

CHAPTER 296

TAX ON GASOLINE AND GASOLINE SUBSTITUTES

Sec.	
296.01	Definitions
296.02	Excise tax on gasoline
296.025	Excise tax on gasoline substitutes
296.04	Inspection of petroleum products
296.05	Specifications
296.06	Distributors must be licensed
296.07	Certificate of registration filed
296.08	Blenders must secure permits
296.09	Industrial user permit
296.10	Transport permits
296.11	Commissioner may revoke licenses
296.12	Special use fuels
296.13	Inspection fees
296.14	Reports to commissioner
296.15	Penalties for non-payment of tax
296.16	Gasoline deemed for use in motor vehicles
296.17	Reports of gasoline on hand
296.18	Reimbursements in certain cases
296.19	Construction of sections 296.01 to 296.27
296.20	Gasoline taxes to be in lieu of all other taxes except ad valorem taxes
296.21	Dealers and distributors to keep accurate records
296.22	Containers to be painted red
296.23	Certain blending prohibited
296.24	Certain acts misdemeanors
296.25	Failure to comply with provisions a misdemeanor
296.26	Actions for recovery of penalty not to bar criminal prosecutions

Sec.	
296.27	Rules and regulations
296.28	Powers and duties in relation to inspection of oil and gasoline, and the imposition and collection of taxes thereon transferred to commissioner of taxation
296.30	Deputy oil inspectors
296.31	Testing stations; tests; fees
296.32	Apportionment of funds
296.33	State auditor, state treasurer, and state highway commissioner to apportion funds
296.34	State auditor to draw warrant
296.35	Limitation of amount to each county
296.36	County board to designate county aid roads
296.37	Use and disposition of gas tax
296.38	County board may apportion funds
296.39	Apportionment to cities and villages in certain cases
296.40	Distribution of gasoline tax by county boards to towns
296.41	Unorganized townships
296.42	To be credited to county road and bridge fund
296.421	Revenue provisions
296.43	Definitions
296.44	Rules and regulations
296.45	Farm tractor fuels inspected
296.46	Farm tractor fuels not subject to tax
296.47	Blending prohibited
296.48	Violations; penalties
296.49	Sellers of tractor fuel to file monthly statements

296.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of sections 296.01 to 296.27, shall be given the meanings subjoined to them.

Subd. 2. Petroleum products. "Petroleum products" means gasoline, fuel oil, and farm tractor fuel.

Subd. 3. Gasoline. "Gasoline" means any petroleum product or other substance which is capable of use as a carburant in internal combustion engines and which has a flash point of less than 100 degrees Fahrenheit when tested with a Tagliabue closed cup tester or an initial boiling point of less than 300 degrees Fahrenheit or a 95 per cent distillation point of less than 464 degrees Fahrenheit when tested by the methods of the American society for testing materials, except farm tractor fuels and special use fuel, as defined by law, and except fuel oil or kerosene when the ten per cent distillation point is more than 347 degrees Fahrenheit.

Subd. 4. Fuel oil. "Fuel oil" means any petroleum product other than gasoline which is received in this state for distribution to retail consumers and 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 50 at 100 degrees Fahrenheit by the Saybolt universal process, and any product designated for such use outside this range which is to be blended with other products or processed to produce a resulting product coming within this range.

Subd. 5. Distributor. "Distributor" means any person who (1) brings or causes to be brought into this state petroleum products or (2) produces, manufactures, refines, or blends petroleum products in this state or (3) receives petroleum products from a refinery, marine terminal, or pipe-line terminal in this state, for storage and subsequent sale and distribution by tank cars or-tank trucks, or both.

Subd. 6. 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. 7. Dealer. "Dealer" means any person, except a distributor, engaged in the business of buying and selling gasoline for use in motor vehicles, or in the business of buying and selling aviation gasoline, in this state.

MINNESOTA STATUTES 1945

2335

TAX ON GASOLINE AND GASOLINE SUBSTITUTES 296.02

Subd. 8. **Blender.** "Blender" means any person who mixes together any petroleum product with any other petroleum product or other substance to produce gasoline.

Subd. 9. **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. 10. **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.

Subd. 11. **Commissioner.** "Commissioner" means the commissioner of taxation of the state of Minnesota.

Subd. 12. **Petroleum products received in this state.** Petroleum products brought into this state shall be deemed to be "received" in this state at the time and place where the same shall be unloaded by the person who at such time shall be the owner thereof. Petroleum products produced, manufactured, refined, or blended 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 for storage, or brought into the state by pipe-line and delivered at a pipe-line terminal in this state for storage, shall not be considered received until loaded at such refinery, marine terminal, or pipe-line terminal into railroad tank cars, tank trucks, tank wagons, transports, or other vehicles for delivery or shipment to points within this state. Provided, petroleum products produced, manufactured, refined, or blended at a refinery in this state and petroleum products stored at a marine terminal or a pipe-line terminal in this state may be sold, shipped, or delivered to distributors who are the holders of unrevoked distributors' licenses issued by the commissioner, as provided in sections 296.01 to 296.27, without liability on the part of the seller for the gasoline tax and inspection fees, but such purchasers shall be liable for the gasoline tax and inspection fees on such petroleum products and shall, for the purpose of sections 296.01 to 296.27, be deemed to be the distributors of the petroleum products so received.

Subd. 13. **Aircraft.** "Aircraft" means any contrivance, now or hereafter invented, used or designed for navigation of or flight in the air.

Subd. 14. **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) of this subdivision, 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. 15. **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.

[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 ss. 1, 2, 3; 1945 c. 412 ss. 1, 2] (2720-70, 3787-1)

296.02 EXCISE TAX ON GASOLINE. Subdivision 1. **Rate.** There is hereby imposed an excise tax of four 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 sections 296.01 to 296.27.

Subd. 2. **Aviation gasoline.** Subject to the provisions of section 296.18, subdivision 4, there is hereby imposed an excise tax of four cents per gallon 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 of this section 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.

