

367.04. **Auditor to appoint assessor.** When a vacancy in the office of assessor is not filled by the town board before *May* first of the year in which it occurs, the county auditor shall appoint some resident of the county as assessor of such town.

Approved April 19, 1947.

CHAPTER 412—S. F. No. 1086

An act relating to tax on gasoline and gasoline substitutes; amending Minnesota Statutes 1945, Sections 296.01, Subdivisions 3, 5, 7 and 12, 296.06, Subdivisions 1 and 2, 296.14, Subdivision 2, 296.22, 296.23, 296.24, 296.25, 296.48, Subdivision 1, and 296.49; and repealing Minnesota Statutes 1945, Sections 296.01, Subdivision 8, 296.08, and 296.09.

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

Section 1. Minnesota Statutes 1945, Section 296.01, Subdivision 3, is amended to read:

296.01. **Definitions.** Subd. 3. "Gasoline" means (a) all products commonly or commercially known or sold as gasoline (including casinghead and absorption or natural gasoline) regardless of their classification or uses; and (b) any liquid prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society for Testing Materials Designation D-86) shows not less than ten per centum (10%) distilled (recovered) below three hundred forty-seven degrees (347°) Fahrenheit (one hundred seventy-five degrees (175°) Centigrade) and not less than ninety-five per centum (95%) distilled (recovered) below four hundred sixty-four degrees (464°) Fahrenheit (two hundred forty degrees (240°) Centigrade); provided however, that "gasoline" shall not include liquefied gases which would not exist as liquids at a temperature of sixty degrees (60°) Fahrenheit and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute.

Sec. 2. Minnesota Statutes 1945, Section 296.01, Subdivision 5, is amended to read:

296.01. Subd. 5. *"Distributor"* means any person (1) who receives petroleum products in this state for storage and subsequent distribution by tank car or tank truck or both, or (2) who produces, manufactures or refines petroleum products in this state, or (3) who imports petroleum products into this state via boat, barge or pipe line for storage and subsequent delivery at or further transportation from boat, barge or pipe line terminals in this state.

Sec. 3. Minnesota Statutes 1945, Section 296.01, Subdivision 7, is amended to read:

296.01. Subd. 7. *"Dealer"* means any person, except a distributor, engaged in the business of buying and selling gasoline, petroleum products or special use fuel, in this state.

Sec. 4. Minnesota Statutes 1945, Section 296.01, Subdivision 12, is amended to read:

296.01. Petroleum products received in this state. Subd. 12. *Except as otherwise provided in this subdivision, petroleum products brought into this state shall be deemed to be "received" in this state at the time and place the same are unloaded in this state. When so unloaded such products shall be deemed to be "received" in this state by the person who is the owner thereof immediately after such unloading; provided, however, that if such owner is not licensed as a distributor in this state and if such products were shipped or delivered into this state by a person who is licensed as a distributor, then such products shall be deemed to be "received" in this state by the licensed distributor by whom the same were so shipped or delivered. Petroleum products produced, manufactured, or refined, at a refinery in this state and stored thereat, or brought into the state by boat or barge or like form of transportation and delivered at a marine terminal in this state and stored thereat, or brought into the state by pipe-line and delivered at a pipe-line terminal in this state and stored thereat, shall not be considered "received" until the same are withdrawn from such refinery or terminal for sale or use in this state or for delivery or shipment to points within this state. When so withdrawn, such products shall be deemed to be "received" by the person who was the owner thereof immediately prior to withdrawal; unless (1) such products are withdrawn for shipment or delivery to another licensed distributor, in which case the licensed distributor to whom such shipment or delivery is made shall be deemed to have "received" such products in this state, or (2) such products are withdrawn for ship-*

ment or delivery to a person not licensed as a distributor, pursuant to one or more sale or exchange agreements by or between persons one or more of whom is a licensed distributor, in which case the last purchaser or exchangee under such agreement or agreements, who is licensed as a distributor, shall be deemed to have "received" such products in this state. Petroleum products produced in this state in any manner other than as covered heretofore in this subdivision shall be considered "received" by the producer thereof at the time and place so produced.

