

Excise and Sales Taxes

CHAPTER 296

MOTOR FUELS

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296.01 DEFINITIONS.

Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the terms used in this chapter and sections 239.75 to 239.80 have the meanings given them in this section. The petroleum product definitions and specifications in this section are intended to match the definitions and specifications in sections 41A.09 and 239.761.

Subd. 1a. MS 1990 [Renumbered subdivision 6]

Subd. 1b. MS 1990 [Renumbered subdivision 29]

Subd. 1c. MS 1990 [Renumbered subdivision 31]

Subd. 1d. MS 1990 [Renumbered subdivision 33]

Subd. 2. MS 1990 [Renumbered subdivision 30]

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

(1) meets the specifications in ASTM specification D 4806-88; and

(2) is denatured with unleaded gasoline or rubber hydrocarbon solvent as defined in Code of Federal Regulations, title 27, parts 211 and 212, as adopted by the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

Subd. 2a. MS 1990 [Repealed, 1992 c 575 s 54]

Subd. 3. MS 1990 [Renumbered subdivision 18]

Subd. 3. **Aircraft.** "Aircraft" means any contrivance, now or hereafter invented, used or designed for navigation of or flight in the air.

Subd. 3a. MS 1990 [Renumbered subdivision 20]

Subd. 3b. MS 1990 [Renumbered subdivision 13]

Subd. 3c. MS 1990 [Renumbered subdivision 19]

Subd. 3d. MS 1990 [Renumbered subdivision 10]

Subd. 4. MS 1990 [Renumbered subdivision 21]

Subd. 4. **Alternate fuel permit.** "Alternate fuel permit" means a permit issued

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annually to a person owning a motor vehicle propelled by compressed natural gas, propane, or any other manner except gasoline or special fuel, for a fee imposed in lieu of payment of the gasoline excise tax imposed by sections 296.02 and 296.025.

Subd. 4a. MS 1990 [Renumbered subdivision 14]

Subd. 4b. MS 1990 [Renumbered subdivision 22]

Subd. 4c. MS 1990 [Renumbered subdivision 8]

Subd. 4d. MS 1990 [Renumbered subdivision 17]

Subd. 5. MS 1963 [Repealed, 1965 c 101 s 3]

Subd. 6. MS 1990 [Renumbered subdivision 34]

Subd. 6. **ASTM.** "ASTM" means the American Society for Testing and Materials, a private organization that utilizes committees of industry representatives and regulators to develop product quality standards and test methods to be used by industries, regulatory agencies, and purchasing agents.

Subd. 7. MS 1990 [Renumbered subdivision 15]

Subd. 7. **Aviation gasoline.** "Aviation gasoline" means any gasoline that is capable of use for the purpose of producing or generating power for propelling internal combustion engine aircraft, that meets the specifications in ASTM specification D 910-90, and that either:

(1) is invoiced and billed by a producer, manufacturer, refiner, or blender to a distributor or dealer, by a distributor to a dealer or consumer, or by a dealer to a consumer, as "aviation gasoline"; or

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

Subd. 8. MS 1990 [Renumbered subdivision 28]

Subd. 8. **Aviation turbine fuel, jet fuel.** "Aviation turbine fuel" and "jet fuel" mean blends of hydrocarbons derived from crude petroleum, natural gasoline, and synthetic hydrocarbons, intended for use in aviation turbine engines, and that meet the specifications in ASTM specification D 1655-90.

Subd. 9. MS 1990 [Renumbered subdivision 12]

Subd. 9. **Bulk purchaser.** "Bulk purchaser" means any person not principally engaged in buying and selling petroleum products or combustible gases who receives special fuel for storage and subsequent delivery into the supply tank of an aircraft or a licensed motor vehicle operated by the person.

Subd. 10. MS 1990 [Renumbered subdivision 26]

Subd. 10. **Casinghead, absorption, condensation, drip, or natural gasoline.** "Casinghead gasoline," "absorption gasoline," "condensation gasoline," "drip gasoline," and "natural gasoline" mean a low-octane, high-volatility, liquid hydrocarbon by-product of crude oil extraction and pumping, coal gasification, or shipping of natural gas through a pipeline.

Subd. 11. MS 1990 [Renumbered subdivision 16]

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

Subd. 12. MS 1990 [Renumbered subdivision 11]

Subd. 12. **Dealer.** "Dealer" means any person, except a distributor, engaged in the business of buying and selling gasoline and other petroleum products in this state.

Subd. 13. MS 1990 [Renumbered subdivision 32]

Subd. 13. **Denatured ethanol.** "Denatured ethanol" means ethanol that is to be blended with gasoline, has been agriculturally derived, and complies with ASTM specification D 4806-88. This includes the requirement that ethanol may be denatured only with specified concentrations of unleaded gasoline or rubber hydrocarbon solvent as defined in Code of Federal Regulations, title 27, parts 211 and 212, as adopted by the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

Subd. 14. MS 1990 [Renumbered subdivision 3]

Subd. 14. **Diesel fuel oil.** "Diesel fuel oil" means a petroleum distillate or blend of petroleum distillate and residual fuels, intended for use as a motor fuel in internal combustion diesel engines, that meets the specifications in ASTM specification D 975-90.

Subd. 15. MS 1990 [Renumbered subdivision 7]

Subd. 15. **Distributor.** "Distributor" means any person (1) who receives petroleum products in this state for storage and subsequent distribution by tank car or tank truck or both, or (2) who produces, manufactures or refines petroleum products in this state, or (3) who imports petroleum products into this state via boat, barge or pipe line for storage and subsequent delivery at or further transportation from boat, barge or pipe line terminals in this state.

Subd. 16. MS 1990 [Renumbered subdivision 25]

Subd. 16. **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. For purposes of this subdivision "public highways" shall include bridges.

Subd. 17. MS 1990 [Renumbered subdivision 35]

Subd. 17. **Gas turbine fuel oil.** "Gas turbine fuel oil" means fuel that contains mixtures of hydrocarbon oils free of inorganic acid and excessive amounts of solid or fibrous foreign matter, that is intended for use in nonaviation gas turbine engines, and that meets the specifications in ASTM specification D 2880-90a.

Subd. 18. MS 1990 [Renumbered subdivision 23]

Subd. 18. **Gasoline.** "Gasoline" means:

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

(b) any liquid prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, a fuel in spark-ignition, internal combustion engines, and that when tested by the division meets the specifications in ASTM specification D 439-89.

Subd. 19. MS 1990 [Renumbered subdivision 9]

Subd. 19. **Gasoline blended with an oxygenate.** "Gasoline blended with an oxygenate" means gasoline blended with an alcohol or ether, other than denatured ethanol, that is approved as an oxygenate by the United States Environmental Protection Agency.

Subd. 20. MS 1990 [Renumbered subdivision 37]

Subd. 20. **Gasoline blended with ethanol.** "Gasoline blended with ethanol" means gasoline blended with up to ten percent, by volume, agriculturally derived, denatured ethanol. The blend must comply with the volatility requirements in Code of Federal Regulations, title 40, part 80. The blend must also comply with ASTM specification D 4814-90a, except when subjected to a standard distillation test. For a distillation test, a gasoline-ethanol blend is not required to comply with the temperature specification at the 50 percent liquid recovery point, if the gasoline from which the gasoline-ethanol blend was produced complies with all of the distillation specifications.

Subd. 21. MS 1990 [Renumbered subdivision 27]

Subd. 21. **Heating fuel oil.** "Heating fuel oil" means a petroleum distillate, blend of petroleum distillates and residuals, or petroleum residual heating fuel that meets the specifications in ASTM specification D 396-90a.

Subd. 22. MS 1990 [Renumbered subdivision 24]

Subd. 22. **Kerosene.** "Kerosene" means a refined petroleum distillate consisting of a homogeneous mixture of hydrocarbons essentially free of water, inorganic acidic and basic compounds, and excessive amounts of particulate contaminants and that meets the specifications in ASTM specification D 3699-90.

Subd. 23. MS 1990 [Renumbered subdivision 36]

Subd. 23. **Licensed motor vehicle.** "Licensed motor vehicle" means (1) any vehicle subject to a motor vehicle registration in which the power is produced with any fuel other than gasoline in an internal combustion engine, and (2) any motor vehicle not subject to a motor vehicle registration on which is mounted a corn shelling, feed grinding, well drilling, or sawing machine.

Subd. 24. MS 1990 [Renumbered subdivision 2]

Subd. 24. **Marine gasoline.** "Marine gasoline" means gasoline used in producing and generating power for propelling motorboats used on the waters of this state.

Subd. 25. MS 1991 SUPP [Renumbered subdivision 4]

Subd. 25. **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.

Subd. 26. **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. 27. **Motorboat.** "Motorboat" means any contrivance used or designed for navigation on water other than a seaplane, propelled in any respect by machinery, including detachable motors.

Subd. 28. **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; or an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee or member is under a duty to perform any act prescribed by this chapter.

Subd. 29. **Petroleum distillate.** "Petroleum distillate" means a hydrocarbon or group of hydrocarbon compounds that have been extracted from petroleum crude oil by a distillation process involving evaporation by heating, and subsequent condensation by cooling.

Subd. 30. **Petroleum products.** "Petroleum products" means all of the products defined in subdivisions 3 to 4d, 15, and 24.

Subd. 31. **Petroleum residual.** "Petroleum residual" means a heavy hydrocarbon or group of heavy hydrocarbon compounds that do not evaporate during a distillation process.

Subd. 32. **Received.** Except as otherwise provided in this subdivision, petroleum products brought into this state shall be deemed to be "received" in this state at the time and place the same are unloaded in this state. When so unloaded such products shall be deemed to be "received" in this state by the person who is the owner thereof immediately after such unloading; provided, however, that if such owner is not licensed as a distributor in this state and if such products were shipped or delivered into this state by a person who is licensed as a distributor, then such products shall be deemed to be "received" in this state by the licensed distributor by whom the same were so shipped or delivered. Petroleum products produced, manufactured, or refined, 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 and stored thereat, or brought into the state by pipeline and delivered at a pipeline terminal in this state and stored thereat, shall not be considered "received" until the same are withdrawn from such refinery or terminal for sale or use in this state or for delivery or shipment to points within this state. When so withdrawn such products shall be deemed "received" by the person who was the owner thereof immediately prior to withdrawal; unless (1) such

products are withdrawn for shipment or delivery to another licensed distributor, in which case the licensed distributor to whom such shipment or delivery is made shall be deemed to have "received" such products in this state, or (2) such products are withdrawn for shipment or delivery to a person not licensed as a distributor, pursuant to one or more sale or exchange agreements by or between persons one or more of whom is a licensed distributor, in which case the last purchaser or exchangee under such agreement or agreements, who is licensed as a distributor, shall be deemed to have "received" such products in this state. Petroleum products produced in this state in any manner other than as covered heretofore in this subdivision shall be considered "received" by the producer thereof at the time and place produced.

