

MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 1528

H. P. 1036

House of Representative, March 8, 1967

Referred to Committee on Taxation. Sent up for concurrence and 1,500 copies ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Conley of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Establishing a Highway Use Tax.

Be it enacted by the People of the State of Maine, follows :

R. S., T. 36, c. 719, additional. Title 36 of the Revised Statutes is amended by adding a new chapter 719, to read as follows :

CHAPTER 719
HIGHWAY USE TAX

§ 4851. Definitions

As used in this chapter :

1. Carrier. "Carrier" shall include any person having the lawful use or control, or the right to the use or control, of any motor vehicle.
2. Gross weight. "Gross weight" shall mean the weight of the motor vehicle plus the weight of the maximum load, exclusive of the weight of the driver and has helper, to be carried by such motor vehicle.
3. Motor vehicle. "Motor vehicle" shall include any automobile, truck, tractor or other self-propelled device, having a gross weight, alone, or in combination with any other motor vehicle, in excess of 18,000 pounds, and any trailer, semitrailer, dolly or other device drawn thereby and having a gross weight, alone, or in combination with any other motor vehicle, in excess of 18,000 pounds, or any truck having an unloaded weight in excess of 8,000 pounds, or any tractor, having an unloaded weight in excess of 4,000 pounds, which is used upon the public highways otherwise than upon fixed rails or tracks. "Motor vehicle" shall not include road roller, tractor crane, truck crane, power shovel, road building machine, snow plow, road sweeper, sand spreader or well driller.

4. Person. "Person" shall include any individual, copartner, society, association, corporation, joint stock company, lessee and any combinations of individuals; an executor, administrator, receiver, trustee or other fiduciary.

5. Public highway. "Public highway" shall include any public highway, street, avenue, road, public place, public driveway or any other public way, and the Maine Turnpike.

6. Unloaded weight. "Unloaded weight" shall mean the actual weight of the motor vehicle, which includes all equipment necessary for the performance of the function of the vehicle as a vehicle, necessary for the safety of the vehicle, permanently attached to the vehicle, used exclusively for the protection of the load carried by the vehicle or used exclusively for the loading or unloading of the vehicle.

7. Vehicular unit. "Vehicular unit" shall mean a motor vehicle or any combination of motor vehicles operated as a unit.

§ 4852. Permit

Each carrier shall apply to the State Tax Assessor for a permit for each motor vehicle operated or to be operated by him on the public highways in this State. Application shall be made upon a form prescribed by the State Tax Assessor and shall set forth the gross and unloaded weight of each motor vehicle and such other information as the State Tax Assessor may require. Such weights shall be subject to audit and approval by the State Tax Assessor. The application shall be accompanied by a permit fee of \$5 for each motor vehicle listed in the application. The State Tax Assessor shall issue without further charge a permit and a tag, plate or sticker for each motor vehicle, which shall be of such size and design and contain such information as the State Tax Assessor shall prescribe. In the case of the loss, mutilation or destruction of a permit, the State Tax Assessor shall issue a duplicate thereof upon proof of the facts and payment of a fee of \$1. In the case of the loss, mutilation or destruction of a tag, plate or sticker, the State Tax Assessor shall issue a new tag, plate or sticker with a new permit upon proof of the facts and payment of a fee of \$2. Any such permit and tag, plate or sticker shall not be transferable, except as otherwise provided in this chapter, and shall be valid until revoked, suspended or surrendered. Such permit shall be carried in the motor vehicle and the tag, plate or sticker shall be firmly and conspicuously affixed upon the motor vehicle for which it is issued as closely as practical to the registration or license plates and shall at all times be visible and legible. In the event of an increase in the gross or unloaded weight of any motor vehicle subject to this chapter, application for a corrected permit shall be made within 30 days upon a form prescribed by the State Tax Assessor setting forth the previous gross or unloaded weight, the new gross or unloaded weight and such other information as the State Tax Assessor may require. In the event of a decrease in the gross or unloaded weight of any motor vehicle subject to this chapter, application may be made for a corrected permit in a similar manner, provided that any such application or any application to cancel a permit on the basis of a decrease in the gross or unloaded weight of any motor vehicle may be made only during the month of January. The corrected gross or unloaded weight shall be subject

to audit and approval by the State Tax Assessor. Upon surrendering the permit previously issued, the State Tax Assessor shall, without further charge, issue a corrected permit.

