

MINNESOTA STATUTES 1969

3261

EXCISE TAXES; GASOLINE, GASOLINE SUBSTITUTES 296.01

Excise and Sales Taxes

CHAPTER 296

GASOLINE, GASOLINE SUBSTITUTES

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296.01 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections 296.01 to 296.49 shall be given the meanings subjoined to them.

Subd. 2. **Petroleum products.** "Petroleum products" means gasoline and fuel oil.

Subd. 3. **Gasoline.** "Gasoline" means

(a) all products commonly or commercially known or sold as gasoline (including casinghead and absorption or natural gasoline) regardless of their classification or uses; and

(b) any liquid prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society for Testing Materials Designation D-86) shows not less than 10 percent distilled (recovered) below 347 degrees Fahrenheit (175 degrees Centigrade) and not less than 95 percent distilled (recovered) below 464 degrees Fahrenheit (240 degrees Centigrade); provided however, that "gasoline" shall not include liquefied gases which would not exist as liquids at a temperature of 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute.

Subd. 4. **Fuel oil.** "Fuel oil" means any petroleum product other than gasoline as herein defined 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.

Subd. 5. [Repealed, 1965 c 101 s 3]

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.

Subd. 7. **Distributor.** "Distributor" means any person (1) who receives petroleum products in this state for storage and subsequent distribution by tank car or tank truck or both, or (2) who produces, manufactures or refines petroleum products in this state, or (3) who imports petroleum products into this state via boat, barge or pipe line for storage and subsequent delivery at or further transportation from boat, barge or pipe line terminals in this state.

Subd. 8. **Person.** "Person" means any individual, firm, trust, estate, partnership, association, cooperative association, joint stock company or corporation, public or private, or any representative appointed by order of any court.

Subd. 9. **Dealer.** "Dealer" means any person, except a distributor, engaged in the business of buying and selling gasoline and other petroleum products in this state.

Subd. 10. **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.

Subd. 11. **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. For purposes of this subdivision "public highways" shall include bridges.

Subd. 12. **Commissioner.** "Commissioner" means the commissioner of taxation of the State of Minnesota.

Subd. 13. **Received.** Except as otherwise provided in this subdivision, petroleum products brought into this state shall be deemed to be "received" in this state at the time and place the same are unloaded in this state. When so unloaded such products shall be deemed to be "received" in this state by the person who is the owner thereof immediately after such unloading; provided, however, that if such owner is not licensed as a distributor in this state and if such products were shipped or delivered into this state by a person who is licensed as a distributor, then such products shall be deemed to be "received" in this state by the licensed distributor by whom the same were so shipped or delivered. Petroleum products produced, manufactured, or refined, at a refinery in this state and stored thereat, or brought into the state by boat or barge or like form of transportation and delivered at a marine terminal in this state and stored thereat, or brought into the state by pipeline and delivered at a pipe-line terminal in this state and stored thereat, shall not be considered "received" until the same are withdrawn from such refinery or terminal for sale or use in this state or for delivery or shipment to points within this state. When so withdrawn such products shall be deemed to be "received" by the person who was the owner thereof immediately prior to withdrawal; unless (1) such products are withdrawn for shipment or delivery to another licensed distributor, in which case the licensed distributor to whom such shipment or delivery is made shall be deemed to have "received" such products in this state, or (2) such products are withdrawn for shipment or delivery to a person not licensed as a distributor, pursuant to one or more sale or exchange agreements by or between persons one or more of whom is a licensed distributor, in which case the last purchaser or exchangee under such agreement or agreements, who is licensed as a distributor, shall be deemed to have "received" such products in this state. Petroleum products produced in this state in any manner other than as covered heretofore in this subdivision shall be considered "received" by the producer thereof at the time and place produced.

Subd. 14. **Aircraft.** "Aircraft" means any contrivance, now or hereafter invented, used or designed for navigation of or flight in the air.

Subd. 15. **Aviation gasoline.** "Aviation gasoline" means any gasoline which is capable of use for the purpose of producing or generating power for propelling aircraft, which (1) is invoiced and billed by a producer, manufacturer, refiner, or blender to a distributor or dealer, by a distributor to a dealer or consumer, or by a dealer to a consumer, as "aviation gasoline," or (2), whether or not invoiced and billed as provided in clause (1), is received, sold, stored, or withdrawn from storage by any person, to be used for the purpose of producing or generating power for propelling aircraft.

Subd. 16. **Motor vehicle gasoline excise tax.** "Motor vehicle gasoline excise tax" means the tax imposed on gasoline used in producing and generating power for propelling motor vehicles used on the public highways of this state.

Subd. 17. **Special fuel dealer.** "Special fuel dealer" means any person engaged in the business of selling and delivering special fuel into the supply tank of an aircraft or a licensed motor vehicle.

Subd. 18. **Licensed motor vehicle.** "Licensed motor vehicle" means (1) any vehicle subject to a motor vehicle registration in which the power is produced with any fuel other than gasoline in an internal combustion engine, and (2) any motor vehicle not subject to a motor vehicle registration on which is mounted a corn shelling, feed grinding, well drilling, or sawing machine.

Subd. 19. **Bulk purchaser.** "Bulk purchaser" means any person not principally engaged in buying and selling petroleum products or combustible gases who receives special fuel for storage and subsequent delivery into the supply tank of an aircraft or a licensed motor vehicle operated by him.

Subd. 20. **Waters of this state.** "Waters of this state" means any waters capable of substantial beneficial public use and any waters to which the public has access, which are within the territorial limits of this state, including boundary waters.

Subd. 21. **Motorboat.** "Motorboat" means any contrivance used or designed for navigation on water other than a seaplane, propelled in any respect by machinery, including detachable motors.

Subd. 22. **Marine gasoline.** "Marine gasoline" means gasoline used in producing and generating power for propelling motorboats used on the waters of this state.

Subd. 23. **Use in licensed motor vehicles.** "Use in licensed motor vehicles" means use in producing or generating power for propelling licensed motor vehicles on the public highways of this state.

