

Finance: Doderer, Chair; Chiodo and Hanson.

See Ways Means 4/26/83 Do Pass 5/5/83 (p.1553)

APR 14 1983

HOUSE FILE 626

BY COMMITTEE ON WAYS AND MEANS

FINANCE *Do Pass 4/20/83*

(Formerly Study Bill 269)

Passed House, Date 4-25-83 (p.1531) Passed Senate, Date 5-7-83 (p.1590)

Vote: Ayes 97 Nays 0 Vote: Ayes 31 Nays 18

Approved May 31, 1983
Revised Recommen (p.1642) w/d 5/14/83

A BILL FOR

1 An Act relating to penalties for violations of the motor fuel
2 tax, state individual withholding tax, corporate income
3 tax, sales and use tax, and additional property tax relief
4 for elderly and disabled tax laws.

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

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HOUSE FILE 626

S-3811

1 Amend House File 626, as passed by the House, as
2 follows:
3 1. Page 2, line 8, by inserting after the word "en-
4 titled" the words "except as allowed under section
5 3204 (m) (1) of the Internal Revenue Code of 1954".

S-3811 FILED
MAY 5, 1983
H/D 5/6/83 (p.1564)

BY EDGAR H. HOLDEN
WILLIAM D. PALMER

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HF 626

1 Section 1. Section 324.74, unnumbered paragraph 2, Code
2 1983, is amended by striking the unnumbered paragraph and
3 inserting in lieu thereof the following:

4 A person found guilty of an offense specified in this
5 section is guilty of a fraudulent practice. For purposes
6 of determining the place of trial, the situs of an offense
7 specified in this section is in the county of the residence
8 of the person charged with the offense. However, if the
9 person is a nonresident or the person's residence cannot be
10 determined, the situs of the offense is in Polk county.

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

13 Sec. 2. Section 324.75, Code 1983, is amended by adding
14 the following new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. In determining the place of
16 trial, the situs of an offense in this section is in the
17 county of the residence of the person charged with the offense.
18 However, if the person is a nonresident or the person's
19 residence cannot be determined, the situs of the offense is
20 in Polk county. Prosecution for an offense specified in this
21 section shall be commenced within six years following its
22 commission.

23 Sec. 3. Section 422.16, subsection 1, Code 1983, is amended
24 to read as follows:

25 1. Every withholding agent ~~as-defined-herein~~ and every
26 employer as defined ~~herein~~ in this chapter and further defined
27 in the Internal Revenue Code of 1954, ~~as-amended~~, with respect
28 to income tax collected at source, making payment of wages
29 ~~as-defined-herein~~ to either a resident employee or employees,
30 or a nonresident employee or employees, working in Iowa, shall
31 deduct and withhold from ~~such~~ the wages an amount which will
32 approximate the employee's annual tax liability on a calendar
33 year basis, calculated on the basis of tables to be prepared
34 by the department and schedules or percentage rates, based
35 on ~~such~~ the wages, to be prescribed by the department. Every

1 employee or other person shall declare to ~~sueh~~ the employer
2 or withholding agent the number of ~~his~~ the employee's personal
3 exemptions and dependency exemptions or credits to be used
4 in applying ~~sueh~~ the tables and schedules or percentage rates,
5 provided that no more ~~sueh~~ personal or dependency exemptions
6 or credits may be declared by ~~sueh~~ the employee or other
7 person than the number to which ~~he~~ the employee or other
8 person is entitled. ~~Sueh~~ The claiming of ~~sueh~~ exemptions
9 or credits in excess of entitlement ~~shall-constitute~~ is a
10 serious misdemeanor.

11 Sec. 4. Section 422.16, subsection 10, paragraphs a and
12 b, Code 1983, are amended to read as follows:

13 a. ~~Any~~ An employer or withholding agent required under
14 ~~the-provisions-of~~ this chapter to furnish a statement required
15 by this chapter who willfully furnishes a false or fraudulent
16 statement, or who willfully fails to furnish ~~sueh~~ the statement
17 ~~shall~~ is, for each ~~sueh~~ failure, be subject to a civil penalty
18 of ~~one~~ five hundred dollars, ~~sueh~~ the penalty to be in addition
19 to any criminal penalty otherwise provided by the Code.

