

CHAPTER 418—H. F. No. 1139

An act relating to airline companies and providing for the taxation of the flight property thereof, and appropriating certain moneys.

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

Section 1. **Definitions.** Subdivision 1. The following words and phrases, when used in this act, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

Subd. 2. "Person" means any individual, corporation, firm, copartnership, company, or association, and includes any guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity therefor.

Subd. 3. "Airline company" means any person who undertakes, directly or indirectly, to engage in the business of air commerce.

Subd. 4. "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

Subd. 5. "Flight property" means all aircraft and flight equipment used in connection therewith, including spare flight equipment.

Subd. 6. "Air commerce" means the transportation by aircraft of persons or property for hire in interstate, intrastate or international transportation on regularly scheduled flights.

Subd. 7. "Equated plane hours" means hours spent by aircraft in flight or on the ground weighted according to the cargo capacity of each aircraft.

Subd. 8. "Commissioner" means state commissioner of taxation.

Sec. 2. **Assessment of flight property.** The flight property of all air carriers operating in Minnesota under a certificate of convenience and necessity issued by the United States Civil Aeronautics Board shall be assessed annually by the commissioner in the manner prescribed by this act.

Sec. 3. **Report by airline company.** Subdivision 1. Every airline company engaged in air commerce in this state at any time during the year 1945 or any year thereafter shall file with the commissioner on or before the time fixed by the

commissioner a report under oath setting forth specifically the information prescribed by the commissioner to enable him to make the assessment required in this act.

Subd. 2. The commissioner for good cause may extend for not to exceed 30 days the time for making a report.

Sec. 4. **Examinations and investigations.** Subdivision 1. For the purpose of determining the correctness of any statement, the commissioner shall have the power to examine or cause to be examined any books, papers, records, or memoranda relevant to the determination of the assessed valuation of flight property as herein provided, including the airline company's retained copy of any return or statement made to the United States of America or any state for any year, whether such books, papers, records, or memoranda are the property of or in the possession of the airline company or any other person. The commissioner shall have the right to inspect the originals of such reports with or without obtaining copies from the company. The commissioner shall have further power to require the attendance of any airline company or other person having knowledge or information in the premises, to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to such determination and to administer oaths or affirmations.

Subd. 2. For the purpose of making such examinations, the commissioner may appoint such persons as he may deem necessary. Such persons shall have the rights and powers with reference to the examining of books, papers, records, or memoranda, and with reference to the subpoenaing of witnesses, administering of oaths and affirmations, and taking of testimony, which are conferred upon the commissioner hereby. The clerk of any court of record, upon demand of any such person, shall issue a subpoena for the attendance of any witness or the production of any books, papers, records, or memoranda before such person. The commissioner may also issue subpoenas for the appearance of witnesses before him or before such persons. Disobedience of subpoenas issued under this act shall be punished by the district court of the district in which the subpoena is issued as for a contempt of the district court.

Subd. 3. If any airline company shall refuse or neglect to make the statement required by this section to the commissioner, or shall refuse or neglect to permit an inspection and examination of its property, its records, books, accounts or other papers when requested by the commissioner, or shall

refuse or neglect to appear before the commissioner or a person appointed under Subdivision 2 hereof when required so to do, the commissioner shall assess the tax provided for by this act against the airline company according to his best judgment on available information, and such airline company shall be estopped to question or impeach the action or determination of the commissioner, except upon proof of fraud on the part of the commissioner; and the commissioner may add to the assessment a penalty not exceeding 10 per cent of the assessment.

Sec. 5. Determination of value; ratio of tax. Subdivision 1. The commissioner shall determine the full and true valuation of all flight property operated or used by every airline company in air commerce in this state. The valuation apportioned to this state of such flight property shall be the proportion of the total valuation thereof determined on the basis of the total of the following percentages:

(1) $33\frac{1}{3}$ per cent of the percentage which the total tonnage of passengers, express and freight first received by the airline company in this state during the preceding calendar year plus the total tonnage of passengers, express and freight finally discharged by it within this state during the preceding calendar year is of the total of such tonnage first received by the airline company or finally discharged by it, within and without this state during the preceding calendar year.

(2) $33\frac{1}{3}$ per cent of the percentage which, in equated plane hours, the total time of all aircraft of the airline company in flight in this state during the preceding calendar year, plus the total time of such aircraft on the ground in this state during the preceding calendar year is of the total of such time in flight or on the ground within and without this state during the preceding calendar year.

(3) $33\frac{1}{3}$ per cent of the percentage which the number of revenue ton miles of passengers, mail, express and freight flown by the airline company within this state during the preceding calendar year is of the total number of such miles flown by it within and without this state during the preceding calendar year.

Subd. 2. The flight property of every airline company shall be assessed at 40 per cent of the full and true value thereof apportioned to this state under Subdivision 1 of this section.

Sec. 6. Tax levy. Subdivision 1. The commissioner shall determine the rate of tax to be levied and collected

against the assessed valuation as determined pursuant to Section 5, Subdivision 2, of this act, which shall be the average rate of taxes, general, municipal, and local, levied throughout the state for the preceding year. The levy shall be completed on or before the first Monday in October of each year.

