

CHAPTER 168

MOTOR VEHICLES

168.01 DEFINITIONS.

Subd. 8, amended by L. 1947 c. 462 s. 1; L. 1947 c. 551 ss. 1, 2.

The legislature has the power to impose a wheelage tax upon vehicles and provide that the proceeds be used for maintenance of highway. The Duluth city charter authorizes the city council to impose a wheelage tax. *Park v City of Duluth*, 134 M 296, 159 NW 627.

The tax upon motor vehicles using the public highways is fixed with reference to the use made of such highways. Although primarily a property tax, it operates as a privilege tax. It is the prerogative of the legislature to classify property for the purpose of taxation. Placing trucks engaged in commercial freighting on regular time or route schedules in one class and all other trucks in another amounts to a legislative finding of a sufficient difference to justify classification, and the courts cannot say there is no basis of fact for such exercise of legislative discretion. *Raymond v Holm*, 165 M 215, 206 NW 166; *McReavy v Holm*, 166 M 22, 206 NW 942.

Registration of a vehicle does not establish and determine title to the vehicle registered, and parol evidence is admissible to show that the title is different than that appearing from the registration. *Bolton-Swanby v Owens*, 201 M 162, 275 NW 855.

"Unloaded weight" does not include a unit not a permanent part of the truck. OAG July 19, 1945 (632-E-34).

A person hauling shelled corn purchased for re-sale, in a truck carrying an "X" license, cannot operate outside the 35-mile zone. OAG Oct. 29, 1946 (632-E-36).

L. 1947, c. 462, and L. 1947, c. 551, amending the same law, are each to be given effect, and under the construction as provided in section 645.38, Chapter 551 does not modify the definition of "commercial passenger transportation" in Chapter 462. OAG June 4, 1947 (632-E-17).

Automobile as a dangerous instrumentality. 5 MLR 322, 8 MLR 165.

Uniformity of motor vehicle tax; privilege or property tax. 6 MLR 334.

Unlicensed driver; unlicensed motor vehicle; liability of driver or owner for injuries. 7 MLR 68, 10 MLR 447.

Statutory liability of owners for the negligence of persons operating automobiles with owner's consent. 21 MLR 827.

168.02 VEHICLES EXEMPT FROM MOTOR VEHICLE LICENSE.

In requiring owner of a motor vehicle who becomes owner prior to July 31 to pay tax for the entire calendar year, the legislature did not exceed its powers; nor were the provisions relating to later months of the year in contravention of Minnesota Constitution, Article 9, Section 1. *Dohs v Holm*, 152 M 529, 189 NW 418.

A person who is a citizen and resident of Minnesota and a legal voter must pay the annual motor vehicle tax on motor vehicle owned by him and used on the state highways. That he is obliged to pay a tax on the vehicle in another state does not affect the situation. *State v White*, 176 M 183, 222 NW 918.

State motor vehicle tax is an excise tax for privilege of using the highways, and a person in military service residing on the Fort Snelling reservation must

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pay the state registration tax. *Storaasli v State of Minnesota*, 180 M 241, 230 NW 572; 51 SC 354, 283 US 57.

A school bus used for transportation of summer resort patrons during the summer months must pay registration tax though fully licensed as school bus driver. OAG July 19, 1943 (632-D).

Motor vehicles owned by federal government and transferred and used by contractor on federal ordinance plant are subject to registration tax. OAG July 31, 1944 (632-A-21).

Motor vehicles owned by federal government and used by contractor for the purpose and benefit of the government returnable on government demand are exempt from tax. OAG Dec. 6, 1944 (632-D-4).

Bus exempt and registered in name of church may transport young people to Sunday evening services if such evening meetings are part of Sunday School curriculum. OAG April 16, 1945 (632-E-12).

Equipment used on experimental project by university is not subject to tax. OAG Dec. 12, 1946 (632-E-12).

168.031 CERTAIN VEHICLES EXEMPT.

Unless application for tax exemption is made by a member of the armed forces in the prescribed manner, the tax and penalties must be paid. OAG Dec. 21, 1943 (310).

Where the owner of a vehicle dies when in military service, the 40-day period begins to run against his heirs or estate on the earliest date on which registration could be applied for by a qualified person. OAG May 24, 1945 (632-e-12).

Exemption of property from taxation in the United States. 18 MLR 411.

