

by the commission in the next year except that deviations may be made in case of disaster or other unforeseen emergencies or difficulties. The relative urgency of the proposed improvements shall be determined by a consideration of the physical condition, safety, and service characteristics of the various primary roads.

Approved April 4, 1996

CHAPTER 1065

REGISTRATION PLATES – MOTOR TRUCKS AND TRUCK TRACTORS

H.F. 2113

AN ACT providing for a permanent registration plate for motor trucks and truck tractors licensed pursuant to multistate registration.

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

Section 1. Section 321.34, subsection 4, Code Supplement 1995, is amended to read as follows:

4. **MULTIYEAR PLATES.** In lieu of issuing annual registration plates for trailers, and semitrailers, motor trucks, and truck tractors, the department may issue a multiyear registration plate for a three-year period or a permanent registration plate for trailers and semitrailers licensed under chapter 326, and a permanent registration plate for motor trucks and truck tractors licensed under chapter 326, upon payment of the appropriate registration fee. Payment of fees ~~to the department for trailers and semitrailers~~ for a permanent registration plate shall, at the option of the registrant, be made at five-year intervals or on an annual basis. Fees from three-year and five-year payments shall not be reduced or prorated. Payment of fees for motor trucks and truck tractors shall be made on an annual basis.

Approved April 8, 1996

CHAPTER 1066

MOTOR FUEL AND SPECIAL FUEL TAXATION AND REGULATION

H.F. 2140

AN ACT relating to the motor vehicle fuel tax law and providing effective and retroactive applicability dates.

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

Section 1. Section 321.19, subsection 2, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

~~Section 452A.3 and chapter~~ Chapter 326 ~~are~~ is not applicable to urban transit companies or systems.

Sec. 2. Section 452A.2, subsections 2, 15, and 21, Code Supplement 1995, are amended to read as follows:

2. "Blender" means a person who owns and blends alcohol with gasoline to produce ethanol blended gasoline and blends the product at a nonterminal location. The blender is not restricted to blending alcohol with gasoline. Products blended with gasoline other than grain alcohol are ~~treated and~~ taxed as gasoline. "Blender" also means a person blending two or more special fuel products at a nonterminal location where the tax has not been paid on all of the products blended. ~~The~~ This blend is taxed as a special fuel.

15. "Licensed compressed natural gas and liquefied petroleum gas user" means a person licensed by the department who dispenses compressed natural gas or liquefied petroleum gas, 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.

21. "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.

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

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

Sec. 4. Section 452A.8, subsection 2, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

At the time of filing of a report, a supplier, or restrictive supplier, or importer shall pay to the department the full amount of the fuel tax due for the preceding calendar month. An importer shall pay to the department the full amount of fuel tax due for the preceding semimonthly period. The tax shall be computed as follows:

Sec. 5. Section 452A.8, subsection 2, paragraph a, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

From the total number of invoiced gallons of motor fuel or undyed special fuel withdrawn from the terminal by the licensee ~~within the state~~ during the preceding calendar month or semimonthly period the following deductions shall be made:

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

c. The tax due under paragraph "b" shall be the amount of fuel tax due from the supplier, restrictive supplier, or importer for the preceding reporting period. The director may require by rule that the payment of taxes by suppliers, restrictive suppliers, and importers be made by electronic funds transfer. The director may allow a tax float by rule where the eligible purchaser is not required to pay the tax to the supplier until one business day prior to the date the tax is due. ~~Any credit calculated by the supplier, restrictive supplier, or importer may be applied against the amount due.~~ A licensed supplier who is unable to recover the tax from an eligible purchaser is not liable for the tax, upon proper documentation, and may credit the amount of unpaid tax against a later remittance of tax. Under this provision, a supplier does not qualify for a credit if the purchaser did not elect to use the eligible purchaser status, or otherwise does not qualify to be an eligible purchaser. To qualify for the credit, the supplier must notify the department of the uncollectible account no later than ten calendar days after the due date for payment of the tax. If a supplier sells additional motor fuel or undyed special fuel to a delinquent eligible purchaser after notifying the department that the supplier has an uncollectible debt with that eligible purchaser, the limited liability provision does not apply to the additional fuel. The supplier is liable for tax collected from the purchaser.

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

The department shall adopt rules governing the dispensing of compressed natural gas and liquefied petroleum gas by licensed dealers and licensed users. For purposes of this paragraph, "dealer" and "user" mean a licensed compressed natural gas or liquefied petroleum gas dealer or user and "fuel" means compressed natural gas or liquefied petroleum gas. 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 state 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 sixty degrees. 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.

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

The refund is allowable for motor fuel or undyed special fuel sold directly to ~~or~~ and used for the following:

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

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

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

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

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

b. A refund shall not be paid with respect to any motor fuel or undyed special fuel taken out of this state in supply tanks of watercraft, aircraft, or motor vehicles.

Sec. 12. Section 452A.21, unnumbered paragraph 3, Code Supplement 1995, is amended to read as follows:

A refund ~~or credit memorandum will~~ shall not be issued unless the claim is filed within ninety days following the end of the month during which the ethanol blended gasoline was actually blended.

