

MAINE STATE LEGISLATURE

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Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 6
Titles 33 to 39



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
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GASOLINE TAX

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§ 2901. Short title

This chapter shall be known as the "Gasoline Tax Act" and the tax therein imposed shall be known as the "gasoline tax."

R.S.1954, c. 16, § 158.

§ 2902. Definitions

The terms used in this chapter shall be construed as follows:

1. Distributor. "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 set forth, any internal combustion

engine fuel as defined; or producing, refining, manufacturing or compounding within the State any internal combustion engine fuel as defined; or purchasing within the State in tank car or ship or barge lots, internal combustion engine fuel as defined, for the purpose of sale or use within the State; and the persons, associations, firms and corporations described in section 2907.

2. Internal combustion engine. "Internal combustion engine" shall mean any engine operated by explosion or quick burning therein of gasoline, benzol or other product.

3. Internal combustion engine fuel. "Internal combustion engine fuel", except as respects fuel used for propelling aircraft, shall mean all products commonly or commercially known or sold as gasoline, including casinghead and absorption or natural gasoline, regardless of their classification or uses; and any liquid prepared, advertised, offered for sale or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society for Testing Materials Designation D-86) show not less than 10% distilled (recovered) below 347° Fahrenheit (175° Centigrade) and not less than 95% distilled (recovered) below 464° Fahrenheit (240° Centigrade). The term "internal combustion engine fuel" shall not include commercial solvents or naphthas which distil, by American Society for Testing Materials Method D-86, nor more than 9% at 176° Fahrenheit and which have a distillation range of 150° Fahrenheit, or less, or liquefied gases which would not exist as liquids at a temperature of 60° Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

"Internal combustion engine fuel" shall mean any motor fuel used or sold for use in the propulsion of aircraft.

R.S.1954, c. 16, § 159; 1959, c. 332, § 1.

§ 2903. Tax levied; rebates

An excise tax is levied and imposed at the rate of 7¢ per gallon upon internal combustion engine fuel sold or used within this State, including such sales when made to the State or any political subdivision thereof, for any purpose whatsoever, excepting 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 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. 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 to another distributor in the State, in which case the purchasing distributor shall be primarily liable to the State for the tax. Six cents of the tax so paid, and no more, upon such internal combustion engine fuel used in commercial 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 provided. Three cents of the tax so paid, and no more, upon such internal combustion engine fuel used in vehicles used in common carrier passenger service shall be refunded as provided in section 2909. Eight mills of the tax so paid on fuel used in commercial motor boats, which is not refunded under section 2908, shall be paid to the Treasurer of State, to be made available to the Commissioner of Sea and Shore Fisheries for the purpose of conducting research, development and propagation activities by the department. It is the responsibility of said commissioner to select activities and projects that will be most beneficial to the commercial fisheries of the State.

R.S.1954, c. 16, § 160; 1955, c. 436, § 1; 1959, c. 329, § 1; 1963, c. 367, § 2.

§ 2904. Distributors' certificates

Every distributor of internal combustion engine fuel in the State, except distributors described in section 2907, shall file an 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 persons 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 distrib-

utor 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 being satisfied that cause for suspension no longer exists or upon order of court. 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 Title 32, section 753, for appeals from decisions of the Bank Commissioner.

R.S.1954, c. 16, § 161.

§ 2905. Distributor collects 7¢ additional

Each distributor paying or becoming liable to pay the tax imposed by this chapter shall be entitled to charge and collect 7¢ per gallon only as a part of the selling price of the internal combustion engine fuels subject to the tax.

R.S.1954, c. 16, § 162; 1955, c. 436, § 2.

§ 2906. Rules and regulations; reports; assessment of tax

Every distributor shall on or before the last day of each month render a report to the State Tax Assessor stating the number of gallons of internal combustion engine fuel received, sold and used in the State by him during the preceding calendar month, on forms to be furnished by the State Tax Assessor. Such report shall contain such further information pertinent thereto as the State Tax Assessor shall prescribe and the State Tax Assessor may make such other reasonable rules and regulations regarding the administration and enforcement of the Gasoline Tax Act as he may deem necessary or expedient, copies of which shall be sent to distributors. He or his duly authorized agent shall have access during reasonable business hours to the books, invoices and vouchers of the distributor which may show the fuel handled by the distributor. At the time of the filing of said report each distributor shall pay to the State Tax Assessor a tax of 7¢ upon each gallon so reported as sold, distributed or used and the State Tax Assessor shall pay over all receipts from such tax to the Treasurer of State daily. If such report is not filed by the last day of the

