

See Ways & Means 4/21
to pass 4/24 (p. 1703)

APR 17 1980

WAYS & MEANS CALENDAR

HOUSE FILE 2587

By COMMITTEE ON WAYS AND MEANS

(Formerly Study Bill 693)

Passed House, Date 4/21/80 (p. 1702) Passed Senate, Date 4/25/80 (p. 1114)

Vote: Ayes 94 Nays 1 Vote: Ayes 31 Nays 0

Approved May 19, 1980

A BILL FOR

1 An Act relating to the administration of the motor fuel

2 and special fuel tax laws.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

2587

1 Section 1. Section three hundred twenty-four point three
2 (324.3), unnumbered paragraph three (3), Code 1979, is amended
3 by striking the unnumbered paragraph.

4 Sec. 2. Section three hundred twenty-four point eleven
5 (324.11), subsection one (1), Code 1979, is amended to read
6 as follows:

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

1 in the same manner as an original registration.

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

7 1. REQUIRED. It ~~shall-be~~ is unlawful for any a person
8 to act as a special fuel dealer in this state unless the
9 person holds a special fuel dealer's license issued to the
10 person by the department of revenue, except as provided in
11 section three (3) of this Act. A person who holds a special
12 fuel distributor's license may dispense special fuel into
13 a motor vehicle special fuel holding tank without obtaining
14 a special fuel dealer's license. Except for special fuel
15 which is delivered by a special fuel dealer into a fuel supply
16 tank of any a motor vehicle or into a motor vehicle special
17 fuel holding tank in this state or delivered by a special
18 fuel distributor into a motor vehicle special fuel holding
19 tank, the use, {as herein defined}, of special fuel in this
20 state by any a person ~~shall-be~~ is unlawful unless the person
21 holds a special fuel user's license issued to the person by
22 the department of revenue. It ~~shall-be~~ is unlawful for any
23 a person to sell special fuel in this state in bulk for highway
24 use without first obtaining a special fuel ~~distributor~~
25 distributor's license. The license shall be issued under
26 the same procedure and subject to the same requirements and
27 limitations as provided in section 324.4.

28 2. APPLICATION. Application for a special fuel dealer's
29 license or a special fuel user's license shall be made to
30 the department of revenue. A special fuel dealer's license
31 or a special fuel user's license, whichever is applicable,
32 shall be required for each separate place of business or
33 location where special fuels are regularly delivered or placed
34 into the fuel supply tank of a motor vehicle. Provided, that,
35 if a special fuel dealer also operates one or more bulk plants

1 from which the distribution of a special fuel is primarily
2 by tank vehicle, the special fuel dealer need not obtain a
3 separate license for any of these plants not provided with
4 fixed equipment designed for fueling vehicles. Upon written
5 application and at the discretion of the director, a special
6 fuel user whose business operations require mobile special
7 fuel storage may obtain a single special fuel user's license
8 to be issued to the user's permanent principal place of
9 business.

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

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

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

23 Notwithstanding any provision of this chapter to the
24 contrary, the holder of a permanent permit may make application
25 to the state department of transportation for a refund, not
26 later than ~~thirty-days-after~~ the last day of the month
27 following the quarter in which the overpayment of Iowa fuel
28 tax paid on excess purchases of motor fuel or special fuel
29 was reported as provided in section 324.8, and which
30 application is supported by such proof as the state department
31 of transportation may require. The state department of
32 transportation shall refund Iowa fuel tax paid on motor fuel
33 or special fuel purchased in excess of the amount consumed
34 by such commercial motor vehicles in their operation on the
35 highways of this state.

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

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

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

32 324.72 REFUND OR CREDIT FOR FUEL TAXES ERRONEOUSLY OR
33 ILLEGALLY COLLECTED OR PAID. If any fuel taxes, penalties,
34 or interest have been erroneously or illegally collected by
35 the appropriate state agency from a licensee, the department

1 ~~of-revenue~~ appropriate state agency may permit the licensee
2 to take credit against a subsequent tax return for the amount
3 of the erroneous or illegal overpayment, may apply the
4 overpayment against any tax liability outstanding on the books
5 of the department against the claimant, or shall certify the
6 amount ~~thereof~~ to the state comptroller ~~of-this-state~~, who
7 shall ~~thereupon~~ draw ~~his-or-her~~ a warrant for the certified
8 amount on the treasurer of state payable to the licensee.

9 The refund shall be paid to the licensee ~~forthwith~~ immediately.

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

17 However, if it is found during an examination by the ap-
18 propriate state agency that a licensee paid, as a result of
19 a mistake, an amount of tax, penalty, or interest which was
20 not due, and the mistake is found within three years of the
21 overpayment, the appropriate state agency shall credit the
22 amount against any penalty, interest or taxes due, or to
23 become due, or shall refund the amount to the person.

24 EXPLANATION

25 Section 1 of the bill deletes the requirement for state
26 agencies and political subdivisions to file a report stating
27 the number of gallons of special fuel purchased tax free
28 during the preceding year.

