

Substituted by H.F. 2140
4-1-96

FILED FEB 9 1996

WITHDRAWN

SENATE FILE 2173
BY COMMITTEE ON WAYS AND MEANS
(SUCCESSOR TO SSB 2078)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the motor vehicle fuel tax law and providing
2 effective and retroactive applicability dates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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WITHDRAWN

IN REPLY TO

1 Section 1. Section 321.19, subsection 2, unnumbered
2 paragraph 3, Code Supplement 1995, is amended to read as
3 follows:

4 ~~Section 452A.3 and chapter~~ Chapter 326 ~~are~~ is not
5 applicable to urban transit companies or systems.

6 Sec. 2. Section 452A.2, subsections 2, 15, and 21, Code
7 Supplement 1995, are amended to read as follows:

8 2. "Blender" means a person who owns and blends alcohol
9 with gasoline to produce ethanol blended gasoline and blends
10 the product at a nonterminal location. The blender is not
11 restricted to blending alcohol with gasoline. Products
12 blended with gasoline other than grain alcohol are ~~treated and~~
13 taxed as gasoline. "Blender" also means a person blending two
14 or more special fuel products at a nonterminal location where
15 the tax has not been paid on all of the products blended. ~~The~~
16 This blend is taxed as a special fuel.

17 15. "Licensed compressed natural gas and liquefied
18 petroleum gas user" means a person licensed by the department
19 who dispenses compressed natural gas or liquefied petroleum
20 gas, upon which the special fuel tax has not been previously
21 paid, for highway use from fuel sources owned and controlled
22 by the person into the fuel supply tank of a motor vehicle, or
23 commercial vehicle owned or controlled by the person.

24 21. "Special fuel" means fuel oils and all combustible
25 gases and liquids suitable for the generation of power for
26 propulsion of motor vehicles or turbine-powered aircraft, and
27 includes any substance used for that purpose, except that it
28 does not include motor fuel. Kerosene shall not be considered
29 to be a special fuel, unless blended with other special fuels
30 for use in a motor vehicle with a diesel engine.

31 Sec. 3. Section 452A.5, unnumbered paragraph 2, Code
32 Supplement 1995, is amended to read as follows:

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

35 Sec. 4. Section 452A.8, subsection 2, unnumbered paragraph

1 1, Code Supplement 1995, is amended to read as follows:

2 At the time of filing of a report, a supplier, or
3 restrictive supplier, ~~or importer~~ shall pay to the department
4 the full amount of the fuel tax due for the preceding calendar
5 month. An importer shall pay to the department the full
6 amount of fuel tax due for the preceding semimonthly period.

7 The tax shall be computed as follows:

8 Sec. 5. Section 452A.8, subsection 2, paragraph a,
9 unnumbered paragraph 1, Code Supplement 1995, is amended to
10 read as follows:

11 From the total number of invoiced gallons of motor fuel or
12 undyed special fuel withdrawn from the terminal by the
13 licensee ~~within the state~~ during the preceding calendar month
14 or semimonthly period the following deductions shall be made:

15 Sec. 6. Section 452A.8, subsection 2, paragraph c, Code
16 Supplement 1995, is amended to read as follows:

17 c. The tax due under paragraph "b" shall be the amount of
18 fuel tax due from the supplier, restrictive supplier, or
19 importer for the preceding reporting period. The director may
20 require by rule that the payment of taxes by suppliers,
21 restrictive suppliers, and importers be made by electronic
22 funds transfer. The director may allow a tax float by rule
23 where the eligible purchaser is not required to pay the tax to
24 the supplier until one business day prior to the date the tax
25 is due. ~~Any credit calculated by the supplier, restrictive~~
26 ~~supplier, or importer may be applied against the amount due.~~
27 A licensed supplier who is unable to recover the tax from an
28 eligible purchaser is not liable for the tax, upon proper
29 documentation, and may credit the amount of unpaid tax against
30 a later remittance of tax. Under this provision, a supplier
31 does not qualify for a credit if the purchaser did not elect
32 to use the eligible purchaser status, or otherwise does not
33 qualify to be an eligible purchaser. To qualify for the
34 credit, the supplier must notify the department of the
35 uncollectible account no later than ten calendar days after

1 the due date for payment of the tax. If a supplier sells
2 additional motor fuel or undyed special fuel to a delinquent
3 eligible purchaser after notifying the department that the
4 supplier has an uncollectible debt with that eligible
5 purchaser, the limited liability provision does not apply to
6 the additional fuel. The supplier is liable for tax collected
7 from the purchaser.

