

## CHAPTER 41—S. F. No. 235

*An act relating to tax on gasoline and gasoline substitutes; amending Minnesota Statutes 1949, Sections 296.01, Subdivisions 4, 6, 296.025 by adding Subdivision 5, 296.06 by adding Subdivision 4, 296.07, Subdivision 1, 296.12, Subdivisions 3, 4, 296.14, Subdivision 2, 296.15, Subdivision 2, 296.16, Subdivision 2, 296.22, Subdivisions 1, 6, as amended; and repealing Minnesota Statutes 1949, Sections 296.30 and 296.31.*

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

Section 1. Minnesota Statutes 1949, Section 296.01, Subdivision 4, as amended by Laws 1951, Chapter 87, Section 1, is amended to read :

Subd. 4. **Fuel oil.** "Fuel oil" means any petroleum product other than gasoline as herein defined which is received in this state by a licensed distributor and which when tested with a Cleveland open cup tester shall not flash below 120 degrees Fahrenheit and which has a viscosity of not more than 40 seconds at 100 degrees Fahrenheit by the Saybolt universal process.

Sec. 2. Minnesota Statutes 1949, Section 296.01, Subdivision 6, as amended by Laws 1951, Chapter 87, Section 2, is amended to read :

Subd. 6. **Special fuel.** "Special fuel" means (1) all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, which are delivered into the supply tank of a licensed motor vehicle or into storage tanks maintained by an owner or operator of a licensed motor vehicle as a source of supply for such vehicle; or (2) *all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, when delivered to a licensed special fuel dealer or to the retail service station storage of a distributor who has elected to pay the special fuel excise tax as provided in section 296.12, subdivision 3;* or (3) all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, which are used as aviation fuel.

Sec. 3. Minnesota Statutes 1949, Section 296.025, as amended by Laws 1951, Chapter 87, Section 5, is amended by adding thereto a new subdivision to be numbered 5, to read :

Subd. 5. *The special fuel excise tax imposed by subdivision 1 of this section shall apply to all special fuel held in storage on the effective date of the election by a distributor or special fuel dealer to pay the special fuel excise tax as provided in section 296.12, subdivision 3.*

Sec. 4. Minnesota Statutes 1949, Section 296.06, is amended by adding thereto a new subdivision to be numbered 4, to read:

*Subd. 4. Rights, subrogation. When the surety upon any bond issued pursuant to the provisions of this chapter shall have fulfilled the conditions of such bond and compensated the state for any loss occasioned by any act or omission of any licensee under this chapter, such surety shall be subrogated to all the rights of the state in connection with the transaction wherein such loss occurred.*

Sec. 5. Minnesota Statutes 1949, Section 296.07, Subdivision 1, as amended by Laws 1951, Chapter 87, Section 6, is amended to read:

**296.07 Registration Certificate. Subdivision 1. Application, display.** No person shall engage in or purport to be engaged in or hold himself out as being engaged in the business of buying and selling *petroleum products, including aviation gasoline*, as a dealer in this state unless he shall make application for and secure from the commissioner a dealer's certificate of registration. The application shall be made in a manner approved by the commissioner. The dealer shall display the certificate in a conspicuous manner in his place of business.

Sec. 6. Minnesota Statutes 1949, Section 296.12, Subdivision 3, as amended by Laws 1951, Chapter 87, Section 8, is amended to read:

**Subd. 3.** All distributors and special fuel dealers selling or delivering special fuel into the supply tank of a licensed motor vehicle shall collect, report and pay the excise tax thereon to the commissioner.

*Distributors may, subject to the approval of the commissioner, elect to pay the special fuel excise tax on all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, delivered into storage tanks at retail service stations operated by them. Upon such election, the payment of the special fuel excise tax shall be made in the same manner for the balance of the license period.*

*Licensed special fuel dealers may, subject to the approval of the commissioner, elect to pay the special fuel excise tax on all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, delivered to them. Upon such election, the payment of the special fuel excise tax shall be made in the same manner for the balance of the license period.*

Bulk purchasers shall report and pay the excise tax on all

special fuel purchased by them *for storage*, to the commissioner.

Any person delivering special fuel on which the excise tax has not previously been paid, into the supply tank of a licensed motor vehicle shall report such delivery and pay the excise tax on the special fuel so delivered, to the commissioner.

