

Senate Study Bill 2078

Conference Committee Text

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1 1 Section 1. Section [321.19](#), subsection 2, unnumbered
1 2 paragraph 3, Code Supplement 1995, is amended to read as
1 3 follows:
1 4

~~Section 452A.3 and chapter~~
~~Chapter 326~~

~~are~~

~~is not~~

1 5 applicable to urban transit companies or systems.
1 6 Sec. 2. Section 452A.2, subsections 2, 15, and 21, Code
1 7 Supplement 1995, are amended to read as follows:

1 8 2. "Blender" means a person who owns and blends alcohol
1 9 with gasoline to produce ethanol blended gasoline and blends
1 10 the product at a nonterminal location. The blender is not
1 11 restricted to blending alcohol with gasoline. Products
1 12 blended with gasoline other than grain alcohol are

~~treated and~~

1 13 taxed as gasoline. "Blender" also means a person blending two
1 14 or more special fuel products at a nonterminal location where
1 15 the tax has not been paid on all of the products blended.

~~The~~

1 16 This blend is taxed as a special fuel.
1 17 15. "Licensed compressed natural gas and liquefied
1 18 petroleum gas user" means a person licensed by the department
1 19 who dispenses compressed natural gas or liquefied petroleum
1 20 gas, upon which the special fuel tax has not been previously
1 21 paid, for highway use from fuel sources owned and controlled
1 22 by the person into the fuel supply tank of a motor vehicle, or
1 23 commercial vehicle owned or controlled by the person.
1 24 21. "Special fuel" means fuel oils and all combustible
1 25 gases and liquids suitable for the generation of power for
1 26 propulsion of motor vehicles or turbine-powered aircraft, and
1 27 includes any substance used for that purpose, except that it
1 28 does not include motor fuel. Kerosene shall not be considered
1 29 to be a special fuel, unless blended with other special fuels
1 30 for use in a motor vehicle with a diesel engine.

1 31 Sec. 3. Section 452A.5, unnumbered paragraph 2, Code
1 32 Supplement 1995, is amended to read as follows:

1 33 The distribution allowance shall be prorated between the
1 34 supplier and the distributor or dealer as follows:

1 35 Sec. 4. Section [452A.8](#), subsection 2, unnumbered paragraph
2 1 1, Code Supplement 1995, is amended to read as follows:

2 2 At the time of filing

~~of~~

~~a report, a supplier~~

~~or~~

2 3 restrictive supplier

~~, or importer~~

- shall pay to the department

2 4 the full amount of the fuel tax due for the preceding calendar
2 5 month. An importer shall pay to the department the full
2 6 amount of fuel tax due for the preceding semimonthly period.
2 7 The tax shall be computed as follows:

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

2 10 a. From the total number of invoiced gallons of motor fuel
2 11 or undyed special fuel withdrawn from the terminal by the
2 12 licensee

~~within the state~~

- during the preceding calendar month

2 13 or semimonthly period the following

~~deductions~~

- deduction shall

2 14 be made:

2 15

~~(1) The gallonage of motor fuel or undyed special fuel~~

2 16

~~withdrawn from a terminal by a licensee and exported outside~~

2 17

~~Iowa.~~

2 18

~~(2)~~

- For suppliers only, the one and six-tenths percent of

2 19 the number of gallons of motor fuel or seven-tenths percent of
2 20 the number of gallons of undyed special fuel of the invoiced
2 21 gallons of motor fuel or undyed special fuel withdrawn from a
2 22 terminal within this state during the preceding calendar
2 23 month.

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

2 26 c. The tax due under paragraph "b" shall be the amount of
2 27 fuel tax due from the supplier, restrictive supplier, or
2 28 importer for the preceding reporting period. The director may
2 29 require by rule that the payment of taxes by suppliers,
2 30 restrictive suppliers, and importers be made by electronic
2 31 funds transfer. The director may allow a tax float by rule
2 32 where the eligible purchaser is not required to pay the tax to
2 33 the supplier until one business day prior to the date the tax
2 34 is due.

~~Any credit calculated by the supplier, restrictive~~

2 35

~~supplier, or importer may be applied against the amount due.~~

3 1 A licensed supplier who is unable to recover the tax from an
3 2 eligible purchaser is not liable for the tax, upon proper
3 3 documentation, and may credit the amount of unpaid tax against
3 4 a later remittance of tax. Under this provision, a supplier
3 5 does not qualify for a credit if the purchaser did not elect
3 6 to use the eligible purchaser status, or otherwise does not
3 7 qualify to be an eligible purchaser. To qualify for the
3 8 credit, the supplier must notify the department of the

3 9 uncollectible account no later than ten calendar days after
3 10 the due date for payment of the tax. If a supplier sells
3 11 additional motor fuel or undyed special fuel to a delinquent
3 12 eligible purchaser after notifying the department that the
3 13 supplier has an uncollectible debt with that eligible
3 14 purchaser, the limited liability provision does not apply to
3 15 the additional fuel. The supplier is liable for tax collected
3 16 from the purchaser.