8 Sec. 7. Section 452A.8, subsection 2, paragraph e,
9 unnumbered paragraph 2, Code Supplement 1995, is amended to
10 read as follows:

11 The department shall adopt rules governing the dispensing
12 of compressed natural gas and liquefied petroleum gas by
13 licensed dealers and licensed users. For purposes of this
14 paragraph, "dealer" and "user" mean a licensed compressed
15 natural gas or liquefied petroleum gas dealer or user and
16 "fuel" means compressed natural gas or liquefied petroleum
17 gas. The department shall require that all pumps located at
18 dealer locations and user locations through which liquefied
19 petroleum gas can be dispensed, shall be metered, inspected,
20 tested for accuracy, and sealed and licensed by the state
21 department of agriculture and land stewardship, and that fuel
22 delivered into the fuel supply tank of any motor vehicle,
23 shall be dispensed only through tested metered pumps and may
24 be sold without temperature correction or corrected to a
25 temperature of sixty degrees. If the metered gallonage is to
26 be temperature-corrected, only a temperature-compensated meter
27 shall be used. Natural gas used as fuel shall be delivered
28 into compressing equipment through sealed meters certified for
29 accuracy by the department of agriculture and land
30 stewardship.

31 Sec. 8. Section 452A.17, subsection 1, paragraph a,
32 unnumbered paragraph 1, Code Supplement 1995, is amended to
33 read as follows:

34 The refund is allowable for motor fuel or undyed special
35 fuel sold directly to ~~or~~ and used for the following:

1 Sec. 9. Section 452A.17, subsection 1, paragraph a,
2 subparagraph (8), Code Supplement 1995, is amended to read as
3 follows:

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

11 Sec. 10. Section 452A.17, subsection 1, paragraph b,
12 subparagraph (7), Code Supplement 1995, is amended to read as
13 follows:

14 (7) Claim shall be made by and the amount of the refund
15 shall be paid to the person who purchased the motor fuel or
16 undyed special fuel as shown in the supporting invoice unless
17 that person designates another person as an agent for purposes
18 of filing and receiving the refund for idle time, power
19 takeoff, reefer units, pumping credits, and transport
20 diversions. A governmental agency may be designated as an
21 agent for another governmental agency for purposes of filing
22 and receiving the refund under this section.

23 Sec. 11. Section 452A.17, subsection 3, paragraph b, Code
24 Supplement 1995, is amended to read as follows:

25 b. A refund shall not be paid with respect to any motor
26 fuel or undyed special fuel taken out of this state in supply
27 tanks of watercraft, aircraft, or motor vehicles.

28 Sec. 12. Section 452A.21, unnumbered paragraph 3, Code
29 Supplement 1995, is amended to read as follows:

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

34 Sec. 13. Section 452A.67, Code 1995, is amended to read as
35 follows:

1 452A.67 LIMITATION ON COLLECTION PROCEEDINGS.

2 ~~An action or other proceeding shall not be maintained to~~
3 The department shall examine the return and enforce collection
4 of any amount of fuel tax, penalty, fine, or interest over and
5 above the amount shown to be due by reports filed by a
6 licensee except upon an assessment by the department of
7 revenue and finance as authorized in this chapter as soon as
8 practicable but no later than three years after the return is
9 filed. An assessment shall not be made covering a period
10 beyond three years ~~prior to the date of assessment~~ after the
11 return is filed except that the period for the examination and
12 determination of the correct amount of tax is unlimited in the
13 case of a false or fraudulent return made with the intent to
14 evade tax or in the case of a failure to file a return.

15 Sec. 14. Section 452A.71, Code Supplement 1995, is amended
16 to read as follows:

17 452A.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS AND
18 COMPRESSED NATURAL GAS AND LIQUEFIED PETROLEUM GAS DEALERS AND
19 USERS.

