

tive school whenever possible by the district or intermediary service area wherein the nonpublic student's school is situated. The cost of the required services shall not exceed the amount allotted under this section to the participating district or intermediary service area. Each school year the commissioner shall allot to the school districts or other intermediary service areas for the provision of the services the actual cost of the services for that school year not to exceed \$50 multiplied by the number of nonpublic school pupils in grades 9 through 12 and \$75 multiplied by the number of nonpublic school pupils in kindergarten through grade 8, enrolled as of October 1 of the last preceding school year.

Sec. 6. [123.936] In every event the commissioner shall make such payments to school districts or intermediary service areas pursuant to this act as are needed to meet contractual obligations incurred for the provision of benefits to nonpublic school students pursuant to section 3, 4 or 5 of this act.

Sec. 7. The provisions of this act shall be severable, and if any provision thereof, or the application of any such provision under any circumstances is held invalid, it shall not affect any other provision of this act or the application of any provision thereof under different circumstances.

Sec. 8. [123.937] **APPROPRIATION.** There is appropriated annually to the department of education from the general fund of the state treasury the sum of \$12,000,000 for the purposes of this act.

Sec. 9. This act is effective July 1, 1975.

Approved June 4, 1975.

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#### CHAPTER 397—H.F.No.981

*An act relating to sales and use tax; providing for seizure of certain property; amending Minnesota Statutes 1974, Sections 297A.01, Subdivision 8; and 297A.15.*

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

Section 1. Minnesota Statutes 1974, Section 297A.01, Subdivision 8, is amended to read:

Subd. 8. **TAXATION; SALES AND USE TAX; SEIZURE OF PROPERTY; SALES PRICE.** "Sales price" means the total consideration valued in money, for a retail sale whether paid in money or otherwise, excluding therefrom any amount allowed as credit for tangible personal property taken in trade for resale, without deduction for the cost of the property sold, cost of materials used, labor or service cost,

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interest, or discount allowed after the sale is consummated, the cost of transportation incurred prior to the time of sale, any amount for which credit is given to the purchaser by the seller, or any other expense whatsoever. A deduction may be made for charges for services that are part of the sale ~~and for~~, including charges up to 15 percent in lieu of tips, if the consideration for such charges is separately stated, but no deduction shall be allowed for charges for services that are part of a sale as defined in subdivision 3, clauses (b) to (f). A deduction may also be made for interest, financing, or carrying charges, charges for labor or services used in installing or applying the property sold or transportation charges if the transportation occurs after the retail sale of the property only if the consideration for such charges is separately stated. There shall not be included in "sales price" cash discounts allowed and taken on sales, the amount refunded either in cash or in credit for property returned by purchasers or the amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

Sec. 2. Minnesota Statutes 1974, Section 297A.15, is amended to read:

**297A.15 COLLECTION AND PAYMENT; PENALTY.** ~~(a)~~ Subdivision 1. Liability for the payment of the use tax is not extinguished until the tax has been paid to Minnesota. However, a receipt from a retailer maintaining a place of business in Minnesota, or from a retailer who is authorized by the commissioner under such rules and regulations as he may prescribe, to collect the tax, given to the purchaser pursuant to section 297A.16 relieves the purchaser of further liability for the tax to which the receipt refers.

~~(b)~~ Subd. 2. Any retailer not maintaining a place of business in Minnesota as a prerequisite to receiving authorization from the commissioner to collect the use tax shall furnish, to the satisfaction of the commissioner, and in accordance with section 297A.28, adequate security to insure collections and payment of the tax. When so authorized, such retailer shall, except as otherwise provided in section 297A.16, collect the tax upon all tangible property sold to his knowledge for use within this state, as a retailer maintaining a place of business within this state collects such tax. Such authority and permit may be cancelled at any time, if the commissioner considers the security inadequate, or believes that such tax can be collected more effectively from the person using such property in this state.

~~(c)~~ Subd. 3. No agent, canvasser or employee of any retailer, not authorized by permit from the commissioner, shall collect the tax as prescribed herein, nor sell, solicit orders for, nor deliver, any tangible personal property in this state. Any such agent, canvasser or employee violating the provisions of sections 297A.14 to 297A.25 is guilty of a misdemeanor and shall be punished by a fine of not more than \$100 for each offense, or by imprisonment for not more than 30 days, or by

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both such fine and imprisonment.

