HOUSE FILE 767
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 725)
(SUCCESSOR TO HSB 197)

(As Amended and Passed by the House April 17, 2019)
* = Language Stricken by the House

A BILL FOR

An Act relating to motor vehicle taxes and fees, including registration fees for certain electric vehicles, an excise tax on hydrogen used as special fuel, and an excise tax on electricity used as electric fuel, providing penalties, making penalties applicable, and including effective date provisions.

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

DIVISION I

REGISTRATION FEES FOR ELECTRIC VEHICLES

Section 1. NEW SECTION. **321.116 Battery electric and plug-in hybrid electric motor vehicle fees.**

1. For each battery electric motor vehicle subject to an annual registration fee under section 321.109, subsection 1, paragraph *"a"*, and operated on the public highways of this state, the owner shall pay an annual battery electric motor vehicle registration fee, which shall be in addition to the annual registration fee imposed for the vehicle under section 321.109, subsection 1, paragraph *"a"*. For purposes of this subsection, *"battery electric motor vehicle"* means a motor vehicle equipped with electrical drivetrain components and not equipped with an internal combustion engine, that is propelled exclusively by one or more electrical motors using electrical energy stored in a battery or other energy storage device that can be recharged by plugging into an electrical outlet or electric vehicle charging station. The amount of the fee shall be as follows:

a. For the period beginning January 1, 2020, and ending December 31, 2020, sixty-five dollars.

b. For the period beginning January 1, 2021, and ending December 31, 2021, ninety-seven dollars and fifty cents.

c. On or after January 1, 2022, one hundred thirty dollars.

2. For each plug-in hybrid electric motor vehicle subject to an annual registration fee under section 321.109, subsection 1, paragraph *"a"*, and operated on the public highways of this state, the owner shall pay an annual plug-in hybrid electric motor vehicle registration fee, which shall be in addition to the annual registration fee imposed for the vehicle under section 321.109, subsection 1, paragraph *"a"*. For purposes of this subsection, *"plug-in hybrid electric motor vehicle"* means a motor vehicle equipped with electrical drivetrain components, an internal combustion engine, and a battery or other energy storage device that can be recharged by plugging into an

electrical outlet or electric vehicle charging station. The amount of the fee shall be as follows:

a. For the period beginning January 1, 2020, and ending December 31, 2020, thirty-two dollars and fifty cents.

b. For the period beginning January 1, 2021, and ending December 31, 2021, forty-eight dollars and seventy-five cents.

c. On or after January 1, 2022, sixty-five dollars.

Sec. 2. Section 321.117, Code 2019, is amended to read as follows:

321.117 Motorcycle, autocycle, ambulance, and hearse fees.

1. For all motorcycles and autocycles the annual registration fee shall be twenty dollars. For all motorized bicycles the annual registration fee shall be seven dollars. When the motorcycle or autocycle is more than five model years old, the annual registration fee shall be ten dollars. The annual registration fee for ambulances and hearses shall be fifty dollars. Passenger car plates shall be issued for ambulances and hearses.

2. In addition to the fee required for a motorcycle under subsection 1, the owner of a motorcycle that is a battery electric motor vehicle or plug-in hybrid electric motor vehicle, as those terms are defined in section 321.116, shall pay an annual electric motorcycle registration fee. The amount of the fee shall be as follows:

a. For the period beginning January 1, 2020, and ending December 31, 2020, four dollars and fifty cents.

b. For the period beginning January 1, 2021, and ending December 31, 2021, six dollars and seventy-five cents.

c. On or after January 1, 2022, nine dollars.

Sec. 3. EFFECTIVE DATE. This division of this Act takes effect January 1, 2020.

DIVISION II

HYDROGEN FUEL EXCISE TAX

Sec. 4. Section 452A.2, Code 2019, is amended by adding the following new subsection:

NEW SUBSECTION. 20A. *"Fuel supply tank"*, with respect to motor vehicles that use hydrogen as a special fuel, means a motor vehicle's hydrogen fuel cells.

Sec. 5. Section 452A.2, subsection 21, Code 2019, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c. "Gallon"*, with respect to hydrogen, means a diesel gallon equivalent. A diesel gallon equivalent of hydrogen is two and forty-nine hundredths pounds.

Sec. 6. Section 452A.2, subsections 25, 26, 39, and 45, Code 2019, are amended to read as follows:

25. *"Licensed compressed natural gas, liquefied natural gas, ~~and~~ liquefied petroleum gas, and hydrogen dealer"* means a person in the business of handling untaxed compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen who delivers any part of the fuel into a fuel supply tank of any motor vehicle.