20 Except as provided in section 452A.54, ~~any person other~~
21 ~~than~~ a person who has paid or has had charged to the person's
22 account with a distributor, dealer, or user fuel taxes imposed
23 under this chapter with respect to motor fuel or undyed
24 special fuel in excess of one hundred gallons, which is
25 subsequently lost or destroyed, while the person is the owner,
26 through leakage, fire, explosion, lightning, flood, storm, or
27 other casualty, ~~except evaporation, shrinkage, or unknown~~
28 ~~causes, the person~~ shall be entitled to a refund of the tax so
29 paid or charged. To qualify for the refund, the person shall
30 notify the department of revenue and finance in writing of the
31 loss or destruction and the gallonage lost or destroyed within
32 ten days from the date of discovery of the loss or
33 destruction. Within sixty days after filing the notice, the
34 person shall file with the department of revenue and finance
35 an affidavit sworn to by the person having immediate custody

1 of the motor fuel or undyed special fuel at the time of the
2 loss or destruction setting forth in full the circumstances
3 and amount of the loss or destruction and such other
4 information as the department of revenue and finance may
5 require. Any refund payable under this section may be applied
6 by the department against any tax liability outstanding on the
7 books of the department against the claimant.

8 Sec. 15. Section 452A.72, Code 1995, is amended to read as
9 follows:

10 452A.72 REFUND OR CREDIT FOR FUEL TAXES ERRONEOUSLY OR
11 ILLEGALLY COLLECTED OR PAID.

12 If any fuel taxes, penalties, or interest have been
13 erroneously or illegally collected by the appropriate state
14 agency from a licensee, the appropriate state agency may
15 ~~permit the licensee to take credit against a subsequent tax~~
16 ~~return for the amount of the erroneous or illegal overpayment,~~
17 may apply the overpayment against any tax liability
18 outstanding on the books of the department against the
19 claimant, or shall certify the amount to the director of
20 revenue and finance, who shall draw a warrant for the
21 certified amount on the treasurer of state payable to the
22 licensee. The refund shall be paid to the licensee
23 immediately.

24 A refund ~~or credit~~ shall not be made under this section
25 unless a written claim setting forth the circumstances for
26 which the refund ~~or credit~~ should be allowed is filed with the
27 appropriate state agency within one year from the date of the
28 payment of the taxes erroneously or illegally collected or
29 paid.

30 However, if it is found during an examination by the
31 appropriate state agency that a licensee paid, as a result of
32 a mistake, an amount of tax, penalty, or interest which was
33 not due, and the mistake is found within three years of the
34 overpayment, the appropriate state agency shall credit the
35 amount against any penalty, interest or taxes due, ~~or to~~

1 ~~become-due~~, or shall refund the amount to the person.

2 Sec. 16. Section 452A.74, subsections 1 and 6, Code
3 Supplement 1995, are amended to read as follows:

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

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

14 Sec. 17. Section 452A.74, subsection 8, unnumbered
15 paragraph 1, Code Supplement 1996, is amended to read as
16 follows:

17 Any delivery ~~by-a-distributor~~ of compressed natural gas or
18 liquefied petroleum gas to a compressed natural gas or
19 liquefied petroleum gas dealer or user for the purpose of
20 evading the state tax on compressed natural gas or liquefied
21 petroleum gas, into facilities other than those licensed above
22 knowing that the fuel will be used for highway use shall
23 constitute a violation of this section. Any compressed
24 natural gas or liquefied petroleum gas dealer or user for
25 purposes of evading the state tax on compressed natural gas or
26 liquefied petroleum gas, who allows a distributor to place
27 compressed natural gas or liquefied petroleum gas for highway
28 use in facilities other than those licensed above, shall also
29 be deemed in violation of this section.

30 Sec. 18. Section 452A.74A, subsection 2, unnumbered
31 paragraph 1, Code Supplement 1995, is amended to read as
32 follows:

33 A person who ~~illegally~~ imports motor fuel or undyed special
34 fuel without a valid importer's license or supplier's license
35 shall be assessed a civil penalty as provided in this

1 subsection. However, the owner or operator of the importing
2 vehicle shall not be guilty of violating this subsection if it
3 is shown by the owner or operator that the owner or operator
4 reasonably did not know or reasonably should not have known of
5 the illegal importation.