[1925 c 297 s 1; 1929 c 425 s 1; 1933 c 365 s 1; 1933 c 417 s 1; *Ex*1934 c 51 s 1; 1941 c 495 s 1; 1943 c 320 s 1-3; 1945 c 412 s 1, 2; 1947 c 412 s 1-4; 1949 c 143 s 1; 1951 c 87 s 1-4; 1953 c 41 s 1, 2; 1957 c 203 s 1, 2; 1961 c 585 s 1; 1963 c 66 s 1-5; 1965 c 101 s 1] (2720-70, 3787-1)

296.02 GASOLINE, EXCISE TAX. Subdivision 1. **Tax imposed for motor vehicle use.** There is hereby imposed an excise tax of seven cents per gallon on all gasoline used in producing and generating power for propelling motor vehicles used on the public highways of this state. This tax shall be payable at the times, in the manner, and by persons specified in this chapter.

Subd. 2. **Gasoline tax imposed for aviation use.** Subject to the provisions of section 296.18, subdivision 4, there is hereby imposed an excise tax, at the same rate per gallon as the gasoline excise tax, on all aviation gasoline received, sold, stored, or withdrawn from storage in this state. This tax shall be payable at the times, in the manner, and by persons specified in sections 296.01 to 296.27.

Subd. 3. **Exception.** The provisions of subdivision 2 do not apply to aviation gasoline purchased and placed in the fuel tanks of an aircraft outside this state, even though such gasoline may be consumed within this state.

Subd. 4. **Tax not on consumption.** The tax imposed by subdivision 2 is expressly declared not to be a tax upon consumption of aviation gasoline by an aircraft.

Subd. 5. [Repealed, 1963 c 66 s 24; 1965 c 49 s 1]

Subd. 6. **Tax imposed for marine use.** Subject to the provisions of section 296.18, subdivision 1, there is hereby imposed an excise tax, at the same rate per gallon as the gasoline excise tax, on all marine gasoline received, sold, stored, or withdrawn from storage in this state. This tax shall be payable at the times, in the manner, and by persons specified in sections 296.01 to 296.27.

[1925 c 297 s 2; 1929 c 310 s 1; 1937 c 383 s 1; 1939 c 350 s 1; 1941 c 162 s 1; 1945 c 412 s 3; 1949 c 678 s 1, 2; 1951 c 287 s 1; 1963 c 681 s 1, 2; 1963 c 686 s 1; 1965 c 122 s 1, 2; 1967 c 874 s 1] (2720-71)

296.023 [Repealed, 1963 c 748 s 8]

296.025 SPECIAL FUEL, EXCISE TAX. Subdivision 1. **Tax imposed for motor vehicle use.** There is hereby imposed an excise tax of the same rate per gallon as the gasoline excise tax on all special fuel. This tax shall be payable at the time, in the manner and by persons specified in this chapter.

Subd. 2. **Tax imposed for aviation use.** There is hereby imposed an excise

tax of the same rate per gallon as the gasoline excise tax on all special fuel received, sold, stored or withdrawn from storage in this state, for use as substitutes for aviation gasoline and not otherwise taxed as gasoline.

Subd. 3. **Exception.** The provisions of subdivision 2 do not apply to special fuel purchased and placed in the fuel tanks of an aircraft outside this state, even though such special fuel may be consumed within this state.

Subd. 4. **Tax not on consumption.** The tax imposed by subdivision 2 is expressly declared not to be a tax upon consumption of special fuel by an aircraft.

Subd. 5. **Tax to apply to storage.** The special fuel excise tax imposed by subdivision 1 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.

Subd. 6. **Fuels deemed special fuel in certain instance; tax imposed.** All sales of combustible gases and liquid petroleum products (except gasoline) shall be deemed to be sales of special fuel if the sales tickets, invoices, and records evidencing such sales fail to show the true and correct names and addresses of the purchasers. In such cases, there is hereby imposed an excise tax of the same rate per gallon as the gasoline excise tax on all such combustible gases and liquid petroleum products, and the vendor shall be liable for such tax.

[1941 c 494 s 1; 1945 c 412 s 4; 1949 c 143 s 2; 1951 c 87 s 5; 1953 c 41 s 3; 1955 c 338 s 1]

296.04 INSPECTION OF PETROLEUM PRODUCTS. Subdivision 1. **Commissioner to make.** 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 chapter. 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.

Subd. 2. **When not meeting specifications.** A record of each inspection shall be made and any material not meeting the specifications hereinafter provided shall be sealed in the container from which the sample was secured or placed in separate storage under seal until a method of its disposition has been approved by the commissioner.

Subd. 3. **Calibration or gauge charts.** Every person holding petroleum products in storage tanks for sale or for use as special fuel shall maintain a calibration or gauge chart for each such tank.

Subd. 4. **Entry upon premises.** The commissioner may enter into or upon the premises of all distributors, bulk purchasers and dealers of petroleum products to inspect the receptacles in which these products are stored; and it is made the duty of all distributors, bulk purchasers and dealers to keep the receptacles free from all impurities, and when the receptacles are found to contain impurities they shall be sealed until a method of disposition of the material has been approved by the commissioner.

Subd. 5. **Records examined.** The commissioner shall make periodic examinations of all records kept by distributors, special fuel dealers, bulk purchasers, or other persons collecting the gasoline or special fuel tax.

[1941 c 495 s 2; 1943 c 320 s 4; 1961 c 510 s 1; 1963 c 66 s 6-8]

296.05 SPECIFICATIONS OF PETROLEUM PRODUCTS. Subdivision 1. **Gasoline.** No gasoline shall be sold for use in motor vehicles unless it shall conform to the following specifications:

- (1) It shall be free from water, suspended matter, and all impurities;
- (2) The initial boiling point shall not be higher than 131 degrees Fahrenheit;
- (3) When 10 percent has been recovered in the receiver, the temperature shall not be higher than 167 degrees Fahrenheit;
- (4) When 50 percent has been recovered in the receiver, the temperature shall not be higher than 284 degrees Fahrenheit;
- (5) When 90 percent has been recovered in the receiver, the temperature shall not be higher than 392 degrees Fahrenheit;

(6) The end point shall not be higher than 437 degrees Fahrenheit;

(7) The minimum recovery in the receiver shall be 95 percent of the volume used for the test except during the months of November, December, January, February and March, when the minimum recovery shall be 93 percent;

(8) The sulphur content shall not be more than 25 hundredths of one percent;

(9) The residue shall not be more than two percent.

Subd. 2. **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.