Sec. 5. Minnesota Statutes 1945, Section 296.06, Subdivision 1, is amended to read:

296.06. Distributors must be licensed. Subdivision 1. **Issuance.** *No person shall produce, manufacture or refine petroleum products in this state, or receive, distribute, sell or use in this state petroleum products which have not theretofore been received in this state by a licensed distributor, or in any manner act as a distributor as defined in Subdivision 5 of Section 296.01 unless he shall have been licensed by the commissioner as a distributor.*

Sec. 6. Minnesota Statutes 1945, Section 296.06, Subdivision 2, is amended to read:

Subd. 2. Fees; conditions; bonds. A distributor's license shall be issued to any responsible person qualifying under this act as a distributor who makes application therefor, and who shall pay to the commissioner at the time thereof and annually thereafter a license fee of \$1.00, and who shall further comply with the following conditions:

(1) A written application shall be made in a manner approved by the commissioner, who shall require the applicant or licensee to deposit with the state treasurer securities of the United States government or the State of Minnesota or to execute and file a bond, with a corporate surety approved by the commissioner, to the State of Minnesota in an amount to be determined by the commissioner and in a form to be fixed by the commissioner and approved by the attorney general, and which shall be conditioned for the payment when due of all gasoline excise taxes, inspection fees, penalties, and accrued interest arising in the ordinary course of business or by reason of any delinquent money which may be due the State of Minnesota; the bond shall cover all places of business within the state where petroleum products are received by the licensee; and *the applicant or licensee*

shall designate and maintain an agent in this state upon whom service may be had for all purposes of this section.

(2) An initial applicant for a distributor's license shall furnish a bond in a minimum sum of \$3,000 for the first year;

(3) Whenever it is the opinion of the commissioner that the bond given by a licensee is inadequate in amount to fully protect the state, he shall require an additional bond in such amount as he deems sufficient;

(4) If any licensee desires to be exempt from depositing securities or furnishing such bond, as hereinbefore provided, he shall furnish an itemized financial statement showing the assets and the liabilities of the applicant and if it shall appear to the commissioner, from the financial statement or otherwise, that the applicant is financially responsible, then the commissioner may exempt such applicant from depositing such securities or furnishing such bond until the commissioner otherwise orders;

(5) The premium on any bond required under subdivision 2 (1) and (2) and on any additional bond required under subdivision 2 (3) shall be paid by the commissioner out of a bond premium fund which he shall set up from an appropriation by the Legislature from whatever funds are available. All of said bonds required during each license period shall be purchased by the commissioner of administration from the lowest responsible bidder after advertising for competitive bids in the manner prescribed by Laws 1939, Chapter 431, Article 11, as amended. The commissioner of administration shall call for bids within a reasonable period prior to the commencement of license period.

(6) *After the present license period expires on May 31, 1947, the next license period shall be for one year ending May 31, 1948, the next license period shall be for thirteen (13) months ending June 30, 1949, and thereafter each license period shall be for one year ending each June 30th.*

(7) *Upon application to the commissioner and compliance by the applicant with the provisions of this subdivision, the commissioner also shall issue a distributor's license to (a) any person engaged in this state in the bulk storage of petroleum products and the distribution thereof by tank car or tank truck or both, and (b) any person holding an unrevoked license as a distributor since January 1, 1947, and (c) any person holding a license and performing a function under the motor fuel tax law of an adjoining state equivalent*

to that of a distributor under this act, who desires to ship or deliver petroleum products from that state to persons in this state not licensed as distributors in this state and who agrees to assume with respect to all petroleum products so shipped or delivered the liabilities of a distributor receiving petroleum products in this state, provided, however, that any such license shall be issued only for the purpose of permitting such person to receive in this state the petroleum products so shipped or delivered. Except as herein provided, all persons licensed as distributors under subdivision 2 (7) shall have the same rights and privileges and be subject to the same duties, requirements and penalties as other licensed distributors.

Sec. 7. Minnesota Statutes 1945, Section 296.14, Subdivision 2, is amended to read:

296.14. Reports to commissioner. Subd. 2. Credit or refund of tax paid. The commissioner shall allow the distributor credit or refund of the tax paid on gasoline:

(1) Exported or sold for export from the state, other than in the supply tank of a motor vehicle or of an aircraft;

(2) Sold to the United States government or to any "cost plus a fixed fee" contractor employed by the United States government on any national defense project;

(3) Sold to another licensed distributor;

(4) Destroyed by accident while in the possession of the distributor;

(5) In such other cases as the commissioner may permit, not inconsistent with the provisions of this act and other laws relating to the gasoline excise tax.

Sec. 8. Minnesota Statutes 1945, Section 296.22, is amended to read:

296.22. Safety requirements. Subdivision 1. Containers to be painted red. The outsides of all barrels, cans or like containers used for storing, shipping or delivering gasoline or other petroleum products having a flash point of less than 100 degrees Fahrenheit when tested with the Tagliabue closed cup tester shall be painted red in their entirety or identified in a manner approved by the commissioner, and such containers shall not be used for any other product. Nothing herein

shall prevent the distributor from placing his name, trademark or other identification on such containers.

Subd. 2. Tank wagon tags. Tank wagons with separate compartments for gasoline, fuel oil, or farm tractor fuel shall have red tags attached to the faucets from which are drawn gasoline and other petroleum products having a flash point of less than 100 degrees Fahrenheit when tested with the Tagliabue closed cup tester.

