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CHAPTER 428

AN ACT to amend 78.68 (1) and (2) of the statutes, relating to motor fuel tax reports and penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

78.68 (1) and (2) of the statutes are amended to read:

78.68 (1) (a) If any licensee fails, neglects or refuses to file a motor fuel or special fuel tax report for any calendar month when due, the department shall send a written demand to file such report to the licensee by registered mail addressed to said licensee at the address of the principal place of business of said licensee within 10 days after the due filing date of said report. A penalty of * * * \$5 is hereby imposed for failure, neglect or refusal to file such report when due and if such report is not filed and the penalty paid within 20 days from the date when such report was due the license of said licensee shall be automatically revoked.

(b) If any licensee fails, neglects or refuses to make tax payment for any calendar month when due, the department shall send a written demand for payment to the licensee by registered mail addressed to said licensee at the address of the principal place of business of said licensee within 10 days after said payment was due. A penalty of * * * \$10 is hereby imposed for the first failure, neglect or refusal within a calendar year to make such tax payment when due and a penalty of * * * 2 per cent of the amount of tax due but not less than * * * \$10 is hereby imposed for each successive failure, neglect or refusal to make such tax payment when due within the same calendar year. If tax remittance was made when due but by a defective bank check, the department may waive the penalty if it appears to the department that the defect was not intentional and the defect is corrected promptly. If such tax and penalty are not paid within 20 days from the date when due, the license of said licensee shall be automatically revoked

and the department shall determine the amount of tax due and shall proceed to collect such motor fuel or special fuel tax and penalty * * * as provided in this chapter.

(2) If any licensee makes and files any incorrect or incomplete report, or fails, neglects or refuses to pay all the tax for any calendar month, the department, upon discovering said incorrect or incomplete report or unpaid tax, shall estimate the motor fuel or special fuel receipts or distributions of said licensee, based upon such information as is available in its office or elsewhere, and shall determine the amount of any motor fuel or special fuel tax still due from said licensee and shall add to said amount a penalty of * * * 2 per cent thereof for failure, neglect or refusal to pay said tax, except that if it appears to the department that any unpaid tax was due to an unintentional miscalculation on the report, the * * * 2 per cent penalty shall be waived. The department may also waive any penalty amounting to \$6 or less if it appears to be in the best interest of the state to do so. Such waivers of tax penalty shall be voided if said tax is not paid within one month after the date of demand as provided for in this subsection. The amount so fixed shall be prima facie evidence of the correctness of said estimate. The department shall send a written demand for any amended report required and for payment of said tax and penalty to the licensee by mail addressed to said licensee at the address of the principal place of business of said licensee. If such amended report is not filed or if the tax and penalty due are not paid within 2 months from the date of said demand, the license of said licensee shall be automatically revoked and the department shall prepare such amended report and proceed to collect such motor fuel or special fuel tax and penalty * * * as herein provided.

Approved December 12, 1963.