Subd. 3. [Repealed, 1965 c 101 s 3]

Subd. 4. **Tests, how made.** All tests shall be made in accordance with the methods of the American society for testing materials.

Subd. 5. **Results of test supplied by shipper to distributor.** Upon request of a licensed distributor, the shipper shall, at the time of shipment, supply the licensed distributor with the results of tests of each petroleum product shipped to him at destination in Minnesota.

Subd. 6. **Aviation gasoline.** No aviation gasoline shall be received, sold, stored, or withdrawn from storage in this state unless it shall conform to the specifications set forth in subdivision 1 and the provisions of subdivisions 4 and 5 shall apply to aviation gasoline.

[1941 c 495 s 3; 1943 c 320 s 5; 1945 c 412 s 5; 1949 c 143 s 3; 1957 c 235 s 1]

296.06 DISTRIBUTORS' LICENSES. Subdivision 1. **Of whom required.** No person shall produce, manufacture or refine petroleum products in this state, or receive, distribute, sell or use in this state petroleum products which have not theretofore been received in this state by a licensed distributor, or in any manner act as a distributor as defined in Section 296.01, Subdivision 7, unless he shall have been licensed by the commissioner as a distributor.

Subd. 2. **Requirements for issuance.** A distributor's license shall be issued to any responsible person qualifying 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 \$5, 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 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; and the applicant or licensee shall designate and maintain an agent in this state upon whom service may be had for all purposes of this section.

(2) An initial applicant for a distributor's license 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 clauses (1) and (2), and on

any additional bond required under clause (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. All of said bonds required during each license period shall be purchased by the commissioner of administration from the lowest responsible bidder after advertising for competitive bids in the manner prescribed by Laws 1939, Chapter 431, Article II, as amended. The commissioner of administration shall call for bids within a reasonable period prior to the commencement of license period.

(6) After the present license period expires on May 31, 1947, the next license period shall be for one year ending May 31, 1948, the next license period shall be for 13 months ending June 30, 1949, and thereafter each license period shall be for one year ending each June 30.

(7) Upon application to the commissioner and compliance by the applicant with the provisions of this subdivision, the commissioner also shall issue a distributor's license to (a) any person engaged in this state in the bulk storage of petroleum products and the distribution thereof by tank car or tank truck or both, and (b) any person holding an unrevoked license as a distributor since January 1, 1947, and (c) any person holding a license and performing a function under the motor fuel tax law of an adjoining state equivalent to that of a distributor under this act, who desires to ship or deliver petroleum products from that state to persons in this state not licensed as distributors in this state and who agrees to assume with respect to all petroleum products so shipped or delivered the liabilities of a distributor receiving petroleum products in this state, provided, however, that any such license shall be issued only for the purpose of permitting such person to receive in this state the petroleum products so shipped or delivered. Except as herein provided, all persons licensed as distributors under this clause shall have the same rights and privileges and be subject to the same duties, requirements and penalties as other licensed distributors.

Subd. 3. Surrender of license. When the licensee shall voluntarily or involuntarily sell, dispose of or discontinue his business during the term of his license, he shall immediately notify the commissioner in writing and shall within 10 days surrender his license.

Subd. 4. Rights of surety, 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.

[1941 c 495 s 4; 1943 c 320 s 6; 1945 c 154 s 1; 1947 c 412 s 5, 6; 1949 c 143 s 4, 5; 1953 c 41 s 4; 1963 c 66 s 9; 1969 c 1148 s 40]

296.07 DEALERS' CERTIFICATES OF REGISTRATION. Subdivision 1. **Of whom required.** 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.

Subd. 2. Surrender of certificate. If any dealer discontinues, sells or disposes of his business in any manner, he shall surrender the certificate to the commissioner at his office in St. Paul, Minnesota.

[1941 c 495 s 5; 1945 c 412 s 6; 1951 c 87 s 6; 1953 c 41 s 5]

296.08, 296.09 [Repealed, 1947 c 412 s 14]

296.10 TRANSPORT PERMITS. Any person who (a) transports petroleum products into this state or from refineries or terminals within this state to destinations in this state, or (b) transports petroleum products from refineries or terminals within this state to destinations outside this state, in truck transports, shall make application for and secure from the commissioner a transport permit which shall bear a distinctive number for each cargo tank so used. The permit shall be carried in an accessible container attached to the cargo tank while the transport is in this state, and the permit number shall be painted in six inch letters in a conspicuous place on the left front and right rear ends of the cargo

tank for which the permit number is issued. The permit shall expire annually on the last day of February.

Such transport permit shall be surrendered to the commissioner within 10 days after any cargo tank is sold or otherwise disposed of.

[1941 c 495 s 8; 1943 c 320 s 7; 1945 c 152 s 1; 1951 c 87 s 7; 1961 c 503 s 1; 1963 c 66 s 10]

296.11 REVOCATION OF LICENSES, PERMITS AND CERTIFICATES.

The commissioner may, after hearing, revoke any license, permit or certificate if the holder has directly or indirectly violated any of the provisions of sections 296.01 to 296.49 or has failed to comply with any regulation that may be issued. Notice containing a statement of the alleged violation and the time and place of hearing shall be served upon the holder by registered mail at least ten days prior to the day set for hearing. Certification to the attorney general of delinquent tax or fees shall be sufficient cause for immediate revocation without hearing.

[1941 c 495 s 9; 1949 c 143 s 6; 1963 c 66 s 11]

296.12 SPECIAL FUELS. Subdivision 1. **Special fuel dealers' license requirements.** No person except a licensed distributor shall engage in the business of selling or delivering special fuel as a special fuel dealer unless he shall have applied for and secured from the commissioner a special fuel dealer's license. The application shall be made in a manner approved by the commissioner and shall be accompanied by the payment of \$5, which shall be the license fee. A special fuel dealer's license shall be issued to any responsible person qualifying as a special fuel dealer who makes proper application therefor. The license shall be displayed in a conspicuous manner in the place of business and shall expire annually on November 30.

If at any time a special fuel dealer discontinues, sells or disposes of his business in any manner, he shall surrender his special fuel dealer's license to the commissioner at his office in St. Paul, Minnesota.