MINNESOTA STATUTES 1945

296.025 TAX ON GASOLINE AND GASOLINE SUBSTITUTES

2336

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

[1925 c. 297 s. 2; 1929 c. 310 s. 1; 1937 c. 383 s. 1; 1939 c. 350; 1941 c. 162 s. 1; 1945 c. 412 s. 3] (2720-71)

296.025 EXCISE TAX ON GASOLINE SUBSTITUTES. There is hereby imposed an excise tax of the same rate per gallon as the gasoline excise tax upon all combustible gases and liquids, including liquefied gases, which exist in the gaseous state at a temperature of 60 degrees Fahrenheit at a pressure of 14.7 pounds per square inch absolute, and any liquid petroleum product or substitute therefor that is used to generate power for the propulsion of motor vehicles upon the public highways of this state, or for use in machinery operated for the purpose of constructing, reconstructing, or maintaining the public highways of this state, not otherwise taxed as gasoline, and upon any such combustible gases and liquids, and liquid petroleum products or substitutes therefor which are received, sold, stored, or withdrawn from storage in this state, to be used as substitutes for aviation gasoline, and not otherwise taxed as gasoline.

[1941 c. 494; 1945 c. 412 s. 4]

296.03 [Repealed by 1943 c. 79 s. 1]

296.04 INSPECTION OF PETROLEUM PRODUCTS. Subdivision 1. **Where made.** 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.

Subdivision 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.

Subdivision 3. **Storage tanks, conditions inspected.** The general surroundings and conditions at all places where petroleum products are processed, held, stored, or offered for sale shall be inspected and all storage tanks and other containers shall be inspected in order to ascertain that they are kept clean and free from all impurities.

Subdivision 4. **Entry upon premises.** The commissioner may enter into or upon the premises of all distributors and dealers of petroleum products to inspect the receptacles in which these products are stored; and it is made the duty of all distributors 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.

Subdivision 5. **Records of distributors examined.** The commissioner shall make periodic examinations of all records kept by distributors or other persons collecting the gasoline excise tax.

[1941 c. 495 s. 2; 1943 c. 320 s. 4]

296.05 SPECIFICATIONS. Subdivision 1. **Gasoline to conform to.** 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 ten per cent has been recovered in the receiver, the temperature shall not be higher than 167 degrees Fahrenheit;
- (4) When 50 per cent has been recovered in the receiver, the temperature shall not be higher than 284 degrees Fahrenheit;
- (5) When 90 per cent has been recovered in the receiver, the temperature shall not be higher than 392 degrees Fahrenheit;

MINNESOTA STATUTES 1945

2337

TAX ON GASOLINE AND GASOLINE SUBSTITUTES 296.06

(6) The end point shall not be higher than 437 degrees Fahrenheit;
(7) The minimum recovery in the receiver shall be 95 per cent of the volume used for the test;

(8) The sulphur content shall not be more than 25 hundredths of one per cent;
(9) The residue shall not be more than two per cent.

Subd. 2. **Specifications for 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. **Tests, how made.** All tests shall be made in accordance with the methods of the American society for testing materials.

Subd. 4. **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. 5. **Aviation gasoline must meet specifications.** 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 of this section, and the provisions of subdivisions 3 and 4 of this section shall apply to aviation gasoline.

[1941 c. 495 s. 3; 1943 c. 320 s. 5; 1945 c. 412 s. 5]

296.06 DISTRIBUTORS MUST BE LICENSED. Subdivision 1. **Issuance.** No person shall engage in or purport to be engaged in or hold himself out as being engaged in the business of buying or selling petroleum products as a distributor in the state of Minnesota unless he shall have been licensed by the commissioner to carry on business as a distributor.

Subd. 2. **Fees; conditions; bonds.** A distributor's license shall be issued to any responsible person qualifying under this act 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 \$1.00, 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 gasoline 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 all licenses and bonds executed and delivered hereunder shall be for the duration of one year, expiring May 31;

(2) An initial applicant for a distributor's license other than an exclusive industrial user 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 subdivision 2 (1) and (2) and on any additional bond required under subdivision 2 (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 fiscal year ending May 31st shall be purchased by the commis-

sioner of administration from the lowest responsible bidder after advertising for competitive bids in the manner prescribed by Laws 1939, Chapter 431, Article 11, as amended. The commissioner of administration shall call for bids within a reasonable period prior to the commencement of each fiscal year and the first call shall cover all new bonds required during the fiscal year beginning June 1, 1945, and ending May 31, 1946.

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 surrender his license.

[1941 c. 495 s. 4; 1943 c. 320 s. 6; 1945 c. 154]

296.07 CERTIFICATE OF REGISTRATION FILED. 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 gasoline or special use fuel for use in motor vehicles, or aviation gasoline or special use fuel to be used as a substitute for aviation gasoline, as a dealer in this state after the effective date of Laws 1945, Chapter 412, unless he shall file a duly acknowledged certificate of registration in a manner approved by the commissioner.

[1941 c. 495 s. 5; 1945 c. 412 s. 6]

296.08 BLENDERS MUST SECURE PERMITS. A blender shall secure a permit from the commissioner who shall issue a blender's permit to any distributor or dealer who makes application therefor in a manner approved by the commissioner. The blender's permit shall expire annually on May 31. Blenders shall make reports in a manner approved by the commissioner.

[1941 c. 495 s. 6]

296.09 INDUSTRIAL USER PERMIT. An exclusive industrial user of gasoline for other than in motor vehicles who is not engaged in the business of selling gasoline, and who does not receive, sell, store, or withdraw from storage in this state aviation gasoline, may at the discretion of the commissioner secure an industrial user permit upon application in a manner approved by the commissioner. The permit shall expire annually on May 31.

