

governor and to hold office for a period of two years, from and after their appointment. The governor and the state engineer shall be ex-officio members of said commission. The members of said commission shall receive no compensation other than their necessary traveling expenses.

Approved March 9, 1929.

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## MOTOR VEHICLES

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### CHAPTER 162

(H. B. No. 231—Freeman.)

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#### ATTACHMENT MOTOR VEHICLES IN ACCIDENTS THROUGH NEGLIGENCE

**An Act providing that attachment shall lie as against motor vehicles, in case of accidents occasioned through the negligence of the driver or owner thereof.**

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

§ 1. In any action brought against the owner of any motor vehicle in any court of this state having jurisdiction of the cause, in which action the complaint is duly verified by the plaintiff, and the cause of action as set forth in such complaint is for damages alleged therein to have been caused by the negligence of such owner of any motor vehicle or his duly authorized agent, the motor vehicle alleged to have been driven, occupied or owned by a negligent driver or owner thereof, at the time of such accident, may be attached in manner by law provided.

Approved March 8, 1929.

## CHAPTER 163

(H. B. No. 232—Hausman and Henderson through Delayed Bills Committee.)

**BOND BY PERSONS CONVICTED OF RECKLESS DRIVING, ETC.**

**An Act to require persons convicted of reckless driving, or of driving a motor vehicle while under the influence of intoxicating liquor or narcotic drugs, or of failure to stop in event of an accident involving injury or death to a person, to furnish a bond; providing for the enforcement of such act; and providing a penalty for the violation thereof.**

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

§ 1. Every person, convicted of reckless driving on a public highway and every person convicted of driving a motor vehicle upon a public highway while under the influence of intoxicating liquor or narcotic drugs, and every person convicted of failure to stop in event of an accident involving injury or death to a person, shall be required to secure and file with the registrar of motor vehicles, before again driving a motor vehicle after such conviction, a personal or surety bond in the sum of two thousand dollars (\$2,000.00) conditioned that if such convicted person, shall, within two years after such conviction, by reason of negligent driving of a motor vehicle, cause the death of, or injury to, any person, or damage any property, such convicted person shall pay or cause to be paid any or all lawful claims against him arising therefrom. Such bond shall be given for a period of two (2) years from and after such conviction, shall run to the State of North Dakota as obligor, shall be approved by the clerk of the district court in which such conviction is had, and shall stand as security for any judgment obtained by any person having a lawful claim against such convicted person for any death, personal injury or property damage, subsequently and during the period covered by such bond arising from the driving of a motor vehicle by such convicted person.

§ 2. It is hereby made the duty of every justice of the peace, and of every police magistrate, or judge of any other court of the county in this state, to make a full and complete report to the registrar of motor vehicles, of any conviction had in his court for reckless driving on a public highway, or for driving a motor vehicle upon a public highway while under the influence of intoxicating liquor or narcotic drugs, or for failure to stop in event of an accident involving injury or death to any person, within ten (10) days after such conviction.

§ 3. Any person hereafter convicted of reckless driving upon a public highway or convicted of driving a motor vehicle while

under the influence of intoxicating liquor or narcotic drugs, or convicted of failure to stop in event of an accident involving injury or death to any person, who shall drive a motor vehicle upon a public highway without having first filed the bond herein required, shall be guilty of a violation of this act, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, (\$100.00) or not more than one thousand dollars, (\$1,000.00) or by imprisonment in the county jail for not less than thirty (30) days, or not more than six (6) months, or by both such fine and imprisonment.

Approved March 8, 1929.

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CHAPTER 164

(S. B. No. 195—Sperry.)

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**ENDORSEMENT AND DELIVERY MOTOR VEHICLE CERTIFICATE  
OF TITLE UPON TRANSFER**

An Act to amend and re-enact Section 6, of Chapter 180 of the North Dakota Session Laws of 1927, relating to the endorsement and delivery of certificate of title upon a transfer of title or interest.

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

§ 1. AMENDMENT.] That Section 6 of Chapter 180 of the North Dakota Session Laws of 1927, be amended and re-enacted to read as follows:

§ 6. ENDORSEMENT AND DELIVERY OF CERTIFICATE OF TITLE UPON A TRANSFER OF TITLE OR INTEREST.]