Subd. 2. **Bulk purchasers' license requirements.** No person shall receive special fuel as a bulk purchaser unless he shall have applied for and secured from the commissioner a bulk purchaser's license. The application shall be made in a manner approved by the commissioner and shall be accompanied by the payment of \$5, which shall be the license fee. A bulk purchaser's license shall be issued to any responsible person qualifying as a bulk purchaser who makes proper application therefor. The license shall be displayed in a conspicuous manner in the place of business and shall expire annually on November 30.

If at any time a bulk purchaser discontinues, sells or disposes of his business in any manner, he shall surrender his bulk purchaser's license to the commissioner at his office in St. Paul, Minnesota.

Subd. 3. **Collection, reporting and payment of tax.** All distributors and special fuel dealers selling or delivering special fuel into the supply tank of an aircraft or 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 an aircraft or a licensed motor vehicle shall report such delivery and pay the excise tax on the special fuel so delivered, to the commissioner.

Subd. 4. **Monthly reports; shrinkage allowance.** 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 an aircraft or 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. Credit for the excise tax due or previously paid on special fuel used by the distributor or special fuel dealer for heating his place of business may be allowed in computing the tax liability. 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 aircraft or licensed motor vehicles, may be allowed in computing 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 percent of the quantity of special fuel on which tax is due shall be made for evaporation and loss.

Subd. 5. Sales tickets. A sales ticket shall be issued for each delivery of special fuel to a bulk purchaser or into the supply tank of an aircraft or a licensed motor vehicle. The person who delivers the special fuel shall issue and sign the sales ticket and such person shall show thereon the name and address of the purchaser, motor vehicle license number if delivered into the supply tank of a licensed motor vehicle, date of sale, number of gallons, price per gallon, and total amount of sale. On deliveries of special fuel into the supply tank of an aircraft or a licensed motor vehicle the sales ticket shall show the per gallon rate of special fuel excise tax. The words "Special Fuel" shall be written on each sales ticket at the time of sale or delivery. A separate sales ticket book shall be maintained for special fuel sales by a special fuel dealer.

Subd. 6. Intended use. All special fuel except that used for aviation fuel shall be deemed to be intended for use in a licensed motor vehicle in this state at the time of sale or delivery.

Subd. 7. Bonds. The provisions of Section 296.06, Subdivision 2, Clauses (1), (3), (4) and (5), relating to bonds shall apply to special fuel dealers and bulk purchasers.

Subd. 8. Registrar of motor vehicles shall notify commissioner. When an application for registration of a motor vehicle discloses that such motor vehicle uses special fuel, the registrar of motor vehicles shall notify the commissioner, in written form, of the name and address of the owner and the make, model, year and license number of the vehicle.

Subd. 9. Tax imposed on use. If it is determined by the commissioner from an examination of any records pertaining to the operation of any licensed motor vehicle having a fuel tank in excess of 20 gallons capacity and which uses special fuel, that the special fuel tax on the special fuel used in this state has not been paid to this state, or to any other state if purchased in such other state, there is hereby imposed an excise tax at the same rate per gallon as the gasoline tax, on all such special fuel. All assessments of tax made under this subdivision shall be paid by the user to the commissioner on demand.

For purposes of this subdivision, the words "special fuel" mean any fuel other than gasoline, used in a licensed motor vehicle in this state.

[1941 c 495 s 10; 1943 c 320 s 8; 1945 c 412 s 8; 1949 c 143 s 7; 1951 c 87 s 8; 1953 c 41 s 6, 7; 1955 c 338 s 2-4; 1957 c 203 s 3-5; 1961 c 503 s 2, 3; 1963 c 66 s 12; 1965 c 103 s 1, 2; 1969 c 1148 s 41, 66]

296.13 INSPECTION FEES. An inspection fee shall be charged on petroleum products when received by the distributor, and on petroleum products received and held for sale or use by any person when such petroleum products have not theretofore been received by a licensed distributor. The fee charged shall be uniform and in an amount determined by the commissioner but not to exceed one and three-quarters cents per 50 gallons.

Credit shall be allowed the distributor by the commissioner for inspection fees previously paid in error or on any material exported or sold for export from the state upon filing of a report in a manner approved by the commissioner.

[1941 c 495 s 11; 1955 c 338 s 5; 1963 c 66 s 13]

296.14 GASOLINE TAX AND INSPECTION FEE MONTHLY REPORTS. Subdivision 1. **Contents; payment of tax; shrinkage allowance.** On or before the twenty-third day of each month, every person who is required to pay gasoline tax or inspection fee on petroleum products and every 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 of petroleum products received by him during the preceding calendar month, and such other information as the commissioner may require. The number of gallons of gasoline shall be reported in U. S. standard liquid gallons (231 cubic inches), except that the commissioner may upon written application therefor and for cause shown permit the distributor to report the number of gallons of such gasoline as corrected to a 60 degree Fahrenheit temperature. If such application is granted, all gasoline covered in such application and as allowed by the commissioner must continue to be reported by the distributor on the adjusted basis for a period of one year from the date of the granting of the application. The number of gallons of petroleum products other than gasoline shall be reported as originally invoiced.

Each report shall show separately the number of gallons of aviation gasoline received by him during such calendar month.

Each 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 by a distributor 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 twenty-third day of the month in which payable.

Subd. 2. Credit or refund of tax paid. 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 error;

(6) In such other cases as the commissioner may permit, not inconsistent with the provisions of this chapter and other laws relating to the gasoline and special fuel excise taxes.

Subd. 3. Refund to dealer; destruction by accident. Notwithstanding the provisions of subdivision 2, the commissioner shall allow a dealer a refund of the tax paid on gasoline or special fuel destroyed by accident while in the possession of the dealer.

[1941 c 495 s 12; 1943 c 320 s 9, 10; 1945 c 412 s 9; 1947 c 412 s 7; 1953 c 41 s 8; 1955 c 338 s 6; 1963 c 66 s 14; 1969 c 642 s 1]

296.15 NONPAYMENT OF TAX, PENALTIES. Subdivision 1. **First ten days.** In case any tax or inspection fee is not paid when due, a penalty of one percent 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 percent per year until paid.

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 percent 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, appointment. 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. Sale prohibited under certain conditions. No 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.

Subd. 6. Limitation of actions. No action shall be brought for the collection of delinquent excise taxes and inspection fees under the provisions of this chapter unless commenced within six years after the date of the filing of the required reports in the office of the commissioner, provided 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.

