

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

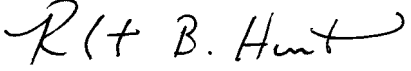
No. 936

H.P. 601

House of Representatives, March 11, 2025

An Act to Amend the Laws Regarding the Mining Excise Tax

Received by the Clerk of the House on March 5, 2025. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.


ROBERT B. HUNT
Clerk

Presented by Representative HASENFUS of Readfield.
Cosponsored by Representatives: CROCKETT of Portland, LAVIGNE of Berwick, QUINT of Hodgdon.

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

2 **Sec. 1. 1 MRSA c. 31**, as amended, is repealed.

3 **Sec. 2. 14 MRSA §6662, sub-§1, ¶C**, as enacted by PL 1983, c. 189, is amended
4 by amending subparagraph (2) to read:

5 (2) Payment of ~~any the~~ excise tax under Title 36, ~~sections 2851 to 2865~~ section
6 2856;

7 **Sec. 3. 36 MRSA §271, sub-§2, ¶A**, as amended by PL 2019, c. 401, Pt. A, §4, is
8 further amended by repealing subparagraph (6).

9 **Sec. 4. 36 MRSA §271, sub-§10, ¶A**, as enacted by PL 2009, c. 571, Pt. WWW,
10 §7, is amended to read:

11 A. The filing fee for a petition for an appeal of current use valuation under the tree
12 growth tax law, chapter 105, subchapter 2-A, the farm and open space tax law, chapter
13 105, subchapter 10, or the working waterfront land law, chapter 105, subchapter 10-A
14 or a petition for an appeal relating to section 2865 is \$75.

15 **Sec. 5. 36 MRSA §603, sub-§10**, as amended by PL 1983, c. 776, §2, is further
16 amended to read:

17 **10. Tax situs.** The tax situs of tangible personal property ~~shall be~~ is at the ~~mine~~ mining
18 site if that property is:

19 A. Owned, leased or otherwise subject to possessory control of a mining company;
20 and

21 B. On route to or from, being transported to or from or destined to or from a ~~mine~~
22 mining site.

23 Except as otherwise provided in this subsection, the tax situs of tangible personal property
24 leased to a mining company ~~shall be~~ is in the place where the property is situated.

25 For the purposes of this subsection, the definitions of section 2855 ~~shall~~ apply.

26 **Sec. 6. 36 MRSA §655, sub-§1, ¶S**, as amended by PL 2019, c. 440, §1, is repealed.

27 **Sec. 7. 36 MRSA §655, sub-§1, ¶S-1** is enacted to read:

28 S-1. Unextracted minerals. For purposes of this paragraph, "minerals" has the same
29 meaning as in section 2855, subsection 9;

30 **Sec. 8. 36 MRSA §656, sub-§1, ¶I**, as enacted by PL 1983, c. 555, §3, is repealed.

31 **Sec. 9. 36 MRSA §656, sub-§1, ¶I-1** is enacted to read:

32 I-1. Unextracted minerals. For purposes of this paragraph, "minerals" has the same
33 meaning as in section 2855, subsection 9.

34 **Sec. 10. 36 MRSA §2013, sub-§1, ¶B-2** is enacted to read:

35 B-2. "Commercial mining" means the commercial extraction or removal of metallic
36 minerals or overburden or the preparation, washing, cleaning or other treatment of
37 metallic minerals and includes the bulk sampling, advanced exploration, extraction or
38 beneficiation of metallic minerals within a mining area.

1 "Commercial mining" does not include:

2 (1) Exploration;

3 (2) The physical extraction, crushing, grinding, storage or heating of calcium
4 carbonate or limestone to produce cement;

5 (3) The exploration for or physical extraction, crushing, grinding, sorting or
6 storage of borrow, topsoil, clay or silt; or

7 (4) The exploration for or physical extraction, crushing, grinding, sorting or
8 storage of gemstones, aggregate, dimension stone or other construction materials
9 from a quarry.

10 As used in this paragraph, "advanced exploration," "beneficiation," "cement,"
11 "exploration" and "metallic mineral" have the same meanings as in Title 38, section
12 490-MM.

13 **Sec. 11. 36 MRSA §2013, sub-§1, ¶C**, as amended by PL 2019, c. 7, §2, is further
14 amended to read:

15 C. "Depreciable machinery and equipment" means, except as otherwise provided by
16 this paragraph, that part of the following machinery and equipment for which
17 depreciation is allowable under the Code and repair parts for that machinery and
18 equipment:

19 (1) New or used machinery and equipment for use directly and primarily in
20 commercial agricultural production, including self-propelled vehicles; attachments
21 and equipment for the production of field and orchard crops; new or used
22 machinery and equipment for use directly and primarily in production of milk,
23 maple syrup or honey, animal husbandry and production of livestock, including
24 poultry; new or used machinery and equipment used in the removal and storage of
25 manure; and new or used machinery and equipment not used directly and primarily
26 in commercial agricultural production, but used to transport potatoes from a truck
27 into a storage location;

28 (2) New or used watercraft, nets, traps, cables, tackle and related equipment
29 necessary to and used directly and primarily in commercial fishing;

