

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five thousand thirty-eight and fourteen hun-
 2 dredths (5038.14), Code, 1939, is hereby amended by striking the word
 3 "appeared" in line 2 and inserting in lieu thereof the following, "en-
 4 tered a general appearance".

1 SEC. 2. Section five thousand thirty-eight and two hundredths
 2 (5038.02), Code, 1939, is amended by adding thereto a new sub-section
 3 as follows: "The executor or administrator of the estate of the owner
 4 or operator of the motor vehicle."

Approved March 11, 1941.

CHAPTER 180

MOTOR VEHICLE FUEL TAX

S. F. 469

AN ACT to amend chapter 251.2, Code, 1939, relating to motor vehicle fuel taxes, and the collection of such taxes on liquified gas used in motor vehicles, and providing penalties for violation of said chapter.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Paragraph "4" of section 5093.02, Code, 1939, is amend-
 2 ed by striking the words "and bensol" at the end of said paragraph and
 3 substituting in lieu thereof the following: ", bensol and liquified gas."

1 SEC. 2. Section 5093.02, Code, 1939, is amended by adding thereto
 2 the following paragraphs:

3 "17. The term 'liquified gas distributor' shall mean any person de-
 4 fined as a distributor in paragraph (1) of this section engaged in
 5 distributing liquified gas, provided that any person not engaged in
 6 business in the state who would come within the definition, if he was
 7 engaged in business within this state, may become licensed as a
 8 liquified gas distributor under this chapter in the same manner as
 9 though he was engaged in business within the state, except that sales
 10 made by such a distributor to persons in the State of Iowa shall be
 11 construed as importations made by the distributor and the distributor
 12 shall report such sales in detail to the treasurer on forms prescribed
 13 or approved by the treasurer.

14 "18. The term 'liquified gas dealer' shall mean any person, other
 15 than a liquified gas distributor, who is licensed to sell liquified gas for
 16 use in operation by combustion in any internal combustion engine of
 17 the type used in automobiles, trucks, airplanes, motor boats, tractors
 18 or other mechanical contrivances which are propelled by their own
 19 power, as well as sales for other purposes.

20 "19. The term 'liquified gas retailer' shall mean any person other
 21 than a licensed liquified gas dealer or a liquified gas distributor who
 22 sells liquified gas at retail only for uses other than the uses provided
 23 in paragraph (4) of this section, and as such is permitted to sell same to
 24 purchasers tax free.

25 "20. The term 'liquified gas motor fuel user' shall mean any person
26 a resident of, or having a place of business in, the State of Iowa, who
27 uses liquified gas for any of the purposes set out in paragraph (4) of
28 this section. Any person engaged in carrying out a construction con-
29 tract of any kind in the State of Iowa shall for the purposes of this
30 chapter be deemed to have a place of business in the state where such
31 contract is being carried out.

1 SEC. 2a. Section 5093.03 is amended by adding thereto the follow-
2 ing:

3 "No person shall sell liquified gas within the state of Iowa for any
4 purpose except said person be licensed under this chapter as a dis-
5 tributor, a liquified gas distributor, a liquified gas dealer, or a liquified
6 gas retailer."

1 SEC. 3. Section 5093.04, Code, 1939, is amended by inserting after
2 the word "oil" in line fifteen (15) the words "and liquified gas;" said
3 section is further amended by substituting a comma (,) for the period
4 (.) following the word "thereof" in line thirty-three (33) of said
5 section, and adding thereafter the following:

6 "provided that payment of the tax to the state of Iowa on liquified
7 gas shall be made in the manner provided for in this chapter for the
8 payment and collection of the tax on liquified gas. Liquified gas sold
9 for any purpose other than the purposes set out in paragraph 4 of
10 section 5093.02 may be sold tax free, provided that on sales for the
11 purposes set out in paragraph 4 of section 5093.02 the amount of the
12 tax shall be collected from the purchaser along with the selling price
13 thereof."

1 SEC. 4. Section 5093.05, Code, 1939, is amended by adding thereto
2 the following:

3 "Every distributor licensed under the provisions of this chapter as
4 a distributor may engage in the business as a liquified gas distributor
5 and shall be subject to all the provisions of this chapter relating to
6 distribution of liquified gas. It shall be unlawful for any person who
7 is not a distributor licensed under this chapter to engage in business
8 as a liquified gas distributor in this state without first procuring a
9 liquified gas distributor's license. All the provisions of this chapter
10 relating to distributors shall apply to liquified gas distributors except
11 as modified by this act.