[1941 c. 495 s. 7; 1945 c. 412 s. 7]

296.10 TRANSPORT PERMITS. Any person who transports petroleum products into this state or within this state for storage, sale, distribution or use therein, in truck transports, shall make application 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 printed 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 December 31.

[1941 c. 495 s. 8; 1943 c. 320 s. 7; 1945 c. 152 s. 1]

296.11 COMMISSIONER MAY REVOKE LICENSES. The commissioner may, after hearing, revoke any license or permit if the holder has directly or indirectly violated any of the provisions of sections 296.01 to 296.27 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]

296.12 SPECIAL USE FUELS. Subdivision 1. **Special use fuel.** "Special use fuel" shall mean all combustible gases and liquids, including liquefied gases, which exist in the gaseous state at a temperature of 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute, and any liquid petroleum product or substitute therefor that is used in motor vehicles, except gasoline, and all such combustible gases and liquids and liquid petroleum products or substitutes therefor that are used as substitutes for aviation gasoline.

Subd. 2. Registration; records kept; tax paid. Persons using special use fuel in motor vehicles, or receiving, selling, storing, or withdrawing from storage special use fuel as a substitute for aviation gasoline, shall register and keep records, and

MINNESOTA STATUTES 1945

2339

TAX ON GASOLINE AND GASOLINE SUBSTITUTES 296.15

shall report and pay the tax in a manner approved by the commissioner on special use fuel received in this state for use in motor vehicles, or as a substitute for aviation gasoline. The reports shall be made by the 23rd day of each month and shall cover special use fuel received during the preceding calendar month. All provisions of sections 296.01 to 296.27 relating to the calculation, collection and payment of the taxes on gasoline and all provisions of sections 296.01 to 296.27 relating to distributors' licenses, shall be applicable to persons using special use fuel on the public highways of this state and to persons receiving, selling, storing, or withdrawing from storage special use fuel as a substitute for aviation gasoline.

Subd. 3. Bonds. The provisions of section 296.06, subdivision 2, clauses (1), (3), and (4), relating to bonds shall apply to persons using special use fuel on the public highways of this state.

Subd. 4. Withholding number plates. When an application for registration of a motor vehicle discloses that such motor vehicle uses special use fuel as defined in subdivision 1 hereof, the secretary of state shall not issue a number plate for such motor vehicle until and unless such motor vehicle shall have been registered and a permit issued therefor by the commissioner of taxation as provided in subdivision 2 hereof.

[1941 c. 495 s. 10; 1943 c. 320 s. 8; 1945 c. 412 s. 8]

296.13 INSPECTION FEES. An inspection fee shall be charged on petroleum products when received by the distributor, the fee to 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 by the commissioner for inspection fees previously paid 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]

296.14 REPORTS TO COMMISSIONER. Subdivision 1. **Made monthly; payment inspection fees and tax.** On or before the 23rd day of each month, each 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 as originally invoiced, of petroleum products received by him during the preceding calendar month, and such other information as the commissioner may require. Each such report shall show separately the number of gallons of aviation gasoline received by him during such calendar month. The 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 a tax a deduction of three per cent of the quantity of gasoline received 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 per cent 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 23rd 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:

(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 a holder of an industrial user permit or to another licensed distributor;

(4) Destroyed by accident while in the possession of the distributor;

(5) In such other cases as the commissioner may permit, not inconsistent with the provisions of this act and other laws relating to the gasoline excise tax.

[1941 c. 495 s. 12; 1943 c. 320 ss. 9, 10; 1945 c. 412 s. 9]

296.15 PENALTIES FOR NON-PAYMENT OF TAX. Subdivision 1. **For first ten days.** In case any tax or inspection fee is not paid when due, a penalty of one per cent 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 per cent per year until paid.

Subdivision 2. **Statement of amount of tax due sent to attorney general.** Upon the failure of any person or distributor to pay the gasoline tax and inspection fees within the time provided by sections 296.01 to 296.27, all gasoline tax upon gasoline received and inspection fees shall become immediately due and payable, whether or not the person or distributor has previously reported the tax and inspection fees to the commissioner, and within ten days after the default in payment the commissioner shall deliver to the attorney general a certified statement of the amount due from each person or distributor hereunder whose excise tax and inspection fees are delinquent. The statement shall give the address of the person or distributor 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 distributor or taxpayer resides, to recover the amount of such tax 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 per cent per year and shall be enforceable in the manner provided by law for the enforcement of judgments obtained in civil actions.

Subdivision 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.

Subdivision 4. **Receiver may be appointed.** 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.

Subdivision 5. **Person not to sell gasoline when his tax and inspection fees are certified to attorney general.** No gasoline or 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.

Subdivision 6. **Limitation of actions.** No action shall be brought against a distributor for the collection of delinquent gasoline taxes and inspection fees unless commenced within six years after the date of the filing of the distributor's report 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]

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, shall be deemed to be intended for use in motor vehicles in this state.

Subd. 2. **Seller to collect tax.** If the person directly or indirectly paying either of the taxes provided for by section 296.02, as amended by Laws 1945, Chapter 412, shall not in fact use the gasoline 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 for use as provided in section 296.14, subdivision 2, as amended by Laws 1945, Chapter 412, he is hereby authorized to collect from the person to whom the gasoline 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 of tax in fiduciary relationship.** The authorization for the collection of gasoline taxes 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 gasoline taxes shall be deemed guilty of larceny by embezzlement, and punished accordingly.

[1941 c. 495 s. 14; 1945 c. 412 s. 10]

296.17 REPORTS OF GASOLINE ON HAND. Subdivision 1. **Liability for payment of tax.** 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, 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, and such person shall become liable for the payment of the tax. All provisions of sections 296.01 to 296.27 relating to the calculation, collection, and payment of the tax shall be applicable to any such person, dealer, or distributor.