30 (3) New or used watercraft, machinery or equipment used directly and primarily
31 for commercial aquacultural production, including, but not limited to: nets; ropes;
32 cables; anchors and anchor weights; shackles and other hardware; buoys; fish
33 tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating
34 systems; boilers and related pumping systems; diving equipment; feeders and
35 related equipment; power-generating equipment; tank water-level sensors;
36 aboveground piping; water-oxygenating systems; fish-grading equipment; safety
37 equipment; and sea cage systems, including walkways and frames, lights, netting,
38 buoys, shackles, ropes, cables, anchors and anchor weights; ~~and~~

39 (4) New or used machinery and equipment for use directly and primarily in
40 commercial wood harvesting, including, but not limited to, chain saws, skidders,
41 delimbers, forwarders, slashers, feller bunchers and wood chippers; and

42 (5) New or used machinery and equipment for use directly and primarily in
43 commercial mining.

1 "Depreciable machinery and equipment" does not include a motor vehicle as defined
2 in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

3 **Sec. 12. 36 MRSA §2013, sub-§2**, as amended by PL 2015, c. 481, Pt. B, §1 and
4 affected by §2, is further amended to read:

5 **2. Refund authorized.** Any person, association of persons, firm or corporation that
6 purchases electricity or fuel, or that purchases or leases depreciable machinery or
7 equipment, for use in commercial agricultural production, commercial fishing, commercial
8 aquacultural production ~~or~~, commercial wood harvesting or commercial mining must be
9 refunded the amount of sales tax paid upon presenting to the ~~State Tax Assessor~~ assessor
10 evidence that the purchase is eligible for refund under this section.

11 Evidence required by the assessor may include a copy or copies of that portion of the
12 purchaser's or lessee's most recent filing under the ~~United States Internal Revenue~~ Code
13 that indicates that the purchaser or lessee is engaged in commercial agricultural production,
14 commercial fishing, commercial aquacultural production ~~or~~, commercial wood harvesting
15 or commercial mining and that the purchased machinery or equipment is depreciable for
16 those purposes or would be depreciable for those purposes if owned by the lessee.

17 In the event that any piece of machinery or equipment is only partially depreciable under
18 the ~~United States Internal Revenue~~ Code, any reimbursement of the sales tax must be
19 prorated accordingly. In the event that electricity or fuel is used in qualifying and
20 nonqualifying activities, any reimbursement of the sales tax must be prorated accordingly.

21 Application for refunds must be filed with the assessor within 36 months of the date of
22 purchase or execution of the lease.

23 **Sec. 13. 36 MRSA §2013, sub-§3**, as amended by PL 2015, c. 481, Pt. B, §1 and
24 affected by §2, is further amended to read:

25 **3. Purchases made free of tax with certificate.** Sales tax need not be paid on the
26 purchase of electricity, fuel or a single item of machinery or equipment if the purchaser has
27 obtained a certificate from the assessor stating that the purchaser is engaged in commercial
28 agricultural production, commercial fishing, commercial aquacultural production ~~or~~,
29 commercial wood harvesting or commercial mining and authorizing the purchaser to
30 purchase electricity, fuel or depreciable machinery and equipment without paying Maine
31 sales tax. The seller is required to obtain a copy of the certificate together with an affidavit
32 as prescribed by the assessor, to be maintained in the seller's records, attesting to the
33 qualification of the purchase for exemption pursuant to this section. In order to qualify for
34 this exemption, the electricity, fuel or depreciable machinery or equipment must be used
35 directly in commercial agricultural production, commercial fishing, commercial
36 aquacultural production ~~or~~, commercial wood harvesting or commercial mining. In order
37 to qualify for this exemption, the electricity or fuel must be used in qualifying activities,
38 including support operations.

39 **Sec. 14. 36 MRSA §2854**, as enacted by PL 1981, c. 711, §10, is repealed and the
40 following enacted in its place:

41 **§2854. Excise tax**

42 An annual excise tax is imposed on a mining company for the privilege of conducting
43 mining in the State and is in addition to any other tax imposed by this Title.

1 **Sec. 15. 36 MRSA §2855, sub-§2**, as enacted by PL 1981, c. 711, §10, is repealed.

2 **Sec. 16. 36 MRSA §2855, sub-§3**, as enacted by PL 1981, c. 711, §10, is repealed.

3 **Sec. 17. 36 MRSA §2855, sub-§4**, as enacted by PL 1981, c. 711, §10, is repealed.

4 **Sec. 18. 36 MRSA §2855, sub-§5**, as enacted by PL 1981, c. 711, §10, is amended
5 to read:

6 **5. Gross proceeds.** "Gross proceeds" means a mining company's federal gross income
7 from mining ~~with respect to a mine site~~, as defined in Section 613 of the ~~code~~ Code, in the
8 State.

9 **Sec. 19. 36 MRSA §2855, sub-§6**, as enacted by PL 1981, c. 711, §10, is repealed.

10 **Sec. 20. 36 MRSA §2855, sub-§7**, as enacted by PL 1981, c. 711, §10, is repealed.

11 **Sec. 21. 36 MRSA §2855, sub-§8**, as amended by PL 1983, c. 776, §4, is repealed.