Subd. 33. Refinery, terminal. "Refinery" or "terminal" means any petroleum refinery, pipeline terminal, river terminal, storage facility, or other point of origin where petroleum products are manufactured, or imported by rail, truck, barge, or pipe; and held, stored, transferred, offered for distribution, distributed, offered for sale, or sold. For the purpose of restricting petroleum product blending, this definition includes all refineries and terminals within and outside of Minnesota. For the purpose of assessing fees, this definition does not include a licensed distributor's bulk storage facility that is used to store petroleum products for which the petroleum inspection fee charged under chapter 239 is either not due or has been paid.

Subd. 34. Special fuel. "Special fuel" means (1) all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, which are delivered into the supply tank of a licensed motor vehicle or into storage tanks maintained by an owner or operator of a licensed motor vehicle as a source of supply for such vehicle; or (2) all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, when delivered to a licensed special fuel dealer or to the retail service station storage of a distributor who has elected to pay the special fuel excise tax as provided in section 296.12, subdivision 3; or (3) all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, which are used as aviation fuel.

Subd. 35. Special fuel dealer. "Special fuel dealer" means any person engaged in the business of selling and delivering special fuel into the supply tank of an aircraft or a licensed motor vehicle.

Subd. 36. Use in licensed motor vehicles. "Use in licensed motor vehicles" means use in producing or generating power for propelling licensed motor vehicles on the public highways of this state.

Subd. 37. Waters of this state. "Waters of this state" means any waters capable of substantial beneficial public use and any waters to which the public has access, which are within the territorial limits of this state, including boundary waters.

History: (2720-70, 3787-1) 1925 c 297 s 1; 1929 c 425 s 1; 1933 c 365 s 1; 1933 c 417 s 1; Ex1934 c 51 s 1; 1941 c 495 s 1; 1943 c 320 s 1-3; 1945 c 412 s 1,2; 1947 c 412 s 1-4; 1949 c 143 s 1; 1951 c 87 s 1-4; 1953 c 41 s 1,2; 1957 c 203 s 1,2; 1961 c 585 s 1; 1963 c 66 s 1-5; 1965 c 101 s 1; 1973 c 108 s 1; 1973 c 582 s 3; 1980 c 509 s 115; 1980 c 607 art 18 s 1; 1982 c 523 art 2 s 39; 1983 c 17 s 6; 1984 c 459 s 1,2; 1985 c 71 s 1-3; 1985 c 128 s 1; 1Sp1985 c 14 art 2 s 1; 1986 c 444; 1988 c 450 s 1; 1991 c 291 art 9 s 8; 1992 c 575 s 32-49,53

296.02 GASOLINE, EXCISE TAX.

Subdivision 1. Tax imposed; exception for qualified service station. There is imposed an excise tax on gasoline used in producing and generating power for propelling motor vehicles used on the public highways of this state. For purposes of this section, gasoline is defined in section 296.01, subdivisions 10, 18, 19, and 20. This tax is payable at the times, in the manner, and by persons specified in this chapter. The tax is payable at the rate specified in subdivision 1b, subject to the exceptions and reductions specified in this section.

(a) Notwithstanding any other provision of law to the contrary, the tax imposed on special fuel sold by a qualified service station may not exceed, or the tax on gasoline

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delivered to a qualified service station must be reduced to, a rate not more than three cents per gallon above the state tax rate imposed on such products sold by a service station in a contiguous state located within the distance indicated in clause (b).

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

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

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

Subd. 1a. Exceptions for transit and alternative fuels. The provisions of subdivision 1 do not apply to (1) gasoline purchased by a transit system receiving financial assistance under section 174.24 or 473.384, or (2) sales of compressed natural gas or propane for use in vehicles displaying a valid annual alternate fuel permit.

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

For the period on and after May 1, 1988, gasoline is taxed at the rate of 20 cents per gallon.

Subd. 2. Gasoline tax imposed for aviation use. Subject to the provisions of section 296.18, subdivision 4, there is imposed an excise tax, at the rate of five cents per gallon on all aviation gasoline received, sold, stored, or withdrawn from storage in this state. Aviation gasoline is defined in section 296.01, subdivision 7. This tax is payable at the times, in the manner, and by persons specified in sections 296.01 to 296.27.

Subd. 2a. [Repealed, 1988 c 719 art 19 s 37]

Subd. 2b. [Repealed, 1988 c 719 art 19 s 37]

Subd. 3. Exception to tax for aviation use. The provisions of subdivision 2 do not apply to aviation gasoline purchased and placed in the fuel tanks of an aircraft outside this state, even though the gasoline may be consumed within this state.

Subd. 4. Tax not on consumption. The tax imposed by subdivision 2 is expressly declared not to be a tax upon consumption of aviation gasoline by an aircraft.

Subd. 5. [Repealed, 1963 c 66 s 24; 1965 c 49 s 1]

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

Subd. 7. Tax credit for agricultural alcohol gasoline. A distributor shall be allowed a credit on each gallon of denatured ethanol commercially blended with gasoline or blended in a tank truck with gasoline on which the tax imposed by subdivision 1 is due and payable. Denatured ethanol is defined in section 296.01, subdivision 13. After June 30, 1987, the amount of the credit for every gallon of denatured ethanol blended with gasoline to produce agricultural alcohol gasoline is 20 cents.

The credit allowed a distributor must not exceed the total tax liability under subdivision 1. The tax credit received by a distributor on denatured ethanol blended with motor fuels shall be passed on to the retailer.

Subd. 8. Credits for sales to governments and schools. A distributor shall be allowed a credit of 80 cents for every gallon of fuel grade alcohol blended with gasoline to produce agricultural alcohol gasoline which is sold to the state, local units of government, or for use in the transportation of pupils to and from school-related events in school vehicles. This reduction is in lieu of the reductions provided in subdivision 7.

History: (2720-71) 1925 c 297 s 2; 1929 c 310 s 1; 1937 c 383 s 1; 1939 c 350 s 1; 1941 c 162 s 1; 1945 c 412 s 3; 1949 c 678 s 1,2; 1951 c 287 s 1; 1963 c 681 s 1,2; 1963 c 686 s 1; 1965 c 122 s 1,2; 1967 c 874 s 1; 1975 c 203 s 1; 1977 c 339 s 1; 1980 c 607 art 18 s 2; 1980 c 608 s 1; 1981 c 363 s 46; 1983 c 17 s 7; 1983 c 326 s 3; 1985 c 128 s 2; 1Sp1985 c 14 art 2 s 2,3; 1Sp1986 c 1 art 8 s 10; 1987 c 268 art 14 s 17,18; 1988 c 450

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s 2; 1988 c 603 s 1; 1990 c 604 art 10 s 12; 1991 c 302 s 3; 1992 c 575 s 50-52; 1992 c 575 s 53

296.023 [Repealed, 1963 c 748 s 8]

296.025 SPECIAL FUEL, EXCISE TAX.

Subdivision 1. **Tax imposed for motor vehicle use.** There is hereby imposed an excise tax of the same rate per gallon as the gasoline excise tax on all special fuel. This tax shall be payable at the time, in the manner and by persons specified in this chapter.

Subd. 1a. **Exceptions for transit and alternative fuels.** The provisions of subdivision 1 do not apply to (1) special fuel purchased by a transit system receiving financial assistance under section 174.24 or 473.384, or (2) sales of compressed natural gas or propane for use in vehicles displaying a valid annual alternate fuel permit.

Subd. 2. **Tax imposed for aviation use.** There is hereby imposed an excise tax of the same rate per gallon as the gasoline excise tax on all special fuel received, sold, stored or withdrawn from storage in this state, for use as substitutes for aviation gasoline and not otherwise taxed as gasoline.

Subd. 2a. [Repealed, 1988 c 719 art 19 s 37]

Subd. 2b. [Repealed, 1988 c 719 art 19 s 37]

Subd. 3. **Exception to tax for aviation use.** The provisions of subdivision 2 do not apply to special fuel purchased and placed in the fuel tanks of an aircraft outside this state, even though such special fuel may be consumed within this state.

Subd. 4. **Tax not on consumption.** The tax imposed by subdivision 2 is expressly declared not to be a tax upon consumption of special fuel by an aircraft.

Subd. 5. **Tax applies to storage.** The special fuel excise tax imposed by subdivision 1 shall apply to all special fuel held in storage on the effective date of the election by a distributor or special fuel dealer to pay the special fuel excise tax as provided in section 296.12, subdivision 3.

Subd. 6. **When fuel deemed special fuel; tax.** All sales of combustible gases and liquid petroleum products (except gasoline) shall be deemed to be sales of special fuel if the sales tickets, invoices, and records evidencing such sales fail to show the true and correct names and addresses of the purchasers. In such cases, there is hereby imposed an excise tax of the same rate per gallon as the gasoline excise tax on all such combustible gases and liquid petroleum products, and the vendor shall be liable for such tax.

History: 1941 c 494 s 1; 1945 c 412 s 4; 1949 c 143 s 2; 1951 c 87 s 5; 1953 c 41 s 3; 1955 c 338 s 1; 1977 c 339 s 2; 1985 c 128 s 3; 1987 c 268 art 14 s 19,20; 1988 c 450 s 3; 1988 c 603 s 2,3; 1990 c 604 art 10 s 13

296.026 USE PERMIT FOR COMPRESSED NATURAL GAS OR PROPANE.

Subdivision 1. **Annual alternate fuel permit.** A person owning a motor vehicle propelled by compressed natural gas, propane, or any other manner except gasoline or special fuel, shall obtain an annual permit for that vehicle in accordance with subdivision 2 or 2a. The period for which the alternate fuel permit is valid must coincide with the motor vehicle registration period of the vehicle. A person shall obtain all required permits within 30 days of becoming a user of compressed natural gas, propane, or any other method of propulsion except gasoline or special fuel.

Subd. 2. **Permit fees imposed.** The fees for annual alternate fuel permits are based on each vehicle's mileage in the preceding year and are as follows:

Gross Vehicle Weight	Fee
Under 6,001 pounds	\$ 8.80 per 1,000 miles
6,001 - 12,000 pounds	\$10.60 per 1,000 miles
12,001 - 18,000 pounds	\$18.80 per 1,000 miles

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18,001 - 26,000 pounds	\$27.10 per 1,000 miles
26,001 - 36,000 pounds	\$31.80 per 1,000 miles
Over 36,000 pounds	\$40.00 per 1,000 miles

Subd. 2a. Optional method of determining permit fees. (a) The owner of a motor vehicle covered by this section may, at the owner's option, pay a permit fee determined under this subdivision if the vehicle is capable of being propelled by gasoline as well as compressed natural gas or propane.