26. *"Licensed compressed natural gas, liquefied natural gas, ~~and~~ liquefied petroleum gas, and hydrogen user"* means a person licensed by the department who dispenses compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen, upon which the special fuel tax has not been previously paid, for highway use from fuel sources owned and controlled by the person into the fuel supply tank of a motor vehicle, or commercial vehicle owned or controlled by the person.

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

or intended for use in combination with oxygen to generate electricity for propulsion of a motor vehicle.

45. *"Use"*, with respect to liquefied petroleum gas, means the receipt, delivery, or placing of liquefied petroleum gas by a licensed liquefied petroleum gas user into a fuel supply tank of a motor vehicle while the vehicle is in the state~~, except that with~~. With respect to natural gas used as a special fuel, *"use"* means the receipt, delivery, or placing of the natural gas into equipment for compressing the gas for subsequent delivery into the fuel supply tank of a motor vehicle while the vehicle is in the state. With respect to hydrogen used as a special fuel, *"use"* means the receipt, delivery, or placing of hydrogen by a licensed hydrogen user into a fuel supply tank of a motor vehicle while the vehicle is in the state.

Sec. 7. Section 452A.3, Code 2019, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. For hydrogen used as a special fuel, the rate of tax is sixty-five cents per gallon.

Sec. 8. Section 452A.4, subsection 1, paragraph d, Code 2019, is amended to read as follows:

d. A dealer's or user's license shall be required for each separate place of business or location where compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen is delivered or placed into the fuel supply tank of a motor vehicle.

Sec. 9. Section 452A.8, subsection 2, paragraph e, subparagraphs (1), (2), and (3), Code 2019, are amended to read as follows:

(1) For purposes of this paragraph *"e"*, *"dealer"* or *"user"* means a licensed compressed natural gas, liquefied natural gas, ~~and~~ liquefied petroleum gas, and hydrogen dealer or user and *"fuel"* means compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen.

(2) The tax for compressed natural gas, liquefied natural gas, ~~and~~ liquefied petroleum gas, and hydrogen delivered by

a licensed dealer for use in this state shall attach at the time of the delivery and shall be collected by the dealer from the purchaser and paid to the department as provided in this chapter. The tax, with respect to compressed natural gas, liquefied natural gas, ~~and~~ liquefied petroleum gas, and hydrogen acquired by a purchaser in any manner other than by delivery by a licensed dealer into a fuel supply tank of a motor vehicle, attaches at the time of the use of the fuel and shall be paid over to the department by the purchaser as provided in this chapter.

(3) The department shall adopt rules governing the dispensing of compressed natural gas, liquefied natural gas, ~~and~~ liquefied petroleum gas, and hydrogen by licensed dealers and licensed users. The director may require by rule that reports and returns be filed by electronic transmission. The department shall require that all pumps located at dealer locations and user locations through which liquefied petroleum gas can be dispensed shall be metered, inspected, tested for accuracy, and sealed and licensed by the department of agriculture and land stewardship, and that fuel delivered into the fuel supply tank of any motor vehicle shall be dispensed only through tested metered pumps and may be sold without temperature correction or corrected to a temperature of 60 degrees Fahrenheit. If the metered gallonage is to be temperature-corrected, only a temperature-compensated meter shall be used. Natural gas used as fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship. Hydrogen used as fuel shall be delivered into the fuel supply tank of any motor vehicle through sealed meters certified for accuracy by the department of agriculture and land stewardship. The department of agriculture and land stewardship may adopt rules pursuant to chapter 17A relating to the certification and accuracy of meters used to deliver hydrogen.

Sec. 10. Section 452A.60, subsection 1, Code 2019, is

amended to read as follows:

1. The department of revenue or the state department of transportation shall prescribe and furnish all forms, as applicable, upon which reports, returns, and applications shall be made and claims for refund presented under this chapter and may prescribe forms of record to be kept by suppliers, restrictive suppliers, importers, exporters, blenders, common carriers, contract carriers, licensed compressed natural gas, liquefied natural gas, ~~and~~ liquefied petroleum gas, and hydrogen dealers and users, terminal operators, nonterminal storage facility operations, and interstate commercial motor vehicle operators.

Sec. 11. Section 452A.62, subsection 1, paragraph a, subparagraph (2), Code 2019, is amended to read as follows:

(2) A licensed compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen dealer, user, or person supplying compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen to a licensed compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen dealer or user.

Sec. 12. Section 452A.62, subsection 1, paragraph b, Code 2019, is amended to read as follows:

b. To examine the records, books, papers, receipts, and invoices of any distributor, supplier, restrictive supplier, importer, blender, exporter, terminal operator, nonterminal storage facility, licensed compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen dealer or user, or any other person who possesses fuel upon which the tax has not been paid to determine financial responsibility for the payment of the taxes imposed by this chapter.

