

MAINE STATE LEGISLATURE

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E I G H T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 973

H. P. 1828

House of Representatives, April 5, 1937.

Reported by Mr. Fellows from Committee on Taxation and laid on table to be printed under joint rules.

HARVEY R. PEASE, Clerk.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT Relating to the Gasoline Tax.

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

Sec. 1. R. S., c. 12, § 79, amended. Section 79 of chapter 12 of the revised statutes, as amended by chapter 115 of the public laws of 1931, and by section 1 of chapter 283 of the public laws of 1931, is hereby further amended to read as follows:

‘Sec. 79. Terms defined. The terms used in sections 79 to 89-B shall be construed as follows: “Internal combustion engine” shall mean any engine operated by explosion or quick burning therein of gasoline, benzol or other product except kerosene.

“Internal combustion engine fuel” shall mean: 1st, gasoline; 2nd, benzol; and 3rd, other products when sold or used for motor fuel in the operation of an internal combustion engine, except kerosene and fuel oil, commonly called crude oil. “Distributor” shall mean any person, association of persons, firm or corporation, wherever resident or located, importing or causing to be imported for sale or for use in this state (with the exceptions hereinafter set forth), any internal combustion engine fuel as herein defined; or producing, refining, manufacturing or compounding within the state any internal combustion engine fuel as herein defined; or purchasing

within the state in ~~lots of five thousand gallons or more, tank car, ship or barge lots,~~ internal combustion engine fuel as herein defined, for the purpose of sale or use within the state; and also the persons, associations, firms and corporations described in section 85.'

Sec. 2. R. S., c. 12, § 80, amended. Section 80 of chapter 12 of the revised statutes, as amended by chapter 190 of the public laws of 1931, and by section 2 of chapter 283 of the public laws of 1931, is hereby further amended to read as follows:

'Sec. 80. Tax levied; rebates. There is hereby levied and imposed an excise tax of 4c per gallon upon internal combustion engine fuel sold or used within this state for any purpose whatsoever, excepting, however, such internal combustion engine fuel, sold or used in such form and under such circumstances as shall preclude the collection of this tax by reason of the provisions of the laws of the United States, or sold wholly for exportation from the state, or brought into the state in the ordinary standardized equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of such vehicle within the state; provided, however, that on the same fuel only one tax shall be paid to the state, for which tax the distributor first receiving the fuel in the state shall be primarily liable to the state, except when such fuel has been sold and delivered in ~~lots of five thousand gallons or more tank car, ship or barge lots,~~ to another distributor in the state, in which case the purchasing distributor shall be primarily liable to the state for the tax; and provided further that 3c of the tax so paid, and no more, upon such internal combustion fuel used in motor boats, in tractors used for agricultural purposes not operating on public ways, or in such vehicles as run only on rails or tracks, or in stationary engines, or in the mechanical or industrial arts, shall be refunded as hereinafter provided.'

Sec. 3. R. S., c. 12, § 81, amended. Section 81 of chapter 12 of the revised statutes, as amended by section 3 of chapter 283 of the public laws of 1931, is hereby further amended to read as follows:

'Sec. 81. Distributors' certificates. Every distributor of such internal combustion engine fuel in the state, except distributors described in section 85, shall file a duly acknowledged **application for a certificate** with the state tax assessor on forms prescribed and furnished by him, which shall contain the name under which such distributor is transacting business within the state, the place or places of business, and location of distributing stations, and agencies of the distributor, the names and addresses of the several per-

sons constituting the firm or partnership, and if a corporation, its corporate name, and the names and addresses of its principal officers and agents within the state. No such distributor shall sell or distribute any such internal combustion engine fuel until such certificate is furnished **by the state tax assessor** and displayed as required by this section. One copy of each such certificate, certified by the state tax assessor shall be displayed in each place of business of such distributor. The state tax assessor having reasonable cause to believe that the distributor has ceased to do business, or that he has violated any of the provisions of this chapter or of the rules and regulations made thereunder, may on reasonable notice to the distributor suspend the distributor's certificate until satisfied to the contrary. In such case the distributor shall not act as a distributor until his certificate is restored by the state tax assessor either of his own initiative or at the request of the distributor and upon the state tax assessor's being satisfied that cause for suspension no longer exists, or upon order of court as hereinafter provided. In case of such suspension all certificates shall at once be surrendered to the state tax assessor upon his request. Notices shall be sufficient if sent by mail addressed to the distributor at the address designated in the certificate, and appeals may be taken in the same manner as provided in section 173 of chapter 57 for appeals from decisions of the bank commissioner.'

Sec. 4. R. S., c. 12, § 82, repealed. Section 82 of chapter 12 of the revised statutes is hereby repealed.

Sec. 5. R. S., c. 12, § 88, amended. Section 88 of chapter 12 of the revised statutes, as amended by section 6 of chapter 283 of the public laws of 1931, is hereby further amended to read as follows:

'Sec. 88. Penalties; civil action for tax. Any distributor or other person who shall wilfully make any false or fraudulent report or return required by sections 79 to 89-B, or who shall make any false statement in any claim or invoice presented to the state tax assessor, or who shall knowingly present to the state tax assessor any claim or invoice containing any false statement or who shall knowingly and fraudulently collect or cause to be paid to him or to any other person any refund provided for by the provisions of the Gasoline Tax Act without being entitled thereto, or who shall with intent to defraud, evade or violate any of the provisions of said sections, or any rules or regulations duly made thereunder, **or who shall engage in the business in the state of Maine as a distributor without being the holder of an uncanceled certificate to engage in such business;** shall be guilty of a misdemeanor and punished by a fine of not more than \$2000.

Whenever any distributor shall fail to pay any tax or penalty due under the provisions of said sections within the time limited herein, the attorney-general shall enforce payment thereof against such distributor in a court of appropriate jurisdiction. In any civil action ~~either the number of gallons of internal combustion engine fuel reported by the distributor as sold, distributed or used by him, or~~ the number of gallons held by the distributor at the beginning of the period covered by the state tax assessor's audit, plus the number of gallons received by such distributor during the period, less the number of gallons on hand at the close of the period, shall be prima facie evidence of the number of gallons sold, distributed or used by the distributor during the period covered by the distributor's report or the state tax assessor's audit, on which the tax with interest from the date when it was due shall be computed and collected and for which amount with costs judgment shall be computed. The claim of the state for sums due from the distributor under the provisions of the Gasoline Tax Act shall be preferred and priority claims in the event of the assignment, receivership or bankruptcy of the distributor.'