

the game and fish commissioner and authorizing him to make changes or improvements in public waters in certain cases.

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

Section 1. Game and Fish Commission to install fish screens in certain cases.—That Chapter 393, General Laws 1921, be and the same hereby is amended so as to read as follows:

"Section 1. The game and fish commissioner, whenever he deems it necessary for the protection or conservation of fish, may construct a dam, install a fish screen, dig a channel, or make any other similar changes or improvement in any of the waters of this state wherein game fish now or hereafter abound or wherein licensed commercial fishing operations have been conducted, or in any stream connected with such waters, and may acquire any land or any interest or easement in land he deems necessary for such purpose by donation, purchase or condemnation proceedings. Any money heretofore or hereafter received by said commissioner from licensees pursuant to and under Sections 5594 or 5600, General Statutes 1923, for commercial fishing operations in any of the waters of this state, is hereby annually appropriated to said commissioner for the purpose of constructing dams, installing fish screens, digging channels, or making other similar changes or improvements in such waters as provided for by this act, and for the purpose of payment for game warden supervision of fishing done under said Laws, and also for preservation and propagation of game and fish. Provided, however, that no contract shall be entered into or no obligation incurred by the commissioner under this section in excess of money in the Fish Lakes Improvement Fund as provided under Sections 5594 and 5600, General Statutes 1923, and Chapter 393, General Laws 1921, and available to pay all costs of such project at the time the obligation is incurred."

Approved April 21, 1925.

CHAPTER 297—H. F. No. 769.

An act to provide an excise tax on gasoline, distillate, benzine, naphtha, benzol, liberty fuel and other volatile and inflammable liquids used in producing or generating power for propelling motor or other vehicles used on the public highways of this state, to provide for the enforcement and collection of same and to prescribe penalties for the violation thereof.

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

Section 1. Gasoline tax—definitions.—Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases shall, for the purpose of this act, be given the meanings hereinafter subjoined to them:

(a) "Gasoline" includes all gasoline, distillate, benzine, naptha, benzol, liberty fuel, and other volatile and inflammable liquids used or useful in producing or generating power for propelling motor or other vehicles used on the public highways of this state, but does not include the product commonly known as kerosene oil.

(b) "Motor vehicles used on the public highways of this state" includes every vehicle operated upon the highways of this state the power for the operation of which is produced or generated by gasoline, but does not include tractors used solely for agricultural purposes or for drawing threshing machines or for road work other than hauling material.

(c) "Used in motor vehicles" means used in producing or generating power for propelling motor vehicles used on the public highways of this state.

(d) "Distributor" includes every person, partnership, company, joint stock company, corporation, or association of persons however organized, who brings or causes to be brought gasoline into this state for storage, sale, distribution, or use therein, and every person, partnership, company, joint stock company, corporation, or association of persons however organized, who produces, refines, manufactures, or compounds gasoline in this state for storage, sale, distribution, or use therein.

(e) "Inspector" means the chief oil inspector, "auditor" means the state auditor, and "treasurer" means the state treasurer, of the State of Minnesota.

Sec. 2. Tax of two cents per gallon.—There is hereby imposed an excise tax of two cents per gallon on all gasoline used in producing or generating power for propelling motor vehicles used on the public highways of this state. Said tax shall be payable at the times, in the manner, and by the persons hereinafter specified.

Sec. 3. Inspectors to certify amount to State Auditor.—On or before the twentieth day of each month the inspector shall certify to the auditor in duplicate the name and address of each person for whom he inspected gasoline as required by the oil inspection laws of this state during the next preceding calendar month, the date of and number of gallons included in each inspection, the aggregate number of gallons inspected, and the amount of tax payable on account thereof; provided, however, that in computing said tax a deduction of three per cent of the quantity of gasoline inspected shall be allowed for evaporation and loss. A separate certificate shall be made for the account of each such person. The inspector may in any such certificate make proper adjustment, either by addition or deduction, for errors occurring in any previous certificate. The auditor shall forthwith upon the receipt of such certificate draw his draft on the person therein named for the amount of tax therein specified, shall note on one of said certificates the number and the

date of the draft drawn thereon, and shall deliver said draft and certificate to the treasurer, who shall collect the same. A daily report of all collections shall be made to the auditor, who shall keep proper account thereof.

Sec. 4. State Treasurer to collect tax.—Within five days after the receipt of such draft and certificate the treasurer shall mail said certificate to the person named and at the address given therein. The treasurer shall note in his records the date of such mailing, and such notation shall be conclusive evidence that the certificate was mailed as required by this act. Said draft shall be payable within thirty days after its date. The proceeds thereof shall be placed in a special fund to be known as the Gasoline Tax Fund. On the first day of each month all moneys remaining in the gasoline tax fund shall be credited to the trunk highway fund.

