

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1997, L.D. 1973)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TENTH LEGISLATURE
5

6 **Legislative Document**

No. 2125

7
8 H. P. 2279 House of Representatives, April 1, 1982
Reported by Representative Carroll from the Committee on Transportation and printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

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10
11 **STATE OF MAINE**
12

13 IN THE YEAR OF OUR LORD
14 NINETEEN HUNDRED AND EIGHTY-TWO
15

16 **AN ACT to Provide for Fuel Use**
17 **Identification Decals.**
18

19 **Emergency preamble.** Whereas, Acts of the Legislature
20 do not become effective until 90 days after adjournment
21 unless enacted as emergencies; and

22 Whereas, legislation was passed at the last regular
23 session of the Legislature requiring a highway use permit;
24 and

25 Whereas, a basic objective of this legislation was to
26 improve enforcement of collecting motor fuel taxes; and

27 Whereas, certain aspects of this legislation were
28 determined to be unconstitutional; and

29 Whereas, fuel use identification decals will help
30 enforcement officials collect motor fuel taxes; and

1 Whereas, in the judgment of the Legislature, these
2 facts create an emergency within the meaning of the Consti-
3 tution of Maine and require the following legislation as
4 immediately necessary for the preservation of the public
5 peace, health and safety; now, therefore,

6 Be it enacted by the People of the State of Maine as follows:

7 Sec. 1. 29 MRSA §246-A, as enacted by PL 1981, c. 492,
8 Pt. E, §9, is repealed and the following enacted in its
9 place:

10 §246-A. Fuel use identification decal

11 1. Application. Notwithstanding any other provision
12 of law, a person owning, operating or causing operation of a
13 vehicle on the highways of this State, subject to Title 36,
14 chapter 453, 455 or 457, shall apply to the Secretary of
15 State for a fuel use identification decal for each vehicle
16 covered by such reports or licensing requirement.

17 2. Vehicles requiring a fuel use identification
18 decal. The following vehicles require a fuel use identifi-
19 cation decal:

20 A. Gasoline powered motor vehicles used for the trans-
21 portation of property or passengers for hire as a con-
22 tract or common carrier;

23 B. All other gasoline powered motor vehicles or combi-
24 nations of vehicles which are registered for a load of
25 over 10,000 pounds or for a gross weight of over 20,000
26 pounds;

27 C. All motor vehicles propelled by an internal combus-
28 tion engine powered by other than gasoline, except:

29 (1) Noncommercial vehicles owned by nonresidents
30 of this State, having a fuel capacity of 30 gal-
31 lons or less, not requiring Maine registration; or

32 (2) Noncommercial vehicles having a fuel tank
33 capacity of 30 gallons or less owned by residents
34 of this State who purchase only fuel upon which
35 the tax imposed by Title 36, section 3035, has
36 been paid by the user; and

37 D. Interstate bus operators shall be required to
38 obtain this decal on the same prorated basis as is used

1 to determine fuel used within this State. The number
2 of buses that the Maine mileage factor represents of
3 the entire fleet mileage shall be required to display
4 the fuel use identification decal.

5 3. Form of application. Application shall be made
6 upon a form and in a manner prescribed by the Secretary of
7 State and shall set forth such information as the Secretary
8 of State may require. The application shall be accompanied
9 by a fee of \$10 for each vehicle listed in the application.

10 4. Credit for highway use permit fee. Every person
11 who has paid a \$3 highway use permit fee for the current or
12 preceding calendar year shall, on application for a decal
13 under this section, receive credit for each such \$3 fee paid
14 toward the fee required by this section for a 1982 decal.

15 5. Issuance; display; expiration. The Secretary of
16 State shall issue an identification decal of such size and
17 design as he shall prescribe, which shall be permanently
18 affixed to the exterior of the vehicle in a location the
19 Secretary of State shall specify and such decal shall at all
20 times be visible and legible. The decal shall become void
21 on February 1st next following the date of issue.

22 Effective February 1, 1983, the Secretary of State shall
23 also issue a fuel use certificate to be carried in the vehi-
24 cle at all times.

25 6. Trip permits. The Secretary of State may issue, by
26 telegram or otherwise, a trip permit which identifies a spe-
27 cific vehicle and such vehicle may operate without a fuel
28 use identification decal being displayed for a period not to
29 exceed 5 consecutive days. Such a trip permit shall accom-
30 pany the vehicle at all times while being operated on the
31 highways of this State. The fee for a 5-day trip permit is
32 \$5.

33 7. Enforcement. Every state police officer or any
34 member of the Department of Public Safety designated by the
35 Commissioner of Public Safety is authorized and directed to
36 enforce the provisions of this section.

37 Any owner or operator stopped for a violation of this
38 section and against whom enforcement action has been taken,
39 shall not be guilty of a subsequent violation of this
40 section involving the same vehicle until after the close of
41 business on the next business day following the date of the
42 violation.

1 Any owner or operator in noncompliance with the laws regard-
2 ing reporting and payments of the gasoline road taxes or the
3 fuel use taxes under Title 36 may be required to come into
4 full compliance with those statutes and rules before being
5 allowed to proceed.