3 17 Sec. 7. Section 452A.8, subsection 2, paragraph e,
3 18 unnumbered paragraph 2, Code Supplement 1995, is amended to
3 19 read as follows:

3 20 The department shall adopt rules governing the dispensing
3 21 of compressed natural gas and liquefied petroleum gas by
3 22 licensed dealers and licensed users. For purposes of this
3 23 paragraph, "dealer" and "user" mean a licensed compressed
3 24 natural gas or liquefied petroleum gas dealer or user and
3 25 "fuel" means compressed natural gas or liquefied petroleum
3 26 gas. The department shall require that all pumps located at
3 27 dealer locations and user locations through which liquefied
3 28 petroleum gas can be dispensed

~~7~~
- shall be metered, inspected,

3 29 tested for accuracy, and sealed and licensed by the state
3 30 department of agriculture and land stewardship, and that fuel
3 31 delivered into the fuel supply tank of any motor vehicle,
3 32 shall be dispensed only through tested metered pumps and may
3 33 be sold without temperature correction or corrected to a
3 34 temperature of sixty degrees. If the metered gallonage is to
3 35 be temperature-corrected, only a temperature-compensated meter
4 1 shall be used. Natural gas used as fuel shall be delivered
4 2 into compressing equipment through sealed meters certified for
4 3 accuracy by the department of agriculture and land
4 4 stewardship.

4 5 Sec. 8. Section 452A.17, subsection 1, paragraph a,
4 6 unnumbered paragraph 1, Code Supplement 1995, is amended to
4 7 read as follows:

4 8 The refund is allowable for motor fuel or undyed special
4 9 fuel sold directly to

~~or~~
- and used for the following:

4 10 Sec. 9. Section 452A.17, subsection 1, paragraph a,
4 11 subparagraph (8), Code Supplement 1995, is amended to read as
4 12 follows:

4 13 (8) For motor fuel or undyed special fuel placed in motor
4 14 vehicles and used, other than on a public highway, in the
4 15 extraction and processing of natural deposits, without regard
4 16 to whether the motor vehicle was registered under section
4 17 321.18. An applicant under this subparagraph shall maintain
4 18 adequate records for a period of three years beyond the date
4 19 of the claim.

4 20 Sec. 10. Section 452A.17, subsection 1, paragraph b,
4 21 subparagraph (7), Code Supplement 1995, is amended to read as
4 22 follows:

4 23 (7) Claim shall be made by and the amount of the refund
4 24 shall be paid to the person who purchased the motor fuel or
4 25 undyed special fuel as shown in the supporting invoice unless
4 26 that person designates another person as an agent for purposes
4 27 of filing and receiving the refund for idle time, power
4 28 takeoff, reefer units, pumping credits, and transport
4 29 diversions. A governmental agency may be designated as an
4 30 agent for another governmental agency for purposes of filing
4 31 and receiving the refund under this section.

4 32 Sec. 11. Section 452A.17, subsection 3, paragraph b, Code
4 33 Supplement 1995, is amended to read as follows:

4 34 b. A refund shall not be paid with respect to any motor

4 35 fuel or undyed special fuel taken out of this state in supply
5 1 tanks of watercraft, aircraft, or motor vehicles.
5 2 Sec. 12. Section 452A.21, unnumbered paragraph 3, Code
5 3 Supplement 1995, is amended to read as follows:
5 4 A refund

~~or credit memorandum will~~
~~shall~~ not be issued

5 5 unless the claim is filed within ninety days following the end
5 6 of the month during which the ethanol blended gasoline was
5 7 actually blended.

5 8 Sec. 13. Section [452A.67](#), Code 1995, is amended to read as
5 9 follows:

5 10 452A.67 LIMITATION ON COLLECTION PROCEEDINGS.

5 11

~~An action or other proceeding shall not be maintained to~~

5 12 The department shall examine the return and enforce collection
5 13 of any amount of

~~fuel~~

~~tax, penalty, fine, or interest over and~~
5 14 above the amount shown to be due by reports filed by a
5 15 licensee

~~except upon an assessment by the department of~~

5 16

~~revenue and finance as authorized in this chapter~~

~~as soon as~~

5 17 practicable but no later than three years after the return is
5 18 filed. An assessment shall not be made covering a period
5 19 beyond three years

~~prior to the date of assessment~~

~~after the~~

5 20 return is filed except that the period for the examination and
5 21 determination of the correct amount of tax is unlimited in the
5 22 case of a false or fraudulent return made with the intent to
5 23 evade tax or in the case of a failure to file a return.

