

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1980, Section 375.09, is amended to read:

375.09 MAY NOT HOLD OTHER OFFICE; NO INTEREST IN CONTRACT; VIOLATION; MALFEASANCE.

No county commissioner shall be appointed or elected by the board of which he is a member to any office or position of trust or emolument nor employed by the county in which he is a commissioner, and no commissioner shall receive any money or other valuable thing as a condition of voting or inducement to vote for any contract or other thing under consideration by the board, or become a party to, or directly or indirectly interested in, any contract made by the board; and every appointment or election made and every contract or payment voted for or made contrary to the provisions of this section shall be void. Any violation of the provisions of this section shall be a malfeasance in office.

Sec. 2. Minnesota Statutes 1980, Section 387.13, is amended to read:

387.13 PROHIBITIONS.

No sheriff, deputy sheriff, or coroner shall appear or practice as an attorney, solicitor, or counselor at law in any court, or draw or fill up any process, pleading, or paper for any party in any action or proceeding, nor, with intent to be employed in the collection of any demand or the service of any process, advise or counsel any person to commence an action or proceeding; nor shall any sheriff ~~or deputy sheriff~~ be eligible to any other ~~lucrative civil elective office~~; ~~except city marshal~~. Either of such officers, for a violation of A sheriff, deputy sheriff, or coroner violating any of the provisions of this section, shall forfeit not to exceed \$50, to be recovered by the county in a civil action is guilty of a petty misdemeanor.

Approved May 11, 1981

CHAPTER 164 — S.F.No. 432

An act relating to taxation; providing dates for settlement of mortgage registry and deed tax receipts; providing for payment of excise tax on special fuel by bulk purchasers; clarifying responsibilities and authority of commissioner of revenue in administering and auditing mineral taxes; providing for filing requirements for royalty reports; amending Minnesota Statutes 1980, Sections 287.12; 287.29, Subdivision 1; 296.12, Subdivisions 3, 4, and 5, and by adding a subdivision; 298.09, by adding a subdivision; 298.15; 299.03; 299.05; and 299.12; and repealing Minnesota Statutes 1980, Section 287.29, Subdivision 2.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1980, Section 287.12, is amended to read:

287.12 TAXES, HOW APPORTIONED.

All taxes paid to the county treasurers under the provisions of sections 287.01 to 287.12 shall be apportioned, 95 percent to the general fund of the state, and five percent to the county revenue fund.

On or before the tenth day of each month the county treasurer shall determine and pay to the commissioner of revenue the state's portion of the receipts from the mortgage registration tax during the preceding month. The commissioner shall deposit the receipts in the state treasury to the credit of the general fund.

Sec. 2. Minnesota Statutes 1980, Section 287.29, Subdivision 1, is amended to read:

Subdivision 1. On or before the tenth day of each month the county treasurer shall determine and pay to the ~~state treasurer~~ commissioner of revenue the receipts from the sale of documentary stamps during the preceding month. ~~The state treasurer~~ commissioner shall deposit such receipts in the state treasury to the credit of the general fund.

Sec. 3. Minnesota Statutes 1980, Section 296.12, Subdivision 3, is amended to read:

Subd. 3. **COLLECTION, REPORTING AND PAYMENT OF TAX.** ~~All distributors and special fuel dealers selling or delivering special fuel into the supply tank of an aircraft or a licensed motor vehicle shall collect, report and pay the excise tax thereon to the commissioner.~~

~~Distributors may, subject to the approval of the commissioner, elect to 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. Upon such election, the payment of the special fuel excise tax shall be made in the same manner for the balance of the license period.~~

~~Licensed special fuel dealers may, subject to the approval of the commissioner, elect to pay the special fuel excise tax on all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, delivered to them. Upon such election, the payment of the special fuel excise tax shall be made in the same manner for the balance of the license period.~~

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

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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.