The State Tax Assessor, for cause, may deny a permit and suspend or revoke any permit issued by him, after an opportunity for a hearing has been afforded the carrier, provided that a permit may be denied, suspended or revoked for failure to file a return as required by section 4855 or for nonpayment of any moneys due under this chapter without a hearing. Such denial, suspension or revocation of a permit for any motor vehicle of any carrier shall automatically result in suspension or revocation of all permits issued to such carrier, unless otherwise specified by the State Tax Assessor. A violation of any of the provisions of this chapter or of any rule or regulation of the State Tax Assessor promulgated under this chapter shall constitute sufficient cause for the denial, suspension or revocation of a permit. The suspension or revocation of a permit shall be deemed to include any tag, plate or sticker issued in conjunction therewith. Any such action by the State Tax Assessor shall be reviewable by appeal in the same manner as is provided in section 1958.

If the permit of any motor vehicle has been suspended or revoked under this section the Secretary of State shall not thereafter reregister the motor vehicle or transfer the registration of ownership thereof upon the records of the Secretary of State until there is furnished to the Secretary of State a certificate issued by the State Tax Assessor to the effect that such person has fully complied with this chapter. On and after December 1, 1967, the Secretary of State shall not reregister or transfer the registered ownership of any motor vehicle for which a permit has been issued under this chapter until there is furnished to him a certificate of tax clearance issued by the State Tax Assessor. Such certificate shall be issued after the payment of all moneys known to be due under this chapter or after the payment of any such amount is secured to the satisfaction of the State Tax Assessor.

Nothing contained in this chapter shall be construed as authorizing motor vehicle weight limits in excess of those permitted by the motor vehicle laws.

§ 4853. Imposition of tax

In addition to any other tax or fee imposed by law, there is levied and imposed a highway use tax for the privilege of operating any vehicular unit upon the public highways of this State. Such tax shall be upon the carrier, except that where the carrier is not the owner of such vehicular unit, the tax shall be a joint and several liability upon both. Such tax shall be based upon the gross weight of each vehicular unit and the number of miles it is operated on the public highways in this State except as otherwise provided. The tax for each such vehicular unit shall be computed by multiplying the number of miles operated on the public highways in this State by the appropriate weight group tax rate as it appears in the following table. When a vehicular unit is operated without any load whatsoever, the carrier shall pay the tax imposed by this section only upon the unloaded weight of the vehicular unit for the mileage such unit is operated without load or cargo, computed at the appropriate weight group tax rate in the following table:

| Gross Weight of Vehicle | Weight Group Tax Rate (in mills) |
|----------------------------|--|
| 1. 18,001 to 20,000 | 6.0 |
| 2. 20,001 to 22,000 | 7.0 |
| 3. 22,001 to 24,000 | 8.0 |
| 4. 24,001 to 26,000 | 9.0 |
| 5. 26,001 to 28,000 | 9.5 |
| 6. 28,001 to 30,000 | 10.0 |
| 7. 30,001 to 32,000 | 10.5 |
| 8. 32,001 to 34,000 | 11.0 |
| 9. 34,001 to 36,000 | 11.5 |
| 10. 36,001 to 38,000 | 12.0 |
| 11. 38,001 to 40,000 | 12.5 |
| 12. 40,001 to 42,000 | 13.0 |
| 13. 42,001 to 44,000 | 14.0 |
| 14. 44,001 to 46,000 | 15.0 |
| 15. 46,001 to 48,000 | 16.0 |
| 16. 48,001 to 50,000 | 17.0 |
| 17. 50,001 to 52,000 | 18.0 |
| 18. 52,001 to 54,000 | 19.0 |
| 19. 54,001 to 56,000 | 20.0 |
| 20. 56,001 to 58,000 | 21.0 |
| 21. 58,001 to 60,000 | 22.0 |
| 22. 60,001 to 62,000 | 23.0 |
| 23. 62,001 to 64,000 | 24.0 |
| 24. 64,001 to 66,000 | 25.5 |
| 25. 66,001 to 68,000 | 27.0 |
| 26. 68,001 to 70,000 | 28.5 |
| 27. 70,001 to 72,000 | 30.0 |
| 28. 72,001 to 74,000 | 32.5 |
| 29. 74,001 to 76,000 | 35.0 |
| 30. 76,001 and over | add 2 mills per ton and fraction thereof |