(b) The fee for a permit under this subdivision is based on each vehicle's mileage in the previous year while propelled by compressed natural gas or propane and are as follows:

(1) for a vehicle with a gross vehicle weight under 6,001 pounds, .9 cents a mile; or

(2) for a vehicle with a gross vehicle weight of 6,001 to 12,000 pounds, one cent a mile; or

(3) for a vehicle with a gross vehicle weight of 12,001 to 18,000 pounds, 1.9 cents a mile; or

(4) for a vehicle with a gross vehicle weight of 18,001 to 26,000 pounds, 2.7 cents a mile; or

(5) for a vehicle with a gross vehicle weight of 26,001 to 36,000 pounds, 3.2 cents a mile; or

(6) for a vehicle with a gross vehicle weight over 36,000 pounds, 4 cents a mile.

An owner opting to pay a fee calculated under this subdivision shall submit a log, with validating receipts pertaining to the vehicle's mileage while propelled by compressed natural gas or propane and its mileage while propelled by gasoline, to the commissioner of public safety upon application for the permit.

Subd. 2b. Mileage calculations. A log with validating receipts pertaining to the vehicle's out-of-state mileage may be supplied to the commissioner of public safety at the time of permit application to be subtracted from the actual mileage for the purpose of calculating the permit fee. If no true cumulative mileage figures are available for the preceding year, the fee must be based on 15,000 miles driven within the state for a fee determined under subdivision 2 or 7,500 miles driven within the state for a fee determined under subdivision 2a, if the vehicle is primarily used for nonbusiness purposes.

The fee for a permit required by this section must be calculated based on the number of unexpired months remaining in the registration year of the vehicle as measured from the date of the occurrence of the event requiring the permit.

Subd. 3. Permit applications. A person shall apply for an annual alternate fuel permit for each motor vehicle specified in this section each time the vehicle is registered. The commissioner of public safety shall prescribe the form of the application. The form must require the applicant to provide the following information:

(1) the name and address of the owner or person licensing the vehicle;

(2) a description of the vehicle, including the mileage on the vehicle as of the date of registration, and the type of fuel used;

(3) the true cumulative mileage registered on the odometer; and

(4) other information necessary for the proper implementation of this section.

A completed application must be submitted to the department of public safety. The department of public safety shall issue an alternate fuel permit and collect the fee provided in this section.

Subd. 4. Permit stickers. The alternate fuel permit required by this section must be a gummed sticker prepared by the department of public safety. The permit must be attached to the lower left corner of the windshield of the motor vehicle for which it was issued. The permit must provide a space to enter the license number of the motor vehicle for which the permit is issued. The permit must show the year for which it is issued and the date of expiration of the permit.

Subd. 5. Permit not transferable. An alternate fuel permit is not transferable, either to a new vehicle or to a new owner. Upon the transfer of ownership of any motor vehicle with a permit, the department of public safety shall credit the transferor with the number of unexpired months remaining in the registration period, except that when such a vehicle is transferred within the same month in which acquired, no credit for the month is allowed. If a transferor acquires another motor vehicle for which an alternate fuel permit is required at the time of transfer, the credit provided by this section must be applied toward payment of the alternate fuel permit fee then due. Otherwise the transferor may file a claim for the amount of the credit with the commissioner upon a form prescribed by the commissioner. The department shall make payment of the claim from the undistributed alternate fuel permit fees.

Subd. 6. Motor vehicle conversion report. A person who installs equipment in a motor vehicle to permit it to be powered by compressed natural gas or propane shall report the installation to the department of public safety within 30 days. The report must include the name and address of the owner of the vehicle, the make, model, and serial number of the vehicle, the type of fuel that the vehicle was equipped to use prior to the installation, the true cumulative mileage registered on the odometer, and, if the vehicle is registered, the license plate number of the vehicle.

Subd. 7. Fees in lieu of gas tax. The permit fees collected under subdivision 2 are in lieu of the gasoline excise tax imposed by sections 296.02 and 296.025. Compressed natural gas, propane, or any other method of propulsion sold as fuel for motor vehicles displaying valid annual alternate fuel permit stickers is not subject to any additional tax at the time of sale. All alternate fuel permit fees collected by the department of public safety must be deposited in the state treasury and credited to the highway user tax distribution fund.

History: 1985 c 128 s 4; 1988 c 450 s 4; 1988 c 603 s 4; 1991 c 291 art 9 s 9-13

296.027 [Repealed, 1990 c 480 art 3 s 4]

296.028 [Repealed, 1991 c 291 art 9 s 46]

296.03 EXEMPTION FOR PRODUCTS OF WASTE MATERIALS.

No excise tax shall be imposed pursuant to sections 296.02 or 296.025 on any substitute product for petroleum which has been manufactured from waste materials, including agricultural waste and by-products, household waste, solid waste, and wood by-products.

History: 1975 c 203 s 3

296.04 INSPECTION OF PETROLEUM RECORDS.

Subdivision 1. [Repealed, 1987 c 268 art 14 s 25]

Subd. 2. [Repealed, 1987 c 268 art 14 s 25]

Subd. 3. [Repealed, 1987 c 268 art 14 s 25]

Subd. 4. [Repealed, 1987 c 268 art 14 s 25]

Subd. 5. Records examined. The commissioner shall make periodic examinations of all records kept by distributors, special fuel dealers, bulk purchasers, or other persons collecting the gasoline or special fuel tax.

History: 1941 c 495 s 2; 1943 c 320 s 4; 1961 c 510 s 1; 1963 c 66 s 6-8; 1986 c 444

296.05 [Repealed, 1987 c 268 art 14 s 25]

296.06 DISTRIBUTORS' LICENSES.

Subdivision 1. Of whom required. No person shall produce, manufacture or refine petroleum products in this state, or receive, distribute, sell or use in this state petroleum products which have not theretofore been received in this state by a licensed distributor, or in any manner act as a distributor as defined in section 296.01, subdivision 15, without having been licensed by the commissioner as a distributor.

Subd. 2. Requirements for issuance; fee. A distributor's license shall be issued to any responsible person qualifying as a distributor who makes application therefor, and who shall pay to the commissioner at the time thereof and annually thereafter a license fee of \$25, and who shall further comply with the following conditions:

(1) A written application shall be made in a manner approved by the commissioner, who shall require the applicant or licensee to deposit with the state treasurer securities of the United States government or the state of Minnesota or to execute and file a bond, with a corporate surety approved by the commissioner, to the state of Minnesota in an amount to be determined by the commissioner and in a form to be fixed by the commissioner and approved by the attorney general, and which shall be conditioned for the payment when due of all excise taxes, inspection fees, penalties, and accrued interest arising in the ordinary course of business or by reason of any delinquent money which may be due the state of Minnesota; the bond shall cover all places of business within the state where petroleum products are received by the licensee; and the applicant or licensee shall designate and maintain an agent in this state upon whom service may be had for all purposes of this section.

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

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

(4) A licensee who desires to be exempt from depositing securities or furnishing such bond, as hereinbefore provided 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) Each license period shall be for one year ending each June 30.

(6) Upon application to the commissioner and compliance by the applicant with the provisions of this subdivision, the commissioner also shall issue a distributor's license to (a) any person engaged in this state in the bulk storage of petroleum products and the distribution thereof by tank car or tank truck or both, and (b) any person holding an unrevoked license as a distributor since January 1, 1947, and (c) any person holding a license and performing a function under the motor fuel tax law of an adjoining state equivalent to that of a distributor under this act, who desires to ship or deliver petroleum products from that state to persons in this state not licensed as distributors in this state and who agrees to assume with respect to all petroleum products so shipped or delivered the liabilities of a distributor receiving petroleum products in this state, provided, however, that any such license shall be issued only for the purpose of permitting such person to receive in this state the petroleum products so shipped or delivered. Except as herein provided, all persons licensed as distributors under this clause shall have the same rights and privileges and be subject to the same duties, requirements and penalties as other licensed distributors.

Subd. 3. Surrender of license. When the licensee shall voluntarily or involuntarily sell, dispose of or discontinue business during the term of a license, the licensee shall immediately notify the commissioner in writing and shall within 10 days surrender the license.

Subd. 4. Rights of surety, subrogation. When the surety upon any bond issued pursuant to the provisions of this chapter shall have fulfilled the conditions of such bond and compensated the state for any loss occasioned by any act or omission of any licensee under this chapter, such surety shall be subrogated to all the rights of the state in connection with the transaction wherein such loss occurred.

History: 1941 c 495 s 4; 1943 c 320 s 6; 1945 c 154 s 1; 1947 c 412 s 5,6; 1949 c 143 s 4,5; 1953 c 41 s 4; 1963 c 66 s 9; 1969 c 1148 s 40; 1983 c 222 s 31; 1986 c 444; 1990 c 480 art 4 s 2; 1990 c 594 art 1 s 65; 1992 c 575 s 53

- 296.07** [Repealed, 1987 c 268 art 14 s 25]
296.08 [Repealed, 1947 c 412 s 14]
296.09 [Repealed, 1947 c 412 s 14]
296.10 [Repealed, 1Sp1985 c 13 s 376 subd 1]

296.11 REVOCATION OF LICENSES, PERMITS AND CERTIFICATES.

The commissioner may, after hearing, revoke any license, permit or certificate if the holder has directly or indirectly violated any of the provisions of sections 296.01 to 296.421 or has failed to comply with any rule 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 certified 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.

History: 1941 c 495 s 9; 1949 c 143 s 6; 1963 c 66 s 11; 1978 c 674 s 60; 1980 c 509 s 116; 1985 c 248 s 70

296.115 REVOCATION OF MOTOR CARRIER LICENSES.

Notwithstanding the provisions of section 296.11, if a motor carrier fails to file three consecutive road tax reports, the commissioner, by certified mail sent to the address on the latest report, shall notify the motor carrier of the commissioner's intention to revoke the license and of the motor carrier's right to request a hearing pursuant to section 296.11. If no request for a hearing is received within 30 days of the notice, the license may be revoked by the commissioner.

History: 1977 c 45 s 1

296.12 SPECIAL FUELS; LICENSES, TAX ADMINISTRATION.

Subdivision 1. Special fuel dealers' license requirements. No person except a licensed distributor shall engage in the business of selling or delivering special fuel as a special fuel dealer without having applied for and secured from the commissioner a special fuel dealer's license. The application shall be made in a manner approved by the commissioner and shall be accompanied by the payment of \$25, which shall be the license fee. A special fuel dealer's license shall be issued to any responsible person qualifying as a special fuel dealer who makes proper application therefor. The license shall be displayed in a conspicuous manner in the place of business and shall expire annually on November 30.

A special fuel dealer who discontinues, sells or disposes of the business in any manner, at any time, shall surrender the dealer's special fuel dealer's license at the commissioner's office in St. Paul, Minnesota.

