

No. 369, S.]

[Published June 20, 1943.

CHAPTER 338.

AN ACT to amend 110.01 (3) of the statutes, relating to directors of the motor vehicle department.

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

110.01 (3) of the statutes is amended to read:

110.01 (3) Each such division shall be in charge of a director who shall * * * be paid an annual salary of * * * \$4,500. *The present directors shall be given a civil service status without examination, provided they file an application and a history of their employment with the personnel board within 2 months after the effective date of this amendment.*

Deposited without signature of Acting Governor, June 18, 1943.

No. 99, A.]

[Published June 21, 1943.

CHAPTER 339.

AN ACT to create 76.55 of the statutes, relating to the transportation or sale of natural gas and taxation of the use of natural gas for the purpose of reimbursing the state and its political subdivisions for losses of revenue, both direct and indirect, which would be incurred by reason of a substitution of the use of natural gas for artificial gas or other fuels, and providing a penalty.

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

76.55 of the statutes is created to read:

76.55 TAX ON USE OF NATURAL GAS. (1) Except when the context clearly indicates a different meaning the words, terms and phrases used in this section shall be construed for the purposes thereof as follows:

(a) "Natural Gas" means either natural gas unmixed, or any mixture of natural and artificial gas, which is transported in gaseous form by means of pipeline to the place of distribution or sale.

(b) "Cubic foot of natural gas" means that quantity of natural gas which measured at a temperature of 60 degrees Fahrenheit and at an absolute pressure of 30 inches of mercury (32 degrees Fahrenheit) occupies a space having the fixed capacity of one cubic foot.

(c) "Use" means the consumption, whether beneficial or otherwise, of natural gas through the destruction of its substance by changes in its physical or chemical properties.

(d) "User" means any person who uses natural gas as said use is defined in this section.

(e) "Distributor" means a person who has natural gas on hand or in his possession for the purpose of supplying it for use in this state.

(f) "Person" means and includes any individual, firm, co-partnership, joint adventure, association, corporation, estate, trust, receiver, assignee, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number.

(2) (a) An excise tax of 7 cents for each 1,000 cubic feet, or fraction thereof, is imposed on the use or other consumption in this state of natural gas, except as herein otherwise provided.

(b) In the event that gas supplied by any distributor for use in this state is a mixture of natural and other gases, the tax imposed shall apply only to the use of the natural gas included in such mixture.

(c) The tax imposed by this section shall be collected by distributors from users, who shall pay the amount thereof to distributors, (except no distributor shall collect the tax from any user who is also a distributor), and shall be paid to the state treasurer as hereinafter provided. Each distributor shall be responsible for the collection of all taxes on the use of all natural gas distributed for use in this state by such distributor (except natural gas distributed to users who are also distributors) and shall be liable for the payment of all such taxes to the state treasurer.

(d) Users of natural gas shall be directly liable for the payment of all taxes due on their use of natural gas which are not so collected by a distributor, and such taxes shall be collectible in the same manner as provided in this section for the collection of taxes from distributors.

(3) The tax imposed by this section shall not apply to the following:

(a) The use or consumption of natural gas in public buildings or institutions by this state or any of its political subdivisions or agencies.

(b) The use or consumption of natural gas by the United States of America, or any of its agencies.

(c) Any use or consumption of natural gas which may not, under the constitution and statutes of the United States, be made the subject of taxation by this state.

(4) (a) For the purpose of determining the amount of its liability to the state for the tax herein imposed, and for the purpose of supplying information to the state treasurer, each distributor shall, not later than the twentieth day of each calendar month, file with the state treasurer, on forms prescribed by him, sworn monthly reports which shall include a statement of the number of thousands of cubic feet and fractions thereof of all natural gas supplied by such distributor to users in the state, or supplied to other distributors, during the next preceding calendar month, the amounts used by the distributor itself, and such other information as the state treasurer may require.

