department of transportation shall promulgate rules
29 to implement the provisions of this Act prior to June 30,
30 1979.

31 2. Any employee of the department of revenue whose duty
32 assignments will be terminated because of this Act may be
33 reassigned to other duties or may be transferred to the state
34 department of transportation. The Iowa merit employment com-
35 mission shall arbitrate and decide any written appeal made

1 by any employee concerning any transfer, reassignment or
2 reclassification made necessary by this Act.

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

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

14 EXPLANATION

15 This bill transfers the responsibility to administer the
16 interstate fuel use tax law from the department of revenue
17 to the state department of transportation.

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Sen. Budget 2/30 To pass 4/6 (p. 822)

HOUSE FILE 2289

Budget
Budget Subcommittee on
Transportation and Law Enforcement

HOUSE FILE 2289

BY COMMITTEE ON BUDGET

(As Amended and Passed by the House)

Passed House, Date 3-21-78 (p. 1105) Passed Senate, Date 4-11-78 (p. 818)
Vote: Ayes 85 Nays 3 Vote: Ayes 42 Nays 0

Approved May 16, 1978
motion to reconsider 4-12 (p. 850) withdrawn 4-26

A BILL FOR

1 An Act transferring the responsibilities to administer the
2 interstate fuel use tax law from the department of revenue
3 to the state department of transportation.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

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

6 1. Any person operating as a common or contract carrier
7 and any distributor who is also engaged in transportation
8 within this state of motor fuel or special fuel for others,
9 shall register with the state department of ~~revenue-or-er~~
10 ~~before-the-first-day-of-the-third-calendar-month-which-begins~~
11 ~~after-the-effective-date-of-this-division-and-currently~~
12 ~~thereafter~~ transportation as additional equipment is put to
13 use, each vehicle used ~~in-aforsaid-transportation~~ to transport
14 motor fuel or special fuel in this state, except railroad,
15 water-vessel or pipe-line equipment. The registration shall
16 be on forms furnished by and shall contain such information
17 as may reasonably be required by the state department of
18 revenue transportation. A fee of five dollars shall be paid
19 to the state department of revenue transportation for original
20 registration of each vehicle. The state department of revenue
21 transportation shall furnish to the registrant for each
22 vehicle registered suitable identification which shall be
23 permanently attached to the vehicle and shall be available
24 for inspection at all times. ~~Currently-as~~ When any ~~vehiele~~
25 ~~is-retired-or-its~~ registered vehicle's use for the
26 transportation of motor fuel or special fuel for others is
27 discontinued, the registrant shall notify the state department
28 of ~~revenue-or-at-the-direction-of-the-department-of-revenue~~
29 transportation and shall either surrender to the state
30 department of revenue transportation or ~~destry~~, subject to
31 the approval of the state department of transportation,
32 transfer the vehicle identification issued under this section
33 to another vehicle. ~~Annually-on~~ On or before the first day
34 of July of each year, each carrier as aforesaid shall file
35 with the state department of revenue transportation a statement

1 showing each registered vehicle then in use for transportation
2 of motor fuel or special fuel for others.

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

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

11 324.51 PURPOSE. The purpose of this division is to provide
12 an additional method of collecting fuel taxes from interstate
13 motor vehicle operators commensurate with their operations
14 on Iowa highways; and to permit the state department of revenue
15 transportation to suspend this collection as to transportation
16 entering Iowa from any other state where it appears that Iowa
17 highway fuel tax revenue and interstate highway transportation
18 moving out of Iowa will not be unduly prejudiced thereby.

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

22 324.52 FUELS IMPORTED IN SUPPLY TANKS OF MOTOR VEHICLES.
23 No person shall bring into this state in the fuel supply tanks
24 of a commercial motor vehicle, or any other container,
25 regardless of whether or not the supply tanks are connected
26 to the motor of the vehicle, any motor fuel or special fuel
27 to be used in the operation of the vehicle in this state
28 unless he that person has paid or made arrangements in advance
29 with the state department of revenue transportation for payment
30 of Iowa fuel taxes on the gallonage consumed in operating
31 the vehicle in this state; except that this division shall
32 not apply to a private passenger automobile.

33 Any person who is unable to display either of the permits
34 provided in section 324.53 and brings into the state in the
35 fuel supply tanks of a commercial motor vehicle more than

1 thirty gallons of motor fuel or special fuel in violation
2 of the provisions of the preceding paragraph is guilty of
3 a simple misdemeanor.

4 Sec. 4. Section three hundred twenty-four point fifty-
5 three (324.53), Code 1977, as amended by Acts of the Sixty-
6 seventh General Assembly, 1977 Session, chapter one hundred
7 seven (107), section four (4), is amended to read as follows:

8 324.53 PERMIT--BOND. The advance arrangements referred
9 to in the preceding section shall include the procuring of
10 a permanent interstate fuel permit or single trip interstate
11 permit and may ~~in~~ at the discretion of the state department
12 of revenue transportation include the posting of a suitable
13 indemnity bond in a sum to be fixed by the state department
14 of revenue transportation to assure the required reporting,
15 tax payments and the keeping of required records.