20 b. ~~Any~~ An employer or withholding agent required ~~under~~
21 ~~this-chapter~~ to withhold taxes on wages or other taxable Iowa
22 income subject to this chapter who fails to file a semimonthly,
23 monthly, or quarterly deposit form for the withholding of
24 tax with the department on or before the due date, unless
25 it is shown that the failure was due to reasonable cause,
26 is subject to a penalty determined by adding to the amount
27 required to be shown as tax due on the semimonthly, monthly,
28 or quarterly deposit form five percent of the amount of the
29 tax if the failure is for not more than one month, with an
30 additional five percent for each additional month or fraction
31 of a month during which the failure continues, not exceeding
32 twenty-five percent in the aggregate. If any person or
33 withholding agent fails to remit at least ninety percent of
34 the tax due with the filing of the semimonthly, monthly, or
35 quarterly deposit form on or before the due date, or pays

1 less than ninety percent of any tax required to be shown on
2 the semimonthly, monthly, or quarterly deposit form, unless
3 it is shown that the failure was due to reasonable cause,
4 there shall be added to the tax a penalty of five percent
5 of the amount of the tax due, if the failure is for not more
6 than one month, with an additional five percent for each
7 additional month or fraction of a month during which the
8 failure continues, not exceeding twenty-five percent in the
9 aggregate. When penalties are applicable for failure to file
10 a semimonthly, monthly, or quarterly deposit form and failure
11 to pay the tax due or required on the semimonthly, monthly,
12 or quarterly deposit form, the penalty provision for failure
13 to file is in lieu of the penalty provision for failure to
14 pay the tax due or required on the semimonthly, monthly, or
15 quarterly deposit form. In the case of willful failure to
16 file a semimonthly, monthly, or quarterly deposit form with
17 intent to evade tax or willful filing of a false semimonthly,
18 monthly, or quarterly deposit form with intent to evade tax,
19 in lieu of the penalty otherwise provided in this paragraph,
20 there is added to the amount required to be shown as tax on
21 the semimonthly, monthly, or quarterly deposit form, fifty
22 percent of the amount of the tax. The taxpayer shall also
23 pay interest on the tax or additional tax at the rate in
24 effect under section 421.7, for each month counting each
25 fraction of a month as an entire month, computed from the
26 date the semimonthly, monthly, or quarterly deposit form was
27 required to be filed. The penalty and interest become a part
28 of the tax due from the withholding agent.

29 Sec. 5. Section 422.25, subsections 5 and 8, Code 1983,
30 are amended to read as follows:

31 5. Any A person or withholding agent required to supply
32 any information, to pay any tax, or to make, sign, or file
33 any a semimonthly, monthly, or quarterly deposit form or
34 return or supplemental return, who willfully makes any a false
35 or fraudulent semimonthly, monthly, or quarterly deposit form

1 or return, or willfully fails to pay such the tax, supply
 2 such the information, or make, sign, or file such the
 3 semimonthly, monthly, or quarterly deposit form or return,
 4 at the time or times required by law, ~~shall-be~~ is guilty of
 5 a fraudulent practice.

6 8. Any A person or withholding agent who willfully attempts
 7 in any manner to defeat or evade any a tax imposed by this
 8 division or the payment thereof of the tax, ~~shall~~ upon
 9 conviction for each such offense be is guilty of a class "D"
 10 felony.

