

CHAPTER 296

GASOLINE, GASOLINE SUBSTITUTES

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296.01 DEFINITIONS.

[For text of subds 1 to 23, see M.S.1982]

Subd. 24. **Agricultural alcohol gasoline.** "Agricultural alcohol gasoline" means a gasoline blend at least ten percent of which is agriculturally derived fermentation ethyl alcohol of a purity of at least 99 percent, determined without regard to any added denaturants, denatured in conformity with one of the approved methods set forth by the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, and derived from agricultural or forest products or other renewable resources, distilled in the United States and derived from agricultural products produced in the United States.

History: 1983 c 17 s 6

296.02 GASOLINE, EXCISE TAX.

Subdivision 1. **Tax imposed for motor vehicle use.** There is imposed an excise tax on gasoline used in producing and generating power for propelling motor vehicles used on the public highways of this state. This tax is payable at the times, in the manner, and by persons specified in this chapter. The tax is payable at the rate specified in subdivision 1b.

(a) Notwithstanding any other provision of law to the contrary, the tax imposed on special fuel sold by a qualified service station may not exceed, or the tax on gasoline delivered to a qualified service station must be reduced to, a rate not more than three cents per gallon above the state tax rate imposed on such products sold by a service station in a contiguous state located within the distance indicated in clause (b).

(b) A "qualifying service station" means a service station located within 7.5 miles, measured by the shortest route by public road, from a service station selling like product in the contiguous state.

(c) A qualified service station shall be allowed a credit by the supplier or distributor, or both, for the amount of reduction computed in accordance with clause (a).

A qualified service station, before receiving the credit, shall be registered with the commissioner of revenue.

Subd. 1a. **Exception.** The provisions of subdivision 1 do not apply to gasoline purchased by a transit system owned by one or more statutory or home rule charter cities or towns.

Subd. 1b. **Rates imposed.** The gasoline excise tax is imposed at the following rates:

(a) For the period beginning on the first day of the month following the month of final enactment of Laws 1983, chapter 17, or on the first day of the

second month following the month of final enactment of Laws 1983, chapter 17 if the date of final enactment of Laws 1983, chapter 17 is within 15 days of the end of the month, and ending December 31, 1983, gasoline is taxed at the rate of 16 cents per gallon.

(b) For the period on and after January 1, 1984, gasoline is taxed at the rate of 17 cents per gallon.

Subd. 2. Gasoline tax imposed for aviation use. Subject to the provisions of section 296.18, subdivision 4, there is imposed an excise tax, at the rate of five cents per gallon on all aviation gasoline received, sold, stored, or withdrawn from storage in this state. This tax is 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 the 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. 6. Tax imposed for marine use. Subject to the provisions of section 296.18, subdivision 1, there is 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 is payable at the times, in the manner, and by persons specified in sections 296.01 to 296.27.

Subd. 7. Tax reduction for agricultural alcohol gasoline. The tax on gasoline imposed by subdivision 1 shall be reduced by two cents per gallon beginning July 1, 1983, and continuing through June 30, 1985, and four cents per gallon beginning July 1, 1985, and continuing through June 30, 1992, for gasoline which is agricultural alcohol gasoline as defined in section 296.01, subdivision 24, which is blended by a distributor with alcohol distilled in the United States from agricultural products produced in the United States, and which is used on the public highways of this state. The tax imposed by this subdivision shall be payable at the same time, and collected in the same manner, as the tax imposed by subdivision 1.

Subd. 8. Tax reduction for agricultural alcohol gasoline sold in bulk to government or for school transportation. The tax on gasoline imposed by subdivision 1 shall be reduced by eight cents per gallon beginning January 1, 1984, and continuing through June 30, 1992, for gasoline which is agricultural alcohol gasoline as defined in section 296.01, subdivision 24, meets the criteria established in subdivision 7, and is sold in bulk to the state, local units of government, or for use in the transportation of pupils to and from school or school-related events in school buses. This reduction is in lieu of the reductions provided in subdivision 7.

History: 1983 c 17 s 7; 1983 c 326 s 3

296.06 DISTRIBUTORS' LICENSES.

[For text of subd 1, see M.S.1982]

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 \$10, 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) 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.

[For text of subs 3 and 4, see M.S.1982]

History: 1983 c 222 s 31

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 \$10, 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 \$10, 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.

[For text of subds 3 to 11, see M.S.1982]

History: 1983 c 222 s 32,33

296.14 GASOLINE TAX AND INSPECTION FEE MONTHLY REPORTS.

[For text of subd 1, see M.S.1982]

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) Sold for storage in an on-farm bulk storage tank, if the tax was not collected on the sale;

(7) 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.