[1941 c 495 s 13; 1943 c 320 s 11; 1949 c 143 s 8; 1951 c 87 s 9; 1953 c 41 s 9; 1963 c 66 s 15]

296.16 USE IN MOTOR VEHICLES. Subdivision 1. **Intent.** All gasoline received in this state and all gasoline produced in or brought into this state except aviation gasoline and marine gasoline shall be determined to be intended for use in motor vehicles in this state. It is hereby found and determined that approximately three fourths of one percent of all gasoline received in this state and three fourths of one percent of all gasoline produced or brought into this state, except gasoline used for aviation purposes, is being used as fuel for the operation of motor boats on the waters of this state and that of the total revenue derived from the imposition of the gasoline fuel tax for uses other than in motor boats, three fourths of one percent of such revenues is the amount of tax on fuel used in motor boats operated on the waters of this state.

Subd. 2. Seller authorized 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.

Subd. 3. Collectors in a fiduciary relationship. The authorization for the collection of the excise taxes provided for by this chapter by persons other than the commissioner for and in behalf of the State of Minnesota, shall be deemed to establish a fiduciary relation, for the violation of which, in failure to make payment

when due and payable, the person so authorized to collect these excise taxes shall be deemed guilty of a violation of section 609.54, and punished accordingly.

[1941 c 495 s 14; 1945 c 412 s 10; 1949 c 143 s 9; 1951 c 87 s 10; 1953 c 41 s 10; 1961 c 585 s 2; 1969 c 3 s 75]

296.17 UNREPORTED GASOLINE AND SPECIAL FUEL; GASOLINE AND SPECIAL FUEL USED IN OTHER STATES; MOTOR FUEL ROAD TAX. Subdivision 1. **Unreported gasoline and special fuel.** 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 or special fuel in licensed 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 or such special fuel used by him, and such person shall become liable for the payment of the tax. All provisions of sections 296.01 to 296.49 relating to the calculation, collection and payment of the tax shall be applicable to any such person, dealer or distributor.

Subd. 2. [Repealed, 1967 c 802 s 2]

Subd. 3. **Refunds on gasoline and special fuel used 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 or special fuel purchased or obtained in this state, shall be allowed a credit or refund equal to the tax on said gasoline or special fuel actually paid to the state or states in which it is used, not to exceed, however, the tax imposed on said gasoline or special fuel 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 or special fuel 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 or special fuel 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 30 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 or special fuel purchased or obtained within this state as the commissioner may require.

Subd. 4. [Repealed, 1967 c 802 s 2]

Subd. 5. **Unreported aviation gasoline.** The provisions of subdivision 1 do not apply to aviation gasoline. It shall be the duty of every distributor, dealer, and person who receives, sells, stores, or withdraws from storage in this state aviation gasoline manufactured, produced, received, or stored by him, if the same has not been reported or if a tax provided for in section 296.02 on account thereof, has not been paid to the commissioner, to report to the commissioner the quantity of such gasoline so received, sold, stored, or withdrawn from storage by him, and such person shall become liable for the payment of the tax.

All provisions of sections 296.01 to 296.49 relating to the calculation, collections, and payment of the tax shall be applicable to any such person, dealer, or distributor.

Subd. 6. **Reciprocal agreements.** The commissioner is hereby empowered to enter into reciprocal agreements with the appropriate officials of any other state under which he may waive all or any part of the requirements imposed by this section upon those who use in Minnesota gasoline or other motor vehicle fuel upon which the tax has been paid to such other state, provided that the officials of such other state grant equivalent privileges with respect to gasoline or other motor vehicle fuel used in such other state but upon which the tax has been paid to Minnesota.

The commissioner is also hereby empowered to enter into reciprocal agreements with the appropriate officials of other states, exempting vehicles licensed in such other states from the license and use tax provisions contained in this section, which otherwise would apply to vehicles licensed by such other state, provided that such other state grant equivalent privileges with respect to vehicles licensed by Minnesota.

Subd. 7. **Definitions.** As used in subdivisions 7 to 22:

(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 average 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 subdivisions 7 to 22 shall apply to: (a) 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; (b) any school bus as defined by the laws of this state operated by, for or on behalf of a state or any subdivision thereof; or (c) any motor vehicle bearing Minnesota base license plates.

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 subdivisions 7 to 22 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 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 subdivisions 7 to 22 by regulations issued by the commissioner, shall apply to any person who fails to comply with the provisions of subdivisions 7 to 22.

In addition, when any person is discovered in this state operating a commercial motor vehicle in violation of the provisions of subdivisions 7 to 22, 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 subdivisions 7 to 22 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.

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 subdivisions 7 to 22 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 subdivisions 7 to 22, 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 subdivisions 7 to 22 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 subdivisions 7 to 22 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 cir-

cumstances 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 a license pursuant to subdivisions 7 to 22 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 subdivisions 7 to 22, 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 subdivisions 7 to 22. 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 subdivisions 7 to 22. 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 subdivisions 7 to 22.

(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 court in all matters and things relating to subdivisions 7 to 22 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 subdivisions 7 to 22.

Subd. 22. Commissioner may waive requirements. The commissioner is hereby empowered to suspend the enforcement of subdivisions 7 to 22 if the cost of administration thereof exceeds the tax revenue produced therefrom.

[1941 c 495 s 15; 1943 c 320 s 12; 1945 c 412 s 11; 1945 c 480; 1949 c 143 s 10-12; 1957 c 203 s 6, 7; 1961 c 506 s 1; 1963 c 66 s 16; 1967 c 802 s 1; 1969 c 102 s 1]

296.18 REFUNDS. Subdivision 1. **Gasoline or special fuel used in other than motor vehicles.** Any person who shall buy and use gasoline for any purpose other than use in motor vehicles, or special fuel for any purpose other than use in licensed motor vehicles, and who shall have paid the excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline or special fuel, or otherwise, shall be reimbursed and repaid the amount of the tax paid by him upon filing with the commissioner a signed claim in writing in such form and containing such information as the commissioner shall require and accompanied by the original invoice thereof. By signing any such claim which is false or fraudulent, the applicant shall be subject to the penalties provided in this section for knowingly making a false claim. The claim shall set forth the total amount of the gasoline so purchased and used by him other than in motor vehicles, or special fuel so purchased and used by him other than in licensed motor vehicles, and shall state when and for what purpose it was used. When a claim contains an error in computation or preparation, the commis-

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sioner is authorized to adjust the claim in accordance with the evidence shown on the claim or other information available to him. If the commissioner be satisfied that the claimant is entitled to payment, he shall approve the claim and transmit it to the state auditor. No repayment shall be made unless the claim and invoice shall be filed with the commissioner within four months from the date of the purchase. The claim and invoices shall be deemed to have been filed with the commissioner as herein required if postmarked within the four months period. The words "gasoline" or "special fuel" as used in this subdivision do not include aviation gasoline or special fuel for aircraft.