In lieu of basing the tax on the gross weight and mileage of each vehicular unit consisting of a combination of tractor and trailer operated as a unit, any carrier operating more than one such vehicular unit may elect in his return to base the tax on the combination weight and the number of miles each trailer is operated on the public highways of this State. As used in this section, "combination weight" shall mean the gross weight of the trailer if operated with a load, or the actual weight of the trailer if operated without any load whatsoever,

plus the actual weight of the heaviest tractor for which a permit is required under section 4852, which is owned by the carrier or of which he has the right to the lawful use or control during the taxable period covered by the return. Such election may be made with respect to each return filed by a carrier and shall apply to all such vehicular units required to be included in a return of the carrier during the taxable period covered thereby. Such election shall be irrevocable with respect to the taxable period for which the return is filed.

In lieu of computing the tax on the basis provided in the preceding paragraphs, any carrier may elect to compute the tax on the basis of the unloaded weight of each selfpropelled motor vehicle and the number of miles it is operated on the public highways in this State. The tax computed for each such motor vehicle shall be computed by multiplying the number of miles operated on the public highways in this State by the appropriate tax rate in the following tables:

| Unloaded Weight of Truck | Tax Rate (in mills) |
|----------------------------|------------------------|
| 1. 8,001 to 9,000 | 4 |
| 2. 9,001 to 10,000 | 5 |
| 3. 10,001 to 11,000 | 7 |
| 4. 11,001 to 12,000 | 8 |
| 5. 12,001 to 13,000 | 9 |
| 6. 13,001 to 14,000 | 10 |
| 7. 14,001 to 15,000 | 11 |
| 8. 15,001 to 17,500 | 12 |
| 9. 17,501 to 20,000 | 14 |
| 10. 20,001 to 22,500 | 18 |
| 11. 22,501 to 25,000 | 22 |
| 12. 25,001 and over | 27 |

| Unloaded Weight of Tractor | Tax Rate (in mills) |
|----------------------------|------------------------|
| 1. 4,001 to 5,500 | 6 |
| 2. 5,501 to 7,000 | 10 |
| 3. 7,001 to 8,500 | 14 |
| 4. 8,501 to 10,000 | 18 |
| 5. 10,001 to 12,000 | 22 |
| 6. 12,001 and over | 27 |

Such election may be made by the carrier only on the first return required to be filed by him in any calendar year and shall apply to all selfpropelled vehicles required to be included therein. Such election shall be irrevocable with respect to the taxable period for which such return is filed and all subsequent returns covering operations during any part of the calendar year in which such election is made. No motor vehicle other than a selfpropelled motor vehicle is required to be included in any return to which the election under this paragraph is applicable.

