

# INITIATED MEASURES

## Approved

### CHAPTER 381

**PROHIBITING SALE, GIFT, OR CONSUMPTION OF ALCOHOLIC  
BEVERAGES IN CONNECTION WITH ANY COMMODITY OTHER  
THAN TOBACCO, TOBACCO PRODUCTS, AND SOFT DRINKS;  
ALSO PROHIBITING CONNECTING DOORWAYS OR ARCHWAYS**

**AN ACT**

Prohibiting the sale, gift, or consumption of alcoholic beverages in any establishment within the State of North Dakota where there is sold any commodity other than tobacco, tobacco products, and soft drinks; defining alcoholic beverages; making it unlawful to maintain connecting archways or doorways between establishments where alcoholic beverages are sold and other places of business; and repealing conflicting acts.

*Be It Enacted By the People of the State of North Dakota:*

§ 1.] Sixty days after the passage of this measure it shall be unlawful to sell, offer for sale, give away, barter, or consume alcoholic beverages in any place where is sold or offered for sale any commodity other than tobacco, tobacco products, and soft drinks.

§ 2.] Definition: For the purposes of this act, the following liquors are declared to be alcoholic beverages, viz.: alcohol, brandy, whiskey, rum, gin, beer, ale, porter, and wine, and in addition thereto any spirituous, vinous, malt, or fermented liquor, liquids, and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half of one per centum or more alcohol by volume, which are fit or intended for use for beverage purposes; provided, that the foregoing definition shall not extend to sweet fruit juices or de-alcoholized wine nor to any beverage or liquid produced by the process by which beer, ale, porter, or wine is produced, if it contains less than one-half of one per centum of alcohol by volume and is otherwise denominated than as beer, ale, or porter.

§ 3.] It shall further be unlawful to maintain or allow any connecting archways or doorways connecting any establishment where alcoholic beverages are sold with any other place of business where there is sold or offered for sale any

commodity other than tobacco, tobacco products, and soft drinks.

§ 4.] Any person who shall violate this act, and any owner or operator, whether an individual, association, co-partnership or corporation, or any manager or employee thereof, of any establishment where alcoholic beverages are sold, offered for sale, given away or bartered in violation of this Act, or where archways or doorways are maintained or allowed in violation hereof shall be guilty of a misdemeanor.

§ 5.] All acts or parts of acts in conflict with the provisions of this Act are hereby repealed.

Approved November 5, 1946.

86114 to 82332

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## CHAPTER 382

### REFUND MOTOR VEHICLE FUEL TAX USED FOR AGRICULTURAL OR INDUSTRIAL PURPOSES

#### AN ACT

To provide for the refunding of license taxes paid upon motor vehicle fuels used for agricultural or industrial purposes; providing the procedure for the presentation of claims therefor and the prompt payment thereof; providing for refunds to the state, county, city, village, township, park district or other municipalities; providing penalties for violation of this act, and providing for the repeal of Sub-section 5 of 57-4101, and Sections 57-4119, 57-4120, 57-4121, 57-4122, 57-4124, 57-4125, 57-4126, 57-4127, 57-4128, 57-4129, 57-4130, and 57-4131 of the Revised Code of North Dakota for 1943, and Chapter 302 of the Session Laws of North Dakota for 1945, and a part of Section 9 of the Initiated Measure (Chap. 339, S. L. 1945) approved November 7, 1944.

*Be It Enacted By the People of the State of North Dakota:*

§ 1.] After December 31, 1946, any person, firm or corporation who shall buy or use any motor vehicle fuel as defined by sub-paragraph 2 of Section 57-4101, Revised Code of North Dakota for 1943, for agricultural or industrial purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of the State of North Dakota on which the motor vehicle fuel tax has been paid, shall be reimbursed or repaid within the time hereinafter provided, the amount of such tax paid by him upon the presentation to and the approval of the State Auditor of a claim for refund.