Subd. 2. Bulk purchasers' license requirements. No person shall receive special fuel as a bulk purchaser without having applied for and secured from the commissioner a bulk purchaser's license. The application shall be made in a manner approved by the commissioner and shall be accompanied by the payment of \$25, which shall be the license fee. A bulk purchaser's license shall be issued to any responsible person qualifying as a bulk purchaser who makes proper application therefor. The license shall be displayed in a conspicuous manner in the place of business and shall expire annually on November 30.

A bulk purchaser who discontinues, sells or disposes of the business in any manner, at any time, shall surrender the bulk purchaser's license at the commissioner's office in St. Paul, Minnesota.

Subd. 3. Tax collection, reporting and payment. Distributors shall pay the special fuel excise tax on all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, delivered into storage tanks at retail service stations operated by them.

Distributors and special fuel dealers may, subject to the approval of the commis-

sioner, elect to pay to the commissioner the special fuel excise tax on all special fuel delivered or sold into the supply tank of an aircraft or a licensed motor vehicle. Under this option an invoice must be issued at the time of each delivery showing the name and address of the purchaser, date of sale, number of gallons, price per gallon and total amount of sale. A separate sales ticket book shall be maintained for special fuel sales.

Bulk purchasers shall report and pay the excise tax on all special fuel purchased by them for storage, to the commissioner.

Any person delivering special fuel on which the excise tax has not previously been paid, into the supply tank of an aircraft or a licensed motor vehicle shall report such delivery and pay the excise tax on the special fuel so delivered, to the commissioner.

Subd. 4. Monthly reports; shrinkage allowance. On or before the 23rd day of each month, the persons subject to the provisions of this section shall file in the office of the commissioner at St. Paul, Minnesota, a report in the following manner:

(1) Distributors and special fuel dealers shall report the total number of gallons delivered to them during the preceding calendar month and shall pay the special fuel excise tax due thereon to the commissioner. Credit for the excise tax due or previously paid on special fuel used by the distributor or special fuel dealer for heating the distributor's or dealer's place of business, or special fuel sold for any purpose other than use in licensed motor vehicles and evidenced by an invoice issued at time of sale, may be allowed in computing the tax liability. The invoice must show the true and correct name and address of the purchaser, and the purchaser's signature. The report shall contain such other information as the commissioner may require.

(2) Distributors and special fuel dealers who have elected to pay the special fuel excise tax on all special fuel delivered into the supply tank of an aircraft or licensed motor vehicle as provided in subdivision 3, shall report the total number of gallons delivered into the supply tank of an aircraft or licensed motor vehicle during the preceding calendar month and shall pay the special fuel excise tax due thereon to the commissioner.

(3) Bulk purchasers shall report and pay the special fuel excise tax on all special fuel purchased by them for storage, during the preceding calendar month. In such cases as the commissioner may permit, credit for the excise tax due or previously paid on special fuel not used in aircraft or licensed motor vehicles, may be allowed in computing tax liability. The report shall contain such other information as the commissioner may require.

(4) In computing the special fuel excise tax due under clauses (1), (2), and (3), a deduction of one percent of the quantity of special fuel on which tax is due shall be made for evaporation and loss.

(5) Each report shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

Subd. 5. Sales tickets. A sales ticket shall be issued for each delivery of special fuel to a bulk purchaser. A sales ticket shall also be issued for each delivery into the supply tank of an aircraft or a licensed motor vehicle, if so requested by the purchaser. The person who delivers the special fuel shall issue the sales ticket and shall show thereon the name and address of the purchaser, date of sale, number of gallons, price per gallon, and total amount of sale.

Subd. 6. Intended use. All special fuel except that used for aviation fuel shall be deemed to be intended for use in a licensed motor vehicle in this state at the time of sale or delivery.

Subd. 7. Bonds. The provisions of section 296.06, subdivision 2, clauses (1), (3), (4) and (5), relating to bonds shall apply to special fuel dealers and bulk purchasers.

Subd. 8. Registrar shall notify commissioner. When an application for registration of a motor vehicle discloses that such motor vehicle uses special fuel, the registrar of motor vehicles shall notify the commissioner, in written form, of the name and address of the owner and the make, model, year and license number of the vehicle.

Subd. 9. Tax imposed on use. If it is determined by the commissioner from an

examination of any records pertaining to the operation of any licensed motor vehicle which uses special fuel, that the special fuel tax on the special fuel used in this state has not been paid to this state, or to any other state if purchased in such other state, there is hereby imposed an excise tax at the same rate per gallon as the gasoline tax, on all such special fuel. All assessments of tax made under this subdivision shall be paid by the user to the commissioner on demand.

For purposes of this subdivision, the words "special fuel" mean any fuel other than gasoline, used in a licensed motor vehicle in this state.

Subd. 10. Accumulating meters required. Every purchaser licensed under subdivision 2 shall make all withdrawals of special fuel except liquefied petroleum gas through an accumulating meter in working order, which shall be provided by such bulk purchaser. Whenever a bulk purchaser fails to comply with the provisions of this subdivision or of any rules of the commissioner pertinent thereto, the license issued to such bulk purchaser pursuant to subdivision 2 may be revoked by the commissioner.

Subd. 11. Qualified bulk purchasers. Notwithstanding any other provision of law to the contrary, the commissioner of revenue may allow any bulk purchaser who receives special fuel in bulk storage for subsequent delivery into the supply tank of passenger automobiles or other licensed vehicles operated by the bulk purchaser to purchase bulk special fuel on a tax paid basis from any consenting supplier licensed as a distributor or special fuel dealer under this section or section 296.06. Bulk purchasers qualifying under this provision must become registered in a manner approved by the commissioner but shall be exempt from the bulk purchaser license requirements. Every licensed distributor or special fuel dealer who sells or delivers special fuel on a tax paid basis to persons registered under this provision must report on or before the 23rd day of each month sales made during the preceding calendar month and shall pay the special fuel excise tax due thereon to the commissioner. The report shall contain information as the commissioner may require.

History: 1941 c 495 s 10; 1943 c 320 s 8; 1945 c 412 s 8; 1949 c 143 s 7; 1951 c 87 s 8; 1953 c 41 s 6,7; 1955 c 338 s 2-4; 1957 c 203 s 3-5; 1961 c 503 s 2,3; 1963 c 66 s 12; 1965 c 103 s 1,2; 1969 c 1148 s 41,66; 1973 c 106 s 1; 1974 c 13 s 1; 1981 c 164 s 3-6; 1982 c 523 art 2 s 40; 1983 c 222 s 32,33; 1985 c 248 s 70; 1986 c 444; 1990 c 594 art 1 s 66,67

296.13 [Repealed, 1987 c 268 art 14 s 25]

296.14 GASOLINE TAX AND INSPECTION FEE MONTHLY REPORTS.

Subdivision 1. Contents; payment of tax; shrinkage allowance. On or before the 23rd day of each month, every person who is required to pay gasoline tax or inspection fee on petroleum products and every 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 of petroleum products received by the reporter during the preceding calendar month, and such other information as the commissioner may require. The number of gallons of gasoline shall be reported in United States standard liquid gallons (231 cubic inches), except that the commissioner may upon written application therefor and for cause shown permit the distributor to report the number of gallons of such gasoline as corrected to a 60 degree Fahrenheit temperature. If such application is granted, all gasoline covered in such application and as allowed by the commissioner must continue to be reported by the distributor on the adjusted basis for a period of one year from the date of the granting of the application. The number of gallons of petroleum products other than gasoline shall be reported as originally invoiced.

Each report shall show separately the number of gallons of aviation gasoline received by the reporter during such calendar month.

Each report shall be accompanied by remittance covering inspection fees on petroleum products and gasoline tax on gasoline received by the reporter during the preceding month; provided that in computing such tax a deduction of three percent of the

quantity of gasoline received by a distributor 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 percent 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.

Each report shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

If the aggregate remittances made during a fiscal year ending June 30 equal or exceed \$240,000, all remittances in the subsequent calendar year must be made by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the remittance is due. If the date the remittance is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the remittance is due.

Subd. 2. Credit or refund of tax paid. The commissioner shall allow the distributor credit or refund of the tax paid on gasoline and special fuel:

(1) Exported or sold for export from the state, other than in the supply tank of a motor vehicle or of an aircraft;

(2) Sold to the United States government or to any "cost plus a fixed fee" contractor employed by the United States government on any national defense project;

(3) Sold to another licensed distributor;

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

(5) In error;

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

(7) In such other cases as the commissioner may permit, not inconsistent with the provisions of this chapter and other laws relating to the gasoline and special fuel excise taxes.

Subd. 3. Refund to dealer; destruction by accident. Notwithstanding the provisions of subdivision 2, the commissioner shall allow a dealer a refund of the tax paid on gasoline or special fuel destroyed by accident while in the possession of the dealer.

Subd. 4. On-farm bulk storage of gasoline; ethyl alcohol for personal use. Notwithstanding the provisions of this section, the producer of ethyl alcohol which is produced for personal use and not for sale in the usual course of business and a farmer who uses gasoline on which a tax has not been paid shall report and pay the tax on all ethyl alcohol or gasoline delivered into the supply tank of a licensed motor vehicle during the preceding calendar year. The tax shall be reported and paid together with any refund claim filed by the taxpayer under section 296.18. If no refund claim is filed, the tax shall be reported and paid annually by March 15 or more frequently, as the commissioner may prescribe. Any producer, qualifying under this subdivision, shall be exempt from the licensing requirements contained in section 296.06, subdivision 1.

History: 1941 c 495 s 12; 1943 c 320 s 9,10; 1945 c 412 s 9; 1947 c 412 s 7; 1953 c 41 s 8; 1955 c 338 s 6; 1963 c 66 s 14; 1969 c 642 s 1; 1980 c 607 art 19 s 3; 1982 c 523 art 2 s 41; 1983 c 17 s 8,10; 1984 c 502 art 14 s 10; 1986 c 444; 1987 c 384 art 1 s 28; 1991 c 291 art 17 s 6

296.15 NONPAYMENT OF TAX, PENALTIES.

Subdivision 1. Penalty, interest. (a) In case a properly licensed distributor, special fuel dealer, bulk purchaser or motor carrier does not pay any tax or inspection fee when due, a penalty of one percent per day for the first ten days of delinquency shall accrue, and thereafter the tax, fees and penalty shall bear interest at the rate specified in section 270.75.

(b) If any person operates as a distributor, special fuel dealer, bulk purchaser or motor carrier without first securing the license required under this chapter, any tax or inspection fee imposed by this chapter shall become immediately due and payable. A penalty of 25 percent shall be imposed upon the tax and fee due thereon. The tax, fees and penalty shall bear interest at the rate specified in section 270.75.

