

CHAPTER 2
MOTOR FUEL, SPECIAL FUEL AND GASOHOL TAX
S. F. 561

AN ACT relating to highway funding by increasing the excise tax on motor fuel, special fuel, and gasohol, providing for refund of fuel taxes paid by contract carriers for transporting public and nonpublic school pupils, specifying road construction emphasis on rehabilitating and reconstructing existing roads, streets, and bridges, providing for disposal of certain right of way, by extending the hold harmless period to June 30, 1985 in allocating highway funds, by increasing the weight for special trucks, by providing for the measurement of gallonages of motor fuels, special fuels and distillate fuels, providing for reduced allowances granted to distributors on motor fuel, providing for allowances to distributors on gasohol, providing for the computation of motor fuel taxes in situations where blending errors have occurred on gasohol, providing for a study of the state department of transportation, and making certain provisions retroactive to July 1, 1978.

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

Section 1. Section 306.9, Code 1981, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Unless otherwise required by the federal law or regulation, it is also the policy of this state that road use tax fund moneys shall be used to rehabilitate or reconstruct existing roads, streets, and bridges using substantially existing right of way. This paragraph shall not apply where additional right of way is needed for the construction or completion of designated interstate or city routes and highway bypasses.

Sec. 2. Chapter 307, Code 1981, is amended by adding the following new section:

NEW SECTION. The department shall institute a program to combine inspection functions where feasible and to train construction inspectors to perform several inspection functions to reduce the number of construction inspectors employed by the department and the number of construction inspectors required for each construction project.

Sec. 3. Section 312.3, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. "Hold harmless period" means the fiscal years beginning July 1, 1979 and ending June 30, ~~1983~~ 1985.

Sec. 4. Chapter 312, Code 1981, is amended by adding the following new section:

NEW SECTION. It is the intent of the general assembly that moneys credited to the road use tax fund shall not be appropriated for the payment of salaries, support, or maintenance of any personnel in the department of public safety.

Sec. 5. Section 321.1, subsection 71, Code 1981, is amended to read as follows:

71. A "special truck" means a motor truck not used for hire with a gross weight registration of eight through eighteen twenty tons used by a person engaged in farming to transport commodities produced only by the owner, or to transport commodities purchased by the owner for use in his the owner's own farming operation or occasional use for charitable purposes.

Sec. 6. Section 321.121, Code 1981, is amended to read as follows:

321.121 SPECIAL TRUCKS FOR FARM USE. The registration fee for a special truck shall be one hundred twenty dollars for a gross weight of eight tons, and in addition, fifteen dollars for each ton over eight tons and not exceeding eighteen tons. The registration fee for a special truck with a gross weight registration exceeding eighteen tons but not exceeding nineteen tons shall be three hundred twenty-five dollars and for a gross weight registration exceeding nineteen tons but not exceeding twenty tons the registration fee shall be three hundred seventy-five dollars. Any person convicted of using a truck registered as a special truck for any purpose other than permitted by section 321.1, subsection ~~72~~ 71, shall, in addition to any other penalty imposed by law, be required to pay regular motor truck registration fees upon such truck.

Sec. 7. Section 324.3, unnumbered paragraph 1, Code 1981, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of ~~eight-and-one-half-cents-per-gallon-beginning-July-1-1978-and-ten-thirteen~~ cents per gallon beginning July September 1, 1979 1981 is ~~hereby~~ imposed upon the use of all motor fuel used for any purpose except motor fuel containing at least ten percent alcohol distilled from agricultural products for the period beginning July 1, 1978 and ending June 30, 1983 and except as otherwise provided in this division. The tax shall be paid in the first instance by the distributor upon the invoiced gallonage of all motor fuel received by the distributor in this state, within the meaning of the word "received" as defined in this division, less the deductions ~~hereinafter~~ authorized. Thereafter, except as otherwise provided, the per gallon amount of ~~such the~~ tax shall be added to the selling price of ~~each-and~~ every gallon of such motor fuel sold in this state and collected from the purchaser ~~to-the end so that the ultimate consumer shall-bear~~ bears the burden of ~~such the~~ tax; ~~provided, however, that no tax shall not be imposed or collected under this division with respect to the following:~~

Sec. 8. Section 324.3, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Motor fuel shall be sold tax paid to the state of Iowa, any of its agencies, or to any political subdivision of the state, including motor fuel sold for the transportation of pupils of approved public and nonpublic schools by a contract carrier who contracts with the public school under section 285.5 for the transportation of public and nonpublic school pupils under chapter 285. Tax on fuel which is used for public purposes ~~shall-be~~ is subject to refund, including tax paid on motor fuel sold for the

transportation of school pupils of approved public and nonpublic schools by a contract carrier who contracts with the public school under section 285.5 for the transportation of public and nonpublic school pupils under chapter 285. Claims for refunds will be filed with the department on a quarterly basis and ~~in no case will~~ the director shall not grant a refund of motor fuel or special fuel tax where a claim is not filed within one year from the date the tax was due. The claim shall contain the number of gallons purchased, the calculation of the amount of motor fuel and special fuel tax subject to refund and any other information required by the department necessary to process the refund.