month such distributor shall be liable to a penalty of \$5 a day for each day in arrears, due on demand by the State Tax Assessor and recoverable in a civil action. Each distributor shall, within 15 days after demand made on him by the State Tax Assessor, pay a tax of 7¢ per gallon upon each gallon of such fuel upon which the tax has not been paid, which upon an audit the State Tax Assessor may find to have been received into the State during the preceding year by the distributor and not properly accounted for in a distributor's report or in accordance with law. An allowance of not more than 1% from the amount of fuel received by the distributor, plus 1% on all transfers in vessels, tank cars or full tank truck loads by a distributor in the regular course of his business from one of his places of business to another within the State, may be allowed by the Tax Assessor to cover the loss through shrinkage, evaporation or handling sustained by the distributor. The total allowance for such losses shall not exceed 2% of the receipts by such distributor and no further deduction shall be allowed unless the State Tax Assessor is satisfied on definite proof submitted to him that a further deduction should be allowed by him for a loss sustained through fire, accident or some unavoidable calamity.

R.S.1954, c. 16, § 163; 1955, c. 436, § 3; 1961, c. 48; c. 317, § 18.

§ 2907. Application of tax in special cases

Whoever shall receive any such internal combustion engine fuel in such form and under such circumstances as shall preclude the collection of this tax from the distributors by reason of the laws of the United States, and shall thereafter sell or use any such internal combustion engine fuel in such manner and under such circumstances as may subject such sale or use to the taxing power of this State, shall be considered as a distributor and shall make the same reports, pay the same taxes and be subject to all other provisions of this chapter relating to distributors of internal combustion engine fuel. No person shall be considered as a distributor with respect to internal combustion engine fuel 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.

R.S.1954, c. 16, § 164.

§ 2908. Refund of 6/7 of tax in certain cases; time limit

Any person, association of persons, firm or corporation who shall buy and use any internal combustion engine fuel as defined

in this chapter for the purpose of operating or propelling motor boats, 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, or for any other commercial use except in motor vehicles operated or intended to be operated upon any of the public highways of this State, or turnpikes operated and maintained by the Maine Turnpike Authority, or except, as provided in section 2910, for the use in the operation of pleasure motor boats not used for commercial purposes or in the operation of aircraft, and who shall have paid any tax on internal combustion engine fuel levied or directed to be paid as provided by this chapter, either directly by the collection of such tax by the vendor from such consumer, or indirectly by adding the amount of such tax to the price of such fuel and paid by such consumer, shall be reimbursed and repaid to the extent of $\frac{3}{7}$ of the amount of such tax paid by him upon presenting to the State Tax Assessor a sworn statement accompanied by the original invoices showing such purchases, which statement shall show the total amount of such fuel so purchased and used by such consumer other than in motor vehicles operated or intended to be operated upon any of the public highways of the State and in the operation of aircraft. Applications for refunds must be filed with the State Tax Assessor within 12 months from the date of purchase.

R.S.1954, c. 16, § 166; 1955, c. 436, § 4; 1957, c. 193; 1963, c. 367.

§ 2909. Refund of $\frac{3}{7}$ of tax paid by certain common carriers

Any person, firm or corporation engaged in furnishing common carrier passenger service under a certificate issued by the Public Utilities Commission shall be reimbursed and repaid to the extent of $\frac{3}{7}$ of the amount of such tax paid by him upon that proportion of the internal combustion engine fuel used in locally encouraged vehicles operated by him which his tax-exempt passenger fare revenue derived from such service bears to his total passenger fare revenue. Tax-exempt passenger fare revenue means revenue attributable to fares which were exempt from the federal tax upon transportation of persons imposed by section 4261 of the Federal Internal Revenue Code, by reason of sections 4262 or 4263 of said Internal Revenue Code. Total passenger fare revenue means all revenue attributable to the claimant's passenger operations, whether or not pursuant to the certificate is-

sued by the Public Utilities Commission. The refund provided for in this section shall be made only if the claimant's tax-exempt passenger fare revenue is at least 60% of the claimant's total passenger fare revenue derived during the calendar quarter for which such refund is claimed. "Locally encouraged vehicles" means buses upon which no excise tax is collected, under section 1483, subsection 13.