Subd. 2. Failure to pay taxes; proceedings. Upon the failure of any person to pay any tax or inspection fees within the time provided by sections 296.01 to 296.421, all taxes and inspection fees imposed by this chapter shall become immediately due and payable, whether or not the person has previously reported the tax and inspection fees to the commissioner, and after the default in payment the commissioner may deliver to the attorney general a certified statement of the amount due from each person hereunder whose excise tax and inspection fees are delinquent. The statement shall give the address of the person 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 taxpayer resides, to recover the amount of such tax and inspection fees, 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 specified in section 270.75 and shall be enforceable in the manner provided by law for the enforcement of judgments obtained in civil actions.

Subd. 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.

Subd. 4. Receiver, appointment. 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.

Subd. 5. Sale prohibited under certain conditions. No 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.

Subd. 6. Limitation of actions. No action shall be brought for the collection of delinquent excise taxes and inspection fees under the provisions of this chapter unless commenced within five years after the date of assessment of the taxes and fees. 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, the taxes or fees may be assessed at any time, and a proceeding in court for their collection must be begun within five years after the assessment.

The period of time during which a tax or fee must be assessed under this chapter or collection proceedings commenced under this subdivision is suspended during the period from the date of filing of a petition in bankruptcy until 30 days after the commissioner of revenue receives notice that the bankruptcy proceedings have been closed or dismissed or the automatic stay has been terminated or has expired.

The suspension of the statute of limitations under this subdivision applies to the person against whom the petition in bankruptcy is filed and all other persons who may also be wholly or partially liable for the tax under this chapter.

History: 1941 c 495 s 13; 1943 c 320 s 11; 1949 c 143 s 8; 1951 c 87 s 9; 1953 c 41 s 9; 1963 c 66 s 15; 1971 c 673 s 1; 1973 c 105 s 1; 1975 c 377 s 32,33; 1980 c 509 s 117; 1985 c 101 s 15

296.16 USE IN VARIOUS MOTOR VEHICLES.

Subdivision 1. Intent; gasoline use. All gasoline received in this state and all gasoline produced in or brought into this state except aviation gasoline and marine gasoline shall be determined to be intended for use in motor vehicles in this state.

Approximately 1-1/2 percent of all gasoline received in this state and 1-1/2 percent of all gasoline produced or brought into this state, except gasoline used for aviation purposes, is being used as fuel for the operation of motorboats on the waters of this state and of the total revenue derived from the imposition of the gasoline fuel tax for uses other than for aviation purposes, 1-1/2 percent of such revenues is the amount of tax on fuel used in motorboats operated on the waters of this state.

Approximately three-fourths of one percent of all gasoline received in and produced or brought into this state, except gasoline used for aviation purposes, is being used as fuel for the operation of snowmobiles in this state, and of the total revenue derived from the imposition of the gasoline fuel tax for uses other than for aviation purposes, three-fourths of one percent of such revenues is the amount of tax on fuel used in snowmobiles operated in this state.

Approximately 0.15 of one percent of all gasoline received in or produced or brought into this state, except gasoline used for aviation purposes, is being used for the operation of all-terrain vehicles in this state, and of the total revenue derived from the imposition of the gasoline fuel tax, 0.15 of one percent is the amount of tax on fuel used in all-terrain vehicles operated in this state.

Subd. 1a. Intent; forest roads. Approximately 0.116 percent of the total annual unrefunded revenue from the gasoline fuel tax on all gasoline and special fuel received in, produced, or brought into this state, except gasoline and special fuel used for aviation purposes, is derived from the operation of motor vehicles on state forest roads and county forest access roads. Of this amount, 0.0605 percent is annually derived from motor vehicles operated on state forest roads and 0.0555 percent is annually derived from motor vehicles operated on county forest access roads in this state.

Subd. 2. Seller may collect tax. A person who directly or indirectly pays either of the taxes provided for by sections 296.02 and 296.025 and does not in fact use the gasoline or special fuel in motor vehicles in this state or receive, store, or withdraw it from storage to be used personally for the purpose of producing or generating power for propelling aircraft, but sells or otherwise disposes of the same, except as provided in section 296.14, subdivision 2, is hereby authorized to collect (from the person to whom the gasoline or special fuel is so sold or disposed of) the tax so paid, and is hereby required, upon request, to make, sign, and deliver to such person an invoice of such sale or disposition.

Subd. 3. [Repealed, 1990 c 480 art 3 s 4]

History: 1941 c 495 s 14; 1945 c 412 s 10; 1949 c 143 s 9; 1951 c 87 s 10; 1953 c 41 s 10; 1961 c 585 s 2; 1969 c 9 s 75; 1973 c 648 s 1; 1976 c 319 s 1; 1986 c 444; 1986 c 452 s 21; 1Sp1986 c 1 art 4 s 40; 1987 c 404 s 160; 1988 c 686 art 4 s 7; 1991 c 298 art 5 s 3

296.165 UNTAXED FUEL; CONVEYANCES; SEIZURE AND FORFEITURE.

Subdivision 1. Seizure. The commissioner or authorized designees may seize gasoline or special fuel being transported for delivery in violation of section 296.06, subdivision 1, and any vehicle or other method of conveyance used for transporting the gasoline or special fuel. Property seized under this subdivision is subject to forfeiture as provided in subdivisions 2 and 3.

Subd. 2. Motor fuel; inventory, judicial action, forfeiture. Within two days after the seizure of gasoline or special fuel, the person making the seizure shall deliver an inventory of the property seized to the person from whom the seizure was made, if known, and file a copy with the office of the commissioner. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the commissioner a demand for a judicial determination of whether the property was lawfully subject to seizure and forfeiture. The commissioner, within 30 days of demand for a judicial determination, shall begin an action in the district court of the county where the seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and

prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and shall try and determine the issues of fact and law involved. When a judgment of forfeiture is entered, the commissioner may, unless the judgment is stayed pending an appeal, either (1) cause the forfeited property to be destroyed; or (2) cause it to be sold at public auction as provided by law. Proceeds of a sale, after deducting the expense of keeping the gasoline or special fuel and costs of the sale, must be paid into the state treasury. The commissioner shall reimburse designees for costs incurred. If a demand for judicial determination is made and no action is commenced as provided in this subdivision, the property must be released by the commissioner and redelivered to the person entitled to it. If no demand is made, the property seized must be considered forfeited to the state by operation of law and may be disposed of by the commissioner as provided where there has been a judgment of forfeiture. When the commissioner is satisfied that a person from whom property is seized under this chapter was acting in good faith and without intent to evade the tax, the commissioner shall release the property seized, without further legal proceedings.

Subd. 3. Conveyances; judicial action; forfeiture. (a) The commissioner or authorized designees shall file with the court a separate complaint against the vehicle or conveyance, describing it and charging its use in the specified violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint must be served on the defendant or person in charge of the vehicle or conveyance at the time of seizure, if any. The court shall issue an order directed to any person known or believed to have a right or title to, interest in, or lien on the vehicle or conveyance and to persons unknown claiming a right, title, interest, or lien:

(1) describing the vehicle or conveyance and stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court;

(2) requiring the persons to file with the court administrator of the court their answer to the complaint, setting forth any claim they may have to a right or title to, interest in, or lien on the vehicle or conveyance, within ten days after the service of the order; and

(3) notifying them in substance that if they fail to file their answer within that time the vehicle or conveyance will be ordered sold by the commissioner.

(b) The court shall cause the order to be served on:

(1) the registered owner;

(2) any person who has duly filed a conditional sales contract, mortgage, or other lien instrument covering the property unless it has been released or satisfied;

(3) any other person known or believed to have a right, title, interest in, or lien upon, the vehicle or conveyance as in the case of a summons in a civil action; and

(4) on unknown persons by publication, as provided for service of summons in a civil action.

(c) If no answer is filed within the time prescribed, the court shall, on affidavit by the court administrator of the court setting forth that fact, order the vehicle or conveyance forfeited and direct that it be sold by the commissioner or the commissioner's agents. The proceeds of the sale, after deducting the expense of keeping the vehicle or conveyance and costs of the sale, including any costs incurred pursuant to paragraph (f), must be paid into the state treasury. The commissioner shall reimburse designees for costs incurred.

(d) If an answer is filed within the time provided, the court shall fix a time for hearing at least ten but no more than 30 days after the time for filing the answer expires. At the hearing, the matter must be heard and determined by the court, without a jury, as in other civil actions. If the court finds that the vehicle or conveyance, or any part of it, was used in a violation as specified in the complaint, it shall order the vehicle or conveyance forfeited and direct that it be sold, as provided in this section, unless the owner shows to the satisfaction of the court that the vehicle was being used without the owner's consent or that, when giving the consent, the owner had no notice or knowledge or reason to believe that the vehicle or conveyance was intended to be used in a viola-

tion. After deducting the expense of keeping the vehicle or conveyance and costs of the sale, the officer making the sale shall pay, according to their priority, all liens established at the hearing as being bona fide and existing without the lienor having any notice or knowledge at the time the lien was created that the vehicle or conveyance was being used or was intended to be used in connection with any violation, and shall pay the balance of the proceeds into the state treasury. The commissioner shall reimburse designees for costs incurred. A sale under this section frees the conveyance sold from all liens.

(e) At any time after seizure and before the hearing, the vehicle or conveyance must be returned to the owner or person having a legal right to its possession on execution by that person of a valid bond to the state of Minnesota, with corporate surety, of at least \$100 but not more than double the value of the vehicle or conveyance seized, to be approved by the court in which the case is triable, or a judge of that court. The bond must guarantee compliance with the order and judgment of the court, and, if ordered by the court, payment of the full value of the vehicle or conveyance at the time of seizure.

(f) If the seized vehicle or conveyance is owned or operated by a for-hire common or contract motor carrier, and was being used without knowledge of the violation, the commissioner shall return the vehicle or conveyance to its owner or operator as soon as possible without need for court order, and shall provide to such owner or operator reasonable compensation for the time during which the vehicle or conveyance is held pursuant to seizure.

History: 1991 c 291 art 9 s 14

296.17 FUEL UNREPORTED OR USED IN OTHER STATES; ROAD TAX; MOTOR CARRIERS; RECIPROCITY.

Subdivision 1. Unreported fuel. It shall be the duty of every distributor, dealer, and person who sells or uses gasoline manufactured, produced, received, or stored by the distributor, dealer, or person, and of every person using gasoline in motor vehicles or special fuel in licensed 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 or such special fuel used, and such person shall become liable for the payment of the tax. All provisions of sections 296.01 to 296.421 relating to the calculation, collection and payment of the tax shall be applicable to any such person, dealer or distributor.