Sec. 4. Minnesota Statutes 1980, Section 296.12, Subdivision 4, is amended to read:

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 of special fuel sold or delivered into the supply tank of an aircraft or a licensed motor vehicle by them during the preceding calendar month, and the report shall be accompanied by the special fuel excise tax due thereon and 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 to them as provided in subdivision 3 of section 296.12 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 his 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. The first report after such election shall also show the total gallons on hand on the first day of the period for which the report is filed and it shall be accompanied by the special fuel excise tax due thereon.~~

(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 section 296.12, 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

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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.

Sec. 5. Minnesota Statutes 1980, Section 296.12, Subdivision 5, is amended to read:

Subd. 5. **SALES TICKETS.** A sales ticket shall be issued for each delivery of special fuel to a bulk purchaser ~~or into the supply tank of an aircraft or a licensed motor vehicle.~~ 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 ~~and sign~~ the sales ticket and ~~such person~~ shall show thereon the name and address of the purchaser, ~~motor vehicle license number if delivered into the supply tank of a licensed motor vehicle,~~ date of sale, number of gallons, price per gallon, and total amount of sale. ~~On deliveries of special fuel into the supply tank of an aircraft or a licensed motor vehicle the sales ticket shall show the per gallon rate of special fuel excise tax. The words "Special Fuel" shall be written on each sales ticket at the time of sale or delivery.~~ A separate sales ticket book shall be maintained for special fuel sales by a special fuel dealer.

Sec. 6. Minnesota Statutes 1980, Section 296.12, is amended by adding a subdivision to read:

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 him or her to purchase bulk special fuel on a tax paid basis from any consenting supplier licensed as a distributor or special fuel dealer under sections 296.06 or 296.12. 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.

Sec. 7. Minnesota Statutes 1980, Section 298.09, is amended by adding a subdivision to read:

Subd. 5. If before the expiration of the time allowed in subdivision 4 for the redetermination of the tax, the commissioner and the taxpayer consent

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in writing to an extension of time for the redetermination of the tax, the tax may be redetermined at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Sec. 8. Minnesota Statutes 1980, Section 298.15, is amended to read:

298.15 RECORDS OF COMPANIES TO BE OPEN TO INSPECTION.

Subdivision 1. All books, way-bills, inventories, correspondence, and memoranda relating to or used in the transaction of the business of any person owning or operating any such mine shall, on demand by the commissioner of revenue, or ~~his~~ the commissioner's authorized representatives, be open to inspection or examination. If any one having charge, control, or possession of these papers and books of such person the owner or operator shall neglect or refuse, on demand of the commissioner of revenue, or his the commissioner's authorized representatives, access to these papers and books, he that person shall be deemed guilty of a gross misdemeanor; and, upon conviction, punished therefor as provided by law.

Subd. 2. For the purpose of determining the correctness of any return or of determining whether or not any person should have made a return or paid taxes or for the purpose of collection of any of the taxes imposed by this chapter, the commissioner shall have power to examine, or cause to be examined, any books, papers, records, or memoranda, which may be relevant to making the determinations, whether the books, papers, records, or memoranda, are the property of or are in the possession of the person or any other person. The commissioner shall have the power to require the attendance of any person having knowledge or information which may be relevant, to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to the determination, and to administer oaths or affirmations.

Subd. 3. For the purpose of making examinations and determinations, the commissioner may appoint examiners as deemed necessary. The examiners shall have all the rights and powers conferred upon the commissioner by this section. The clerk of any court of record, upon demand of the commissioner or any examiner, shall issue a subpoena for the attendance of any witness or the production of any books, papers, records or memoranda. The commissioner may also issue subpoenas. Disobedience of subpoenas issued under this section shall be punished by the district court of the district in which the subpoena is issued as for a contempt of the district court.

Sec. 9. Minnesota Statutes 1980, Section 299.03, is amended to read:

299.03 REPORTS TO COMMISSIONER.

Every person to whom royalty of \$5,000 or more is paid shall, on or before the first day of February, make and file with the commissioner of

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revenue annually a report setting forth the amount of royalty received by such that person during the preceding calendar year, and such other information as the commissioner of revenue may require.