§ 4854. Exemptions

This chapter shall not apply to any vehicular unit:

1. Mail. Operating over a rural route and engaged exclusively in the transportation of United States mail under contract;

2. Government instrumentality. Owned and operated by the United States, the State or any other state or any county, or municipality in this State, or any other state or by any agency or department thereof;

3. Farm. Owned and operated by a farmer and used exclusively by such farmer in transporting his own agricultural commodities and products, pulpwood or livestock, including the packed, processed, or manufactured products thereof, that were originally grown or raised on his farm, lands or orchard, or when used to transport supplies and equipment to his farm or orchard that are consumed and used thereon, or when operated by a farmer in transporting farm products from a farm contiguous to his own;

4. Weight. With a gross weight, alone or in combination with another motor vehicle, of 18,000 pounds or less until such time as an election applicable to such vehicle is filed to compute the tax under the method provided in the last paragraph of section 4853;

5. Household goods. Used exclusively in the transportation of household goods, as defined by the Public Utilities Commission or the Interstate Commerce Commission, by a carrier under authority of the Public Utilities Commission or of the Interstate Commerce Commission;

6. Wood. Used exclusively in the transportation of pulpwood, wood bolts, logs, wood chips and slabs or edgings;

7. Passengers for hire. Used in the transportation of passengers for hire;

8. Dump trucks. Dump trucks while used exclusively for highway construction or maintenance.

§ 4855. Returns

Every carrier subject to this chapter and every carrier to whom a permit has been issued shall file on or before the 20th day of each month a return for the preceding calendar month, provided, if the State Tax Assessor consents thereto in writing, and carrier may file a return on or before the 20th day after the close of any different period, if the carrier's books are regularly kept on a periodic basis other than a calendar month. The State Tax Assessor by regulation may permit the filing of returns on a quarterly basis. Returns shall be filed with the State Tax Assessor on forms to be furnished by him for such purpose and shall contain such data, information or matter as the State Tax Assessor may require to be included therein. The fact that a carrier's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by such carrier. The State Tax Assessor may grant a reasonable extension of time for filing returns whenever good cause exists and may waive the filing of returns if a carrier is not subject to the tax imposed by this chapter for the period covered by the return. Every return shall have annexed thereto a certification to the effect that the statements contained herein are true.

§ 4856. Payment of tax

1. **Payment.** At the time of filing a return, as required by this chapter, each carrier shall pay to the State Tax Assessor the tax imposed by this chapter for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed. The State Tax Assessor may grant a reasonable extension of time for paying the tax whenever good cause exists.

2. **Liens.** The fees, taxes, penalties and interest accruing under this chapter shall constitute a lien upon all motor vehicles and vehicular units which are owned by such carrier or of which he has the lawful use or control. The lien shall attach at the time of operation of any such motor vehicle or vehicular unit within this State and shall remain effective until the fees, taxes, penalties and interest are paid, or the motor vehicle or vehicular unit is sold for the payment thereof. Such liens shall be paramount to all prior liens or encumbrances of any character and to the rights of any holder of the legal title in or to any such motor vehicle or vehicular unit, provided that:

A. No lien for any additional tax assessed pursuant to this chapter shall be enforceable against any motor vehicle or vehicular unit which prior to such assessment had been transferred in good faith to a bona fide transferee for value.

B. The lien of such tax shall be subject to the lien of any indebtedness secured by a security agreement existing against such motor vehicle or vehicular unit previous to the time when such tax became a lien; if:

(1) Such indebtedness was incurred in good faith to secure a portion of the purchase price of such motor vehicle or vehicular unit, and

(2) Such indebtedness is secured by a security agreement duly filed as required by law, and

(3) Such security agreement was not given, directly or indirectly, to any officer or stockholder of the corporation owning or having the lawful use or control of such motor vehicle or vehicular unit, whether as a purchase money mortgage or otherwise.

The lien of such tax shall be enforceable, however, as to any equity after the encumbrance of such security agreement. In the event a motor vehicle or vehicular unit subject to such tax lien is repossessed by a secured party, such motor vehicle or vehicular unit shall not be sold at public or private sale unless at least 5 days' notice of the time and place of such sale is served by certified mail upon the State Tax Assessor.