6 Sec. 19. Section 452A.74A, subsection 3, Code Supplement
7 1995, is amended to read as follows:

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

20 Sec. 20. EFFECTIVE DATE. This Act, being deemed of
21 immediate importance, takes effect upon enactment and applies
22 retroactively to January 1, 1996.

23 EXPLANATION

24 The bill makes several corrective changes to the motor fuel
25 tax law that was enacted in House File 552 in 1995 changing
26 the point of taxation.

27 Section 1 corrects an inconsistency between chapters 321
28 and 452A. Section 321.19 states that no tax is imposed on
29 urban transit systems, which is incorrect with the enactment
30 of House File 552. Tax is now imposed on such systems and
31 subject to refund.

32 Section 2 amends the definition of blender to provide that
33 any product blended with gasoline other than grain alcohol
34 will be taxed as gasoline and amends the definition of special
35 fuel to provide that kerosene is not a special fuel, unless

1 blended with other special fuels for use in a motor vehicle
2 with a diesel engine.

3 Section 3 provides that a special fuel dealer also shares
4 in the distribution allowance.

5 Sections 4 and 5 insert the correct reporting period
6 instead of calendar month to reflect that importers pay tax
7 semimonthly rather than monthly.

8 Section 6 removes a provision allowing supplier,
9 restrictive supplier, and importer credits to be applied
10 against tax due.

11 Section 7 corrects a grammatical error.

12 Section 8 provides that motor fuel or undyed special fuel
13 must be sold directly to an exempt entity and used for an
14 exempt purpose to qualify for a refund of tax paid.

15 Section 9 inserts the word "undyed" to provide that the tax
16 on undyed special fuel is subject to refund if used in motor
17 vehicles for natural deposit extraction purposes.

18 Section 10 allows a governmental agency to designate
19 another governmental agency as an agent for purposes of filing
20 and receiving the tax refund.

21 Section 11 inserts the word "not" to provide that no refund
22 is allowable for tax paid on fuel taken out of state in the
23 supply tank of a motor vehicle.

24 Section 12 strikes a reference to credit memorandums which
25 are no longer used by the department of revenue and finance.

26 Section 13 provides that an assessment must be made by the
27 department within three years after a return is filed rather
28 than three years prior to the date of the assessment.

29 Section 14 stipulates who can claim a refund of tax paid on
30 fuel lost as a result of a casualty.

31 Section 15 strikes references to tax credits since the 1995
32 legislative changes provide only for a refund of taxes
33 erroneously paid rather than a credit.

34 Sections 16 and 17 correct an erroneous reference to
35 section when it should have been chapter, corrects two

1 grammatical errors, and deletes an incorrect reference to
2 distributor.

3 Sections 18 and 19 strike the word "illegally" because its
4 use is not appropriate when read in context with the remainder
5 of the sentence, delete the word "credit" because credits are
6 no longer used by the department of revenue and finance, and
7 inserts the word "excess" to clarify that only the excess
8 rather than the entire amount of the claim for refund must be
9 repaid to the department.

10 This bill is effective upon enactment and is retroactive to
11 January 1, 1996.

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S-5084

1 Amend Senate File 2173 as follows:

2 1. Page 4, by inserting after line 33 the
3 following:4 "Sec. ____ . Section 452A.63, unnumbered paragraph
5 1, Code Supplement 1995, is amended to read as
6 follows:

7 All information obtained by the department of
8 revenue and finance or the state department of
9 transportation from the examining of reports or
10 records required to be filed or kept under this
11 chapter shall be treated as confidential and shall not
12 be divulged except to other state officers, a member
13 or members of the general assembly, or any duly
14 appointed committee of either or both houses of the
15 general assembly, or to a representative of the state
16 having some responsibility in connection with the
17 collection of the taxes imposed or in proceedings
18 brought under the provisions of this chapter. The
19 appropriate state agency may make available to the
20 public on or before forty-five days following the last
21 day of the month in which the tax is required to be
22 paid, the names of suppliers, restrictive suppliers,
23 and importers and as to each of them the total gallons
24 of motor fuel, undyed special fuel, and ethanol-
25 blended gasoline withdrawn from terminals or imported
26 into the state during that month. The department of
27 revenue and finance or the state department of
28 transportation, upon request of officials entrusted
29 with enforcement of the motor vehicle fuel tax laws of
30 the federal government or any other state, may forward
31 to such officials any pertinent information which the
32 appropriate state agency may have relative to motor
33 fuel and special fuel provided the officials of the
34 other state furnish like information."