Subd. 2. [Repealed, 1967 c 802 s 2]

Subd. 3. Refunds on fuel used in other states. Every person regularly or habitually operating motor vehicles upon the public highways of any other state or states and using in said motor vehicles gasoline or special fuel purchased or obtained in this state, shall be allowed a credit or refund equal to the tax on said gasoline or special fuel paid to this state on the gasoline or special fuel actually used in the other state or states. No credit or refund shall be allowed under this subdivision for taxes paid to any state which imposes a tax upon gasoline or special fuel purchased or obtained in this state and used on the highways of such other state, and which does not allow a similar credit or refund for the tax paid to this state on gasoline or special fuel purchased or acquired in such other state and used on the highways of this state. Every person claiming a credit or refund under this subdivision shall file a claim on a form prescribed by the commissioner or take the credit on a subsequent tax return within one year of the last day of the month following the end of the quarter when the overpayment occurred.

Subd. 4. [Repealed, 1967 c 802 s 2]

Subd. 5. Unreported aviation gasoline. The provisions of subdivision 1 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 the distributor, dealer, or person, if the same has not been reported or if a tax provided for in section 296.02 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, and such person shall become liable for the payment of the tax.

All provisions of sections 296.01 to 296.421 relating to the calculation, collections, and payment of the tax shall be applicable to any such person, dealer, or distributor.

Subd. 6. Reciprocal agreements. The commissioner of public safety or the commissioner of revenue may enter into reciprocal agreements with the appropriate officials of any other state under which either commissioner 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 gasoline or other motor vehicle fuel used in such other state but upon which the tax has been paid to Minnesota.

The commissioner of public safety or the commissioner of revenue may enter into reciprocal agreements with the appropriate officials of other states, exempting vehicles licensed in such other states from the license and use tax provisions contained in this section, which otherwise would apply to vehicles licensed by such other state, provided that such other state grant equivalent privileges with respect to vehicles licensed by Minnesota.

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

(a) "motor fuel" means a liquid, regardless of its composition or properties, used to propel a motor vehicle;

(b) "commercial motor vehicle" means a passenger vehicle that has seats for more than 20 passengers in addition to the driver, or a power unit that (1) has a gross weight in excess of 26,000 pounds, or (2) has three or more axles regardless of weight, or (3) when used in combination, the weight of the combination exceeds 26,000 pounds gross vehicle weight;

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

(d) "operation" means operation of commercial motor vehicles whether loaded or empty, whether for compensation or not for compensation, and whether owned by or leased to the motor carrier who operates them or causes them to be operated; and

(e) "highway" means the entire width between the boundary lines of every way publicly maintained when part of the highway is open for the public to travel on.

Subd. 8. Road tax imposed. (a) Every motor carrier shall pay a road tax calculated on the amount of motor fuel consumed in the motor carrier's operations on highways within this state. The tax shall be at the same rate as the tax applicable to the purchase of the same motor fuel within this state.

(b) The amount of motor fuel consumed in the operations of any motor carrier on highways within this state shall be determined by dividing the miles traveled within Minnesota by the average miles per gallon. The average miles per gallon shall be determined by dividing the miles traveled within and without Minnesota by the total motor fuel consumed within and without Minnesota.

Subd. 9. Exemptions. Nothing in subdivisions 7 to 22 shall apply to: (a) any commercial motor vehicle or vehicles operated by this state, any subdivision thereof, the United States, or any agency of two or more states or of states and the United States in which this state participates; (b) any school bus as defined by the laws of this state operated by, for or on behalf of a state or any subdivision thereof; or (c) any motor vehicle bearing Minnesota base license plates.

Subd. 9a. [Repealed, 1992 c 581 s 21]

Subd. 10. Motor carrier license. (a) No motor carrier may operate a commercial motor vehicle upon the highways of this state unless and until issued a license pursuant to this section or has obtained a trip permit or temporary authorization as provided in this section.

(b) A license shall be issued to any responsible person qualifying as a motor carrier who makes application therefor and who pays to the commissioner, at the time thereof, a license fee of \$30. The license is valid for a period of up to two years or until revoked by the commissioner or until surrendered by the motor carrier. All outstanding licenses will expire on March 31 of each even-numbered year beginning with 1984 and may be renewed upon application to the commissioner and payment of the \$30 fee. The license, photocopy, or electrostatic copy of it, shall be carried in the cab of every commercial motor vehicle while it is being operated in Minnesota by a licensed motor carrier.

Subd. 11. Motor carrier reports. Every motor carrier subject to the road tax shall, on or before the last day of April, July, October, and January, file with the commissioner such reports of operations during the previous three months as the commissioner may require and such other reports from time to time as the commissioner may deem necessary. The commissioner by rule may exempt from the quarterly reporting requirements of this section those motor carriers whose mileage is all or substantially all and those motor carriers whose mileage is minimal within this state, or states with which Minnesota has reciprocity and require in such instances an annual report reflecting the operations of the carrier during the previous year along with payment of any taxes due.

Each report shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

Subd. 12. [Repealed, 1987 c 268 art 14 s 25]

Subd. 13. [Repealed, 1990 c 480 art 3 s 4]

Subd. 14. Motor carrier records. (a) Every motor carrier shall keep such records as may be necessary for the administration of subdivisions 7 to 22 and for the reporting and justification of the amount of tax liability pursuant hereto. Such records shall be kept in such form as the commissioner reasonably may prescribe. All such records shall be safely preserved for a period of three years in such manner as to insure their security and availability for inspection by the commissioner. Upon application in writing stating the reasons therefor, the commissioner may consent to the destruction of such records at an earlier time if the commissioner has completed an audit of the records in question.

(b) The commissioner or authorized agents or representatives shall have the right at any reasonable time to inspect the books and records of any motor carrier subject to the tax imposed by this chapter.

Subd. 15. Evidence. In the absence of records showing the number of miles actually operated per gallon of motor fuel, it shall be presumed that one gallon of motor fuel was consumed for every four miles traveled.

Subd. 16. Leased commercial motor vehicles. (a) Except as otherwise provided in this section, every commercial motor vehicle leased to a motor carrier shall be subject to the provisions of subdivisions 7 to 22 and rules in force pursuant hereto, to the same extent and in the same manner as commercial motor vehicles owned by such carrier.

(b) A lessor of commercial motor vehicles may be deemed a motor carrier with respect to such vehicles leased to others by the lessor and motor fuel consumed thereby, if the lessor supplies or pays for the motor fuel consumed by such vehicles or makes rental or other charges calculated to include the cost of such fuel. Any lessee motor carrier may exclude the leased commercial motor vehicles from reports and liabilities pursuant to subdivisions 7 to 22, but only if the commercial motor vehicles in question have been leased from a lessor who is a motor carrier pursuant to this section.

(c) The provisions of clauses (a) and (b) of this subdivision shall govern the primary liability pursuant to subdivisions 7 to 22 of lessors and lessees of commercial motor vehicles. If a lessor or lessee primarily liable fails, in whole or in part, to discharge liability, such failing party and the other lessor or lessee party to the transaction shall be jointly and severally responsible and liable for compliance with the provisions of subdivisions 7 to 22 and for the payment of any tax due pursuant hereto, provided that the aggregate of any taxes collected by this state shall not exceed the total amount or amounts of taxes due on account of the transactions in question and such costs and penalties, if any, as may be imposed.

Subd. 17. **Motor carrier trip permits; temporary authorizations.** (a) A motor carrier may obtain a trip permit which shall authorize an unlicensed motor carrier to operate a commercial motor vehicle in Minnesota for a period of five consecutive days beginning and ending on the dates specified on the face of the permit. The fee for the permit shall be \$25. Fees for trip permits shall be in lieu of the road tax otherwise assessable against the motor carrier on account of the commercial motor vehicle operating therewith, and no reports of mileage shall be required with respect to the vehicle.

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

(b) Whenever the commissioner is satisfied that unforeseen or uncertain circumstances have arisen which requires a motor carrier to operate in this state a commercial motor vehicle for which neither a trip permit pursuant to clause (a) nor a license pursuant to subdivisions 7 to 22 has yet been obtained, and if the commissioner is satisfied that prohibition of that operation would cause undue hardship, the commissioner may provide the motor carrier with temporary authorization for the operation of the vehicle. A motor carrier receiving temporary authorization pursuant to this subdivision shall perfect the same either by obtaining a trip permit or a license, as the case may be, for the vehicle at the earliest practicable time.

Subd. 18. **Cooperative audits.** The commissioner may enter into agreements with the appropriate authorities of other states having statutes similar to this act for the cooperative audit of motor carriers' reports and returns. In performing any such audit, or part thereof, the officers and employees of the other state or states shall be deemed authorized agents of this state for such purpose, and such audits, or parts thereof, shall have the same effect as similar audits, or parts thereof, when made by the commissioner.

Subd. 19. **Actions to avoid tax.** If the commissioner ascertains that a person designs quickly to depart from this state, or to remove therefrom the person's property, or any property used by the person in operations subject to subdivisions 7 to 22, or to discontinue business, or to do any other act tending to prejudice or render wholly or partly ineffectual proceedings to assess or collect the tax, whereby it becomes important that such proceedings be brought without delay, the commissioner may immediately make an assessment of tax estimated to be due, whether or not any report is then due by law, and may proceed under such assessment to collect the tax, or compel security for the same, and thereupon shall cause notice of such finding to be given to such motor carrier, together with a demand for an immediate payment of such tax.

The commissioner or agents is also authorized to impound motor vehicles of persons in violation of subdivisions 7 to 22. Such vehicle shall be released either upon payment of all taxes, penalties and interest that may be due, or depositing a bond or security to assure the payment of said taxes, penalties and interest.

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

(b) The officers of the Minnesota state patrol shall in addition to all other powers granted to them by Minnesota Statutes have the power of making arrests, service process, and appearing in court in all matters and things relating to subdivisions 7 to 22 and the administration and enforcement thereof.

Subd. 21. **Rules.** The commissioner may, from time to time, issue, amend and revise such rules as may be necessary for the effective enforcement of subdivisions 7 to 22.

Subd. 22. **Commissioner may waive requirements.** The commissioner is hereby empowered to suspend the enforcement of subdivisions 7 to 22 if the cost of administration thereof exceeds the tax revenue produced therefrom.

History: 1941 c 495 s 15; 1943 c 320 s 12; 1945 c 412 s 11; 1945 c 480; 1949 c 143

s 10-12; 1957 c 203 s 6,7; 1961 c 506 s 1; 1963 c 66 s 16; 1967 c 802 s 1; 1969 c 102 s 1; 1973 c 107 s 1; 1977 c 45 s 2-4; 1980 c 509 s 118,119; 1981 c 37 s 2; 1982 c 523 art 2 s 42; 1983 c 222 s 34-36; 1983 c 293 s 87-89; 1983 c 311 s 12; 1985 c 248 s 70; 1986 c 444; 1Sp1986 c 1 art 4 s 41,42; 1987 c 268 art 14 s 21-23; 1987 c 358 s 109; 1990 c 594 art 1 s 68,69

296.171 FUEL TAX COMPACTS.

Subdivision 1. Authority. The commissioner of public safety has the powers granted to the commissioner of revenue under section 296.17. The commissioner of public safety may enter into an agreement or arrangement with the duly authorized representative of another state or make an independent declaration, granting to owners of vehicles properly registered or licensed in another state, benefits, privileges, and exemptions from paying, wholly or partially, fuel taxes, fees, or other charges imposed for operating the vehicles under the laws of Minnesota. The agreement, arrangement, or declaration may impose terms and conditions not inconsistent with Minnesota laws.