168.053 CERTAIN TRANSPORTATION COMPANIES MUST HAVE DRIVE-AWAY IN TRANSIT LICENSE.

Cars while in movement by drive-away operator are exempt from registration tax. OAG April 14, 1943 (632-D).

Jurisdiction over the implementation and enforcement of the provisions of sections 168.053 through 168.057 is under the secretary of state as registrar of motor vehicles. OAG March 1, 1946 (632-E).

Unless the truck or truck trailer, designed for transporting automobiles, is itself one of the vehicles being delivered in the manner prescribed in section 168.053 et seq., the license provided therein is not required. OAG May 28, 1946 (632-E-18).

168.054 LIABILITY INSURANCE POLICY FILED.

Amended by L. 1947 c. 166 s. 1.

168.057 FEES TO BE PAID INTO STATE TREASURY.

Fees received for duplicates and certificates by the registrar should be credited to and refunds made from the trunk highway fund. 1944 OAG 286, March 23, 1944 (454-E).

168.06 RATE OF TAX.

Subdivision 1, amended by L. 1947 c. 551 s. 3.

Legislature has broad power of classification, and a provision that one who became owner of a car prior to July 31 must pay tax for the entire year does not exceed legislative power. *Dohs v Holm*, 152 M 529, 189 NW 418.

The power of the city of Minneapolis extends to the care and control of its streets, and it may regulate and even exclude the carrying on of a transportation

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business thereon for private gain, or grant the privilege to some and exclude others, in harmony with its judgment of public convenience and necessity. *State v Palmer*, 212 M 388, 3 NW(2d) 666.

State motor vehicle tax is an excise for the privilege of using the highways and a resident of a military reservation is liable for the tax on a car used on state roads or streets. *Storaasli v Minnesota*, 51 SC 354, 283 US 57.

The surety on the applicant's bond is liable for any tax due, and for \$50 where the owner of the motor truck fails to file his mileage report and pay the applicable tax. OAG Aug. 27, 1943 (401-B-20-G).

Excess weight under subdivision 2 does not entitle the truck-tractor owner to the 1,000 pound weight tolerance permissible under subdivision 3. OAG Dec. 29, 1943 (632-A-24).

Minnesota motor vehicle registration tax is a property tax, also embodying the privilege of using the public highways and the property portion and privilege portion are inseparable. Transportation by truck with point of origin and destination in Minnesota although traversing Wisconsin for an inconsiderable distance (0.46 mile); constitutes, for the purpose of imposing a property tax, intrastate commerce, and not interstate commerce. The trucks used in such transportation are subject to registration and payment of tax under the "gross weight use tax" as being used in intrastate commerce and are not the proper subject of registration under the "truck mile tax" since they are not used exclusively in interstate commerce. 1944 OAG 290, Jan. 17, 1944 (632-E-14).

Used motor cars in hands of dealers must pay the registration tax. OAG July 31, 1944 (421-C-25).

Used airplanes transferred to the dealer, and on which tax has been paid, are excluded under the provisions of section 168.06. OAG May 25, 1945 (234).

The city of Rochester may license a sight-seeing bus to pick up passengers in the city but operate outside the city limits, a license not being required under chapter 221. OAG July 2, 1946 (62-C).

Uniformity of taxation; privilege or property tax. 6 MLR 334; 10 MLR 447.

License for inter-city busses. 8 MLR 170.

Validity of compulsory motor vehicle insurance act. 10 MLR 149.

Dealer not entitled to reduction in property tax to the extent of the value of cars on which he paid Minnesota motor vehicle tax which he added to price of cars sold. 14 MLR 190.

Taxation of interstate motor carriers; gross earnings. 31 MLR 193.

168.12 REGISTRAR SHALL FURNISH NUMBER PLATES.

Secretary of state in contracting for license plates may conform to emergency orders of federal war production board and limit production of licenses accordingly. OAG May 6, 1942 (385-B-3).

168.13 REGISTRAR TO REGISTER ONLY ON PROOF OF OWNERSHIP.

Registration of a motor vehicle does not establish and determine title to a vehicle registered, and parol evidence is admissible to show that the title is different than that appearing from the registration. *Bolton-Swanby v Owens*, 201 M 162, 275 NW 855; *Flaugh v Egan*, 202 M 615, 279 NW 582.