§ 4857. Records

Every carrier subject to this chapter and every carrier to whom a permit has been issued shall keep a complete and accurate daily record which shall show the miles traveled in this State by each vehicular unit and such other information as the State Tax Assessor may require. Such records shall be kept in this State unless the State Tax Assessor consents to their removal and shall be preserved for a period of 4 years and be open for inspection at any reasonable time upon the demand of the State Tax Assessor.

§ 4858. Responsibility of owner

In those instances where the carrier is not the owner of the vehicular unit, the owner may file the return and maintain the record required by sections 4855 and 4857, and shall be jointly and severally liable with the carrier for the payment of tax required under section 4856.

§4859. Powers of State Tax Assessor

In addition to any other power conferred by this chapter the State Tax Assessor shall have the following powers:

1. **Verification.** To prescribe such methods and means as the State Tax Assessor determines to be necessary for checking, verifying and ascertaining the number of miles traveled by, and the weight of, each vehicular unit on the public highways in this State;

2. **Accounts.** To prescribe the method of accounts and the type of records to be kept by any carrier to the extent necessary to determine liability under this chapter;

3. **Weighing.** To cause to be weighed by the Maine State Police at reasonably frequent intervals any vehicular unit or any vehicle operating on the public highways in this State if the State Tax Assessor has reasonable ground to believe that such vehicle may be subject to this chapter;

4. **Bond.** To require any carrier subject to tax under this chapter to file with the State Tax Assessor a bond issued by a surety company approved by the Insurance Commissioner as to solvency and responsibility and authorized to transact business in this State in such amount as the State Tax Assessor may fix, to secure the payment of any moneys which may become due from such carrier pursuant to this chapter. In lieu of such bond any such carrier may deposit securities approved by the State Tax Assessor in such amount as he may prescribe, which securities shall be kept in the custody of the Treasurer of State and may be sold by the State Tax Assessor if it becomes necessary so to do in order to recover any sums due from such carrier pursuant to this chapter, but no such sale shall be had until after such carrier shall have had an opportunity to litigate the validity of any tax if it elects so to do. Upon such sale the surplus, if any, above the sums due under this chapter shall be returned to said carrier. The amount of the bond or securities required shall be reasonably related to the probable liability of the carrier under this chapter;

5. **Enforcement.** To request the State Police, the Public Utilities Commission, the State Highway Commission and other public officials to cooperate in enforcing this chapter;

6. **Permits.** To take possession of any permit which has been suspended or revoked under this chapter and any tag, plate or sticker issued in conjunction therewith, and any permit which is being carried in a motor vehicle other than the one for which it was issued and any tag, plate or sticker which is in or on a motor vehicle other than the one for which it was issued, or to direct any

State Police Officer to take possession thereof and return the same to the State Tax Assessor;

7. Property. To release any property from the lien of any fees, taxes, penalties or interest imposed by this chapter upon application made to him and the payment of a fee on \$1 provided payment be made of such a sum as the State Tax Assessor shall deem adequate consideration for such release or after payment of any such amount is secured to the satisfaction of the State Tax Assessor;

8. Rules and regulations. To make reasonable rules and regulations to effectuate the purposes of this chapter;

9. Replacements. To issue replacement permits and tags, plates or stickers at such times as the State Tax Assessor may deem necessary for the proper and efficient enforcement of this chapter, but not more often than once every 3 years and to require the surrender of the then outstanding permits and tags, plates or stickers. All of the provisions of this chapter with respect to permits and tags, plates or stickers shall be applicable to replacement permits and tags, plates or stickers issued hereunder, except that the replacement permit shall be issued upon payment of a fee of \$2 and the tag, plate or sticker shall be issued without further charge.

10. Examination of books. To examine or cause to be examined any books, papers or records with respect to the operations on the public highways of this State of any vehicular unit or any vehicle, if the State Tax Assessor has reasonable grounds to believe that such vehicle may be subject to this chapter, to require the attendance of any person having knowledge thereof and to take testimony under oath and require proof of matters material for his information, for the purpose of ascertaining the correctness of any return filed with respect thereto or for the purpose of determining tax liability under this chapter.

