

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND SPECIAL SESSION-2004

Legislative Document

No. 1918

S.P. 757

In Senate, March 9, 2004

An Act To Improve the Viability of Railroads Operating in Maine

Reported by Senator STANLEY of Penobscot for the Joint Standing Committee on Taxation pursuant to Public Law 2003, chapter 498, section 11 and Resolve 2003, chapter 101, section 3.

Reference to the Committee on Taxation suggested and ordered printed under Joint Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

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

4 **Sec. 1. 36 MRSA §1760, sub-§8, ¶D** is enacted to read:

6 D. Motor fuel purchased and used for the purpose of
powering railroad locomotives.

8 **Sec. 2. 36 MRSA §1760, sub-§41**, as amended by PL 1999, c. 759,
10 §3 and affected by §4, is further amended to read:

12 **41. Certain instrumentalities of interstate or foreign
commerce.** The sale of a vehicle, ~~railroad-rolling-stock~~, aircraft
14 or watercraft that is placed in use by the purchaser as an
instrumentality of interstate or foreign commerce within 30 days
16 after that sale and that is used by the purchaser not less than
80% of the time for the next 2 years as an instrumentality of
18 interstate or foreign commerce. The State Tax Assessor may for
good cause extend for not more than 60 days the time for placing
the instrumentality in use in interstate or foreign commerce. For
20 purposes of this subsection, property is "placed in use as an
instrumentality of interstate or foreign commerce" by its
22 carrying of, or providing the motive power for the carrying of, a
bona fide payload in interstate or foreign commerce, or by being
24 dispatched to a specific location at which it will be loaded upon
arrival with, or will be used as motive power for the carrying
26 of, a payload in interstate or foreign commerce. For purposes of
this subsection, "bona fide payload" means a cargo of persons or
28 property transported by a contract or common carrier for
compensation that exceeds the direct cost of carrying that cargo
30 or pursuant to a legal obligation to provide service as a public
utility or a cargo of property transported in the reasonable
32 conduct of the purchaser's own nontransportation business in
interstate commerce.

34 **Sec. 3. 36 MRSA §1760, sub-§41-A** is enacted to read:

36 **41-A. Certain railroad rolling stock used in interstate or
38 foreign commerce.** The sale of:

40 A. Railroad rolling stock that is placed in use by the
purchaser, or by a lessee, as an instrumentality of
42 interstate or foreign commerce within 30 days after that
sale, or within 30 days after the commencement of the lease,
44 and that is used by the purchaser or by the lessee not less
than 80% of the time for the next 2 years as an
46 instrumentality of interstate or foreign commerce. The
State Tax Assessor may for good cause extend for not more
48 than 60 days the time for placing the instrumentality in use
in interstate or foreign commerce. For purposes of this
50 subsection, property is "placed in use as an instrumentality

2 of interstate or foreign commerce" by its carrying of, or
3 providing the motive power for the carrying of, a bona fide
4 payload in interstate or foreign commerce, or by being
5 dispatched to a specific location at which it will be loaded
6 upon arrival with, or will be used as motive power for the
7 carrying of, a payload in interstate or foreign commerce.
8 For purposes of this subsection, "bona fide payload" means a
9 cargo of persons or property transported by a contract or
10 common carrier for compensation that exceeds the direct cost
11 of carrying that cargo or pursuant to a legal obligation to
12 provide service as a public utility or a cargo of property
13 transported in the reasonable conduct of the purchaser's own
14 nontransportation business in interstate commerce; and

15 B. Parts and attachments that are intended to become
16 attached to or part of railroad rolling stock described in
17 paragraph A and that are attached to or installed on the
18 railroad rolling stock in the State, regardless of when the
19 railroad rolling stock was acquired.

20 **Sec. 4. Effective date.** This Act takes effect July 1, 2005.

24 SUMMARY

26 This bill is reported out by the Joint Standing Committee on
27 Taxation pursuant to Public Law 2003, chapter 498. The bill
28 proposes to amend the sales and use tax laws applicable to
29 railroads to exempt from sales and use tax motor fuel used for
30 powering railroad locomotives and parts and attachments for
31 otherwise exempt railroad rolling stock. The bill also extends
32 the exemption for railroad rolling stock used in interstate and
foreign commerce to include leases of railroad rolling stock.