5 24 Sec. 14. Section [452A.71](#), Code Supplement 1995, is amended
5 25 to read as follows:

5 26 452A.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS AND

5 27 COMPRESSED NATURAL GAS AND LIQUEFIED PETROLEUM GAS DEALERS AND
5 28 USERS.

5 29 Except as provided in section 452A.54,

~~any person other~~

5 30

~~than~~

~~a person who has paid or has had charged to the person's~~
5 31 account with a distributor, dealer, or user fuel taxes imposed
5 32 under this chapter with respect to motor fuel or undyed
5 33 special fuel in excess of one hundred gallons, which is
5 34 subsequently lost or destroyed, while the person is the owner,
5 35 through leakage, fire, explosion, lightning, flood, storm, or
6 1 other casualty, except evaporation

~~, shrinkage,~~

~~or unknown~~

6 2 causes,

~~the person~~

- shall be entitled to a refund of the tax so
6 3 paid or charged. To qualify for the refund, the person shall
6 4 notify the department of revenue and finance in writing of the
6 5 loss or destruction and the gallonage lost or destroyed within
6 6 ten days from the date of discovery of the loss or
6 7 destruction. Within sixty days after filing the notice, the
6 8 person shall file with the department of revenue and finance
6 9 an affidavit sworn to by the person having immediate custody
6 10 of the motor fuel or undyed special fuel at the time of the
6 11 loss or destruction setting forth in full the circumstances
6 12 and amount of the loss or destruction and such other
6 13 information as the department of revenue and finance may
6 14 require. Any refund payable under this section may be applied
6 15 by the department against any tax liability outstanding on the
6 16 books of the department against the claimant.
6 17 Sec. 15. Section [452A.72](#), Code 1995, is amended to read as
6 18 follows:
6 19 452A.72 REFUND

~~OR CREDIT~~

- FOR FUEL TAXES ERRONEOUSLY OR
6 20 ILLEGALLY COLLECTED OR PAID.
6 21 If any fuel taxes, penalties, or interest have been
6 22 erroneously or illegally collected by the appropriate state
6 23 agency from a licensee, the appropriate state agency may
6 24

~~permit the licensee to take credit against a subsequent tax~~

-
6 25

~~return for the amount of the erroneous or illegal overpayment,~~

-
6 26

~~may~~

- apply the overpayment against any tax liability
6 27 outstanding on the books of the department against the
6 28 claimant, or shall certify the amount to the director of
6 29 revenue and finance, who shall draw a warrant for the
6 30 certified amount on the treasurer of state payable to the
6 31 licensee. The refund shall be paid to the licensee
6 32 immediately.
6 33 A refund

~~or credit~~

- shall not be made under this section
6 34 unless a written claim setting forth the circumstances for
6 35 which the refund

~~or credit~~

- should be allowed is filed with the
7 1 appropriate state agency within one year from the date of the
7 2 payment of the taxes erroneously or illegally collected or
7 3 paid.
7 4 However, if it is found during an examination by the
7 5 appropriate state agency that a licensee paid, as a result of
7 6 a mistake, an amount of tax, penalty, or interest which was
7 7 not due, and the mistake is found within three years of the
7 8 overpayment, the appropriate state agency shall credit the
7 9 amount against any penalty, interest or taxes due

~~, or to~~

-
7 10

~~become due,~~

- or shall refund the amount to the person.

7 11 Sec. 16. Section 452A.74, subsections 1 and 6, Code

7 12 Supplement 1995, are amended to read as follows:

7 13 1. For any person to knowingly fail, neglect, or refuse to

7 14 make any required return or statement or pay over fuel taxes

7 15 required under this

~~section~~

- ~~chapter.~~

7 16 6. For any person to use motor fuel, undyed special fuel,

7 17 or

~~illegal use of~~

- dyed special fuel in the fuel supply tank of

7 18 a vehicle with respect to which the person knowingly has not

7 19 paid or had charged to the person's account with a distributor

7 20 or dealer, or with respect to which the person does not,

7 21 within the time required in this chapter, report and pay the

7 22 applicable fuel tax.