16 Persons choosing not to make advance arrangements with
17 the state department of revenue transportation by ~~the~~ procuring
18 ~~of~~ a permit are not relieved of their responsibility to
19 purchase motor fuel and special fuel commensurate with their
20 use of the state's highway system. The state department of
21 transportation may audit persons not holding a permit who
22 are suspected of evading the fuel tax on commercial motor
23 vehicles. Audits shall be conducted pursuant to section
24 324.55.

25 A permanent permit may be obtained upon application to
26 the state department of revenue transportation. ~~The department~~
27 ~~of revenue shall charge a~~ A fee of five dollars shall be
28 charged for each permit issued. The holder of a permanent
29 ~~permit under this division~~ shall have the privilege of bringing
30 into this state in the fuel supply tanks of commercial motor
31 vehicles any amount of motor fuel or special fuel to be used
32 in the operation of the vehicles and for that privilege shall
33 pay Iowa motor fuel or special fuel taxes as provided in
34 section 324.54. A single trip interstate permit as provided
35 for in this section may be obtained from the ~~department of~~

1 ~~revenue-of-the~~ state department of transportation. A fee
2 of twelve dollars shall be charged for each individual single
3 trip interstate permit issued. A single trip interstate
4 permit shall be subject to the following provisions and
5 limitations:

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

9 2. The permit shall cover only one commercial motor vehicle
10 and is not transferable.

11 3. Single trip interstate fuel permits may be made
12 available from sources other than indicated in this section
13 at the discretion of the ~~director-of-revenue~~ state department
14 of transportation.

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

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

29 Notwithstanding any provision of this chapter to the
30 contrary, the ~~director,~~ upon holder of a permanent permit
31 may make application filed-with to the state department of
32 revenue transportation for a refund, not later than thirty
33 days after the last day of the quarter in which the overpayment
34 of Iowa fuel tax paid on excess purchases of motor fuel or
35 special fuel was reported as provided in section 324.8, and

1 which application is supported by such proof as the director
2 state department of transportation may require₇. The state
3 department of transportation shall ~~cause-to-be-issued-a-warrant~~
4 ~~covering-a~~ refund of Iowa fuel tax paid on motor fuel or
5 special fuel purchased in excess of the amount consumed by
6 such commercial motor vehicles in their operation on the high-
7 ways of this state.

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

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

26 324.55 RECORDS. Every person operating within the purview
27 of this division shall make and keep for a period of three
28 years such records as may reasonably be required by the state
29 department of revenue transportation for the administration
30 of this division. If in the normal conduct of the business,
31 the required records are maintained and kept at an office
32 outside the state of Iowa, it shall be a sufficient compliance
33 with this section if the records are made available for audit
34 and examination by the state department of ~~revenue~~
35 transportation at the office outside Iowa_{7-but-such-audit}

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

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

25 324.56 NOT APPLICABLE TO DISTRIBUTORS. The provisions
26 of this division shall not be required of a distributor
27 licensed under division I of this chapter who elects to report
28 and pay tax on motor fuel as is set out in division I and
29 on special fuel as is set out in division II of this chapter,
30 provided that a distributor so electing shall also report
31 to the state department of transportation and pay Iowa fuel
32 tax on motor fuel and special fuel purchased in another state
33 which is used to propel a commercial motor vehicle owned or
34 leased by the distributor on the highways of this state.
35 Such distributor shall be allowed to enter this state with

1 thirty gallons or more fuel in the supply tank of a commercial
2 motor vehicle, but shall not be allowed any other provision
3 of this division.

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

9 NEW SUBSECTION. "Appropriate state agency" or "state
10 agency" means the department of revenue or the state depart-
11 ment of transportation, whichever is responsible for control,
12 maintenance or supervision of the power, requirement or duty
13 referred to in the provision. The department of revenue shall
14 administer the provisions of divisions one (I) and two (II)
15 of this chapter of the Code, and the state department of
16 transportation shall administer the provisions of division
17 three (III) of this chapter of the Code.

18 Sec. 9. Section three hundred twenty-four point sixty
19 (324.60), Code 1977, is amended to read as follows:

20 324.60 FORMS OF REPORT, REFUND CLAIM AND RECORDS. The
21 department of revenue or the state department of transpor-
22 tation shall prescribe and furnish all forms, as applicable,
23 upon which reports and applications shall be made and claims
24 for refund presented under this chapter and may prescribe
25 forms of record to be kept by motor fuel distributors, motor
26 fuel dealers, motor fuel carriers, special fuel dealers,
27 special fuel users, and interstate commercial motor vehicle
28 operators.

29 Whenever in this chapter the department of revenue or the
30 state department of transportation is authorized to prescribe
31 the form of record to be kept, the department appropriate
32 state agency may in lieu thereof approve the form of record
33 being kept, and shall approve the form of record where it
34 furnishes in reasonably accessible form the information which
35 ~~the department of revenue requires,~~ is required and which

1 substantially complies with the prescribed form.

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

5 The department of revenue or the state department of trans-
6 portation upon application may grant a reasonable extension
7 of time for the filing of any required report or tax payment,
8 or both.

