

# MOTOR VEHICLES

## CHAPTER 160

S. B. No. 271—(Bonzer.)

### REGISTRAR OF MOTOR VEHICLES

An Act abolishing the Motor Vehicle Registration Department as a separate department, providing for appointment, salary and certain duties of a Registrar of Motor Vehicles under the supervision of the State Highway Commissioner, establishing method of distribution of fees collected, providing for Register of Deeds to perform certain duties in connection with registration and certificates of title of motor vehicles, exempting certain motor vehicles from payment of full annual license, abolishing and disposing of Auto-Theft and State Highway Funds and establishing the Motor Registration Fund and providing for its disbursements and apportionment, amending and re-enacting Sections 1, 2, 4, 9, 11, 19, 24, 25, 26, 29, 30, and 36 of Chapter 179 of the 1927 Session Laws and Acts amendatory thereto, repealing Sections 31, 32, 33, and 34 of Chapter 179 of the 1927 Session Laws and Acts amendatory thereto, amending and re-enacting Section 17 of Chapter 180 of the 1927 Session Laws, repealing all Acts and parts of Acts in conflict herewith, declaring an emergency.

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

§ 1. AMENDMENT.] That Subdivision "u" of Section 1 of Chapter 179 of the 1927 Session Laws, as amended by Chapter 186 of the 1931 Session Laws be amended and re-enacted to read as follows:

§ 1. (u) "Department." Whenever the word "Department" or "Department of Motor Vehicle Registration" is used in this Act the same shall mean the Registrar of Motor Vehicles as created by this Act acting directly or through officers and agents appointed by the State Highway Commissioner as in this Act provided.

§ 2. AMENDMENT.] That Section 2 of Chapter 179 of the 1927 Session Laws be amended and re-enacted to read as follows:

§ 2. MOTOR VEHICLE REGISTRATION DEPARTMENT ABOLISHED; APPOINTMENT OF REGISTRAR OF MOTOR VEHICLES; SALARY; OFFICE AND HELP.] The Department of Motor Vehicle Registration, as a separate department and the office of Registrar thereof as created under the provisions of Chapter 179 of the 1927 Session Laws is hereby abolished. Within ten days after this Act goes into effect the State Highway Commissioner shall appoint a suitable person to act as Registrar of Motor Vehicles, which appointment shall be for a term of two years, but such Registrar may be removed at any time for cause. The Registrar shall qualify by taking and subscribing to the oath of office prescribed by law for State officers and shall file a bond to be approved by the State Highway Commissioner in the sum of Twenty Thousand Dollars conditioned upon the faithful per-

formance of the duties of his office and the full accounting of all moneys received under the provisions of the Act, the cost of such bond to be paid as an expense of said office. The salary of such Registrar shall be fixed by the State Highway Commissioner, but such salary shall not exceed Twenty-four Hundred Dollars per annum, and shall be paid monthly as other expenses of said offices are directed to be paid under the provisions of this Act. The office of the Registrar shall be located in the same department as the State Highway Commissioner. The State Highway Commissioner shall provide the said Registrar with all office supplies necessary to carry out the duties of his office and such additional help as may be from time to time needed by said Registrar, the compensation of said help to be fixed by said State Highway Commissioner, and all expenses for office supplies to be paid as a part of the expenses of said office.

§ 3. AMENDMENT.] That Section 4 of Chapter 179 of the 1927 Session Laws, as amended by Chapter 186 of the 1931 Session Laws be amended and re-enacted to read as follows:

§ 4. RECORDS OF REGISTRAR.] The office of the Registrar shall be open and accessible to all applicants for motor vehicle licenses and to all persons desiring information regarding the records of his office during all reasonable office hours.

§ 4. AMENDMENT.] That Section 9 of Chapter 179 of the 1927 Session Laws be amended and re-enacted to read as follows:

§ 9. APPLICATION FOR REGISTRATION: DUTIES OF REGISTRAR AND REGISTER OF DEEDS.] (a) Application for the registration of a vehicle required to be registered hereunder shall be made by the owner thereof upon the appropriate forms approved or furnished by the Registrar and every application shall be signed by the owner and contain his residence address and a brief description of the vehicle to be registered, including the name of the maker, the engine and serial number whether new or used and the last license number if known and the state in which issued and, upon the registration of a new vehicle, the date of sale by the manufacturer or dealer to the person first operating such vehicle. The application shall contain such other information as may be required by the Registrar.

(b) In the event that the vehicle, for which registration is applied, is a specially constructed, reconstructed or foreign vehicle, such fact shall be stated in the application, and with reference to every foreign vehicle which has been registered theretofore outside of this state, the owner shall exhibit to the Registrar the certificate of title and registration card or other evidence of such former registration as may be in the applicant's possession or control or such other evidence as will satisfy the Registrar that the applicant is the lawful owner or possessor of the vehicle.

(c) The said application for registration may be made either to the Registrar at his office or to the Register of Deeds of the county

of the residence of the applicant, or in the case of a non-resident of this state to the Register of Deeds of any county or to the Registrar. If such application is made to the Register of Deeds it shall be the duty of said Register of Deeds, upon the payment to him of the fee prescribed by law for the registration of the vehicle described in the application, to issue a receipt to the applicant therefor, fully identifying the motor vehicle described in the application, and to assign to said motor vehicle a tentative and distinctive license or tag number, which assigned license or tag number shall be stated in the receipt aforementioned. The said Register of Deeds shall daily forward to the Registrar of Motor Vehicles a duplicate of all receipts by him issued and the applications by him received on the preceding day, and shall keep in his office a record in the form prescribed by the Registrar of all receipts by him issued and of all applications by him received, with a suitable space in said record to insert the final disposition made of each of said applications by the Registrar and by him, with number of license or tag plates assigned to each motor vehicle ; but no receipt by him issued or application received shall refer to or describe more than one vehicle.

On receipt from the said Register of Deeds of any such application and receipt aforementioned, the Registrar shall file the same in his office, and if the motor vehicle therein described is under the laws of this state entitled to registration, then said Registrar shall register such motor vehicle in a book to be kept for that purpose or in such other records as are now provided by law for that purpose, and shall immediately notify the Register of Deeds who issued said receipt and received said application that the application has been granted and that the license or tag number assigned to said motor vehicle has been recorded in the office of said Registrar, and upon receipt of such advice, it shall be the duty of the Register of Deeds to deliver or forward by mail or express to the applicant named in such receipt and application, without expense to the applicant, two license or tag plates, which plates shall bear the distinctive number previously assigned tentatively to said motor vehicle in the receipt issued by said Register of Deeds therefor.

If the motor vehicle described in said receipt and application is not under the laws of this state entitled to registration, or if for any reason the said receipt or application is found defective, it shall be the duty of the Registrar to immediately notify the Register of Deeds from whom the same were received of the rejection of said application or of his objection to the granting thereof. Said Register of Deeds shall thereupon immediately notify the applicant of the action of said Registrar on said application, and if the objection made to said application by said Registrar can be remedied by furnishing additional proof or complying with some other conditions, it shall be the duty of said Register of Deeds to furnish said applicant all help and assistance necessary to do so. If said application is by said Registrar rejected, it shall be the duty of said Register of Deeds to

immediately notify the applicant if (of) its rejection and to refund to said applicant the amount by him paid to said Register of Deeds as shown in the receipt to him issued for said vehicle, and for such purpose the said Register of Deeds shall be allowed to withdraw from the funds by him collected for license of motor vehicles applied for to him the amount necessary therefor, and if there are not sufficient funds in his hands out of said collections to make said refund he shall immediately require the Registrar to mail him a warrant therefor to be drawn out of the Motor Registration Fund as hereinafter provided.