6 A violation of this section is a Class E crime, except that
7 any operator or owner who displays, causes or permits to be
8 displayed, a fictitious decal or permit or a decal or permit
9 issued to another firm, corporation or person shall be
10 guilty of a Class D crime.

11 All fees, fines and forfeitures shall accrue to the Highway
12 Fund.

13 8. Grace period. As a grace period to allow compli-
14 ance with this section, no action for violation of this
15 section may occur during the first 30 days following the
16 effective date.

17 9. Suspension. On certification by the State Tax
18 Assessor to the Secretary of State that a vehicle owner is
19 not in compliance with Title 36, chapter 453, 455 or 457,
20 the Secretary of State shall suspend all fuel use identifi-
21 cation decals issued to that owner. Until the State Tax
22 Assessor certifies to the Secretary of State that an owner
23 is in full compliance, an owner who has had his fuel use
24 identification decals revoked shall not operate or cause
25 operation of vehicles registered to him which require decals
26 to operate on Maine highways.

27 Reinstatement of the fuel use decal requires, in addition to
28 meeting the requirements of this law, the payment of a fee
29 of \$20 to the Secretary of State, section 2241-D.

30 The Secretary of State shall promptly notify the Department
31 of Public Safety of any suspension, revocation and rein-
32 statement under provisions of this section. Every owner
33 transferring ownership of a vehicle bearing a valid fuel use
34 identification decal shall disfigure any such decal and no
35 person acquiring a vehicle with an unexpired fuel use iden-
36 tification decal may operate or cause operation of such
37 vehicle without a valid trip permit or bearing a decal
38 issued to him.

39 10. Cooperation in issuance; enforcement; informa-
40 tion. The State Tax Assessor, Department of Public Safety
41 and Secretary of State shall cooperate in the issuance of
42 the fuel use identification decals and temporary permits,
43 the enforcement of this section and in an effort to insure

1 that timely information of the status of those in noncompli-
2 ance with the gasoline road tax and fuel use tax laws,
3 intrastate and interstate for hire operating authority
4 permit requirements and motor vehicle registration laws, is
5 readily available to all enforcement personnel.

6 Sec. 2. 29 MRSA §2241, as last amended by PL 1981, c.
7 253, §3, is repealed and the following enacted in its place:

8 §2241. Suspension or revocation of license, registration or
9 fuel use decal

10 1. Suspension. The Secretary of State or any deputy
11 secretary of state may suspend any certificate of registra-
12 tion, certificate of title or any license issued to any
13 person to operate a motor vehicle or right to operate a
14 motor vehicle or right to obtain an operator's license after
15 hearing for any cause which he deems sufficient. He is also
16 authorized to suspend any certificate of registration, cer-
17 tificate of title or any license fuel use decal issued to
18 any person without preliminary hearing upon showing by his
19 records or other sufficient evidence that the driver:

20 A. Has committed an offense for which mandatory sus-
21 pension or revocation of license or registration is re-
22 quired upon conviction or adjudication;

23 B. Has been convicted or adjudicated with such fre-
24 quency of offenses against traffic regulations govern-
25 ing the movement of vehicles as to indicate a disre-
26 spect for traffic laws and disregard for the safety of
27 other persons on the highways;

28 C. Is an habitually reckless or negligent driver of a
29 motor vehicle, such fact being established by the point
30 system, by a record of accidents or by other evidence;

31 D. Is incompetent to drive a motor vehicle;

32 E. Has permitted an unlawful or fraudulent use of such
33 license;

34 F. Has committed an offense in another state which, if
35 committed in this State, would be grounds for suspen-
36 sion or revocation;

37 G. Has been convicted of failing to stop for a police
38 officer;

39 H. Has been convicted of reckless driving or driving
40 to endanger;

1 I. Has failed to appear in court on the day specified,
2 either in person or by counsel, after being ordered to
3 do so to answer any violation of Title 35, chapters 91
4 to 97;

5 J. Has failed to provide sufficient proof of ownership
6 or other documentation in support of his title claim;

7 K. Is subject to action of the Secretary of State pur-
8 suant to section 2378, subsection 1; or

9 L. Has failed to comply with the payment and reporting
10 sections of the laws related to gasoline road taxes or
11 fuel use taxes, under Title 36, chapter 453, 455 or
12 457.

13 He is also authorized to suspend any certificate of regis-
14 tration, certificate of title or any license issued to any
15 person without preliminary hearing upon showing by his
16 records or other sufficient evidence that the owner of a
17 vehicle or holder of a title certificate fails to deliver or
18 assign the certificate of title upon the request of the
19 Secretary of State.