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

11 324.62 INSPECTION OF RECORDS. The department of revenue
12 or the state department of transportation, whichever is
13 applicable, is hereby given the authority within the time
14 prescribed for keeping records (1) to examine, during the
15 usual business hours of the day, the records, books, papers,
16 receipts, invoices, storage tanks, and any other equipment
17 of (a) any distributor, dealer, purchaser, or common, contract
18 or other carrier, pertaining to motor fuel received, used,
19 sold, delivered, or otherwise disposed of, or (b) of any
20 special fuel dealer, special fuel user or person supplying
21 special fuel to any dealer ~~therein~~ or user ~~thereof~~ of special
22 fuel and (c) of any interstate operator of motor vehicles
23 to verify the truth and accuracy of any statement, report
24 or return, or to ascertain whether or not the taxes imposed
25 by this chapter have been paid; (d) any person selling fuel
26 oil that can be used for highway use; and (2) to examine the
27 records, books, papers, receipts, and invoices of any
28 distributor, special fuel dealer or special fuel user to
29 determine financial responsibility for the payment of the
30 taxes imposed by this chapter.

31 If any person within the purview of this section shall
32 refuse access to pertinent records, books, papers, receipts,
33 invoices, storage tanks or any other equipment, then the said
34 ~~department-of-revenue~~ appropriate state agency shall certify
35 the names and facts to any court of competent jurisdiction,

1 and the said court shall enter such order in the premises
2 as the enforcement of this chapter and justice shall require.

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

6 324.63 INFORMATION CONFIDENTIAL. All information obtained
7 by the department of revenue or the state department of
8 transportation from the examining of reports or records
9 required to be filed or kept under the provisions of this
10 chapter shall be treated as confidential and shall not be
11 divulged except to other state officers, a member or members
12 of the general assembly or any duly appointed committee of
13 either or both houses ~~thereof~~ of the general assembly or to
14 a representative of the state having some responsibility in
15 connection with the collection of the taxes imposed or in
16 proceedings brought under the provisions of this chapter;
17 provided, however, that the ~~department-of-revenue~~ appropriate
18 state agency shall make available for public information on
19 or before the last day of the month following the month in
20 which the tax is required to be paid the names of the
21 distributors and as to each of them the total gallons re-
22 ceived in the state and separately, the received gallons (1)
23 exported or sold for export, (2) sold tax-free in the state
24 to entities that are exempt from the tax and (3) sold tax-
25 free in the state to entities required to report and account
26 for the tax ~~thereon~~. The department of revenue shall also
27 make available to the public information with respect to
28 special fuel dealers and users and as to each of them the
29 gallonage used and taxes paid. The department of revenue
30 or the state department of transportation, upon request of
31 officials entrusted with enforcement of the motor vehicle
32 fuel tax laws of the federal government or any other state,
33 may forward to such officials any pertinent information which
34 the ~~department~~ appropriate state agency may have relative
35 to motor fuel and special fuel provided the officials of the

1 other state furnish ~~to-the-department-of-revenue~~ like
2 information.

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

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

10 324.64 ~~DEPARTMENT-OF-REVENUE~~ THE APPROPRIATE STATE AGENCY
11 MAY ESTIMATE TAXABLE GALLONAGE. If any person fails to make
12 and file a report required ~~of-him~~ or files an incorrect report,
13 ~~the department-of-revenue~~ appropriate state agency shall,
14 after investigation, determine the gallonage with respect
15 to which the person incurred liability for fuel taxes under
16 this chapter in any month or months and fix the amount of
17 taxes ~~thereon~~. If ~~the-department-of-revenue-should-at-any~~
18 ~~time-receive-complaints-or-reports~~ a complaint or report is
19 received from any source that a licensee or other person is
20 suspected of evading fuel taxes imposed by this chapter or
21 has failed to report all the gallonage the reporting of which
22 is required under this chapter, or is suspected of acting
23 as a distributor or special fuel dealer or user without a
24 license or of withholding payment of fuel taxes, the ~~department~~
25 ~~of-revenue~~ appropriate state agency, upon five days' notice
26 to the person complained against of the nature of the complaint
27 or report and of the time and place of a hearing ~~thereon~~ on
28 the complaint, may proceed to hold the hearing and determine
29 the amount of fuel taxes, if any, due from that person. The
30 ~~department-of-revenue-may-adjourn-the~~ hearing may be adjourned
31 from time to time until the completion ~~thereof~~ of the hearing.
32 ~~The-department-may-use-any~~ Any information available may
33 be used in determining the amount, if any, of fuel taxes for
34 which the person is liable. Upon determining the amount
35 ~~thereof-the-department~~ of liability there shall ~~add~~ be added

1 the penalties and interest provided for in section 324.65
2 and make a copy of an assessment for the amount of the unpaid
3 taxes, penalties and interest, shall ~~furnish a copy thereof~~
4 be furnished to the person against whom the assessment is
5 made and ~~his~~ the person's surety and the appropriate state
6 agency shall certify the same for collection or other
7 appropriate action by the proper public official. The findings
8 ~~of the department of revenue~~ as to the amount of fuel taxes
9 due from any person shall be presumed to be the correct amount
10 and in any litigation which may follow, the certificate of
11 the department of revenue or the state department of
12 transportation, whichever is the appropriate state agency,
13 shall be admitted in evidence, shall constitute a prima-facie
14 case, shall impose upon the other party the burden of showing
15 any error in the ~~department's~~ finding and the extent thereof
16 of any error or that the finding was contrary to law.

