

and all necessary clerical assistants shall be paid out of the retirement fund.

SEC. 2. This act is necessary for the support of state government and shall take effect immediately.

Effective immediately.

Passed the House February 10, 1933.

Passed the Senate March 1, 1933.

Approved by the Governor March 4, 1933.

CHAPTER 58.

[H. B. 269.]

PETROLEUM PRODUCTS: TAX AND REGULATION.

AN ACT imposing an excise tax on gasoline and other inflammable liquids, and providing for the payment, collection and lien of the tax, and the distribution and use of the proceeds thereof; requiring the licensing of distributors as therein defined, and of carriers engaged in the transportation of inflammable petroleum products; requiring the execution and delivery by such distributors of surety bonds upon application for license, and requiring such distributors and carriers to display licenses, to retain certain records and to make reports; imposing duties on retail dealers, consumers, brokers, producers, carriers, and such distributors; prohibiting political subdivisions from imposing a similar tax; conferring powers and imposing duties on certain state officers and departments; providing for refunds; imposing penalties, repealing all laws in conflict therewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Definitions:

SECTION 1. The following words, terms and phrases shall, whenever used in this act, have the meaning set forth in this section.

"Motor vehicle";

(a) "Motor vehicle" shall mean and include every self propelled vehicle operated or intended to be operated on the highways within this state.

"Motor vehicle fuel";

(b) "Motor vehicle fuel" shall mean and include gasoline or any other inflammable liquid, by whatsoever name such liquid may be known or sold, the chief use of which is as a fuel for the propulsion of motor vehicles, motor boats or airplanes.

(c) "Distributor" shall mean and include every person, firm, association or corporation who refines, manufactures, produces or compounds motor vehicle fuel and sells, distributes, or in any manner uses the same in this state; also every person, firm, association or corporation who imports any motor vehicle fuel into this state and sells, distributes, or in any manner uses the same in this state whether in the original packages or containers in which it is imported or otherwise; also every person, firm, association or corporation who having acquired in this state in the original package or container, motor vehicle fuel, shall distribute or sell the same, whether in such original package or container in which the same was imported or otherwise, or in any manner use the same.

"Distributor";

(d) "Service station" is a place operated for the purpose of delivering motor vehicle fuel into the fuel tanks of motor vehicles.

"Service station";

(e) "Director." The director of licenses, State of Washington, or his duly authorized deputy or representative.

"Director";

(f) "Department." The department of licenses of the State of Washington.

"Department";

(g) "Dealer." Any person, as herein defined, engaged in the retail sale of liquid motor vehicle fuels.

"Dealer";

(h) "Person." Every natural person, firm, partnership, association, or private or public corporation.

"Person";

(i) "Highway." Every way or place of whatever nature open to the use of the public, as a matter of right, for purposes of vehicular travel.

"Highway";

(j) "Broker" shall mean and include every person, firm, association or corporation, other than a distributor, engaged in business as a broker, jobber or wholesale merchant dealing in motor vehicle fuel or other petroleum products used or usable in pro-

"Broker";

selling motor vehicles, or in other petroleum products which may be used in blending, compounding or manufacturing of motor vehicle fuel.

“Pro-
ducer.”

(k) “Producer” shall mean and include every person, firm, association or corporation, other than a distributor, engaged in the business of producing motor vehicle fuel or other petroleum products used in, or which may be used in, the blending, compounding or manufacturing of motor vehicle fuel.

License.

SEC. 2. After this act becomes effective every person, before becoming a distributor or continuing in business as a distributor, shall make an application to the director of licenses for a license authorizing such distributor or person to engage in business as a distributor. Applications for such licenses must be made to the director of licenses on forms to be prescribed, prepared and furnished by the director. Before granting any license authorizing any person to engage in business as a distributor, the director of licenses must require such person to file with said director, in such forms as shall be prescribed by said director, a bond duly executed by such person as principal with a corporate surety in the manner authorized by section 7246 of Remington’s Compiled Statutes of Washington, which bond shall be payable to the State of Washington, conditioned upon faithful performance of all the requirements of this act including the payment of all taxes, penalties and other obligations of such person, arising out of this act.

Bond.

Amount of
bond.

The total amount of the bond or bonds, required of any distributor shall be fixed by the director of licenses and may be increased or reduced by said director of licenses at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds required of any distributor, the director must require a bond or bonds equivalent in total amount to twice the estimated monthly excise

tax determined in such manner as said director may deem proper: *Provided*, If at any time the estimated excise tax to become due during the succeeding month amounts to more than fifty (50) per cent of the established bond, the director shall require additional bonds or securities to maintain the marginal ratio hereinabove set out or shall demand excise tax payments to be made weekly or semi-monthly to meet the requirements of this act: *Provided further*, Or in lieu of a bond in excess of five thousand (\$5,000.00) dollars the distributor may file with the director of licenses a property statement setting forth all the property of the distributor and the values thereof, and a complete description of said property showing any indebtedness or incumbrance and the amount thereof to the end that the director may ascertain therefrom as to whether or not the distributor can be compelled to respond in twice the amount of the taxes due or to become due hereunder; if the director shall determine that said distributor can be compelled to respond to twice the amount of said tax he may accept said statement in lieu of a bond in excess of five thousand (\$5,000.00) dollars as hereinafter provided; the director may at any time demand from the distributor a new property statement as hereinabove required and may at any time if he deems the property of the distributor insufficient to secure the payment of twice the amount of the taxes as herein provided require the distributor to furnish a bond in such amount as will secure the payment of twice the amount of the taxes: *Provided further, however*, That the total amount of the bond or bonds required of any distributor shall never be less than five thousand (\$5,000.00) dollars nor more than fifty thousand (\$50,000.00) dollars. No recoveries on any bond or any execution of any new bond shall invalidate any bond and no revocation of any license shall effect the validity of any bonds but the total recov-

Additional
bonds, when
required.