§ 2.] Such claim shall be in a form furnished by the State Auditor and shall be verified by the oath of the claim-

ant. It shall have attached thereto the original invoice or invoices showing the purchase of the motor vehicle fuel on which a refund is claimed, shall state the name of the person from whom the motor vehicle fuel was purchased, the date of purchase, the total amount of such motor vehicle fuel, that the purchase price thereof has been paid and that in said price was included the motor vehicle fuel tax payable to the State of North Dakota under Section 57-41, Revised Code of North Dakota for 1943, and under the Initiated Measure (Chap. 339, S.L. 1945) approved November 7, 1944, relating to the tax on motor vehicle fuels, that such motor vehicle fuel was used by the claimant otherwise than in motor vehicles operated or intended to be operated upon the public highways of this State, the manner in which said motor vehicle fuel was used, the equipment in which such motor vehicle fuel was used and such other information as the State Auditor shall require. In the event the original invoice or invoices are lost, the claimant may furnish, in lieu thereof, duplicate invoices together with a separate affidavit on forms prescribed by the State Auditor.

§ 3.] Such claim for refund must be filed within twelve months of the date of the purchase of such motor vehicle fuel or the claim for refund shall be barred.

§ 4.] The State Auditor, upon the presentation of such sworn claim, shall audit said claim for refund and prepare, in duplicate, an abstract showing the claim number, the name and address and amount due each claimant, and shall pay each claim within thirty days of the receipt thereof in the State Auditor's office unless the Auditor shall be in doubt as to the validity of any claim, in which case the Auditor may withhold the approval thereof for a reasonable time for purposes of investigation. The State Auditor may authorize any employee or agent of his office to investigate doubtful claims and make a report of his findings to the Auditor, who shall thereupon promptly approve or reject such claim as the facts may warrant.

§ 5. When any construction, re-construction or maintenance of a public road, highway, street or airport is undertaken by the State or any County, City, Village, Township, Park District or other municipality in the State and where public funds of the State, County, City, Village, Township, Park District or other municipality are directly used for the purchasing of motor vehicle fuel to be used in publicly owned vehicles for such construction, re-construction or maintenance, such motor vehicle fuel shall be subject to a refund of the tax paid thereon as provided for in this Act and under the same terms and conditions. No tax refund shall be paid to any

person, firm or private corporation on any motor vehicle fuel used in construction, re-construction or maintenance of a public road, highway, street or airport, which construction or maintenance work is paid for from public funds.

§ 6. Every seller of motor vehicle fuel shall issue to each purchaser, who purchases motor vehicle fuel for agricultural or industrial purposes, a duplicate original invoice for each sale, using double faced carbon, which shall be in the form prescribed by the State Auditor and shall show the date, name, residence and license number, if any, of the seller and the number of gallons of motor vehicle fuel sold. Each invoice so issued shall be signed by the purchaser and one of such duplicate invoices shall be retained by the seller as part of his business records for not less than two years.

§ 7. The State Auditor shall be charged with the administration of this Act. He shall be authorized and empowered to employ such assistance as may be necessary for the efficient administration and enforcement of the Act and shall also have the power to make such reasonable rules and regulations relating to the administration and enforcement of the Act as may be deemed necessary and expedient.

§ 8. Any claimant who makes a false and fraudulent claim for refunds, upon conviction therefor in a court of competent jurisdiction, shall be guilty of a misdemeanor; and any seller who violates the provisions of this Act shall be guilty of a misdemeanor.

§ 9. Sub-Section 5 of Section 57-4101, Sections 57-4119, 57-4120, 57-4121, 57-4122, 57-4124, 57-4125, 57-4126, 57-4127, 57-4128, 57-4129, 57-4130, and 57-4131 of the Revised Code of North Dakota for 1943 and Chapter 302 of the Session Laws of North Dakota for 1945, are hereby repealed; and the following provision only of Section 9 of the Initiated Measure (Chap. 339, S. L. 1945) approved November 7, 1944; to-wit: "Provided, however, that said additional one cent (1c) per gallon tax shall not be imposed upon or applicable to motor vehicle fuels sold in this state to be used solely for agricultural and industrial purposes and said motor vehicle fuels so sold to be used solely for agricultural and industrial purposes shall be tax exempt, as is provided by Chapter 147 of the 1939 Session Laws of the State of North Dakota, and amendments thereto, or any law hereafter enacted," is hereby repealed.

Approved November 5, 1946

88102 to 76337.