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

19 324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL
20 TAXES. If a licensee or other person fails to file a required
21 report with the ~~department of revenue~~ appropriate state agency
22 on or before the due date, unless it is shown that such failure
23 was due to reasonable cause there shall be added to the amount
24 required to be shown as tax due on the return five percent
25 of the amount of the tax if the failure is for not more than
26 one month, with an additional five percent for each additional
27 month or fraction of a month during which such failure
28 continues, not exceeding twenty-five percent in the aggregate.
29 If a licensee or other person fails to remit the tax due with
30 the filing of the return on or before the due date or fails
31 to pay any amount of the tax required to be shown on the
32 return, there shall be added to the tax a penalty of five
33 percent of the amount of the tax due, unless it is shown that
34 such failure was due to reasonable cause. The taxpayer shall
35 also pay interest on the tax or additional tax at the rate

1 of three-fourths of one percent per month counting each
2 fraction of a month as an entire month, computed from the
3 date the return was required to be filed. The department
4 ~~of-revenue~~ appropriate state agency shall not remit any part
5 of a penalty for delinquent payment where the delinquency
6 results from the fact that a check given in payment is not
7 honored because of insufficient funds in the account upon
8 which the check was drawn. Provided, further, that if it
9 appears as a result of an investigation ~~by-the-department~~
10 ~~of-revenue~~ or from a preponderance of the evidence adduced
11 at a hearing ~~before-the-department-of-revenue~~ that there has
12 been a deliberate attempt on the part of a licensee or other
13 person to evade payment of fuel taxes there shall be added
14 to the assessment against the offending person and collected
15 a penalty of fifty percent of the tax due. When penalties
16 are applicable for failure to file a return and failure to
17 pay the tax due or required on the return, the penalty
18 provision for failure to file shall be in lieu of the penalty
19 for failure to pay the tax due or required on the return,
20 except in the case of a deliberate attempt on the part of
21 the licensee or other person to evade payment of fuel taxes.
22 Any report required of licensees or persons operating under
23 divisions I, II and III, upon which no tax may be due, shall
24 be subject to a penalty of ten dollars if such report is not
25 timely filed with the appropriate state agency.

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

29 2. The certificate of the department of revenue or the
30 state department of transportation, whichever is applicable,
31 assessing the amount of fuel taxes and penalty due from a
32 licensee or other person, ascertained in accordance with the
33 provisions of this chapter or from a report of the person
34 may be filed in the office of the clerk of the district court
35 in the county in which the place of business of the licensee

1 or other person is located. The clerk of the district court
2 upon receipt of the certificate shall, without requiring
3 payment of any fee, file and index the same in manner now
4 provided for judgments. The department-of-revenue appropriate
5 state agency may in like manner, file a duplicate of the
6 certificate in any other county where it shall be indexed
7 in a like manner. The claim of the state of Iowa as shown
8 by the certificate or duplicate so filed shall be a lien on
9 the real estate of the person named therein in the certificate
10 as owing fuel taxes and located in the county where the
11 certificate or duplicate is recorded, for the amount shown
12 by the certificate to be due including penalty and interest
13 from the date of filing to the same extent as a mortgage lien.

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

35 5. No sheriff, receiver, assignee, master or other officer

1 shall sell the property or franchises of any licensee without
2 first filing with the department of revenue, which shall
3 forward notice to the state department of transportation,
4 a statement containing the following information: Name or
5 names of the plaintiff or party at whose instance or upon
6 whose account the sale is made; name of the person whose
7 property or franchise is to be sold; the time and place of
8 sale; and the nature of the property and the location of the
9 same. It shall be the duty of the ~~department-of-revenue~~
10 appropriate state agency, after receiving notice as ~~aforesaid,~~
11 to furnish to the sheriff, receiver, trustee, assignee, master
12 or other officer, having charge of the sale, a certified copy
13 or copies of all assessments for fuel taxes, penalties, and
14 interest on file in the ~~department-of-revenue~~ state agency
15 as liens against such person, and in the event there are no
16 such liens a certificate showing that fact, which certified
17 copy or copies of certificate shall be publicly read by such
18 officer at and immediately before the sale of the property
19 or franchise of such person.

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

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

34 Sec. 16. Section three hundred twenty-four point sixty-
35 seven (324.67), subsections one (1), two (2), and four (4),

1 Code 1977, are amended to read as follows:

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

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

32 4. No action or other proceeding shall be maintained to
33 enforce collection of any amount of fuel tax, penalty, or
34 interest over and above the amount shown to be due by reports
35 filed by a licensee except upon an assessment by the ~~department~~

1 ~~of-revenue~~ appropriate state agency as authorized in this
2 chapter or unless brought within one year after the date of
3 the assessment. No assessment shall be made covering any
4 period beyond three years prior to the date of assessment.

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

7 324.68 POWER OF DEPARTMENT OF REVENUE OR THE STATE
8 DEPARTMENT OF TRANSPORTATION TO CANCEL LICENSES. If a licensee
9 shall at any time file a false monthly report of the data
10 or information required by this chapter, or shall fail, refuse,
11 or neglect to file a monthly report required by this chapter,
12 or to pay the full amount of fuel tax as required by this
13 chapter, then after ten days' written notice by registered
14 mail directed to the last known address of the licensee setting
15 a time and place at which ~~he~~ the person may appear and show
16 cause why ~~his~~ the licensee's license should not be canceled,
17 and if the licensee fails to appear or if upon the hearing
18 it is shown by a preponderance of the evidence that the failure
19 to correctly report or pay was with intent to evade the tax,
20 ~~the department-of-revenue~~ appropriate state agency may cancel
21 the license and shall notify the licensee of the cancellation
22 by registered mail to ~~his~~ the licensee's last known address.

