

CHAPTER 1149
RAILROAD TAXATION

S. F. 2184

AN ACT relating to railroads, making an appropriation and providing penalties for violations.

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

Section 1. NEW SECTION. DEFINITIONS. As used in this Act unless the context otherwise requires:

1. "Car company" means freight line and equipment car companies.
2. "Company" means a sole proprietorship, partnership, limited partnership, corporation or other business entity.
3. "Freight line company" means a company engaged in the business of operating cars not otherwise listed for taxation or taxed in this state for the transportation of freight over any railway line located within this state, if such line is not owned, leased or operated by such company.
4. "Equipment car company" means every company engaged in the business of furnishing or leasing cars to be used in the operation of any railway line located within this state, if such line is not owned, leased or operated by such company and the cars are not otherwise listed for taxation in this state.
5. "Car" means all railroad cars whether termed box, flat, coal, ore, tank, gondola, refrigerator or another name.
6. "Director" means the director of revenue.
7. "Department" means the department of revenue.
8. "Railway" means companies subject to taxation under chapter four hundred thirty-four (434) of the Code.
9. "Miles" or "mileage" means loaded miles of each railroad car whether in intrastate or in interstate commerce traveled in or through the state.
10. "Base year" means the calendar year immediately preceding the year in which the tax return is required to be filed under this Act.

Sec. 2. NEW SECTION. TAX IMPOSED. A tax is hereby imposed on the mileage of freight line and equipment car companies at a rate of one and one-fourth cent per mile and shall apply to all mileage traveled in or through this state during the base year. The cars of the car companies subject to this

tax shall not be subject to a property tax, nor shall the rental of such cars be subject to any sales or use tax.

Sec. 3. NEW SECTION. RETURNS. Each car company subject to taxation under this Act shall annually file a return on or before the first Monday in June. The return shall include a true and accurate statement of the miles traveled in or through this state during the base year on railway lines not owned or operated by the car company. The return shall also include the following:

1. The name of the car company.
2. The nature of the company and its business.
3. The address of the individual to be contacted concerning the return.
4. The railroad company for which the Iowa miles were traveled.
5. An attestation as to the accuracy of the return.

Sec. 4. NEW SECTION. PAYMENT OF TAX. The tax due shall be paid in full and shall accompany the return required to be filed by section three (3) of this Act. If payment does not accompany the return or payment is not in the amount shown due and payable on the return, the company shall be subject to interest at the rate of three-fourths of one percent per month or fraction thereof on the balance due.

Sec. 5. NEW SECTION. PENALTY. In case of failure to file a return with the department on or before the due date, unless it is shown that such failure was due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return five percent of the amount of such tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate. If any person fails to remit the tax due with the filing of the return on or before the due date, or fails to pay the total amount of the tax due as shown on the return, there shall be added to the tax a penalty of five percent of the tax due unless it is shown that such failure was due to reasonable cause. In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty above provided, there shall be added to the amount required to be shown as tax on such return fifty percent of the amount of such tax. When penalties are applicable for failure to file a return and failure to pay the tax due or required on

the return, the penalty provision for failure to file shall be in lieu of the penalty provision for failure to pay the tax due or required on the return except in the case of willful failure to file a return and willfully filing of a false return with intent to evade tax.

Sec. 6. NEW SECTION. DETERMINATION OF TAX DUE--LIMITATION. The department shall have three years from the time the return was filed or after the return became due, including any extensions of time for filing, whichever time is the later, to audit the return and determine its accuracy. If it is shown by the audit that additional tax is due, interest at the rate of three-fourths of one percent per month or fraction thereof shall be added to the additional tax shown to be due.

The period for determination of tax due shall be unlimited in the case of a false or fraudulent return with intent to evade tax or in the case of failure to file a return.

If it is shown that an overpayment was made, interest at the rate of three-fourths of one percent per month or fraction thereof shall be added to the overpayment with interest commencing sixty days after the date of payment.

The railway companies, submitting mileage pertaining to the car companies subject to the tax imposed by this Act, shall make available, at the department's request, their books or records to ascertain the correct mileage.

