

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 434

H.P. 343

House of Representatives, January 29, 2019

An Act To Price Carbon Pollution in Maine

Reference to the Committee on Energy, Utilities and Technology suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative RYKERSON of Kittery.

Cosponsored by Senator MIRAMANT of Knox and

Representatives: AUSTIN of Skowhegan, BABBIDGE of Kennebunk, BEEBE-CENTER of Rockland, BERRY of Bowdoinham, BLUME of York, BROOKS of Lewiston, BRYANT of Windham, CARDONE of Bangor, CARNEY of Cape Elizabeth, COOPER of Yarmouth, CRAVEN of Lewiston, DAUGHTRY of Brunswick, DODGE of Belfast, DOORE of Augusta, DOUDERA of Camden, DUNPHY of Old Town, EVANGELOS of Friendship, FARNSWORTH of Portland, FAY of Raymond, FOLEY of Biddeford, Speaker GIDEON of Freeport, GRAMLICH of Old Orchard Beach, GROHOSKI of Ellsworth, HANDY of Lewiston, HARNETT of Gardiner, HEPLER of Woolwich, HOBBS of Wells, HUBBELL of Bar Harbor, HYMANSON of York, INGWERSEN of Arundel, JORGENSEN of Portland, KORNFIELD of Bangor, LANDRY of Farmington, MADIGAN of Waterville, MATLACK of St. George, McCREA of Fort Fairfield, McCREIGHT of Harpswell, MEYER of Eliot, O'NEIL of Saco, PEBWORTH of Blue Hill, PERRY of Calais, RECKITT of South Portland, ROBERTS-LOVELL of South Berwick, SCHNECK of Bangor, SHARPE of Durham, STOVER of Boothbay, SYLVESTER of Portland, TEPLER of Topsham, TIPPING of Orono, TUCKER of Brunswick, WARREN of Hallowell, ZEIGLER of Montville, Senators: BELLOWS of Kennebec, BREEN of Cumberland, DILL of Penobscot, GRATWICK of Penobscot, MILLETT of Cumberland, SANBORN, H. of Cumberland, SANBORN, L. of Cumberland, VITELLI of Sagadahoc.

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

2 **Sec. 1. 35-A MRSA §1508-A, sub-§1**, as amended by PL 2011, c. 623, Pt. B, §5,
3 is further amended to read:

4 **1. Penalty.** Unless otherwise specified in law, the commission may, in an
5 adjudicatory proceeding, impose an administrative penalty as specified in this section.

6 A. For willful violations of this Title, a commission rule or a commission order by a
7 public utility, voice service provider, dark fiber provider, wholesale competitive local
8 exchange carrier ~~or a~~ competitive electricity provider or distributor as defined in
9 section 4451, subsection 1, the commission may impose an administrative penalty for
10 each violation in an amount that does not exceed \$5,000 or .25% of the annual gross
11 revenue that the public utility, voice service provider, dark fiber provider, wholesale
12 competitive local exchange carrier ~~or the~~ competitive electricity provider or
13 distributor as defined in section 4451, subsection 1 received from sales in the State,
14 whichever amount is lower. Each day a violation continues constitutes a separate
15 offense. The maximum administrative penalty for any related series of violations
16 may not exceed \$500,000 or 5% of the annual gross revenue that the public utility,
17 voice service provider, dark fiber provider, wholesale competitive local exchange
18 carrier ~~or the~~ competitive electricity provider or distributor as defined in section
19 4451, subsection 1 received from sales in the State, whichever amount is lower.

20 B. For a violation in which a public utility, voice service provider, dark fiber
21 provider, wholesale competitive local exchange carrier ~~or a~~ competitive electricity
22 provider or distributor as defined in section 4451, subsection 1 was explicitly notified
23 by the commission that it was not in compliance with the requirements of this Title, a
24 commission rule or a commission order and that failure to comply could result in the
25 imposition of administrative penalties, the commission may impose an administrative
26 penalty that does not exceed \$500,000.

27 C. The commission may impose an administrative penalty in an amount that does not
28 exceed \$1,000 on any person that is not a public utility, voice service provider, dark
29 fiber provider, wholesale competitive local exchange carrier ~~or a~~ competitive
30 electricity provider or distributor as defined in section 4451, subsection 1 and that
31 violates this Title, a commission rule or a commission order. Each day a violation
32 continues constitutes a separate offense. The administrative penalty may not exceed
33 \$25,000 for any related series of violations.