The Registrar shall, on or before the 31st day of December of each year, furnish to each Register of Deeds all application and receipt blanks necessary for the registration of motor vehicles and such quantity of number plates as may be deemed necessary for the subsequent calendar year in the county of said Register of Deeds.

The applications for duplicates of lost number plates as provided for in Section 20 of Chapter 179 of the 1927 Session Laws may likewise be made to the Register of Deeds of the county of the residence of the owner of such vehicle and said application shall be dealt with and duplicate delivered in the manner hereinbefore provided for original applications for registration of motor vehicles upon payment to said Register of Deeds of the sum of One Dollar for each set of duplicate number plates applied for.

In case any application for registration of motor vehicles is finally rejected, the said application shall be returned by the Registrar to the Register of Deeds, to whom the same was made, and by him kept as a record of his office for two years thereafter.

On the Tuesday of each week each Register of Deeds shall mail to the Registrar of Motor Vehicles a report showing the number and amount of each receipt by him issued during the preceding week, and a postal or express money order or a check on The Bank of North Dakota for such amount payable to the Registrar of Motor Vehicles, and if no receipts have been issued during that week the report shall so state.

All receipts hereinbefore mentioned issued by each Register of Deeds shall be in triplicate on a form approved by said Registrar, and be numbered consecutively by the Registrar before delivered to said Register of Deeds, one of which duplicates shall be delivered to the applicant, one shall be mailed to and retained by the Registrar, and one shall be retained by the said Register of Deeds as a record in his office for two years, after which the same may be destroyed by him.

All services rendered by the Register of Deeds under the provisions of this Act shall be without cost to either the applicant or the Motor Registration Fund hereinafter mentioned, and all expenses of postage or others necessarily incurred by said Register of Deeds in performing the duties devolved upon him under the

provisions hereof shall be borne by the county of said Register and be paid as other expenses of his office are paid under the law.

§ 5. AMENDMENT.] That Section 11 of Chapter 179 of the 1927 Session Laws be amended and re-enacted to read as follows:

§ 11. REGISTRATION CARDS.] (a) The Registrar, upon registering a vehicle, shall issue to the owner a registration card which shall contain upon the face thereof the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner, also a description of the registered vehicle, including engine number thereof, and with reference to every new vehicle hereafter sold in this state, the date of sale by the manufacturer or dealer to the person first operating such vehicle and such other statement of facts as may be determined by the Registrar.

(b) The registration card shall contain upon the reverse side a form for endorsement of notice to the Registrar upon transfer of the vehicle.

(c) The owner, upon receiving the registration card, shall sign the usual signature or name of such owner with pen and ink in the space provided upon the face of such card.

(d) In case the application for the registration of the motor vehicle has been forwarded to the Registrar through a Register of Deeds as in this Act provided, the said registration card mentioned in this Section shall be mailed to the Register of Deeds from whom the said application was received by said Registrar, and shall by the said Register of Deeds be delivered with and in the manner hereinbefore provided for delivery of number plates for the motor vehicle mentioned in said registration card.

§ 6. AMENDMENT.] That Section 19 of Chapter 179 of the 1927 Session Laws, as amended by Chapter 167 of the Session Laws of 1929 and by Chapter 186 of the 1931 Session Laws, be amended and re-enacted to read as follows:

§ 19. REGISTRATION BY NON-RESIDENTS.] (a) A non-resident owner, except as otherwise provided in this Section, owning any foreign vehicle which has been duly registered for the current calendar year in the state, county or other place of which the owner is a resident and which at all times when operated in this state has displayed upon it the number plate or plates issued for such vehicle in the place of residence of such owner, may operate or permit the operation of such vehicle within this state without registering this vehicle or paying any fees to this state for a period of not longer than ninety days, if under the law of the state of the residence of such owner like exemptions and privileges are granted to vehicles duly registered under the laws and owned by residents of this state.

(b) Except a non-resident owner of a foreign vehicle operated within this state for the transportation of persons or property for compensation or for the transportation of merchandise, shall regis-

ter such vehicle and pay the same fees therefor as are required with reference to like vehicles owned by residents of this state.

(c) And except further, that every non-resident, including any foreign corporation carrying on business within this state, and owning and regularly operating in such business any motor vehicle, within this state, shall be required to register each such vehicle and pay the same fees therefor as are required with reference to like vehicles owned by residents of this state.

(d) And except further that every person as hereinbefore defined, engaged in the hauling or transportation for hire or compensation, of property or persons by motor vehicle from any state into the State of North Dakota, a distance of more than five miles or from any state through the State of North Dakota, and using the highways within said State of North Dakota, shall be required to register each such vehicle and pay the same fees therefor as are required with reference to like vehicles owned by residents of this state.

(e) And except further that the Registrar may, upon an application setting forth the name and address of such applicant, the equipment proposed to be used, the gross weight intended to be transported, or the maximum weighted capacity of the passenger vehicle intended to be used as a carrier of passengers for hire, the point of entry into this state, the highways intended to be traversed, the point of destination and such further information as may be required by the Registrar, made by a non-resident owner of a motor vehicle of a foreign state who has fully complied with the laws of the state of which he is a resident relative to registration thereof and paid all taxes and registration fees of such foreign motor vehicle, issue to such owner a temporary permit or license for a single or occasional trip from such foreign state into or through this state and return, without requirement of registration, payment of license fees and display of registration plates as provided in this Act, but no more than three such permits shall during any calendar year be issued by said Registrar to the same person, firm, corporation, owner or operator; provided that such applicant, when making such application, intends to transport in interstate commerce an entire cargo only of property from one consignor to one consignee or person under a charter party only; and provided, further, that the state of the residence of such owner grants to motor vehicles duly registered and licensed in this state like privileges and exemptions under similar conditions.

§ 7. AMENDMENT.] That Subdivision First of Section 24 of Chapter 179 of the 1927 Session Laws be amended and re-enacted to read as follows:

§ 24. FIRST.] To operate or for the owner thereof knowingly to permit the operation upon a highway of any motor the registration of which has been cancelled or revoked, or which is not reg-

istered or which does not have attached thereto and displayed thereon a number plate or plates assigned thereto by the Registrar for the current registration year, subject to the exemptions allowed in Section 16 (d), 17 and 19 of said Chapter 179 of the 1927 Session Laws and Acts amendatory thereto.

§ 8. AMENDMENT.] That Subdivision "c" of Section 25 of Chapter 179 of the 1927 Session Laws, as amended by Chapter 186 of the 1931 Session Laws, be amended and re-enacted to read as follows:

§ 25. SUBDIVISION "c."] For motor trucks used for commerce freighting, in addition to the factors mentioned in paragraph (b) of this Act, an additional fee of Twenty-five and no/100 Dollars per vehicle shall be charged.