11 Sec. 6. Section 422.40, subsection 4, Code 1983, is amended
 12 to read as follows:

13 4. Any A person, or any officer or employee of any a
 14 corporation, or member or employee of any a partnership, who,
 15 with intent to evade any a requirement of this division or
 16 any a lawful requirement of the director thereunder, shall
 17 fail fails to pay any tax or fails to make, sign, or verify
 18 any a return or fails to supply any information required by
 19 ~~or under the provisions of~~ this division, ~~shall-be~~ is guilty
 20 of a ~~serious-misdemeanor~~ fraudulent practice. Any A person,
 21 corporation, ~~or any officer or employee of a corporation,~~
 22 or member or employee of any a partnership, who, with intent
 23 to evade any of the requirements of this division, or any
 24 lawful requirements of the director ~~thereunder, shall-make,~~
 25 ~~render, sign, or verify any~~ makes, renders, signs, or verifies
 26 a false or fraudulent return or statement, or shall-supply
 27 any supplies false or fraudulent information, or who shall
 28 ~~aid, abet, direct, cause, or who shall procure~~ aids, abets,
 29 directs, causes, or procures anyone so to do, shall-be is
 30 guilty of a ~~fraudulent-practice~~ class "D" felony. Such The
 31 penalty ~~shall-be~~ is in addition to all other penalties in
 32 this division ~~provided~~.

33 Sec. 7. Section 422.58, subsections 1, 3, and 5, Code
 34 1983, are amended to read as follows:

35 1. If a person fails to file a permit holder's semimonthly

1 or monthly tax deposit form or a return with the department
2 on or before the due date, unless it is shown that the failure
3 was due to reasonable cause, there shall be added to the
4 amount required to be shown as tax on the semimonthly or
5 monthly tax deposit form or return five percent of the amount
6 of the tax if the failure is for not more than one month,
7 with an additional five percent for each additional month
8 or fraction of a month during which the failure continues,
9 not exceeding twenty-five percent in the aggregate. If a
10 person or permit holder fails to remit at least ninety percent
11 of the tax due with the filing of the semimonthly or monthly
12 tax deposit form or return on or before the due date, or pays
13 less than ninety percent of any tax required to be shown on
14 the return, excepting the period between the completion of
15 an examination of the books and records of a taxpayer and
16 the giving of notice to the taxpayer that a tax or additional
17 tax is due, there shall be added to the tax a penalty of five
18 percent of the amount of the tax due, if the failure is for
19 not more than one month, with an additional five percent for
20 each additional month or fraction of a month the failure
21 continues, not exceeding twenty-five percent in the aggregate,
22 unless it is shown that the failure was due to reasonable
23 cause. In case of willful failure to file a semimonthly or
24 monthly tax deposit form or return, willful filing of a false
25 semimonthly or monthly tax deposit form or return or willful
26 filing of a false or fraudulent semimonthly or monthly tax
27 deposit form or return with intent to evade tax, in lieu of
28 the penalty otherwise provided in this subsection, there shall
29 be added to the amount required to be shown as tax on the
30 semimonthly or monthly tax deposit form or return fifty percent
31 of the amount of the tax. When penalties are applicable for
32 failure to file a semimonthly or monthly tax deposit form
33 or return and failure to pay at least ninety percent of the
34 tax due or required on the semimonthly or monthly tax deposit
35 form or return, the penalty for failure to file is in lieu

1 of the penalty for failure to pay at least ninety percent
2 of the tax due or required on the semimonthly or monthly tax
3 deposit form or return. The taxpayer shall also pay interest
4 on the tax or additional tax at the rate in effect under
5 section 421.7 for each month counting each fraction of a
6 month as an entire month, computed from the date the
7 semimonthly or monthly tax deposit form or return was required
8 to be filed. The penalty and interest shall be paid to the
9 department and disposed of in the same manner as other receipts
10 under this division. Unpaid penalties and interest may be
11 enforced in the same manner as the tax imposed by this
12 division.

13 3. ~~ANY~~ A person who willfully attempts to evade a tax
14 imposed by this division or the payment ~~thereof~~ of the tax
15 or ~~any~~ a person who makes or causes to be made ~~any~~ a false
16 or fraudulent semimonthly or monthly tax deposit form or
17 return with intent to evade the tax imposed by this division
18 or the payment ~~thereof shall be~~ of the tax is guilty of a
19 ~~fraudulent-practice~~ class "D" felony.

20 5. A person required to pay a tax, or to make, sign, or
21 file a semimonthly or monthly tax deposit form or return or
22 supplemental return, who willfully makes a false or fraudulent
23 semimonthly or monthly tax deposit form or return, or willfully
24 fails to pay at least ninety percent of the tax or willfully
25 fails to make, sign, or file the semimonthly or monthly tax
26 deposit form or return, at the time required by law, is guilty
27 of a fraudulent practice.

