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## State of Minnesota

## HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. **1352**

02/16/2017 Authored by Petersburg, Rosenthal, Koznick, Kiel and Sundin  
The bill was read for the first time and referred to the Committee on Transportation Finance  
03/02/2017 Adoption of Report: Amended and re-referred to the Committee on Taxes

1.1 A bill for an act  
1.2 relating to taxation; petroleum; dedicating revenues from the aviation taxes on  
1.3 gasoline used as a substitute for aviation gasoline to the state airports fund; allowing  
1.4 the aviation tax refund to commercial pesticide applicators; amending Minnesota  
1.5 Statutes 2016, sections 296A.01, by adding a subdivision; 296A.07, subdivision  
1.6 4; 296A.09, subdivisions 1, 3, 5, 6; 296A.15, subdivisions 1, 4; 296A.17,  
1.7 subdivisions 1, 2, 3; 296A.18, subdivisions 1, 8; 296A.19, subdivision 1; repealing  
1.8 Minnesota Rules, part 8125.1300, subpart 3.

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2016, section 296A.01, is amended by adding a subdivision  
1.11 to read:

1.12 Subd. 13a. Dealer of gasoline used as a substitute for aviation gasoline. "Dealer of  
1.13 gasoline used as a substitute for aviation gasoline" means any person who sells gasoline on  
1.14 the premises of an airport as defined under section 360.013, subdivision 39, to be dispensed  
1.15 directly into the fuel tank of an aircraft.

1.16 EFFECTIVE DATE. This section is effective for sales and purchases made after June  
1.17 30, 2017.

1.18 Sec. 2. Minnesota Statutes 2016, section 296A.07, subdivision 4, is amended to read:

1.19 Subd. 4. **Exemptions.** The provisions of subdivision 1 do not apply to gasoline or  
1.20 denatured ethanol purchased by:

1.21 (1) a transit system or transit provider receiving financial assistance or reimbursement  
1.22 under section 174.24, 256B.0625, subdivision 17, or 473.384;

2.1 (2) providers of transportation to recipients of medical assistance home and  
2.2 community-based services waivers enrolled in day programs, including adult day care,  
2.3 family adult day care, day treatment and habilitation, prevocational services, and structured  
2.4 day services;

2.5 (3) an ambulance service licensed under chapter 144E;

2.6 (4) providers of medical or dental services by a federally qualified health center, as  
2.7 defined under title 19 of the Social Security Act, as amended by Section 4161 of the Omnibus  
2.8 Budget Reconciliation Act of 1990, with a motor vehicle used exclusively as a mobile  
2.9 medical unit; ~~or~~

2.10 (5) a licensed distributor to be delivered to a terminal for use in blending; or

2.11 (6) a dealer of gasoline used as a substitute for aviation gasoline.

2.12 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
2.13 30, 2017.

2.14 Sec. 3. Minnesota Statutes 2016, section 296A.09, subdivision 1, is amended to read:

2.15 Subdivision 1. **Gasoline tax imposed.** Subject to any refunds or credits there is imposed  
2.16 an excise tax, at the rate of five cents per gallon on all aviation gasoline received, sold,  
2.17 stored, or withdrawn from storage in this state and on all gasoline used as a substitute for  
2.18 aviation gasoline. Aviation gasoline is defined in section 296A.01, subdivision 7.

2.19 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
2.20 30, 2017.

2.21 Sec. 4. Minnesota Statutes 2016, section 296A.09, subdivision 3, is amended to read:

2.22 Subd. 3. **Exception to tax for aviation use.** The provisions of subdivisions 1 and 2 do  
2.23 not apply to aviation gasoline, gasoline, or special fuel purchased and placed in the fuel  
2.24 tanks of an aircraft outside the state, even though the gasoline may be consumed within this  
2.25 state.

2.26 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
2.27 30, 2017.

3.1 Sec. 5. Minnesota Statutes 2016, section 296A.09, subdivision 5, is amended to read:

3.2 Subd. 5. **Tax not on consumption.** The taxes imposed by subdivisions 1 and 2 are  
3.3 expressly declared not to be a tax upon consumption of aviation gasoline, gasoline, or special  
3.4 fuel by an aircraft.

3.5 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
3.6 30, 2017.

3.7 Sec. 6. Minnesota Statutes 2016, section 296A.09, subdivision 6, is amended to read:

3.8 Subd. 6. **Exemptions.** The provisions of subdivisions 1 and 2 do not apply to aviation  
3.9 gasoline, gasoline used as a substitute for aviation gasoline, or jet fuel purchased by an  
3.10 ambulance service licensed under chapter 144E.

3.11 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
3.12 30, 2017.

3.13 Sec. 7. Minnesota Statutes 2016, section 296A.15, subdivision 1, is amended to read:

3.14 Subdivision 1. **Monthly gasoline report; shrinkage allowance.** (a) Except as provided  
3.15 in paragraph (e), on or before the 23rd day of each month, every person who is required to  
3.16 pay a gasoline tax shall file with the commissioner a report, in the form and manner  
3.17 prescribed by the commissioner, showing the number of gallons of petroleum products  
3.18 received by the reporter during the preceding calendar month, and other information the  
3.19 commissioner may require. A written report is deemed to have been filed as required in this  
3.20 subdivision if postmarked on or before the 23rd day of the month in which the tax is payable.

