

CHAPTER 296A

TAX ON PETROLEUM AND OTHER FUELS

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296A.01 DEFINITIONS.

[For text of subd 1, see M.S.2004]

Subd. 2. **Agricultural alcohol gasoline.** "Agricultural alcohol gasoline" means a gasoline-ethanol blend of up to ten percent agriculturally derived fermentation ethanol derived from agricultural products, such as potatoes, cereal, grains, cheese whey, sugar beets, forest products, or other renewable resources, that:

- (1) meets the specifications in ASTM specification D4806-04a; and
- (2) is denatured as specified in Code of Federal Regulations, title 27, parts 20 and 21.

[For text of subds 3 to 6, see M.S.2004]

Subd. 7. **Aviation gasoline.** "Aviation gasoline" means any gasoline that is capable of use for the purpose of producing or generating power for propelling internal combustion engine aircraft, that meets the specifications in ASTM specification D910-04, and that either:

- (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 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- (2) whether or not invoiced and billed as provided in clause (1), is received, sold, stored, or withdrawn from storage by any person, to be used for the purpose of producing or generating power for propelling internal combustion engine aircraft.

Subd. 8. **Aviation turbine fuel and jet fuel.** "Aviation turbine fuel" and "jet fuel" mean blends of hydrocarbons derived from crude petroleum, natural gasoline, and synthetic hydrocarbons, intended for use in aviation turbine engines, and that meet the specifications in ASTM specification D1655.04.

[For text of subds 9 to 13, see M.S.2004]

Subd. 14. **Diesel fuel oil.** "Diesel fuel oil" means a petroleum distillate or blend of petroleum distillate and residual fuels, intended for use as a motor fuel in internal combustion diesel engines, that meets the specifications in ASTM specification D975-04b, except that diesel fuel oil is not required to meet the diesel lubricity standard until the date that the biodiesel fuel requirement in section 239.77, subdivision 2, becomes effective or December 31, 2005, whichever comes first. Diesel fuel includes number 1 and number 2 fuel oils. K-1 kerosene is not diesel fuel unless it is blended with diesel fuel for use in motor vehicles.

[For text of subds 15 to 18, see M.S.2004]

Subd. 19. **E85.** "E85" means a petroleum product that is a blend of agriculturally derived denatured ethanol and gasoline or natural gasoline that typically contains 85 percent ethanol by volume, but at a minimum must contain 60 percent ethanol by volume. For the purposes of this chapter, the energy content of E85 will be considered to be 82,000 BTUs per gallon. E85 produced for use as a motor fuel in alternative fuel vehicles as defined in subdivision 5 must comply with ASTM specification D5798-99 (2004).

Subd. 20. **Ethanol, denatured.** "Ethanol, denatured" means ethanol that is to be blended with gasoline, has been agriculturally derived, and complies with ASTM

specification D4806-04a. This includes the requirement that ethanol may be denatured only as specified in Code of Federal Regulations, title 27, parts 20 and 21.

[For text of subd 21, see M.S.2004]

Subd. 22. Gas turbine fuel oil. "Gas turbine fuel oil" means fuel that contains mixtures of hydrocarbon oils free of inorganic acid and excessive amounts of solid or fibrous foreign matter, intended for use in nonaviation gas turbine engines, and that meets the specifications in ASTM specification D2880-03.

Subd. 23. Gasoline. (a) "Gasoline" means:

(1) all products commonly or commercially known or sold as gasoline regardless of their classification or uses, except casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline that under the requirements of section 239.761, subdivision 3, must not be blended with gasoline that has been sold, transferred, or otherwise removed from a refinery or terminal; and

(2) any liquid prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, a fuel in spark-ignition, internal combustion engines, and that when tested by the Weights and Measures Division meets the specifications in ASTM specification D4814-04a.

(b) Gasoline that is not blended with ethanol must not be contaminated with water or other impurities and must comply with both ASTM specification D4814-04a and the volatility requirements in Code of Federal Regulations, title 40, part 80.

(c) After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

(1) may blend the gasoline with agriculturally derived ethanol, as provided in subdivision 24;

(2) must not blend the gasoline with any oxygenate other than denatured, agriculturally derived ethanol;

(3) must not blend the gasoline with other petroleum products that are not gasoline or denatured, agriculturally derived ethanol;

(4) must not blend the gasoline with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA.

Subd. 24. Gasoline blended with nonethanol oxygenate. "Gasoline blended with nonethanol oxygenate" means gasoline blended with ETBE, MTBE, or other alcohol or ether, except denatured ethanol, that is approved as an oxygenate by the EPA, and that complies with ASTM specification D4814-04a. Oxygenates, other than denatured ethanol, must not be blended into gasoline after the gasoline has been sold, transferred, or otherwise removed from a refinery or terminal.

Subd. 25. Gasoline blended with ethanol. "Gasoline blended with ethanol" means gasoline blended with up to ten percent, by volume, agriculturally derived, denatured ethanol. The blend must comply with the volatility requirements in Code of Federal Regulations, title 40, part 80. The blend must also comply with ASTM specification D4814-04a, or the gasoline base stock from which a gasoline-ethanol blend was produced must comply with ASTM specification D4814-04a; and the gasoline-ethanol blend must not be blended with casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline after the gasoline-ethanol blend has been sold, transferred, or otherwise removed from a refinery or terminal. The blend need not comply with ASTM specification D4814-04a if it is subjected to a standard distillation test. For a distillation test, a gasoline-ethanol blend is not required to comply with the temperature specification at the 50 percent liquid recovery point, if the gasoline from which the gasoline-ethanol blend was produced complies with all of the distillation specifications.

