

CHAPTER 802—H. F. No. 1704

[Coded]

An act providing for a tax on motor fuels used in commercial motor vehicles operated by motor carriers on any highway in the state based on the consumption of such fuels within the state by such motor carriers; adding new subdivisions to Minnesota Statutes 1965, Section 296.17 and repealing Minnesota Statutes 1965, Section 296.17, Subdivisions 2 and 4.

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

Section 1. Minnesota Statutes 1965, Section 296.17, is amended by adding new subdivisions to read:

Subd. 7. Motor fuel road tax; definitions. As used in this act:

(a) *“Motor fuel” means any liquid, regardless of its composition or properties, used to propel a motor vehicle;*

(b) *“Commercial motor vehicle” means a passenger vehicle that has seats for more than nine passengers in addition to the driver, or any road tractor, or any tractor truck or any truck having more than two axles, which passenger vehicle, road tractor, tractor truck or truck is propelled by motor fuel;*

(c) *“Motor carrier” means any person who operates or causes to be operated any commercial motor vehicle on any highway in this state;*

(d) *“Operations” means operation of all commercial motor vehicles whether loaded or empty, whether for compensation or not for compensation and whether owned by or leased to the motor carrier who operates them or causes them to be operated; and*

(e) *“Highway” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.*

Subd. 8. Road tax imposed. (a) Every motor carrier shall pay a road tax calculated on the amount of motor fuel consumed in his operations on highways within this state. The tax shall be at the same rate as the tax applicable to the purchase of the same motor fuel within this state.

(b) *The amount of motor fuel consumed in the operations of any motor carrier on highways within this state shall be determined by dividing the miles traveled within Minnesota by the aver-*

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age miles per gallon. *The average miles per gallon shall be determined by dividing the miles traveled within and without Minnesota by the total motor fuel consumed within and without Minnesota.*

Subd. 9. Exemptions. *Nothing in this act shall apply to any commercial motor vehicle or vehicles operated by this state, any subdivision thereof, the United States, or any agency of two or more states or of states and the United States in which this state participates, or to any school bus as defined by the laws of this state operated by, for or on behalf of a state or any subdivision thereof.*

Subd. 10. License. (a) *No motor carrier shall operate a commercial motor vehicle upon the highways of this state unless and until he has been issued a license pursuant to this section or has obtained a trip permit or temporary authorization as provided in this section.*

(b) *A license shall be issued to any responsible person qualifying as a motor carrier who makes application therefor and who shall pay to the commissioner, at the time thereof, a license fee of \$10. Such license shall remain valid until revoked by the commissioner or until surrendered by the motor carrier. Such license, photocopy or electrostatic copy of it, shall be carried in the cab of every commercial motor vehicle while it is being operated in Minnesota by a licensed motor carrier.*

Subd. 11. Reports. *Every motor carrier subject to the road tax shall, on or before the last day of each month, file with the commissioner such reports of his operations during the previous month as the commissioner may require and such other reports from time to time as the commissioner may deem necessary. The commissioner by regulation may exempt from the reporting requirements of this section those motor carriers all or substantially all of whose mileage is within this state, or states with which Minnesota has reciprocity and require in such instances an annual affidavit attesting to the intrastate or substantially intrastate character of their operations, provided that the enforcement of this act is not adversely affected thereby and that the commissioner is satisfied that an equitable amount of motor fuel is purchased within this state by such carriers.*

Subd. 12. Credits and refunds. *On all motor fuel purchased by a motor carrier within this state for consumption in his operations either within or without this state and upon which he has paid the motor fuel tax, such carrier if subject to the road tax in another state shall be entitled to a credit at the rate per gallon of the motor fuel tax for the class of motor fuel consumed without the state, not exceeding the Minnesota tax rate. When the amount*

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of the credit herein provided to which any motor carrier is entitled for any month exceeds the amount of the tax for which such carrier is liable for the same month, such excess may be refunded. Evidence of the payment of the motor fuel tax in such form as may be required by, or is satisfactory to, the commissioner, shall be furnished by such motor carrier claiming the refund. No refund shall be allowed unless the motor carrier has paid to another state a motor fuel tax on the excess fuel purchased in this state.

No refund shall be made unless the claim and evidence of payment to the other state shall be filed with the commissioner within 30 days of the date of the payment to the other state.

Subd. 13. Penalties. *The penalty provisions of Minnesota Statutes, Sections 296.15 and 296.25, as adapted to the provisions of this act by regulations issued by the commissioner, shall apply to any person who fails to comply with the provisions of this act.*

In addition, when any person is discovered in this state operating a commercial motor vehicle in violation of the provisions of this act, it shall be unlawful for anyone thereafter to operate said vehicle on the streets or highways of this state, except to remove it from the street or highway for purposes of parking or storing said vehicle, until he shall obtain a license or a trip permit, as provided in this section.

Subd. 14. Keeping and preservation of records. (a) *Every motor carrier shall keep such records as may be necessary for the administration of this act and for the reporting and justification of the amount of tax liability pursuant hereto. Such records shall be kept in such form as the commissioner reasonably may prescribe. All such records shall be safely preserved for a period of three years in such manner as to insure their security and availability for inspection by the commissioner. Upon application in writing stating the reasons therefor, the commissioner may consent to the destruction of such records at an earlier time if the commissioner has completed his audit of the records in question.*

(b) *The commissioner or his authorized agents or representatives shall have the right at any reasonable time to inspect the books and records of any motor carrier subject to the tax imposed by this chapter.*

Subd. 15. Evidence. *In the absence of records showing the number of miles actually operated per gallon of motor fuel, it shall be presumed that one gallon of motor fuel was consumed for every four miles traveled.*