3.21 (b) The number of gallons of gasoline must be reported in United States standard liquid  
3.22 gallons, 231 cubic inches, except that the commissioner may upon written application and  
3.23 for cause shown permit the distributor to report the number of gallons of gasoline as corrected  
3.24 to a temperature of 60-degrees Fahrenheit. If the application is granted, all gasoline covered  
3.25 in the application and allowed by the commissioner must continue to be reported by the  
3.26 distributor on the adjusted basis for a period of one year from the date of the granting of  
3.27 the application. The number of gallons of petroleum products other than gasoline must be  
3.28 reported as originally invoiced. Each report must show separately the number of gallons of  
3.29 aviation gasoline received by the reporter during each calendar month and the number of  
3.30 gallons of gasoline sold to a dealer of gasoline used as a substitute for aviation fuel during  
3.31 each calendar month.

4.1 (c) Each report must also include the amount of gasoline tax on gasoline, and the amount  
4.2 of aviation tax on gasoline used as a substitute for aviation gasoline, received by the reporter  
4.3 during the preceding month. In computing the tax a deduction of 2.5 percent of the quantity  
4.4 of gasoline received by a distributor shall be made for evaporation and loss. At the time of  
4.5 reporting, the reporter shall submit satisfactory evidence that one-third of the 2.5 percent  
4.6 deduction has been credited or paid to dealers on quantities sold to them.

4.7 (d) Each report shall contain a confession of judgment for the amount of the tax shown  
4.8 due to the extent not timely paid.

4.9 (e) Under certain circumstances and with the approval of the commissioner, taxpayers  
4.10 may be allowed to file reports annually.

4.11 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
4.12 30, 2017.

4.13 Sec. 8. Minnesota Statutes 2016, section 296A.15, subdivision 4, is amended to read:

4.14 Subd. 4. **Failure to use or sell for intended purpose; report required.** (a) Any person  
4.15 who buys aviation gasoline, gasoline from a dealer of gasoline used as a substitute for  
4.16 aviation gasoline, or special fuel for aircraft use, and who has paid the excise taxes due  
4.17 directly or indirectly through the amount of the tax being included in the price, or otherwise,  
4.18 and uses said gasoline or special fuel in motor vehicles or knowingly sells it to any person  
4.19 for use in motor vehicles shall, on or before the 23rd day of the month following that in  
4.20 which such gasoline or special fuel was so used or sold, report the fact of the use or sale to  
4.21 the commissioner in the form and manner prescribed by the commissioner.

4.22 (b) Any person who buys gasoline other than aviation gasoline and who has paid the  
4.23 motor vehicle gasoline excise tax directly or indirectly through the amount of the tax being  
4.24 included in the price of the gasoline, or otherwise, who knowingly sells such gasoline to  
4.25 any person to be used for the purpose of producing or generating power for propelling  
4.26 aircraft, or who receives, stores, or withdraws from storage gasoline to be used for that  
4.27 purpose, shall, on or before the 23rd day of the month following that in which such gasoline  
4.28 was so sold, stored, or withdrawn from storage, report the fact of the sale, storage, or  
4.29 withdrawal from storage to the commissioner in the form and manner prescribed by the  
4.30 commissioner.

4.31 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
4.32 30, 2017.

5.1 Sec. 9. Minnesota Statutes 2016, section 296A.17, subdivision 1, is amended to read:

5.2 Subdivision 1. **Aviation refund requirements.** Any person claiming to be entitled to  
5.3 any refund or credit provided for in subdivision 3 shall receive the refund or credit upon  
5.4 filing with the commissioner a claim in such form and manner prescribed by the  
5.5 commissioner. The claim shall set forth, among other things, the total number of gallons of  
5.6 aviation gasoline, gasoline used as a substitute for aviation gasoline, or special fuel for  
5.7 aircraft use upon which the claimant has directly or indirectly paid the excise tax provided  
5.8 for in this chapter, during the calendar year, which has been received, stored, or withdrawn  
5.9 from storage by the claimant in this state and not sold or otherwise disposed of to others.  
5.10 All claims for refunds under this subdivision shall be made on or before April 30 following  
5.11 the end of the calendar year for which the refund is claimed.

5.12 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
5.13 30, 2017.

5.14 Sec. 10. Minnesota Statutes 2016, section 296A.17, subdivision 2, is amended to read:

5.15 Subd. 2. **Claim for refund; aviation tax.** (a) Any person who buys aviation gasoline,  
5.16 gasoline used as a substitute for aviation gasoline, or special fuel for aircraft use and who  
5.17 has paid the excise taxes directly or indirectly through the amount of the tax being included  
5.18 in the price, or otherwise, who does not use it in motor vehicles or receive, sell, store, or  
5.19 withdraw it from storage for the purpose of producing or generating power for propelling  
5.20 aircraft, shall be reimbursed and repaid the amount of the tax paid upon filing with the  
5.21 commissioner a claim in the form and manner prescribed by the commissioner. The claim  
5.22 shall state the total amount of the aviation gasoline, gasoline used as a substitute for aviation  
5.23 gasoline, or special fuel for aircraft use purchased and used by the applicant, and shall state  
5.24 when and for what purpose it was used. On being satisfied that the claimant is entitled to  
5.25 payment, the commissioner shall approve the claim and transmit it to the commissioner of  
5.26 management and budget. The postmark on the envelope in which a written claim is mailed  
5.27 determines the date of filing.