28 Sec. 8. Section 423.18, subsections 2 and 3, Code 1983,
29 are amended to read as follows:

30 2. A person who willfully attempts in any manner to evade
31 a tax imposed by this chapter or the payment of ninety percent
32 ~~thereof~~ of the tax, or a person who makes or causes to be
33 made any false or fraudulent monthly deposit form or return
34 with intent to evade the tax imposed by this chapter or the
35 payment of ninety percent ~~thereof~~ of the tax is guilty of

1 a ~~fraudulent-practice~~ class "D" felony.

2 3. A person required to pay tax, or to make, sign or file
3 a monthly deposit form or return, or supplemental-return,
4 who willfully makes a false or fraudulent monthly deposit
5 form or return, or who willfully fails at the time required
6 by law to pay the tax or fails to make, sign or file the
7 monthly deposit form or return, at-the-time-required-by-law,
8 is guilty of a fraudulent practice.

9 Sec. 9. Section 423.26, Code 1983, is amended to read
10 as follows:

11 423.26 PENALTY FOR FALSE STATEMENT. Any A person who
12 willfully makes any a false statement in regard to the purchase
13 price of a vehicle subject to taxation under section 423.7
14 is guilty of a ~~simple-misdemeanor~~ fraudulent practice.

15 Sec. 10. Section 425.29, Code 1983, is amended to read
16 as follows:

17 425.29 FALSE CLAIM--PENALTY. Any A person ~~making~~ who
18 makes a false affidavit for the purpose of obtaining credit
19 or reimbursement provided for in this division or who knowingly
20 receives the credit or reimbursement without being legally
21 entitled to it or makes claim for the credit or reimbursement
22 in more than one county in the state ~~shall-be~~ without being
23 legally entitled to it is guilty of a ~~simple-misdemeanor~~
24 fraudulent practice. ~~An-action~~ Prosecution under this section
25 shall be brought in the county ~~in-which-the-affidavit-was~~
26 filed of residence of the person to be charged. The claim
27 for credit or reimbursement shall be disallowed in full and
28 if the claim has been paid the amount shall be recovered in
29 the manner provided in section 425.27. The director of revenue
30 shall send a notice of disallowance of the claim.

31 EXPLANATION

32 Sections 1 and 2 of the bill make a violation of the motor
33 fuel tax law a fraudulent practice, with a six-year statute
34 of limitation, and provide that the situs of the crime for
35 purposes of trial is the residence of the offender or Polk

1 county if the offender is a nonresident or residency cannot
2 be determined.

3 Sections 3 and 4 of the bill make it a serious misdemeanor
4 for an employee to declare to the employee's employer more
5 personal and dependency credits than the employee is entitled
6 to and increases the civil penalty for filing false W-2 forms
7 by the employer or withholding agent from \$100 to \$500.
8 Section 4 also provides a civil penalty of fifty percent of
9 the tax due for willful failure to file or willfully filing
10 a false withholding tax form or return to evade tax. The
11 bill provides a criminal penalty for withholding agents failing
12 to file or pay or willfully filing a false or fraudulent
13 semimonthly, monthly, or quarterly deposit form or W-2 form.
14 It also provides a criminal penalty for evasion of tax.

15 Section 6 makes it a fraudulent practice to fail to file
16 a corporate tax return and a class "D" felony to evade a
17 requirement of the corporate tax laws.

18 Sections 7 and 8 provide a fifty percent civil fraud penalty
19 for willfully failing to file or willfully filing a false
20 or fraudulent semimonthly or monthly sales tax deposit form
21 and make it a class "D" felony to evade sales tax. A
22 correction is made so that willfully failing to file the use
23 tax semimonthly or monthly deposit form or return or pay the
24 tax on time is a fraudulent practice.

25 Section 9 makes it a fraudulent practice to willfully make
26 a false statement in regard to the purchase of an automobile.

27 Section 10 makes it a fraudulent practice to make a claim
28 or receive a benefit when not legally entitled to it under
29 the additional property tax relief for the elderly and disabled
30 law.

31 The bill takes effect July 1 following enactment.

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HOUSE FILE 626
FISCAL NOTE

REQUESTED BY SENATOR HOLDEN

In compliance with a written request there is hereby submitted a Fiscal Note for House File 626 pursuant to Joint Rule 17.