Subd. 3. Use of pump lines. Gasoline and other petroleum products having a flash point of less than 100 degrees Fahrenheit when tested with the Tagliabue closed cup tester shall not be pumped through the same pump or marketing lines as are used for other petroleum products except by special permission of the commissioner.

Subd. 4. Red pipes. All visible pipes through which are drawn gasoline and other petroleum products having a flash point of less than 100 degrees Fahrenheit when tested with the Tagliabue closed cup tester shall be painted red.

Subd. 5. Certain filling prohibited. Fuel tanks or motor vehicles shall not be filled while the motor is running nor while any of the occupants or attendants are smoking.

Subd. 6. Identification. Tank wagons and truck transports used in transporting *such* petroleum products shall be identified with the name or recognized trademark of the company transporting petroleum products. The name or names shall be painted on *both right and left sides or on the rear of* the cargo tank with letters six inches in height or larger.

Subd. 7. Time for unloading. No gasoline shall be unloaded by any person from truck transports between the hours of 9:00 p.m. and 5:30 a.m. except by special permission of the commissioner.

Subd. 8. Conform to specifications. Gasoline shall conform to the specifications by which it is offered for sale or sold.

Subd. 9. Prima facie evidence of quality. Charging a higher price for gasoline drawn from one pump than from another at the same place shall be prima facie evidence that the higher priced product is a better quality gasoline for the purpose for which it is to be used.

Subd. 10. Prices posted. Each gasoline pump in this

state shall have the total sales price per gallon posted on the pump in a conspicuous manner.

Subd. 11. Limitation when packaged in glass containers. Gasoline and other petroleum products having a flash point of less than 100 degrees Fahrenheit when tested with the Tagliabue closed cup tester shall not be stored, shipped or offered for sale in quantities of more than eight ounces when packaged in glass containers.

Sec. 9. Minnesota Statutes 1945, Section 296.23, is amended to read:

296.23. Certain blending prohibited. The blending of gasoline on which the tax has been paid or the liability therefor *accrued*, with any substance on which the tax has not been paid or the liability therefor *accrued*, is prohibited.

Sec. 10. Minnesota Statutes 1945, Section 296.24, is amended to read:

296.24. Certain acts misdemeanors. Any officer or employee of the State of Minnesota charged with the enforcement of any provision of sections 296.01 to *296.49* who is employed by or who engages in business as a distributor or dealer in petroleum products shall be guilty of a misdemeanor.

Sec. 11. Minnesota Statutes 1945, Section 296.25, is amended to read:

296.25. Violations; penalties. Any person who fails to comply with any provisions of sections 296.01 to *296.49*, inclusive, or who makes any false statement in any report required by sections 296.12, 296.14, 296.17, subdivision 5, 296.18, subdivision 2, or *296.49*, shall be guilty of a misdemeanor unless other penalties are expressly provided.

Sec. 12. Minnesota Statutes 1945, Section 296.48, Subdivision 1, is amended to read:

296.48. Violations; penalties. Subdivision 1. Any person who shall inship, sell, or blend farm tractor fuels in violation of the provisions of sections 296.43 to 296.49 shall be guilty of a misdemeanor and such inshipment, sale, or blending shall be sufficient cause for cancelation of a distributor's license.

Sec. 13. Minnesota Statutes 1945, Section 296.49, is amended to read:

296.49. Sellers of tractor fuel to file monthly statements. Every person who sells farm tractor fuel shall file with the

commissioner, at *St. Paul, Minnesota*, on or before the *23rd* day of each month, a report in a manner approved by the commissioner. At the time of every such sale the purchaser shall deliver to the seller, on forms to be prescribed by the commissioner, a statement of the amount of such fuel purchased, and the dates thereof, and a declaration that such fuel is to be used exclusively in farm tractors.

Sec. 14. **Repealer.** Minnesota Statutes 1945, Sections 296.01, Subdivision 8, 296.08, and 296.09, are repealed.

Approved April 19, 1947.

CHAPTER 413—S. F. No. 1194

[Not Coded]

An act relating to home rule cities of the first-class now or hereafter having a population of not more than 150,000 inhabitants and now or hereafter having a total assessed valuation of less than \$75,000,000, permitting the governing body of any such city to direct purchases of property, supplies, materials, equipment or services for such city, in amounts of less than \$500, without advertising or calling for competitive bids.

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

Section 1. **Certain cities may make certain purchases without advertising or calling for competitive bids.** Notwithstanding anything contained in the charter of any city of the first-class now or hereafter having a population of not more than 150,000 inhabitants, and now or hereafter having a total assessed valuation of less than \$75,000,000, the governing body of any such city may, by resolution, direct purchases of property, supplies, materials, equipment or services for such city, in amounts of less than \$500.00, without advertising or calling for competitive bids.

Approved April 19, 1947.