By the terms of L. 1933, c. 351, the owner's liability for operation of his car upon the highway is predicated upon consent. *Flaugh v Egan*, 202 M 615, 279 NW 582.

A wife's ownership of an automobile is established by presumption where the motor car was purchased in her name and paid for partly by her funds and partly by a transfer of her husband's car. *State v One Buick Sedan*, 216 M 129, 12 NW(2d) 1.

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The initial registration of an aircraft is made upon production of applicant's federal registration or by filing a certified copy. OAG May 25, 1945.

168.15 RIGHTS AS TO REGISTRATION CERTIFICATES AND NUMBER PLATES.

The statute requiring registration does not establish an exclusive method of transferring title to an automobile. Parol evidence is admissible. *Davis v Grossman*, 201 M 156, 275 NW 858; *Bolton v Owens*, 201 M 162, 275 NW 855.

Rights of a good faith purchaser from the registered owner are subject to those of the assignee of a prior and duly recorded conditional sale contract, there being no reason to impugn the good faith of the contract. *Slawik v Christensen*, 209 M 428, 296 NW 496.

Certificate of department of commerce may be accepted by Minnesota department of aeronautics as evidence of the chain of title or a unit brought into Minnesota from another state. OAG May 25, 1945 (234).

168.16 REFUNDS.

If a truck-tractor, trailer, semi-trailer, or bus is destroyed or permanently removed from the state, the license may be canceled on application and a refund of part of the license fee made to the owner who need not be the one who paid the tax. OAG May 24, 1945 (632-E-24); OAG Aug. 1, 1945 (632-E-24).

Where tax is paid voluntarily no refund will be made in cases where the motor vehicles were subject to tax and only claimed exemption because of federal executive order. OAG May 29, 1946 (632-E-24).

168.165 CHANGING CLASS OF REGISTRATION.

Conversion from selected gross weight to actual weight in case of a truck-tractor cannot be made within the tax year. OAG April 25, 1946 (632-E-24).

168.17 REGISTRATION SUBJECT TO SUSPENSION.

Revocation of motor vehicle license without a hearing. Due process. 10 MLR 531.

168.18 RECIPROCAL PERMISSION TO NON-RESIDENT AUTO OWNERS.

The fact that he pays motor vehicle tax in another state does not exempt a resident owner from paying in Minnesota. *State v White*, 176 M 183, 222 NW 918.

A military reservation is neither a county nor a state, and a resident upon Fort Snelling reservation is not exempt from payment of registration on motor vehicle used on state highways. *State v Storaasli*, 180 M 241, 230 NW 572; 51 SC 354, 283 US 57.

See, OAG May 29, 1946 (632-E-24), section 168.16.

Carriers from other states who operate for hire over regular routes in this state between fixed termini, and whose home state has no reciprocal laws similar to those in this state, must pay the registration tax. OAG May 24, 1945 (632-e).

Constitutionality of the burden on extra state sellers to account for the collection of the state use tax. 25 MLR 792.

168.22 SUBORDINATE TO TREATIES.

Law making treaties. 28 MLR 247.

168.23 LIMITATIONS.

Under the amendment L. 1943, c. 613, s. 1, reciprocity privileges are extended to a non-resident owner for a vehicle not operated for hire, that he operates exclu-

sively in interstate commerce even though the non-resident owner has qualified under Minnesota corporation laws to do business in the state. 1944 OAG 289, May 26, 1943 (632-C).

Reciprocity for foreign motor vehicles allowable under provisions of L. 1943, c. 613, and subject to the limitations found in section 168.18, commence from the date when the foreign state grants similar reciprocity to Minnesota residents. OAG Sept. 4, 1943 (632-C).

168.27 MANUFACTURERS AND DEALERS IN MOTOR VEHICLES.

Subd. 13, amended by L. 1947 c. 58 s. 1.

Where an operator by means of truck-tractor owned and operated by the carrier delivers a new semi-trailer to a dealer, he need not pay a drive-away license under section 168.053. OAG June 27, 1946 (632-E-18).

Whether or not a person is so engaged as to come within the exceptions in section 168.27, subd. 13, as amended by L. 1947, c. 58, is a question of fact to be determined by the licensing official. If the person is within the provisions of the subdivision, no license is required; in the absence of such finding, a license should be imposed. OAG May 22, 1947 (632-e-5).