12 "It shall be unlawful for any person to engage in business as a
13 liquified gas dealer without first having procured a liquified gas
14 dealer's license.

15 Every person desiring to engage in business as a liquified gas dealer
16 shall make under oath an application for a license therefor to the
17 treasurer on forms prescribed by him. The treasurer, if convinced
18 by the showing made in the application, or from any investigation he
19 may make, that the applicant is of good moral character, and is actually
20 engaged, or about to engage in business as a liquified gas dealer, shall
21 issue a license without fee. Every holder of such a license shall keep
22 a record of receipts and sales of liquified gas on forms prescribed or
23 approved by the treasurer, and preserve said records for a period of
24 three years, which records shall be open to the inspection of the
25 treasurer or his agents or employees."

1 SEC. 5. Section 5093.06, Code, 1939, is amended by inserting after
2 the word "distributor" in line three (3) of said section, the words "or
3 liquified gas distributor".

1 SEC. 6. Section 5093.07, Code, 1939, is amended by inserting after
2 the word "distributor's" in line three (3) of said section, the words
3 "or liquified gas distributor's".

1 SEC. 7. Section 5093.08, Code, 1939, is amended by adding to said
2 section the following:

3 "The provisions of this section shall apply to and govern each
4 liquified gas distributor. In additions each liquified gas distributor
5 shall keep a record of all sales of liquified gas for all purposes and show-
6 ing all sales of liquified gas for use in automobiles, trucks, airplanes,
7 motor boats, tractors, and/or other mechanical contrivances which
8 are propelled by their own power, the said record to show the date of
9 sale, and the name and address of person to whom sold."

1 SEC. 8. Section 5093.09, Code, 1939, is amended by adding to said
2 section the following:

3 "The provisions of this section shall apply to liquified gas dis-
4 tributors, except as hereinafter provided. Liquified gas distributors
5 shall also report under oath on forms prescribed and furnished by the
6 treasurer, the total number of gallons of liquified gas imported from
7 outside the state, and also the total number of gallons of liquified gas
8 produced, refined, manufactured, blended or compounded within the
9 state, and the date thereof, and the place where such processing occur-
10 red, and the materials used therein, and the date of sale, name and
11 address of the preson to whom sold, and the quantity in gallons of all
12 liquified gas sold or used by the liquified gas distributor, for use in
13 automobiles, trucks, airplanes, motor boats, tractors and/or other
14 mechanical contrivances which are propelled by their own power, dur-
15 ing the preceding calendar month. At the same time each liquified
16 gas distributor shall remit to the treasurer the amount of the license
17 fees on the liquified gas sold or used by him, for use in automobiles,
18 trucks, airplanes, motor boats, tractors, and/or other mechanical con-
19 trivances propelled by their own power, and on the liquified gas sold by
20 him to liquified gas dealers.

1 SEC. 9. Section 5093.14 is amended by adding the following para-
2 graph:

3 "Every person desiring to engage in business as a liquified gas re-
4 tailer shall make under oath, an application for license therefor to the
5 treasurer on forms prescribed by him, and in which the applicant shall
6 agree not to sell liquified gas either alone or in combination with other
7 substances as motor vehicle fuel or sell same for resale and report to
8 the treasurer promptly any sales when the amounts or circumstances
9 are such as to arouse suspicion that liquified gas has been purchased
10 for use as motor vehicle fuel. The treasurer, if convinced by the show-
11 ing made in the application or from any investigation he may make
12 that the applicant is of good moral character and is actually engaged
13 or about to engage, in business as a liquified gas retailer, shall issue a
14 permit without fee. Every holder of a permit as a liquified gas retailer
15 shall keep a record of receipts and sales of liquified gas sales on forms

16 prescribed by the treasurer, and shall preserve said records for a period
17 of three years, which records shall be open to the inspection of the
18 treasurer, or his agents and employees.

19 Liquefied gas dealers and liquefied gas retailers shall purchase
20 liquefied gas only from distributors licensed under this chapter to
21 distribute liquefied gas. Sales by distributors to liquefied gas dealers
22 shall be made with the amount of the tax added; sales to liquefied gas
23 retailers shall be made tax free.

1 SEC. 10. Section 5093.18, Code, 1939, is amended by adding thereto
2 the following paragraph:

3 "The decision of the Treasurer of State as to whether any motor
4 vehicle fuel is liquid or is liquefied gas for the purpose of determining
5 the collection of the taxes imposed by this chapter shall be conclusive.
6 When a determination has been made as to whether a particular motor
7 vehicle fuel is liquid or is liquefied gas payment of the tax on the basis
8 of said determination shall thereby fully and completely satisfy liability
9 for the tax. Provided, that this shall not prevent any proceeding to
10 collect tax on motor vehicle fuel on which the tax was not paid and
11 which was used in the State of Iowa for any of the purposes set out
12 in paragraph "4" of section 5093.02."