Provided, that any passenger motor vehicle not having an advertised manufacturer's weight shall pay a license fee based upon actual weight as determined by the Registrar from satisfactory proofs submitted to him and that any truck not having a manufacturer's advertised load capacity, shall pay a license fee in accordance with the schedules herein provided and applicable thereto upon its load capacity, as determined by the Registrar upon satisfactory proofs submitted to him, and that any truck, however constructed, having a manufacturer's advertised load capacity of ten tons or over, if permitted to operate on the highways of this state, shall pay a license fee of Fifteen and no/100 Dollars; provided, further, that there shall be paid as a license fee for any vehicle used as a motor bus in the transportation of persons for hire over the highways of this state with a seating capacity of more than seven passengers, in addition to the regular weight fee as charged for passenger cars, except motor passenger buses operating exclusively within the corporate limits of any town or city, an annual additional license fee of Eight and no/100 Dollars for each passenger capacity in excess of seven, and for this class of motor vehicles the Registrar shall designate a distinctive number and plate; but, if upon a satisfactory showing made to the Registrar that the operation of such motor bus is seasonal only, requiring the use of the equipment for less than six months in any year, notice of which seasonal use shall be given the Registrar when the original license fee last hereinbefore provided is paid, shall be, upon order of said Registrar, one-half of the annual additional license fee provided for herein, and one-half of the regular weight fee, and the license plate issued for such motor bus shall be by the owner of such vehicle returned to the Registrar at the end of said season.

§ 9. AMENDMENT.] That Section 26 of Chapter 179 of the 1927 Session Laws be amended and re-enacted to read as follows:

§ 26. Such license tags shall be of distinctly different color or shade each year, and at all times there shall be a mark between the

color of the number plate and that of the numerals or of letters thereon. Subject to such changes in the size and form of such license tags as may be found necessary and advisable by the State Highway Commissioner, such registration tags shall be substantially of the following size and form, viz: A plate or placard of metal or enamel with metal letters, 8½ inches in length and 5 inches in width for one or two numerals; 10 inches in length and 5 inches in width for three numerals; 12 inches in length and 5 inches in width for four or more numerals; and on the left end of this plate with letter running vertically from the top, there shall be two letters "N. D.", each of which shall be approximately one inch in length; and on right end, arranged in the same manner and the same size there shall be the four numerals of the year in which the license is issued; and on the body of such plate there shall be the distinctive numbers assigned to the vehicle in numerals four inches long, each stroke of which shall be at least ½ inch in width; provided, motorcycles shall be assigned tags three inches in width and of height to permit numerals to be placed vertically, across the top of this tag, with letters running horizontally, shall be the two letters "N. D." and across the bottom, arranged in the same manner, there shall be the four numerals of the year in which the license is issued, except that the last shall be in proportionate size to the small plate.

§ 10. AMENDMENT.] That Section 29 of Chapter 179 of the 1927 Session Laws, as amended by Chapter 165 of the 1929 Session Laws and by Chapter 186 of the 1931 Session Laws, be amended and re-enacted to read as follows:

§ 29. WHEN FEES DELINQUENT: PENALTIES.] The license fee under this Act to be paid upon a motor vehicle shall become due as soon as such vehicle shall first be used upon the public streets or highways in this state, and upon January 1st in each year thereafter. License fees due upon January 1st shall be paid upon transfer of ownership in the vehicle, and in any event on or before May 15th, and shall be delinquent after May 15th unless paid. License fees falling due between May 15th, except as hereinafter provided, and December 31st, shall become delinquent upon the expiration of five days after the same become due. Provided, that a licensed dealer shall on or before May 15th of each year, file with the Motor Vehicle Registrar, a list and description of all used cars on hand May 15th. Said used cars need not be licensed, unless sold, until October 1st, at which time said dealer must license all used cars on hand, paying the full annual license fee, but without penalty; provided, further, that on any car licensed in another state, which carries the current year's license issued by the state from which said car comes, taken in after July 1st of any year, one-half of the regular fee shall be paid and if any such car be taken in after October 1st of any year, said car shall be entitled to a license from the State of North Dakota, by paying one-fourth of the regular fee, and if said car is not sold by



the dealer until after December 31st of said year, in which it was taken in, no license shall be required by the State of North Dakota for that year.

A penalty of 10 cents a day shall be added to the license fee required under this Act for each and every day such license fee shall be delinquent for not to exceed fifteen days and \$2.00 for every thirty days or fraction thereof, but not to exceed one hundred and fifty days; provided, however, that there shall be no penalty charged on vehicles not owned by dealers that have not been operated on the highways during one or more years previous to application for re-registration, if the Registrar is satisfied of such proof.

In case any vehicle owned by a resident of this state is on proof satisfactory to the Registrar shown that it was not used upon any of the public streets or highways of this State in any one or more years, the same may be registered upon the payment of the license fee herein provided therefor for the current year and the further payment of a flat fee of Five and no/100 Dollars for each calendar year in which the said vehicle was not registered and no license fee paid therefor, without any additional penalty.

§ II. AMENDMENT.] That Section 30 of Chapter 179 of the 1927 Session Laws be amended and re-enacted to read as follows :

§ 30. DISPOSITION OF REGISTRATION FEE; APPORTIONMENT.] All moneys collected by the Registrar of Motor Vehicles under the provisions of Chapter 179 of the 1927 Session Laws known as the "Motor Vehicle Registration Act" and Chapter 180 of the 1927 Session Laws known as the Motor Vehicle Anti-Theft Act" and all Acts amendatory thereto shall be by the Registrar paid as soon as collected into the State Treasury and covered into a fund to be hereafter known as the "Motor Registration Fund," and the funds heretofore known and designated under the name of "State Highway Fund" under the provisions of said Chapter 179 of the 1927 Session Laws and as "Auto Theft Fund" under the provisions of Chapter 18 of the 1927 Laws are hereby abolished, and it shall be the duty of the State Treasurer upon taking effect of this Act to transfer the funds remaining in said State Highway Fund and Auto Theft Fund to the Motor Registration Fund hereby created.

All salaries and compensation of the Registrar and other employees charged with the operation and enforcement of the Motor Vehicle Registration Act and Motor Vehicle Anti-Theft Act, hereinbefore mentioned, and all office and other expenses in connection with the enforcement of said Acts, including the actual cost of the license tags or plates required to be furnished on registration of motor vehicles, shall be monthly, after being approved by the State Highway Commissioner, audited and allowed by the State Auditing Board, and when allowed by said Board it shall be the duty of the State Auditor to draw a warrant on the State Treasurer for the payment thereof out of said Motor Registration Fund, and the said

warrants as presented shall be paid by the State Treasurer accordingly.

Any money, in excess of a sum equal to the amount that was withdrawn therefrom during the preceding quarter for payment of salaries and other expenses as herein provided, remaining in the Motor Registration Fund aforementioned after the payment of all warrants then drawn thereon, shall be by the State Treasurer transferred and credited to the North Dakota Real Estate Bond Payment Fund for the payment of interest and fees; the sinking fund on said bonds now due or to become due during the years, 1933, 1934, and 1935.

§ 12. AMENDMENT.] That Section 36 of Chapter 179 of the 1927 Session Laws be amended and re-enacted to read as follows:

§ 36. The possession of the receipt hereinbefore provided to be issued by the Register of Deeds where the application for registration was made, or the possession of a certificate made out by the Notary Public who took acknowledgement of the original application where such certificate shows date of application, make and model of car and the manufacturer's number of the motor vehicle which such application describes and that he personally mailed the application with the remittance fee, shall be prima facie evidence of compliance with the motor vehicle law with reference to the motor vehicle therein described for a period of fifteen days from the date of such application or receipt.

§ 13. AMENDMENT.] That Section 17 of Chapter 180 of the 1927 Session Laws be amended and re-enacted to read as follows:

§ 17. MONEYS COLLECTED. ENFORCEMENT.] The Registrar shall deposit all fees and revenues received under this Act in the state treasury and such moneys shall be placed in the "Motor Registration Fund" and all salaries and other expenses incurred in connection with this Act shall be paid out of said Motor Registration Fund in the manner provided by law for the disbursement of said fund.