Subd. 2. **Application of section.** This section shall apply to any resident of this state who, having acquired gasoline outside the state, shall use the same in motor vehicles in this state, or who shall possess the same within the state for such use, and to persons who, although not residents of this state, shall regularly or habitually use and operate motor vehicles upon the public highways of this state, and the tax shall be payable by such persons on gasoline used or held for use by them in motor vehicles in the state although the same shall have been acquired outside this state. It shall not apply to persons who, as transients, operate motor vehicles into or through the state using therein gasoline acquired outside of the state, providing such gasoline is wholly contained within the fuel supply tank of such vehicle, nor shall it apply to persons who, having acquired gasoline outside the state, shall transport the same into this state in the tank, or tanks, of a motor vehicle, the total capacity of which is not in excess of 20 gallons.

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

Subd. 4. **Users licenses.** Every person who regularly or habitually uses or operates motor vehicles upon the highways of this state and is liable to tax under the provisions of subdivision 2 of this section and is not otherwise licensed as a distributor under the provisions of sections 296.01 to 296.27 shall apply for and obtain a license as a "user," which license shall be issued in the same manner and subject to the same limitations and provisions as provided in sections 296.01 to 296.27 for distributors' licenses.

Subd. 5. **Duties of distributor or dealer.** The provisions of subdivision 1 of this section 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, as amended by Laws 1945, Chapter 412, 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 Laws 1945, Chapter 412, relating to the calculation, collection, and payment of the tax shall be applicable to any such person, dealer, or distributor.

Subd. 6. **Reciprocal arrangements relating to gasoline tax.** 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

MINNESOTA STATUTES 1945

296.18 TAX ON GASOLINE AND GASOLINE SUBSTITUTES

2342

gasoline or other motor vehicle fuel used in such other state but upon which the tax has been paid to Minnesota.

[1941 c. 495 s. 15; 1943 c. 320 s. 12; 1945 c. 412 s. 11; 1945 c. 480]

296.18 REIMBURSEMENT IN CERTAIN CASES. Subdivision 1. **For use other than for motors or aircraft.** Any person who shall buy and use gasoline for any purpose other than use in motor vehicles, and who shall have paid the gasoline excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline, or otherwise, shall be reimbursed and repaid the amount of the tax paid by him upon filing with the commissioner a verified claim in such form and containing such information as the commissioner shall require and accompanied by the original invoice thereof. The claim shall set forth the total amount of the gasoline so purchased and used by him other than in motor vehicles, and shall state when and for what purpose it was used. 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 six 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 six months period. The word "gasoline" as used in this subdivision does not include aviation gasoline.

Subd. 2. Report sales. (1) Any person who shall buy aviation gasoline and who shall have paid the aviation gasoline excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline, or otherwise, and shall use said gasoline in motor vehicles or shall knowingly sell it to any person for use in motor vehicles shall, on or before the 23rd day of the month following that in which such gasoline 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 23rd 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 and who shall have paid the aviation gasoline excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline, 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. False report; penalty. 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 clause 3 of subdivision 2 of this section, 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. Graduated reductions. Any licensed distributor or other person who shall have directly or indirectly paid the excise tax on aviation gasoline provided for by section 296.02, subdivision 2, shall, as to all such aviation gasoline, over and above 50,000 gallons, 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

MINNESOTA STATUTES 1945

2343

TAX ON GASOLINE AND GASOLINE SUBSTITUTES 296.21

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 above 50,000 and not more than 100,000, one cent per gallon;
- (2) On each gallon of such aviation gasoline above 100,000 and not more than 150,000, two cents per gallon;
- (3) On each gallon of such aviation gasoline above 150,000 and not more than 200,000, three cents per gallon;
- (4) On each gallon of such aviation gasoline above 200,000, three and one-half cents per gallon.

Subd. 5. Rebate. 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 upon which the claimant has directly or indirectly paid the excise tax provided for in section 296.02, 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. False claim; rebate. If any distributor or other person, with intent to unlawfully secure any refund provided for in subdivision 4 of this section, shall file a false or fraudulent claim, there shall be imposed upon him as a penalty an amount equal to 50 per cent 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. Felony. In addition to the penalty prescribed in subdivision 6 of this section, any person who wilfully makes a false claim for any refund provided for in subdivision 4 of this section 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.

[1925 c. 297 s. 10; 1927 c. 434 s. 6; 1929 c. 257 s. 1; 1937 c. 376 s. 1; 1941 c. 491; 1941 c. 495 s. 16; 1945 c. 152 s. 2; 1945 c. 412 s. 12] (2720-79)

296.19 CONSTRUCTION OF SECTIONS 296.01 to 296.27. Neither sections 296.01 to 296.27, nor any of the provisions thereof, shall apply to, or be construed to apply to, foreign or interstate commerce, except in so far as the same may be permitted under the constitution and the laws of the United States.

[1941 c. 495 s. 17]

296.20 GASOLINE TAXES TO BE IN LIEU OF ALL OTHER TAXES EXCEPT AD VALOREM 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 contained in sections 296.01 to 296.27 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] (2720-82)

296.21 DEALERS AND DISTRIBUTORS TO KEEP ACCURATE RECORDS.
Subdivision 1. Retaining records. All distributors and dealers shall keep a true and accurate record of all purchases, transfers, sales and use of petroleum products in a manner approved by the commissioner, and shall retain all such records for four years.

Subd. 2. Kept accessible. The books and records of all common and all contract carriers of petroleum products, distributors, dealers, and persons selling or using special use fuel on the public highways of this state, shall be made accessible to the commissioner or his authorized representative.

Subd. 3. **Reports, when made.** On or before the tenth day of each month, every common and every contract carrier of petroleum products shall file with the commissioner in a manner approved by him a report showing the unloading date of all shipments of petroleum products and such other information as he may require.