Statement in
lieu of bond.

Amount of
bonds,
limitation of.

eries under any one bond shall not exceed the amount of the bond.

Deposits in lieu of bond.

In lieu of any such bond or bonds in total amount as fixed hereunder, any distributor may deposit with the state treasurer, under such terms and conditions as the director of licenses may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the State of Washington, or any county of said state, of an actual market value not less than the amount so fixed by said director.

Release of surety.

Any surety on a bond furnished by a distributor as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty (30) days from the date upon which such surety shall have lodged with the director a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the thirty (30) day period. The director shall promptly, upon receiving any such request, notify the distributor who furnished the bond; and unless the distributor shall, on or before the expiration of the thirty (30) day period, file a new bond, or make a deposit in accordance with the requirements of this section, the director shall forthwith cancel the distributor's license.

New bond.

Whenever a new bond shall be furnished by a distributor as aforesaid, the director shall cancel the old bond of the distributor as soon as he and the attorney general shall be satisfied that all liability under the old bond has been fully discharged.

Attorney general.

Additional security.

The director of licenses may require a distributor to give a new or additional surety bond or to deposit additional securities of the character specified in this section if, in his opinion, the security of the surety bond theretofore filed by such distributor, or the

market value of the properties deposited as security by such distributor, shall become impaired or inadequate; and upon the failure of the distributor to give such new or additional surety bond or to deposit additional securities within ten days after being requested so to do by the director, the director shall forthwith cancel his license.

A filing fee of ten dollars (\$10.00) shall be paid to the director at the time of the filing of an application for a license. Filing fee.

SEC. 3. The application in proper form having been accepted for filing, the filing fee paid, and the bond or other security having been accepted and approved, the director shall issue to such distributor a license to transact business as a distributor in the State of Washington subject to cancellation of such license as provided by law. Distributors license, issuance of.

The license so issued by the director shall not be assignable, and shall be valid only for the distributor in whose name issued. Not assignable.

The director shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed distributors. Files, records.

Each distributor shall be assigned a license number upon qualifying for a license hereunder, and the director shall issue to each such licensee a license certificate which shall be displayed conspicuously by the distributor at his principal place of business in this state. The director shall also issue separate license cards for each bulk storage plant operated by such distributor. Such license cards shall indicate the number so assigned the distributor, the location of the storage plant for which the card is used, and such other information as the director may prescribe. Such license card shall be conspicuously displayed at each bulk storage plant to which it is assigned, and it shall be unlawful for any distributor to operate or maintain a bulk storage plant in this Number.
Certificate.
License cards.

state for the purpose of storing motor fuel without displaying such license card as herein provided.

Application
not filed in
good faith.

In the event that any application for a license to transact business as a distributor in the State of Washington shall be filed by any person whose license shall at any time theretofore have been cancelled for cause by the director, or in case said director shall be of the opinion that such application is not filed in good faith, or that such application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been cancelled for cause by said director, then and in any of such events the director after a hearing, of which the applicant shall have been given five (5) days' notice in writing and in which said applicant shall have the right to appear in person or by counsel and present testimony, shall have and is hereby given the right and authority to refuse to issue to such a person a license to transact business as a distributor in the State Washington.

Hearing.

Refusal to
issue.

Renewal.

Licenses issued under the provisions of this act shall be renewed before the first day of July, 1934, and annually thereafter before the first day of July of each year following, upon an application, as aforesaid, being made to the department, but no license shall be renewed until the applicant shall file with the department a new surety bond, or keep on deposit other security in the same manner required on application for an original license.

Date
effective.

It shall be unlawful from and after July 1, 1933, for any person to be a distributor without first securing from the director of licenses a license for which provision is made in this section.

Discon-
tinuance of
business.

SEC. 4. Whenever a distributor ceases to engage in business as a distributor within the State of Washington by reason of the discontinuance, sale or transfer of the business of such distributor, it shall be the duty of such distributor to notify the director

in writing at the time the discontinuance, sale or transfer takes effect. Such notice shall give the date of discontinuance, and, in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee thereof. All taxes, penalties, and interest under this act, not yet due and payable under other provisions hereof, become due and payable concurrently with such discontinuance, sale or transfer, and it shall be the duty of any such distributor, to make a report and pay all such taxes, interest and penalties, and to surrender to the director the license certificate theretofore issued to said distributor by the director.

Notice.

Taxes,
penalties,
due.

Unless the notice above provided for shall have been given to the director as above provided, such purchaser or transferee shall be liable to the State of Washington, for the amount of all taxes, penalties, and interest under this act accrued against any such distributor so selling or transferring his business, on the date of such sale or transfer, but only to the extent of the value of the property and business thereby acquired from such distributor.

Notice not
given, pur-
chaser liable.

