

such investment company a full statement of all salaries, wages, and expenses of special examiners and other special employees, and compensation for special services rendered by regular examiners paid from such deposit, and if the amount so paid is not equal to the amount of the deposit, the excess shall, upon authorization of the commissioner of banks, be repaid by the state treasurer to the investment company making the deposit.

Approved April 6, 1943.

CHAPTER 320—S. F. No. 193.

(AMENDING SECTIONS 296.01; 296.04; 296.05; 296.06; 296.10; 296.12; 296.14; 296.15; 296.17 AND 296.22. MINNESOTA STATUTES 1941.)

An act relating to tax on gasoline and gasoline substitutes, amending Laws 1941, Chapter 495, Sections 1, 2, 3, 4, 8, 10, 12, 13, 15 and 20, and repealing Laws 1941, Chapter 495, Section 20, Subdivision 5.

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

Section 1. **Law amended—Definitions.**—That Laws 1941, Chapter 495, Subdivision 3, be amended so as to read as follows:

“Subd. 3.—**Fuel oil.**—‘Fuel oil’ means any petroleum product other than gasoline as herein defined which is received in this state for distribution to retail consumers 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 50 to 100 degrees Fahrenheit by the Saybolt universal process, and any product designated for such use outside this range which is to be blended with other products or processed to produce a resulting product coming within this range.”

Sec. 2. **Law amended.**—That Laws 1941, Chapter 495, Section 1, Subdivision 8, be amended so as to read as follows:

“Subd. 8. **Motor vehicles used on the public highways of this state.**—‘Motor vehicles used on the public highways of this state’ means every vehicle operated upon the highways of this state the power for the operation of which is produced or generated in an internal combustion engine, but does not include tractors used solely for agricultural purposes.”

Sec. 3. **Law amended.**—That Laws 1941, Chapter 495, Section 1, Subdivision 9, be amended so as to read as follows:

“Subd. 9. **For use in motor vehicles.**—*For use in motor vehicles* means *for use in producing or generating power for propelling motor vehicles on the public highways of this state or in machinery operated on the public highways of this state for the purpose of constructing, reconstructing or maintaining such public highways.*”

Sec. 4. **Law amended.**—That Laws 1941, Chapter 495, Section 2, Subdivision 1, be amended so as to read as follows:

“Sec. 2. Subdivision 1. **Inspection of petroleum products—where made.**—The commissioner shall make inspection of petroleum products wherever processed, held, stored, or offered for sale or used, and he shall secure samples periodically from importations in their original containers to determine their specifications when tested by the methods of the American Society for Testing Materials. *Every person holding, storing, offering for sale or using petroleum products shall upon the request of the commissioner permit the commissioner to take for testing free samples of not to exceed 32 ounces each of all such products whenever necessary for the purposes of this act.* The commissioner shall test samples of petroleum products received and submitted by any licensed distributor and shall inform the distributor of the results of the tests.”

Sec. 5. **Law amended.**—That Laws 1941, Chapter 495, Section 3, Subdivision 2, be amended so as to read as follows:

“Subd. 2. **Specifications for fuel oil.**—No fuel oil shall be sold unless it shall conform to the following specifications:

(1) It shall be free from water, suspended matter and all impurities;

(2) It shall not flash below 120 degrees Fahrenheit when tested with the *Cleveland* open cup tester.

(3) When offered for sale or sold as kerosene, it shall be water white and upon complete distillation the end point shall not be higher than 600 degrees Fahrenheit.”

Sec. 6. **Law amended.**—That Laws 1941, Chapter 495, Section 4, be amended so as to read as follows:

“Sec. 4. Subdivision 1. **Dealers must be licensed—Commissioner to license.**—No person shall engage in or purport to be engaged in or hold himself out as being engaged in the business of buying or selling petroleum products as a distributor in the state

of Minnesota unless he shall have been licensed by the commissioner to carry on business as a distributor.

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. All licenses and bonds executed and delivered hereunder shall be for the duration of one year, expiring May 31.

(2) An initial applicant for a distributor's license other than an exclusive industrial user 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.*

Sec. 7. **Law amended.**—That Laws 1941, Section 8, be amended so as to read as follows:

“Sec. 8. *Subdivision 1. Interstate transport permit.*—A person who transports petroleum products from a point outside this state into this state for storage, sale, distribution or use therein, in truck transports, shall make application and secure from the commissioner an interstate transport permit which shall bear a distinctive number for each vehicle so used. The permit shall be carried in the cab while the transport is in this state, and the permit number shall be printed in six inch letters in a conspicuous place on both front and rear ends of the vehicle for which the permit number is issued. The permit shall expire annually on May 31.