12 **Sec. 22. 36 MRSA §2855, sub-§9**, as enacted by PL 1981, c. 711, §10, is amended
13 to read:

14 **9. Minerals.** "Minerals" means all ~~naturally occurring~~ naturally occurring metallic
15 minerals as defined in Title 38, section 490-MM, subsection 8.

16 **Sec. 23. 36 MRSA §2855, sub-§10**, as enacted by PL 1981, c. 711, §10, is repealed
17 and the following enacted in its place:

18 **10. Mining.** "Mining" has the same meaning as in Title 38, section 490-MM,
19 subsection 11, except that activity described in Title 38, section 490-MM, subsection 11,
20 paragraph D is mining regardless of any exclusion by the Department of Environmental
21 Protection pursuant to Title 38, section 490-NN, subsection 4.

22 **Sec. 24. 36 MRSA §2855, sub-§12**, as amended by PL 1983, c. 776, §5, is repealed.

23 **Sec. 25. 36 MRSA §2855, sub-§13**, as enacted by PL 1981, c. 711, §10, is repealed.

24 **Sec. 26. 36 MRSA §2855, sub-§14**, as amended by PL 1993, c. 395, §18, is
25 repealed.

26 **Sec. 27. 36 MRSA §2855, sub-§15**, as enacted by PL 1981, c. 711, §10, is repealed
27 and the following enacted in its place:

28 **15. Tax year.** "Tax year" means an accounting period that is the same as the taxpayer's
29 taxable year for federal income tax purposes.

30 **Sec. 28. 36 MRSA §2855, sub-§16**, as enacted by PL 1981, c. 711, §10, is repealed.

31 **Sec. 29. 36 MRSA §2855, sub-§17**, as enacted by PL 1981, c. 711, §10, is repealed.

32 **Sec. 30. 36 MRSA §2856**, as corrected by RR 2013, c. 2, §45, is repealed and the
33 following enacted in its place:

34 **§2856. Amount of annual excise tax**

35 The amount of the annual excise tax on a mining company is the mining company's
36 gross proceeds multiplied by 0.05.

37 **Sec. 31. 36 MRSA §2857**, as enacted by PL 1981, c. 711, §10, is amended to read:

1 **§2857. Returns**

2 **1. Annual return.** A mining company shall file, on or before the date the mining
3 company's state income tax return is due to be filed, an annual return on a form specified
4 by the ~~State Tax Assessor~~ assessor for each tax year.

5 **2. Form and contents.** The return shall ~~shall~~ must indicate:

6 A. The tax due;

7 B. The estimated tax payments made; and

8 C. ~~Credits provided under section 2858; and~~

9 D. Information relating to ~~the value of facilities and equipment, gross proceeds, net~~
10 ~~proceeds~~ or other relevant information as the ~~State Tax Assessor~~ assessor may by rule
11 require.

12 **3. Payments.** A mining company shall pay the tax due, less estimated tax payments
13 ~~and credits~~, at the time its annual return is due without extensions.

14 **4. Extensions.** The ~~State Tax Assessor~~ assessor may grant a reasonable extension of
15 time for filing a return, declaration, statement or other document or payment of tax or
16 estimated tax required by this chapter on such terms and conditions as ~~he~~ the assessor may
17 require. The extension may not exceed 8 months.

18 **5. Computation.** ~~In computing a mining company's tax, gross proceeds and net~~
19 ~~proceeds shall be computed as if each mine site were a separate taxpayer.~~ The ~~State Tax~~
20 ~~Assessor~~ assessor may distribute, apportion or allocate on a reasonable basis gross
21 proceeds, deductions, credits or allowances between or among mining companies ~~or mine~~
22 ~~sites~~, if such distribution, apportionment or allocation is necessary to prevent evasion of
23 taxes imposed by this chapter, or to reflect clearly the gross ~~or net~~ proceeds of any mining
24 company ~~or mine site~~.

25 **Sec. 32. 36 MRSA §2858**, as amended by PL 1987, c. 772, §26, is repealed.

26 **Sec. 33. 36 MRSA §2861**, as amended by PL 2011, c. 653, §4 and affected by §33
27 and amended by c. 682, §38, is repealed.

28 **Sec. 34. 36 MRSA §2862**, as amended by PL 2011, c. 653, §5 and affected by §33,
29 is repealed.

30 **Sec. 35. 36 MRSA §2862-A** is enacted to read:

31 **§2862-A. Distribution of revenues**

32 Revenue from the excise tax imposed pursuant to this chapter must be distributed as
33 follows:

34 **1. Mining Excise Tax Trust Fund.** Seventy-five percent of the revenue must be
35 deposited in the Mining Excise Tax Trust Fund established in Title 5, section 452. The
36 revenue deposited in the Mining Excise Tax Trust Fund is subject to the provisions of the
37 Constitution of Maine, Article IX, Section 20; and

38 **2. General Fund.** Twenty-five percent of the revenue must be deposited in the
39 General Fund.

40 **Sec. 36. 36 MRSA §2863**, as amended by PL 2017, c. 211, Pt. E, §7, is repealed.