SEC. 5. Every distributor shall pay, in addition to any other taxes provided by law, an excise tax to the treasurer of this state of five (5) cents for each gallon of motor vehicle fuel sold, distributed or used by it in the State of Washington. The tax herein imposed shall be collected and paid to the State of Washington but once in respect to any motor vehicle fuel. Bills shall be rendered by distributors to all purchasers of inflammable petroleum products of fifty (50) gallons or more, and upon request to all purchasers of smaller lots. In the case of sales of motor vehicle fuels as herein defined, such bills shall contain a statement that the distributor has assumed the tax thereon; and in other cases the bills shall contain a statement that the purchaser is re-

Excise tax.

Bills.

sponsible for the tax, if the product shall be used for the purpose of operating a motor vehicle.

Petroleum products other than motor vehicle fuel.

SEC. 6. Every person who shall use any inflammable petroleum products other than motor vehicle fuel, to operate a motor vehicle, as herein defined, shall pay a tax of five (5) cents for each gallon thereof so used. Every such person shall report to the director and pay the tax in the manner provided for distributors in sections 7 and 8 of this act.

Statement of total gallons sold.

SEC. 7. Every distributor shall on or before the fifteenth day of each calendar month file, on forms prescribed, prepared and furnished by the director of licenses, a sworn statement showing the total number of gallons of motor vehicle fuel sold, distributed or used by such distributor within this state during the preceding calendar month. If any distributor shall fail, neglect or refuse to file such report, the director of licenses shall proceed forthwith to determine from the best available sources, the amount of motor vehicle fuel sold, distributed or used by such distributor for the period unreported, and said determination shall be conclusive upon the distributor for that period. The director of licenses shall immediately assess the excise tax in the amount so determined, adding thereto a penalty of ten per cent for failure to report. Said penalty shall be cumulative of other penalties herein provided. All statements filed with the director, as required in this section, shall be public records.

Failure to file.

Penalty.

Delinquent, when.

SEC. 8. The amount of excise tax for each month shall be paid to the treasurer of the State of Washington on or before the fifteenth day of the next month thereafter, and if not paid prior thereto, shall become delinquent at five o'clock in the afternoon of said day, and a penalty of ten per cent shall be added thereto for delinquency.

In any suit brought to enforce the rights of the state hereunder, the certificate of the director of

licenses showing the amount of taxes, penalties and costs unpaid by any distributor and that the same are due and unpaid to the state shall be *prima facie* evidence of the facts as shown.

Certificate of director *prima facie* evidence.

If any person shall become a distributor without first securing the license required by section 3 of this act, the excise tax provided in section 5 hereof shall be immediately due and payable on account of all motor vehicle fuel distributed or used by such person. The director of licenses shall proceed forthwith to determine from the best available sources, the amount of such tax, and he shall immediately assess the tax in the amount found due, together with a penalty of 100% of the tax, and shall make his certificate of such assessment and penalty. In any suit or proceedings to collect such tax or penalty, or both, such certificates shall be *prima facie* evidence that the person therein named is indebted to the State of Washington in the amount of the tax and penalty therein stated. Any tax or penalty so assessed may be collected in the manner prescribed in this act with reference to delinquency in payment of the tax or by an action at law, which the attorney general shall commence and prosecute to final determination at the request of the director of licenses. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken pursuant to this section shall relieve in any wise any person from the penal provisions of this act.

Distributing without license.

Penalty.

Prima facie evidence.

Attorney general.

SEC. 9. In the event that any distributor is delinquent in the payment of his excise tax hereunder, the director of licenses may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or other personal property belonging to such distributor, or owing any debts to such distributor, at the time of receipt by them of such notice, and thereafter such persons so notified

Notice of delinquency to persons holding property of distributor.

After notice transfer restricted. shall neither transfer nor make any other disposition of such credits, other personal property or debts, until twenty days shall have elapsed from and after receipt of such notice unless the director of licenses shall have given his consent to a previous transfer, or other disposition. All persons so notified must, within five days after receipt of such notice, advise the director of licenses of any and all such credits, other personal property or debts in their possession, under their control or owing by them, as the case may be.

Disclosure of credits.

Non-payment of tax.

If any person liable for the tax imposed by the provisions of this act, neglects or refuses to pay the same, the amount of such tax (including any interest, penalty or addition to such tax, together with any costs that may accrue in addition thereto) shall be a lien in favor of the state upon all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by such person (whether such property is employed by such person in the prosecution of business or is in the hands of an assignee, trustee or receiver for the benefit of creditors) from the date such taxes are due and payable as provided in this act, and remaining until the amount of the lien is paid or the property sold in payment thereof. Such lien shall have

Lien:

Priority of.

priority over any lien or incumbrance whatsoever, except the lien of other state taxes having priority by law, and except that such lien shall not be valid as against any bona fide mortgagee, pledgee, judgment creditor, or purchaser whose right shall have attached prior to the time the director shall have filed notice of such lien in the office of the county auditor of the county in which the principal place of business of such person is located. Such auditor, upon presentation of the notice of lien and without requiring the payment of any fee, shall file and index the same in the manner now provided for deeds and

Notice of lien.

other conveyances except that the auditor shall not be required to include, in the index, any descriptions of the property affected by the lien. Such lien shall continue until the amount of said tax, together with and penalties and interest subsequently accruing thereon is paid. The director may issue a certificate of release of lien when the amount of such tax, together with any penalties and interest subsequently accruing thereon, has been satisfied, and such release may be recorded with the auditor of the county in which the notice of lien has been filed.

Release of.

It shall be the duty of the director to furnish to any person applying therefor a certificate showing the amount of all liens for motor vehicle fuel tax, penalties, and interest that may be of record in the files of the director against any person under the provisions of this act.