Sec. 13. Section 452A.74, subsection 1, paragraphs e and g, Code 2019, are amended to read as follows:

e. For any person to act as a supplier, restrictive supplier, importer, exporter, blender, or compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or

hydrogen dealer or user without the required license.

g. For any licensed compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen dealer or user to dispense compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen into the fuel supply tank of any motor vehicle without collecting the fuel tax.

Sec. 14. Section 452A.74, subsection 2, Code 2019, is amended to read as follows:

2. Any delivery of compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen to a compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen dealer or user for the purpose of evading the state tax on compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen, into facilities other than those licensed under this chapter knowing that the fuel will be used for highway use shall constitute a violation of this section. Any compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen dealer or user for purposes of evading the state tax on compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen, who allows a distributor to place compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen for highway use in facilities other than those licensed under this chapter, shall also be deemed in violation of this section.

Sec. 15. Section 452A.85, subsection 1, Code 2019, is amended to read as follows:

1. Persons having title to motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen in storage and held for sale on the effective date of an increase in the excise tax rate imposed on motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen under this chapter shall be subject to an inventory

tax based upon the gallonage in storage as of the close of the business day preceding the effective date of the increased excise tax rate of motor fuel, ethanol blended gasoline, undyed special fuel, compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen which will be subject to the increased excise tax rate.

Sec. 16. Section 452A.86, Code 2019, is amended to read as follows:

452A.86 Method of determining gallonage.

The exclusive method of determining gallonage of any purchases or sales of motor fuel, undyed special fuel, or liquefied petroleum gas as defined in this chapter and distillate fuels shall be on a gross volume basis, except for compressed natural gas, ~~and~~ liquefied natural gas, and hydrogen. The exclusive method of determining gallonage of any purchases or sales of compressed natural gas is the gasoline gallon equivalent, as defined in section 452A.2, subsection 21. The exclusive method of determining gallonage of any purchase or sale of liquefied natural gas is the diesel gallon equivalent, as defined in section 452A.2, subsection 21. The exclusive method of determining gallonage of any purchases or sales of hydrogen is the diesel gallon equivalent, as defined in section 452A.2, subsection 21. A temperature-adjusted or other method shall not be used, except as it applies to liquefied petroleum gas and the sale or exchange of petroleum products between petroleum refiners. All invoices, bills of lading, or other records of sale or purchase and all returns or records required to be made, kept, and maintained by a supplier, restrictive supplier, importer, exporter, blender, or compressed natural gas, liquefied natural gas, ~~or~~ liquefied petroleum gas, or hydrogen dealer or user shall be made, kept, and maintained on the gross volume basis. For purposes of this section, *"distillate fuels"* means any fuel oil, gas oil, topped crude oil, or other petroleum oils derived by refining or processing crude oil or unfinished oils which have a boiling

range at atmospheric pressure which falls completely or in part between 550 and 1,200 degrees Fahrenheit.

Sec. 17. EFFECTIVE DATE. This division of this Act takes effect January 1, 2020.

DIVISION III

ELECTRIC FUEL EXCISE TAX

Sec. 18. Section 312.2, subsection 9, Code 2019, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c.* From the excise tax on electric fuel imposed under the tax rate of section 452A.41, the amount of excise tax collected from fifteen hundredths of one cent per kilowatt hour.

Sec. 19. Section 312.2, subsection 10, Code 2019, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c.* From the excise tax on electric fuel imposed under the tax rate of section 452A.41, the amount of excise tax collected from two hundredths of one cent per kilowatt hour.

Sec. 20. Section 423.3, subsection 56, Code 2019, is amended to read as follows:

56. The sales price from the sale of motor fuel, ~~and~~ special fuel, and electric fuel consumed for highway use or in watercraft or aircraft where the fuel tax has been imposed and paid and no refund has been or will be allowed and the sales price from the sales of ethanol blended gasoline, as defined in section 214A.1.

Sec. 21. Section 423B.5, subsection 1, Code 2019, is amended to read as follows:

1. A local sales and services tax may be imposed by a county on the sales price taxed by the state under chapter 423, subchapter II. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any

property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel, ~~or~~ special fuel, or electric fuel, as those terms are defined in chapter 452A, which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the sale of equipment by the state department of transportation, or on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy is subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those cities and unincorporated areas of the county where it is imposed, which transactions include but are not limited to sales sourced pursuant to section 423.15, 423.17, 423.19, or 423.20, to a location within that city or unincorporated area of the county. The tax shall be collected by all persons required to collect state sales taxes. However, a local sales and services tax is not applicable to transactions sourced under chapter 423 to a place of business, as defined in section 423.1, of a retailer if such place of business is located in part within a city or unincorporated area of the county where the tax is not imposed.

