

CHAPTER 214—S. F. No. 1250

[Coded in Part]

An act relating to the use of air space above and subsurface area below the right of way of trunk highways and to the use of the surface of trunk highway right of way and the taxation thereof; amending Minnesota Statutes 1965, Section 161.44 by adding a new subdivision, and Section 272.04; repealing Minnesota Statutes 1965, Section 161.435 and Section 161.44, Subdivision 10.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **[161.433] Highways; use of airspace above and subsurface below trunk highways. [Subdivision 1.] Lease or permit, conditions and restrictions.** *The commissioner of highways, with the written approval of the governor, may lease or otherwise permit the use of the air space above and subsurface area below the surface of the right of way of any trunk highway, including the surface of the right of way above and below the air space or subsurface areas, where the land is owned in fee by the state for trunk highway purposes when such use will not impair or interfere with the use and safety of the highway. The lease, permit, or other agreement may contain such restrictive clauses as the commissioner deems necessary in the interest of safety and convenience of public travel and other highway purposes. No lease, permit, or other agreement shall be for a period in excess of 99 years. Vehicular access to such air space, subsurface, or surface areas shall not be allowed directly from the highway where such access would violate the provisions of Title 23 of the United States Code, or would interfere in any way with the free flow of traffic on the highway. Any such lease, permit, or other agreement shall have the approval of the appropriate federal agency when required.*

Sec. 2. **[161.433] [Subd. 2.] Consideration for use.** *The consideration paid for the use of air space or subsurface areas shall be determined by the commissioner, but in no event shall it be less than a fair rental rate, and shall include costs for the erection and maintenance of any facilities or other costs occasioned by that use. All moneys received shall be paid into the trunk highway fund.*

Sec. 3. Minnesota Statutes 1965, Section 161.44, is amended by adding a new subdivision to read:

Subd. 11. Airspace above and subsurface area. *Nothing contained in this section shall apply to the lease or other agreement for the use of air space above and the subsurface area below the*

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right of way of any trunk highway or the surface of any trunk highway right of way as provided in section 1 of this act.

Sec. 4. Minnesota Statutes 1965, Section 272.04, is amended to read:

272.04 Mineral, gas, coal, and oil owned apart from land; space above and below surface. *Subdivision 1.* When any mineral, gas, coal, oil, or other similar interests in real estate are owned separately and apart from and independently of the rights and interests owned in the surface of such real estate, such mineral, gas, coal, oil, or other similar interests may be assessed and taxed separately from such surface rights and interests in such real estate and may be sold for taxes in the same manner and with the same effect as other interests in real estate are sold for taxes.

Subd. 2. *When the right to use the air space above or subsurface area below any real estate is conveyed by an owner to another person, partnership or corporation, such right shall constitute a separate interest in real estate which may be assessed and taxed separately from other rights in such real estate. All laws for the enforcement of taxes on real estate shall apply to such rights.*

Subd. 3. *When the right to use air space above or subsurface area below real estate is granted by a lease for a term of three or more years, by the state or an agency or subdivision thereof, by an institution whose property is exempt from taxation, or by a taxpayer whose property is not taxed in the same manner as other property, such right to use air space or subsurface area shall constitute an interest in real estate which may be assessed and taxed separately, notwithstanding any law to the contrary. All laws for the enforcement of taxes on real estate shall apply to such leased property.*

Sec. 5. [161.433] [Subd. 3.] **Application to certain provisions.** *This act shall not apply to or affect the rights and privileges referred to in Minnesota Statutes, Sections 161.45, 222.37, and 300.03.*

Sec. 6. *Minnesota Statutes 1965, Section 161.435, and Section 161.44, Subdivision 10, are repealed.*

Approved April 21, 1967.

CHAPTER 215—S. F. No. 1344

An act relating to highway traffic regulations; authorizing increased lengths for certain combinations of vehicles and specifying

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