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Subd. 16. Leased commercial motor vehicles. (a) *Except as otherwise provided in this section, every commercial motor vehicle leased to a motor carrier shall be subject to the provisions of this act and rules and regulations in force pursuant hereto, to the same extent and in the same manner as commercial motor vehicles owned by such carrier.*

(b) *A lessor of commercial motor vehicles may be deemed a motor carrier with respect to such vehicles leased to others by him and motor fuel consumed thereby, if the lessor supplies or pays for the motor fuel consumed by such vehicles or makes rental or other charges calculated to include the cost of such fuel. Any lessee motor carrier may exclude commercial motor vehicles of which he is the lessee from his reports and liabilities pursuant to this act, but only if the commercial motor vehicles in question have been leased from a lessor who is a motor carrier pursuant to this section.*

(c) *The provisions of clauses (a) and (b) of this subdivision shall govern the primary liability pursuant to this act of lessors and lessees of commercial motor vehicles. If a lessor or lessee primarily liable fails, in whole or in part, to discharge his liability, such failing party and the other lessor or lessee party to the transaction shall be jointly and severally responsible and liable for compliance with the provisions of this act and for the payment of any tax due pursuant hereto, provided that the aggregate of any taxes collected by this state shall not exceed the total amount or amounts of taxes due on account of the transactions in question and such costs and penalties, if any, as may be imposed.*

Subd. 17. Trip permits and temporary authorizations. (a) *A motor carrier may obtain a trip permit which shall authorize an unlicensed motor carrier to operate a commercial motor vehicle in Minnesota for a period of five consecutive days beginning and ending on the dates specified on the face of the permit. The fee for such permit shall be \$5. Fees for trip permits shall be in lieu of the road tax otherwise assessable against such motor carrier on account of such commercial motor vehicle operating therewith, and no reports of mileage shall be required with respect to such vehicle.*

The above permit shall be issued in lieu of license if in the course of the motor carrier's operations he operates on Minnesota highways no more than three times in any one calendar year.

(b) *Whenever the commissioner is satisfied that unforeseen or uncertain circumstances have arisen which requires a motor carrier to operate in this state a commercial motor vehicle for which neither a trip permit pursuant to clause (a) of this subdivision nor*

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a license pursuant to section 1 of this act has yet been obtained, and if the commissioner is satisfied that prohibition of such operation would cause undue hardship, the commissioner may provide the motor carrier with temporary authorization for the operation of such vehicle. A motor carrier receiving temporary authorization pursuant to this subdivision shall perfect the same either by obtaining a trip permit or a license, as the case may be, for the vehicle at the earliest practicable time.

Subd. 18. Cooperative audits. *The commissioner may enter into agreements with the appropriate authorities of other states having statutes similar to this act for the cooperative audit of motor carriers' reports and returns. In performing any such audit, or part thereof, the officers and employees of the other state or states shall be deemed authorized agents of this state for such purpose, and such audits, or parts thereof, shall have the same effect as similar audits, or parts thereof, when made by the commissioner.*

Subd. 19. Removal or dissipation of property. *If the commissioner ascertains that a person designs quickly to depart from this state, or to remove therefrom his property, or any property used by him in operations subject to this act, or to discontinue business, or to do any other act tending to prejudice or render wholly or partly ineffectual proceedings to assess or collect the tax, whereby it becomes important that such proceedings be brought without delay, the commissioner may immediately make an assessment of tax estimated to be due, whether or not any report is then due by law, and may proceed under such assessment to collect the tax, or compel security for the same, and thereupon shall cause notice of such finding to be given to such motor carrier, together with a demand for an immediate payment of such tax.*

The commissioner or his agents is also authorized to impound motor vehicles of persons in violation of this act. Such vehicle shall be released either upon payment of all taxes, penalties and interest that may be due, or depositing a bond or security to assure the payment of said taxes, penalties and interest.

Subd. 20. Enforcement powers. *(a) The commissioner is hereby authorized and directed to enforce the provisions of this act. In addition, the commissioner of highways is hereby authorized and directed to utilize the Minnesota Highway Patrol to assist in the enforcement of the provisions of this act.*

(b) The officers of the Minnesota Highway Patrol shall in addition to all other powers granted to them by Minnesota Statutes have the power of making arrests, service process, and appearing in

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court in all matters and things relating to this act and the administration and enforcement thereof.

Subd. 21. Rules and regulations. The commissioner may, from time to time, issue, amend and revise such rules and regulations as may be necessary for the effective enforcement of this act.

Subd. 22. Commissioner may waive requirements. The commissioner is hereby empowered to suspend the enforcement of this act if the cost of administration thereof exceeds the tax revenue produced therefrom.

Sec. 2. The provisions of Minnesota Statutes 1965, Section 296.17, Subdivisions 2 and 4, are hereby repealed.

Sec. 3. The provisions of this act shall be effective July 1, 1967.

Approved May 24, 1967.

CHAPTER 803—H. F. No. 1711

[Not Coded]

An act authorizing the city of New Ulm to acquire by purchase, gift, or condemnation lands necessary for a state junior college or state college, and to transfer and convey such lands.

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

Section 1. New Ulm, city of; land for college. The city of New Ulm may acquire by purchase, gift, or condemnation in compliance with Minnesota Statutes, Chapter 117, all lands deemed necessary by the city council for a site for a state junior college or a state college. The lands so acquired may be transferred and conveyed by the city on such terms as may be agreed upon to the state junior college board or the state college board as the case may be, or to such board, state agency, or department of state that may be the successor to such boards.

Sec. 2. This act becomes effective only after its approval by the governing body of the city of New Ulm and upon compliance with Minnesota Statutes, Section 645.021.

Approved May 24, 1967.

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