House File 626 changes the penalties for violations of various tax laws as follows:

- Makes a violation of the motor fuel tax law a fraudulent practice, with a six year statute of limitation and provides that the situs of the crime for purposes of trial is the residence of the offender or Polk County if the residence of the offender is a nonresident or residency cannot be determined. (Current law: \$300 first offense and \$500 second offense fine and simple misdemeanor penalty);
- Makes it a serious misdemeanor for an employee to declare to the employee's employer more personal and dependency credits than the employee is entitled to and increases the civil penalty for filing false W-2 forms by the employer or withholding agent from \$100 to \$500. (Current law: \$100 fine and 30 days in jail);
- Provides a civil penalty of 50 percent of the tax due for willful failure to file or willfully filing a false withholding tax form or return to evade tax. The bill provides a criminal penalty for withholding agents failing to file or pay or willfully filing a false or fraudulent semimonthly, monthly, or quarterly deposit form or W-2 form. It also provides a criminal penalty for evasion of tax. (Current law: \$100 fine);
- Makes it a fraudulent practice to fail to file a corporate tax return and a class "D" felony to evade a requirement of the corporate tax laws. (Current law: does not address monthly or semi-monthly returns, not adjusted for size of evasion or flagrant evasions);
- Provides a 50 percent civil fraud penalty for willfully failing to file or willfully filing a false or fraudulent semimonthly or monthly sales tax deposit form and make it a class "D" felony to evade sales tax. A correction is made so that willfully failing to file the use tax semimonthly or monthly deposit form or return or pay the tax on time is a fraudulent practice. (Current law: only addresses quarterly returns);
- Makes it a fraudulent practice to willfully make a false statement in regard to the purchase of an automobile. (Current law: only addresses quarterly returns);

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MAY 9, 1983

House File 626 - FISCAL NOTE
PAGE 2

-Makes it a fraudulent practice to make a claim or receive a benefit when not legally entitled to it under the additional property tax relief for the elderly and disabled law. (Current law: simple misdemeanor).

FISCAL IMPACT: The effect of this bill is increased compliance with the tax laws addressed. Increased compliance will, in turn, increase compliance revenues. The total fiscal effect of this bill is undeterminable.

(1696H, 83-509, CMG)

SOURCE: DEPT. OF REVENUE

FILED:
MAY 6, 1983

BY LEGISLATIVE FISCAL BUREAU
DENNIS C. PROUTY, DIRECTOR

HOUSE FILE 626

AN ACT

RELATING TO PENALTIES FOR VIOLATIONS OF THE MOTOR FUEL TAX,
STATE INDIVIDUAL WITHHOLDING TAX, CORPORATE INCOME TAX,
SALES AND USE TAX, AND ADDITIONAL PROPERTY TAX RELIEF FOR
ELDERLY AND DISABLED TAX LAWS.

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

Section 1. Section 324.74, unnumbered paragraph 2, Code 1983, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

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

Sec. 2. Section 324.75, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In determining the place of trial, the situs of an offense in this section is in the county of the residence of the person charged with the offense. However, if the person is a nonresident or the person's residence cannot be determined, the situs of the offense is in Polk county. Prosecution for an offense specified in this section shall be commenced within six years following its commission.

Sec. 3. Section 422.16, subsection 1, Code 1983, is amended to read as follows:

1. Every withholding agent ~~as defined herein~~ and every employer as defined ~~herein~~ in this chapter and further defined in the Internal Revenue Code of 1954, ~~as amended~~, with respect to income tax collected at source, making payment of wages ~~as defined herein~~ to either a resident employee or employees, or a nonresident employee or employees, working in Iowa, shall deduct and withhold from ~~such~~ the wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on ~~such~~ the wages, to be prescribed by the department. Every employee or other person shall declare to ~~such~~ the employer or withholding agent the number of ~~his~~ the employee's personal exemptions and dependency exemptions or credits to be used in applying ~~such~~ the tables and schedules or percentage rates, provided that no more ~~such~~ personal or dependency exemptions or credits may be declared by ~~such~~ the employee or other person than the number to which ~~he~~ the employee or other person is entitled. ~~Such~~ The claiming of ~~such~~ exemptions or credits in excess of entitlement ~~shall constitute~~ is a serious misdemeanor.