35 2. By renumbering as necessary.

By MARY NEUHAUSER

S-5084 FILED FEBRUARY 19, 1996

Adopted 4/1/96 (p. 1143)

SENATE FILE 2173

S-5098

1 Amend Senate File 2173 as follows:

2 1. Page 3, line 19, by striking the words
3 "dispensed," and inserting the following: "dispensed,
4 including only those pumps located on a farm that are
5 used exclusively for dispensing fuel for highway
6 travel,".

By MERLIN E. BARTZ

S-5098 FILED FEBRUARY 22, 1996

out/ order 4/1/96 (p. 1143)

Newhauser
Connolly
Delaney
Iverson
McLaren

SSB-2078
Ways & Means

Succeeded By
SENATE FILE SF/HF 2173
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON PALMER)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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14 or more special fuel products at a nonterminal location where
15 the tax has not been paid on all of the products blended. The
16 This blend is taxed as a special fuel.

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18 petroleum gas user" means a person licensed by the department
19 who dispenses compressed natural gas or liquefied petroleum
20 gas, upon which the special fuel tax has not been previously
21 paid, for highway use from fuel sources owned and controlled
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25 gases and liquids suitable for the generation of power for
26 propulsion of motor vehicles or turbine-powered aircraft, and
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11 or undyed special fuel withdrawn from the terminal by the
12 licensee ~~within the state~~ during the preceding calendar month
13 or semimonthly period the following ~~deductions~~ deduction shall
14 be made:

15 ~~{1}--The-gallonage-of-motor-fuel-or-undyed-special-fuel~~
16 ~~withdrawn-from-a-terminal-by-a-licensee-and-exported-outside~~
17 ~~Iowa.~~

18 {2} For suppliers only, the one and six-tenths percent of
19 the number of gallons of motor fuel or seven-tenths percent of
20 the number of gallons of undyed special fuel of the invoiced
21 gallons of motor fuel or undyed special fuel withdrawn from a
22 terminal within this state during the preceding calendar
23 month.

24 Sec. 6. Section 452A.8, subsection 2, paragraph c, Code
25 Supplement 1995, is amended to read as follows:

26 c. The tax due under paragraph "b" shall be the amount of
27 fuel tax due from the supplier, restrictive supplier, or
28 importer for the preceding reporting period. The director may
29 require by rule that the payment of taxes by suppliers,
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32 where the eligible purchaser is not required to pay the tax to
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34 is due. ~~Any credit calculated by the supplier, restrictive~~
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2 eligible purchaser is not liable for the tax, upon proper
3 documentation, and may credit the amount of unpaid tax against
4 a later remittance of tax. Under this provision, a supplier
5 does not qualify for a credit if the purchaser did not elect
6 to use the eligible purchaser status, or otherwise does not
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8 credit, the supplier must notify the department of the
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25 "fuel" means compressed natural gas or liquefied petroleum
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27 dealer locations and user locations through which liquefied
28 petroleum gas can be dispensed, shall be metered, inspected,
29 tested for accuracy, and sealed and licensed by the state
30 department of agriculture and land stewardship, and that fuel
31 delivered into the fuel supply tank of any motor vehicle,
32 shall be dispensed only through tested metered pumps and may
33 be sold without temperature correction or corrected to a
34 temperature of sixty degrees. If the metered gallonage is to
35 be temperature-corrected, only a temperature-compensated meter

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25 undyed special fuel as shown in the supporting invoice unless
26 that person designates another person as an agent for purposes
27 of filing and receiving the refund for idle time, power
28 takeoff, reefer units, pumping credits, and transport
29 diversions. A governmental agency may be designated as an
30 agent for another governmental agency for purposes of filing
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16 ~~revenue-and-finance-as-authorized-in-this-chapter~~ as soon as
17 practicable but no later than three years after the return is
18 filed. An assessment shall not be made covering a period
19 beyond three years ~~prior-to-the-date-of-assessment~~ after the
20 return is filed except that the period for the examination and
21 determination of the correct amount of tax is unlimited in the
22 case of a false or fraudulent return made with the intent to
23 evade tax or in the case of a failure to file a return.

