

No. 209, A.]

[Published May 22, 1947.]

CHAPTER 156.

AN ACT to amend 78.01 (16), 78.03 (1) and (2) and 78.31 (4); and to repeal and recreate 78.01 (12) of the statutes, relating to definitions and wholesaler's license under the motor fuel tax law.

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

SECTION 1. 78.01 (12) of the statutes is repealed and recreated to read:

78.01 (12) "Wholesaler" means and includes any person (including the state of Wisconsin and any political subdivision thereof, but not including the United States of America or any of its agencies except to the extent now or hereafter permitted by the constitution and laws thereof):

(a) Making the first sale or other disposition in this state of any motor fuel, imported into this state from any other state, territory or foreign country, after it has been received within this state within the meaning of this chapter, provided the majority of the gallonage of such sales or other dispositions are delivered by tank car or tank truck or both from the place of business where first received, or provided such place of business where first received within this state has a minimum storage capacity for motor fuel of 20,000 gallons; or

(b) Consuming or using in this state motor fuel imported into this state which has been purchased or otherwise acquired before it has been received by any other person in this state within the meaning of this chapter; or consuming or using motor fuel purchased or otherwise acquired by him tax-free in tank car lots from a refinery, marine terminal or pipe line terminal in this state; or

(c) Producing, refining, preparing, distilling, manufacturing, blending or compounding motor fuel in this state; or

(d) Purchasing motor fuel tax-free in tank car lots from a refinery, marine terminal or pipe line terminal in this state, provided such person maintains in this state a place of business for the storage of motor fuel from which a majority of the gallonage so purchased is delivered by tank car or tank truck or both, or if not maintaining such a place of business in this state, maintaining a place of business in this state having a

minimum storage capacity for motor fuel of 20,000 gallons from which sales or other dispositions are made of the motor fuel so purchased; or

(e) Licensed as a wholesaler or distributor of motor fuel by and in a bordering state and making sales or other dispositions of motor fuel to persons in this state, other than to licensed wholesalers or licensed industrial users, within a local trading area extending into this state not more than 25 miles from such wholesaler's or distributor's place of business in such bordering state; or

(f) Licensed as a wholesaler or distributor of motor fuel by and in any other state and making barrel or drum shipments of commercial solvents or cleaners, taxable as motor fuel, into this state to persons other than licensed wholesalers or licensed industrial users; or

(g) Having an unrevoked license as a wholesaler of motor fuel issued prior to January 1, 1947 who does not qualify for a license under paragraphs (a), (b), (c), (d), (e), or (f) of this subsection. The privileges of a person holding a license under this paragraph are limited to the place of business or to the extent of operations as of January 1, 1947.

SECTION 2. 78.01 (16) of the statutes is amended to read:

78.01 (16) Motor fuel imported by any person into this state from any other state, territory or foreign country, other than by vessel for storage at refineries or marine terminals as hereinbefore set forth, or by pipe line for storage at pipe line terminals or pipe line tank farms as hereinbefore set forth, shall be deemed to be "received" in this state at the time and place where the same shall be unloaded, by the person who at such time shall be the owner thereof, but not before; *except, however, motor fuel sold or distributed to persons in this state by a wholesaler licensed under section 78.01 (12) (e) or (f) shall be deemed to be received by such wholesaler at the time and place of unloading in this state.*

SECTION 3. 78.03 (1) and (2) of the statutes are amended to read:

78.03 (1) *Except as provided in sections 78.01 (16) and 78.02 (2), * * * no person shall produce, refine, compound, blend or manufacture motor fuel in this state for sale, distribution or use in this state, or import motor fuel into this state or receive motor fuel imported to him from without this state*

for sale, distribution or use in this state, or engage in the business of wholesaler within this state unless such * * * person is the holder of an uncanceled license issued to him under this chapter.

(2) To procure such a license every person shall file an application therefor with the department. The application shall be made upon a form prescribed, prepared and furnished by the department and shall set forth the name under which the applicant transacts or intends to transact business in this state, the location with the street number address of his *wholesale* place of business in this state (*if application for a license is filed as provided for in section 78.01 (12) (e) or section 78.01 (12) (f) give location with street address in such other state*), and such other information as the department may require. If the applicant has or intends to have more than one *wholesale* place of business within this state, the application shall state the location of each *wholesale* place of business. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof, and any other information prescribed by the department for purposes of identification. If such * * * applicant is a corporation organized under the laws of another state, territory, or country, it shall also file with such application a certified copy of the certificate or license issued by the secretary of state of this state showing that such corporation is authorized to transact business in the state of Wisconsin. Said applicant shall also promise and agree, in his application, in consideration of the issuance of a license hereunder to strictly comply with all of the provisions of this chapter, and any and all regulations made by the department as hereinafter provided to be made. The application shall be signed and sworn to under oath by the maker if a natural person, in the case of an association, by a member or partner thereof, and in the case of a corporation, by an executive officer thereof, or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority. The department shall investigate each application and in the event that any application for a license to transact business as a wholesaler in this state is filed by any person whose license shall at any time theretofore have been canceled for cause the

department, or in case the department shall be of the opinion that such application is not filed in good faith, or that such application is filed by some person as a subterfuge for the real party in interest whose license shall heretofore have been canceled for cause, then in any of said events, the department after a hearing, of which the applicant shall have been given 5 days' notice in writing, and at which hearing, said applicant shall have the right to appear in person or by counsel and present testimony, shall have authority to refuse to issue to such person, a license to transact business as a wholesaler in this state. No person who is in default to this state for moneys due under this chapter for the sale, distribution or use of motor fuel, shall receive a license either directly or indirectly to act as a wholesaler.

SECTION 4. 78.31 (4) of the statutes is amended to read:

78.31 (4) Any person violating any provision of section 78.03, 78.09, 78.11, 78.13, 78.14 or 78.22 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25 or more than \$500 or by imprisonment in the county jail for not to exceed 6 months or by both such fine and imprisonment.

Approved May 19, 1947.

No. 293, A.]

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CHAPTER 157.

AN ACT to repeal and recreate 146.13 of the statutes, relating to discharging noxious matter into a highway and providing a penalty.

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

146.13 of the statutes is repealed and recreated to read:

146.13 DISCHARGING NOXIOUS MATTER INTO HIGHWAY. If any one constructs or permits any drain, pipe, sewer or other outlet to discharge into a public highway infectious or noxious matter, the board of health of the village, town or city shall, and the county board of health, acting alone or jointly with the local board of health, may order the person maintaining it to remove it within 10 days and if such condition continues or recurs