Car companies submitting returns under this Act shall also make available, at the department's request, their books or records to ascertain the correct mileage.

Sec. 7. NEW SECTION. REFUNDS. If any tax, penalty or interest has been paid which was not due under the provisions of this Act, then such amount plus any interest imposed as a result of section six (6) of this Act shall be credited against any tax due or to become due under this Act from the car company which made the erroneous payment or shall be refunded to such car company by the department. A claim for refund or credit that has not been filed with the department within three years after the tax payment upon which a refund or credit is claimed became due or one year after such tax payment was made, whichever time is the later, shall not be allowed by the director.

***Sec. 8. NEW SECTION. DEPOSIT OF FUNDS. All revenues collected from the tax imposed under this Act shall be credited to the railroad assistance fund established pursuant to section three hundred twenty-seven H point eighteen (327H.18) of the Code. All taxes paid after the due date, including penalty

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and interest shall also be credited to the railroad assistance fund except as otherwise provided in this section. All moneys refunded under the provisions of this Act shall be paid from the railroad assistance fund. There is appropriated from the general fund of the state to the railroad assistance fund for the fiscal year beginning July 1, 1978 and for each succeeding fiscal year the sum of one million seven hundred thousand (1,700,000) dollars. If the revenues collected, including interest and penalties, less any refunds made for taxes payable on or before the first Monday of June of the preceding fiscal year exceed eight hundred thousand (800,000) dollars such excess, not to exceed the amount of the appropriation made under this section, shall be transferred to the general fund of the state.***

Sec. 9. NEW SECTION. STATUTES APPLICABLE TO TAX. All the provisions of section four hundred twenty-two point twenty-six (422.26), as amended by Acts of the Sixty-seventh General Assembly, 1977 Session, chapter one hundred twenty-one (121), section one (1), and sections four hundred twenty-two point twenty-eight (422.28) to four hundred twenty-two point thirty (422.30) of the Code, consistent with the provisions of this Act, shall be applicable to car companies subject to the tax imposed under section two (2) of this Act.

Sec. 10. Section four hundred twenty-seven A point one (427A.1), subsection one (1), paragraph h, Code 1977, is amended to read as follows:

h. Property assessed by the department of revenue pursuant to sections 428.24 to 428.29, or chapters 433, four hundred thirty-four (434) and four hundred thirty-six (436) of the Code to 438.

Sec. 11. Section four hundred forty-three point twenty-two (443.22), Code 1977, is amended to read as follows:

443.22 UNIFORM ASSESSMENTS MANDATORY. All assessors and assessing bodies, including the department of revenue having authority over the assessment of property for tax purposes, shall comply with the provisions of sections 428.4, 428.29, 434.15, ~~435.77~~ 438.13, 441.21, 441.45 and 443.5. The department of revenue having authority over such assessments, shall exercise its powers and perform its duties under section 421.17 and other applicable laws so as to require the uniform and consistent application of said section.

Sec. 12. The state department of transportation shall conduct a study of the feasibility and methods of establishing an authority for the bonding, purchase and lease of railroad

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cars for the transportation of commodities within and without the state of Iowa. The department shall consult with various persons and groups and shall consider:

1. The constitutional and legal obstacles to bonding for railroad car purchases.
2. The methods of integrating the expertise of the state department of transportation with the authority established to implement the bonding, purchase and lease of railroad cars.
3. The tax status of railroad cars leased by the bonding authority.
4. The economic feasibility of a purchase and lease program and the bonding limitations necessary for such an authority.
5. The methods of managing a pool of cars owned by the authority.

The state department of transportation shall consult with people familiar with the rail transportation industry, with agricultural product transportation needs, with management and marketing practices, and with farming and manufacturing concerns, to assess the utility of the bonding for the purchase and lease of railroad cars.

The state department shall make recommendation to the general assembly prior to February 1, 1979, to include an evaluation of the needs for and feasibility of a railroad car authority. The department shall include evaluations of the feasible alternative forms of a railroad car authority.