Sec. 5. Penalty for non-payment.—In case any tax imposed hereunder is not paid when due, a penalty of ten per cent of the amount thereof shall immediately accrue, and thereafter said tax and penalty shall bear interest at the rate of one per cent per month until the same is paid.

Sec. 6. Unpaid drafts to be turned over to Attorney General for collection.—The treasurer shall deliver to the attorney general of this state all drafts delinquent more than thirty days, and it shall be the duty of the attorney general to bring action thereon in the district court of Ramsey county, or of the county in which the person on whom the same is drawn resides or has a place of business, for the amount of such draft, together with penalty, interest and costs and disbursements. The judgment of the court when so obtained shall bear interest at the rate of one per cent per month and shall be enforceable in the manner provided by law for the enforcement of judgments obtained in civil actions.

Sec. 7. Inspector's certificate to be prima facie evidence.—The inspector's certificate shall for all purposes and in all courts be prima facie evidence of the facts therein stated; and the auditor's draft for any tax imposed hereunder shall be prima facie evidence that the amount therein stated is due the state from the person against whom the same is drawn.

Sec. 8. Distributors of gasoline to report amount on hand.—It shall be the duty of every distributor and of every person who sells gasoline to report to the inspector the number of gallons of gasoline in his possession at the time this act takes effect, and the inspector shall thereupon determine and certify as herein provided the tax on account of such gasoline which is hereby imposed.

It shall be the duty of every person using kerosene in generating power for propelling motor vehicles on the public highways of this state to report to the inspector the quantity of kerosene so used by him. There is hereby imposed an excise tax of two cents per gallon on all kerosene so used. The inspector shall certify the tax on ac-

count of the use of such kerosene as herein provided, and the person named in such certificate shall become liable for the payment of said tax, and all the provisions of this act relating to the calculation and collection of taxes in respect of inspected gasoline and all other provisions of this act shall be applicable to any such person.

It shall be the duty of every distributor and of every person who sells or uses gasoline manufactured, produced, or stored by him, and of every person using gasoline in motor vehicles, if the same has not been inspected or if the tax on account thereof has not been paid, to report to the inspector the quantity of such gasoline so sold or used by him. The inspector shall certify the tax thereon to the auditor as herein provided, and the person named in such certificate shall become liable for the payment of said tax, and all the provisions of this act relating to the calculation and collection of taxes in respect of inspected gasoline and all other provisions of this act shall be applicable to any such person.

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 the state, shall regularly or habitually use and operate motor vehicles upon the public highways of this state, and the tax hereby imposed shall be payable by such persons on gasoline used or held for use by them in motor vehicles in this state although the same shall have been acquired outside the state. It shall not apply to persons who are not residents of the state and who, as transients, operate automobiles into or through the state using therein gasoline acquired outside of the state.

Sec. 9. All gasoline to be deemed for use in motor vehicles.—All gasoline inspected for unloading in this state and all gasoline produced in or brought into this state shall be deemed to be intended for use in motor vehicles in this state, and every person who pays the tax imposed by this act shall be deemed to have paid the same for and on behalf of the person using such gasoline in motor vehicles in this state. If the person directly or indirectly paying said tax shall not in fact use said gasoline in motor vehicles in this state, but shall sell or otherwise dispose of the same except for use as provided in Section 11 of this act, he is hereby authorized to collect from the person to whom said gasoline is so sold or disposed of the tax so paid by him, and is hereby required upon request to make, sign and deliver to such person an invoice of such sale or disposition..

Sec. 10. Users of gasoline for other purposes to be reimbursed.—Any person who shall buy and use gasoline for any purpose other than use in motor vehicles, and who shall have paid any excise tax required by this act to be paid either directly or indirectly through the amount of such tax being included in the price of such

gasoline or otherwise, shall be reimbursed and repaid the amount of such tax paid by him upon presenting to the inspector a verified claim in such form and containing such information as the inspector shall require and accompanied by the original invoice thereof, which claim shall set forth the total amount of such gasoline so purchased and used by him other than in motor vehicles, and shall state when and for what purpose the same was used. If the inspector be satisfied that the claimant is entitled to payment, he shall approve the claim. The inspector shall forthwith certify to the treasurer a list in duplicate of all claims approved by him and the amount of refundment to which each claimant is entitled. The treasurer shall thereupon draw his checks on the gasoline tax fund in the amounts and payable to the persons named in said certificate, which checks shall upon presentation be paid by him out of said fund, and shall deliver to the auditor a copy of the inspector's list of claims so paid.

No such repayment shall be made unless the claim and invoice shall be presented to the inspector within ninety days from the date of such purchase.

Every person who shall make any false statement in any claim or invoice presented to the inspector, or who shall knowingly present to the inspector any claim or invoice containing any false statement, or shall collect or cause to be paid to him or to any other person any such refund without being entitled thereto, shall be guilty of a gross misdemeanor.