§ 4860. Determination of tax

In case any return filed pursuant to this chapter shall be insufficient or unsatisfactory to the State Tax Assessor, or if no return is made for any period, the State Tax Assessor shall determine the amount of tax due from such information as is available to the State Tax Assessor. Such determination shall be made within 4 years from the time the return was filed or if no return was filed or in the case of a willfully false or fraudulent return with intent to evade the tax such determination may be made at any time. The State Tax Assessor shall give notice of such determination to the person liable for such tax. Such determination shall finally and conclusively fix such tax, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination apply in writing to the State Tax Assessor for a hearing, or unless the State Tax Assessor of his own motion shall redetermine the same. After such hearing, the State Tax Assessor shall give notice of his decision to the person liable for the tax. The decision of the State Tax Assessor may be reviewed by appeal in the same manner as is provided in section 1958, if the proceeding is commenced within 30 days after the giving of notice of such decision. The proceeding may not be commenced unless the amount of any tax sought to be reviewed, with penalties thereon, if any, shall be first deposited with the State

Tax Assessor and an undertaking filed with him in such amount and with such sureties as a Justice of the Superior Court shall approve, to the effect that, if such proceeding be dismissed, or the decision of the State Tax Assessor confirmed, the petitioner will pay all costs assessed by the court in the proceeding, or, at the option of the petitioner, such undertaking may be in a sum sufficient to cover the tax, penalties, costs and charges, in which event the petitioner shall not be required to pay such tax and penalties as a condition precedent to the commencement of the proceeding.

The remedy provided by this section for review of a decision of the State Tax Assessor shall be the exclusive remedy available to judicially determine the liability of any person for taxes under this chapter.

Any notice authorized or required under this chapter may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the application for a permit or in the last return filed by him under this chapter, or, if no application or return has been filed then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of same by the person to whom addressed. Any period of time, which is determined according to this chapter, for the giving of notice shall commence to run from the date of mailing of such notice.

§ 4861. Proceedings to recover tax

Whenever any person shall fail to pay, within the time limited, any tax, interest or penalties which he is required to pay under this chapter, the State Tax Assessor shall enforce payment of such tax, interest or penalties by civil action against such person for the amount of such tax, interest or penalties.

Whenever any person is delinquent in the payment of any amount due under this chapter the State Tax Assessor may forthwith collect such amount from such person by seizing any motor vehicle or vehicular unit subject to the lien of the tax, which is owned by him or of which he has the lawful use or control and may thereafter sell it at public auction in the county in which it was seized to pay the fees, taxes, interest and penalties and any costs incurred on account of the seizure and sale, after giving 10 days' notice of the sale in writing to such person and, where such person is not the owner of such motor vehicle or vehicular unit, to the owner thereof provided that he has filed with the State Tax Assessor a statement of his ownership of the motor vehicle or vehicular unit subject to the lien. Public notice of the time and place of the sale of the property to be sold shall be given by posting same in at least 2 public places in the county where the sale is to be made, at least 6 days prior thereto. A copy of such notice shall be filed at least 6 days prior to the sale in the office of the State Tax Assessor, and shall be available for public inspection. The proceeds of such sale shall be paid into the State Treasury, provided any excess received upon the sale over the amount of the fees, taxes, interest and penalties and any costs incurred on account of the seizure and sale shall be refunded to such person or owner.

In addition to the foregoing proceedings, in case of default of any person to pay, within the time limited, any fees, taxes, penalties or interest which he is

required to pay under this chapter or to file a bond or a return as required by this chapter or by the State Tax Assessor, the State Tax Assessor may forward a written statement of the facts showing such default to the Secretary of State who shall suspend all registration plates of all motor vehicles of such person on account of such default, which suspension shall be terminated if the State Tax Assessor certifies that such persons have paid or secured the above amounts, or filed the required bond.