Subdivision 2. A person who transports petroleum products in truck transports within this state for storage, sale, distribution or use therein, shall, at the discretion of the commissioner, before engaging in such operation, make application and secure from the commissioner an intrastate transport permit. The permit, when issued, shall bear a distinctive number and shall cover only one such transport. The permit shall be carried in the cab of the transport at all times, and the permit number shall be painted in six inch letters on the left front end and right rear end of the vehicle for which the permit is issued. The permit shall expire annually on May 31.”

Sec. 8. **Law amended.**—That Laws 1941, Chapter 495, Section 10, be amended so as to read as follows:

“Sec. 10. *Subdivision 1. Special use fuel.*—‘Special use fuel’ shall mean all combustible gases and liquids, including liquefied gases, which exist in the gaseous state at a temperature of 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, and any liquid petroleum product or substitute therefor that is used in motor vehicles, except gasoline.

Subdivision 2. Persons using special use fuel in motor vehicles shall register and keep records, and shall report and pay the tax in a manner approved by the commissioner on special use fuel received in this state for use in motor vehicles. The reports shall be made by the 23rd day of each month and shall cover special use fuel received during the preceding calendar month. All provisions of this act relating to the calculation, collection and payment of the tax on gasoline and all provisions of this act relating to distributors except as to distributors’ licenses, shall be applicable to persons using special use fuel on the public highways of this state.

Subdivision 3. The provisions of Section 4, Subdivision 2 (1), (3) and (4) relating to bonds shall apply to persons using special use fuel on the public highways of this state.

Subdivision 4. When an application for registration of a motor vehicle discloses that such motor vehicle uses special use fuel as defined in subdivision 1 hereof, the secretary of state shall not issue a number plate for such motor vehicle until and unless such motor vehicle shall have been registered and a permit issued therefor by the commissioner of taxation as provided in subdivision 2 hereof."

Sec. 9. **Law amended.**—That Laws 1941, Chapter 495, Section 12, Subdivision 1, be amended so as to read as follows:

"Sec. 12. Subdivision 1.—**Report to commissioner to be made monthly—remittance to cover inspection fee and tax.**—On or before the 23rd day of each month, each distributor shall file in the office of the commissioner at St. Paul, Minnesota, a report in a manner approved by the commissioner showing the number of gallons as originally invoiced, of petroleum products received by him during the preceding calendar month and such other information as the commissioner may require. *Each such report shall show the number of gallons of gasoline sold by the distributor for use for aeronautical or aviation purposes during such calendar month.* The report shall be accompanied by remittance covering inspection fees on petroleum products and gasoline tax on gasoline received by him during the preceding month; provided that in computing such tax a deduction of three percent of the quantity of gasoline received shall be made for evaporation and loss; provided further that at the time of remittance the distributor shall submit satisfactory evidence that one-third of such three percent deduction shall have been credited or paid to dealers on quantities sold to them. The report and remittance shall be deemed to have been filed as herein required if postmarked on or before the 23rd day of the month in which payable."

Sec. 10. **When credit or refund of tax paid on gasoline allowed.**—That Laws 1941, Chapter 495, Section 12, Subdivision 2, be amended so as to read as follows:

"Subdivision 2. 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;

(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 a holder of an industrial user permit *or 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. 11. **Law amended.**—That Laws 1941, Chapter 495, Section 13, be amended so as to read as follows:

"Sec. 13. Subdivision 1. **Penalties for non-payment of tax.**—In case any tax or inspection fee is not paid when due, a penalty of one per cent per day for the first ten days of delinquency shall accrue, and thereafter the tax, fees and penalty shall bear interest at the rate of six per cent per year until paid.

Subd. 2. **Statement of amount of tax due sent to Attorney General.**—Upon the failure of any person or distributor to pay the gasoline tax and inspection fees within the time provided by this act, all gasoline tax upon gasoline received and inspection fees shall become immediately due and payable, whether or not the person or distributor has previously reported the tax and inspection fees to the commissioner, and within ten days after the default in payment the commissioner shall deliver to the attorney general a certified statement of the amount due from each person or distributor hereunder whose excise tax and inspection fees are delinquent. The statement shall give the address of the person or distributor 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 distributor or tax-payer resides, to recover the amount of such tax 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.

Subd. 3. **Certified statement prima facie evidence.**—The commissioner's certified statement to the attorney general for 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 person named in the statement.

Subd. 4. **Receiver may be appointed.**—In event suit is instituted as herein provided, the court shall upon application of the attorney general appoint a receiver of the property and business of the delinquent defendant for the purpose of impounding the same as security for any judgment which has been or may be recovered.