Sec. 7. Minnesota Statutes 1949, Section 296.12, Subdivision 4, as amended by Laws 1951, Chapter 87, Section 8, is amended to read:

Subd. 4. On or before the 23rd day of each month, the persons subject to the provisions of this section shall file in the office of the commissioner at St. Paul, Minnesota, a report in the following manner:

(1) Distributors and special fuel dealers shall report the total number of gallons of special fuel sold or delivered into the supply tank of a licensed motor vehicle by them during the preceding calendar month, and the report shall be accompanied by the special fuel *excise* tax due thereon and such other information as the commissioner may require.

(2) *Distributors and special fuel dealers who have elected to pay the special fuel excise tax on all special fuel delivered to them as provided in subdivision 3 of section 296.12 shall report the total number of gallons delivered to them during the preceding calendar month and shall pay the special fuel excise tax due thereon to the commissioner. The report shall contain such other information as the commissioner may require. The first report after such election shall also show the total gallons on hand on the first day of the period for which the report is filed and it shall be accompanied by the special fuel excise tax due thereon.*

(3) Bulk purchasers shall report and pay the special fuel excise tax on all special fuel purchased by them *for storage*, during the preceding calendar month. *In such cases as the commissioner may permit, credit for the excise tax due or previously paid on special fuel not used in licensed motor vehicles, may be allowed in computing the tax liability.* The report shall contain such other information as the commissioner may require.

(4) In computing the special fuel excise tax due under Clauses (1), (2) and (3), a deduction of one per cent of the quantity of special fuel *on which tax is due* shall be made for evaporation and loss.

Sec. 8. Minnesota Statutes 1949, Section 296.14, Subdivision 2, is amended to read:

Subd. 2. The commissioner shall allow the distributor credit or refund of the tax paid on gasoline *and special fuel*:

(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 *and special fuel* excise taxes.

Sec. 9. Minnesota Statutes 1949, Section 296.15, Subdivision 2, is amended to read:

Subd. 2. **Failure to pay taxes; proceedings.** Upon the failure of any person to pay any tax or inspection fees within the time provided by sections 296.01 to 296.49, all taxes and inspection fees *imposed by this chapter* shall become immediately due and payable, whether or not the person has previously reported the tax and inspection fees to the commissioner, and after the default in payment the commissioner may deliver to the attorney general a certified statement of the amount due from each person hereunder whose excise tax and inspection fees are delinquent. The statement shall give the address of the person owing such tax and inspection fees, the month for which the tax and inspection fees are due, the date of the delinquency, and such other information as may be required by the attorney general. It shall be the duty of the attorney general, upon receipt of the statement, to bring an action in the district court of Ramsey County, or of the county in which the delinquent taxpayer resides, to recover the amount of such tax and inspection fees, with penalty, interest and costs and disbursements, and the action may be tried in the county in which it is brought. The judgment of the court when so obtained shall draw interest at the rate of six per cent per year and shall be enforceable in the manner provided by law for the enforcement of judgments obtained in civil actions.

Sec. 10. Minnesota Statutes 1949, Section 296.16, Subdivision 2, is amended to read:

Subd. 2. **Seller to collect tax.** If the person directly or indirectly paying either of the taxes provided for by *sections*

296.02 and 296.025 shall not in fact use the gasoline or special fuel in motor vehicles in this state or receive, store, or withdraw it from storage to be used by himself for the purpose of producing or generating power for propelling aircraft, but shall sell or otherwise dispose of the same, except as provided in section 296.14, subdivision 2, he is hereby authorized to collect (from the person to whom the gasoline or special fuel is so sold or disposed of) the tax so paid by him, and he is hereby required, upon request, to make, sign, and deliver to such person an invoice of such sale or disposition.

Section. 11. Minnesota Statutes 1949, Section 296.22, Subdivision 1, is amended to read:

**296.22 Safety requirements.** *Subdivision 1. Containers painted red.* The outside 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 petroleum product. *No person shall deliver gasoline or other petroleum products having a flash point of less than 100 degrees Fahrenheit when tested with the Tagliabue closed cup tester, into any barrel, can or like container which is not painted red in its entirety.* Nothing herein shall prevent the distributor from placing his name, trademark or other identification on such containers.

Sec. 12. Minnesota Statutes 1949, Section 296.22, Subdivision 6, is amended to read:

**Subd. 6. Identification.** Tank wagons and truck transports used in transporting petroleum products shall be identified with the name or recognized trademark of the company transporting *such* 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.

Sec. 13. Minnesota Statutes 1949, Section 296.30, is hereby repealed.

Sec. 14. Minnesota Statutes 1949, Section 296.31, is hereby repealed.

Sec. 15. This act shall take effect July 1, 1953.

Approved February 25, 1953.