(a) The owner of a motor vehicle for which a certificate of title is required hereunder shall not, after July 1, 1927, sell or transfer his title or interest in or to such vehicle unless he shall have obtained a certificate of title thereto nor unless having procured a certificate of title he shall in every respect comply with the requirements of this Section and any person who violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction shall be punished as provided in section 19 of this act.

(b) The owner who sells or transfers his title or interest in or to such motor vehicle after July 1, 1927, shall endorse an assignment and warranty of title upon the certificate of title for such vehicle with a statement of all liens or encumbrances thereon (which statement shall be verified under oath by the owner) and the owner shall deliver the certificate of title to the purchaser or transferee at the time of delivering the vehicle.

(c) The transferee, except as provided in the next succeeding paragraph, shall thereupon present such certificate, endorsed and assigned as aforesaid, to the department, accompanied by a transfer fee of one dollar, and make application for and obtain a new certificate of title for such vehicle.

(d) When the transferee of a vehicle is a dealer, who holds the same for resale and operates the same only for purposes of demonstration, such transferee shall not be required to forward the certificate of title to the department, as provided in the preceding paragraph, but such transferee, upon transferring his title or interest to another person, shall execute and acknowledge an assignment and warranty of title upon the certificate of title and deliver the same to the person to whom such transfer is made.

(e) Whenever the ownership of any motor vehicle shall pass otherwise than by voluntary transfer, the new owner may obtain a certificate of title therefor from the department upon application therefor and payment of a fee of one dollar accompanied with such instruments or documents of authority, or certified copies thereof, as may be required by law to evidence or effect a transfer of title or interest in or to chattels in such case. The department, when satisfied of the genuineness and regularity of such transfer, shall issue a new certificate of title to the person entitled thereto.

(f) When the transferee of a motor vehicle is unable to obtain a properly assigned certificate of title for such vehicle, and makes application for a new certificate of title and presents satisfactory proof of ownership, the department may cancel the old certificate of title and issue a new certificate of title to such transferee.

§ 2. 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 9, 1929.

## CHAPTER 165

(S. B. No. 194—Sperry.)

## MOTOR VEHICLE LICENSE FEES WHEN DELINQUENT

An Act to amend and re-enact Section 29, of Chapter 179 of the North Dakota Session Laws of 1927, relating to when fees on motor vehicles become delinquent and penalties.

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

§ 1. AMENDMENT.] That Section 29 of Chapter 179 of the North Dakota Session Laws of 1927, 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 and December 31st shall become delinquent upon the expiration of five days after the same become due.

A penalty of 10 cents per 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 two (\$2.00) dollars per month thereafter for each month or fraction thereof for not to exceed five months.

This amended and revised section is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 9, 1929

## CHAPTER 166

(S. B. No. 168—Watt.)

## MOTOR VEHICLE FUEL TAX

An Act to amend and re-enact Sections 2, 3, 4, 5 and 6 of the initiated measure entitled, "An Act to Impose a Tax Upon the Sale of Motor Vehicle Fuels; Providing for the Collection of said Tax, for Reports of Sales of Such Motor Fuels and for the Disposition of the Revenue Derived therefrom; Providing for the Licensing and Bonding of Dealers in Motor Vehicle Fuels and the Revocation of such License; Regulating the sale of Such Fuels and Fixing Penalties for the Violation of this Act. Repealing all Acts or Parts of Acts in Conflict with the Provisions of this Act," and approved at a statewide election held June 30, 1926.

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

§ 1. AMENDMENT.] That sections 2, 3, 4, 5 and 6 of the initiated measure entitled, "An Act to impose a tax upon the sale of motor vehicle fuels; providing for the collection of said tax, for reports of sales of such motor fuels and for the disposition of the revenue derived therefrom; regulating the sale of such fuels and fixing penalties for the violation of this act. Repealing all acts or parts of acts in conflict with the provisions of this Act", and approved at a statewide election held June 30, 1926, is hereby amended and re-enacted to read as follows:

