

No. 46, S.]

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CHAPTER 139.

AN ACT to amend 78.14 (1) and 78.14 (2); and to create 78.14 (2) (e) of the statutes, relating to the motor fuel tax, and providing a penalty.

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

SECTION 1. 78.14 (1) of the statutes is amended to read:

78.14 (1) If * * * any motor fuel *in transit and consigned to or* in possession of a licensed wholesaler is destroyed by fire, lightning, storm, flood or accident not caused by the wilful act of such wholesaler or any employe thereof, before being sold or used by him, upon proper application therefor and proof of such destruction or loss satisfactory to the department, it shall *authorize tax credit or* refund the amount of tax * * * paid thereon. Such application or claim shall be filed with the department

within 15 days after the motor fuel is so destroyed or lost or the tax credit or refund will not be allowed.

SECTION 2. 78.14 (2) of the statutes is amended to read:

78.14 (2) (a) Any person who uses motor fuel, upon which has been paid the tax required to be paid under this chapter, for * * * any purpose * * * other than operating a motor vehicle upon the public highways of this state, shall be reimbursed and repaid the amount of the tax so paid upon making and filing a duly certified claim, witnessed by 2 witnesses or acknowledged before a notary public, with the department, upon forms prescribed and furnished by it. The department shall distribute forms in sufficient quantities to each county clerk in the state.

(b) Such claim must be filed * * * not later than 6 months after the date of purchase of the motor fuel, or the claim will not be allowed; provided, however, if the final filing date falls on a Sunday or a legal holiday the next secular or business day shall be the final filing date.

(c) The wholesaler or jobber shall, upon request, furnish each purchaser with the original invoice * * * prepared at the time of delivery, and the purchaser shall send such original invoice to the department when making claim for refund. The term "original invoice", as used herein, means the top copy and not a duplicate original or carbon copy of the original invoice, except that a duplicate original may be used when accompanied by an affidavit by the purchaser that the original invoice has been lost or destroyed. The original invoice shall be printed or rubber stamped with the words "Original Invoice" and shall in addition contain the following information: (1) date of sale, (2) name and address of seller, (3) name and address of purchaser (which name must be the name of the claimant), (4) the number of gallons purchased and price per gallon, (5) amount of Wisconsin motor fuel tax paid as a separate item, (6) receipt for payment. Double faced carbon paper shall be used between the original invoice and the first carbon copy. A separate original invoice must be made for each sale and delivery. The original invoice shall be legibly written and shall comply with the foregoing requirements. No refund shall be allowed if any corrections or erasures in the date, name of purchaser, number of gallons purchased or amount of tax paid appear upon the face thereof. The claim shall state whether or not the applicant owns an automobile or truck or any other motor driven machinery or appliance which uses motor fuel; the total number of gallons of motor fuel purchased; the number of gallons of such fuel purchased on which refund is claimed; a detailed statement of the uses of such fuel on which refund is claimed, describing the machinery, equipment or appliance in which used, giving the serial or manufacturer's number of the motor and the approximate number of gallons used in each; or if such fuel were not used in any such machinery, equipment or appliance, then a description of the purposes for which the fuel was used with the approximate number of gallons used for each such purpose; a statement whether or not deduction has been made for motor fuel used in applicant's automobile or truck; and such other information as the department may deem necessary. * * *

(d) On the filing of such claim, accompanied by the paid original invoice, the department shall determine the amount of refund due. The department may make such investigation of the correctness of the facts stated in such claim as it deems necessary. When the department has approved such claim, it shall pay the claimant the reimbursement herein provided, out of the moneys collected under the provisions of chapter 78 to be used for carrying out the provisions of this section. No refund shall be claimed by or allowed to any person on account of any motor fuel carried from this state in the ordinary fuel tank of a motor vehicle.

SECTION 3. 78.14 (2) (e) of the statutes is created to read:

78.14 (2) (e) The penalty provided in this chapter for presenting a false or fraudulent statement shall be printed in full on the form of statement.

Approved May 18, 1949.