Sec. 4. Section 422.16, subsection 10, paragraphs a and b, Code 1983, are amended to read as follows:

a. ~~Any~~ An employer or withholding agent required under ~~the provisions of~~ this chapter to furnish a statement required by this chapter who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish ~~such~~ the statement ~~shall~~ is, for each ~~such~~ failure, be subject to a civil penalty of ~~one~~ five hundred dollars, ~~such~~ the penalty to be in addition to any criminal penalty otherwise provided by the Code.

b. ~~Any~~ An employer or withholding agent required under ~~this chapter~~ to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to file a semi-monthly, monthly, or quarterly deposit form for the withholding of tax with the department on or before the due date, unless

it is shown that the failure was due to reasonable cause, is subject to a penalty determined by adding to the amount required to be shown as tax due on the semimonthly, monthly, or quarterly deposit form 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 the failure continues, not exceeding twenty-five percent in the aggregate. If any person or withholding agent fails to remit at least ninety percent of the tax due with the filing of the semimonthly, monthly, or quarterly deposit form on or before the due date, or pays less than ninety percent of any tax required to be shown on the semimonthly, monthly, or quarterly deposit form, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, 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 the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a semimonthly, monthly, or quarterly deposit form and failure to pay the tax due or required on the semimonthly, monthly, or quarterly deposit form, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay the tax due or required on the semimonthly, monthly, or quarterly deposit form. In the case of willful failure to file a semimonthly, monthly, or quarterly deposit form with intent to evade tax or willful filing of a false semimonthly, monthly, or quarterly deposit form with intent to evade tax, in lieu of the penalty otherwise provided in this paragraph, there is added to the amount required to be shown as tax on the semimonthly, monthly, or quarterly deposit form, fifty percent of the amount of the tax. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7, for each month counting each

fraction of a month as an entire month, computed from the date the semimonthly, monthly, or quarterly deposit form was required to be filed. The penalty and interest become a part of the tax due from the withholding agent.

Sec. 5. Section 422.25, subsections 5 and 8, Code 1983, are amended to read as follows:

5. Any A person or withholding agent required to supply any information, to pay any tax, or to make, sign, or file any a semimonthly, monthly, or quarterly deposit form or return or supplemental return, who willfully makes any a false or fraudulent semimonthly, monthly, or quarterly deposit form or return, or willfully fails to pay such the tax, supply such the information, or make, sign, or file such the semimonthly, monthly, or quarterly deposit form or return, at the time or times required by law, shall be is guilty of a fraudulent practice.

8. Any A person or withholding agent who willfully attempts in any manner to defeat or evade any a tax imposed by this division or the payment thereof of the tax, shall upon conviction for each such offense be is guilty of a class "D" felony.

Sec. 6. Section 422.40, subsection 4, Code 1983, is amended to read as follows:

4. Any A person, or any officer or employee of any a corporation, or member or employee of any a partnership, who, with intent to evade any a requirement of this division or any a lawful requirement of the director thereunder, shall fail fails to pay any tax or fails to make, sign, or verify any a return or fails to supply any information required by or under the provisions of this division, shall be is guilty of a serious misdemeanor fraudulent practice. Any A person, corporation, or any officer or employee of a corporation, or member or employee of any a partnership, who, with intent to evade any of the requirements of this division, or any lawful requirements of the director thereunder, shall make

~~render, sign, or verify any~~ makes, renders, signs, or verifies a false or fraudulent return or statement, or ~~shall supply~~ any supplies false or fraudulent information, or who ~~shall aid, abet, direct, cause, or who shall procure~~ aids, abets, directs, causes, or procures anyone so to do, ~~shall be~~ is guilty of a ~~fraudulent-practice~~ class "D" felony. ~~Such~~ The penalty ~~shall be~~ is in addition to all other penalties in this division ~~provided~~.