Certificate of liens.

If any distributor shall be in default for more than ten (10) days in the payment of any excise taxes or penalties thereon, payable under the terms of this act, the director shall issue a warrant under the official seal of his office directed to the sheriff of any county of the state commanding said sheriff to levy upon and sell the goods and chattels of such distributor, without exemption, found within his jurisdiction, for the payment of the amount of such delinquency, with the added penalties and interest and the cost of executing the warrant, and to return such warrant to the director and to pay said director the money collected by virtue thereof within the time to be therein specified, which shall not be less than twenty (20) nor more than sixty (60) days from the date of the warrant. The sheriff to whom any such warrant shall be directed shall proceed upon the same in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against goods and chattels upon judgment by a court of record and shall be entitled

Default.

Sheriff to levy.

Execution.

Rights in
collecting.

to the same fees for his services to be collected in the same manner, provided that nothing in this section shall be construed as forfeiting or waiving any right to collect such taxes by an action on the bond that may be filed with the director or to forfeit any money or securities deposited with the director, under the provisions of this act, or by suit or otherwise and in case of such suit, action or other proceeding shall have been instituted for the collection of said tax, such suit, action or other proceeding shall not be construed as waiving any other right herein provided.

Suit on bond.

In a suit or action on any bond filed with the director recovery thereon may be had without first having sought or exhausted the remedy against the distributor.

Distributors
record.

SEC. 10. Every distributor must keep a true and accurate record on such form as the director of licenses may prescribe of all stock of petroleum products on hand, of all raw gasoline, gasoline stock, diesel oil, kerosene, kerosene distillates, casing-head gasoline and other petroleum products needed in, or which may be used in, compounding, blending or manufacturing motor vehicle fuel; of the amount of crude oil refined, the gravity thereof and the yield therefrom, as well as of such other matters relating to transactions in petroleum products as said director of licenses may direct. Every distributor must take a physical inventory of the petroleum products at least once during each calendar month and must have the record of such inventory and of the other matters mentioned in this section available at all times for the inspection of the director of licenses and his representatives. Upon demand of the director of licenses or his representatives every distributor must furnish a statement under oath reflecting the contents of any records to be kept under this act. Every distributor receiving from any

Monthly
inventory.

Under
oath.

vessel, motor vehicle fuel carried by such vessel from outside the state must give notice in writing on forms provided by the director to the director of licenses, at least 36 hours before discharge of such motor vehicle fuel begins, of the name of such vessel, the place and approximate time of the discharge of such motor vehicle fuel, and of the tanks or other containers into which said motor vehicle fuel is to be discharged: *Provided*, That the director shall have the right, in proper cases, to waive the notice here required.

Fuel by vessel from outside state.

36 hour notice before discharge.

Waiver of notice.

Every producer must keep a true and accurate record in such form as may be prescribed by the department of licenses of all manufacture and distribution of casing-head gasoline, kerosene distillates and other petroleum products used in, or which may be used in, the blending, compounding, or manufacturing of motor vehicle fuel, and every broker must likewise keep a true and accurate record of all purchases of such petroleum products in such manner as to disclose the vendor, the quantity purchased, the correct description of the commodity, and the means of transportation from said broker to the vendee. All such records required by this section must be available at all times for the inspection of said director or his representative who may require a statement under oath reflecting contents thereof.

Record, of producer ;

of broker.

SEC. 11. Each distributor shall maintain and keep in the office of his principal place of business in this state, for a period of two years, such records or record of motor vehicle fuels used or sold and delivered within this state by such distributor, together with invoice, bills of lading, and other pertinent papers as may be required under the provisions of this act.

Records of distributor.

It shall be the duty of every dealer purchasing motor vehicle fuels taxable under this act from a distributor for the purpose of resale, to maintain

Record of dealer.

and keep within this state, for a period of one year a record of motor vehicle fuels received, the amount of tax paid to the distributor as part of the purchase price, together with delivery tickets, invoices, and bills of lading, and such other records as the director shall require.

Additional reports.

SEC. 12. The director of licenses may, from time to time, by regulation of his department, require additional reports from distributors, brokers, dealers, or producers with reference to any of the matters herein concerned. Such reports shall be made and filed on forms prepared by the director of licenses.

Examination of records.

SEC. 13. The director of licenses, or his duly authorized agents, shall have the power and is hereby authorized to make any and all such examinations, of the records, stocks, facilities and equipment of distributors, producers, brokers, and service stations, and such other investigations as he may deem necessary in carrying out the provisions of this act. If such examinations or investigations made by the director of licenses shall disclose that any reports of distributors of motor vehicle fuel theretofore filed with said director by said distributors pursuant to the requirements of this act have shown incorrectly the amount of gallonage of motor vehicle fuel distributed or the tax accruing thereon, said director shall have the power and is hereby authorized to make such changes in subsequent reports and payments of said distributors under this act as he may deem necessary to correct the errors disclosed by his examinations or investigations as hereinbefore authorized: *Provided*, All such corrections, changes or credits shall have the approval of the director of efficiency in addition to the director of licenses.

Corrections.

Approval of changes.

SEC. 14. It shall be the duty of the director of licenses to revoke the license of any distributor

refusing or neglecting to comply with any provision of this act. The director shall mail by registered mail addressed to such distributor at its last known address appearing on the files of the director, a notice of intention to cancel, which notice shall give the reason for the cancellation. Such cancellation shall become effective without further notice if within ten (10) days from the mailing of the notice the distributor shall not have made good its default or delinquency.