24 Sec. 14. Section 452A.71, Code Supplement 1995, is amended
25 to read as follows:

26 452A.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS AND
27 COMPRESSED NATURAL GAS AND LIQUEFIED PETROLEUM GAS DEALERS AND
28 USERS.

29 Except as provided in section 452A.54, ~~any-person-other~~
30 ~~than~~ a person who has paid or has had charged to the person's
31 account with a distributor, dealer, or user fuel taxes imposed
32 under this chapter with respect to motor fuel or undyed
33 special fuel in excess of one hundred gallons, which is
34 subsequently lost or destroyed, while the person is the owner,
35 through leakage, fire, explosion, lightning, flood, storm, or

1 other casualty, except evaporation~~7-shrinkage7~~ or unknown
2 causes, ~~the-person~~ shall be entitled to a refund of the tax so
3 paid or charged. To qualify for the refund, the person shall
4 notify the department of revenue and finance in writing of the
5 loss or destruction and the gallonage lost or destroyed within
6 ten days from the date of discovery of the loss or
7 destruction. Within sixty days after filing the notice, the
8 person shall file with the department of revenue and finance
9 an affidavit sworn to by the person having immediate custody
10 of the motor fuel or undyed special fuel at the time of the
11 loss or destruction setting forth in full the circumstances
12 and amount of the loss or destruction and such other
13 information as the department of revenue and finance may
14 require. Any refund payable under this section may be applied
15 by the department against any tax liability outstanding on the
16 books of the department against the claimant.

17 Sec. 15. Section 452A.72, Code 1995, is amended to read as
18 follows:

19 452A.72 REFUND ~~OR-CREDIT~~ FOR FUEL TAXES ERRONEOUSLY OR
20 ILLEGALLY COLLECTED OR PAID.

21 If any fuel taxes, penalties, or interest have been
22 erroneously or illegally collected by the appropriate state
23 agency from a licensee, the appropriate state agency may
24 ~~permit-the-licensee-to-take-credit-against-a-subsequent-tax~~
25 ~~return-for-the-amount-of-the-erroneous-or-illegal-overpayment7~~
26 may apply the overpayment against any tax liability
27 outstanding on the books of the department against the
28 claimant, or shall certify the amount to the director of
29 revenue and finance, who shall draw a warrant for the
30 certified amount on the treasurer of state payable to the
31 licensee. The refund shall be paid to the licensee
32 immediately.

33 A refund ~~or-credit~~ shall not be made under this section
34 unless a written claim setting forth the circumstances for
35 which the refund ~~or-credit~~ should be allowed is filed with the

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1 appropriate state agency within one year from the date of the
2 payment of the taxes erroneously or illegally collected or
3 paid.

4 However, if it is found during an examination by the
5 appropriate state agency that a licensee paid, as a result of
6 a mistake, an amount of tax, penalty, or interest which was
7 not due, and the mistake is found within three years of the
8 overpayment, the appropriate state agency shall credit the
9 amount against any penalty, interest or taxes due ~~or to~~
10 ~~become due~~, or shall refund the amount to the person.

11 Sec. 16. Section 452A.74, subsections 1 and 6, Code
12 Supplement 1995, are amended to read as follows:

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

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

23 Sec. 17. Section 452A.74, subsection 8, unnumbered
24 paragraph 1, Code Supplement 1996, is amended to read as
25 follows:

26 Any delivery ~~by-a-distributor~~ of compressed natural gas or
27 liquefied petroleum gas to a compressed natural gas or
28 liquefied petroleum gas dealer or user for the purpose of
29 evading the state tax on compressed natural gas or liquefied
30 petroleum gas, into facilities other than those licensed above
31 knowing that the fuel will be used for highway use shall
32 constitute a violation of this section. Any compressed
33 natural gas or liquefied petroleum gas dealer or user for
34 purposes of evading the state tax on compressed natural gas or
35 liquefied petroleum gas, who allows a distributor to place

1 compressed natural gas or liquefied petroleum gas for highway
2 use in facilities other than those licensed above, shall also
3 be deemed in violation of this section.