20 2. Regulations. For the purpose of identifying habit-
21 ually reckless or negligent drivers and habitual or frequent
22 violators of traffic regulations governing the movement of
23 vehicles, the Secretary of State shall adopt regulations
24 establishing a uniform system of assigning demerit points
25 for convictions or adjudications of violations of statutes
26 or regulations governing the operation of motor vehicles,
27 including violations of Title 17-A, section 360, subsection
28 1, paragraphs A and B and Title 28, section 1002. The regu-
29 lations adopted by the Secretary of State shall include a
30 designated level of point accumulation which so identifies
31 drivers. The Secretary of State may assess points for con-
32 convictions or adjudications in other states of offenses which,
33 if committed in this State, would be grounds for such
34 assessment. Notice of assessment of points shall be given
35 when the point accumulation reaches 50% of the number at
36 which suspension is authorized. No points may be assessed
37 for violating a provision of this Title or municipal ordi-
38 nance regulating standing, parking, equipment, size or
39 weight.

40 3. Hearing. Upon suspending or revoking a motor vehi-
41 cle license, permit or privilege to operate, registration or
42 certificate of title of any person without preliminary hear-
43 ing, the Secretary of State shall notify that person as pro-
44 vided in Title 5, section 9052, subsection 1, that an oppor-

1 tunity for hearing shall be provided without undue delay,
2 after receipt of a request, except where the suspension
3 rests solely upon a conviction in court of any offense which
4 by statute is expressly made grounds for that suspension or
5 revocation.

6 If a hearing is held to determine whether a person's motor
7 vehicle operator's license, permit or privilege to operate,
8 registration or certificate of title should be restored, the
9 hearing shall be conducted as provided in Title 5, chapter
10 375, subchapter IV. Upon the hearing, the Secretary of
11 State shall either rescind his order of suspension or, for
12 good cause, may continue, modify or extend the suspension of
13 the license, permit or privilege to operate, registration or
14 certificate of title.

15 Notice shall be given as provided in section 54. The date
16 of birth and name on the notification of suspension or revo-
17 cation document shall be prima facie evidence that the named
18 person is the same person as the defendant of the same name
19 and birthday.

20 Any person who, after notice of suspension or revocation,
21 fails or refuses to obey any order of the Secretary of State
22 under this section or fails or refuses to surrender to the
23 Secretary of State upon demand any motor vehicle license,
24 permit, registration or certificate of title, issued in this
25 State or any other state which has been suspended, canceled
26 or revoked by proper authority in this State or any other
27 state, as provided by law shall be guilty of a Class E
28 crime.

29 **Sec. 3. 36 MRSA §2962 is repealed and the following**
30 **enacted in its place:**

31 §2962. Names of certificate and permit holders furnished to
32 State Tax Assessor

33 The State Police shall, within 7 days after issuing a
34 certificate or permit to a motor carrier under Title 29,
35 chapter 25, furnish to the State Tax Assessor the name of
36 each such motor carrier, together with such other informa-
37 tion relative to such motor carrier as the State Tax Asses-
38 sor may require.

39 **Sec. 4. 36 MRSA §2967, as repealed and replaced by PL**
40 **1977, c. 696, §282, is amended to read:**

41 §2967. Violations

1 Any motor carrier subject to this chapter that know-
2 ingly fails to file the reports required commits a civil
3 violation for which a forfeiture not to exceed \$500 may be
4 adjudged for each failure Class E crime.

5 Any motor carrier, or any private carrier included
6 within section 2971, or any agent or employee of either of
7 them, who shall operate a motor vehicle which operation
8 renders that motor carrier or private carrier liable to this
9 chapter at any time when that motor carrier or private car-
10 rier has failed to file any report or pay tax, penalty or
11 interest as required by this chapter commits a civil viola-
12 tion for which a forfeiture of not less than \$10 nor more
13 than \$300 shall be adjudged Class E crime.

14 Sec.5. 36 MRSA §3026, last ¶, as enacted by PL 1981,
15 c. 492, Pt. E, §20, is repealed.

16 Sec. 6. 36 MRSA §3038, as repealed and replaced by PL
17 1977, c. 696, §285, is amended to read:

18 §3038. Failure to file statement; false statement

19 Any person who shall refuse or neglect to make any
20 statement, report, payment or return required by this chap-
21 ter, or who shall knowingly make, or shall aid or assist any
22 other person in making a false statement in a return or
23 report to the State Tax Assessor, or in connection with an
24 application for refund of any tax, or who shall knowingly
25 collect or attempt to collect, or cause to be paid to him or
26 to any other person, either directly or indirectly, any
27 refund of that tax without being entitled to the same, shall
28 be subject to a civil penalty of not more than \$2,000 pay-
29 able to the State to be recovered in a civil action guilty
30 of a Class E crime.

31 Sec. 7. 36 MRSA §3039, first sentence, as amended by
32 PL 1979, c. 541, Pt. B, §48, is further amended to read:

33 §3039. Additional violations

34 Any user, or any agent or employee of any user, who
35 shall consume any fuel in a motor vehicle on a public high-
36 way or on a turnpike operated and maintained by the Maine
37 Turnpike Authority, when that user is not the holder of an
38 uncanceled license as required by this chapter, or when that
39 user has failed to file any report or pay tax, penalty or
40 interest as required by this chapter and chapter 7, commits
41 a civil violation for which a forfeiture of not less than
42 \$10 nor more than \$300 shall be adjudged Class E crime.

