

## MOTOR VEHICLES

### CHAPTER 166

S. B. No. 87—(Guthrie)

#### APPLICATION OF MOTOR VEHICLE AND GASOLINE TAXES FOR STATE HIGHWAY PURPOSES

An Act for an Act providing for the application to highway purposes of all special taxes on motor vehicle transportation and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. The proceeds, after deduction of costs of administration and collections, from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor vehicle owners and operators shall be applied to the construction, improvement, and maintenance of highways and administration expenses in connection therewith, including the retirement of bonds for the payment of which such revenues have been pledged, and for no other purposes.

§ 2. REPEAL.] All other Acts or parts of Acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] This Act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved February 13, 1937.

### CHAPTER 167

H. B. No. 248—(Frosaker and Benno)

#### SALES TAX MOTOR VEHICLES

An Act imposing an excise tax on motor vehicles for the privilege of using the streets and highways of this State; to provide for the collection of such tax; the distribution and use of the revenue derived therefrom and the administration of said law; providing for certain exemption; fixing fines and penalties for the violation of the provisions of this Act; defining motor vehicles and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. There is hereby levied and imposed upon every owner of a motor vehicle, for the privilege of using the streets and highways of this State, a tax of two per cent of the sales price of any motor vehicle purchased or acquired for use on the streets and highways of this State requiring registration thereof under the Motor Vehicle

laws of North Dakota; which said tax shall be paid to the Motor Vehicle Registrar at the time of applying for the first registration or certificate of title of such motor vehicle within this State. No registration plate or certificate of title shall be issued for same unless and until said tax has been paid.

§ 2. EXEMPTION.] The provisions of this Act shall not apply providing, if such person so applying for registration plate or certificate of title therefor shall furnish to the Motor Vehicle Registrar a certificate from a licensed motor vehicle dealer in this State, upon a form furnished by the Registrar, certifying that such person has paid the retail sales tax thereon provided by law; this exemption to such person being to avoid, in effect, double taxation on said motor vehicle under this Act; in order that no undue burden be imposed on interstate commerce, the provisions of this Act shall not apply to common carrier vehicles engaged in interstate commerce.

§ 3. DISTRIBUTION AND USE OF REVENUE.] All moneys accruing under this Act shall be paid by the Registrar of Motor Vehicles, as soon as collected, into the State Treasurer and shall be by him transferred and credited to the Motor Vehicle Registration Fund.

§ 4. DEFINITION.] The term "Motor Vehicle" shall mean any automobile, motor bus, truck, truck-tractor, trailer, semi-trailer, or any self propelled or motor driven vehicle used on any public highways of this State for the purpose of transporting persons or property.

§ 5. PENALTIES.] Failure to comply with the provisions of this Act shall constitute a misdemeanor and subject the offender to a fine of not to exceed One Hundred Dollars or thirty days imprisonment, or both such fine and imprisonment.

§ 6. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1937.

## CHAPTER 168

H. B. No. 150—(Jensen, Bieloh and Semerad)

## DISTRIBUTION OF TAX ON MOTOR FUELS

An Act to amend and re-enact Section 5 of Chapter 166 of the 1929 Session Laws of the State of North Dakota, relating to Tax on Motor Fuels and for the distribution of the Revenues derived from said tax.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 5 of Chapter 166 of the 1929 Session Laws of the State of North Dakota be, and the same is hereby amended and re-enacted to read as follows :

§ 5. That said license tax in respect to motor vehicle fuel sold or used in any calendar month, shall be paid at the same time the statement provided for in Section 2 hereof is rendered, to the State Auditor, who shall receipt to the dealer therefor, and shall forthwith pay over all the money thus received to the State Treasurer, except such money as shall have been expended by said State Auditor for the purpose of making refunds as herein provided. The State Treasurer shall promptly credit to the State Highway Commission two-thirds of said license tax. The money so credited, being two-thirds of said license tax, is hereby appropriated to be used by such Commission for the construction, reconstruction, maintenance or repairs of highways or roads under the jurisdiction of said Commission. One-third of said license tax so received by the State Treasurer, shall be deposited by him to a "County Highway Aid Fund." During the months of January, April, July and October of each year, the State Treasurer, upon the warrant of the State Auditor, shall apportion and disburse all of the moneys of such "County Highway Aid Fund" not previously disbursed, including interest received thereon, to the various Counties of the State in the same proportion and ratio as the number of motor vehicles registered in each County shall bear to the total motor vehicles registered in all the Counties of the State during the entire preceding calendar year as shown by the certificate of the registrar of motor vehicles. Such moneys so received by the respective Counties shall be set aside in a separate fund, under the jurisdiction and control of the Board of County Commissioners and appropriated and employed solely by such Counties in the construction, reconstruction, maintenance and repair of County highways, bridges and culverts thereon and City streets leading up to and connecting with Federal Aid and State Aid highways. On making the payments to the State Auditor as provided in this Section, the dealer shall first deduct from the amount of tax due, one and one-half per centum thereof to cover the cost of collecting said tax and transmitting the same to the State Auditor, provided, that in order to reimburse the State on account of the

expenses of carrying the provisions of this Act into effect, the State Auditor is hereby authorized and directed to credit to the general fund of the State, on the first day of July of each year, the sum of Twenty-five Thousand Dollars out of the moneys collected as a license tax under the provisions of this Act.

Approved March 10, 1937.