Sec. 11. Governmental cars not to be subject to tax.—Gasoline used by the United States or any of its government owned instrumentalities shall not be subject to tax hereunder. Any person selling gasoline for such use who has directly or indirectly paid on account thereof the tax hereby imposed may file with the inspector a verified claim for the refund of the tax so paid, and the inspector shall thereupon deduct from any certificate of tax that he may make against such person within twenty days after the receipt of such claim the amount of the tax so paid; and if no such certificate is made within twenty days after the receipt of such claim, then such person shall be entitled to a refund, pursuant to the refund provisions of this act, of the tax so paid.

Sec. 12. Not to apply to interstate commerce—exceptions.—Neither this act nor any of the provisions hereof shall apply to or be construed to apply to foreign or interstate commerce, except in so far as the same may be permitted under the constitution and the laws of the United States.

No tax shall become due hereunder on account of gasoline until the same shall have come to rest in this state and is held for storage, sale, distribution or use therein, or on account of gasoline exported from this state.

If through error or otherwise any person shall cause to be in-

spected gasoline in interstate commerce, or gasoline exported from this state, and if he shall within twenty days of the date of such inspection make verified report of the facts to the inspector no tax shall be certified or collected on account thereof.

If through error or otherwise a tax shall have been imposed and paid on account of gasoline in interstate commerce or gasoline exported from the state, the same shall be refunded pursuant to the refund provisions hereof or by immediate adjustment in accordance with the provisions of Section 3 of this act.

Sec. 13. Tax to be in lieu of all other taxes.—The tax herein provided for shall be in lieu of all other taxes imposed upon the business of selling or dealing in gasoline, whether imposed by the state or by any of its political subdivisions, but shall be in addition to all ad valorem taxes now imposed by law; provided however that nothing herein contained shall be construed as prohibiting the governing body of any city or village of this state from licensing and regulating such business wherever authority therefor is or may hereafter be conferred by state law or city or village charter.

Sec. 14. Distributor to file certificate.—Every distributor coming under the provisions of this act shall file with the inspector a duly acknowledged certificate upon a form prepared and furnished by the inspector, which shall contain:

(1) The name under which he is transacting business in this state.

(2) If a corporation or company or association, however organized, the name of the state under whose laws he is organized, the name under which he is authorized to transact business in this state, the names, titles and addresses of all principal officers, resident managers, general agents and attorneys in fact, and of the agent appointed and authorized by him to accept service of process in this state, and if the organization of the distributor be such that he must under the general laws of this state obtain a license before being permitted to do business therein, a statement that such license has been issued and is in force; and, if a partnership, the names and addresses of all partners and persons having a financial interest therein.

(3) The kind or kinds of business done by him, and the place or places within this state where such business is done.

No distributor shall store, sell, distribute or use gasoline within this state until such certificate shall have been filed.

Sec. 15. Distributor to keep records.—Every distributor and every person using gasoline in motor vehicles in this state the tax on account of which has not been paid shall keep a record in such form as may be prescribed by the inspector of all receipts, purchases, sales, distribution and use by him of gasoline in this state, and shall permit the inspector or the public examiner to examine the same at any time during business hours.

Sec. 16. Inspector to adopt and publish rules—It shall be the duty of the inspector to adopt and publish rules and regulations not inconsistent herewith for the purpose of carrying out the provisions of this act, which rules and regulations shall so far as practicable conform to the rules and regulations relating to oil inspection, and he shall at the time and in the manner that he performs the duties imposed upon him by, and enforces the provisions of, the oil inspection laws, perform the duties imposed upon him by, and enforce the provisions of, this act.

Sec. 17. Violation a misdemeanor.—Every person who fails or refuses to comply with any of the provisions of this act shall, except as herein otherwise provided, be guilty of a misdemeanor.

Sec. 18. Unconstitutionality of one section not to affect balance of act.—If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this act.

Sec. 19. Inconsistent acts repealed.—All laws and parts of laws contrary to the provisions of this act are hereby repealed.

Sec. 20. Effective May 1, 1925.—This act shall take effect and be in force from and after May 1, 1925.

Approved April 21, 1925.

CHAPTER 298—H. F. No. 1018.

An act to amend Section 1140, General Statutes 1923, relating to village and town elections.

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

Section 1. Candidates for village or town officers to file.—That Section 1140, General Statutes of 1923, relating to Village and Town Elections, be amended so as to read as follows:

"1140. *Any person desiring to be a candidate for office at the annual election to be held in such village or town, shall file with the clerk an application to be placed on the ballot for such office, or application on behalf of any qualified voter of the municipality whom they desire to be a candidate may be made and filed by not less than five (5) voters thereof; provided, service of a copy of the application shall be made on such candidate and proof of service endorsed on the application before filing. Application shall be filed with the clerk not less than ten (10) days before the election and shall be accompanied with a fee of one dollar (\$1.00). There shall be no primary election, but the filing of such application shall be a pre-requisite to having the name of the candidate placed on the official ballot for such election. The clerk shall prepare and have printed, at the ex-*