7 23 Sec. 17. Section [452A.74](#), subsection 8, unnumbered

7 24 paragraph 1, Code Supplement 1996, is amended to read as

7 25 follows:

7 26 Any delivery

~~by a distributor~~

- of compressed natural gas or

7 27 liquefied petroleum gas to a compressed natural gas or

7 28 liquefied petroleum gas dealer or user for the purpose of

7 29 evading the state tax on compressed natural gas or liquefied

7 30 petroleum gas, into facilities other than those licensed above

7 31 knowing that the fuel will be used for highway use shall

7 32 constitute a violation of this section. Any compressed

7 33 natural gas or liquefied petroleum gas dealer or user for

7 34 purposes of evading the state tax on compressed natural gas or

7 35 liquefied petroleum gas, who allows a distributor to place

8 1 compressed natural gas or liquefied petroleum gas for highway

8 2 use in facilities other than those licensed above, shall also

8 3 be deemed in violation of this section.

8 4 Sec. 18. Section [452A.74A](#), subsection 2, unnumbered

8 5 paragraph 1, Code Supplement 1995, is amended to read as

8 6 follows:

8 7 A person who

~~illegally~~

- imports motor fuel or undyed special

8 8 fuel without a valid importer's license or supplier's license

8 9 shall be assessed a civil penalty as provided in this

8 10 subsection. However, the owner or operator of the importing

8 11 vehicle shall not be guilty of violating this subsection if it

8 12 is shown by the owner or operator that the owner or operator

8 13 reasonably did not know or reasonably should not have known of

8 14 the illegal importation.

8 15 Sec. 19. Section 452A.74A, subsection 3, Code Supplement

8 16 1995, is amended to read as follows:

8 17 3. IMPROPER RECEIPT OF FUEL

~~CREDIT OR~~

- REFUND. If a person

8 18 files an incorrect refund claim, in addition to the excess

8 19 amount of the claim, a penalty of ten percent shall be added

8 20 to the amount by which the amount claimed and refunded exceeds

8 21 the amount actually due and shall be paid to the department.

8 22 If a person knowingly files a fraudulent refund claim with the

8 23 intent to evade the tax, the penalty shall be seventy-five

8 24 percent in lieu of the ten percent. The person shall also pay

8 25 interest on the excess refunded at the rate per month

8 26 specified in section 421.7, counting each fraction of a month

8 27 as an entire month, computed from the date the refund was
8 28 issued to the date the excess refund is repaid to the state.
8 29 Sec. 20. EFFECTIVE DATE. This Act, being deemed of
8 30 immediate importance, takes effect upon enactment and applies
8 31 retroactively to January 1, 1996.

8 32 EXPLANATION

8 33 The bill makes several corrective changes to the motor fuel
8 34 tax law that was enacted in House File 552 in 1995 changing
8 35 the point of taxation.

9 1 Section 1 corrects an inconsistency between chapters 321
9 2 and 452A. Section 321.19 states that no tax is imposed on
9 3 urban transit systems, which is incorrect with the enactment
9 4 of House File 552. Tax is now imposed on such systems and
9 5 subject to refund.

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

9 12 Section 3 provides that a special fuel dealer also shares
9 13 in the distribution allowance.

9 14 Sections 4 and 5 insert the correct reporting period
9 15 instead of calendar month to reflect that importers pay tax
9 16 semimonthly rather than monthly.

9 17 Section 6 removes a provision allowing supplier,
9 18 restrictive supplier, and importer credits to be applied
9 19 against tax due.

9 20 Section 7 corrects a grammatical error.

9 21 Section 8 provides that motor fuel or undyed special fuel
9 22 must be sold directly to an exempt entity and used for an
9 23 exempt purpose to qualify for a refund of tax paid.

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

9 27 Section 10 allows a governmental agency to designate
9 28 another governmental agency as an agent for purposes of filing
9 29 and receiving the tax refund.

9 30 Section 11 inserts the word "not" to provide that no refund
9 31 is allowable for tax paid on fuel taken out of state in the
9 32 supply tank of a motor vehicle.

9 33 Section 12 strikes a reference to credit memorandums which
9 34 are no longer used by the department of revenue and finance.

9 35 Section 13 provides that an assessment must be made by the
10 1 department within three years after a return is filed rather
10 2 than three years prior to the date of the assessment.

10 3 Section 14 stipulates who can claim a refund of tax paid on
10 4 fuel lost as a result of a casualty.

10 5 Section 15 strikes references to tax credits since the 1995
10 6 legislative changes provide only for a refund of taxes
10 7 erroneously paid rather than a credit.

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

10 12 Sections 18 and 19 strike the word "illegally" because its
10 13 use is not appropriate when read in context with the remainder
10 14 of the sentence, delete the word "credit" because credits are
10 15 no longer used by the department of revenue and finance, and
10 16 inserts the word "excess" to clarify that only the excess
10 17 rather than the entire amount of the claim for refund must be
10 18 repaid to the department.

10 19 This bill is effective upon enactment and is retroactive to
10 20 January 1, 1996.

10 21 LSB 3771SC 76