Sec. 13. Chapter four hundred thirty-five (435), Code 1977, is repealed.

Sec. 14. The provisions of this Act are effective for all taxes due on or before the first Monday in June, 1978, and thereafter.

Sec. 15. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in The Titonka Topic, a newspaper published in Titonka, Iowa, and in The Bancroft Register, a newspaper published in Bancroft, Iowa.

Approved June 26, 1978, except the item designated as Section 8 herein which I hereby disapprove for the reasons set forth in my veto message delivered to the Secretary of State this same date, the original of which is attached hereto.

Robert D. Ray
Governor

The Honorable Melvin D. Synhorst
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

I hereby transmit Senate File 2184, an act relating to railroads, making an appropriation and providing penalties for violations.

Senate File 2184 is approved June 26, 1978, with the following exception which I hereby disapprove.

I am unable to approve the item designated in the Act as Section 8 which reads as follows:

Sec. 8. NEW SECTION. DEPOSIT OF FUNDS. All revenues collected from the tax imposed under this Act shall be credited to the railroad assistance fund established pursuant to section three hundred twenty-seven H point eighteen (327H.18) of the Code. All taxes paid after the due date, including penalty and interest shall also be credited to the railroad assistance fund except as otherwise provided in this section. All moneys refunded under the provisions of this Act shall be paid from the railroad assistance fund. There is appropriated from the general fund of the state to the railroad assistance fund for the fiscal year beginning July 1, 1978 and for each succeeding fiscal year the sum of one million seven hundred thousand (1,700,000) dollars. If the revenues collected, including interest and penalties, less any refunds made for taxes payable on or before the first Monday of June of the preceding fiscal year exceed eight hundred thousand (800,000) dollars such excess, not to exceed the amount of the appropriation made under this section, shall be transferred to the general fund of the state.

This section endeavors to earmark yet another portion of state revenues for a particular program--the very successful railroad branch line revitalization program. The language, in effect, guarantees that each year \$1.7 million from the general fund will be available for branch line renovations plus another \$800,000 from the receipts of the equipment car tax.

As I have previously stated, earmarking tax funds for a specific program in most cases is poor public policy. The recipient government program is removed from the regular budget process. Accountability in government, which taxpayers expect and deserve, is based in great part on the scrutiny the executive and legislative branches employ during the budget process. When blanket future approval is given to the funding of a program, the careful and thorough review of its cost-effectiveness and worthiness is not maintained. Since future funding is guaranteed, the program directors can easily forget that they have a primary responsibility to the public and its elected representatives.

It puzzles me that some legislators would want to earmark tax receipts for the branch line program. They are often the same legislators who insist on closer scrutiny of state expenditures and programs. The advocates of performance auditing should find earmarked taxes repugnant.

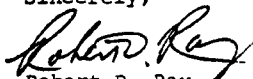
Furthermore, the railroad branch line revitalization program does not need to be dependent upon the crutch of an earmarked tax. The branch line revitalization program has been one of the most successful initiatives launched by state government.

When we proposed the branch line program in 1974, there were some legislators who fought it. However, I believe that most have since come to recognize the revitalization program as an outstanding success and one emulated across the nation. My support for our branch line initiative remains steadfast as we see the positive results of how government can stimulate cooperation among and with private enterprise without having to run the program itself. I don't believe there is much danger of this program losing its support in the legislature so long as it continues to produce effective results.

It should be noted that another bill, House File 2290, does contain the appropriation of \$1.7 million we recommended for the branch line revitalization program in FY 1979. That appropriation has been approved by me today and will be added to the other funds available for the continuation of the program during the upcoming year.

For the above reasons, I hereby disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 2184 are hereby approved as of this date.

Sincerely,


Robert D. Ray
Governor

I hereby certify that the foregoing Act, Senate File 2184, and Governor Robert D. Ray's item veto message were published in entirety in *The Titonka Topic*, Titonka, Iowa on July 6, 1978 and in *The Bancroft Register*, Bancroft, Iowa on July 5, 1978.

MELVIN D. SYNHORST, *Secretary of State*