Sec. 22. Section 423E.3, subsection 1, Code 2019, is amended to read as follows:

1. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel, ~~or~~ special fuel, or electric fuel, as those terms are defined in chapter 452A, which is consumed for highway use or in watercraft or aircraft if the fuel tax

is paid on the transaction and a refund has not or will not be allowed, on the sales price from the sale of equipment by the state department of transportation, or on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy is subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

Sec. 23. NEW SECTION. **452A.40 Definitions.**

As used in this subchapter, unless the context otherwise requires:

1. *"Department"* means the department of revenue.

2. *"Electric fuel"* means electrical energy delivered or placed into the battery or other energy storage device of an electric motor vehicle from a source outside the motor vehicle for purposes of propelling the motor vehicle. *"Electric fuel"* shall be deemed motor vehicle fuel for purposes of Article VII, section 8, of the Constitution of the State of Iowa.

3. *"Electric motor vehicle"* means a motor vehicle equipped with electrical drivetrain components that has the ability to be propelled, fully or partially, by one or more electrical motors using electrical energy stored in a battery or other energy storage device that can be recharged by plugging into an electrical outlet or electric vehicle charging station.

4. *"Licensed electric fuel dealer"* means a person licensed by the department who owns an electric vehicle charging station that dispenses electric fuel, upon which the electric fuel tax has not been previously paid, for highway use into the battery or other energy storage device of an electric motor vehicle in this state at a location other than a residence.

5. *"Licensed electric fuel user"* means a person licensed by the department who dispenses electric fuel, upon which the electric fuel tax has not been previously paid, for highway use from a charging station owned and controlled by the person into the battery or other energy storage device of an electric motor

vehicle owned or controlled by the person in this state at a location other than a residence.

6. *"Residence"* means the place where a person resides, permanently or temporarily.

7. *"Use"* means the receipt, delivery, or placing of electric fuel by a licensed electric fuel user into the battery or other energy storage device of an electric motor vehicle owned or controlled by the user in this state at a location other than a residence.

Sec. 24. NEW SECTION. **452A.41 Levy and collection of excise tax on electric fuel.**

1. An excise tax of two and six-tenths cents is imposed on each kilowatt hour of electric fuel delivered or placed into the battery or other energy storage device of an electric motor vehicle at a location in this state other than a residence.

2. The tax for electric fuel delivered by a licensed electric fuel dealer for use in this state shall attach at the time of the delivery and shall be paid to the department by the licensed electric fuel dealer in a manner prescribed by the department. The tax for electric fuel used by a licensed electric fuel user shall attach at the time of the use of the fuel and shall be paid to the department by the licensed electric fuel user in a manner prescribed by the department.

3. The department shall adopt rules governing the dispensing of electric fuel by licensed dealers and users. The director may require by rule that reports and returns be filed by electronic transmission. The department may require by rule that all charging stations located at dealer and user locations through which electric fuel can be dispensed be tested for accuracy.

4. *a.* For the purpose of determining the amount of liability for the electric fuel tax, each dealer and user shall file with the department not later than July 31 for the period beginning January 1 and ending June 30, and not later than January 30 for the period beginning July 1 and ending December

30, a biannual tax return certified under penalties for false certification. The return shall show, with reference to each location at which fuel is delivered or placed by the dealer or user into the battery or other energy storage device of any electric motor vehicle during the next preceding six calendar months, information as required by the department. On and after January 1, 2026, the department may require by rule that such tax returns be filed quarterly.

b. The amount of tax due shall be computed by multiplying the appropriate tax rate per kilowatt hour by the number of kilowatt hours of electric fuel delivered or placed by the dealer or user into the batteries or other energy storage devices of electric motor vehicles.

c. The return shall be accompanied by remittance in the amount of the tax due for the determination period in which the fuel was placed into the batteries or other energy storage devices of electric motor vehicles.

5. Moneys collected under this subchapter by a licensed electric fuel dealer or user are deemed to be held in trust for the state of Iowa.

6. This subchapter shall not be construed to require a public utility, as defined in section 476.1, to collect the excise tax on electric fuel or to install a separate electric utility meter or otherwise use utility equipment for purposes related to the excise tax on electric fuel, unless the public utility is a licensed electric fuel dealer or licensed electric fuel user.