§ 2. AMENDMENT.] That each and every dealer in motor vehicle fuel, as defined in this act, who is now engaged, or who may hereafter engage in his own name, or in the name of others, or in the name of his representative or agents, in this state, in the sale or use of motor vehicle fuel as herein defined, shall, not later than the 15th day of each calendar month render to the state auditor, on forms prescribed, prepared, and furnished by the state auditor, a sworn statement of the number of gallons of motor vehicle fuel sold or used by him or them during the preceding calendar month, which statement shall be sworn to by one of the principal officers, in case of domestic corporation; or by the resident general agent, or agents, or attorney-in-fact, or by a chief accountant or officer in case of a foreign corporation; by the managing agent or owner in case of a firm association or individual; and shall contain a statement of the quantities of motor vehicle fuel sold or used within the State of North Dakota from his or their respective places of business, and if any of such motor vehicle fuel has been sold and delivered by said dealer to customers in the original package, whether in tank cars, barrels or other packages and in the same form and condition in which the same was imported, said statement shall show the amount of motor vehicle fuel so sold and the names and addresses of the persons, firm or corporations to whom the same was sold.

Said dealer shall pay a license tax of three cents per gallon on all motor vehicle fuel used and sold by him, other than such fuel sold by him or them, in the original packages as above specified, and shall have the option of paying said tax of three cents per gallon on all motor vehicle fuel sold by him or them, in the state, in the original packages in which the same was imported as above specified.

Whenever any sale is made by a dealer of motor vehicle fuel in the original packages in which the same was imported as above specified, such dealer shall deliver to the purchaser thereof an invoice of such motor vehicle fuel, stating the name and address of the purchaser, the quantity and kind of fuel sold, and whether or not said dealer assumes and agrees to pay the license tax on said fuel above specified, and such dealer shall transmit to the state auditor at the same time he shall render the statement above specified, duplicate copies of all such invoices issued and delivered by him during the period covered by such statement.

§ 3. AMENDMENT.] Every dealer paying such license tax or being liable for the payment thereof, shall be entitled to charge and collect the sum of three cents per gallon, on such motor fuel sold by him, as a part of the selling price thereof.

§ 4. AMENDMENT.] (a) It shall be unlawful for any dealer, as herein defined, to engage in business in this state as a dealer, unless such dealer is the holder of an unrevoked license issued by the state auditor to engage in such business. To procure such license such dealer shall file with the state auditor a sworn application upon a form prescribed and to be furnished by the state auditor. Such application shall contain the name under which the applicant intends to transact business; the names and addresses of the several persons constituting the firm or partnership; and if a corporation, the corporate name, the state where and time when incorporated, the name of its officers and directors; and if a foreign corporation, the name of its resident agent, the location of its place or places of business, the date such business was established; and any other information the state auditor may require. Such application shall be signed and sworn to by the owner or owners of such business, if an individual, partnership or unincorporated association, and if a corporation, by the president and secretary thereof. At the time of applying for such license every applicant shall pay to the state auditor as a license fee, the sum of two dollars; which fee shall be transferred to the state treasury and there be credited to the general fund.

(b) Upon the filing of such application and the payment of such fee, the state auditor shall issue to such applicant a license which shall authorize the holder thereof to engage in business in

this State as a dealer, as defined herein, until the 30th day of June of each odd numbered year following the date of its issuance, unless such license shall be revoked within that period by the state auditor, as provided by law.

(c) If the holder of such license shall at any time, refuse or neglect, to file his or its monthly report and pay the full amount of the tax at the times, in the manner, and at the place such report is required to be filed and the tax required to be paid under the provisions hereof, the state auditor shall forthwith revoke such license and shall promptly notify the holder thereof, by notice sent by registered mail to the address of such holder, appearing in his records; provided, that if said report is filed and the tax paid within ten days after the same become due, and it be established under oath that such delay was due to accident or justifiable oversight, then the state auditor may continue in full force and effect such license.