Subd. 1a. Tax rate increase, effect upon rate of refund. All claims for refund of taxes paid, except those taxes refunded in accordance with section 296.18, subdivision 4, which are filed within the four-month period immediately succeeding the effective date of any tax rate increase shall be paid at the former tax rate.

Subd. 2. Failure to use or sell gasoline or special fuel for intended purposes; reports required. (1) Any person who shall buy aviation gasoline or special fuel for aircraft use and who shall have paid the excise taxes due thereon directly or indirectly through the amount of the tax being included in the price thereof, or otherwise, and shall use said gasoline or special fuel in motor vehicles or shall knowingly sell it to any person for use in motor vehicles shall, on or before the twenty-third day of the month following that in which such gasoline or special fuel was so used or sold, report the fact of such use or sale to the commissioner in such form as he may prescribe.

(2) Any person who shall buy gasoline other than aviation gasoline and who shall have paid the motor vehicle gasoline excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline, or otherwise, who shall knowingly sell such gasoline to any person to be used for the purpose of producing or generating power for propelling aircraft, or who shall receive, store, or withdraw from storage such gasoline to be used for that purpose, shall, on or before the twenty-third day of the month following that in which such gasoline was so sold, stored, or withdrawn from storage, report the fact of such sale, storage, or withdrawal from storage to the commissioner in such form as he may prescribe.

(3) Any person who shall buy aviation gasoline or special fuel for aircraft use and who shall have paid the excise taxes directly or indirectly through the amount of the tax being included in the price thereof, or otherwise, who shall not use it in motor vehicles or receive, sell, store, or withdraw it from storage for the purpose of producing or generating power for propelling aircraft, shall be reimbursed and repaid the amount of the tax paid by him upon his making a verified claim in the same manner as is provided in subdivision 1 of this section with reference to claims for refunds of motor vehicle gasoline excise taxes, and the provisions of that subdivision as to the procedure on claims shall apply to claims made under this clause.

Subd. 3. Penalties for filing false claims. Every person who shall make any false statement in any claim or invoice filed with the commissioner, or knowingly file with the commissioner any claim or invoice containing any false statement or collect or cause to be paid to him or to any other person a refund without being entitled thereto, when acting pursuant to the provisions of subdivision 1 or subdivision 2, clause 3, shall forfeit the full amount of the claim and be guilty of a misdemeanor. Every person who is convicted under the provisions of this subdivision shall be prohibited from filing with the commissioner any claim for refund upon gasoline purchased within six months after such conviction.

Subd. 4. Aviation gasoline and special fuel tax refunds on graduated basis. Any licensed distributor or other person who shall have directly or indirectly paid the excise tax on aviation gasoline or special fuel for aircraft use provided for by section 296.02, subdivision 2, or section 296.025, subdivision 2, shall, as to all such aviation gasoline and special fuel received, stored, or withdrawn from storage by him in this state in any calendar year and not sold or otherwise disposed of to others, or intended for sale or other disposition to others, on which such tax has been so paid, be entitled to the following graduated reductions in such tax for that calendar year, to be obtained by means of the following refunds:

(1) On each gallon of such aviation gasoline or special fuel up to 50,000 gallons, all but five cents per gallon;

(2) On each gallon of such aviation gasoline or special fuel above 50,000 and not more than 150,000, all but two cents per gallon;

(3) On each gallon of such aviation gasoline or special fuel above 150,000 and not more than 200,000, all but one cent per gallon;

(4) On each gallon of such aviation gasoline or special fuel above 200,000, all but one-half cent per gallon.

Subd. 5. Aviation gasoline and special fuel tax refund claims, requirements. Any distributor or other person claiming to be entitled to any refund provided for in subdivision 4 shall receive such refund upon filing with the commissioner a verified claim in such form, containing such information, and accompanied by such invoices or other proof as the commissioner shall require. The claim shall set forth, among other things, the total number of gallons of aviation gasoline or special fuel for aircraft use upon which the claimant has directly or indirectly paid the excise tax provided for in section 296.02, subdivision 2, or section 296.025, subdivision 2, during the calendar year, which has been received, stored, or withdrawn from storage by him in this state and not sold or otherwise disposed of to others. If the commissioner be satisfied that the claimant is entitled to the refund, he shall approve the claim and transmit it to the state auditor, and it shall be paid as provided for in section 296.421, subdivision 2. All claims for refunds under this subdivision shall be made on or before March 1 following the end of the calendar year for which the refund is claimed.

Subd. 6. Aviation gasoline tax refund claims, civil penalty. If any distributor or other person, with intent to unlawfully secure any refund provided for in subdivision 4, shall knowingly file a false or fraudulent claim, there shall be imposed upon him as a penalty an amount equal to 50 percent of the amount of the refund unlawfully secured, in addition to that amount. The penalty imposed by this subdivision shall be collected as part of the tax.

Subd. 7. Aviation gasoline tax refund claims, criminal penalty. In addition to the penalty prescribed in subdivision 6, any person who wilfully makes a false claim for any refund provided for in subdivision 4 shall be guilty of a felony. The term "person," as used in this subdivision, includes any officer or employee of a corporation or a member or employee of a partnership who, as such officer, member, or employee, is under a duty to perform the act in respect to which the violation occurs.

Subd. 8. Appropriation. There is hereby appropriated to the persons entitled to such refund under this section, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment.