34 D. In addition to the administrative penalties authorized by this subsection, the
35 commission may require disgorgement of profits or revenues realized as a result of a
36 violation of this Title, a commission rule or a commission order.

37 **Sec. 2. 35-A MRSA c. 44-A** is enacted to read:

38 **CHAPTER 44-A**

39 **CARBON CONTENT ASSESSMENT**

1 **§4451. Carbon content assessment; Carbon Content Assessment Fund**

2 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
3 following terms have the following meanings.

4 A. "Distributor" means a person that imports or causes to be imported fuel for use,
5 distribution or sale within the State or a person that produces, refines, manufactures
6 or compounds fuel within the State for use, distribution or sale.

7 B. "Fuel" means each form and grade of butane, coal, clear diesel fuel, gasoline, fuel
8 oil, kerosene, natural gas and propane, but does not include dyed diesel fuel or jet
9 fuel.

10 C. "Fund" means the Carbon Content Assessment Fund established in subsection 4.

11 **2. Carbon content assessment.** On a monthly basis the commission shall, in
12 accordance with this section, collect from a distributor an assessment on the carbon
13 content of fuel on each unit of fuel sold by that distributor in the State and transfer any
14 assessment it collects under this section to the fund.

15 A. The assessment is \$5 per metric ton of carbon content during fiscal year 2020-21
16 and increases by \$5 per metric ton each fiscal year from fiscal year 2021-22 to fiscal
17 year 2027-28, remaining at \$40 per metric ton each fiscal year thereafter.

18 B. For each fuel, the commission shall convert the amount per metric ton to a rate
19 per unit of fuel using the most recent applicable carbon dioxide emissions coefficient
20 published by the United States Energy Information Administration. On or before
21 June 15th of each year, the commission shall publish the rate per unit of fuel that will
22 be in effect during the following fiscal year for each fuel.

23 The assessment does not apply to the sale of electricity.

24 **3. Collection of the assessment by a distributor.** A distributor shall collect the
25 assessment required under this section on completion of each sale or delivery of fuel to
26 which the assessment applies. The distributor shall identify the assessment collected as a
27 separate invoice entry on each sale or delivery of fuel. On or before the 15th day of each
28 month, the distributor shall submit to the commission the following:

29 A. A statement containing its name and place of business;

30 B. The quantity and type of fuel subject to the assessment sold in the preceding
31 calendar month;

32 C. The assessment due for the fuel sold in the preceding calendar month; and

33 D. Any other information required by the commission.

34 **4. Carbon Content Assessment Fund.** The Carbon Content Assessment Fund is
35 established. The fund is a nonlapsing fund and is administered by the commission in
36 accordance with this section. Any interest earned on funds in the fund must be credited
37 to the fund, and funds not spent in any fiscal year remain in the fund to be used in
38 accordance with this section. The commission shall deposit any assessment it collects in
39 accordance with this section into the fund.

1 A. At the end of each fiscal year, the commission shall disburse from the fund the
2 assessments collected in that fiscal year to transmission and distribution utilities in
3 the State.

4 B. The commission shall require the funds disbursed to transmission and distribution
5 utilities in the State pursuant to paragraph A to be used to reduce the rates of those
6 utilities' customers in a manner that is equitable and that provides maximum benefit
7 to the economy of the State.

8 The commission may use funds in the fund to cover administrative costs associated with
9 implementing this section.

10 5. Administration. The commission may review the books and records of a
11 distributor to ensure that reported fuel sales are accurate. The commission may impose
12 on a distributor that fails to accurately report its sales or submit the required assessment
13 in accordance with this section an administrative penalty in accordance with section
14 1508-A.

15 6. Rules. The commission shall adopt rules to implement this section. Rules
16 adopted pursuant to this subsection are routine technical rules as defined in Title 5,
17 chapter 375, subchapter 2-A.

18 **SUMMARY**

19 This bill requires an assessment on the carbon content of fuels sold by a distributor in
20 the State. The bill defines "distributor" and requires a distributor to submit on a monthly
21 basis the required assessment to the Public Utilities Commission. The commission is
22 required to transfer any assessment it receives to the Carbon Content Assessment Fund,
23 which the bill establishes. The bill requires the commission at the end of each fiscal year
24 to transfer funds from the fund to transmission and distribution utilities in the State. The
25 funds are to be used to reduce the rates of those utilities' customers in a manner that is
26 equitable and that provides maximum benefit to the economy of the State. The bill gives
27 the commission the authority to review the books and records of a distributor and to
28 impose an administrative penalty if necessary. It requires the commission to adopt
29 routine technical rules.