The State Highway Commissioner is hereby authorized to employ all office help and purchase all supplies necessary to carry out the provisions of this Act, and it is hereby made the duty of the sheriffs, the police officers and the other law enforcement officers of the various political subdivisions of this state to properly enforce the provisions of this Act.

§ 14. REPEAL.] That Sections 31, 32, 33 and 34 of Chapter 179 of the 1927 Session Laws, and all Acts or parts of Acts in conflict herewith be and the same are hereby repealed.

§ 15. EMERGENCY.] An emergency is hereby declared to exist and this Act shall become effective upon its passage and approval.

Approved March 7, 1933.

## CHAPTER 161

H. B. No. 148—(Peterson of Mountrail.)

## TAXATION AND LICENSING MOTOR VEHICLES

An Act to amend and re-enact Subdivisions (b) and (e) of Section 25 of Chapter 186 of the Session Laws for 1931, being an Act to provide for the taxation and licensing of Motor Vehicles, defining commercial hauling, providing for a refund, and declaring an emergency.

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

§ 1. AMENDMENT.] That Subdivisions (b) and (e) of Section 25 of Chapter 186 of the Session Laws of North Dakota for the year of 1931 be amended and re-enacted to read as follows:

(b) The registration fee for the years subsequent to the year in which the passenger vehicle or truck was purchased from the dealer shall be the basic fee or major fraction thereof as above determined, and as determined in this paragraph for trucks, less a ten per cent reduction from the basic fee for each successive year until the tax equals \$3.00 which will be the annual fee thereafter.

For motor trucks, not used for commercial freighting, the fee shall be based on its manufacturer's advertised load capacity, at the rate of \$13.50 on such vehicles with advertised load capacity of one-half ton; \$16.50 for truck of three-quarter ton capacity; \$21.00 for trucks of one ton capacity; \$28.50 for trucks of one and one-half ton capacity. Provided that trucks of two tons capacity or over shall carry the following registration fee for the first year:

\$55.00 for trucks of two tons capacity.

\$70.00 for trucks to two and one-half tons capacity.

\$90.00 for trucks of three and less than four tons capacity.

\$200.00 for trucks of four and less than five tons capacity.

\$400.00 for trucks of five and less than six tons capacity.

\$600.00 for trucks of six and less than seven tons capacity.

\$900.00 for trucks with load capacity of over seven tons.

The fee for the years subsequent shall carry a ten per cent reduction from the fee of the previous year, as above determined, until the fee equals one-half of the original and thereafter there shall be no further reduction. Provided however, that passenger cars and trucks coming under the definition of being engaged in commercial passenger and freight transportation, that the fee for the year subsequent shall carry a ten per cent reduction for each year from the fee of the previous year, as above determined until the fee equals one-half of the original and thereafter there shall be no further reduction.

Provided further that the foregoing provisions for fees shall be retroactive and become applicable as of January 1st, 1933; and further provided that under the provisions of this Act all motor vehicles shall be licensed when the fee paid for operation in the year

1933 shall be paid whether or not they were licensed and license fee paid in previous years.

Provided further that where fees have been paid for 1933 in excess of the amounts stipulated in this Act, the Registrar shall make a refund to the owners in accordance with the provisions hereof. Such refunds to be made out of the motor vehicle registration fee fund upon the presentation of properly prepared vouchers approved by the State Auditing Board, and approved by the registrars, and all such refunds made shall be deducted from the fees collected for each county where application was made.

(e) "Commercial Freighting" defined: Commercial freighting shall mean the carriage of things other than passengers, for hire, except within the limits of the same city, village, or town; providing that local dray lines carrying baggage or goods to or from a railroad station from or to places in said city, village, or town, or in the immediate vicinity thereof, in this State and not to exceed two miles from the corporate or recognized limits of said city, village or town, shall not be construed to be engaged in commercial freighting hereunder. Provided further that commercial freighting, as defined in this Act, shall not include hauling done by farmers for their neighbors in transporting agricultural products to or from market.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and therefore this Act shall take effect and be in full force immediately upon its passage and approval.

Approved March 7, 1933.

## CHAPTER 162

H. B. No. 161—(Mostad and Sandlie.)

### TAXATION COMMERCIAL MOTOR VEHICLES USING HIGHWAYS

An Act to provide for the taxation of motor vehicles using the highways of the State of North Dakota for commercial purposes and engaged in transporting goods or merchandise for hire in interstate commerce.

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

#### § 1. DEFINITION OF TERMS.]

(1) The term "Highway" means any public thoroughfare for vehicles, including streets in cities, villages and boroughs.

(2) The term "Motor Vehicle" means any self-propelled vehicle not operated exclusively upon railroad tracks, and any vehicle propelled or drawn by a self-propelled vehicle.

(3) The term "Owner" means any person, firm, association or corporation owning or renting a motor vehicle, or having the ex-

clusive use thereof, under a lease or otherwise, for a period greater than 30 days.

(4) The term "Tractor" means any motor vehicle designed or used for drawing other vehicles but having no provision for carrying loads independently.

(5) The term "Truck-tractor" means any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(6) The term "Trailer" means any vehicle designed for carrying property or passengers wholly on its own structure and being drawn by a motor vehicle.

(7) The term "Semi-trailer" means a vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight or that of its load rests upon end is carried by the towing vehicle.

(8) The term "Truck" means any motor vehicle designed or used principally for carrying things other than passengers and includes a motor vehicle to which has been added a cabinet box, platform, rack or other equipment for the purpose of carrying merchandise other than the person or effects of the passenger.

(9) The term "Unloaded Weight" shall mean the actual weight of the vehicle fully equipped without a load.

(10) The term "Registrar" means the Registrar of Motor Vehicles designated in this Act.

(11) The term "Interstate Commerce" shall not be construed so as to include or affect any common or contract motor carrier operating exclusively within the State of North Dakota under a certificate of Public Convenience and Necessity, granted by the Board of Railroad Commissioners of the State of North Dakota, even the merchandise carried by such carrier is for transit to a foreign destination.

§ 2. No truck, tractor, truck-tractor, semi-trailer or trailer shall be operated on the highways of this state engaged exclusively in transporting property in interstate commerce or between this state and any province in the Dominion of Canada unless such vehicle has been registered and a license plate of a distinctive color issued therefor by the Registrar of Motor Vehicles. The applicant shall pay therefor a fee of \$5.00 for each such vehicle and in addition thereto truck mile tax as compensation for the use of the highways, which said tax shall be based upon the unloaded weight of the vehicle and the distance that such vehicle travels on the highways of this state. The tax on each motor vehicle or combination of vehicles shall be ascertained by multiplying the number of miles traveled by each of such vehicles on the highways of this state by the rate per mile as provided herein.

The tax on a combination of truck-tractor and semi-trailer and/or a tractor and trailer, shall be determined by adding together the unloaded weight of both the truck-tractor and semi-trailer and/or tractor and trailer. The combined weight of the vehicle so ascertained shall determine the unloaded weight of such combination of vehicles for the purpose of computing such tax. Where a trailer is not attached directly to a tractor it shall be subject to a truck mile tax based on the unloaded weight of such trailer.

