

No. 181, A.]

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CHAPTER 336

AN ACT to amend 20.06 (3), as amended by chapter 204, laws of 1955, and chapter (Bill No. 778, A.), laws of 1955, 78.12 (4) (a) 2 and 78.49 (3); and to create 78.20 of the statutes, relating to motor vehicle fuel taxes, making an appropriation and increasing state highway fund revenues approximately \$344,000 annually.

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

SECTION 1. 20.06 (3) of the statutes, as amended by chapter 204, laws of 1955, and chapter (Bill No. 778, A.), laws of 1955, is amended to read:

20.06 (3) Taxes collected and paid into the state treasury in excess of lawful taxation, when claims therefor have been established as provided in ss. 71.10 (10) and (11), 71.11 (19), 71.12 (2) and (4), 72.08, 74.73, 76.13 (3), 76.19, 76.20, 76.38, 76.43, 78.19, 78.20, 78.75, 139.04, 139.50 (17) and (26) and 168.12 (2), (3) and (4).

SECTION 2. 78.12 (4) (a) 2 of the statutes is amended to read:

78.12 (4) (a) 2. That number of gallons of motor fuel which is equal to * * * *one and one-half* per cent of the total number of gallons received by the wholesaler within this state, less any deductions taken in s. 78.01 (2) during the next preceding month to cover * * * *evaporation* * * * and shrinkage * * *.

SECTION 3. 78.20 of the statutes is created to read:

78.20 REFUND TO RETAILERS. (1) Any person who operates a service station, store, garage or other place of business within this state for the retail sale of motor fuel therefrom who has paid the tax required to be paid by this subchapter on the motor fuel received into his storage at such place of business shall be reimbursed and repaid one-half of one per cent of such tax to cover shrinkage and evaporation losses upon making and filing a duly certified claim with the department on forms prescribed and furnished by it which has been witnessed by 2 witnesses or acknowledged before a notary public, except this subsection shall not apply to any person who is licensed under this subchapter as a wholesaler of motor fuel at such place of business.

(2) Such claim shall be filed not later than one year after the date of purchase of the motor fuel or the claim will not be allowed; but if the final filing date falls on a Saturday, Sunday or a legal holiday, the next secular or business day shall be the final filing date.

(3) The supplier shall furnish each retailer with the original invoice prepared at the time of delivery, and the retailer 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. 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 supplier, 3. name and address of retailer (which must be the name of the claimant), 4. number of gallons purchased and the price per gallon, 5. amount of Wisconsin motor fuel tax 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 shall be used for each sale and delivery. The original invoice shall be legibly written and comply with the foregoing requirements.

(4) 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 ch. 78 to be used for carrying out this section.

(5) The right of any person to a refund under this section shall not be assignable and the application for a refund shall be made by the same person who purchased the motor fuel as shown in the invoice by the person selling the same, and by no other person, and the proceeds or amount of such refund as determined by the department shall be paid to the person whose name appears on the seller's invoice and to no other person.

SECTION 4. 78.49 (3) of the statutes is amended to read:

78.49 (3) Each special fuel licensee at the time of making his monthly report shall compute and pay to the department the full amount of the special fuel tax for the next preceding month, which shall be computed as follows: the number of gallons of special fuel delivered or placed by such special fuel licensee into the *fuel* supply tanks of motor vehicles * * * shall be multiplied by four one-hundredths and the resulting figure expressed in dollars.

SECTION 5. This act shall apply to motor fuel received and to special fuel used on and after the first day of the month succeeding the month of passage and publication.

Approved June 29, 1955.
