

CHAPTER 84.

[S. B. 05.]

EXCISE TAX ON GASOLINE.

AN ACT relating to the excise tax on gasoline and other inflammable liquids, amending sections 7, 8, 15, 17 and 18, chapter 58, Laws of 1933, as amended (secs. 8327-7, 8327-8, 8327-15, 8327-17 and 8327-18, Rem. Rev. Stat.) and declaring an emergency.

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

SECTION 1. That section 7, chapter 58, Laws of 1933 (sec. 8327-7, Rem. Rev. Stat.) be amended to read as follows: Amendments.

Section 7. Every distributor shall on or before the twenty-fifth 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. Time for filing reports.
Director to act in failure.
Penalty added.

SEC. 2. That section 8, chapter 58, Laws of 1933 (sec. 8327-8, Rem. Rev. Stat.) be amended to read as follows: Amendments.

Section 8. The amount of excise tax for each month shall be paid to the treasurer of the State of Remit tax to treasurer.

Penalty for delinquency.

Washington on or before the twenty-fifth 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.

Certificate *prima facie* evidence.

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.

Unlicensed operation subject to penalty.

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.

Action at law.

SEC. 3. That section 15, chapter 58, Laws of 1933 (sec. 8327-15, Rem. Rev. Stat.) be amended to read as follows: Amendments.

Section 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. Carriers to report.

Such reports shall cover monthly periods, shall be submitted on forms supplied by the Director and within twenty-five (25) 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; 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 Reports monthly.
Facts to be reported.

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.

Books
subject to
inspection.

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.

Amendments.

SEC. 4. That section 17, chapter 58, Laws of 1933, as amended by section 4, chapter 177, Laws of 1939 (sec. 8327-17, Rem. Rev. Stat.) be amended to read as follows:

Importer
to report.

Section 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 or with the provisions of section 5 (a) of this act; 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 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

Propulsion
fuel
excepted.

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.

Limited to use in vehicle.

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 inter-state or foreign commerce and intended to be sold while the same are in inter-state 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, nor to aviation gasoline for use exclusively in airplanes, delivered in bulk (excluding barrel and package deliveries), to such aviation gasoline dealers and/or users as authorized and under regulations prescribed by the Director of Licenses, 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.

Interstate or foreign commerce excepted.

Other exceptions.

Export
certificate.

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 sixty (60) days after the end of the calendar month in which the shipments to which they relate were made. 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.

Time limit
for filing.

Exemption
claim.

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.

Time limit.

State not
exempt.

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.

U. S. Gov't
fuel not
taxable.

Motor vehicle fuel or other inflammable petroleum products used by the United States or any of the governmental agencies thereof shall not be sub-

ject 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.

Non-governmental use makes taxable.

Conspiracy unlawful.

SEC. 5. That section 18, chapter 58, Laws of 1933, as amended by section 2, chapter 109, Laws of 1935 and section 2, chapter 219, Laws of 1937 (sec. 8327-18, Rem. Rev. Stat.) be amended to read as follows:

Amendments.

Section 18. Any person desiring to claim a refund shall obtain an annual permit from the Director of Licenses by application therefor on such form as he shall prescribe, which application 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 or equipment in which the motor vehicle 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

Provision for refund.

Record of permits.	<p>the number of the permit under which it is claimed. It is the duty of the Director of Licenses 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 chapter. At the time of filing an application for annual refund permit, the applicant shall pay to the Director of Licenses an annual permit fee of fifty (50) cents, which shall be deposited in the motor vehicle fund. All permits shall expire on the thirty-first day of March following the date of their issue.</p>
Permit fee.	
Who entitled to refund.	<p>Any person who shall use any motor vehicle fuel as herein defined for the purpose of operating any internal combustion engine not used on nor in conjunction with any motor vehicle capable of being operated upon a public highway, and as the motor power thereof, upon which motor vehicle fuel excise tax provided for in this chapter has been paid, shall be entitled to and shall receive a refund of the amount of the motor vehicle fuel excise tax so provided for in this chapter paid on each gallon of motor vehicle fuel so used, whether such motor vehicle excise tax has been paid either directly to the vendor from whom the motor vehicle fuel was purchased or indirectly by adding the amount of such excise tax to the price of such fuel: <i>Provided</i>, That no refund shall be made in any case for motor vehicle fuel consumed in any motor vehicle as herein defined. Every person who shall purchase and use any motor vehicle fuel as herein defined as an ingredient for manufacturing or for cleaning or dyeing or for some other similar purpose and upon which the motor vehicle fuel excise tax provided for in this chapter has been paid shall be entitled to and shall receive a refund of the amount of the motor vehicle fuel excise tax so paid on each gallon of motor vehicle fuel</p>
Proviso.	
Cleaners and dyers.	