Sec. 13. Section 452A.63, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

All information obtained by the department of revenue and finance or the state department of transportation from the examining of reports 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 the provisions of 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 and finance or the state department of transportation, upon request of officials entrusted with enforcement of the motor vehicle fuel tax laws of the federal government or any other state, may forward to such officials any pertinent information which the appropriate state agency may have relative to motor fuel and special fuel provided the officials of the other state furnish like information.

Sec. 14. Section 452A.67, Code 1995, is amended to read as follows:

452A.67 LIMITATION ON COLLECTION PROCEEDINGS.

~~An action or other proceeding shall not be maintained to~~ The department shall examine the return and enforce collection of any amount of fuel tax, penalty, fine, or interest over and above the amount shown to be due by reports filed by a licensee except upon an assessment by the department of revenue and finance as authorized in this chapter as soon as practicable but no later than three years after the return is filed. An assessment shall not be made covering a period beyond three years ~~prior to the date of assessment~~ after the return is filed except that the period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return.

Sec. 15. Section 452A.71, Code Supplement 1995, is amended to read as follows:

452A.71 REFUNDS TO PERSONS OTHER THAN DISTRIBUTORS AND COMPRESSED NATURAL GAS AND LIQUEFIED PETROLEUM GAS DEALERS AND USERS.

Except as provided in section 452A.54, ~~any person other than~~ a person who has paid or has had charged to the person's account with a distributor, dealer, or user fuel taxes imposed under this chapter with respect to motor fuel or undyed special fuel in excess of one hundred gallons, which is subsequently lost or destroyed, while the person is the owner, through leakage, fire, explosion, lightning, flood, storm, or other casualty, except evaporation, shrinkage, or unknown causes, ~~the person~~ shall be entitled to a refund of the tax so paid or charged. To qualify for the refund, the person shall notify the department of revenue and finance in writing of the loss or destruction and the gallonage lost or destroyed within ten days from the date of discovery of the loss or destruction. Within sixty days after filing the notice, the person shall file with the department of revenue and finance an affidavit sworn to by the person having immediate custody of the motor fuel or undyed special fuel at the time of the loss or destruction setting forth in full the circumstances and amount of the loss or destruction and such other information as the department of revenue and finance may require. Any refund payable under this section may be applied by the department against any tax liability outstanding on the books of the department against the claimant.

Sec. 16. Section 452A.72, Code 1995, is amended to read as follows:

452A.72 REFUND OR CREDIT FOR FUEL TAXES ERRONEOUSLY OR ILLEGALLY COLLECTED OR PAID.

If any fuel taxes, penalties, or interest have been erroneously or illegally collected by the appropriate state agency from a licensee, the appropriate state agency may ~~permit the licensee to take credit against a subsequent tax return for the amount of the erroneous or illegal overpayment,~~ may apply the overpayment against any tax liability outstanding on the books of the department against the claimant, or shall certify the amount to the director of revenue and finance, who shall draw a warrant for the certified amount on the treasurer of state payable to the licensee. The refund shall be paid to the licensee immediately.

A refund ~~or credit~~ shall not be made under this section unless a written claim setting forth the circumstances for which the refund ~~or credit~~ should be allowed is filed with the

appropriate state agency within one year from the date of the payment of the taxes erroneously or illegally collected or paid.

However, if it is found during an examination by the appropriate state agency that a licensee paid, as a result of a mistake, an amount of tax, penalty, or interest which was not due, and the mistake is found within three years of the overpayment, the appropriate state agency shall credit the amount against any penalty, interest or taxes due, ~~or to become due~~, or shall refund the amount to the person.

Sec. 17. Section 452A.74, subsections 1 and 6, Code Supplement 1995, are amended to read as follows:

1. For any person to knowingly fail, neglect, or refuse to make any required return or statement or pay over fuel taxes required under this ~~section~~ chapter.

6. For any person to use motor fuel, undyed special fuel, or ~~illegal use of dyed special fuel~~ in the fuel supply tank of a 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. 18. Section 452A.74, subsection 8, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

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

Sec. 19. Section 452A.74A, subsection 2, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

A person who ~~illegally~~ imports motor fuel or undyed special fuel without a valid importer's license or supplier's license shall be assessed a civil penalty as provided in this subsection. However, the owner or operator of the importing vehicle shall not be guilty of violating this subsection if it is shown by the owner or operator that the owner or operator reasonably did not know or reasonably should not have known of the illegal importation.

Sec. 20. Section 452A.74A, subsection 3, Code Supplement 1995, is amended to read as follows:

3. ~~IMPROPER RECEIPT OF FUEL CREDIT OR REFUND.~~ If a person files an incorrect refund claim, in addition to the excess amount of the claim, a penalty of ten percent shall be added to the amount by which the amount claimed and refunded exceeds the amount actually due and shall be paid to the department. If a person knowingly files a fraudulent refund claim with the intent to evade the tax, the penalty shall be seventy-five percent in lieu of the ten percent. The person shall also pay interest on the excess refunded at the rate per month specified in section 421.7, counting each fraction of a month as an entire month, computed from the date the refund was issued to the date the excess refund is repaid to the state.

Sec. 21. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1996.

Approved April 8, 1996