Sec. 7. Section 422.58, subsections 1, 3, and 5, Code 1983, are amended to read as follows:

1. If a person fails to file a permit holder's semimonthly or monthly tax deposit form or a return with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount required to be shown as tax on the semimonthly or monthly tax deposit form or 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 the failure continues, not exceeding twenty-five percent in the aggregate. If a person or permit holder fails to remit at least ninety percent of the tax due with the filing of the semimonthly or monthly tax deposit form or return on or before the due date, or pays less than ninety percent of any tax required to be shown on the return, excepting the period between the completion of an examination of the books and records of a taxpayer and the giving of notice to the taxpayer that a tax or additional tax is due, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month the failure continues, not exceeding twenty-five percent in the aggregate, unless it is shown that the failure was due to reasonable cause. In case of willful failure to file a semimonthly or monthly tax deposit form or return, willful filing of a false

semimonthly or monthly tax deposit form or return or willful filing of a false or fraudulent semimonthly or monthly tax deposit form or return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the semimonthly or monthly tax deposit form or return fifty percent of the amount of the tax. When penalties are applicable for failure to file a semimonthly or monthly tax deposit form or return and failure to pay at least ninety percent of the tax due or required on the semimonthly or monthly tax deposit form or return, the penalty for failure to file is in lieu of the penalty for failure to pay at least ninety percent of the tax due or required on the semimonthly or monthly tax deposit form or return. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 421.7 for each month counting each fraction of a month as an entire month, computed from the date the semimonthly or monthly tax deposit form or return was required to be filed. The penalty and interest shall be paid to the department and disposed of in the same manner as other receipts under this division. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this division.

3. ~~Any~~ A person who willfully attempts to evade a tax imposed by this division or the payment ~~thereof of the tax~~ or ~~any~~ a person who makes or causes to be made ~~any~~ a false or fraudulent semimonthly or monthly tax deposit form or return with intent to evade the tax imposed by this division or the payment ~~thereof shall be of the tax~~ is guilty of a fraudulent-practice class "D" felony.

5. A person required to pay a tax, or to make, sign, or file a semimonthly or monthly tax deposit form or return or supplemental return, who willfully makes a false or fraudulent semimonthly or monthly tax deposit form or return, or willfully fails to pay at least ninety percent of the tax or willfully

fails to make, sign, or file the semimonthly or monthly tax deposit form or return, at the time required by law, is guilty of a fraudulent practice.

Sec. 8. Section 423.18, subsections 2 and 3, Code 1983, are amended to read as follows:

2. A person who willfully attempts in any manner to evade a tax imposed by this chapter or the payment of ninety percent thereof of the tax, or a person who makes or causes to be made any false or fraudulent monthly deposit form or return with intent to evade the tax imposed by this chapter or the payment of ninety percent thereof of the tax is guilty of a fraudulent-practice class "D" felony.

3. A person required to pay tax, or to make, sign or file a monthly deposit form or return, or supplemental return, who willfully makes a false or fraudulent monthly deposit form or return, or who willfully fails at the time required by law to pay the tax or fails to make, sign or file the monthly deposit form or return, at the time required by law, is guilty of a fraudulent practice.

Sec. 9. Section 423.26, Code 1983, is amended to read as follows:

423.26 PENALTY FOR FALSE STATEMENT. Any a person who willfully makes any a false statement in regard to the purchase price of a vehicle subject to taxation under section 423.7 is guilty of a simple-misdemeanor fraudulent practice.

Sec. 10. Section 425.29, Code 1983, is amended to read as follows:

425.29 FALSE CLAIM--PENALTY. Any a person making who makes a false affidavit for the purpose of obtaining credit or reimbursement provided for in this division or who knowingly receives the credit or reimbursement without being legally entitled to it or makes claim for the credit or reimbursement in more than one county in the state shall-be without being legally entitled to it is guilty of a simple-misdemeanor fraudulent practice. An-action Prosecution under this section

shall be brought in the county in-which-the-affidavit-was filed of residence of the person to be charged. The claim for credit or reimbursement shall be disallowed in full and if the claim has been paid the amount shall be recovered in the manner provided in section 425.27. The director of revenue shall send a notice of disallowance of the claim.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 626, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 31, 1983

TERRY E. BRANSTAD
Governor