The truck mile tax shall be determined as follows:

|   |                           |
|---|---------------------------|
| Vehicle or combination of vehicles having an unloaded weight under 2 ton .....                      | $\frac{1}{2}\phi$ per mi. |
| Vehicle or combination of vehicles having an unloaded weight of 2 ton and not exceeding 3 ton.....  | $\frac{3}{4}\phi$ " "     |
| Vehicle or combination of vehicles having an unloaded weight of 3 ton and not exceeding 4 ton ..... | $1\phi$ " "               |
| Vehicle or combination of vehicles having an unloaded weight of 4 ton and not exceeding 5 ton ..... | $1\frac{1}{4}\phi$ " "    |
| Vehicle or combination of vehicles having an unloaded weight of 5 ton and not exceeding 6 ton.....  | $2\frac{1}{2}\phi$ " "    |
| Vehicle or combination of vehicles having an unloaded weight of 6 ton and not exceeding 7 ton ..... | $3\frac{1}{4}\phi$ " "    |
| Vehicle or combination of vehicles having an unloaded weight of 7 ton and not exceeding 8 ton ..... | $4\phi$ " "               |
| Vehicle or combination of vehicles having an unloaded weight of 8 ton and not exceeding 9 ton ..... | $4\frac{3}{4}\phi$ " "    |
| Vehicle or combination of vehicles having an unloaded weight of 9 to 10 ton .....                   | $5\frac{1}{2}\phi$ " "    |
| Any vehicle or combination of vehicles having an unloaded weight of more than 10 ton .....          | $6\phi$ " "               |

§ 3. The Registrar of Motor Vehicles shall furnish to the owner of such vehicle appropriate blank forms on which to report the miles which said motor vehicle travels on the highways of this state.

The owner of such vehicle shall file with such Registrar of Motor Vehicles daily reports, if any, of such mileage traveled in North Dakota and shall keep such other records and furnish such information as said Registrar of Motor Vehicles may require. The Registrar of Motor Vehicles is authorized to require that any tractor, truck-tractor, semi-trailer, trailer or truck be equipped with a mechanical device approved by him to register the miles traveled by such motor vehicle, and such motor vehicle, including all appliances and all books and records of said owner, shall be subject to inspection at any time by the Registrar of Motor Vehicles.

The owner of every motor vehicle subject to the truck-mile tax shall, on or before the 15th day of each month, pay to the Registrar of Motor Vehicles, the truck-mile tax due and payable for the preceding month. At the time of the payment of such tax, such owner

shall file with the Registrar under oath upon a form prescribed by the Registrar, a report showing the truck miles operated during the preceding month and such other information as may be required. If the vehicle was not operated over the highways of this state during such month the report should so state.

The Registrar of Motor Vehicles shall not issue a license plate under this Section until the owner of said motor vehicle has filed with the said Registrar a surety bond payable to the state of North Dakota in a sum of not less than \$200, conditioned that the owner of said motor vehicle will pay the tax due hereunder and make such reports as may be required by the Registrar of Motor Vehicles.

If the owner of such vehicle shall fail to file the required reports or pay the tax within ten days after the filing of such reports or payment of such tax is due, the Registrar of Motor Vehicles shall declare such bond forfeited and an action shall be brought in the name of the state of North Dakota to recover the amount of said bond.

If the owner of such vehicle shall fail to file the required reports or pay the tax within the time required, the Registrar of Motor Vehicles shall also cancel and take up the license plate issued on such vehicle and notify the Board of Railroad Commissioners of such action.

§ 4. No tax shall be required from any truck, tractor, truck-tractor, semi-trailer or trailer when such vehicle engaged in interstate commerce does not come into the state of North Dakota a distance greater than five miles from the boundary of said state on any given trip, and does not travel on the highways of this state a distance of more than ten miles on said trip, nor shall any tax be required where said vehicle does not leave the incorporated limits of any city or cities while in the state of North Dakota within a zone circumscribed by a line running parallel to the corporate limits of any city, village or contiguous cities and villages and five miles distant therefrom.

§ 5. All funds collected under the provisions of this Act shall be paid into the "Auto Transportation Fund" as provided for by Chapter 188, Session Laws 1931, and shall be expended as so provided.

§ 6. VIOLATION OF PROVISIONS.] Every officer, agent or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provisions of this Act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement or any part or provision thereof, is guilty of a misdemeanor and punishable as such.

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

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

Approved March 9th, 1933.

## CHAPTER 163

H. B. No. 160—(Mostad and Sandlie.)

### SIZE AND LOAD MOTOR VEHICLES ON HIGHWAY

An Act to amend and re-enact Section 36 of Chapter 162 of the Session Laws of North Dakota for 1927 as amended by Chapter 190 of the Session Laws of North Dakota for the year 1931.

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

§ 1. AMENDMENT.] That Section 36 of Chapter 162 of the Session Laws of North Dakota for the year 1927, as amended by Chapter 190 of the Session Laws of North Dakota for the year 1931, be amended and re-enacted to read as follows:

#### SIZE OF VEHICLE AND LOAD.

(a) No vehicle shall exceed a total outside width, including any load thereon, of eight feet; provided, that the limitations as to size of vehicles stated in this Section shall not apply to contractor's equipment or implements of husbandry temporarily propelled or moved upon the public highway between sunrise and sunset.

(b) No vehicle unladen or with load shall exceed a height of twelve feet and six inches.

(c) No vehicle shall exceed a length of thirty-five feet and no combination of vehicles shall exceed a length of fifty feet. No train of more than two motor vehicles shall be operated on the highways of this state.

(d) No motor vehicle shall carry any load extending more than three feet beyond the front thereof, and no vehicle or combination of vehicles shall together with load exceed 16,000 pounds in weight per axle properly tired, or 600 pounds per inch of tire.

(e) No passenger vehicle shall carry any load extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fender on the right side thereof.

(f) The provisions hereof shall not apply to carriage of structural material of telephone, power and telegraph companies which must necessarily be transported on the highways on account of the location of their lines adjacent to said highways. Other structural material, which otherwise could not be transported over the highways of this state on account of the provisions of this Act, may be so transported upon obtaining a temporary permit from the State



Highway Commission or from any employee designated by said Commission for said purpose upon a showing of reasonable necessity and that the transporting of such structural material will not damage the highways to be used.

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

Approved March 3, 1933.

## CHAPTER 164

S. B. No. 282—(Bonzer.)

### REGULATION MOTOR VEHICLE TRANSPORTATION

An Act providing for the supervision and regulation of the transportation of persons and property for compensation over any public highway by motor propelled vehicles; defining and classifying transportation by motor propelled vehicles affected hereby; providing safety and sanitary regulations for the operation of motor propelled vehicles used for the purpose of transporting persons and property for compensation over any public highway; providing for the supervision and regulation thereof by the Board of Railroad Commissioners of the State of North Dakota; providing for the enforcement of the provisions of this Act and for penalties for the violation thereof.

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

#### ARTICLE I. GENERAL DEFINITIONS AND PURPOSE.]

§ 1. (a) (1) The term "Motor vehicle," when used in this Act, shall mean any automobile, truck, trailer, semi-trailer, tractor, motor bus, or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting persons or property. (2) The term "public highway" when used in this Act shall mean every public street, alley, road or highway or thoroughfare of any kind used by the public. (3) The term "commission" means the Board of Railroad Commissioners of the State of North Dakota. (4) The term "person" means and includes an individual, firm, copartnership, corporation, company, association, or their lessees, trustees or receivers. (b) It is hereby declared to be the purpose and policy of the legislature in enacting this law to confer upon the commission the power and authority and to make it its duty to supervise and regulate the transportation of persons and property by motor vehicle upon or over the public highways of this state in all matters, whether specifically mentioned herein or not, so as to: (1) relieve the existing and future undue burdens of the highways arising by reason of the use of the highway by motor vehicles for hire; (2) protect the safety and welfare of the traveling and shipping public in their use of the highways; (3) carefully preserve, foster and regulate transportation and permit the coordina-

tion of transportation facilities, and to actively enforce the provisions of this act.