Sec. 25. NEW SECTION. **452A.42 Electric fuel dealer's and user's license.**

1. A person shall not sell or dispense electric fuel within this state at a location other than a residence or otherwise act as a licensed electric fuel dealer or user unless the person holds an uncanceled license issued by the department. The holder of an electric fuel dealer's license is authorized to sell and dispense electric fuel, measured in kilowatt hours,

to consumers. The holder of an electric fuel user's license is authorized to dispense electric fuel, measured in kilowatt hours, into the batteries or other energy storage devices of electric motor vehicles owned or controlled by the holder.

2. To procure a license, a person shall file with the department an application signed under penalty for false certificate setting forth all of the following:

a. The name under which the licensee will transact business in this state.

b. The location, with street number address, of the principal office or place of business of the licensee within this state.

c. The name and complete residence address of the owner or the names and addresses of the partners, if the licensee is a partnership, or the names and addresses of the principal officers, if the licensee is a corporation or association.

3. A dealer's or user's license shall be required for each separate place of business or location, other than a residence, where electric fuel is delivered or placed into the battery or other energy storage device of an electric motor vehicle.

4. *a.* The department may deny the issuance of a license to an applicant who is substantially delinquent in the payment of a tax due, or the interest or penalty on the tax, administered by the department. If the applicant is a partnership, a license may be denied if a partner owes any delinquent tax, interest, or penalty. If the applicant is a corporation, a license may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, interest, or penalty of the applicant corporation.

b. The department may deny the issuance of a license if an application for a license to transact business as a dealer or user in this state is filed by a person whose license or registration has been canceled for cause at any time under the provisions of this chapter or any prior motor fuel tax law, if

the department has reason to believe that the application is not filed in good faith, or if the application is filed by some person as a subterfuge for the real person in interest whose license or registration has been canceled for cause under the provisions of this chapter or any prior motor fuel tax law. The applicant shall be given fifteen days' notice in writing of the date of the hearing and shall have the right to appear in person or by counsel and present testimony.

5. *a.* The application in proper form having been accepted for filing, and the other conditions and requirements of this section and subchapter IV having been complied with, the department shall issue to the applicant a license to transact business as an electric fuel dealer or user in this state. The license shall remain in full force and effect until canceled as provided in this chapter.

b. The license shall not be assignable and shall be valid only for the licensee in whose name it is issued.

c. The department shall keep and file all applications and bonds and a record of all licensees.

Sec. 26. NEW SECTION. **452A.43 Records.**

1. A licensed electric fuel dealer or user shall maintain, for a period of three years, records of all transactions by which the dealer or user dispenses electric fuel into the batteries or other energy storage devices of electric motor vehicles, including pertinent records and papers as required by the department.

2. If in the normal conduct of a dealer's or user's business the records are maintained and kept at an office outside this state, the records shall be made available for audit and examination by the department at the office outside this state, but the audit and examination shall be without expense to this state.

3. The department, after an audit and examination of records required to be maintained under this section, may authorize their disposal upon the written request of the dealer or user.

Sec. 27. NEW SECTION. **452A.44 Refunds.**

1. A person who uses electric fuel for any of the nontaxable purposes set forth in section 452A.17, subsection 1, paragraph *"a"*, for motor fuel and undyed special fuel, and who has paid the electric fuel tax either directly to the department or by having the tax added to the price of the fuel, and who has a refund permit, upon presentation to and approval by the department of a claim for refund, subject to the conditions set forth in section 452A.17, subsection 1, paragraph *"b"*, shall be reimbursed and repaid the amount of the tax which the claimant has paid on the kilowatt hours so used, except that the amount of a refund payable may be applied by the department against any tax liability outstanding on the books of the department against the claimant. Refunds under this section are subject to the limitations and requirements set forth in section 452A.17, subsection 3, for motor fuel and undyed special fuel refunds.

2. A person shall not claim a refund under this section until the person has obtained a refund permit meeting the requirements of section 452A.18 from the department. The department may revoke a refund permit pursuant to section 452A.19.

3. Tax collected on electric fuel that is not taxable, or tax collected in excess of the actual amount of tax due, is subject to section 452A.22.

Sec. 28. Section 452A.52, Code 2019, is amended to read as follows:

452A.52 Fuels imported ~~in supply tanks of motor vehicles~~ — applicability.

