

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 660

H.P. 489

House of Representatives, January 30, 1997

An Act to Opt out of the Federal Requirement to Use Reformulated Fuel.

Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative TRIPP of Topsham.
Cosponsored by Senator LIBBY of York and Representative MacDOUGALL of North Berwick and
Senator CAREY of Kennebec and
Representatives: CHARTRAND of Rockland, CLUKEY of Houlton, GERRY of Auburn,
LEMONT of Kittery, LOVETT of Scarborough, PAUL of Sanford, TREADWELL of Carmel,
TRUE of Fryeburg.

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

4 Sec. 1. 38 MRSA c. 32 is enacted to read:

6 CHAPTER 32

8 MAINE PUBLIC PROTECTION ACT OF 1997

10 §2501. Short title

12 This chapter may be known and cited as the "Maine Public Protection Act of 1997."

14 §2502. Definitions

16 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

18 1. Fuel. "Fuel" means:

20 A. Reformulated gasoline, as described in the federal Clean Air Act, Section 211(k), as amended, and 42 United States Code, Section 7545(k);

22 B. Other reformulated gasoline;

24 C. Reformulated fuel;

26 D. Oxygenated gasoline;

28 E. Oxygenated fuel;

30 F. Oxygenate;

32 G. Gasoline treated with methyl tertiary butyl ether, or "MTBE";

34 H. Fuel treated with methyl tertiary butyl ether, or "MTBE";

36 I. Oxy fuel;

38 J. Oxy gasoline;

40 K. Gasoline treated with ethyl tertiary butyl ether, or "ETBE";

42 L. Fuel treated with ethyl tertiary butyl ether, or "ETBE";

44 M. Gasoline treated with tertiary amyl methyl ether, or "TAME";

- 2 N. Fuel treated with tertiary amyl methyl ether, or "TAME";
4 O. Ethanol;
6 P. Di-ispropyl ether, or "DIE";
8 Q. Heating fuel; or
10 R. Any other fuel sold for use in stock or commercial
12 automobiles, trucks, motorcycles, snowmobiles, watercraft,
14 aircraft or any other commercial or consumer vehicle or for
 use in any consumer or commercial vehicle, engine, heating
 appliance, furnace or other application.

16 **§2503. Prohibition against fuel mandates**

18 Notwithstanding chapter 4 or any other provision of law, a
20 state or federal authority may not mandate any fuel for use in
22 any county, city, town or area of the State to the exclusion of
24 any other fuel or other application that is available for sale to
 the public or to consumers in any other state. A state or
 federal authority may not prohibit the sale in any town, city or
 county of this State of any fuel that is sold in any other state
 of the United States.

26 **§2504. Prohibition of unauthorized testing**

28 The Federal Government, the State or designees of the
30 Federal Government or the State may not implement or conduct in
32 this State any automobile emission testing process, testing
34 policy or testing program, including IM240 testing, without the
 process, policy or program first being passed by the Senate and
 the House of Representatives.

36 **§2505. Right to know**

38 The seller of any gasoline or fuel sold in the State for
40 commercial or consumer use must list for public view, at the
42 place of retail sale, material safety data sheets that reveal all
44 known chemical components of that fuel or gasoline and the
 percentages of those components contained in that fuel or
 gasoline. The material safety data sheets must be available for
 distribution to the public for a fee representing no more than
 the cost of reproduction of the sheets.

46 **§2506. Escrow account for federal funds**

48 Notwithstanding any other provision of law, all money
50 collected by the State on behalf of the Federal Government,

2 including, but not limited to, federal gasoline tax funds, must
3 be placed by the Treasurer of State in an account of escrow. The
4 Treasurer of State, on a quarterly basis, shall disburse the
5 funds to the respective appropriate federal recipients, except
6 that, if as a result of state action taken by authority of this
7 Act the Federal Government imposes or mandates any financial
8 sanctions, denies any matching funds or grants, or imposes or
9 mandates any other financial sanctions, penalties or withholding
10 of funds or any other federal sanctions or penalties effecting a
11 financial cost to the State, the Treasurer of State shall
12 withhold from payment all or part of the quarterly disbursement
13 normally disbursed or transferred to federal recipients in an
14 amount equal to the total cumulative outstanding amount of
15 federal sanctions, denial of any matching funds or denial of
16 grants or any other financial sanctions, penalties or withholding
17 of funds. The Treasurer of State shall continue to withhold all
18 or part of the quarterly disbursement normally disbursed or
19 transferred to federal recipients until the total cumulative
20 amount withheld from the Federal Government is equal to the total
21 cumulative outstanding amount of federal sanctions, denial of any
22 matching funds or denial of grants or any other financial
23 sanctions, penalties or withholding of funds. Funds that the
24 Treasurer of State withholds from federal recipients must be
25 transferred from the escrow account and placed in the General
26 Fund account of the State for general use.

27 **§2507. Instruction to serve or leave**

28
29 The Governor, members of the Legislature, members of the
30 judiciary, the Attorney General, the Secretary of State, the
31 Treasurer of State, the State Auditor, commissioners of the
32 Executive Branch departments, directors, bureau directors,
33 supervisors and employees of the State shall implement the
34 provisions of this Act regardless of any sanctions, threats,
35 court action or other pressure brought to bear by federal
36 authorities. Persons appointed or elected to or employed in any
37 office or position who are unwilling to or refuse to implement
38 this Act must resign their position and their failure to
39 implement this Act is sufficient grounds for impeachment or
40 termination.

41 **§2508. Approval required for future action**

42
43 Notwithstanding chapter 4 or any other provision of law,
44 state law, amendments to existing law, rules, resolutions,
45 decrees, orders, contracts, plans or other state governmental
46 declarations relating to or implementing any aspect of the
47 federal Clean Air Act, as amended, 42 United States Code, Section
48 7545(k) may not take effect unless first approved by a majority
49 of the membership of the Senate and the House of Representatives.
50

2 **§2509. Declaration of state authority**

4 This Act has precedence and authority over and supersedes
6 the federal Clean Air Act, as amended, 42 United States Code,
8 Section 7545(k) and any other federal statute, rule, authority,
10 policy, mandate, presidential decree, presidential declaration or
12 any other federal law, policy, rule, sanction, provision, demand,
14 order or declaration.

12 **SUMMARY**

14 This bill provides the following:

16 1. It provides that a state or federal authority may not
18 mandate any fuel for use, nor prohibit the sale of any fuel that
is sold in any other state of the United States;

20 2. It prohibits a state or federal authority from
22 implementing any automobile testing policy, process or program
without state legislative approval;

24 3. It requires sellers of gasoline or fuel to post material
26 safety data sheets revealing all known chemical components of
those fuels;

28 4. It requires that all money collected by the State on
30 behalf of the Federal Government be placed in an escrow account
and withheld until the total cumulative amount withheld from the
32 Federal Government equals the total amount of financial
sanctions, penalties or withholding of funds;

34 5. It instructs the Governor, state representatives,
36 members of the judiciary, constitutional officers and state
employees to resign if they fail or refuse to implement the
requirements of the bill; and

38 6. It provides that no aspect of Section 7545(k) of the
40 federal Clean Air Act may be implemented in this State without
state legislative approval.