[1941 c. 495 s. 19; 1945 c. 152 s. 3]

296.22 SAFETY REQUIREMENTS. Subdivision 1. **Containers to be painted red.** The outsides of all barrels, cans or like containers used for storing, shipping or delivering gasoline or other petroleum products having a flash point of less than 100 degrees Fahrenheit when tested with the Tagliabue closed cup tester shall be painted red in their entirety or identified in a manner approved by the commissioner, and such containers shall not be used for any other product. Nothing herein shall prevent the distributor from placing his name, trademark or other identification on such containers.

Subd. 2. **Tank wagon tags.** Tank wagons with separate compartments for gasoline, fuel oil, or farm tractor fuel shall have red tags attached to the faucets from which are drawn gasoline and other petroleum products having a flash point of less than 100 degrees Fahrenheit when tested with the Tagliabue closed cup tester.

Subd. 3. **Use of pump lines.** Gasoline and other petroleum products having a flash point of less than 100 degrees Fahrenheit when tested with the Tagliabue closed cup tester shall not be pumped through the same pump or marketing lines as are used for other petroleum products except by special permission of the commissioner.

Subd. 4. **Red pipes.** All visible pipes through which are drawn gasoline and other petroleum products having a flash point of less than 100 degrees Fahrenheit when tested with the Tagliabue closed cup tester shall be painted red.

Subd. 5. **Certain filling forbidden.** Fuel tanks or motor vehicles shall not be filled while the motor is running nor while any of the occupants or attendants are smoking.

Subd. 6. **Identification.** Tank wagons and truck transports used in transporting petroleum products shall be identified with the name or recognized trademark of the company transporting petroleum products. The name or names shall be painted on the cargo tank with letters six inches in height or larger.

Subd. 7. **Time for unloading.** No gasoline shall be unloaded by any person from truck transports between the hours of 9:00 p. m. and 5:30 a. m. except by special permission of the commissioner.

Subd. 8. **Conform to specifications.** Gasoline shall conform to the specifications by which it is offered for sale or sold.

Subd. 9. **Higher price gasoline better.** Charging a higher price for gasoline drawn from one pump than from another at the same place shall be prima facie evidence that the higher priced product is a better quality gasoline for the purpose for which it is to be used.

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.

[1941 c. 495 s. 20; 1943 c. 320 ss. 13, 14; 1945 c. 152 s. 4]

296.23 CERTAIN BLENDING PROHIBITED. The blending of gasoline on which the tax has been paid or the liability assessed therefor with any substance on which the tax has not been paid or the liability assessed therefor is prohibited.

[1941 c. 495 s. 21]

296.24 CERTAIN ACTS MISDEMEANORS. Any officer or employee of the State of Minnesota charged with the enforcement of any provision of sections 296.01 to 296.27 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]

296.25 VIOLATIONS; PENALTIES. Any person who fails to comply with any provisions of sections 296.01 to 296.27, inclusive, or who makes any false statement in any report required by sections 296.12, 296.14, 296.17, subdivision 5, or 296.18, subdivision 2, shall be guilty of a misdemeanor unless other penalties are expressly provided.

[1941 c. 495 s. 23; 1945 c. 412 s. 13]

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 RULES AND 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. The rules and regulations shall be reasonable and not inconsistent with the law. They shall become effective from their publication by posting and keeping posted a copy thereof on a bulletin board in the office of the commissioner, and by the mailing of a copy to all licensed distributors. Rules and regulations heretofore issued and in force shall continue until amended or revoked.

[1941 c. 495 s. 25]

296.28 POWERS AND DUTIES IN RELATION TO INSPECTION OF OIL AND GASOLINE, AND THE IMPOSITION AND COLLECTION OF TAXES THEREON TRANSFERRED 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, dairy, and food 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] (53-25, 53-27½a, 53-27½b, 53-38, 2362-4, 3770)

296.29 [Unnecessary]

296.30 DEPUTY OIL INSPECTORS. The provisions of sections 24.02, 24.14, 24.15, and 24.16 are hereby extended and made applicable to the appointment and removal of deputy oil inspectors. Examinations of applicants for position of deputy oil inspectors shall be held at such times and at such places in the state as may be designated by the chief oil inspector, notice thereof to be given in a legal newspaper in the inspection district in which such examination is to be held for a period of two weeks immediately prior to such examination. In any inspection district not having an inspector or not having an inspector who was, at the time of his appointment, a resident of the district for which he was appointed, upon written request of ten or more legal voters of the inspection district to the chief oil inspector, an examination, pursuant to sections 24.02, 24.14, 24.15, and 24.16, shall be held in the inspection district for the purpose of examining the applicants therein for deputy oil inspectors, and thereupon a deputy oil inspector for such inspection district shall be appointed for such inspection district to fill the vacancy or to take the place of the incumbent thereof who was a non-resident of the district at the time of his appointment thereto, such appointment to be made from the list of eligibles secured as a result of the examination. In making appointment of such deputy oil inspectors, preference shall be given to applicants whose names appear upon the list of eligibles referred to in section 24.16 who are residents of the inspection district for which they make application for appointment.

[1919 c. 520 s. 5; 1921 c. 483 s. 3] (3773-1)

296.31 TESTING STATIONS; TESTS; FEES. The commissioner of taxation shall make the necessary preparation for testing lubricating oils in not more than ten different localities within the state. Any deputy oil inspector shall cause to be tested, at the nearest station equipped for such work, any sample of such oil furnished him for such purpose. Thereafter the deputy oil inspector so receiving such sample shall, in accordance with the rules of the commissioner of taxation, cause the same to be tested and a report of the result of the test shall be furnished to the person requesting the same. Such test shall be as to viscosity, gravity, flash, and fire. The methods employed by the American society for testing materials shall govern all such tests; the viscosity to be taken by the Saybolt viscosimeter at two different temperatures: 100 degrees and 212 degrees Fahrenheit.

A fee of \$2.00 shall be paid to the deputy oil inspector by the person and at the time the sample to be tested is furnished. Deputy oil inspectors shall promptly transmit to the commissioner of taxation, with a statement of the names and addresses of the persons paying, all moneys so received. On the first day of each month the commissioner of taxation shall deposit with the state treasurer all such moneys theretofore received by him.