[1925 c 297 s 10; 1927 c 434 s 6; 1929 c 257 s 1; 1937 c 376 s 1; 1941 c 491 s 1; 1941 c 495 s 16; 1945 c 152 s 2; 1945 c 412 s 12; 1951 c 87 s 11; 1951 c 287 s 2; 1957 c 203 s 8-10; 1959 c 157 s 12; 1959 c 223 s 1; 1963 c 66 s 17, 18; 1963 c 686 s 2, 3; 1965 c 122 s 3] (2720-79)

296.19 APPLICATION TO FOREIGN OR INTERSTATE COMMERCE. No provision of sections 296.01 to 296.49 shall apply to, or be construed to apply to, foreign or interstate commerce, except insofar as the same may be permitted under the constitution and the laws of the United States.

[1941 c 495 s 17; 1949 c 143 s 14]

296.20 GASOLINE TAXES IN LIEU OF OTHER TAXES. Gasoline excise taxes 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. Nothing in sections 296.01 to 296.49 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.

[1925 c 297 s 13; 1941 c 495 s 18; 1949 c 143 s 15] (2720-82)

296.21 RECORDS RETAINED, MADE ACCESSIBLE. Subdivision 1. **Retaining records.** All distributors, dealers, special fuel dealers, bulk purchasers and all users of special fuel shall keep a true and accurate record of all purchases, transfers, sales and use of petroleum products and special fuel in a manner approved by the commissioner, and shall retain all such records for four years.

Subd. 2. Making accessible. The books and records of all carriers of petroleum

products, distributors, dealers, and persons selling or using special fuel shall be made accessible to the commissioner or his authorized representative.

Subd. 3. [Repealed, 1967 c 903 s 1]

[1941 c 495 s 19; 1945 c 152 s 3; 1949 c 143 s 16; 1951 c 87 s 12; 1957 c 203 s 11; 1963 c 66 s 19]

296.22 PETROLEUM PRODUCTS, REGULATIONS.

Subdivision 1. [Repealed, 1965 c 100 s 2]

Subd. 2. [Repealed, 1965 c 100 s 2; 1965 c 681 s 4]

Subd. 3. [Repealed, 1965 c 100 s 2]

Subd. 4. [Repealed, 1965 c 100 s 2]

Subd. 5. [Repealed, 1965 c 100 s 2]

Subd. 6. **Identification.** Tank vehicles 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. The color used shall be in distinct contrast to the background color.

Subd. 7. [Repealed, 1961 c 503 s 4]

Subd. 8. [Repealed, 1965 c 100 s 2]

Subd. 9. [Repealed, 1951 c 87 s 15]

Subd. 10. **Prices posted.** Each gasoline pump in this state shall have the total sales price per gallon posted on the pump in a conspicuous manner.

Subd. 11. [Repealed, 1965 c 100 s 2]

Subd. 12. [Repealed, 1965 c 100 s 2]

[1941 c 495 s 20; 1943 c 320 s 13, 14; 1945 c 152 s 4; 1947 c 412 s 8; 1949 c 143 s 17; 1953 c 41 s 11, 12; 1955 c 338 s 7, 8; 1963 c 66 s 20, 21; 1965 c 101 s 2]

296.23 CERTAIN BLENDING OF GASOLINE PROHIBITED. The blending of gasoline on which the tax has been paid or the liability accrued, with any substance on which the tax has not been paid or the liability thereafter accrued, is prohibited.

This section does not preclude the addition of any of the various inhibitors which in total do not exceed one-half of one percent by volume of the product treated, nor the addition to fuel for two-cycle gasoline engines of a lubricant not exceeding five percent by volume of the product treated; nor does this section preclude the addition of fuel oil to gasoline for the purpose of generating power for the propulsion of farm tractors.

[1941 c 495 s 21; 1947 c 412 s 9; 1963 c 66 s 22; 1965 c 100 s 1]

296.24 VIOLATIONS BY STATE EMPLOYEES, PUNISHMENT. Any officer or employee of the State of Minnesota charged with the enforcement of any provision of sections 296.01 to 296.49 who is employed by or who engages in business as a distributor or dealer in petroleum products shall be guilty of a misdemeanor.

[1941 c 495 s 22; 1947 c 412 s 10]

296.25 VIOLATIONS, PENALTIES. Subdivision 1. Any person who fails to comply with any provisions of sections 296.01 to 296.49, or who makes any false statement in any report, record, or sales ticket required by sections 296.12, 296.14, 296.17, subdivision 5, 296.18, subdivision 2, 296.21, or 296.49, shall be guilty of a misdemeanor unless other penalties are expressly provided.

Every person who is convicted of a violation of this subdivision shall be punished by imprisonment for not less than 10 nor more than 90 days or by a fine of not less than \$25 nor more than \$100.

Prosecutions commenced under this section may be brought in the county in which the defendant resides or in Ramsey county.

The county attorney of any county in which such action is commenced, shall on request of the commissioner of taxation, prosecute violations of this chapter. Costs, fees, and expenses incurred by any county attorney in litigation in connection with such actions may be paid from appropriations to the commissioner of taxation for the administration of chapter 296.

Subd. 2. It is unlawful and punishable as provided by this subdivision for any person to operate, or cause to be operated, a licensed motor vehicle on the public highways of this state on special fuel on which the excise tax provided by this chapter has not been paid or the liability therefor assumed by another person licensed under this chapter.

Every person who is convicted of a violation of this subdivision shall be punished by imprisonment for not less than 10 nor more than 90 days or by a fine of not less than \$25 nor more than \$100. On a second conviction he shall be punished by imprisonment for not less than 30 nor more than 90 days or by a fine of \$100. On a third or subsequent conviction he shall be punished by imprisonment for not less than 90 days.

[1941 c 495 s 23; 1945 c 412 s 13; 1947 c 412 s 11; 1949 c 143 s 18; 1951 c 87 s 13; 1955 c 338 s 9; 1963 c 66 s 23; 1965 c 656 s 1]

296.26 ACTIONS FOR RECOVERY OF PENALTY NOT TO BAR CRIMINAL PROSECUTIONS. No action or suit for recovery of one penalty shall be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution against any licensee or any other person under the provisions of sections 296.01 to 296.27.

[1941 c. 495 s. 24]

296.27 REGULATIONS. The commissioner may make rules and regulations relating to the administration and enforcement of laws regulating the sale, distribution, and use of petroleum products and special fuel. The rules and regulations shall be reasonable and not inconsistent with the law.