so used, whether such motor vehicle excise tax has been paid either directly to the vendor from whom the motor vehicle fuel was purchased or indirectly by adding the amount of such excise tax to the price of such fuel. Every person who shall export any motor vehicle fuel as herein defined for use outside of this state and who shall have paid the motor vehicle fuel excise tax upon such motor vehicle fuel as required by this chapter shall be entitled to and shall receive a refund of the amount of the motor vehicle fuel excise tax so paid on each gallon of motor vehicle fuel so exported: *Provided*, That any motor vehicle fuel carried from this state in the fuel tank of a motor vehicle shall not be considered as exported from this state. Any person or persons claiming any refund for any motor vehicle fuel used or exported as in this section provided shall not be entitled to receive such refund until such person or persons presents to the Director of Licenses such claim by affidavit upon forms to be provided by the Director of Licenses with such information as the Director of Licenses shall require, which claim and affidavit to be valid shall in all cases be accompanied by the invoice or invoices issued to the claimant at the time of the purchase or purchases of such motor vehicle fuel, approved as to invoice form by the Director of Licenses. Any person claiming refund as herein provided by reason of exportation of motor vehicle fuel shall in addition to the affidavit and invoices required furnish to the Director of Licenses the export certificate therefor. In all cases such affidavit shall be signed by the person claiming such refund, or if it be a corporation, by some proper officer thereof and the signature thereon shall be certified by a notary public that the claimant is known to him and that the same was subscribed and sworn to by such claimant in his presence.

Exporters.

Proviso.

Invoice to accompany claim.

Export certificate.

May require additional information.

Any person claiming refund from motor vehicle fuel used other than in motor vehicles as herein provided may be required by the Director of Licenses to also furnish information by affidavit regarding the amount of motor vehicle fuel purchased from other sources or for other purposes during the period reported upon which no refund is claimed.

Payment by warrant.

Upon the approval of the Director of Licenses of such claim for refund, the State Auditor shall draw his warrant upon the State Treasurer for the amount of such claim in favor of the person making such claim and such warrant shall be paid from the excise tax collected on motor vehicle fuel: *Provided*, That application for any refunds of excise tax paid as in this section provided shall be filed in the office of the Director of Licenses not later than 5:00 o'clock in the afternoon of the last day of a period six (6) calendar months from the date of purchase of such motor vehicle fuel, and if not filed within this period then the right to such refund shall be forever barred.

Time limit for filing claims.

Penalty for false statement.

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 refund of any excise tax, as provided in this section, or who shall collect or cause to be repaid to him or to any other person any such refund without being entitled to the same under the provisions of this section shall be guilty of a gross misdemeanor.

May require additional proof.

The Director of Licenses shall have the right in order to establish the validity of any claim for refund to require the claimant to furnish such additional proof of the validity of such claim as said Director of Licenses 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 in question.

If upon investigation it shall be determined by the Director of Licenses that any claim or claims have been supported by invoice or invoices fraudulently made or altered in any manner to support such claim or claims, the Director of Licenses shall have the right to suspend the pending and all further refunds to any such person, firm or corporation making such claim or claims, for a period not to exceed one year.

Right to suspend.

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 and deliver at the time of such sale separate invoices for each purchase on invoice forms approved by the Director of Licenses 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 such purchase. Such invoices shall be legibly written and shall be void if any corrections or erasures appear on the face thereof.

Seller to provide invoice.

A refund shall be made in the manner provided in this section or a credit allowing for the excise tax paid or accrued on all motor vehicle fuel which, after shipment or receipt, shall be destroyed by fire, lightning, flood, wind storm, or explosion, but such destruction must be proved to the complete satisfaction of the Director of Licenses.

Refund for fuel destroyed.

Must be proved.

SEC. 6. This act is necessary for the immediate support of the state government and its existing public institutions and shall take effect immediately.

Effective immediately.

Passed the Senate February 10, 1943.

Passed the House March 6, 1943.

Approved by the Governor March 13, 1943.