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**CHAPTER 169**  
**S. B. No. 194—(Blaisdell)**

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**REGULATION OF USED MOTOR VEHICLE DEALERS**

An Act to regulate the business of selling used motor vehicles by dealers not residing in or having a permanent place of business in this State, and by resident dealers purchasing, handling and selling used motor vehicles received or acquired from non-resident dealers; requiring the registration of all used motor vehicles brought into this State for the purpose of sale to be registered with the Motor Vehicle Registrar, and requiring all such dealers to execute and deliver to each purchaser a bond indemnifying the purchaser against failure of title, breach of warranty or fraudulent misrepresentation; requiring delivery of a Certificate of Title and providing penalties for the violation of the provisions of this Act.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Every dealer in used, or second hand, motor vehicles who is a non-resident of this State or who does not have a permanent place of business in this State, and every person, firm or corporation who bring any used, or second hand motor vehicles into this State for the purpose of sale or resale except as a trade-in on a new motor vehicle or another used motor vehicle, shall within ten days from the date of entry of said motor vehicle into the limits of the State of North Dakota, register such motor vehicle with the Motor Vehicle Registrar on a form to be provided by him, and under such rules and regulations as may be promulgated by him from time to time, and shall before said used or second hand car is put on a used car lot for sale or offered for sale, or sold, execute a bond to be approved by the Registrar for the use and benefit of the purchaser and his vendees, conditioned to pay all loss, damages, and expenses that may be sustained by the purchaser or vendees, that may be occasioned by reason of the failure of the title of such vendor or by reason of any fraudulent misrepresentations or breaches of warranty as to freedom from liens, quality, condition, use or value of the motor vehicle being sold. Said bond shall be in the full amount of the sale price of such motor vehicle but in no event to exceed the sum of \$1,000.00 and shall be filed with the Motor Vehicle Registrar by the vendor. The vendor shall pay to the Motor Vehicle Registrar a fee of \$1.00 for the registration of each said motor vehicle and a further

fee of \$5.00 for each bond so filed and approved which sums shall be paid into the State Treasury to the credit of the State Highway Fund.

§ 2. Every person, firm or corporation upon the sale and delivery of any used, or second hand, motor vehicle shall within 24 hours thereof deliver to the vendee, a Certificate of Title indorsed according to law, issued for said vehicle by the Motor Vehicle Registrar.

§ 3. No action, nor right of action to recover any such motor vehicle, nor any part of the selling price thereof, shall be maintained in the Courts of this State by any such dealer or vendor, his successors or assigns, in any case wherein such dealer or vendor shall have failed to comply with the terms and provisions of this Act, and in addition thereto such dealer or vendor, upon conviction for the violation of any of the provisions of this Act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$100.00 and not more than \$500.00 or by imprisonment for not less than thirty days or more than six months, or by both such fine and imprisonment.

§ 4. The term "dealer" and "vendor" herein used shall be construed to include every individual, partnership, corporation or trust whose business in whole or in part is that of selling new or used motor vehicles and shall be construed to include every agent, representative or consignee of any such dealer as defined above, except that no agent, representative or consignee of such dealer or vendor shall be required to make and file said bond herein provided for if such dealer or vendor for whom such agent, representative or consignee acts has complied with the provisions of this Act.

§ 5. If any Section or part of a Section of this Act shall for any reason be adjudged by any Court of competent jurisdiction to be invalid and unconstitutional, such unconstitutionality shall not affect, impair, or invalidate the remainder of this Act, and the Legislature hereby states that they would have passed the remainder of said Act if it had known that such part or parts thereof would be declared unconstitutional.

§ 6. EMERGENCY.]

WHEREAS, non-resident dealers in used motor vehicles have caused to be transported large numbers of used or second hand motor vehicles into this State for sale and the legal title thereto has been the cause of much difficulty; and

WHEREAS, non-resident dealers have made representations or warranties that are not true as to such motor vehicles and the vendee is without recourse except in the Courts of the domicile of the vendor; and

WHEREAS, there is no law now in effect protecting the purchaser

as against such foreign dealers this Act is hereby declared to be an emergency and shall be in force from and after its passage and approval.

Approved March 10, 1937.

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## MUNICIPAL CORPORATIONS

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### CHAPTER 170 S. B. No. 69—(Blaisdell)

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#### QUALIFICATIONS OF CITY ALDERMEN

An Act to amend and re-enact Section 3585 of the Compiled Laws of 1913 relating to the qualifications of City Aldermen, repealing all Acts and parts of Acts in conflict herewith, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] Section 3585 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 3585. QUALIFICATIONS.] No person shall be eligible to the Office of Alderman who is not a qualified elector of and resident within the ward for which he is elected; provided, that in Cities, where Aldermen are elected at large, he shall be a qualified elector of and resident within such City, nor shall he be eligible if he is directly or indirectly interested in any contract whatever to which the City is a party; nor shall he be eligible if he shall have been convicted of malfeasance, bribery, or other corrupt practices or crimes; nor shall he be eligible to any office, the salary of which is payable out of the City Treasury, if at the time of his appointment he shall be a member of City Council; nor shall any member of the City Council at the same time hold any other office under the City Government; nor shall he either directly or indirectly, individually, or as a member of a firm engage in any business transaction, other than official, with such City through its Mayor or any of its authorized boards, agents or attorneys, whereby any money is to be paid directly or indirectly out of the Treasury to such member or firm.

§ 2. All Acts or parts of Acts in conflict herewith are hereby repealed.

§ 3. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved February 15, 1937.