1. *a.* ~~No~~ A person shall not bring into this state in the fuel supply tanks of a commercial motor vehicle, or any other container, regardless of whether ~~or not~~ the supply tanks are connected to the motor of the vehicle, any motor fuel or special fuel to be used in the operation of the vehicle in this state unless that person has paid or made arrangements in

advance with the state department of transportation for payment of Iowa fuel taxes on the gallonage consumed in operating the vehicle in this state~~; except that this subchapter shall not apply to a private passenger automobile~~.

b. A person shall not bring into this state in the batteries or other energy storage devices of a commercial motor vehicle, or any other energy storage device, regardless of whether the batteries or storage devices are connected to the motor of the vehicle, any electric fuel to be used in the operation of the vehicle in this state unless that person has paid or made arrangements in advance with the state department of transportation for payment of Iowa fuel taxes on the kilowatt hours consumed in operating the vehicle in this state.

2. Any person who is unable to display either of the permits or the license provided in section 452A.53 and brings into the state in the fuel supply tanks of a commercial motor vehicle more than thirty gallons of motor fuel or special fuel, or brings into the state in the batteries or other energy storage devices of a commercial motor vehicle more than three hundred fifty kilowatt hours of electric fuel, in violation of subsection 1 commits a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 13, paragraph *"c"*.

3. This subchapter shall not apply to a private passenger automobile.

Sec. 29. Section 452A.53, subsections 2, 3, and 5, Code 2019, are amended to read as follows:

2. Persons choosing not to make advance arrangements with the state department of transportation by procuring a permit or license are not relieved of their responsibility to purchase motor fuel, ~~and~~ special fuel, and electric fuel commensurate with their use of the state's highway system. When there is reasonable cause to believe that there is evasion of the fuel tax on commercial motor vehicles, the state department of transportation may audit persons not holding a permit

or license. Audits shall be conducted pursuant to section 452A.55 and in accordance with international fuel tax agreement guidelines. The state department of transportation shall collect all taxes due and refund any overpayment.

3. A permanent international fuel tax agreement permit or license may be obtained upon application to the state department of transportation. A fee of ten dollars shall be charged for each permit or license issued. The holder of a permanent permit or license shall have the privilege of bringing into this state in the fuel supply tanks of commercial motor vehicles any amount of motor fuel or special fuel, or in the batteries or other energy storage devices of commercial motor vehicles any amount of electric fuel, to be used in the operation of the vehicles and for that privilege shall pay Iowa ~~motor~~ fuel ~~or special fuel~~ taxes as provided in section 452A.54.

5. Each vehicle operated into or through Iowa in interstate operations using motor fuel, ~~or~~ special fuel, or electric fuel acquired in any other state shall carry in or on the vehicle a duplicate or evidence of the permit or license required in this section. A fee not to exceed fifty cents shall be charged for each duplicate or other evidence of a permit or license issued.

Sec. 30. Section 452A.54, subsections 1, 2, and 4, Code 2019, are amended to read as follows:

1. Fuel tax liability under this subchapter shall be computed on the total number of gallons of each kind of motor fuel and special fuel, and the total number of kilowatt hours of electric fuel, consumed in the operation in Iowa by commercial motor vehicles subject to this subchapter at the same rate for each kind of fuel as would be applicable if taxed under subchapter I ~~of this chapter~~ and section 452A.41. A refund against the fuel tax liability so computed shall be allowed, on excess Iowa ~~motor~~ fuel purchased, in the amount of fuel tax paid at the prevailing rate per gallon set out under subchapter I ~~of this chapter~~ on motor fuel and special

fuel, and rate per kilowatt hour set out under section 452A.41 on electric fuel, consumed by commercial motor vehicles, the operation of which is subject to this subchapter.

2. Notwithstanding any provision of this chapter to the contrary, except as provided in this section, the holder of a permanent international fuel tax agreement permit or license may make application to the state department of transportation for a refund, not later than the last day of the third 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 452A.8, or electric fuel was reported as provided in section 452A.41, 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, or electric fuel purchased in excess of the amount consumed by such commercial motor vehicles in their operation on the highways of this state.

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

Failure to receive a quarterly report or fuel credentials by mail, facsimile transmission, or any other means of delivery does not relieve a person from the person's fuel tax liability or from the requirement to display current fuel credentials.

Sec. 31. Section 452A.57, subsections 3, 5, and 8, Code 2019, are amended to read as follows:

3. *"Commercial motor vehicle"* means a passenger vehicle that has seats for more than nine passengers in addition to the driver, any road tractor, any truck tractor, or any truck having two or more axles which passenger vehicle, road tractor, truck tractor, or truck is propelled on the public highways by ~~either~~ motor fuel, ~~or~~ special fuel, or electric fuel. *"Commercial motor vehicle"* does not include a motor truck with a combined gross weight of less than twenty-six thousand pounds, operated as a part of an identifiable one-way fleet and which is leased for less than thirty days to a lessee for the purpose of moving property which is not owned by the lessor.