Subd. 4. The commissioner of revenue or his duly authorized agents are hereby authorized and empowered to seize and confiscate in the name of the state any truck, automobile or means of transportation not owned or operated by a common carrier, used in the illegal importation and transportation of any article or articles of tangible personal property by a retailer or his agent or employee who does not have a sales or use tax permit and has been engaging in transporting personal property into the state without payment of the tax. The commissioner may demand the forfeiture and sale of the truck, automobile or other means of transportation together with the property being transported illegally, unless the owner can establish to the satisfaction of the commissioner or the court that he had no notice or knowledge or reason to believe that the vehicle was used or intended to be used in any such violation. Within two days after the seizure, the person making the seizure shall deliver an inventory of the vehicle and property seized to the person from whom the seizure was made, if known, and to any person known or believed to have any right, title, interest or lien on the vehicle or property, and shall also file a copy with the commissioner. Within ten days after the date of service of the inventory, the person from whom the vehicle and property was seized or any person claiming an interest in the vehicle or property may file with the commissioner a demand for a judicial determination of the question as to whether the vehicle or property was lawfully subject to seizure and forfeiture, and thereupon the commissioner, within 30 days, shall institute an action in the district court of the county where the seizure was made to determine the issue of forfeiture. The action shall be brought in the name of the state and shall be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and shall try and determine the issues of fact and law involved. Whenever a judgment of forfeiture is entered, the commissioner may, unless the judgment is stayed pending an appeal to the supreme court, cause the forfeited vehicle and property to be sold at public auction as provided by law. If a demand for judicial determination is made and no action is commenced as provided in this subdivision, the vehicle and property shall be released by the commissioner and redelivered to the person entitled to it. If no demand is made, the vehicle and property seized shall be deemed forfeited to the state by operation of law and may be disposed of by the commissioner as provided where there has been a judgment of forfeiture. The forfeiture and sale of the automobile, truck or other means of transportation, and of the property being transported illegally therein, shall be and operate as a penalty for the violation of this chapter. After deducting the expense of keeping the vehicle and property, the fee for seizure, and the costs of the sale, the commissioner shall pay from the funds collected all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the vehicle or property was being used or was intended to be used for or in connection with any such violation as specified in the order of the court, and shall pay the balance of the proceeds into the state treasury

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to be credited to the general fund. The state shall not be liable for any liens in excess of the proceeds from the sale after deductions provided herein. Any sale under the provisions of this section shall operate to free the vehicle and property sold from any and all liens thereon, and appeal from such order of the district court will lie to the supreme court as in other civil actions.

For the purposes of this section, "common carrier" means any person engaged in transportation for hire of tangible personal property by motor vehicle, limited to (1) a person possessing a certificate or permit authorizing for-hire transportation of property from the interstate commerce commission or the Minnesota public service commission; or (2) any person transporting commodities defined as "exempt" in for-hire transportation; or (3) any person who pursuant to a contract with a person described in (1) or (2) above transports tangible personal property.

Sec. 3. EFFECTIVE DATE. This act is effective the day following its final enactment.

Approved June 4, 1975.

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**CHAPTER 398—H.F.No.999**

[Coded in Part]

*An act relating to state banks; authorizing state banks to take second liens on real estate; amending Minnesota Statutes 1974, Section 48.19, Subdivision 1, and by adding a subdivision; and repealing Minnesota Statutes 1974, Section 48.19, Subdivision 3.*

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

Section 1. Minnesota Statutes 1974, Section 48.19, Subdivision 1, is amended to read:

**48.19 BANKS AND BANKING; REAL ESTATE; JUNIOR LIENS; LOANS ON REAL ESTATE RESTRICTED.** Subdivision 1. **RESTRICTIONS; EXCEPTION.** No bank or trust company shall make any loan upon the security of real estate unless it is a first lien thereon, except that a bank or trust company may take a junior lien upon real estate to secure a loan previously contracted. Before any such loans are made the value of the real estate shall be determined by an appraisal made by a committee appointed by the board of directors, which appraisal shall be made a matter of record; except that the board may accept an appraisal made by or for an agency of the United States government when such agency is guaranteeing or insuring the loan or any part thereof.

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