Revocation
of license.

Notice.

The director is hereby given the power to cancel any license issued to any distributor, such cancellation to become effective sixty (60) days from the date of receipt of the written request of such distributor for cancellation thereof, or said director may cancel the license of any distributor upon investigation and sixty (60) days' notice mailed to the last known address of such distributor if said director shall ascertain and find that the person to whom such license has been issued is no longer engaged in the business of a distributor, and has not been so engaged for the period of six (6) months prior to such cancellation. But no such license shall be cancelled upon the request of any distributor until and unless the distributor shall, prior to the date of such cancellation, have paid to the State of Washington, all taxes imposed by the provisions of this act, together with any and all penalties and fines accruing by reason of any failure on the part of said distributor to make accurate reports as required by this act and/or to pay said taxes and/or penalties.

Cancellation.

Upon request.

Upon investi-
gation.

In the event that the license of any distributor shall be cancelled by the director as hereinbefore in this section provided, and in the further event that said distributor shall have paid to the State of Washington all excise taxes due and payable by it under the laws of the State of Washington upon

Cancellation
of bond.

the receipt, sale, or use of motor vehicle fuel, together with any and all penalties accruing by reason of any failure on the part of said distributor to make accurate reports or to pay said tax and/or penalties, then the director shall cancel the bond filed by said distributor.

Carriers of fuel.

SEC. 15. Every railroad company, every street, suburban or interurban railroad company, every pipe line company, every water transportation company, and every carrier, except a duly licensed distributor, transporting motor vehicle fuel, kerosene, naphtha or benzine in bulk, between points within the State of Washington, and every person transporting motor vehicle fuel, kerosene, naphtha or benzine in bulk, by whatever manner to a point in the State of Washington from any point outside of said state, or from any point within this state to a point outside the state, shall report under oath to the director on forms prescribed by the director, all deliveries of motor vehicle fuel, kerosene, naphtha or benzine in bulk so made to points within or without the State of Washington.

Report of carriers.

Such reports shall cover monthly periods, shall be submitted on forms supplied by the director and within fifteen (15) days after the close of the month covered by the report. They shall show the name and address of the person to whom the deliveries of motor vehicle fuel, kerosene, naphtha or benzine in bulk have actually and in fact been made; the name and address of the originally named consignee, if the motor vehicle fuel, kerosene, naphtha or benzine in bulk shall have been delivered to any other than the original consignee; the point of origin, the point of delivery, the date of delivery, and the name and initials of each tank car and the number of gallons contained therein, if shipped by rail; the name of the boat, barge or vessel, and the number of gallons contained therein, if shipped by water;

Contents.

the vehicle license number and the motor vehicle fuel transport license number of each tank truck and the number of gallons contained therein, if transported by motor truck; if delivered by other means, the manner in which each delivery is made; and such other additional information relative to shipment of motor vehicle fuel as the director may require.

The director of licenses or his authorized agents shall have the right at any time during normal business hours to inspect the books of any carrier to determine if the requirements of this section are being properly complied with.

SEC. 16. Every person operating any conveyance for the purpose of hauling, transporting, or delivering motor vehicle fuel, kerosene, or other inflammable petroleum products in bulk, shall before entering upon the public highways of this state with such conveyance, apply, for the registration thereof with the director of licenses on such forms as shall be provided by the director and the director shall assign a license number to such person and shall issue separate license cards for each conveyance intended to be operated over the highways of this state, which card shall show the license numbered [number] assigned, the motor number, if any, of the conveyance and such other information as the director may prescribe. Such card shall be conspicuously displayed on the conveyance at all times during its operation on the public highways of this state. The director shall furnish to the licensee, duplicate license plates for each conveyance so operated, containing the number assigned to the licensee, and the words "Washington Motor Vehicle Fuel Transport License" or any abbreviation thereof authorized by the director. The authorized number plates shall be attached conspicuously on the left front side and the rear of such conveyance in

Inspection
of boats.

Vehicles
transporting
fuel.

Registration
of.

License
card.

License
plates.

such manner that they can be plainly seen and read at all times. Each number plate shall be attached in a horizontal position not less than three (3) feet nor more than six (6) feet from the ground and shall be kept clean so as to be plainly read at all times. It shall be the duty of the owner or operator of any such conveyance to secure from the director, under such conditions as the director may require, new number plates to replace any such plates which may have been damaged to such an extent that the figures thereon cannot be plainly read. The director of licenses shall charge and collect from each licensee the sum of one (\$1.00) dollar for each set of two (2) license plates and seventy-five (75) cents for each single plate assigned as replacement of a damaged plate. Nothing contained in this section shall in any manner relieve or discharge the owner or operator of such conveyance from complying with any or all provisions of existing laws.

Fee.

Existing laws.

Persons transporting fuel.

To carry invoice or statement.

Inspection of statement.

