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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 1851

02/28/2019 Authored by Davids
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; petroleum and other fuels; removing the requirements for
1.3 licensed distributors to furnish bonds for payment; expanding personal liability
1.4 for delinquent tax debt; amending Minnesota Statutes 2018, sections 296A.03,
1.5 subdivision 3; 296A.13; repealing Minnesota Statutes 2018, sections 296A.03,
1.6 subdivision 5; 296A.04, subdivision 2; 296A.05, subdivision 2; Minnesota Rules,
1.7 part 8125.0410, subpart 1.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2018, section 296A.03, subdivision 3, is amended to read:

1.10 Subd. 3. **Form of application; license fee.** An application for a distributor's license
1.11 shall be made in the form and manner prescribed by the commissioner and must be
1.12 accompanied by an initial fee of \$25. Once licensed, a distributor must remit a \$25 fee
1.13 annually to maintain the license.

1.14 **EFFECTIVE DATE.** This section is effective July 1, 2019.

1.15 Sec. 2. Minnesota Statutes 2018, section 296A.13, is amended to read:

1.16 **296A.13 PERSONAL LIABILITY FOR TAX.**

1.17 Liability for payment of taxes under this chapter includes a responsible person or entity
1.18 described in the personal liability provisions of section 270C.56., except "person" includes
1.19 but is not limited to directors and officers of corporations, governors and managers of a
1.20 limited liability company, or members of partnerships who, either individually or jointly
1.21 with others, have the control, supervision, or responsibility of filing returns and making
1.22 payment of the amount of tax imposed by this chapter.

1.23 **EFFECTIVE DATE.** This section is effective July 1, 2019.

2.1 Sec. 3. **REPEALER.**

2.2 Minnesota Statutes 2018, sections 296A.03, subdivision 5; 296A.04, subdivision 2; and
2.3 296A.05, subdivision 2, and Minnesota Rules, part 8125.0410, subpart 1, are repealed.

2.4 **EFFECTIVE DATE.** This section is effective July 1, 2019.

296A.03 DISTRIBUTOR'S LICENSE.

Subd. 5. **Form of application; bond.** (a) A written application shall be made in the form and manner prescribed by the commissioner.

(b) The commissioner shall also require the applicant or licensee to deposit with the commissioner of management and budget 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, 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. The bond shall cover all places of business within the state where petroleum products are received by the licensee. The applicant or licensee shall designate and maintain an agent in this state upon whom service may be made for all purposes of this section.

(c) An initial applicant for a distributor's license shall furnish a bond in a minimum sum of \$3,000 for the first year.

(d) The commissioner, on reaching the opinion that the bond given by a licensee is inadequate in amount to fully protect the state, shall require an additional bond in such amount as the commissioner deems sufficient.

(e) A licensee who desires to be exempt from depositing securities or furnishing such bond shall furnish to the commissioner an itemized financial statement showing the assets and the liabilities of the applicant. If it appears to the commissioner, from the financial statement or otherwise, that the applicant is financially responsible, then the commissioner may exempt the applicant from depositing such securities or furnishing such bond until the commissioner otherwise orders.

(f) When the surety upon any bond issued under the provisions of this chapter 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 where such loss occurred.

296A.04 SPECIAL FUEL DEALER'S LICENSE; REQUIREMENTS.

Subd. 2. **Bond.** The provisions of section 296A.03, subdivision 5, paragraphs (b), (d), (e), and (f), relating to bonds apply to special fuel dealers.

296A.05 BULK PURCHASER'S LICENSE; REQUIREMENTS.

Subd. 2. **Bond.** The provisions of section 296A.03, subdivision 5, paragraphs (b), (d), (e), and (f), relating to bonds apply to bulk purchasers.

8125.0410 DISTRIBUTOR'S LICENSES.

Subpart 1. **Exemption from depositing securities or filing a bond.** The commissioner will determine which distributor license applicants are financially responsible and, as a result, qualify for the statutory exemption from depositing securities or filing a bond, by taking into consideration all relevant factors. Those factors include the following:

A. whether the applicant's financial statement reflects that the applicant's current assets are at least equal to its current liabilities and that the applicant's net worth is at least three times its average quarterly motor fuel tax liability;

B. whether the applicant has failed to file or has been delinquent in filing any motor fuel tax returns;

C. whether the applicant has ever failed to pay its motor fuel tax liability, paid it late, or paid with a check that was later returned by the bank unpaid; and

D. any other evidence of the financial responsibility of the applicant.