Subd. 2. Reciprocal privileges and treatment. An agreement or arrangement must be in writing and provide that when a vehicle properly licensed for fuel in Minnesota is operated on highways of the other state, it must receive exemptions, benefits, and privileges of a similar kind or to a similar degree as are extended to a vehicle properly licensed for fuel in that state, when operated in Minnesota. A declaration must be in writing and must contemplate and provide for mutual benefits, reciprocal privileges, or equitable treatment of the owner of a vehicle registered for fuel in Minnesota and the other state. In the judgment of the commissioner of public safety, an agreement, arrangement, or declaration must be in the best interest of Minnesota and its citizens and must be fair and equitable regarding the benefits that the agreement brings to the economy of Minnesota.

Subd. 3. Compliance with Minnesota laws. Agreements, arrangements, and declarations made under authority of this section must contain a provision specifying that no fuel license, or exemption issued or accruing under the license, excuses the operator or owner of a vehicle from compliance with Minnesota laws.

Subd. 4. Exchanges of information. The commissioner of public safety may make arrangements or agreements with other states to exchange information for audit and enforcement activities in connection with fuel tax licensing. The filing of fuel tax returns under this section is subject to the rights, terms, and conditions granted or contained in the applicable agreement or arrangement made by the commissioner under the authority of this section.

Subd. 5. Base state fuel compact. The commissioner of public safety may ratify and effectuate the international fuel tax agreement or other fuel tax agreement. The commissioner's authority includes, but is not limited to, collecting fuel taxes due, issuing fuel licenses, issuing refunds, conducting audits, assessing penalties and interest, issuing fuel trip permits, issuing decals, and suspending or denying licensing.

Subd. 6. Minnesota-based interstate carriers. Notwithstanding the exemption contained in section 296.17, subdivision 9, as the commissioner of public safety enters into interstate fuel tax compacts requiring base state licensing and filing and eliminating filing in the nonresident compact states, the Minnesota-based motor vehicles registered under section 168.187 will be required to license under the fuel tax compact in Minnesota.

Subd. 7. Delinquent filing or payment. If a fleet owner licensed under this section is delinquent in either filing or paying the international fuel tax agreement reports for more than 30 days, or paying the international registration plan billing under section 168.187 for more than 30 days, the fleet owner, after ten days' written notice, is subject to suspension of the apportioned license plates and the international fuel tax agreement license.

Subd. 8. Transferring funds to pay delinquent fees. If a fleet owner licensed under this section is delinquent in either filing or paying the international fuel tax agreement reports for more than 30 days, or paying the international registration plan billing

under section 168.187 for more than 30 days, the commissioner may authorize any credit in either the international fuel tax agreement account or the international registration plan account to be used to offset the liability in either the international registration plan account or the international fuel tax agreement account.

Subd. 9. Fuel compact fees. License fees paid to the commissioner of public safety under the international fuel tax agreement must be deposited in the highway user tax distribution fund. The commissioner shall charge the fuel license fee of \$30 established under section 296.17, subdivision 10, in annual installments of \$15 and an annual application filing fee of \$13 for quarterly reporting of fuel tax.

Subd. 10. Fuel decal fees. The commissioner of public safety may issue and require the display of a decal or other identification to show compliance with subdivision 5. The commissioner may charge a fee to cover the cost of issuing the decal or other identification. Decal fees paid to the commissioner under this subdivision must be deposited in the highway user tax distribution fund.

History: 1992 c 581 s 20

296.18 REFUNDS.

Subdivision 1. Claim; fuel used in other vehicles. Any person who shall buy and use gasoline for a qualifying purpose other than use in motor vehicles, snowmobiles, or motorboats, or special fuel for a qualifying purpose other than use in licensed motor vehicles, and who shall have paid the Minnesota excise tax directly or indirectly through the amount of the tax being included in the price of the gasoline or special fuel, or otherwise, shall be reimbursed and repaid the amount of the tax paid upon filing with the commissioner a signed claim in writing in the form and containing the information the commissioner shall require and accompanied by the original invoice thereof. By signing any such claim which is false or fraudulent, the applicant shall be subject to the penalties provided in this section for knowingly making a false claim. The claim shall set forth the total amount of the gasoline so purchased and used by the applicant other than in motor vehicles, or special fuel so purchased and used by the applicant other than in licensed motor vehicles, and shall state when and for what purpose it was used. When a claim contains an error in computation or preparation, the commissioner is authorized to adjust the claim in accordance with the evidence shown on the claim or other information available to the commissioner. The commissioner, on being satisfied that the claimant is entitled to the payments, shall approve the claim and transmit it to the commissioner of finance. No repayment shall be made unless the claim and invoice shall be filed with the commissioner within one year from the date of the purchase. The postmark on the envelope in which the claim is mailed shall determine the date of filing. The words "gasoline" or "special fuel" as used in this subdivision do not include aviation gasoline or special fuel for aircraft. Gasoline or special fuel bought and used for a "qualifying purpose" means:

(1) Gasoline or special fuel used in carrying on a trade or business, used on a farm situated in Minnesota, and used for a farming purpose. "Farm" and "farming purpose" have the meanings given them in section 6420(c)(2), (3), and (4) of the Internal Revenue Code of 1986, as amended through December 31, 1988.

(2) Gasoline or special fuel used for off-highway business use. "Off-highway business use" means any use by a person in that person's trade, business, or activity for the production of income. "Off-highway business use" does not include use as a fuel in a motor vehicle which, at the time of use, is registered or is required to be registered for highway use under the laws of any state or foreign country.

(3) Gasoline or special fuel placed in the fuel tanks of new motor vehicles, manufactured in Minnesota, and shipped by interstate carrier to destinations in other states or foreign countries.

Subd. 1a. [Repealed, 1977 c 45 s 5]

Subd. 2. Failure to use or sell for intended purpose; reports required. (1) Any person who shall buy aviation gasoline or special fuel for aircraft use and who shall have paid

the excise taxes due thereon directly or indirectly through the amount of the tax being included in the price thereof, or otherwise, and shall use said gasoline or special fuel in motor vehicles or shall knowingly sell it to any person for use in motor vehicles shall, on or before the twenty-third day of the month following that in which such gasoline or special fuel was so used or sold, report the fact of such use or sale to the commissioner in such form as the commissioner 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 the commissioner may prescribe.

(3) Any person who shall buy aviation gasoline or special fuel for aircraft use and who shall have paid the excise taxes directly or indirectly through the amount of the tax being included in the price thereof, 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 upon filing with the commissioner a signed claim in writing in such form and containing such information as the commissioner shall require and accompanied by the original invoice thereof. By signing any such claim which is false or fraudulent, the applicant shall be subject to the penalties provided in section 296.25 for knowingly or willfully making a false claim. The claim shall set forth the total amount of the aviation gasoline or special fuel for aircraft use so purchased and used by the applicant, and shall state when and for what purpose it was used. When a claim contains an error in computation or preparation, the commissioner is authorized to adjust the claim in accordance with the evidence shown on the claim or other information available to the commissioner. The commissioner, on being satisfied that the claimant is entitled to payment, shall approve the claim and transmit it to the commissioner of finance. No repayment shall be made unless the claim and invoice shall be filed with the commissioner within one year from the date of the purchase. The postmark on the envelope in which the claim is mailed shall determine the date of filing.

Subd. 3. Civil penalty for filing false claim. A person who violates section 296.25, subdivision 1, paragraph (a) or (b), shall forfeit the full amount of the claim. In addition, a person who is convicted under section 296.25, subdivision 1, paragraph (a) or (b), for filing a false statement or claim shall, in addition to any criminal penalties imposed, be prohibited from filing with the commissioner any claim for refund upon gasoline purchased within six months after such conviction.

Subd. 3a. [Repealed, 1990 c 480 art 3 s 4]

Subd. 4. Refunds on graduated basis. Any licensed distributor or other person who shall have directly or indirectly paid the excise tax on aviation gasoline or special fuel for aircraft use provided for by section 296.02, subdivision 2, or section 296.025, subdivision 2, shall, as to all such aviation gasoline and special fuel received, stored, or withdrawn from storage by the person 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 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 or special fuel up to 50,000 gallons, all but five cents per gallon;

(2) On each gallon of such aviation gasoline or special fuel above 50,000 and not more than 150,000, all but two cents per gallon;

(3) On each gallon of such aviation gasoline or special fuel above 150,000 and not more than 200,000, all but one cent per gallon;

(4) On each gallon of such aviation gasoline or special fuel above 200,000, all but one-half cent per gallon.

Subd. 5. **Graduated reduction-basis refund claim, requirements.** 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 or special fuel for aircraft use upon which the claimant has directly or indirectly paid the excise tax provided for in sections 296.02, subdivision 2, or 296.025, subdivision 2, during the calendar year, which has been received, stored, or withdrawn from storage by the claimant in this state and not sold or otherwise disposed of to others. The commissioner, on being satisfied that the claimant is entitled to the refund, shall approve the claim and transmit it to the commissioner of finance, 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 April 15 following the end of the calendar year for which the refund is claimed. Claims for aviation gasoline and special fuel tax refund filed within 15 days beyond the due date prescribed by this subdivision shall be honored by the commissioner less a penalty of 25 percent of the amount of the approved claim.

Subd. 6. **Aviation gasoline tax refund claim, civil penalty.** If any distributor or other person, with intent to unlawfully secure any refund provided for in subdivision 4, shall knowingly file a false or fraudulent claim, there shall be imposed upon the person as a penalty an amount equal to 50 percent 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. [Repealed, 1990 c 480 art 3 s 4]

Subd. 8. **Appropriation.** There is hereby appropriated to the persons entitled to such refund under this section, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment.