29 Section 2 allows the state department of transportation
30 to cancel the registration of any fuel transporter who fails
31 to recertify each year.

32 Sections 3 and 4 allows special fuel distributors to place
33 20 gallons of fuel into a supply tank of a stranded motor
34 vehicle without being licensed as a special fuel dealer.

35 Section 3 also allows licensed special fuel users who have

1 mobile tanks to hold only one license at the principal place
2 of business.

3 Section 5 eliminates an inconsistency in the current law
4 relating to the time for filing for fuel tax refunds.

5 Section 6 extends the exemption on special fuel to mobile
6 machinery and equipment owned by cities and counties when
7 operated on the highways.

8 Section 7 provides a credit or refund of taxes paid in
9 error and establishes a one-year statute of limitations to
10 file claims for refund. If overpayments are subsequently
11 found, a credit or refund will be allowed for three years
12 following the overpayment.

13 The bill takes effect July first following enactment.

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35



HOUSE FILE 2587

AN ACT

RELATING TO THE ADMINISTRATION OF THE MOTOR FUEL AND SPECIAL
FUEL TAX LAWS.

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

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

Sec. 2. Section three hundred twenty-four point eleven (324.11), subsection one (1), Code 1979, is amended to read as follows:

1. Any person operating as a common or contract carrier and any distributor who is also engaged in transportation within this state of motor fuel or special fuel for others, shall register with the state department of transportation as additional equipment is put to use, each vehicle used to transport motor fuel or special fuel in this state, except railroad, water-vessel or pipe-line equipment. The registration shall be on forms furnished by and shall contain such information as may reasonably be required by the state department of transportation. A fee of five dollars shall be paid to the state department of transportation for original registration of each vehicle. The state department of transportation shall furnish to the registrant for each vehicle

registered suitable identification which shall be permanently attached to the vehicle and shall be available for inspection at all times. When any registered vehicle's use for the transportation of motor fuel or special fuel for others is discontinued, the registrant shall notify the state department of transportation and shall either surrender to the state department of transportation or, subject to the approval of the state department of transportation, transfer the vehicle identification issued under this section to another vehicle. On or before the first day of July of each year, each carrier as aforesaid shall file with the state department of transportation a statement showing each registered vehicle then in use for transportation of motor fuel or special fuel for others. Failure to file the required statement by the specified date shall be cause for cancellation of a vehicle's registration. A registration so cancelled may be reinstated in the same manner as an original registration.

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

1. REQUIRED. It ~~shall be~~ is unlawful for any a person to act as a special fuel dealer in this state unless the person holds a special fuel dealer's license issued to the person by the department of revenue, except as provided in section three (3) of this Act. A person who holds a special fuel distributor's license may dispense special fuel into a motor vehicle special fuel holding tank without obtaining a special fuel dealer's license. Except for special fuel which is delivered by a special fuel dealer into a fuel supply tank of any a motor vehicle or into a motor vehicle special fuel holding tank in this state or delivered by a special fuel distributor into a motor vehicle special fuel holding tank, the use, (as herein defined), of special fuel in this

state by ~~any~~ a person ~~shall-be~~ is unlawful unless the person holds a special fuel user's license issued to the person by the department of revenue. It ~~shall-be~~ is unlawful for ~~any~~ a person to sell special fuel in this state in bulk for highway use without first obtaining a special fuel ~~distributor~~ distributor's license. The license shall be issued under the same procedure and subject to the same requirements and limitations as provided in section 324.4.

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

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

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

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

Notwithstanding any provision of this chapter to the contrary, the holder of a permanent permit may make application to the state department of transportation for a refund, not later than ~~thirty-days-after~~ the last day of the month following the quarter in which the overpayment of Iowa fuel tax paid on excess purchases of motor fuel or special fuel was reported as provided in section 324.8, and which application is supported by such proof as the state department of transportation may require. The state department of transportation shall refund Iowa fuel tax paid on motor fuel or special fuel purchased in excess of the amount consumed by such commercial motor vehicles in their operation on the highways of this state.

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

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

originally designed for the transportation of persons or property on public highways and to which machinery, such as truck-mounted transit mixers, cranes, shovels, welders, air compressors, well-boring apparatus or lime spreaders, has been attached. ~~Mobite-machinery-or-equipment-originally designed-as-motor-vehicles-which-are-owned-by-the-counties-and-cities-of-iowa-shall-not-be-exempt-from-payment-of-fuel-taxes-on-fuel-used-when-operating-on-the-public-highways.~~

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

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

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

However, if it is found during an examination by the appropriate state agency that a licensee paid, as a result of a mistake, an amount of tax, penalty, or interest which was

not due, and the mistake is found within three years of the overpayment, the appropriate state agency shall credit the amount against any penalty, interest or taxes due, or to become due, or shall refund the amount to the person.

WILLIAM H. HARBOR
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2587, Sixty-eighth General Assembly.

BRUCE GRAHAM
Assistant Chief Clerk of the House

Approved May 19, 1980

ROBERT D. RAY
Governor