Sec. 9. Section 324.3, unnumbered paragraph 3, Code 1981, is amended to read as follows:

For the privilege of operating motor vehicles in this state an excise tax of five cents per gallon for the period beginning May 1, 1981 and ending August 31, 1981 and an excise tax of six cents per gallon for the period beginning September 1, 1981 and ending June 30, 1983, is hereby imposed upon the use of gasohol used for any purpose except as otherwise provided in this division.

Sec. 10. Section 324.8, subsection 4, Code 1981, is amended to read as follows:

4. From the total number of invoiced gallons of motor fuel "received" by the distributor within the state during the next preceding calendar month shall be made the following deductions:

First, the gallonage of motor fuel received and thereafter sold within the exemptions provided for in section 324.3; and second, the number of gallons of motor fuel equal to ~~three~~ two per centum of the first three hundred thousand gallons and one ~~and--one-quarter~~ per centum of all gallonage in excess of three hundred thousand gallons of invoiced gallons of motor fuel received by the distributor within this state during the next preceding calendar month after deduction provided in this subsection, this percentage being a flat allowance to cover evaporation, shrinkage, and losses, and the distributor's expenses and losses in collection, accounting for, and paying over the motor fuel tax.

Sec. 11. Section 324.8, subsection 6, Code 1981, is amended to read as follows:

6. The sum of the number of invoiced gallons of gasohol which are received tax free by the distributor during the next preceding calendar month less the number of gallons of gasohol equal to two per centum of the first three hundred thousand gallons and one per centum of all gallonage in excess of three hundred thousand gallons of gasohol received or blended by the distributor within this state during the next preceding calendar month after deduction provided in this subsection, this percentage being a flat allowance to cover evaporation, shrinkage and losses in collection, accounting for, and paying over the tax on gasohol, and the number of gallons of gasohol blended by the distributor during the next preceding calendar month shall be multiplied by the per gallon motor fuel tax rate applicable to gasohol.

Sec. 12. Section 324.34, unnumbered paragraph 1, Code 1981, is amended to read as follows:

For the privilege of operating motor vehicles in this state, there is hereby levied and imposed an excise tax on the use (as defined herein) of special fuel in any motor vehicle. The rate of tax on special (diesel engine) fuel ~~shall be ten cents per gallon beginning July 1, 1978, and shall be eleven and one-half cents per gallon beginning July 1, 1979~~ is thirteen and one-half cents per gallon beginning September 1, 1981 and fifteen and one-half cents per gallon beginning July 1, 1982. On all other special fuel the per gallon rate ~~shall be~~ is the same as the motor fuel tax. The tax, with respect to all special fuel delivered by a special fuel dealer for use in this state as defined by section 324.33, shall attach at the time of the delivery and shall be collected by the dealer from the special fuel user and ~~shall be~~ paid over to the department of revenue as ~~hereinafter~~ provided in this chapter. The tax, with respect to special fuel acquired by a special fuel user in any manner other than by delivery by a special fuel dealer into a fuel supply tank of a motor vehicle or delivery into a motor vehicle special fuel holding tank by a special fuel dealer or distributor, shall attach at the time of the use (as herein defined) of the fuel and shall be paid over to the department of revenue by the user as ~~hereinafter~~ provided in this chapter.

Sec. 13. Section 324.35, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Tax on special fuel sold to the state of Iowa, any of its agencies, or any political subdivisions of the state where such fuel is used for public purposes ~~shall be~~ is subject to refund, including tax paid on special fuel sold for the transportation of school pupils of approved public and nonpublic schools by a contract carrier who contracts with the public school under section 285.5 for the transportation of public and nonpublic school pupils under chapter 285. Claims shall be filed in accordance with the claims for motor fuel tax refunds provided by section 324.3.