Subd. 5. **Person not to sell gasoline when his tax and inspection fees are certified to Attorney General.**—No gasoline or petroleum product shall be unloaded or sold by any person or distributor whose tax and inspection fees have been certified to the attorney general for collection.

Subdivision 6. Limitation of actions.—*No action shall be brought against a distributor for the collection of delinquent gasoline taxes and inspection fees unless commenced within six years after the date of the filing of the distributor's report in the office of the commissioner, provided, however, that in the case of a false or fraudulent report with intent to evade tax or inspection fee or of a failure to file a report, action may be commenced at any time.*"

Sec. 12. **Law amended.**—That Laws 1941, Chapter 495, Section 15, be amended so as to read as follows:

"Sec. 15. Subdivision 1. **Reports of gasoline on hand—liability for payment of tax.**—It shall be the duty of every distributor, dealer and person who sells or uses gasoline manufactured, produced, received or stored by him, and of every person using gasoline in motor vehicles, if the same has not been reported or if the tax on account thereof has not been paid to the commissioner, to report to the commissioner the quantity of such gasoline so sold or used by him, and such person shall become liable for the payment of the tax. All provisions of this act relating to the calculation, collection and payment of the tax shall be applicable to any such person, dealer or distributor.

Subd. 2. **Application of section.**—This section shall apply to any resident of this state who, having acquired gasoline outside the state, shall use the same in motor vehicles in this state, or who shall possess the same within the state for such use, and to persons who, although not residents of this state, shall regularly or habitually use and operate motor vehicles upon the public highways of this state, and the tax shall be payable by such persons on gasoline used or held for use by them in motor vehicles in the state although the same shall have been acquired outside this state. It shall not apply to persons who, as transients, operate motor vehicles into or through the state using therein gasoline acquired outside of the state, providing such gasoline is wholly contained within the

fuel supply tank of such vehicle, nor shall it apply to persons who, having acquired gasoline outside the state, shall transport the same into this state in the tank, or tanks, of a motor vehicle, the total capacity of which is not in excess of 20 gallons.

Subd. 3. Refunds on gasoline purchased in other states.—Every person regularly or habitually operating motor vehicles upon the public highways of any other state or states and using in said motor vehicles gasoline purchased or obtained in this state, shall be allowed a credit or refund equal to the tax on said gasoline actually paid to the state or states in which it is used, not to exceed, however, the tax imposed on said gasoline by this state. No credit or refund shall be allowed under this subdivision for taxes paid to any state which imposes a tax upon gasoline purchased or obtained in this state and used on the highways of such other state, and which does not allow a similar credit or refund for the tax paid to this state on gasoline purchased or acquired in such other state and used on the highways of this state. Every person claiming a credit or refund under this subdivision shall file, within thirty days after the tax to such other state, or states, is paid, a report in such form as may be prescribed by the commissioner, together with such proof of the payment of the tax, and of the fact that it was paid on gasoline purchased or obtained within this state as the commissioner may require.

Subd. 4. Users licenses.—Every person who regularly or habitually uses or operates motor vehicles upon the highways of this state and is liable to tax under the provisions of Subdivision 2 of this section and is not otherwise licensed as a distributor under the provisions of this act shall apply for and obtain a license as a 'user', which license shall be issued in the same manner and subject to the same limitations and provisions as provided in this act for distributors' licenses."

Sec. 13. Law repealed.—That Laws 1941, Chapter 495, Section 20, Subdivision 5, be repealed.

Sec. 14. Law amended.—That Laws 1941, Chapter 495, Section 20, be amended so as to read as follows:

"Sec. 20. Subdivision 1. **Containers to be painted red.**—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 or identified in a manner approved by the commissioner, and such containers shall not be used for any other product.

Subd. 2. Tank wagons.—Tank wagons with separate compartments for gasoline, fuel oil or farm tractor fuel shall have red tags attached to the faucet 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. Not to use pump or marketing lines for low flash point gasoline.—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. Visible 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. Not to fill fuel tanks or motor vehicles while motor is running.—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. Trade marks on tank wagons and truck transports. Tank wagons and truck transports used in transporting 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 the vehicle or tank with letters six inches in height or larger.

Subd. 7. Hours when gasoline not unloaded from truck transports.—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. Gasoline must conform to specifications.—Gasoline shall conform to the specifications by which it is offered for sale or sold.

Subd. 9. Higher price prima facie evidence that gasoline is better 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. Must have sales price posted on pump.—*Each gasoline pump in this state shall have the total sales price per gallon posted on the pump in a conspicuous manner.*"

Approved April 6, 1943.