The operation by a nonresident of a motor vehicle in this State or the operation in this State of a motor vehicle owned by a nonresident shall be deemed equivalent to an appointment by such nonresident of the Secretary of State to be his true and lawful attorney upon whom may be served the process in any action or proceeding against him growing out of any liability for fees, taxes, penalties or interest under this chapter and such operation shall be deemed a signification of his agreement that any such process against him which is so served shall be of the same legal force and validity as if served on him personally within the State and within the territorial jurisdiction of the court from which the process issues. Service of process shall be made by either personally delivering to and leaving with the Secretary of State duplicate copies thereof, in which event the Secretary of State shall forthwith send by registered mail one of such copies to the person at the address designated by him in his application for a permit under this chapter or in the last return filed by him under this chapter or as shown on the records of the State Tax Assessor, or if no application has been filed, at his last known office address within or without the State, or personally delivering to and leaving with the Secretary of State a copy thereof and by delivering a copy thereof to the person, personally without the State. Proof of such personal service without the State shall be filed with the clerk of the court in which the process is pending within 30 days after such service.

§ 4862. Penalties

1. Penalties. It shall be unlawful for any person to do any of the following:

A. Use, or cause or permit to be used, any public highway in this State for the operation of a motor vehicle subject to this chapter without first obtaining the permit and tag, plate or sticker required under this chapter or to carry or cause or permit to be carried upon any motor vehicle a permit or a tag, plate or sticker which has been suspended or revoked or which was issued for a motor vehicle other than the one on which carried. The operation of any motor vehicle on any public highway of this State without carrying thereon the permit or the tag, plate or sticker required under this chapter shall be presumptive evidence that a permit or a tag, plate or sticker has not been obtained for such motor vehicle;

B. Operate, or cause or permit to be operated, on any public highway any such motor vehicle having an actual gross or unloaded weight in excess of the gross or unloaded weight set forth on the permit issued for such motor vehicle;

C. Fail to make any return required under this chapter;

D. Make any false return;

E. Fail to keep records of operations as the State Tax Assessor shall prescribe;

F. Fail to deliver or surrender, pursuant to this chapter or any reasonable rule or regulation promulgated by the State Tax Assessor, a permit or a tag, plate or sticker to such State Tax Assessor, or any person directed by such State Tax Assessor to take possession thereof;

G. Violate any other provision of this chapter or any reasonable rule or regulation promulgated by the State Tax Assessor.

Any person who violates any provision of this section, upon a first conviction shall be punished by a fine of not less than \$100 nor more than \$250; and upon a 2nd or subsequent conviction by a fine of not less than \$250 nor more than \$500 or by imprisonment for not more than 10 days.

2. Failure to file or pay tax. Any person failing to file a return or corrected return or to pay any tax within the time required by this chapter shall be subject to a penalty of 5% of the amount of tax due plus interest of $\frac{1}{2}$ of 1% of such amount for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax became due. Any person filing a false or fraudulent return or willfully failing to file a return with intent to evade the tax shall be subject to a penalty of 100% of the amount of tax due plus interest of $\frac{1}{2}$ of 1% of such amount for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax became due. The State Tax Assessor, in his discretion upon making a record of his reasons, may remit all or any part of such penalty or interest.

3. Failure to act. The failure to do any act required by or under this chapter shall be deemed an act committed in part at the office of the State Tax Assessor. The certificate of the State Tax Assessor to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied as required by or under this chapter, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied. The term "person" as used in this section shall include an officer, director, stockholder or employee of a corporation, or a member of a partnership, who as such officer, director, stockholder, employee or member, is under the duty to perform the act in respect of which the violation occurs.

4. Certification by court. Upon the conviction of any person for a violation of any of this chapter the trial court or the clerk thereof shall within 48 hours certify the facts of the case to the State Tax Assessor and such certificate shall be presumptive evidence of the facts recited therein. If any such conviction shall be reversed upon appeal therefrom the person whose conviction has been so reversed may serve upon the State Tax Assessor a certified copy of such judgment on appeal and the State Tax Assessor shall thereupon record the same.