Sec. 14. Section 324.54, unnumbered paragraphs 2 and 3, Code 1981, are amended to read as follows:

Notwithstanding any provision of this chapter to the contrary, except as provided in this section, the holder of a permanent permit 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 324.8, 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 purchased in excess of the amount consumed by such commercial motor vehicles in their operation on the highways of this state.

Application for a refund of fuel tax under ~~the provisions of~~ this division must be made for each quarter in which the excess payment was reported, and will not be allowed unless the amount of fuel tax paid on the fuel purchased in this state, in excess of that consumed for highway operation in this state in the quarter applied for, is in an amount exceeding ten dollars. An application for a refund of excess Iowa fuel tax paid under ~~the provisions of~~

this division which is filed for any period or in any manner other than herein set out shall not be allowed.

Sec. 15. Chapter 324, Code 1981, is amended by adding the following new section:

NEW SECTION. GASOHOL BLENDING ERRORS. Where blending errors have occurred and an insufficient amount of alcohol distilled from agricultural products has been blended with motor fuel so that the mixture fails to qualify as gasohol, the department shall determine the tax liability as follows:

1. If the amount of the alcohol blended with motor fuel is short by five gallons or less, the alcohol and motor fuel blended shall be considered gasohol and there shall be no penalty or assessment of additional taxes.

2. If the amount of the alcohol blended with motor fuel is short by more than five gallons but the alcohol blended with the motor fuel is short by one and one one-hundredths percent or less of the amount of alcohol and motor fuel blended, the motor fuel shall be divided for tax purposes into gasohol and motor fuel containing no alcohol as follows:

a. That portion which is alcohol distilled from agricultural products shall be added to motor fuel on the basis of one part alcohol to nine parts motor fuel to determine the portion which is considered gasohol gallonage which is exempt from the excise tax for the period July 1, 1978 to April 30, 1981 and is subject to an excise tax of five cents per gallon for the period May 1, 1981 to August 31, 1981 and subject to an excise tax of six cents per gallon for the period beginning September 1, 1981 to June 30, 1983.

b. That portion of motor fuel remaining shall be considered motor fuel which is subject to an excise tax at the effective rate per gallon at the time of blending.

c. In addition to the tax imposed under paragraphs a and b of this section, there is imposed a fine of twenty dollars to be credited to the road use tax fund.

3. If the amount of the alcohol blended with motor fuel is short by more than one and one one-hundredths percent of the total, the motor fuel blended with the alcohol is subject to the tax imposed on motor fuel under section 324.3.

This section is repealed June 30, 1983.

Sec. 16. NEW SECTION. The exclusive method of determining gallonage of any purchases or sales of motor fuel and special fuel as defined in chapter 324 and distillate fuels shall be on a gross volume basis. 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 reports or records required to be made, kept, and maintained by a distributor or dealer 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 five hundred fifty and twelve hundred degrees Fahrenheit.

Sec. 17. The legislative council shall employ a consulting firm or person with a background and expertise in transportation to conduct an independent study of the state department of transportation to determine staff requirements, administrative structure, and general efficiency of the department within the funding available. The study shall also review highway design standards used by the department and bid procedures used by the department in letting road construction and maintenance contracts and estimate any cost savings that could be achieved both in construction and maintenance by altering such standards. The study shall also review highway design standards used by the department and bid procedures used by the department in letting road construction and maintenance contracts. The study shall include a study of the feasibility of contracting with road contractors for highway maintenance services and the feasibility of setting aside ten percent of road contracts for small contractors and contractors just beginning business. The consultant shall also recommend which parcels of right of way owned by the department should be sold. However, a consulting firm or person who has worked for the state department of transportation within the last five years shall not be eligible for employment to conduct the study required under this section.

The report of the study shall be submitted to the Sixty-ninth General Assembly, 1982 Session, not later than January 11, 1982.

Sec. 18. It is the intent of the general assembly that not later than January 1, 1985, the state department of transportation shall dispose of all right of way owned by the department and not needed for projects.

Sec. 19. Section 15 of this Act is retroactive to July 1, 1978 and applies to motor fuel and alcohol distilled from agricultural products blended on or after that date.

Sec. 20. This Act takes effect on September 1, 1981 after its publication in the Muscatine Journal, a newspaper published in Muscatine, Iowa, and in The Waterloo Courier, a newspaper published in Waterloo, Iowa.

Approved August 21, 1981

I hereby certify that the following Act, Senate File 561, was published in The Waterloo Courier, Waterloo, Iowa on August 27, 1981 and in the Muscatine Journal, Muscatine, Iowa on September 2, 1981.

MARY JANE ODELL, *Secretary of State*