23 If a licensee shall at any time abuse the privileges for
24 which the license was issued, fail to produce records
25 reasonably requested ~~by-the-department-of-revenue,~~ or fail
26 to extend reasonable co-operation to the ~~department~~ appropriate
27 state agency, the licensee shall be advised in writing of
28 a hearing scheduled to determine if said license shall be
29 canceled. The ~~department~~ appropriate state agency upon the
30 presentation of a preponderance of evidence shall be allowed
31 to cancel a license for cause.

32 Upon receipt of written request from any licensee the
33 ~~department-of-revenue~~ appropriate state agency shall cancel
34 the license of the licensee effective sixty days from the
35 date of receipt of the request but no such license shall be

1 canceled upon request unless and until the licensee shall,
2 prior to the date of cancellation, have paid to the ~~department~~
3 ~~of-revenue~~ appropriate state agency all fuel taxes payable
4 under this chapter, together with any and all penalties,
5 interest and fines appertaining thereto. If, upon
6 investigation, the ~~department-of-revenue-shall-find~~ appro-
7 priate state agency finds that a licensee is no longer engaged
8 in the activities for which a license was issued ~~to-him~~ and
9 has not been so engaged for a period of six months, the
10 ~~department-of-revenue~~ state agency shall cancel the license
11 and give sixty days' notice of the cancellation mailed to
12 the last known address of the licensee.

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

15 324.69 HEARINGS BEFORE DEPARTMENT OF REVENUE OR THE STATE
16 DEPARTMENT OF TRANSPORTATION. Hearings before ~~the-department~~
17 ~~of-revenue~~ a state agency authorized under the provisions
18 of this chapter may be held at ~~the-seat-of-government-in-Des~~
19 ~~Moines-or-elsewhere~~ a site in the state as the ~~department~~
20 ~~of-revenue~~ state agency may direct. The ~~department-of-revenue~~
21 state agency shall have the power to issue subpoenas including
22 subpoenas duces tecum and to require the attendance of
23 witnesses and the production of books, records and papers.
24 In the event any person shall refuse to obey subpoena, or
25 after appearing refuses to testify, the ~~department-of-revenue~~
26 state agency shall certify the name of the person to the
27 district court of the county where the hearing is being held
28 and the court shall proceed with the witness in the same
29 manner as if the refusal had occurred in open court.

30 Sec. 19. Section three hundred twenty-four point seventy
31 (324.70), Code 1977, is amended to read as follows:

32 324.70 DISCONTINUANCE OF LICENSED ACTIVITY--LIABILITY
33 FOR TAXES AND PENALTIES. If a licensee ceases to engage in
34 the state in activities for which ~~his~~ the person's license
35 was issued or discontinues, sells, or transfers the business

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

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

20 324.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS. Any
21 Except as provided in section three hundred twenty-four point
22 fifty-four (324.54) of the Code, any person other than a
23 distributor who has paid or has had charged to ~~his~~ the person's
24 account with a distributor, dealer or special fuel dealer
25 fuel taxes imposed under this chapter with respect to motor
26 fuel or special fuel in excess of one hundred gallons, which
27 is subsequently lost or destroyed, while ~~he shall be the~~
28 person is the owner thereof, through leakage, fire, explosion,
29 lightning, flood, storm, or other casualty, except evaporation,
30 shrinkage, or unknown causes, the person shall be entitled
31 to a refund of the tax so paid or charged. To qualify for
32 the refund, ~~he~~ the person shall notify the department of
33 revenue in writing of the loss or destruction and the gallonage
34 lost or destroyed within ten days from the date of discovery
35 of the loss or destruction. Within sixty days after filing

1 the notice, ~~he~~ the person shall file with the department of
2 revenue an affidavit sworn to by the person having immediate
3 custody of the motor fuel or special fuel at the time of the
4 loss or destruction setting forth in full the circumstances
5 and amount of the loss or destruction and such other
6 information ~~with-respect-thereto~~ as the department of revenue
7 may require.

8 Sec. 21. Section three hundred twenty-four point seventy-
9 four (324.74), subsection two (2), Code 1977, is amended to
10 read as follows:

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

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

23 324.75 PENALTY FOR FALSE CERTIFICATE. Any person who
24 makes a false certificate, false fuel invoice, false fuel
25 receipt, or false fuel sales ticket in any report, return,
26 application, claim, or evidence required or provided for by
27 this chapter or under any rule or regulation ~~made-by-the~~
28 ~~department-of-revenue~~ shall be guilty of a fraudulent practice.

29 Sec. 23. Section three hundred twenty-four point seventy-
30 six (324.76), unnumbered paragraphs one (1) and two (2), Code
31 1977, are amended to read as follows:

32 Authority is ~~hereby~~ given to the department of revenue
33 to enforce the provisions of this chapter except division
34 three (III) of the Code, and sections 324.14 and 324.52.
35 Employees of the department of revenue designated as

1 enforcement ~~officers~~ employees shall have the power of peace
2 officers in the performance of such duties.