ARTICLE II. COMMON CARRIERS.]

§ 2. (a) The term "common motor carrier of property," when used in this Act, shall mean any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle from place to place the property of others who may choose to employ him. (b) The term "common motor carrier of passengers," when used in this Act, shall mean any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle from place to place persons who may choose to employ him. (c) The transportation for more than one consignor, or to more than three consignees, by any motor carrier shall be prima facie evidence that such motor carrier is operating as a common carrier.

§ 3. This Act shall not apply to common motor carriers who shall operate wholly within a city or village of this state, or not to exceed two miles from the corporate or recognized limits of said city or village, and this Act shall not apply to any farmer engaged in the transportation of grain, poultry, dairy products, livestock, or other agricultural products from the farm where such products are produced or grown, to the market, when so transported either by the producer thereof or for some other farmer or the transporting of goods from market to farm by such farmer.

§ 4. All "common motor carriers of property or passengers" are hereby declared to be affected with a public interest and subject to the laws of this state, now in force or that hereafter may be enacted, pertaining to public utilities and common carriers as far as applicable, and not in conflict herewith.

§ 5. No common motor carrier of property or passengers shall operate any motor vehicle for the transportation of either persons or property for hire on any public highway in this state except in accordance with the provisions of this Act.

§ 6. The commission is vested with power and authority, and it shall be its duty, to supervise and regulate all common motor carriers of property or passengers as defined in Section 2 and after a hearing thereon, to fix, alter, regulate and determine just, fair, reasonable and sufficient rates, fares, charges and classifications; to regulate the facilities, accounts, service and safety of operations of each such carrier, to regulate operating and time schedules so as to meet the needs of any community, and so as to insure adequate transportation service to the territory traversed by such carriers, and so as to prevent substantial duplication of service between these common motor carriers, and between them and the lines of competing steam and electric railroads; and not to substantially substi-

tute the operation of motor common carriers for existing steam or electric transportation facilities; and the commission may require the co-ordination of the service and schedules of competing carriers by motor vehicle; to require the filing of annual and other reports, tariffs, schedules and other data by such common motor carriers, and to supervise and regulate such common motor carriers in all matters affecting the relation between such carriers and the public, to the end that the provisions of this Chapter may be fully and completely carried out. The commission shall have power and authority by general order or otherwise, to prescribe rules and regulations in conformity with this Act applicable to any and all such common motor carriers, and to do all things necessary to carry out and enforce the provisions of this Act.

§ 7. All rates, fares and charges made by any common motor carrier shall be just and reasonable, and shall not be unlawfully discriminatory, prejudicial nor preferential. No such carrier shall charge, demand, collect or receive a greater or less or different remuneration for the transportation of passengers or property, or for any service in connection therewith, from the rates, fares and charges which have been legally established and filed with the commission; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares and charges required to be collected by the tariffs on file with the commission or ordered by the commission.

§ 8. It shall be unlawful for any common motor carrier to operate within this state without first having obtained from the commission a certificate of public convenience and necessity. The commission, upon the filing of an application for such certificate, shall fix a time for hearing thereon, which shall be not less than twenty days after such filing. The commission shall cause notice of such hearing to be served by registered mail at least ten days before the hearing upon an officer, managing agent or owner of every railroad or other common carrier that is operating, or has applied for a certificate to operate in the territory proposed to be served by the applicant, and on other interested parties as determined by the commission, and any such common carrier or interested party is hereby declared to be an interested party to said proceedings and may offer testimony for or against the granting of such certificate. Any other interested person may offer testimony at such hearing. If the commission finds from the evidence that the public convenience and necessity require the proposed service or any part thereof it may issue the certificate as prayed for, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the right granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require; otherwise such certificate shall be denied. Before granting a certificate to a common motor carrier, the commission shall take into consideration

existing travel upon said route, the increased cost of maintaining the highway concerned, the effect on other essential forms of transportation, and existing transportation facilities in the territory for which a certificate is sought, and in case it appears from the evidence that the service furnished or that could be furnished by existing transportation facilities is reasonably adequate, the commission shall not grant such certificate.

§ 9. This Act shall apply to persons and motor vehicles engaged in interstate commerce only to the extent permitted by the Constitution of the United States.

§ 10. The commission shall prescribe forms of applications for certificates for the use of applicants and shall make regulations for the filing thereof. The application must contain a financial statement, a list of equipment to be used and describe the type of service offered and the route and/ or territory to be served. The commission may designate any of its employees to take evidence at the hearing of any application for a certificate and submit findings of fact to the commission.

§ 11. No certificate issued under this Act shall be assigned or otherwise transferred without the approval of the commission.

§ 12. No common motor carrier authorized by this Act to operate shall abandon or discontinue any service established under the provisions of this Act without an order of the commission.

§ 13. The commission may at any time, for good cause, suspend, and, upon not less than five days' notice to the grantee of any certificate and on opportunity to be heard, revoke or amend any certificate.

#### ARTICLE III. CONTRACT CARRIERS.]

§ 14. (a) The term "contract motor carrier of property" when used in this Act, shall mean any person engaged in the transportation by motor vehicle of property for hire and not included in the term "common motor carrier of property" as hereinbefore defined.

(b) The term "contract motor carrier of passengers," when used in this Act, shall mean any person engaged in the transportation by motor vehicle of persons for hire and not included in the term "common motor carrier of passengers" as hereinbefore defined.

§ 15. This Act shall not apply to contract motor carriers of property or passengers who shall operate wholly within any city or village of this state, or within not to exceed two miles thereof, or who are engaged exclusively in the transportation of children to or from school, or rural mail carriers, or farmers engaged in hauling grain, poultry, dairy products, livestock or other agricultural products from the farm where such products are produced to the market,

by the producing farmer, or for some other farmer or the transporting of goods from market by such farmer.

§ 16. No contract motor carrier of property or passengers shall operate any motor vehicle for the transportation of either persons or property for compensation on any public highway in this state, except in accordance with the provisions of this Act.

§ 17. It shall be unlawful for any contract motor carrier to operate within this state without first having obtained from the commission a permit. The commission, upon the filing of an application for such permit, may fix a time for hearing thereon, which shall be not less than ten days after such filing. The commission shall cause notice of such hearing to be served by registered mail at least five days before the hearing upon an officer, agent, or owner of every railroad or other common carrier that is operating, or has applied for a certificate to operate, in the territory proposed to be served by the applicant, and on other interested parties as determined by the commission, and any such common carrier may offer testimony for or against the granting of such certificate. Any other interested person may offer testimony at such hearing. The commission is hereby vested with power and authority to grant or deny, after hearing the permit prayed for, or to grant it for the partial exercise only of the privilege sought; and may attach to the exercise of the privilege granted by such permit, such terms and conditions, as in its judgment, will carry out the purposes of this Act. No permit shall be granted unless the applicant has established to the satisfaction of the commission that the privilege sought will not endanger the safety of the public or interfere with the public use of the public highways or impair the condition or maintenance of such highways directly, or indirectly by impairing the efficient public service of any authorized common carrier or common carriers then adequately serving the same territory. Application for such permit shall be made in writing, stating the ownership, financial condition, equipment to be used and physical property of the applicant, and contain such other information as the commission may require.

§ 18. The commission shall prescribe forms of applications for permits for the use of prospective applicants and shall make regulations for the filing thereof.