All such persons must have and possess during the entire time they are hauling or transporting said motor vehicle fuel, an invoice, bill of sale or other statement showing the true name and address of the seller or consignor, the name of the purchaser or consignee, if any, the number of gallons, and the name and address of the person who has assumed or who shall assume the payment of the tax. The person hauling said motor vehicle fuel or other inflammable petroleum products shall at the request of any sheriff, deputy sheriff, constable, highway patrolman, or authorized representative of the department of licenses, or other person authorized by law to inquire into, or investigate said matters, produce and offer for inspection said invoice, bill of sale or other statement and shall permit such official to inspect and gauge the contents of the vehicle. If said person fails to produce said invoice, bill of sale or other statement, or if when produced

it fails to disclose the aforesaid information, then the said officer or other person authorized to make said inquiry, shall take and impound the said motor vehicle fuel or other inflammable petroleum products, together with the conveying equipment until the tax on said gasoline, together with penalty equal to one hundred (100%) per cent of said tax, and other expenses, charges and costs have been paid. In case of the default, and the taking and impounding hereinbefore provided for, the tax, damage and costs shall be collected, even though the full excise tax may have already been paid on said motor vehicle fuel, or other inflammable petroleum products. In case the tax, damages, and other charges are not paid within forty-eight (48) hours after the taking of said property, the director of licenses may proceed to sell the same in the mode and manner provided by law for the sale of personal property under execution.

Penalty.

Sale of property.

SEC. 17. Every person who imports motor vehicle fuel into this state for his own use in equipment other than motor vehicles shall not, for that reason alone, be required to secure a distributor's license or to comply with any of the provisions of this act herein imposed upon a distributor; but such person shall make a report verified under oath and file the same with the director on or before the tenth (10th) day of the succeeding month, showing the number of gallons of motor vehicle fuel so imported and the number of gallons of such motor vehicle fuel used during the preceding month, the name of the person from whom the motor vehicle fuel was purchased, the date of purchase, the place of storage, and the manner of use or intended use together with a description of the equipment in which the same is used. These reports shall be filed upon blanks prepared and furnished by the director: *Provided, however,* That any person

Importing fuel for purposes other than motor vehicles.

To make report.

Aircrafts,
motor boats.

Fuel used
for vehicle
carrying
same.

coming into this state in an aircraft or motor boat shall not be required to make such a report in respect to any motor vehicle fuel carried in the fuel tanks of such vehicle for the purpose of propelling such vehicle, and every person coming into this state in a motor vehicle may transport in the fuel tanks of such vehicle for the propulsion thereof not more than twenty (20) gallons of motor vehicle fuel or other inflammable petroleum products without paying the tax, securing the license or making any report herein provided, but if the motor vehicle fuel so brought into the state be removed from the fuel tanks of said vehicles or used for any purpose other than the propulsion of said vehicles, the person so importing motor vehicle fuel shall be subject to all the provisions of this act applying to distributors. The director of licenses shall have the right in order to establish the validity of any exemption, to examine the books and records of the claimant for such purpose and the failure of the claimant to accede to the demand for such examination shall constitute a waiver of all rights to the exemption herein granted.

Interstate
and foreign
commerce.

Sale to U. S.

Reports.

The provisions of this act requiring the payment of taxes shall not be held or construed to apply to motor vehicle fuel, or other inflammable petroleum products, imported into the State of Washington in interstate or foreign commerce and intended to be sold while the same are in interstate or foreign commerce, nor to any motor vehicle fuel, or other inflammable petroleum products, exported from this state, nor to any motor vehicle fuel, or other inflammable petroleum products, sold to the government of the United States or any department thereof for official use of such government, but every distributor shall report such imports, exports and sales to the director of licenses at such times, on such forms and in such detail as said director may require.

In support of any exemption from taxes claimed under this section on account of the exportation of motor vehicle fuel, every distributor must execute an export certificate in such form as shall be prescribed, prepared and furnished by the director of licenses, containing a sworn statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the State of Washington, and giving such details with reference to such shipment as said director may require. All export certificates must be completed and filed with the director of licenses thirty (30) days after the end of the calendar month in which the shipments to which they relate were made, and no certificate not so completed and filed within such period shall be recognized for any purpose by the State of Washington or any agency thereof. The director of licenses may demand of any distributor such additional data as are deemed necessary by said director in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate.

Exportation.

Filing of certificate.

Any claim for exemption based on a sale to the government of the United States or any department thereof may be made by the distributor at any time within six (6) months after the date of sale, but, no claim made after the expiration of said period of six (6) months will be recognized for any purpose by the state or any agency thereof.

Sale to U. S., exemptions.

Nothing herein contained shall be construed to exempt from the payment of the tax any motor vehicle fuel sold and delivered to or used by the State of Washington or any political subdivision thereof, or any inflammable petroleum products other than motor vehicle fuel, used by the State of Washington, or any political subdivision thereof, on the propulsion of motor vehicles as herein defined.

Sale to state.

Motor vehicle fuel or other inflammable petroleum products used by the United States or any of the governmental agencies thereof shall not be subject to tax hereunder. But any person, firm, association or corporation who shall purchase or otherwise acquire motor vehicle fuel as herein defined upon which the state tax has not been paid, from the United States government, or any of its agents or officers, for use not specifically associated with any governmental function or operation or shall so acquire inflammable petroleum products other than motor vehicle fuel and use the same in the propulsion of motor vehicles as herein defined, for a use not associated with any governmental function or operation, shall pay to the State of Washington the tax herein provided upon the motor vehicle fuel, or other inflammable petroleum products so acquired. It shall be unlawful for any person to use or to conspire with any governmental official, agent, or employee for the use of any requisition, purchase order, or any card or any authority to which he is not specifically entitled by government regulations, for the purpose of obtaining any such motor vehicle fuel or other inflammable petroleum products, upon which the state tax has not been paid.

Use of U. S. fuel for purposes not governmental.