[1923 c. 367 s. 9] (3783-1)

296.32 APPORTIONMENT OF FUNDS. All moneys accruing to the state road and bridge fund from taxes imposed on the use of gasoline under authority of the Constitution of the State of Minnesota, Article 9, Section 5, shall be distributed and used in the manner and for the purposes hereinafter set forth.

[1929 c. 283 s. 1] (2720-92a)

296.33 FUNDS, BY WHOM APPORTIONED. On or before the first Tuesday in April of each year the commissioner of highways, the state treasurer, and the state auditor shall estimate the probable sum of money that will accrue during the current calendar year to the state road and bridge fund from the excise tax on gasoline, and after first setting aside \$1,200,000 to be expended for state aid roads, and a sum, not exceeding \$25,000, which is hereby appropriated annually from such fund, to reimburse the trunk highway fund for the cost of maintaining a county highway division in the department of highways, shall apportion the balance of the sum among the several counties of the state for county aid roads as herein provided in sections 296.32 to 296.42 and the commissioner of highways shall forthwith send a statement of such apportionment to the state auditor and to the county auditor of each county showing the amount apportioned to each county during such year for county aid roads.

[1929 c. 283 s. 2; 1941 c. 160 s. 1; 1945 c. 168] (2720-92b)

296.34 STATE AUDITOR TO DRAW WARRANT. The state auditor shall, on August first of each year, draw his warrant on the state road and bridge fund in favor of each county for the amount to which such county is entitled under such apportionment out of the receipts from such tax during the first half of the current calendar year and shall, on February first of each year, draw his warrant on the state road and bridge fund in favor of each county for the amount to which such county is entitled under such apportionment out of the receipts from such tax during the last half of the next preceding calendar year

[1929 c. 283 s. 3] (2720-92c)

296.35 LIMITATION OF AMOUNT TO EACH COUNTY. Not less than three-fourths of one per cent, nor more than three per cent, of the moneys accruing to the state road and bridge fund apportioned for expenditure on county aid roads shall be apportioned to any one county in any one year. In the making of such apportionment regard shall be had to the mileage of county and town roads and the traffic needs and conditions of the respective counties.

[1929 c. 283 s. 4; 1941 c. 160 s. 2] (2720-92d)

296.36 COUNTY BOARD TO DESIGNATE COUNTY AID ROADS. The county board of each county is hereby authorized to designate as a county aid road any county or town road therein and any portion of a county line or town line road with the construction and maintenance of which such county, or any town therein, is charged; but no state aid road, except a state aid parkway, shall be designated as a county aid road. Such designation shall be evidenced by resolution of the county board and by an order signed by the chairman thereof and countersigned by the

MINNESOTA STATUTES 1945

2347

TAX ON GASOLINE AND GASOLINE SUBSTITUTES 296.38

county auditor, which order shall be filed in the office of the county auditor. Such designation may, by like resolution and order, be revoked at any time.

All county aid roads shall be constructed, improved, and maintained by the county. A certified copy of the resolution either designating or revoking a county aid road, shall be filed with the commissioner of highways. The county board of any county may designate as a county aid road any road situate in the unplatted portion of any village in the county by a resolution adopted by unanimous vote of the board. Such designation may, by resolution and order adopted by a majority vote, be revoked at any time.

[1929 c. 283 s. 5; Ex. 1934 c. 60 s. 1] (2720-92e)

296.37 USE AND DISPOSITION OF GAS TAX. Subdivision 1. **Apportionment.** The money apportioned to each county under the provisions hereof and not used to pay interest or principal on county road or bridge bonds as hereinafter provided, shall be used solely in the construction, improvement, and maintenance of county aid roads therein, including bridges, culverts, and other structures appurtenant to such county aid roads, and expended by the county board on such county aid roads as it shall determine and in the manner herein provided. All county aid roads constructed under the provisions of sections 296.32 to 296.42 shall be constructed under the supervision and according to plans and specifications made by the county highway engineer, filed with the county auditor, and approved by the county board.

In any county having an assessed valuation of less than \$750,000 the county board, by unanimous vote, and with the approval thereof by the council of any village of the county, may designate as a county aid road any streets, or parts of streets, within the platted or unplatted portion of any such village, and appropriate such sums of money for improving the same as it may, on motion, determine, and the county board, by a majority vote, may rescind this designation.

In any county having an area of not less than 1,700, and not more than 2,000, square miles, and having not less than 50, and not more than 60, full or fractional government townships, and having an assessed valuation of not less than \$2,500,000, and not more than \$3,000,000, the county board thereof, by unanimous vote thereof, may transfer 60 per cent of the money so appropriated to the county from the county aid road and bridge fund of the county to the general road and bridge fund of the county.

Subd. 2. **Payment of bonds and interest.** The county board of any county may, use not to exceed 25 per cent of the money so apportioned to the county for the purpose of paying any part of the interest or principal on bonds or warrants hereafter issued by the county for road or bridge purposes, including the interest or principal on bonds issued by the county for the purpose of matching Federal funds made available and apportioned under the provisions of the Federal-Aid Highway Act of 1944, being Public Law 521, 78th Congress, Chapter 626, 2d Session, and approved December 20, 1944, and the county board of any county wherein the assessed valuation of real property for purposes of taxation does not exceed \$2,500,000 may issue warrants for road and bridge purposes maturing in not to exceed ten years, payable solely out of such apportionment, and may continue to use such apportionment for paying such warrants notwithstanding any later changes in such assessed valuation.