5. *"Fuel taxes"* means the per gallon and per kilowatt excise taxes imposed under subchapters I and III ~~of this chapter~~, and section 452A.41, with respect to motor fuel, ~~and~~ undyed special fuel, and electric fuel.

8. *"Motor vehicle"* shall mean and include all vehicles, except those operated on rails, which are propelled by internal combustion engines or electric motors and are of such design as to permit their mobile use on public highways for transporting persons or property. A farm tractor while operated on a farm or for the purpose of hauling farm machinery, equipment, or produce shall not be deemed to be a motor vehicle. *"Motor vehicle"* shall not include *"mobile machinery and equipment"* as defined in this section.

Sec. 32. Section 452A.58, subsection 2, Code 2019, is amended to read as follows:

2. A lessor of a commercial motor vehicle shall be deemed a carrier with respect to such vehicles leased to others by the lessor and motor fuel, ~~or~~ special fuel, or electric fuel

consumed thereby if the lessor supplies or pays for the motor fuel, ~~or~~ special fuel, or electric fuel consumed by such vehicle or makes rental or other charges calculated to include the cost of such fuel.

Sec. 33. Section 452A.59, Code 2019, is amended to read as follows:

452A.59 Administrative rules.

The department of revenue and the state department of transportation are authorized and empowered to adopt rules under chapter 17A, relating to the administration and enforcement of this chapter as deemed necessary by the departments. However, when in the opinion of the director it is necessary for the efficient administration of this chapter, the director may regard persons in possession of motor fuel, special fuel, biofuel, alcohol, or alcohol derivative substances as blenders, dealers, eligible purchasers, exporters, importers, restrictive suppliers, suppliers, terminal operators, or nonterminal storage facility operators, or persons in possession of electric fuel as electric fuel dealers or users.

Sec. 34. Section 452A.60, subsection 1, Code 2019, is amended to read as follows:

1. The department of revenue or the state department of transportation shall prescribe and furnish all forms, as applicable, upon which reports, returns, and applications shall be made and claims for refund presented under this chapter and may prescribe forms of record to be kept by suppliers, restrictive suppliers, importers, exporters, blenders, common carriers, contract carriers, licensed compressed natural gas, liquefied natural gas, and liquefied petroleum gas dealers and users, licensed electric fuel dealers and users, terminal operators, nonterminal storage facility operations, and interstate commercial motor vehicle operators.

Sec. 35. Section 452A.62, subsection 1, paragraph a, Code 2019, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) A licensed electric fuel dealer or user or person supplying electric fuel to a licensed electric fuel dealer or user.

Sec. 36. Section 452A.62, subsection 1, paragraph b, Code 2019, is amended to read as follows:

b. To examine the records, books, papers, receipts, and invoices of any distributor, supplier, restrictive supplier, importer, blender, exporter, terminal operator, nonterminal storage facility, licensed compressed natural gas, liquefied natural gas, or liquefied petroleum gas dealer or user, licensed electric fuel dealer or user, or any other person who possesses fuel upon which the tax has not been paid to determine financial responsibility for the payment of the taxes imposed by this chapter.

Sec. 37. Section 452A.63, subsection 1, Code 2019, is amended to read as follows:

1. All information obtained by the department of revenue or the state department of transportation from the examining of reports, returns, or records required to be filed or kept under this chapter shall be treated as confidential and shall not be divulged except to other state officers, a member or members of the general assembly, or any duly appointed committee of either or both houses of the general assembly, or to a representative of the state having some responsibility in connection with the collection of the taxes imposed or in proceedings brought under this chapter. The appropriate state agency may make available to the public on or before forty-five days following the last day of the month in which the tax is required to be paid, the names of suppliers, restrictive suppliers, and importers and as to each of them the total gallons of motor fuel, undyed special fuel, and ethanol blended gasoline withdrawn from terminals or imported into the state during that month. The department of revenue or the state department of transportation, upon request of officials entrusted with enforcement of the motor fuel tax laws of the federal government or any other state, may

forward to these officials any pertinent information which the appropriate state agency may have relative to motor fuel, ~~and~~ special fuel, and electric fuel, provided the officials of the other state furnish like information.

Sec. 38. Section 452A.73, Code 2019, is amended to read as follows:

452A.73 Embezzlement of fuel tax money — penalty.

Every sale of motor fuel in this state, ~~and~~ every sale of undyed special fuel dispensed by the seller into a fuel supply tank of a motor vehicle, and every sale of electric fuel dispensed by the seller into the battery or other energy storage device of an electric motor vehicle shall, unless otherwise provided, be presumed to include as a part of the purchase price the fuel tax due the state of Iowa under the provisions of this chapter. Every person collecting fuel tax money as part of the selling price of motor fuel, ~~or~~ undyed special fuel, or electric fuel shall hold the tax money in trust for the state of Iowa unless the fuel tax on the fuel has been previously paid to the state of Iowa. Any person receiving fuel tax money in trust and failing to remit it to the department of revenue on or before time required shall be guilty of theft.