History: (2720-79) 1925 c 297 s 10; 1927 c 434 s 6; 1929 c 257 s 1; 1937 c 376 s 1; 1941 c 491 s 1; 1941 c 495 s 16; 1945 c 152 s 2; 1945 c 412 s 12; 1951 c 87 s 11; 1951 c 287 s 2; 1957 c 203 s 8-10; 1959 c 157 s 12; 1959 c 223 s 1; 1963 c 66 s 17,18; 1963 c 686 s 2,3; 1965 c 122 s 3; 1971 c 764 s 1; 1971 c 765 s 1-3; 1973 c 146 s 1; 1973 c 492 s 14; 1973 c 648 s 2; 1979 c 303 art 10 s 9-12; 1983 c 17 s 9; 1983 c 301 s 181; 1983 c 342 art 6 s 2; 1984 c 502 art 14 s 11-13; 1984 c 514 art 2 s 34; 1985 c 248 s 50; 1Sp1985 c 14 art 2 s 4; 1986 c 444; 1987 c 268 art 17 s 24; 1989 c 277 art 1 s 8; 1990 c 480 art 3 s 1,2

296.19 APPLICATION TO FOREIGN OR INTERSTATE COMMERCE.

No provision of sections 296.01 to 296.421 shall apply to, or be construed to apply to, foreign or interstate commerce, except insofar as the same may be permitted under the constitution and the laws of the United States.

History: 1941 c 495 s 17; 1949 c 143 s 14; 1980 c 509 s 120

296.20 GASOLINE TAXES IN LIEU OF OTHER 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 in sections 296.01 to 296.421 shall be construed as prohibiting the governing body of any city of this state from licensing and regulating such business wherever authority therefor is, or may hereafter be, conferred by state law or city charter.

History: (2720-82) 1925 c 297 s 13; 1941 c 495 s 18; 1949 c 143 s 15; 1973 c 123 art 5 s 7; 1980 c 509 s 121

296.21 RECORDS RETAINED, MADE ACCESSIBLE.

Subdivision 1. **Retaining records.** All distributors, dealers, special fuel dealers, bulk purchasers and all users of special fuel shall keep a true and accurate record of all purchases, transfers, sales and use of petroleum products and special fuel in a manner approved by the commissioner, and shall retain all such records for four years.

Subd. 2. **Making accessible.** The books and records of all carriers of petroleum products, distributors, dealers, and persons selling or using special fuel shall be made accessible to the commissioner or an authorized representative.

Subd. 3. [Repealed, 1967 c 903 s 1]

History: 1941 c 495 s 19; 1945 c 152 s 3; 1949 c 143 s 16; 1951 c 87 s 12; 1957 c 203 s 11; 1963 c 66 s 19; 1986 c 444

296.22 [Repealed, 1987 c 268 art 14 s 25]

296.23 CERTAIN BLENDING OF GASOLINE PROHIBITED.

The blending of gasoline on which the tax has been paid or the liability accrued, with any substance on which the tax has not been paid or the liability thereafter accrued, is prohibited.

This section does not preclude the addition of any of the various inhibitors which in total do not exceed one-half of one percent by volume of the product treated, nor the addition to fuel for two-cycle gasoline engines of a lubricant not exceeding five percent by volume of the product treated; nor does this section preclude the addition of fuel oil to gasoline for the purpose of generating power for the propulsion of farm tractors.

History: 1941 c 495 s 21; 1947 c 412 s 9; 1963 c 66 s 22; 1965 c 100 s 1

296.24 [Repealed, 1990 c 480 art 3 s 4]

296.25 CRIMINAL PENALTIES.

Subdivision 1. **Penalties imposed.** (a) A person who fails to comply with a provision of sections 296.01 to 296.421, or who knowingly provides false information, including, but not limited to, false odometer readings, or who knowingly makes a false statement in a report, record, claim, or sales ticket required by section 296.12; 296.14; 296.17, subdivisions 5, or 7 to 22; 296.18, subdivision 2; or 296.21, is guilty of a gross misdemeanor.

(b) A person who willfully attempts in any manner to evade or defeat any tax imposed by sections 296.01 to 296.421, including, but not limited to, making and subscribing any false statement in any report, record, claim, or sales ticket required by sections 296.12; 296.14; 296.17, subdivisions 5, or 7 to 22; 296.18, subdivision 2; and 296.21; or making a false claim for a refund under section 296.18, subdivision 4, is guilty of a felony.

(c) It is a misdemeanor for a person to operate, or cause to be operated, a licensed motor vehicle on the public highways of this state on special fuel on which the excise tax provided by this chapter has not been paid or the liability therefore assumed by another person licensed under this chapter. A person who uses gasoline, delivered into an on-farm bulk storage tank and on which no tax has been collected, for propelling a motor vehicle on the public highways of this state is also guilty of a misdemeanor.

(d) An officer or employee of the state of Minnesota charged with the enforcement of a provision of sections 296.01 to 296.421 who is employed by or who engages in business as a distributor or dealer in petroleum products is guilty of a misdemeanor.

(e) The authorization in this chapter for the collection of the excise taxes by persons other than the commissioner for and in behalf of the state of Minnesota establishes a fiduciary relationship, for the violation of which, in failure to make payment when due and payable, the person so authorized to collect these excise taxes shall be deemed guilty of a violation of section 609.54, and punished accordingly.

(f) A minimum fine of \$200 shall be imposed on a person who fails to obtain a license or trip permit required under section 296.17, subdivisions 10 and 17.

Subd. 2. Prosecution of violations. Prosecutions under this section may be brought in the county in which the defendant resides or in Ramsey county. On request of the commissioner of revenue, the county attorney of a county in which the action is commenced shall prosecute violations of this chapter. Costs, fees, and expenses incurred by any county attorney in litigation in connection with the action may be paid from appropriations to the commissioner of revenue for the administration of this chapter.

History: 1941 c 495 s 23; 1945 c 412 s 13; 1947 c 412 s 11; 1949 c 143 s 18; 1951 c 87 s 13; 1955 c 338 s 9; 1963 c 66 s 23; 1965 c 656 s 1; 1971 c 24 s 31; 1971 c 750 s 1,2; 1973 c 582 s 3; 1983 c 293 s 90; 1990 c 480 art 3 s 3

296.26 ACTIONS FOR RECOVERY NO BAR TO 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.

History: 1941 c 495 s 24

296.27 RULES; ADMINISTRATION AND ENFORCEMENT.

The commissioner may make rules relating to the administration and enforcement of laws regulating the sale, distribution, and use of petroleum products and special fuel. The rules shall be reasonable and not inconsistent with the law.

History: 1941 c 495 s 25; 1949 c 143 s 19; 1951 c 87 s 14; 1985 c 248 s 70

296.28 [Repealed, 1987 c 268 art 14 s 25]

296.30 [Repealed, 1953 c 41 s 13]

296.31 [Repealed, 1953 c 41 s 14]

296.32-296.42 [Repealed, 1957 c 943 s 72]

296.421 REVENUE PROVISIONS.

Subdivision 1. [Repealed, 1961 c 561 s 17]

Subd. 2. Aviation fuel tax fund. The revenues derived from the excise taxes on aviation gasoline and on special fuel 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, 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, section 296.18, subdivision 2(3), as amended by Laws 1945, chapter 412, subdivision 4, as they may be approved by the commissioner of revenue;

(2) There shall be transferred by the commissioner of finance each year from the aviation fuel tax fund to the general fund in the state treasury the amount expended from the latter fund for expenses of administering the provisions of Laws 1945, chapter 412;

(3) After meeting the requirements of clauses (1) and (2), there shall be transferred, on the last day of September, December, March and June of each fiscal year, by the commissioner of finance to the state airports fund, all moneys in the aviation fuel tax fund in excess of such amount as the commissioner of revenue may certify is reasonably required for refunds as provided in clause (1);

(4) There is hereby appropriated such sums as are needed to carry out the provisions of this subdivision.

Subd. 3. Reports. On or before the last day of each calendar month the commissioner shall report to the commissioner of finance and the state treasurer the total amount of aviation gasoline and special fuel excise taxes which have been paid on gaso-

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line and special fuel which were, after the payment of such taxes, used or sold for use in motor vehicles, as determined by the commissioner 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 and special fuel taxes are deposited. The commissioner shall at the same time likewise report the total amount of motor vehicle gasoline and special fuel excise taxes which have been paid on gasoline and special fuel which were, 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 the commissioner 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 and special fuel excise taxes are deposited to the aviation fuel tax fund. The commissioner of finance 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.

Subd. 4. MS 1961 [Repealed, 1963 c 840 s 45]

Subd. 4. **Water recreation account.** The amount of unrefunded tax paid on gasoline used for motor boat purposes as computed in subdivision 5 shall be paid into the state treasury and credited to a water recreation account in the special revenue fund for acquisition, development, maintenance, and rehabilitation of sites for public access and boating facilities on public waters; lake and river improvement; state park development; and boat and water safety.

Subd. 5. **Computation of unrefunded tax.** The amount of unrefunded tax shall be a sum equal to 1-1/2 percent of all revenues derived from the excise taxes on gasoline, except on gasoline used for aviation purposes, together with interest thereon and penalties for delinquency in payment, paid or collected pursuant to the provisions of sections 296.02 to 296.17. The amount of such tax shall be computed for each six-month period commencing January 1, 1961, and shall be paid into the state treasury on November 1 and June 1 following each six-month period.

Subd. 5a. [Repealed, 1987 c 404 s 191]

Subd. 6. [Repealed, 1976 c 319 s 3]

Subd. 7. [Repealed, 1976 c 319 s 3]

Subd. 8. **State forest road account.** The amount of unrefunded tax paid on gasoline and special fuel used to operate motor vehicles on forest roads, except gasoline and special fuel used for aviation purposes, is 0.116 percent of the total unrefunded revenue from the tax on all gasoline and special fuel received in, produced, or brought into the state, and this revenue is appropriated from the highway user tax distribution fund and must be transferred and credited in equal installments on July 1 and January 1 to the state forest road account established in section 89.70. An amount equal to 0.0555 percent of the unrefunded revenue must be annually transferred to counties for management and maintenance of county forest roads.

History: 1945 c 412 s 14; 1949 c 117 s 1; 1957 c 203 s 12,13; 1959 c 158 s 24; 1961 c 585 s 3; 1963 c 840 s 42; 1969 c 399 s 35,36; 1969 c 1129 art 10 s 2; 1971 c 596 s 1; 1973 c 492 s 14; 1973 c 582 s 3; 1973 c 648 s 3,4; 1983 c 301 s 182; 1983 c 342 art 6 s 3; 1Sp1985 c 13 s 310,311; 1986 c 444; 1987 c 404 s 161; 1988 c 686 art 4 s 8; 1989 c 335 art 4 s 76; 1991 c 298 art 5 s 4

296.43 [Repealed, 1949 c 143 s 22]

296.44 [Repealed, 1949 c 143 s 22]

296.45 [Repealed, 1949 c 143 s 22]

296.46 [Repealed, 1965 c 101 s 3]

296.47 [Repealed, 1965 c 101 s 3]

296.48 [Repealed, 1965 c 101 s 3]

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296.49 [Repealed, 1965 c 101 s 3]