(d) Before any dealer, whose license has been revoked, shall be entitled to apply for or obtain a license as provided in paragraph (a) hereof, such dealer shall pay to the state auditor any and all delinquent license tax, penalties and costs that remain unpaid by such dealer, and shall file with the state auditor a surety bond, upon which said dealer shall be the obligor, conditioned to secure the prompt filing of true reports and the full payment of any and all license tax that may thereafter accrue and become payable under the provisions of this act. Such bond shall be in such amount as the state auditor shall determine, but not to exceed three times the amount of the state license tax on all gasoline sold by such dealer during the preceding month, and not less than \$500.00. Such bond shall run to the people of the State of North Dakota and shall be conditioned upon the prompt filing of true reports and the payment of the full amount of the tax at the times, in the manner and at the place required under the provisions of this act; provided, further, that in the event any such dealer shall fail to promptly file his or its monthly reports and pay the full amount of the tax thereon, as provided by law, after having filed a surety bond with the State Auditor as herein provided, the state auditor may require said dealer to furnish such other and further bond as he shall deem necessary, conditioned to at all times secure the payment of any and all license tax due to the State of North Dakota under the provisions of this act. Upon the failure to file such new and further bond, the state auditor shall forthwith revoke the license of such dealer, in manner provided by law.

(e) When any sale of motor vehicle fuel is made upon which a refund or repayment of the tax thereon, as hereinafter provided, may be made or claimed, the person, persons, firm or corporation making such sale shall deliver to the purchaser thereof an invoice or

ticket, which shall show thereon, among other things, the name of such person, persons, firm or corporation, the place of business, the date of sale, the place of delivery of such motor vehicle fuel, the name and address of the purchaser, the number of gallons of motor vehicle fuel sold, the price thereof, the amount of license tax charged. Such invoice or ticket shall be numbered and show thereon that it is the purchaser's invoice, and shall be signed by such person, persons, firm or corporation or its duly authorized agent. Such invoice or ticket shall also be signed by the purchaser of such motor vehicle fuel.

§ 5. AMENDMENT.] 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 (2-3) 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 in 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 motor vehicle registration fund collected in each county shall bear to the total motor vehicle registration fund collected 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 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 gen-

eral 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.

§ 6. AMENDMENT.] That any person or persons, firm or corporation who shall buy or use any motor vehicle fuel as defined in this act, for the purpose of operating and propelling stationary gas engines, tractors used for agricultural purposes, motor boats, airplanes or aircraft, or who shall purchase or use any of such fuel for lighting, heating, cleaning or dyeing or other commercial use of the same, except motor vehicles operated or intended to be operated, in whole or in part upon any of the public highways in the State of North Dakota, on which motor fuel tax imposed by his act has been paid; shall be reimbursed and repaid the amount of such tax paid by him, on presentation to the state auditor, on a form prescribed by the state auditor, of a sworn statement setting forth the total amount of such fuel purchased and used by such consumer, other than in motor vehicles operated or intended to be operated upon any of the public highways in the State of North Dakota, and the purpose for which said motor fuel upon which he claims exemption from said tax was used, and such (such) other information as the state auditor shall require, and the state auditor, upon the presentation of such sworn statement, together with the invoice or ticket hereinbefore provided for and marked paid, shall cause to be repaid to such consumer, from the taxes collected on motor fuels, the said taxes on fuels purchased or used for other than motor vehicles as aforesaid; provided that no refund or repayment shall be made unless such claimant thereof shall make application therefor within nine months from and after the purchase of such motor vehicle fuel. Applications for refunds or repayments shall not be made oftener than at the beginning of the quarter of each calendar year. The state auditor shall withhold payment of any refund or repayment until the tax upon such motor vehicle fuel, on which refund or repayment is claimed, shall have been paid.

§ 7. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional, the decisions of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared, as of legislative intent, that this act would have been adopted had such unconstitutional provisions not been included therein.

§ 8. All acts and parts of acts in conflict herewith, are hereby repealed.

Approved March 14, 1929.

## CHAPTER 167

(S. B. No. 65—Matthaei.)

## MOTOR VEHICLE REGISTRATION

An Act to amend and re-enact Section 19 of Chapter 179, Session Laws 1927: "An act to provide for the taxing and licensing of motor vehicles and trailers, the creation of a department of motor vehicle registration, the appointment of a registrar of motor vehicles, his powers and duties, establishing the method of distribution of the fees received therefrom, fixing penalties for violation of this act and providing for an appropriation for administering the same and for the use of the state highway commission, and to make uniform the law relating to the subject matter of this act."

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

§ 1. Section 19 of Chapter 179 of Session Laws 1927 is hereby 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 such vehicle or paying any fees to 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 register 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.

Approved February 27, 1929.