Sec. 39. Section 452A.74, subsection 1, paragraphs c, e, and f, Code 2019, are amended to read as follows:

c. For any seller to issue or any purchaser to receive and retain any incorrect or false invoice or sales ticket in connection with the sale or purchase of motor fuel, ~~or~~ undyed special fuel, or electric fuel.

e. For any person to act as a supplier, restrictive supplier, importer, exporter, blender, ~~or~~ compressed natural gas, liquefied natural gas, or liquefied petroleum gas dealer or user, or electric fuel dealer or user without the required license.

f. For any person to use motor fuel, undyed special fuel, or dyed special fuel in the fuel supply tank of a vehicle, or

electric fuel in the battery or other energy storage device of an electric vehicle, with respect to which the person knowingly has not paid or had charged to the person's account with a distributor or dealer, or with respect to which the person does not, within the time required in this chapter, report and pay the applicable fuel tax.

Sec. 40. Section 452A.74, subsection 1, Code 2019, is amended by adding the following new paragraph:

NEW PARAGRAPH. *h.* For any licensed electric fuel dealer or user to dispense electric fuel into the battery or other energy storage device of any electric motor vehicle without collecting the fuel tax.

Sec. 41. Section 452A.76, subsection 2, Code 2019, is amended to read as follows:

2. Authority is given to the department of revenue, the state department of transportation, the department of public safety, and any peace officer as requested by such departments to enforce the provisions of subchapter I, sections 452A.40 through 452A.44, and this subchapter ~~of this chapter~~. The department of revenue shall adopt rules providing for enforcement under subchapter I and this subchapter ~~of this chapter~~ regarding the use of motor fuel or special fuel in implements of husbandry. Enforcement personnel or requested peace officers are authorized to stop a conveyance suspected to be illegally transporting motor fuel or special fuel on the highways, to investigate the cargo, and also have the authority to inspect or test the fuel in the supply tank of a conveyance to determine if legal fuel is being used to power the conveyance. The operator of any vehicle transporting motor fuel or special fuel shall, upon request, produce and offer for inspection the manifest or loading and delivery invoices pertaining to the load and trip in question and shall permit the authority to inspect and measure the contents of the vehicle. If the vehicle operator fails to produce the evidence or if, when produced, the evidence fails to contain

the required information and it appears that there is an attempt to evade payment of the fuel tax, the vehicle operator will be subject to the penalty provisions contained in section 452A.74A.

Sec. 42. Section 452A.78, Code 2019, is amended to read as follows:

452A.78 Other remedies available.

The special remedies provided under the provisions of this chapter to enable the state to collect ~~motor~~ a fuel excise tax imposed by this chapter shall not be construed as depriving the state of any other remedy it might have either at law or in equity independent of this chapter. The state shall have the right to maintain an action at law for the collection of said taxes required to be paid herein and in connection therewith shall be entitled to a writ of attachment without bond.

Sec. 43. Section 452A.79, Code 2019, is amended to read as follows:

452A.79 Use of revenue.

Except as provided in sections 452A.79A, 452A.82, and 452A.84, the net proceeds of the excise tax on ~~the~~ diesel special fuel, ~~and~~ the excise tax on motor fuel and other special fuel, the excise tax on electric fuel, and penalties collected under the provision of this chapter, shall be credited to the road use tax fund.

Sec. 44. Section 452A.80, Code 2019, is amended to read as follows:

452A.80 Microfilm or photographic copies — originals destroyed.

The appropriate state agency shall have the power and authority to record, copy, or reproduce by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original of any forms or records pertaining to ~~motor~~ a fuel tax ~~or undyed special fuel tax~~ imposed by this chapter, or any paper or document with

respect to refund of the tax. If the forms and records have been reproduced in accordance with this section, the state agency may destroy the originals and the reproductions shall be competent evidence in any court in accordance with the provision of section 622.30.

Sec. 45. CODE EDITOR DIRECTIVE. The Code editor shall designate sections 452A.40 through 452A.44, as enacted by this division of this Act, as a new subchapter within chapter 452A, and may redesignate the new and preexisting subchapters, replace references to sections 452A.40 through 452A.44 with references to the new subchapter, and correct internal references as necessary, including references in subchapter headnotes.

Sec. 46. EFFECTIVE DATE. This division of this Act takes effect July 1, 2023.