4 Sec. 18. Section 452A.74A, subsection 2, unnumbered
5 paragraph 1, Code Supplement 1995, is amended to read as
6 follows:

7 A person who ~~illegally~~ imports motor fuel or undyed special
8 fuel without a valid importer's license or supplier's license
9 shall be assessed a civil penalty as provided in this
10 subsection. However, the owner or operator of the importing
11 vehicle shall not be guilty of violating this subsection if it
12 is shown by the owner or operator that the owner or operator
13 reasonably did not know or reasonably should not have known of
14 the illegal importation.

15 Sec. 19. Section 452A.74A, subsection 3, Code Supplement
16 1995, is amended to read as follows:

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

29 Sec. 20. EFFECTIVE DATE. This Act, being deemed of
30 immediate importance, takes effect upon enactment and applies
31 retroactively to January 1, 1996.

32 EXPLANATION

33 The bill makes several corrective changes to the motor fuel
34 tax law that was enacted in House File 552 in 1995 changing
35 the point of taxation.

1 Section 1 corrects an inconsistency between chapters 321
2 and 452A. Section 321.19 states that no tax is imposed on
3 urban transit systems, which is incorrect with the enactment
4 of House File 552. Tax is now imposed on such systems and
5 subject to refund.

6 Section 2 amends the definition of blender to provide that
7 any product blended with gasoline other than grain alcohol
8 will be taxed as gasoline and amends the definition of special
9 fuel to provide that kerosene is not a special fuel, unless
10 blended with other special fuels for use in a motor vehicle
11 with a diesel engine.

12 Section 3 provides that a special fuel dealer also shares
13 in the distribution allowance.

14 Sections 4 and 5 insert the correct reporting period
15 instead of calendar month to reflect that importers pay tax
16 semimonthly rather than monthly.

17 Section 6 removes a provision allowing supplier,
18 restrictive supplier, and importer credits to be applied
19 against tax due.

20 Section 7 corrects a grammatical error.

21 Section 8 provides that motor fuel or undyed special fuel
22 must be sold directly to an exempt entity and used for an
23 exempt purpose to qualify for a refund of tax paid.

24 Section 9 inserts the word "undyed" to provide that the tax
25 on undyed special fuel is subject to refund if used in motor
26 vehicles for natural deposit extraction purposes.

27 Section 10 allows a governmental agency to designate
28 another governmental agency as an agent for purposes of filing
29 and receiving the tax refund.

30 Section 11 inserts the word "not" to provide that no refund
31 is allowable for tax paid on fuel taken out of state in the
32 supply tank of a motor vehicle.

33 Section 12 strikes a reference to credit memorandums which
34 are no longer used by the department of revenue and finance.

35 Section 13 provides that an assessment must be made by the

1 department within three years after a return is filed rather
2 than three years prior to the date of the assessment.

3 Section 14 stipulates who can claim a refund of tax paid on
4 fuel lost as a result of a casualty.

5 Section 15 strikes references to tax credits since the 1995
6 legislative changes provide only for a refund of taxes
7 erroneously paid rather than a credit.

8 Sections 16 and 17 correct an erroneous reference to
9 section when it should have been chapter, corrects two
10 grammatical errors, and deletes an incorrect reference to
11 distributor.

12 Sections 18 and 19 strike the word "illegally" because its
13 use is not appropriate when read in context with the remainder
14 of the sentence, delete the word "credit" because credits are
15 no longer used by the department of revenue and finance, and
16 inserts the word "excess" to clarify that only the excess
17 rather than the entire amount of the claim for refund must be
18 repaid to the department.

19 This bill is effective upon enactment and is retroactive to
20 January 1, 1996.

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