Subd. 2. As soon as practicable and not later than November 1 next following the levy of the tax, the commissioner shall give actual notice to the airline company of the assessed valuation and of the tax. The taxes imposed under this act shall become due and payable on January 1 following the levy thereof and if not paid to the commissioner on or before February 1 next following shall become delinquent. The delinquent tax shall carry interest at the rate of one per cent per month from January 1 for the first year of delinquency and thereafter at the rate of one-half of one per cent for each month or fraction thereof until paid. Such interest shall be a part of the tax. Failure to send or receive the notice herein provided for or error in such notice shall not excuse the payment of the tax as required by this act.

Subd. 3. If the taxes remain unpaid on the following 1st day of July, the commissioner shall certify the amount thereof to the Attorney General, who shall bring an action to recover the amount of such taxes. The statement shall give the name and address of the airline company owing such tax; the amount thereof, the date of delinquency, and such other information as may be required by the Attorney General.

Subd. 4. The Commissioner's certified statement to the Attorney General of delinquent taxes shall for all purposes and in all courts be prima facie evidence of the facts therein stated and that the amount shown therein is due from the airline company named in the statement.

Sec. 7. **Taxes imposed a personal debt.** The taxes imposed under the provisions of this act shall be a personal debt of the airline company in whose name the property is assessed. Such taxes may be enforced by action in debt by the Attorney General on behalf of the state.

Sec. 8. **Appeal.** Subdivision 1. Any airline company against which a tax has been imposed under this act shall have the right to appeal within 30 days from the date of notice of the levy of the tax to the Board of Tax Appeals in the manner provided by law.

Subd. 2. In case of appeal from the assessment and levy of the tax, the airline company shall currently pay when due that portion of the tax which is admitted to be due. If the final determination of the litigation should result in sustain-

ing the assessment and levy or in the finding that the amount paid by the airline company is insufficient, the difference between the amount paid and the amount which should have been paid shall be decreed delinquent taxes subject to interest, as hereinabove provided. If the Board of Tax Appeals or the Supreme Court should decide that the appeal was reasonable or justifiable, it may remit all or any part of the interest. If the final determination of the Board of Tax Appeals or the Supreme Court shall result in increasing any assessment above that which was made final by the order of the commissioner from which the appeal is taken, then the taxes on such increased assessment shall be delinquent 30 days after notice of the amount of the increased tax shall have been given to the airline company by the commissioner.

Sec. 9. **State airports fund created.** There is hereby created in the state treasury a fund to be known as the State Airports Fund to which shall be credited the proceeds of all taxes levied under this act and all other moneys which may be deposited to the credit thereof pursuant to any other provision of law. All moneys in the State Airports Fund are hereby appropriated to the Commissioner of Aeronautics for the purpose of acquiring, constructing, improving, maintaining, and operating airports and other air navigation facilities for the state, and to assist municipalities within the state in the acquisition, construction, improvement, and maintenance of airports and other air navigation facilities.

Sec. 10. **Tax on real estate.** All real property of an airline company and all personal property thereof except flight property shall be taxed as otherwise provided by law.

Sec. 11. **Not to conflict with federal law.** Subdivision 1. If any provision of this act is contrary to any provision of any law of the United States of America, hereinafter enacted, providing for or relating to the ad valorem taxation by a state of aircraft or flying equipment of an airline company, such provision of this act shall be of no effect and the commissioner is authorized and directed to prescribe by regulation such provisions as may be necessary to make this act conform to the federal act and to effectuate the purposes of this act, provided such regulations do not prescribe a rate of taxation higher than that provided in Section 6 hereof or an assessed valuation based on a percentage higher than that provided in Section 7, Subdivision 2, hereof.

Subd. 2. No provision of any law of the United States of America providing for or relating to the ad valorem taxation by a state of aircraft or flying equipment of an airline com-

pany shall be effective for the purposes of Subdivision 1 hereof until the Attorney General of Minnesota shall have certified to the commissioner that in his opinion such federal act is a valid exercise of federal authority under the Constitution of the United States.

Subd. 3. The provisions of this section shall not affect the validity of any tax imposed under this act prior to the effective date of such federal law.

Sec. 12. **Reciprocal arrangement with other states.** The commissioner may enter into an agreement with the commissioner or other tax officials of another state for the interpretation and administration of the acts of their several states providing for the taxation of flight property of airline companies for the purpose of promoting uniformity of taxation of such companies thereunder.

Approved April 19, 1945.

CHAPTER 419—H. F. No. 1303

An act relating to the game of "bingo".

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

Section 1. **Bingo defined.** For the purposes of this act the game "bingo" is a popular modern variation of "Keno" or "Lotto," where each player has a card or board containing five horizontal rows all but the central one containing five figures, the central row having four figures with the word "Free" marked in the center thereof; any combination of five in a row whether horizontal, vertical or otherwise when completed by a player constitutes "bingo," and the central row either horizontal, vertical, or otherwise constitutes "bingo" when its four numbers are announced and covered. A wheel or other mechanical device may be used by any person conducting the game of "bingo," and any such person may award either money or merchandise to any player or players first completing any combination entitling such player or players to call "bingo."

Sec. 2. **Certain associations permitted to operate.** The game "bingo" as defined herein shall not be construed as a lottery or as gambling within the meaning of Minnesota Statutes 1941, Sections 614.01 to 614.09, provided that such game