[For text of subd 3, see M.S.1982]

Subd. 4. Payment and transfer of tax on gasoline sold for storage in on-farm bulk storage and ethyl alcohol for personal use. Notwithstanding the provisions of

this section, the producer of ethyl alcohol which is produced for personal use and not for sale in the usual course of business and a farmer who uses gasoline on which a tax has not been paid shall report and pay the tax on all ethyl alcohol or gasoline delivered into the supply tank of a licensed motor vehicle during the preceding calendar year. The tax shall be reported and paid together with the income tax return of the taxpayer. The commissioner of revenue shall transfer the amount collected in each calendar year to the highway user tax distribution fund by March 30 of the following taxable year. Any producer, qualifying under this subdivision, shall be exempt from the licensing requirements contained in section 296.01, subdivision 1.

History: 1983 c 17 s 8,10

296.17 UNREPORTED GASOLINE AND SPECIAL FUEL; GASOLINE AND SPECIAL FUEL USED IN OTHER STATES; MOTOR FUEL ROAD TAX.

[For text of subd 1, see M.S.1982]

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 paid to this state on the gasoline or special fuel actually used in the other state or states. 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. The claimant may file up to six months from the date the tax was paid to another state but any refund applied for after 30 days from date of payment shall be reduced by five percent for each 30-day period or portion thereof following the initial 30-day period.

[For text of subds 5 and 6, see M.S.1982]

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

(a) "motor fuel" means a 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, a road tractor, a tractor truck, or a truck having more than two axles, which is propelled by motor fuel, but does not include a motor vehicle while used in a ridesharing arrangement as defined in section 169.01, subdivision 63;

(c) "motor carrier" means a person who operates or causes to be operated a commercial motor vehicle on a highway in this state;

(d) "operation" means operation of 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 part of the highway is open for the public to travel on.

[For text of subds 8 and 9, see M.S.1982]

Subd. 10. License. (a) No motor carrier may 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 pays to the commissioner, at the time thereof, a license fee of \$20. The license is valid for a period of up to two years or until revoked by the commissioner or until surrendered by the motor carrier. All outstanding licenses will expire on March 31 of each even-numbered year beginning with 1984 and may be renewed upon application to the commissioner and payment of the \$20 fee. The 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.

[For text of subds 11 to 16, see M.S.1982]

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 the permit shall be \$15. Fees for trip permits shall be in lieu of the road tax otherwise assessable against the motor carrier on account of the commercial motor vehicle operating therewith, and no reports of mileage shall be required with respect to the vehicle.

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

(b) Whenever the commissioner is satisfied that unforeseen or uncertain circumstances have arisen which requires a motor carrier to operate in this state a commercial motor vehicle for which neither a trip permit pursuant to clause (a) of this subdivision nor a license pursuant to subdivisions 7 to 22 has yet been obtained, and if the commissioner is satisfied that prohibition of that operation would cause undue hardship, the commissioner may provide the motor carrier with temporary authorization for the operation of the 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.

[For text of subds 18 and 19, see M.S.1982]

Subd. 20. Enforcement powers. (a) The commissioner is authorized and directed to enforce the provisions of subdivisions 7 to 22. In addition, the commissioner of public safety is authorized and directed to use the Minnesota state patrol to assist in the enforcement of the provisions of subdivisions 7 to 22 and the commissioner of transportation is authorized and directed to enforce the provisions of subdivisions 10 and 17 as provided in section 221.221.

(b) The officers of the Minnesota state 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.

[For text of subds 21 and 22, see M.S.1982]

History: 1983 c 222 s 34-36; 1983 c 293 s 87-89; 1983 c 311 s 12

296.18 CREDIT.

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, snowmobiles, or motorboats, 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 eligible to receive the credit provided in section 290.06, subdivision 13, in the amount of the tax paid by him. The taxpayer claiming this credit shall include with his income tax return information including 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. The words "gasoline" or "special fuel" as used in this subdivision do not include aviation gasoline or special fuel for aircraft.

[For text of subds 2 and 3, see M.S.1982]

Subd. 3a. **Penalty for illegal use of tax-exempt gasoline.** A person who uses gasoline, delivered into an on-farm bulk storage tank and on which no tax has been collected, for propelling a motor vehicle on the public highways of this state is guilty of a misdemeanor.

[For text of subds 4 to 8, see M.S.1982]

History: 1983 c 17 s 9; 1983 c 301 s 181; 1983 c 342 art 6 s 2

296.25 VIOLATIONS, PENALTIES.

Subdivision 1. Any person who fails to comply with any provisions of sections 296.01 to 296.421, 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, or 296.21, shall be guilty of a misdemeanor. A minimum fine of \$200 shall be imposed on a person who fails to obtain a license or trip permit required under section 296.17, subdivisions 10 and 17.

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

[For text of subd 2, see M.S.1982]

History: 1983 c 293 s 90

296.421 REVENUE PROVISIONS.

[For text of subds 2 to 4, see M.S.1982]

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. 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.

History: 1983 c 301 s 182; 1983 c 342 art 6 s 3