[1941 c 495 s 25; 1949 c 143 s 19; 1951 c 87 s 14]

296.28 TRANSFER OF POWERS AND DUTIES TO COMMISSIONER OF TAXATION. All the powers and duties which, prior to the passage of Laws 1939, Chapter 431, were vested in or imposed upon the commissioner of agriculture, under the provisions of Mason's Minnesota Statutes of 1927, Chapter 20, the 1938 Supplement to Mason's Minnesota Statutes of 1927, Chapter 20, and other laws relating to the inspection of oil and gasoline and the imposition and collection of taxes thereon, are hereby transferred to, vested in, and imposed upon the commissioner of taxation, who shall have supervision and control of the administration of these laws. The office of chief oil inspector is hereby abolished and all the powers and duties which, prior to the time of the passage of Laws 1939, Chapter 431, were vested in or imposed upon that office are hereby transferred to, vested in, and imposed upon the commissioner of taxation.

The commissioner of taxation, with the approval of the commissioner of administration, shall adopt and promulgate suitable rules and regulations relating to all state inspection, except grain inspection, the qualifications and activities of state inspectors performing duties under his direction or that of the commissioner of administration or under the direction of other departments of the state government, and shall have and exercise all inspectional powers not specifically assigned by law to any other state department.

[1925 c. 426 art. 6 s. 1; 1925 c. 426 art. 12 s. 2; 1919 c. 520 s. 1; 1929 c. 403 ss. 1, 2; 1939 c 431 art 6 s 4; 1961 c 113 s 1] (53-25, 53-27½a, 53-27½b, 53-33, 2362-4, 3770)

296.30 [Repealed, 1953 c 41 s 13]

296.31 [Repealed, 1953 c 41 s 14]

296.32-296.42 [Repealed, 1957 c 943 s 72]

296.421 REVENUE PROVISIONS.

Subdivision 1. [Repealed, 1961 c 561 s 17]

Subd. 2. **Aviation fuel tax fund.** The revenues derived from the excise taxes on aviation gasoline and on special fuel received, sold, stored, or withdrawn from storage as substitutes for aviation gasoline, and from interest thereon and penalties for delinquency in payment, paid or collected pursuant to the provisions of sections 296.02 to 296.17, shall be paid into the state treasury by the commissioner and credited to a special fund to be known as the aviation fuel tax fund, and distributed as follows:

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(1) There shall be paid from the aviation fuel tax fund all refunds authorized by Minnesota Statutes, Section 296.18, Subdivision 2(3), as amended by Laws 1945, Chapter 412, Subdivision 4, as they may be approved by the commissioner of taxation;

(2) There shall be transferred by the state auditor each year from the aviation fuel tax fund to the general fund in the state treasury the amount expended from the latter fund for expenses of administering the provisions of Laws 1945, Chapter 412;

(3) After meeting the requirements of clauses (1) and (2), there shall be transferred, on the last day of September, December, March and June of each fiscal year, by the state auditor to the state airports fund, all moneys in the aviation fuel tax fund in excess of such amount as the commissioner of taxation may certify is reasonably required for refunds as provided in clause (1);

(4) There is hereby appropriated such sums as are needed to carry out the provisions of this subdivision.

Subd. 3. Reports. On or before the last day of each calendar month the commissioner shall report to the state auditor and the state treasurer the total amount of aviation gasoline and special fuel excise taxes which have been paid on gasoline and special fuel which were, after the payment of such taxes, used or sold for use in motor vehicles, as determined by him from the reports made during that month pursuant to the provisions of section 296.18, subdivision 2(1). The amount so reported shall then be transferred from the aviation fuel tax fund to the fund in the state treasury in which motor vehicle gasoline and special fuel taxes are deposited. He shall at the same time likewise report the total amount of motor vehicle gasoline and special fuel excise taxes which have been paid on gasoline and special fuel which were, after the payment of such taxes, received, sold, stored or withdrawn from storage to be used for the purpose of producing or generating power for propelling aircraft, as determined by him from the reports made during that month pursuant to the provisions of section 296.18, subdivision 2(2). The amount so reported shall then be transferred from the fund in the state treasury in which motor vehicle gasoline and special fuel excise taxes are deposited to the aviation fuel tax fund. The state auditor and the state treasurer shall, in the case of each transfer in this subdivision provided for, make appropriate entries in the accounts of the respective funds.

Subd. 4. M.S. 1961 [Repealed, 1963 c 840 s 45]

Subd. 4. Distribution of unrefunded tax for motor boat purposes. The amount of unrefunded tax paid on gasoline used for motor boat purposes as computed in Minnesota Statutes 1961, Section 296.421, Subdivision 5, shall be paid into the state treasury and 33½ percent thereof shall be credited to the state park development account; 33½ percent thereof shall be credited to the game and fish fund to be used to defray the cost and expense of the division of game and fish and the department of natural resources in the acquisition, improvement, development and maintenance of sites for public access to public waters of this state and for lake improvement; and the remaining 33½ percent thereof shall be credited to the general fund for purposes of boat and water safety.

Subd. 5. Computation of unrefunded tax. The amount of unrefunded tax shall be a sum equal to three fourths of one percent of all revenues derived from the excise taxes on gasoline, except on gasoline used for aviation purposes, together with interest thereon and penalties for delinquency in payment, paid or collected pursuant to the provisions of sections 296.02 to 296.17, or the sum of \$500,000, whichever is the lesser amount, from which shall be subtracted the total amount of money refunded for motor boat use pursuant to section 296.18. The amount of such tax shall be computed for each six-month period commencing January 1, 1961, and shall be paid into the state treasury on November 1 and June 1 following each six-month period.

[1945 c 412 s 14; 1949 c 117 s 1; 1957 c 203 s 12, 13; 1959 c 158 s 24; 1961 c 585 s 3; 1963 c 840 s 42; 1969 c 399 s 35, 36; 1969 c 1129 art 10 s 2]

296.43 [Repealed, 1949 c 143 s 22]

296.44 [Repealed, 1949 c 143 s 22]

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296.45 [Repealed, 1949 c 143 s 22]

296.46 [Repealed, 1965 c 101 s 3]

296.47 [Repealed, 1965 c 101 s 3]

296.48 [Repealed, 1965 c 101 s 3]

296.49 [Repealed, 1965 c 101 s 3]