(b) Each distributor, at the time of making every monthly return, shall compute and pay to the state treasurer in lawful money of the United States the full amount of all taxes which such distributor is required by paragraph (c) of subsection (2) to collect for the unexempt use of natural gas in the next preceding calendar month, and all taxes due upon the use of natural gas during the preceding calendar month by such distributor itself.

(5) In the case the tax imposed by this section is not paid by a distributor when due, a penalty of 10 per cent thereof shall immediately accrue. If such tax remains delinquent and unpaid for a period of one month from the date due, the state treasurer shall add interest at the rate of 2 per cent for each month or fraction thereof that such tax remains delinquent and unpaid. The amount so added shall become a part of the tax and shall be collected from the distributor at the same time and in the same manner as such delinquent taxes by action in the name of the state of Wisconsin, and the attorney general or proper district attorney is authorized and directed to institute suits therefor in

any court of competent jurisdiction. In the event such suit is instituted, the court may, on application by the attorney general or district attorney, issue a writ of injunction enjoining the defendant from distributing or using natural gas until any judgment with costs recovered in said suit has been paid.

(6) If any distributor shall fail, neglect, or refuse to make any report or return, or shall make and file any false or fraudulent report or return for any calendar month as required by this section, the state treasurer shall estimate the number of thousands of cubic feet of gas supplied for use or used by said distributor during said calendar months, shall make and file such report or return on behalf of said distributor, based upon such information as is readily available, and shall determine the amount of taxes due from said distributor, including a penalty and interest as provided in subsection (5). The state treasurer shall send to such distributor by registered mail, a notification of the amount of taxes so determined, and if such distributor shall not file true and correct statements for the period covered by the state treasurer's estimates, and pay all taxes due within 20 days after the mailing of such notice, the tax determined by the state treasurer shall become due and payable, including penalty and interest, and shall be collected as provided in subsection (5) above.

(7) No suit shall be maintained in any court to restrain or delay the collection by or payment to the state treasurer of the tax herein imposed upon any ground whatsoever, but the aggrieved distributor shall pay all taxes when due, and if paid under protest the distributor may at any time within 90 days from the date of such payment, sue the state in the circuit court of any county in which said distributor conducts his business, in an action at law to recover the tax so paid with legal interest thereon from the date of payment. If it is finally determined that said tax, or any part thereof, was wrongfully collected for any reason, it shall be the duty of the state treasurer then in office, to pay the amount of such tax adjudged to have been wrongfully collected, together with interest thereon as herein provided, out of the general fund of the state to the distributor entitled thereto. Recovery may be had in any one suit for as many payments as may have been made prior to the entry of judgment, which are not barred by the limitation herein imposed.

(8) The state treasurer or his duly authorized representatives, are authorized to examine at all reasonable times, the books and records of every distributor and user, which pertain to natural gas.

(9) All tax moneys collected pursuant to the provisions of this section shall become part of the general fund and be apportioned in the manner provided by section 76.28 (1) upon the basis of the consumption in each city, village and town.

(10) Nothing herein contained shall be deemed to revoke any of the provisions of the statutes of Wisconsin heretofore in force and effect with respect to gas companies and utilities, except and to the extent that the same, or any of them, be repugnant to the provisions of this section.

(11) If any subsection or paragraph of this section or its application to any person or circumstance shall be held unconstitutional, such decision shall not affect the constitutionality of any other subsection or paragraph, or its application to other persons or circumstances.

Approved June 18, 1943.

No. 133, S.]

[Published June 22, 1943.

CHAPTER 340.

AN ACT to create 76.54 (17) (c) of the statutes, relating to municipal taxation of motor carriers.

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

76.54 (17) (c) of the statutes is created to read:

76.54 (17) (c) For busses operated in local passenger service over a regular route which extends from one city into one or more adjoining or successive cities or villages in one county and the traversed territory intervening between any such municipality and the next such municipality served does not exceed 6,000 feet, the license fee to be paid to each such city or village for the operation of busses over such route shall be that portion of the regular license fee for each such bus fixed under the limitations of paragraphs (a) and (b) represented by the proportion which the number of bus miles operated in such city or village bears