The claimant shall present his claim to the State Tax Assessor in such form and with such information as the State Tax Assessor may prescribe accompanied by original invoices showing such purchases. Applications for refunds as provided must be filed with the State Tax Assessor within 9 months from the date of purchase.

1959, c. 329, § 2; c. 378, § 3.

§ 2910. Refund of 3/7 of tax to users of aircraft

Any person, association of persons, firm or corporation who shall buy and use any internal combustion engine fuel as defined in section 2902, for the purpose of propelling piston engine aircraft and pleasure motor boats not used for commercial purposes, and who shall have paid any tax on internal combustion engine fuel levied or directed to be paid as provided by this chapter, either directly by the collection of such tax by the vendor from such consumer, or indirectly by adding the amount of such tax to the price of such fuel and paid by such consumer, shall be reimbursed and repaid to the extent of $\frac{3}{7}$ of the amount of such tax paid by him upon presenting to the State Tax Assessor a statement accompanied by the original invoices showing such purchases. Applications for refunds must be filed with the State Tax Assessor within 12 months from the date of purchase.

R.S.1954, c. 16, § 167; 1955, c. 436, § 4-A; 1959, c. 332, § 2; 1963, c. 367, § 3.

§ 2911. Refund of 5/7 of tax paid by jets or turbo jets

Any person, association of persons, firm or corporation who shall buy and use any internal combustion engine fuel as defined in section 2902, for the purpose of propelling jet or turbo jet engine aircraft, and who shall have paid any tax on internal combustion engine fuel levied or directed to be paid as provided by this chapter, either directly by the collection of such tax by the vendor from such consumer, or indirectly by adding the amount of such tax to the price of such fuel and paid by such consumer,

shall be reimbursed and repaid to the extent of $\frac{1}{2}$ of the amount of such tax paid by him upon presenting to the State Tax Assessor a statement accompanied by the original invoices showing such purchases. Applications for refunds must be filed with the State Tax Assessor within 12 months from the date of purchase.

1959, c. 332, § 3.

§ 2912. Aeronautical Fund

Every distributor of internal combustion fuels shall keep a record of sales of such fuels as are sold to be used for aeronautical purposes and shall render a report thereof as provided in section 2906. To the Aeronautical Fund, as heretofore established, shall be credited the tax received by the State on internal combustion engine fuels which are sold to be used for aeronautical purposes. The necessary expenses of the collection of the tax on such fuels, to be used for aeronautical purposes, shall be deducted. All fees from the registration of aircraft and pilots as provided for by law and all fines, penalties and costs as imposed under the law relating to aircraft and pilots shall accrue to the Aeronautical Fund. Any unexpended balance from the above apportionments shall not lapse but shall be carried forward to the same fund for the next fiscal year and be available for such uses as indicated in this section. The Aeronautics Commission is authorized and directed to expend so much of the Aeronautical Fund as may be necessary for the purposes of carrying out the duties imposed upon it by law and to expend any unexpended balance in such fund toward the development and promotion of aviation, and to assist in construction, repair and the maintenance of, and the removal of snow from, municipal, state and federal airports in this State, and assist in the construction and maintenance of a system of air marking, in such manner and in such amounts as it shall deem equitable. Such assistance may likewise be given for snow removal on a state, federal or municipal owned airport used by a commercial air carrier of passengers and freight operating on a regular schedule, this assistance being extended to such carrier where the state, federal or municipal owner does not obligate itself and the airport is open to itinerant planes. The amounts in said fund are appropriated for the purposes set forth.

R.S.1954, c. 16, § 168; 1959, c. 212.

§ 2913. Penalties; civil action for tax

Any distributor or other person who shall willfully make any false or fraudulent report or return required by this chapter, 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 Gasoline Tax Act without being entitled thereto, or who shall with intent to defraud, evade or violate any of the provisions of this chapter, or any rules or regulations duly made thereunder, or who shall engage in the business in this State 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 \$2,000. Whenever any distributor shall fail to pay any tax or penalty due under this chapter within the time limited, the Attorney General shall enforce payment thereof against such distributor in a court of appropriate jurisdiction. In any civil action 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 rendered. The claims of the State for sums due from the distributor under the Gasoline Tax Act shall be preferred and priority claims in the event of the assignment, receivership or bankruptcy of the distributor and any distributor who has paid said tax to the State shall be subrogated to the state's priority in the event of the assignment, receivership or bankruptcy of anyone who is liable to such distributor for such tax.

R.S.1954, c. 16, § 165.