5.28 (b) If a claim contains an error in preparation in computation or preparation, the  
5.29 commissioner is authorized to adjust the claim in accordance with the evidence shown on  
5.30 the claim or other information available to the commissioner.

5.31 (c) An applicant who files a claim that is false or fraudulent, is subject to the penalties  
5.32 provided in section 296A.23 for knowingly and willfully making a false claim.

6.1 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
6.2 30, 2017.

6.3 Sec. 11. Minnesota Statutes 2016, section 296A.17, subdivision 3, is amended to read:

6.4 Subd. 3. **Refund on graduated basis.** Any person who has directly or indirectly paid  
6.5 the excise tax on aviation gasoline, gasoline used as a substitute for aviation gasoline, or  
6.6 special fuel for aircraft use provided for by this chapter and has either paid the airflight  
6.7 property tax under section 270.072 or is an aerial applicator with a category B, general aerial  
6.8 license, under section 18B.33, shall, as to all such aviation gasoline, gasoline used as a  
6.9 substitute for aviation gasoline, and special fuel received, stored, or withdrawn from storage  
6.10 by the person in this state in any calendar year and not sold or otherwise disposed of to  
6.11 others, or intended for sale or other disposition to others, on which such tax has been so  
6.12 paid, be entitled to the following graduated reductions in such tax for that calendar year, to  
6.13 be obtained by means of the following refunds:

6.14 (1) on each gallon of ~~such~~ aviation gasoline, gasoline used as a substitute for aviation  
6.15 gasoline, or special fuel up to 50,000 gallons, all but five cents per gallon;

6.16 (2) on each gallon of ~~such~~ aviation gasoline, gasoline used as a substitute for aviation  
6.17 gasoline, or special fuel above 50,000 gallons and not more than 150,000 gallons, all but  
6.18 two cents per gallon;

6.19 (3) on each gallon of ~~such~~ aviation gasoline, gasoline used as a substitute for aviation  
6.20 gasoline, or special fuel above 150,000 gallons and not more than 200,000 gallons, all but  
6.21 one cent per gallon;

6.22 (4) on each gallon of ~~such~~ aviation gasoline, gasoline used as a substitute for aviation  
6.23 gasoline, or special fuel above 200,000, all but one-half cent per gallon.

6.24 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
6.25 30, 2017.

6.26 Sec. 12. Minnesota Statutes 2016, section 296A.18, subdivision 1, is amended to read:

6.27 Subdivision 1. **Intent; gasoline use.** All gasoline received in this state and all gasoline  
6.28 produced in or brought into this state except aviation gasoline, gasoline sold to a dealer of  
6.29 gasoline used as a substitute for aviation gasoline, and marine gasoline shall be determined  
6.30 to be intended for use in motor vehicles in this state.

6.31 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
6.32 30, 2017.

7.1 Sec. 13. Minnesota Statutes 2016, section 296A.18, subdivision 8, is amended to read:

7.2 Subd. 8. **Airports.** The revenues derived from the excise taxes on aviation gasoline,<sup>2</sup>  
7.3 gasoline used as a substitute for aviation gasoline, and ~~on~~ special fuel received, sold, stored,  
7.4 or withdrawn from storage as substitutes for aviation gasoline, shall be paid into the state  
7.5 treasury and credited to the state airports fund. There is hereby appropriated such sums as  
7.6 are needed to carry out the provisions of this subdivision.

7.7 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
7.8 30, 2017.

7.9 Sec. 14. Minnesota Statutes 2016, section 296A.19, subdivision 1, is amended to read:

7.10 Subdivision 1. **Retention.** All distributors, dealers, special fuel dealers, bulk purchasers,  
7.11 dealers of gasoline used as a substitute for aviation gasoline, and all users of special fuel  
7.12 shall keep a true and accurate record of all purchases, transfers, sales, and use of petroleum  
7.13 products and special fuel, including copies of all sales tickets issued, in a form and manner  
7.14 approved by the commissioner, and shall retain all such records for 3-1/2 years.

7.15 **EFFECTIVE DATE.** This section is effective for sales and purchases made after June  
7.16 30, 2017.

7.17 Sec. 15. **REPEALER.**

7.18 Minnesota Rules, part 8125.1300, subpart 3, is repealed.

7.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX  
Repealed Minnesota Rule: H1352-1

**8125.1300 REFUNDS AND CREDITS.**

Subp. 3. **Gasoline used in aircraft.** Refunds for gasoline, other than aviation gasoline, purchased and used to produce or generate power for propelling aircraft shall be issued only to those claimants who have received approval to use such gasoline from the Federal Aviation Administration as evidenced by a supplemental type certificate.