Subd. 26. **Heating fuel oil.** "Heating fuel oil" means a petroleum distillate, blend of petroleum distillates and residuals, or petroleum residual heating fuel that meets the specifications in ASTM specification D396-02a.

[For text of subd 27, see M.S.2004]

Subd. 28. **Kerosene.** "Kerosene" means a refined petroleum distillate consisting of a homogeneous mixture of hydrocarbons essentially free of water, inorganic acidic and basic compounds, and excessive amounts of particulate contaminants and that meets the specifications in ASTM specification D3699-03.

[For text of subds 29 to 50, see M.S.2004]

History: 1Sp2005 c 1 art 4 s 76-87

296A.02 ADMINISTRATION.

[For text of subd 1, see M.S.2004]

Subd. 2. **Powers of commissioner.** The commissioner, or duly authorized agents, may conduct investigations, inquiries, and hearings under this chapter. In connection with such investigations, inquiries, and hearings, the commissioner and the duly authorized agents have all the powers conferred upon the commissioner and the commissioner's examiners by chapter 270C, and the provisions of that chapter apply to all such investigations, inquiries, and hearings.

[For text of subds 3 and 4, see M.S.2004]

History: 2005 c 151 art 2 s 17

296A.09 AVIATION TAX.

[For text of subds 1 to 5, see M.S.2004]

Subd. 6. **Exemptions.** The provisions of subdivisions 1 and 2 do not apply to aviation gasoline or jet fuel purchased by an ambulance service licensed under chapter 144E.

History: 1Sp2005 c 3 art 6 s 10

296A.13 PERSONAL LIABILITY FOR TAX.

Liability for payment of taxes under this chapter includes a responsible person or entity described in the personal liability provisions of section 270C.56.

History: 2005 c 151 art 2 s 17

296A.18 APPORTIONMENT OF TAX; DEPOSIT OF PROCEEDS.

[For text of subd 1, see M.S.2004]

Subd. 2. **Motorboat.** Approximately 1-1/2 percent of all gasoline received in this state and 1-1/2 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 motorboats on the waters of this state and of the total revenue derived from the imposition of the gasoline fuel tax for uses other than for aviation purposes, 1-1/2 percent of the revenue is the amount of tax on fuel used in motorboats operated on the waters of this state. The amount of unrefunded tax paid on gasoline used for motor boat purposes as computed in this chapter shall be paid into the state treasury and credited to a water recreation account in the special revenue fund for acquisition, development, maintenance, and rehabilitation of sites for public access and boating facilities on public waters; lake and river improvement; and boat and water safety.

[For text of subds 3 to 9, see M.S.2004]

History: 1Sp2005 c 1 art 2 s 144

296A.20 [Repealed, 2005 c 151 art 1 s 117]

296A.201 [Repealed, 2005 c 151 art 1 s 117]

296A.21 STATUTE OF LIMITATIONS.

[For text of subd 1, see M.S.2004]

Subd. 2. **Collection.** No action shall be brought for the collection of delinquent taxes and fees under section 270C.61 unless commenced within five years after the date of assessment of the taxes and fees.

[For text of subs 3 to 5, see M.S.2004]

History: 2005 c 151 art 2 s 17

296A.22 NONPAYMENT OF TAX; CIVIL PENALTIES.

Subdivision 1. **Penalty for failure to pay tax, general rule.** Upon the failure of any person to pay any tax or fee 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 specified in section 270C.40.

Subd. 2. **Collection authority.** Upon such a failure to pay any tax or fees within the time provided by this chapter, all taxes and fees imposed by this chapter shall become immediately due and payable, and may be collected as provided in chapter 270C.

Subd. 3. **Operating without license.** If any person operates as a distributor, special fuel dealer, bulk purchaser, or motor carrier without first securing the license required under this chapter, any tax or fee imposed by this chapter shall become immediately due and payable. A penalty of 25 percent is imposed upon the tax and fee due. The tax, fees, and penalty shall bear interest at the rate specified in section 270C.40.

[For text of subs 4 to 8, see M.S.2004]

Subd. 9. **Abatement of penalty.** (a) The commissioner may by written order abate any penalty imposed under this section, if in the commissioner's opinion there is reasonable cause to do so.

(b) A request for abatement of penalty must be filed with the commissioner within 60 days of the date the notice stating that a penalty has been imposed was mailed to the taxpayer's last known address.

(c) If the commissioner issues an order denying a request for abatement of penalty, the taxpayer may file an administrative appeal as provided in section 296A.25 or appeal to Tax Court as provided in section 271.06. If the commissioner does not issue an order on the abatement request within 60 days from the date the request is received, the taxpayer may appeal to Tax Court as provided in section 271.06.

History: 2005 c 151 art 2 s 17; art 8 s 3

296A.25 [Repealed, 2005 c 151 art 1 s 117]