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

17 Sec. 24. Section three hundred twenty-four point seventy-
18 seven (324.77), unnumbered paragraph one (1), Code 1977, is
19 amended to read as follows:

20 All fees, taxes, interest and penalties imposed under this
21 chapter must be paid to the department of revenue ~~in-the-form~~
22 ~~of-remittances-payable-to-the-treasurer-of-state,-and-the~~
23 ~~department-of-revenue~~ or the state department of trans-
24 portation, whichever is responsible for the collection. The
25 appropriate state agency shall transmit each payment daily
26 to the treasurer of state. Such payments shall be deposited
27 by the treasurer of state in a fund, hereby created, within
28 the state treasury which shall be known as the "motor fuel
29 tax fund," the net proceeds of which fund, after deductions
30 by lawful transfers and refunds, shall be known as the "motor
31 vehicle fuel tax fund". The department of revenue and the
32 state department of transportation shall certify monthly to
33 the state comptroller amounts of refunds of tax approved ~~er~~
34 ~~determined-by-the-department~~ during each month, and the state
35 comptroller shall draw warrants in such amounts on the motor

1 fuel tax fund and transmit them. There is hereby appropriated
2 out of the money received under the provisions of this chapter
3 and deposited in the motor fuel tax fund sufficient funds
4 to pay such refunds as may be authorized in this chapter.

5 Sec. 25. Section three hundred twenty-four point eighty
6 (324.80), Code 1977, is amended to read as follows:

7 324.80 MICROFILM OR PHOTOGRAPHIC COPIES--ORIGINALS
8 DESTROYED. The department-of-revenue appropriate state agency
9 shall have the power and authority to record, copy or reproduce
10 by any photographic, photostatic, microfilm, microcard,
11 miniature photographic or other process which accurately
12 reproduces or forms a durable medium for so reproducing the
13 original of any forms or records pertaining to motor fuel
14 tax or special fuel tax, or any paper or document with respect
15 to refund of such tax, and when such forms and records shall
16 have been so reproduced, the department-of-revenue state
17 agency shall have the power to destroy the originals and such
18 reproductions shall be competent evidence in any court in
19 accordance with the provisions of section 622.30.

20 Sec. 26.

21 1. All rules, forms, orders and directives promulgated
22 by and in effect for the department of revenue on the effec-
23 tive date of this Act shall continue in full force and effect
24 as rules, forms, orders and directives of the state depart-
25 ment of transportation until amended or supplemented by af-
26 firmative action of the state department of transportation.
27 The state department of transportation shall promulgate rules
28 to implement the provisions of this Act prior to June 30,
29 1979.

30 2. Any employee of the department of revenue whose duty
31 assignments will be terminated because of this Act may be
32 reassigned to other duties or may be transferred to the state
33 department of transportation. The Iowa merit employment com-
34 mission shall arbitrate and decide any written appeal made
35 by any employee concerning any transfer, reassignment or

1 reclassification made necessary by this Act.

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

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

13

EXPLANATION

14 This bill transfers the responsibility to administer the
15 interstate fuel use tax law from the department of revenue
16 to the state department of transportation.

HOUSE FILE 2289

AN ACT

TRANSFERRING THE RESPONSIBILITIES TO ADMINISTER THE INTER-STATE FUEL USE TAX LAW FROM THE DEPARTMENT OF REVENUE TO THE STATE DEPARTMENT OF TRANSPORTATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

shall either surrender to the state department of revenue transportation or destroy, subject to the approval of the state department of transportation, transfer the vehicle identification issued under this section to another vehicle. Annually-on On or before the first day of July of each year, each carrier as aforesaid shall file with the state department of revenue transportation a statement showing each registered vehicle then in use for transportation of motor fuel or special fuel for others.

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

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

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

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

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

the vehicle in this state; except that this division shall not apply to a private passenger automobile.

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

Sec. 4. Section three hundred twenty-four point fifty-three (324.53), Code 1977, as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred seven (107), section four (4), is amended to read as follows:

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

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

A permanent permit may be obtained upon application to the state department of revenue transportation. ~~The department of revenue shall charge a~~ A fee of five dollars shall be charged for each permit issued. The holder of a permanent permit ~~under this division~~ shall have the privilege of bringing into this state in the fuel supply tanks of commercial motor vehicles any amount of motor fuel or special fuel to be used in the operation of the vehicles and for that privilege shall

pay Iowa motor fuel or special fuel taxes as provided in section 324.54. A single trip interstate permit as provided for in this section may be obtained from the ~~department of revenue or the~~ state department of transportation. A fee of twelve dollars shall be charged for each individual single trip interstate permit issued. A single trip interstate permit shall be subject to the following provisions and limitations:

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

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

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

Notwithstanding any provision of this chapter to the contrary, the ~~director~~, upon holder of a permanent permit may make application ~~filed with~~ to the state department of revenue transportation for a refund, not later than thirty days after the last day of the quarter in which the overpayment of Iowa fuel tax paid on excess purchases of motor fuel or

special fuel was reported as provided in section 324.8, and which application is supported by such proof as the director state department of transportation may require. ~~The state department of transportation shall cause to be issued a warrant covering a refund of Iowa fuel tax paid on motor fuel or special fuel purchased in excess of the amount consumed by such commercial motor vehicles in their operation on the highways of this state.~~

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

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

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

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

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

324.56 NOT APPLICABLE TO DISTRIBUTORS. The provisions of this division shall not be required of a distributor licensed under division I of this chapter who elects to report and pay tax on motor fuel as is set out in division I and on special fuel as is set out in division II of this chapter, provided that a distributor so electing shall also report to the state department of transportation and pay Iowa fuel tax on motor fuel and special fuel purchased in another state which is used to propel a commercial motor vehicle owned or leased by the distributor on the highways of this state. Such distributor shall be allowed to enter this state with thirty gallons or more fuel in the supply tank of a commercial motor vehicle, but shall not be allowed any other provision of this division.