Sec. 10. Minnesota Statutes 1980, Section 299.05, is amended to read:

299.05 ASSESSMENT BY COMMISSIONER.

Upon ~~the receipt by the commissioner of revenue~~ of the report provided for in section 299.03, ~~he~~ the commissioner of revenue shall determine, from such information as ~~he~~ may ~~possess~~ be possessed, or ~~obtain~~ obtained, whether the same report is correct, or otherwise incorrect; and, if found correct, ~~he~~ the commissioner shall determine ~~therefrom~~ the amount of tax due from such the person, enter the amount ~~thereof~~ of the tax in his department records, make his assessment of taxes due ~~thereon~~ from such the person, and the amount that has been paid ~~thereon~~; and, on or before June 30, of each year, demand payment from such the person. The commissioner of revenue shall have power, in case he shall deem the report incorrect, or in case the report is not made and filed with the commissioner as provided in section 299.03, to make his findings as to the amount of such taxes due after hearing upon notice to the person interested, and his the findings shall have the same effect as the determination of the amount of such taxes upon a report made as hereinbefore provided.

A person subletting land for the use of which ~~he~~ is received royalty shall be required to pay taxes only on the difference between the amount of royalty paid by him or her and the amount received.

If the amount of tax determined by the commissioner is subsequently found to be erroneous, the commissioner may, at any time within three years from the date allowed above for the original assessment, redetermine the amount of the tax. No redetermination shall be made increasing the tax unless the person from whom the additional amount is due is given ten days written notice of the proposed increase and the person's right to a hearing pursuant to chapter 15. Any person who has paid a royalty tax may apply to the commissioner within three years from the date allowed above for the original assessment for a redetermination of the tax and if the commissioner determines that the tax has been overpaid, he or she shall make and file an order determining the amount of the overpayment and credit the overpayment against the royalty taxes otherwise payable by the person who overpaid the tax. If the tax is increased, interest at the rate specified in section 270.75 from the date payment should have been made shall be determined and added to the tax. If the tax is reduced, interest at the rate of six percent per annum from the date of the overpayment shall be allowed.

Sec. 11. Minnesota Statutes 1980, Section 299.12, is amended to read:

299.12 RECORDS; INSPECTION BY COMMISSIONER; REFUSAL OF ACCESS A MISDEMEANOR.

All books, way-bills, inventories, correspondence, and memoranda relating to or used in the transaction of the business of any person paying or

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receiving royalty on ore mined in this state shall, upon request of ~~the commissioner of revenue~~, be open to his inspection or examination by the commissioner of revenue. If any ~~such~~ person shall neglect or refuse, on request of the commissioner of revenue, access to these papers and books, ~~he~~ that person shall be guilty of a misdemeanor; and, upon conviction, punished therefor as provided by law.

The provisions of section 298.15 which relate to the examination of records, appointment of examiners, issuance of subpoenas and punishment for disobeying a subpoena, are made applicable to royalty tax records, reports, and returns.

Sec. 12. **REPEALER.**

Minnesota Statutes 1980, Section 287.29, Subdivision 2, is repealed.

Sec. 13. **EFFECTIVE DATE.**

This act is effective July 1, 1981.

Approved May 11, 1981

CHAPTER 165 — S.F.No. 443

An act relating to commerce; regulating franchises; providing a penalty; amending Minnesota Statutes 1980, Sections 80C.01, Subdivision 4, and by adding subdivisions; 80C.03; 80C.14; 80C.17, by adding a subdivision; 80C.18, Subdivision 2; and 80C.19, Subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1980, Section 80C.01, Subdivision 4, is amended to read:

Subd. 4. "Franchise" means (a) a contract or agreement, either express or implied, whether oral or written, for a definite or indefinite period, between two or more persons:

(a) (1) by which a franchisee is granted the right to engage in the business of offering or distributing goods or services using the franchisor's trade name, trademark, service mark, logotype, advertising, or other commercial symbol or related characteristics;

(b) (2) in which the franchisor and franchisee have a community of interest in the marketing of goods or services at wholesale, retail, by lease, agreement, or otherwise; and

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