Uses other than in motor vehicles on highways.

SEC. 18. (a) Any person who shall use any motor vehicle fuel as herein defined for the purpose of operating or propelling stationary gas engines, farm tractors, aircraft, or boats or who shall purchase and use any such fuel for cleaning or dyeing or other use of the same, except in motor vehicles operated or intended to be operated upon the public highways of the state, or export the same for use outside of this state, and who shall have paid any license tax for such motor vehicle fuel hereby required to be paid, either directly to the vendor from whom it was purchased or indirectly by adding the amount of such license tax to the price of

such fuel, shall be reimbursed and repaid the amount of such excise tax so paid upon presenting to the director of licenses an affidavit supported by the original invoice or invoices showing purchase, which affidavit shall be verified by the oath of the claimant and shall state the name of the person from whom purchased, date of purchase, the total amount of such motor vehicle fuel, that the fuel so purchased has been paid for and that the same has been exported for use outside this state: (*Provided, however,* That any motor vehicle fuel carried from this state in the fuel tanks of a motor vehicle shall not be considered as exported from this state) or used by said claimant otherwise than in motor vehicles operated or intended to be operated upon the public highway within the State of Washington, in which case the affidavit shall further show the manner of use and the equipment in which the motor vehicle fuel has been used, the amount of gas purchased from other sources during said period upon which no refund is claimed, the date and the place where said purchases were made and the kind and number of motor vehicles in which said gas was used for which no refund is claimed.

Reimburse-
ment.

Affidavit.

Fuel carried
outside state
in tanks of
motor
vehicles.

Upon the approval by the director of licenses of such affidavit and such vouchers, the state auditor shall draw his warrant upon the state treasurer for the amount of such claim in favor of such claimant and such warrant shall be paid from the excise tax collected on motor vehicle fuel: *Provided,* That application for reimbursements and repayments as provided herein shall be filed with the director of licenses within sixty (60) days from the date of purchase, or not at all unless the applicant shall have obtained from the director of licenses at the time of the purchase of the gas an extension of time for the filing of the application for the refund which said director is authorized upon proper showing

Payment of
reimburse-
ment.Filing of
application,
time.

to extend the time not to exceed six (6) months from the date of purchase, and any person or the member of any firm or the officer or agent of any corporation who shall make any false statement in any affidavit required herein for the reimbursement and repayment of any money or taxes as provided in this section, or who shall collect or cause to be repaid to him or to any other person any such reimbursement or refund without being entitled to the same under the provisions of this section, shall be guilty of a gross misdemeanor.

False
statement.

Additional
proof.

(b) The director of licenses shall have the right, in order to establish the validity on any claim to require claimant to furnish such additional proof of the validity of the claim as said director may determine, and to examine the books and records of the claimant for such purpose and the failure of the claimant to accede to the demand for such examination shall constitute a waiver of all rights to the refund claimed on account of the transaction questioned.

(c) When motor vehicle fuel is sold to a person who shall claim to be entitled to a refund of the tax hereunder imposed, the seller of such motor vehicle fuel shall make out separate invoices for each purchase on forms which shall be approved by the director, showing the name and address of the seller and the name and address of the purchaser, the number of gallons of motor vehicle fuel so sold written in words and figures and the date of purchase. Such invoice shall be legibly written and shall be void if any corrections or erasures appear upon the face thereof.

Separate
invoices.

Refund
permit.

(d) All applicants claiming a refund under the provisions of this section shall obtain an annual permit from the director of licenses by application therefor on such form as he shall prescribe, which application therefor shall be made under oath and

shall contain, among other things, the name, address and occupation of the applicant and the nature of the business and a sufficient description for identification of the machines and/or equipment in which the motor fuel is to be used, for which refund may be claimed under such permit. The permit shall bear a permit number and all applications for refund shall bear the number of the permit under which it is claimed. It is the duty of the director to keep a permanent record of all permits issued and a cumulative record of the amount of refund claimed and paid thereunder. Such permit shall be obtained before or at the time that the first application for refund is made under the provisions of this act. At the time of filing an application for annual refund permit, applicant shall pay to the director an annual permit fee of fifty (50) cents which shall be deposited in the motor vehicle fund.

Fee.

(e) A refund shall be made or a credit allowed for the tax paid or accrued on all motor vehicle fuel which, after shipment or receipt, shall be lost or destroyed by fire, lightning, flood, wind, storm, or explosion, but such loss or destruction must be proved to the complete satisfaction of the director.

Loss or destruction, refund.

SEC. 19. Any person, firm, association or corporation or any officer or agent thereof failing to pay the tax as herein provided, or violating any of the other provisions of this act, or making any false statement, or concealing any material fact in any report, record, affidavit or claim provided for herein, shall be guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five hundred (\$500.00) dollars nor more than five thousand (\$5,000.00) dollars or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Violations.

Penalty.