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

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

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

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

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

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

The department of revenue or the state department of trans-

portation upon application may grant a reasonable extension of time for the filing of any required report or tax payment, or both.

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

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

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

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

324.63 INFORMATION CONFIDENTIAL. All information obtained by the department of revenue or the state department of

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

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

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

324.64 DEPARTMENT-OF-REVENUE THE APPROPRIATE STATE AGENCY MAY ESTIMATE TAXABLE GALLONAGE. If any person fails to make and file a report required ~~of-him~~ or files an incorrect report, the department-of-revenue appropriate state agency shall, after investigation, determine the gallonage with respect to which the person incurred liability for fuel taxes under this chapter in any month or months and fix the amount of taxes thereon. ~~If the-department-of-revenue-should-at-any time-receive-complaints-or-reports a complaint or report is received~~ from any source that a licensee or other person is suspected of evading fuel taxes imposed by this chapter or has failed to report all the gallonage the reporting of which is required under this chapter, or is suspected of acting as a distributor or special fuel dealer or user without a license or of withholding payment of fuel taxes, the department of-revenue appropriate state agency, upon five days' notice to the person complained against of the nature of the complaint or report and of the time and place of a hearing thereon on the complaint, may proceed to hold the hearing and determine the amount of fuel taxes, if any, due from that person. ~~The department-of-revenue-may-adjourn-the hearing may be adjourned from time to time until the completion thereof of the hearing.~~ ~~The-department-may-use-any~~ Any information available may be used in determining the amount, if any, of fuel taxes for which the person is liable. Upon determining the amount ~~thereof-the-department of liability there shall add be added~~ the penalties and interest provided for in section 324.65 and make a copy of an assessment for the amount of the unpaid taxes, penalties and interest, shall ~~furnish-a-copy-thereof be furnished~~ to the person against whom the assessment is made and ~~his~~ the person's surety and the appropriate state agency shall certify the same for collection or other appropriate action by the proper public official. The findings ~~of-the-department-of-revenue~~ as to the amount of fuel taxes due from any person shall be presumed to be the correct amount and in any litigation which may follow, the certificate of the department of revenue or the state department of

transportation, whichever is the appropriate state agency, shall be admitted in evidence, shall constitute a prima-facie case, shall impose upon the other party the burden of showing any error in the ~~department's~~ finding and the extent thereof of any error or that the finding was contrary to law.

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

324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL TAXES. If a licensee or other person fails to file a required report with the ~~department-of-revenue~~ appropriate state agency on or before the due date, unless it is shown that such failure was due to reasonable cause there shall be added to the amount required to be shown as tax due on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which such failure continues, not exceeding twenty-five percent in the aggregate. If a licensee or other person fails to remit the tax due with the filing of the return on or before the due date or fails to pay any amount of the tax required to be shown on the return, there shall be added to the tax a penalty of five percent of the amount of the tax due, unless it is shown that such failure was due to reasonable cause. The taxpayer shall also pay interest on the tax or additional tax at the rate of three-fourths of one percent per month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. The ~~department of-revenue~~ appropriate state agency shall not remit any part of a penalty for delinquent payment where the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn. Provided, further, that if it appears as a result of ~~an~~ investigation ~~by-the-department of-revenue~~ or from a preponderance of the evidence adduced at a hearing ~~before-the-department-of-revenue~~ that there has been a deliberate attempt on the part of a licensee or other person to evade payment of fuel taxes there shall be added

to the assessment against the offending person and collected a penalty of fifty percent of the tax due. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file shall be in lieu of the penalty for failure to pay the tax due or required on the return, except in the case of a deliberate attempt on the part of the licensee or other person to evade payment of fuel taxes. Any report required of licensees or persons operating under divisions I, II and III, upon which no tax may be due, shall be subject to a penalty of ten dollars if such report is not timely filed with the appropriate state agency.

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

2. The certificate of the department of revenue or the state department of transportation, whichever is applicable, assessing the amount of fuel taxes and penalty due from a licensee or other person, ascertained in accordance with the provisions of this chapter or from a report of the person may be filed in the office of the clerk of the district court in the county in which the place of business of the licensee or other person is located. The clerk of the district court upon receipt of the certificate shall, without requiring payment of any fee, file and index the same in manner now provided for judgments. The ~~department-of-revenue~~ appropriate state agency may in like manner, file a duplicate of the certificate in any other county where it shall be indexed in a like manner. The claim of the state of Iowa as shown by the certificate or duplicate so filed shall be a lien on the real estate of the person named therein in the certificate as owing fuel taxes and located in the county where the certificate or duplicate is recorded, for the amount shown by the certificate to be due including penalty and interest from the date of filing to the same extent as a mortgage lien.