§ 19. The commission is hereby vested with power and authority, and it shall be its duty, to supervise and regulate every contract motor carrier of property or passengers for the purpose of promoting safety upon the highways and the conservation of their use; and to regulate and supervise the accounts and method of operation of the same; to prescribe such rules and regulations as it may deem necessary in carrying out the provisions of this Act, and to supervise and regulate all contract motor carriers of property or passengers in all matters affecting the relationship between such mo-

tor carriers and the traveling and shipping public. This Act shall apply to persons and motor vehicles engaged in interstate commerce only to the extent permitted by the Constitution and laws of the United States.

§ 20. No permit issued under the authority of this Act shall be subject to assignment or transfer. No permit issued in accordance with the terms of this Act shall be construed to be irrevocable. Every contract motor carrier of property or passengers who shall cease operation or abandon his rights under the permit issued shall notify the commission within thirty days of such cessation or abandonment.

§ 21. The commission may at any time, for good cause, suspend such permit and may upon not less than five days notice to the grantee and an opportunity to be heard revoke such permit.

§ 22. It is hereby declared that the business of contract motor carriers is affected with a public interest and that the safety and welfare of the public, the preservation and maintenance of the public highways and the integrity of the regulation of common carriers require the regulation of contract carriers to the extent herein provided.

§ 23. Every contract motor carrier is hereby forbidden to give or cause any undue or unreasonable advantage or preference to those whom he serves as compared with the patrons of any common motor carrier, as that term is used in this Act, or the patrons of any other common carrier, or to subject the patrons of any such common carriers to any undue or unreasonable discrimination or disadvantage; or by unfair competition to destroy or impair the service or business of any common motor carrier, as that term is used in this Act, or of any other common carrier, or the integrity of the state's regulation of any such service or business; and, to the end that the said commission may enforce these provisions, each such contract motor carrier shall maintain on file with the commission a statement of his charges, and of such other matters as the commission may require.

§ 24. The commission is hereby vested with power and authority, and it is hereby made its duty, to prescribe rules and regulations covering the operations of contract motor carriers in competition with common carriers of this state, and the commission shall prescribe minimum rates, fares and charges to be collected by such contract motor carriers, which shall not be less than the rates prescribed for common carriers for substantially the same service.

#### ARTICLE IV. FEES.]

§ 25. Every common motor carrier and every contract carrier of property and/or passengers now operating, or which shall hereafter operate as such common or contract carrier in this state, shall at the time of making application for a certificate of convenience

and necessity or permit and annually thereafter on or before April 15th of each calendar year, pay a fee of not less than fifteen dollars (\$15.00) nor more than seventy-five dollars (\$75.00) to be fixed by the commission in each instance.

Miscellaneous fees shall be as follows:

Application for transfer of a certificate of public convenience and necessity, \$5.00.

Application for the mortgaging of a certificate of public convenience and necessity, \$5.00.

Application for the issuance of a duplicate certificate of public convenience and necessity, \$3.00.

For copies of any records of the commission pertaining to auto transportation companies, per one hundred words or portion thereof, (15¢) fifteen cents.

For the purpose of carrying out the provisions of this Act there is hereby created in the State Treasury a state fund to be known as the "Auto Transportation Fund." All fees collected by the commission, as herein provided, shall be paid into the State Treasury monthly and shall be credited to the said "Auto Transportation Fund" to the use of the commission and shall be paid out upon proper voucher and audit by the State Auditing Board, for the expenses of said commission in administering and enforcing the provisions of this Act.

ARTICLE V. GENERAL ADMINISTRATION AND SAFETY REGULATION.]

§ 26. INSURANCE OR BOND REQUIRED. LIABILITY OF INSURER AND SURETY. TRIAL.] The commission shall in granting a certificate to any common motor carrier, and in granting a permit to any contract carrier require the owner or operator to first procure either liability and property damage insurance, or a surety bond, written by company authorized to write such insurance or bond in the State of North Dakota, in an amount to be designated by the commission. The conditions of this liability insurance or surety bond shall be such as to guarantee the payment of any loss or damage to property, or death or injury to persons, resulting from the negligence of such carrier, and also to guarantee the payment by the carrier of all legal obligations incurred by such carrier in connection with the operation or conduct of his or its business as such common motor carrier or contract carrier. In any action for damages resulting from the negligence of such carrier, the insurer or surety shall not be joined as a party defendant, nor shall the fact of the ultimate liability of such insurer or surety be disclosed, or commented on to the jury. Each insurance policy, or bond so required, shall be filed with the commission and kept in full force and effect, and upon the failure so to do the certificate or permit shall be revoked and cancelled.

§ 27. It shall be unlawful for any common or contract car-

rier, its officers or agents, subject to this Act, transporting either intrastate or interstate commerce, to require or permit any driver or his helper to drive or operate a motor vehicle or remain on duty for a longer period than 10 consecutive hours and whenever any such operator or driver of such a carrier shall have been continuously on duty for ten hours he shall be relieved and not be required or permitted again to go on duty until he has had at least 10 consecutive hours off duty, and no such operator or driver who has been on duty 10 hours in the aggregate in any 24-hour period shall be required or permitted to continue or again go on duty without having had at least 10 consecutive hours off duty; provided, that the provisions of this Section shall not apply in any case or casualty or unavoidable accident or the act of God, nor where the delay was the result of a cause not known to the carrier or its officer or agent in charge of such operator or driver at the time said operator or driver left a terminal and which could not have been foreseen.

It shall be unlawful for any common or contract motor carrier, its officers or agents subject to this Act transporting either intrastate or interstate commerce to employ any driver or helper to operate its motor vehicles who is not of the age of 21 years or over and who has not normal vision and hearing. No person shall be employed as such driver or helper by any common carrier or contract motor carrier who has any physical defects or disease which will in any way affect his ability to operate a motor propelled vehicle upon the public highways without danger to the public use of said highways.

The commission, for the purpose of enforcing this Section, shall require any such carrier to make quarterly reports which shall show the names and ages of its drivers, and/or helpers, the routes over which they drove, the length of time each such employee was on duty and off duty, and such other information as the commission may need for the enforcement of this Section.

§ 28. It shall be unlawful for any common or contract motor carrier, its officers or agents, subject to this Act, transporting either intrastate or interstate commerce, to use any motor vehicle for the transportation of goods for human consumption, until such motor vehicle, having been so used for the purpose of transporting live stock, has been thoroughly cleaned and renovated in such manner as shall be prescribed by the State Board of Health.

§ 29. COMPLAINTS. ORDERS. DECISIONS. APPEALS.] In all respects in which the commission has power and authority under this Act, applications and complaints may be made and filed with it and notices issued thereon, hearing held, opinions and decisions made and filed, petitions for rehearing filed and acted upon, and appeals from such orders and decisions may be taken by any party to the District Court of the county where such hearing was held unless otherwise provided for in this Article, in the same manner and under the same terms and upon the same conditions provided for by Section 4609c1



to 4609c56 inclusive, Supplement to the 1913 Compiled Laws of North Dakota, with the exception that the appellant shall be entitled, on demand, to a trial de novo in the District Court.

§ 30. The commission shall promulgate and mail to each holder of a certificate or permit hereunder, such regulations as it may deem necessary properly to carry out the provisions and purposes of this Act.

§ 31. Certificates and permits issued to carriers by the commission under the authority of previous Acts shall remain in effect subject to the regulatory and annual fee provisions of this Act, and subject to all limitations and requirements of this Act.

§ 32. VIOLATION OF PROVISIONS.] Every officer, agent or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provisions of this Act, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement or any part or provisions thereof, is guilty of a misdemeanor and punishable for such.