§ 4863. Admissibility of weight slips

An official weigh slip or ticket issued by any member of the State Police or by any truck weigher in the employ of the State of Maine shall constitute prima facie evidence of the information therein set forth and of the operation of the vehicle therein described upon a public highway and shall be admissible before any court in any civil or criminal proceeding.

§ 4864. Refunds

Whenever the State Tax Assessor shall determine that any moneys received under this chapter were paid in error, he may cause the same to be refunded or credited, without interest, in accordance with such rules and regulations as he may prescribe.

§ 4865. Secrecy of returns

1. Secrecy; exception. Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the State Tax Assessor, any officer or employee of the State Tax Assessor, or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, to divulge or make known in any manner the contents or any other information relating to the business of a carrier or other person contained in any return or report required under this chapter. The persons charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the State, the State Tax Assessor or the Public Utilities Commission, in an action or proceeding under this chapter, the motor vehicle laws or the Public Utilities Commission law, or on behalf of the State or the State Tax Assessor in any other action or proceeding involving the collection of a tax due under this chapter to which the State or the State Tax Assessor is a party or a claimant or on behalf of any party to any action or proceeding under this chapter or the motor vehicle laws or the Public Utilities Commission laws when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding, or on behalf of officers to whom information shall have been supplied as provided in subsection 2, in any of which events the court may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. The State Tax Assessor may, nevertheless, publish a copy or a summary of any decision rendered after the formal hearing provided for in section 4860. Nothing herein shall be construed to prohibit the State Tax Assessor, in his discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under this chapter or of any information contained in any such return or report by or to a duly authorized employee of the Public Utilities Commission, or by or to the Attorney General or other legal representatives of the State when an action shall have been recommended or commenced pursuant to this chapter, the motor vehicle laws or the Public Utilities law in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under this chapter by the Department of Audit, for purposes of the audit of a

refund of any tax paid by any person under this chapter; nor to prohibit the delivery to any person, or a duly authorized representative of such person of a certified copy of any return or report filed by such person pursuant to this chapter, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof; nor to prohibit the publication of delinquent lists showing the names of taxpayers who have failed to pay their taxes at the time and in the manner provided by section 4856, together with any relevant information which in the opinion of the State Tax Assessor may assist in the collection of such delinquent taxes. Returns and reports shall be preserved for 4 years, and thereafter until the State Tax Assessor orders them to be destroyed.

2. Governmental agencies. The State Tax Assessor, in his discretion and pursuant to such rules and regulations as he may adopt, may permit the Commissioner of Internal Revenue of the United States, or the appropriate officers of any other state which imposes a similar highway use tax, or the duly authorized representatives of such commissioner or of any such officers, to inspect returns or reports made pursuant to this chapter, or may furnish to such commissioner or other officers, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply such commissioner or any such officers or such representatives with information relating to the business of any person making returns or reports under this chapter. The State Tax Assessor may refuse to supply information pursuant to this subsection to the Commissioner of Internal Revenue of the United States or to the officers of any other state if the statutes of the United States, or of the state represented by such officers, do not grant substantially similar privileges to the State Tax Assessor of this State, but such refusal shall not be mandatory. Information shall not be supplied to the Commissioner of Internal Revenue of the United States or the appropriate officers of any other state which imposes a similar highway use tax or the duly authorized representatives of such commissioner or of any of such officers, unless such commissioner, officer or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those imposed upon such commissioner, officer or other representatives.

3. Penalty. Any offense against subsections 1 and 2 shall be punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or by both, at the discretion of the court and if the offender be an officer or employee of the State, he shall be dismissed from office and be barred from holding any public office in this State for a period of 5 years thereafter.

§ 4866. Disposition of revenues

The amount of all fees, taxes, penalties and interest received pursuant to this chapter shall be paid over to the Treasurer of State daily and shall be credited to the General Highway Fund.