3. The ~~department-of-revenue~~ appropriate state agency may give notice of the amount of fuel taxes and penalty due

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

5. No sheriff, receiver, assignee, master or other officer shall sell the property or franchises of any licensee without first filing with the department of revenue, which shall forward notice to the state department of transportation, a statement containing the following information: Name or names of the plaintiff or party at whose instance or upon whose account the sale is made; name of the person whose property or franchise is to be sold; the time and place of sale; and the nature of the property and the location of the same. It shall be the duty of the ~~department-of-revenue~~ appropriate state agency, after receiving notice ~~as-aforesaid~~, to furnish to the sheriff, receiver, trustee, assignee, master or other officer, having charge of the sale, a certified copy or copies of all assessments for fuel taxes, penalties, and interest on file in the ~~department-of-revenue~~ state agency as liens against such person, and in the event there are no such liens a certificate showing that fact, which certified copy or copies of certificate shall be publicly read by such

officer at and immediately before the sale of the property or franchise of such person.

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

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

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

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

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

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

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

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

by registered mail to his the licensee's last known address.

If a licensee shall at any time abuse the privileges for which the license was issued, fail to produce records reasonably requested ~~by-the-department-of-revenue~~, or fail to extend reasonable co-operation to the department appropriate state agency, the licensee shall be advised in writing of a hearing scheduled to determine if said license shall be canceled. The department appropriate state agency upon the presentation of a preponderance of evidence shall be allowed to cancel a license for cause.

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

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

324.69 HEARINGS BEFORE DEPARTMENT OF REVENUE OR THE STATE DEPARTMENT OF TRANSPORTATION. Hearings before ~~the-department of-revenue a state agency~~ authorized under the provisions of this chapter may be held at ~~the-seat-of-government-in-Bes Moines-or-elsewhere~~ a site in the state as the department of-revenue state agency may direct. The department-of-revenue state agency shall have the power to issue subpoenas including subpoenas duces tecum and to require the attendance of witnesses and the production of books, records and papers.

In the event any person shall refuse to obey subpoena, or after appearing refuses to testify, the ~~department-of-revenue state agency~~ shall certify the name of the person to the district court of the county where the hearing is being held and the court shall proceed with the witness in the same manner as if the refusal had occurred in open court.

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

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

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

324.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS. Any Except as provided in section three hundred twenty-four point fifty-four (324.54) of the Code, any person other than a distributor who has paid or has had charged to ~~his~~ the person's account with a distributor, dealer or special fuel dealer fuel taxes imposed under this chapter with respect to motor

fuel or special fuel in excess of one hundred gallons, which is subsequently lost or destroyed, while ~~he shall be~~ the person is the owner thereof, through leakage, fire, explosion, lightning, flood, storm, or other casualty, except evaporation, shrinkage, or unknown causes, the person shall be entitled to a refund of the tax so paid or charged. To qualify for the refund, ~~he~~ the person shall notify the department of revenue in writing of the loss or destruction and the gallonage lost or destroyed within ten days from the date of discovery of the loss or destruction. Within sixty days after filing the notice, ~~he~~ the person shall file with the department of revenue an affidavit sworn to by the person having immediate custody of the motor fuel or special fuel at the time of the loss or destruction setting forth in full the circumstances and amount of the loss or destruction and such other information ~~with-respect-thereto~~ as the department of revenue may require.

Sec. 21. Section three hundred twenty-four point seventy-four (324.74), subsection two (2), Code 1977, is amended to read as follows:

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

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

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

~~department-of-revenue~~ shall be guilty of a fraudulent practice.

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

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

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

Sec. 24. Section three hundred twenty-four point seventy-seven (324.77), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

All fees, taxes, interest and penalties imposed under this chapter must be paid to the department of revenue ~~in-the-form-of-remittances-payable-to-the-treasurer-of-state,-and-the-department-of-revenue~~ or the state department of transportation, whichever is responsible for the collection. The appropriate state agency shall transmit each payment daily to the treasurer of state. Such payments shall be deposited by the treasurer of state in a fund, hereby created, within the state treasury which shall be known as the "motor fuel tax fund," the net proceeds of which fund, after deductions

by lawful transfers and refunds, shall be known as the "motor vehicle fuel tax fund". The department of revenue and the state department of transportation shall certify monthly to the state comptroller amounts of refunds of tax approved ~~or determined-by-the-department~~ during each month, and the state comptroller shall draw warrants in such amounts on the motor fuel tax fund and transmit them. There is hereby appropriated out of the money received under the provisions of this chapter and deposited in the motor fuel tax fund sufficient funds to pay such refunds as may be authorized in this chapter.

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

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

Sec. 26.

1. All rules, forms, orders and directives promulgated by and in effect for the department of revenue on the effective date of this Act shall continue in full force and effect as rules, forms, orders and directives of the state department of transportation until amended or supplemented by affirmative action of the state department of transportation. The state department of transportation shall promulgate rules to implement the provisions of this Act prior to June 30, 1979.

2. Any employee of the department of revenue whose duty assignments will be terminated because of this Act may be

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

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

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

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2289, Sixty-seventh General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved May 16, 1978

ROBERT D. RAY
Governor