1 SEC. 11. Section 5093.19, Code, 1939, is amended by adding to said
2 section the following:

3 "Every vehicle or conveyance using liquefied gas as a fuel for the
4 purpose of propelling said vehicle or conveyance shall be equipped with
5 a liquefied gas fuel tank separate from and in no way connected with
6 any cargo tank on any such vehicle or conveyance, or on any truck,
7 trailer or semi-trailer, and it shall be unlawful for any vehicle or con-
8 veyance, while in operation, to use liquefied gas as a fuel from cargo
9 or transport tanks, trailers, or semi-trailer containers connected with
10 said vehicle or conveyance; a violation of this provision shall be a
11 misdemeanor on the part of either the operator or the owner, and
12 punishable by a fine of not more than two hundred (\$200.00) dollars
13 or imprisonment in the county jail for not more than thirty (30) days."

1 SEC. 12. Section 5093.31, Code, 1939, is amended by inserting after
2 the paragraph numbered eleven (11), the following:

3 "12. For any person to use liquefied gas for any of the purposes set
4 out in paragraph 4 of section 5093.02 without paying the tax.

5 "13. For any person to sell or use liquefied gas for any of the pur-
6 poses set out in paragraph 4 of section 5093.02 without collecting the
7 tax.

8 "14. For any person other than the holder of a license as a distri-
9 butor, liquefied gas distributor, liquefied gas dealer, or liquefied gas
10 retailer, to sell liquefied gas for any purpose.

1 SEC. 13. Section 5093.31, Code, 1939, is amended by inserting after
2 the last sentence in said section, the following paragraph:

3 "Any person who makes a false affidavit, whenever an affidavit is
4 required by this chapter or required under any rule or regulation made
5 by the treasurer, or required or provided on any form prescribed by the
6 treasurer shall be punished by imprisonment in the penitentiary for
7 not more than one year, or by imprisonment in the county jail for such

8 term as the court may determine, not exceeding six months, or by a
9 fine of not more than two thousand (\$2000.00) dollars, or by such
10 combination of either imprisonment and fine as the court may deter-
11 mine."

1 SEC. 14. Section 5093.36, Code, 1939, is amended and revised to
2 read as follows:

3 "Rules, Regulations and Approval of Forms. The Treasurer is
4 authorized and empowered to make such reasonable rules and regula-
5 tions relating to the administration and enforcement of this chapter,
6 as he may deem reasonable. Such rules and regulations shall be ef-
7 fective 30 days after one publication in a daily newspaper published in
8 the State of Iowa, certificate of publication to be filed in the office
9 of the Treasurer.

10 "Whenever in this chapter the Treasurer is authorized to prescribe
11 the form of record to be kept, he may in lieu thereof approve the form
12 of record being kept, and shall so approve such form of record where
13 it furnishes in reasonably accessible form the information which the
14 Treasurer desires, and substantially complies with the prescribed
15 form."

1 SEC. 15. Chapter 251.3, Code, 1939, is amended by adding thereto
2 the following section:

3 "5093.40. Every liquified motor fuel user shall annually before
4 January 1st register with the Treasurer on forms prescribed and
5 provided by him every automobile, truck, airplane, motor boat, tractor
6 or other mechanical contrivance owned by him and used by him for
7 the purpose of propelling same. Upon registration of same the Treas-
8 urer shall issue a serially numbered certificate which shall be carried
9 on the windshield, or if there is no windshield, in a prominent place in
10 the compartment occupied by the operator. A failure to so register
11 shall constitute a misdemeanor punishable by fine of not more than
12 one hundred (\$100.00) dollars, or imprisonment in the county jail for
13 not more than thirty (30) days."

1 SEC. 16. Section 5093.29, Code, 1939, is amended by adding to said
2 section, the following:

3 "A liquified gas dealer shall be entitled to refund of the tax on all
4 sales made by him for purposes other than the purposes set out in
5 paragraph 4 of section 5093.02. Application for such refund shall be
6 made within two months of sale, under oath on forms prescribed by the
7 treasurer.

8 "Any person licensed under this chapter to sell liquified gas who
9 uses liquified gas for any of the purposes set out in paragraph 4 of
10 section 5093.02 shall keep a record of all liquified gas so used by him
11 on records prescribed by the Treasurer."

Approved May 5, 1941.