§ 33. It shall be the duty of all sheriffs and deputies and all police officers in the State of North Dakota to make arrests, and it shall be the duty of states attorneys to prosecute the violation of this Act; and an inspector may be appointed by the commission and paid out of the State Auto Transportation Fund, which said inspector so appointed by the Commission shall have all of the lawful power of a peace officer to enforce the provisions of this Act in any county or city of this state. Provided, further, that upon the written request of this commission it shall be the duty of the Attorney General to prosecute or assist in the prosecution of any person alleged to have violated any of the provisions of this Act, and provided further that it shall be the duty of the Board of Railroad Commissioners to actively enforce the provisions of this Act and to institute or cause to be instituted the prosecution of any and all violators of the provisions of this Act.

§ 34. If any section, subsection, clause, sentence or phrase of this Act is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

§ 35. REPEAL.] All parts of Chapter 188, Session Laws of North Dakota for 1931, inconsistent or in conflict with this Act, together with all other Acts or parts of Acts in conflict herewith, are hereby repealed.

Approved March 9, 1933.

## CHAPTER 165

H. B. No. 194—(Scholl.)

## REGULATION SALE TRACTOR FUEL OIL

An Act to regulate the sale of tractor fuel oil; to provide specifications therefor, and for an inspection thereof; to provide for inspection fees, the collection and disposition thereof; to define the duties of the State Food Commissioner and Chemist as regards such inspection and providing penalties for violation of the Act.

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

§ 1. It shall be unlawful to expose for sale any tractor fuel oil (other than kerosene or gasoline), made from petroleum, which is adulterated or misbranded within the meaning of this Act. Such tractor fuel oil shall be deemed to be adulterated if it fails to meet the minimum specifications hereinafter prescribed; and such tractor fuel oil shall be deemed to be misbranded, if it is not labeled as hereinafter prescribed.

§ 2. Every package, barrel, pump and every tank wagon, truck or car containing tractor fuel oil, (other than gasoline or kerosene), for sale or consignment, when held within this state or being transported into this state, shall be clearly and distinctly tagged, marked, and labeled with the legend: "Tractor fuel oil, not for illuminating purposes nor wick burners."

§ 3. Tractor Fuel is hereby defined to mean any petroleum product, other than Gasoline or Kerosene, intended for use or offered for sale as a fuel for tractors regardless of whether the product be designated as Distillate, Gas Oil, Fuel Oil, or be given any other name or designation. Such tractor Fuel shall meet the following minimum requirements:

a. The Tractor Fuel shall be free from undissolved water and suspended matter.

b. Color. The color shall be straw of a color not lighter than minus sixteen Saybolt. This color may be natural but if the product does not meet this requirement, a sufficient quantity of a suitable dye must be added to give a color not lighter than minus sixteen Saybolt.

c. Distillation. When 10 per cent has been recovered in the receiver, the thermometer shall read not more than 420° F.

The end point shall not be more than 600° F.

d. Sulphur. The sulphur shall not be more than 0.150 per cent.

§ 4. Every person, firm or corporation shipping or transporting tractor fuel oil into this state for sale or consignment or with intent to sell or consign the same, shall pay to the State Food Commissioner and Chemist an inspection fee of one-twentieth (1-20) cent per gallon for each and every gallon of tractor fuel oil so

shipped or transported into the state, or that is held for sale within this state; provided, nothing in this Section shall be construed to require the payment of an inspection fee on any shipment or consignment of tractor fuel oil when such inspection fee has already been paid by another dealer.

On the first day of each calendar month it shall be the duty of each and every receiver or consignee of any of the aforementioned products to send to the State Food Commissioner and Chemist a correct report of all shipments, consignments, or receipts, during the preceding month, and such report shall include the following: (a) the number of gallons of tractor fuel oil received; (b) the grade or class of each shipment or consignment; (c) the date received; (d) the consignor and (e) the person, firm, or corporation, transporting or delivering the same to consignee. Such monthly report shall be accompanied by the fees herein required due the state on such tractor fuel oil. Failure on the part of the consignee or receiver of such tractor fuel oil to send such report and remittance as above specified shall be a violation of the Act and punishable under it.

§ 5. Every person, firm or corporation importing any tractor fuel oil for sale or consignment within this state or having same in his possession with intent to sell, shall, before so doing, deposit with the State Food Commissioner and Chemist a surety bond payable to the State of North Dakota in the penal sum of Five Hundred (\$500.00) Dollars or twice the amount of inspection fees due for any calendar month to guarantee to this state a truthful report of receipts of tractor fuel oil herein required and the payment of fees herein required in Section 4 of this Act. The said bond shall be approved as to its sufficiency by the State Food Commissioner and Chemist.

All inspection fees shall be due on the first day of each calendar month for the preceding month, and said fees shall become delinquent when ten days past due, and the person, firm or corporation bonding such delinquent, may, after twenty days, be called upon to make good the bond for the fees so delinquent.

Provided, however, that where a person, firm or corporation who ships or transports tractor fuel oil into this state for sale or consignment or with intent to sell or consign the same, also ships or imports kerosene or gasoline for like purposes and is required to furnish a bond under the provisions of the North Dakota Petroleum Products Inspection Act, to guarantee to the state a truthful report of receipts of gasoline and kerosene and the payment of the inspection fees upon such gasoline and kerosene that then, if such bond is furnished in the penal sum of Five Hundred (\$500.00) Dollars or twice the amount of the inspection fees due for any calendar month for gasoline and kerosene and for tractor fuel oil, and is conditioned so as to be applicable to and cover any and all inspection fees that may become due for the inspection fees upon the tractor

fuel oil as well as upon the kerosene or gasoline, that then no additional bond shall be required under this Act.

§ 6. All revenues derived under authority of this Act shall be used for the enforcement of the provisions thereof. All fees received by the State Food Commissioner and Chemist as provided for in this Act shall be properly recorded by him and forwarded to the Treasurer of the State of North Dakota. The State Treasurer shall upon receipt thereof enter such funds and carry them in the special revolving fund known and designated as the "State Regulatory Fund" out of which all bills and expenses of whatever nature incurred in the enforcement of this Act shall by said Treasurer be paid.

Vouchers for all expenses of whatever nature incurred by the State Food Commissioner and Chemist in carrying out and enforcing the provisions of this Act when approved by said State Food Commissioner and Chemist shall be forwarded monthly to the State Board of Administration for audit and approval, and when audited and approved shall be certified to the State Auditor, who shall draw warrants upon the State Treasurer for said expenses, specifying that said warrants are to be paid from the State Regulatory Fund. The State Treasurer shall thereupon pay said expenses out of the State Regulatory Fund.

§ 7. This statute is not intended to apply to the inspection of kerosene and gasoline or in any manner change the existing laws, as regards the inspection and sale of kerosene and gasoline in this state, but is intended to apply only to tractor fuel oils other than kerosene and gasoline.

§ 8. The primary object sought to be accomplished by this enactment is to regulate the sale of tractor fuel oil, to prescribe the specifications of such fuel oil and to provide for the inspection thereof. The provisions relating to the manner in which this is to be accomplished do not form an inducement for the enactment, and it is hereby declared that if any of the provisions of the Act contravene the provisions of the Constitution, the remaining provisions would have been enacted by the Legislative Assembly, even though such provisions had been eliminated from the Act. Hence, if any of the provisions are found to be violative of the Constitution, the remaining provisions shall not be affected by such invalidity but remain in full force and effect.

§ 9. 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 9, 1933.