Validity of statute requiring filing of surety bond before sale of out-of-state used car. 25 MLR 942.

168.28 ALL MACHINES MUST BE REGISTERED; EXCEPTIONS.

While in movement by a drive-away operator, motor vehicles are exempt from registration tax, but if exemption is thereafter applied for, the non-use must be verified. OAG April 14, 1943 (632-D).

168.29 DUPLICATE PLATES.

The fee of 50 cents for replacement of defective license plates cannot be waived. OAG June 28, 1943 (385-B-3).

Fees for duplicate plates and certificates are credited to and all refunds made from the trunk highway fund. OAG March 23, 1944 (454-E).

168.30 TRANSFER OF OWNERSHIP.

Registration in name of more than one person, without any detail of joint ownership, does not indicate a relationship that would necessarily authorize a sale by one of the licensees. OAG Aug. 8, 1946 (632-A-21).

168.31 DATE PAYABLE.

Taxpayer is entitled to a refund when the person to whom he transfers motor vehicle junks it. OAG March 15, 1943 (632-E-10).

Where trucks are removed to another state temporarily, on their return to the state they must pay the tax for the year in which they return together with penalty for delayed registration. OAG Dec. 5, 1944 (632-E-1).

168.32 MANUFACTURERS TO FILE STATEMENT.

Amended by L. 1947 c. 551 s. 4.

The uniformity clause is not contravened by the provision which requires manufacturers of motor vehicles to file annually with the registrar a statement showing retail price of each model as of a statutory set date, and a like statement upon change in list price. *Dohs v Holm*, 152 M 529, 189 NW 418.

Where a manufacturer ceased production for customer use in 1942, and resumed in 1944, the registrar may use the 1941 rate book on all cars produced in 1942 and prior years, and the 1945 rate book on the 1944 produced cars. OAG Aug. 25, 1944 (632-E-1).

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168.37 PLATES; SIZE; FORM.

Amended by L. 1947 c. 405 s. 1.

Army and naval personnel on official duty are not required to be licensed. OAG May 13, 1943 (310).

Driver delivery motor bus or truck after repairs have been made requires a chauffeur's license. OAG July 2, 1943 (635-B).

A person who drives his own vehicle as an aid to operating his own business and delivering merchandise to his customers does not require a chauffeur's license. OAG Feb. 23, 1945 (635-B).

168.39 CHAUFFEURS' LICENSES.

All drivers of vehicles furnished by an undertaker and used in connection with a funeral must be licensed. OAG Oct. 4, 1944 (635f).

When a chauffeur's license is issued to a non-resident, the licensee may operate for not to exceed 60 days thereunder. Revocation of the license automatically forfeits his right. Upon reinstatement of license and repossession of badge, he may again operate. OAG June 24, 1947 (635-J).

168.42—EXPIRATION OF LICENSES.

An applicant for a renewal under L. 1943, c. 36, may exhibit any prior license or badge, which the registrar may accept as proof, that he is a former licensee; and if within the requirements of the act, and a veteran or service man, he is entitled to the benefits granted to veterans. OAG Feb. 26, 1945 (635-D); OAG May 4, 1945 (635-D).

168.44 REVOCATION OF LICENSES.

The secretary of state may revoke the license of a chauffeur who has been convicted of operating a motor vehicle on public highway while under the influence of liquor. OAG Sept. 10, 1943 (635-D).

Statutes prohibiting operation of motor vehicles by intoxicated persons. 27 MLR 473.

168.49 UNAUTHORIZED OPERATION OF MOTOR VEHICLE; FELONY.

In an action on a policy of automobile insurance the general rule was stated that to constitute theft within an insurance policy, there must be present a criminal intent to deprive the owner of his property permanently. Robbery and pilferage are to be considered as used in their ordinary sense. *Repp v American Farmers' Co.*, 179 M 167, 228 NW 605.

Proof that defendant owned an automobile which was operated on public street by its employee who had lawful possession of it makes out a prima facie case that the operation was with its consent, especially where the employee is continued in employment. *Schultz v Swift*, 210 M 533, 299 NW 7.

In discharging the burden of proving the owner consented to the use of his motor vehicle, the plaintiff is aided by a prima facie case which arises from proof that at the time of the accident the operator was using a motor vehicle belonging to defendant. *Ballman v Brinker*, 211 M 322, 1 NW(2d) 365.