Any person, firm, association or corporation or any officer or agent thereof who, through false

Illegal diversion or return of fuel to state.

statement, trick or device, or otherwise, obtains motor vehicle fuel for export and fails to export the same or any portion thereof, or causes said motor vehicle fuel or any thereof not to be exported, or who diverts said motor vehicle fuel or any thereof or who causes to be diverted from interstate or foreign transit begun in this state, or who unlawfully returns said fuel or any thereof to this state and sells or uses said fuel or any thereof in this state or causes said fuel or any thereof to be used or sold in this state and fails to notify the distributor from whom such motor vehicle fuel was originally purchased of his act, and any distributor or other person who conspires with any person, firm, association or corporation, or any officer or agent thereof, to withhold from export, or divert from interstate or foreign transit begun in this state, or to return motor vehicle fuel to this state for sale or use with intent to avoid any of the taxes imposed by this act, shall be guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not less than five hundred (\$500.00) dollars nor more than five thousand (\$5,000.00) dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment in the county jail. Each shipment illegally diverted or illegally returned shall be construed a separate offense, and the unit of each shipment shall be the cargo of one vessel, or one railroad carload, or one automobile truck load, or such truck and trailer load, or one drum, or one barrel, or one case or one can.

Penalty.

Unlawful acts:

(b) It shall be unlawful for any person to commit any of the following acts:

1. To display, or cause to permit to be displayed, or to have in possession, any motor vehicle fuel transport or distributor's license knowing the

same to be fictitious or to have been suspended, cancelled, revoked, or altered; Display fictitious license.

2. To lend to, or knowingly permit the use of, by one not entitled thereto, any motor vehicle fuel transport or distributor's license issued to the person lending it or permitting it to be used; Lend license.

3. To display or to represent as one's own any motor vehicle fuel transport or distributor's license not issued to the person displaying the same; Display license of another.

4. To use a false or fictitious name or give a false or fictitious address in any application or form required under the provisions of this act, or otherwise commit a fraud in any application, record, or report; Make false application.

5. To refuse to permit the department of licenses, or any agent appointed by it in writing, to examine his books, records, papers, storage tanks, or other equipment pertaining to the use or sale and delivery of motor vehicle fuels within the State of Washington. Refuse permission to examine books.

Except as herein otherwise provided, any person violating any of the provisions of this act shall be guilty of a gross misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred (\$500.00) dollars nor more than one thousand (\$1,000.00) dollars and costs of prosecution, or imprisonment for not more than one (1) year, or both, in the discretion of the court. Violation.

Penalty.

SEC. 20. All moneys collected by the director of licenses shall be transmitted forthwith to the state treasurer, together with the statement showing from whence the moneys were derived and shall be by him credited to the motor vehicle fund. A duplicate of such statement shall be sent to the state auditor. Money collected.

SEC. 21. Fifty (50) per cent of all fines and forfeitures imposed in any criminal proceeding by any

Fines, forfeitures, etc., how distributed.

court of this state for violations of the penal provisions of this act shall be paid to the current expense fund of the county wherein collected and the remaining fifty (50) per cent shall be paid into the motor vehicle fund of the state. All fees and penalties collected by the director under the penalty provisions of this act shall be paid into the motor vehicle fund.

Fees, penalties.

Enforcement of act.

SEC. 22. The department shall be charged with the enforcement of the provisions of this act. Such employees of the state as are designated as "state highway patrolmen" shall aid the department in the enforcement of this act, and, for this purpose, are hereby declared to be peace officers, and are hereby given police power and authority throughout the state to arrest on view, without writ, rule, order or process, any person known to have violated any of the provisions of this act.

In lieu of excise tax.

SEC. 23. The tax herein levied is in lieu of any excise, privilege or occupational tax upon the business of manufacturing, selling or distributing motor vehicle fuel, and no city, village, town, county, township or other subdivision or municipal corporation of the state shall levy or collect any excise tax upon or measured by the sale, receipt, distribution or use of motor vehicle fuel.

Partial invalidity.

SEC. 24. If any section, part or provision of this act shall be adjudged to be invalid or unconstitutional such adjudication shall not affect the validity of the act as a whole, or any section, provision or part thereof not adjudged invalid or unconstitutional.

Repeals ch. 173, Laws of 1921; ch. 81, Laws of 1923; §§ 3, 4, part of 5, ch. 88, Laws of 1929; §§ 2, 3, ch. 140, Laws of 1931.

SEC. 25. Chapter 173, Laws of Washington of 1921; chapter 81, Laws of Washington of 1923; sections 3, 4 and provisions of section 5 in conflict herewith, of chapter 88, Laws of Washington of 1929; sections 2 and 3, chapter 140, Laws of Wash-

ington of 1931 and all other acts and parts of acts in conflict with the provisions of this act are hereby repealed.

SEC. 26. This act is necessary for the immediate preservation of the public peace, health and safety, support of the state government and its existing public institutions and shall take effect April 1, 1933: *Provided*, That distributors shall not be required to qualify under this act until July 1, 1933.

Effective
April 1, 1933.

SEC. 27. For the purpose of carrying out the provisions of this act, the state treasurer is herewith directed to have audited by the director of efficiency and turn over to the director of licenses, all files, records and documents of every nature and description now held by him by virtue of his duties and powers with relation to gasoline refunds.

Auditing
and disposal
of treasurer's
files.

Passed the House February 23, 1933.

Passed the Senate February 22, 1933.

Approved by the Governor March 4, 1933.

CHAPTER 59.

[H. B. 424.]

ADDITIONAL JUDGES FOR KING COUNTY.

AN ACT relating to the superior court of the State of Washington in class A counties; providing for additional judges therein and for their appointment and election, and for their compensation by an increase in court filing fees, and declaring an emergency.

*Be it enacted by the Legislature of the State of
Washington:*

SECTION 1. In every civil action hereafter commenced in the superior court of this state in and for the counties to which this act is applicable, there shall be paid to the clerk of the court, in addition to any other fees now required by law, by the plain-