[1929 c. 283 s. 6; 1933 c. 325 s. 1; 1935 c. 96; 1937 c. 111 s. 1; 1939 c. 366 s. 1; 1941 c. 129; 1941 c. 339; 1945 c. 430] (2720-93)

296.38. COUNTY BOARD MAY APPORTION FUNDS. Of the moneys so apportioned to each county and not used to pay interest or principal on county road or bridge bonds or warrants, as provided in section 296.37, 50 per cent thereof shall be devoted to the construction and maintenance of county aid roads by the county board and expended by the county board in the various towns of the county substantially according to the mileage, traffic needs and conditions of county aid roads within each town within the county. Moneys so apportioned may be expended on state aid roads when and if necessary or desired to match or supplement federal funds allotted to the counties for the construction, reconstruction, maintenance, or improvement of state aid roads.

The town board of any town may appropriate to the county moneys out of its road and bridge fund, or from its share of the gas tax moneys distributed to such

MINNESOTA STATUTES 1945

town, as hereinbefore provided, and any moneys so appropriated shall be expended by the county in the construction and maintenance of county aid roads within such town.

[1929 c. 283 s. 7; 1933 c. 325 s. 2; 1937 c. 366 s. 1] (2720-94)

296.39 APPORTIONMENT TO CITIES AND VILLAGES IN CERTAIN CASES.

In any county of this state now or hereafter having an assessed valuation of not to exceed \$16,000,000 and a population of not to exceed 36,000, the county board may appropriate and pay, as hereinafter provided, out of any such county's annual share or allotment of the excise tax on gasoline, to any city or village in the county having within its corporate limits a public bridge crossing a navigable river, an amount not to exceed ten per cent of any such county's annual share of the gasoline tax allotment. Such annual appropriation, as hereinbefore provided, shall be made only for the purpose of retiring and paying serial bonds and interest due annually, issued by any such city or village prior to February 1, 1919, to pay for the construction of any such bridge; provided, that the total principal amount of the existing unpaid bonds issued for such purpose does not exceed the sum of \$25,000.

[1935 c. 299 s. 1] (2720-94b)

296.40 DISTRIBUTION OF GASOLINE TAX BY COUNTY BOARDS TO TOWNS.

The remainder of the moneys so apportioned to each county may be distributed to the towns of the county, other than unorganized townships, in the manner hereinafter set forth but subject to the provisions of section 163.01, if such distribution be made by direction of the county board, then, on or before February first and August first of each year, the county board in each county shall meet for the purpose of apportioning 50 per cent of the amount of such moneys as shall be represented in the state warrant issued by the state auditor to such county and apportion the amount to the several towns throughout the county, basing such apportionment upon the mileage of the county and town roads, the traffic needs and conditions, and the cost of construction and maintenance of roads in the respective towns in the county; and the auditor of the county shall forthwith send the statement of such apportionment to the chairman of the town board and the clerk of each of the towns showing the amount apportioned to each town of the county and send his warrant for such amount to the treasurer of each town. Such moneys allotted to towns shall be expended for construction and maintenance of the town roads within the respective towns under the supervision of the town board, or an appointee of the town board, or may be expended under the supervision and according to plans and specifications of the county highway engineer, if requested by the town board, who, in such case, shall act in a supervisory capacity as directed by the town board in the construction or maintenance of such roads within such town as shall be specified by such town board; provided, that none of the moneys so allotted shall be expended for the purchase of road equipment or machinery. In the event the remainder of the moneys so apportioned to each county is not distributed to the towns of any such county, the county board shall use and devote such remainder in the construction, improvement, and maintenance of county aid roads in any such county in accordance with the provisions of sections 296.37 and 296.38

[1929 c. 283 s. 8; 1931 c. 221 s. 1; 1937 c. 366 s. 2] (2720-95)

296.41 UNORGANIZED TOWNSHIPS. Unorganized townships shall, for the purposes of sections 296.32 to 296.42, be deemed to be towns, and the county board shall, as to such unorganized townships, perform the duties and functions of the town boards of organized towns.

[1929 c. 283 s. 9] (2720-96)

296.42 TO BE CREDITED TO COUNTY ROAD AND BRIDGE FUND IN CERTAIN COUNTIES.

-All moneys apportioned under the provisions of sections 296.32 to 296.42 to counties having a population of more than 200,000 shall be credited to the county road and bridge fund of such county and shall be appropriated and expended by such county upon public highways, exclusive of trunk highways within such county, in such amounts as the county board of the county shall deem advisable, for the purposes and in the manner in which other moneys accruing to such fund may be appropriated and expended, and such appropriations and expenditures shall not be limited or restricted by the provisions of sections 296.36, 296.37, 296.38, 296.40, and 296.41.

[1929 c. 283 s. 10] (2720-97)

MINNESOTA STATUTES 1945

2349

TAX ON GASOLINE AND GASOLINE SUBSTITUTES 296.43

296.421 REVENUE PROVISIONS. Subdivision 1. **Do not apply to certain sections.** The provisions of Minnesota Statutes 1941, Sections 296.32 to 296.42, inclusive, do not apply to the excise taxes imposed on aviation gasoline and substitutes therefor.

Subd. 2. Aviation fuel tax fund. The revenues derived from the excise taxes on aviation gasoline and on special use fuels 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, inclusive, 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:

(1) There shall be paid from the aviation fuel tax fund all refunds authorized by Minnesota Statutes 1941, Section 296.18, Subdivision 2 (3), as amended by Laws 1945, Chapter 412, and 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 revenue fund in the state treasury the amount expended from the latter fund for expenses of administering the provisions of this act;

(3) After meeting the requirements of clauses (1) and (2), there shall be transferred, on December 31 and June 30 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) hereof.

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 excise taxes which have been paid on gasoline which was, 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 taxes are deposited. He shall at the same time likewise report the total amount of motor vehicle gasoline excise taxes which have been paid on gasoline which was, 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 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.

[1945 c. 412 s. 14]

296.43 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purpose of sections 296.43 to 296.49, shall be given the meanings subjoined to them.

Subd. 2. Farm tractor fuel A. "Farm tractor fuel A," by whatever name called, means and includes any liquid prepared, advertised, offered for sale, and sold for use as or used for the generation of power for the propulsion of tractors, that when tested by the methods of the petroleum division of the bureau of mines, United States government, and the American society for testing material (A.S.T.M.) meets the following specifications:

- (1) Shall be free from water and suspended matter;
- (2) The initial boiling point shall not be lower than 225 degrees Fahrenheit;
- (3) When ten per cent has been recovered in the receiver, the temperature shall not be lower than 276 degrees Fahrenheit;
- (4) When 95 per cent has been recovered in the receiver, the temperature shall not be lower than 464 degrees Fahrenheit;
- (5) The end point shall not be higher than 540 degrees Fahrenheit;
- (6) Shall be colored in a manner approved by the commissioner of taxation.

MINNESOTA STATUTES 1945

296.44 TAX ON GASOLINE AND GASOLINE SUBSTITUTES

2350

Subd. 3. **Crude petroleum farm tractor fuel.** "Crude petroleum farm tractor fuel" means and includes any basic petroleum product in its natural, undeveloped, and unblended state, and when offered for sale, sold for use as or used for the generation of power for the propulsion of tractors, and shall meet the following specifications:

(1) It shall be free from water and suspended matter;

(2) Upon distillation, when 95 per cent has been recovered in the receiver, the temperature shall not be lower than 464 degrees Fahrenheit nor higher than 540 degrees Fahrenheit, or if less than 95 per cent is recovered in the receiver, the end point shall not be lower than 464 degrees Fahrenheit nor higher than 540 degrees Fahrenheit;

(3) After distillation to the end point, residue shall not exceed three per cent;

(4) Shall be colored in a manner approved by the commissioner of taxation.

Subd. 4. **Farm tractor fuel B.** "Farm tractor fuel B" means and includes any processed or unprocessed petroleum product prepared advertised offered for sale, sold for use as or used for the generation of power for the propulsion of tractors, that when tested by the methods of the petroleum division of the bureau of mines, United States government, and the American society for testing material (A.S.T.M.) meets the following specifications:

(1) It shall be free from water and suspended matter;

(2) Upon distillation, when 95 per cent has been recovered in the receiver, the temperature shall not be lower than 464 degrees Fahrenheit nor higher than 540 degrees Fahrenheit, or if less than 95 per cent is recovered in the receiver, the end point shall not be lower than 464 degrees Fahrenheit nor higher than 540 degrees Fahrenheit;

(3) After distillation to the end point, residue shall not exceed three per cent;

(4) Shall be colored in a manner approved by the commissioner of taxation.

[1939 c. 114 s. 1; 1941 c. 116 s. 1] (2720-100)

296.44 RULES AND REGULATIONS. The commissioner of taxation shall have the power and authority to make all reasonable rules and regulations for the enforcement of sections 296.43 to 296.49.

[1939 c. 114 s. 2; 1941 c. 116 s. 2] (2720-100a)

296.45 FARM TRACTOR FUELS INSPECTED. All farm tractor fuels shall be subject to the laws of this state with reference to the inspection of petroleum products and subject to the same fees for inspection as are provided for in the inspection of gasoline and kerosene.

[1939 c. 114 s. 3; 1941 c. 116 s. 3] (2720-100b)

296.46 FARM TRACTOR FUELS NOT SUBJECT TO TAX. Farm tractor fuels may be inshipped into, and sold in, this state and shall not be subject to the state gasoline tax. Provided, when any such tractor fuels are used for the operation of machinery for the purpose of constructing, reconstructing, or maintaining the public highways, the product will then be considered gasoline for purposes of taxation and taxed in accordance with existing laws or rules and regulations issued by the commissioner of taxation.

[1939 c. 114 s. 4; 1941 c. 116 s. 4] (2720-100c)

296.47 BLENDING PROHIBITED. Blending of farm tractor fuels with taxable petroleum products is prohibited.

[1939 c. 114 s. 5; 1941 c. 116 s. 5] (2720-100d)

296.48 VIOLATIONS; PENALTIES. Subdivision 1. Any person who shall inship, sell, or blend farm tractor fuels in violation of the provisions of sections 296.43 to 296.49 shall be guilty of a gross misdemeanor and such inshipment, sale, or blending shall be sufficient cause for cancelation of a distributor's license.

Subd. 2. Any person who operates any motor vehicle on a public highway, except a farm tractor occasionally run on the highway in actual farm operation, on any tractor fuel shall be guilty of a misdemeanor; and, upon conviction thereof, his current motor vehicle license and license plates shall be canceled, forfeited, and surrendered for the balance of the year; and the court in passing sentence shall require surrender of the license plates and fix a period of not less than 60 days, nor more than six months, during which that person shall not be entitled to apply for a new motor vehicle license or plates, and notify the secretary of state thereof.

[1939 c. 114 s. 6; 1941 c. 116 s. 6] (2720-100e)

296.49 SELLERS OF TRACTOR FUEL TO FILE MONTHLY STATEMENTS.

Every person who sells farm tractor fuel shall file with the commissioner of taxation, on or before the 25th day of each month, a statement under oath on forms to be prescribed by the commissioner of taxation setting forth (1) the amount of such fuel purchased by him during the preceding month, the dates of such purchases, and the name and address of the seller; (2) the amount of such fuel sold by him during the preceding month, the dates of such sales, and the name and address of the purchaser and the amount sold to each. At the time of every such sale the purchaser shall deliver to the seller, on forms to be prescribed by the commissioner of taxation, a statement of the amount of such fuel purchased, and the dates thereof, and a declaration that such fuel is to be used exclusively in farm tractors. One copy of the statement shall be retained by the seller and the original filed with the commissioner of taxation at the time of filing the sworn statement required by this section. Any person violating the provisions of this section, and any person making a false statement on any of the forms required by this section shall be guilty of a gross misdemeanor.

[1941 c. 116 s. 7]