

MAINE STATE LEGISLATURE

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CHAPTER 455
USE FUEL TAX

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§ 3021. Short title

This chapter shall be known and may be cited as the "Use Fuel Tax Act".

R.S.1954, c. 16, § 169.

§ 3022. Definitions

The following words, terms and phrases as used in this chapter are for the purposes thereof defined as follows:

1. Duly licensed user. "Duly licensed user" shall mean and include any user holding an unrevoked license issued by this State.

2. Fuels. "Fuels" shall mean and include all combustible gases and liquids used in an internal combustion engine for the generation of power to propel vehicles of any kind or character on the public highways, except such fuels as are subject to the tax imposed by the Gasoline Tax Act.

3. Motor vehicles. "Motor vehicles" shall mean and include all vehicles, engines, machines or mechanical contrivances which are propelled by internal combustion engines or motors.

4. Person. "Person" shall mean and include natural persons and partnerships, firms, associations, corporations, both public and private, except municipalities.

1955, c. 368, § 1.

5. Public highways. "Public highways" shall mean and include every way or place, of whatever nature, generally open to the use of the public as a matter of right for the purposes of vehicular travel and notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance or repair.

6. Use. "Use" shall mean and include, in addition to its original meaning, the receipt of fuel by any person into a motor vehicle or into a receptacle from which fuel is supplied by such person to his own or other motor vehicles.

7. User. "User" shall mean any person who uses and consumes fuel within this State in an internal combustion engine for the generation of power to propel vehicles of any kind or character on the public highways of this State, except in vehicles which are prohibited by law from operating on the public highways, and except in noncommercial vehicles having a fuel tank capacity of 20 gallons or less which are owned by nonresidents of this State and are not required to be registered in this State. (1961, c. 62, § 1.)

R.S.1954, c. 16, § 170; 1955, c. 368, § 1; 1961, c. 62, § 1.

§ 3023. Purpose

The tax imposed by this chapter is levied for the purpose of providing revenue to be used by this State to defray in whole or in part the cost of constructing, widening, reconstructing, maintaining, resurfacing and repairing the public highways of this State and the cost and expense incurred in the administration and enforcement of this chapter, and for no other purpose whatsoever.

R.S.1954, c. 16, § 171.

§ 3024. Exchange of information among the states

The State Tax Assessor shall, upon request duly received from the officials to whom are entrusted the enforcement of the

fuel tax laws of any other state, forward to such officials any information which he may have in his possession relative to the manufacture, receipt, sale, use, transportation and shipment of fuel by any person.

R.S.1954, c. 16, § 187.

§ 3025. Levy of tax; exemptions; credit to highway fund

An excise tax is imposed on all users of fuel upon the use of such fuel by any person within this State, only when such fuel is used in an internal combustion engine for the generation of power to propel motor vehicles of any kind or character on the public highways or turnpikes operated and maintained by the Maine Turnpike Authority, at the rate of 7¢ per gallon, to be computed in the manner set forth in this chapter. No tax is imposed upon the use of any fuel if the Constitution of the United States or of this State precludes such tax. All taxes collected under this section shall be credited to the General Highway Fund.

R.S.1954, c. 16, §§ 172, 186; 1955, c. 436, § 5.

§ 3026. Application for license; contents; licensing of users

It shall be unlawful for any user to use or consume any fuel within this State unless such user is the holder of an uncanceled license issued by the State Tax Assessor. To procure such license every user shall file with the State Tax Assessor an application in such form as the State Tax Assessor may prescribe setting forth the name and address of the user.

Concurrently with the filing of an application for a license, every user shall file with the State Tax Assessor a bond of the character stipulated and in the amount provided for in section 3027. No license shall issue upon any application unless accompanied by such a bond.

In the event that any application for a license to use fuel as a user in this State shall be filed by any person whose license shall at any time theretofore have been canceled for cause by the State Tax Assessor, or in case the State Tax Assessor shall be of the opinion that such application is not filed in good faith or that such application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been canceled for cause by the State Tax Assessor, then and in any of said events the State Tax Assessor, after a hearing of which the applicant shall have been given 5 days' notice in writing and in which said applicant shall have the right to appear

in person or by counsel and present testimony, shall have the right and authority to refuse to issue to said person a license certificate in this State.

Upon the filing of the application for a license, a filing fee of \$1 shall be paid to the State Tax Assessor.

The application in proper form having been accepted for filing, the bond having been accepted and approved, and the other conditions and requirements of this section having been complied with, the State Tax Assessor shall issue to such user a license certificate and such license shall remain in full force and effect until canceled as provided in this chapter.

The license certificate so issued by the State Tax Assessor shall not be assignable and shall be valid only for the user in whose name issued and shall be displayed conspicuously by the user.

The State Tax Assessor shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed users.

R.S.1954, c. 16, § 173.

§ 3027. Bond required

Every user, except a user operating only noncommercial vehicles, including station wagons, none of which has a fuel tank capacity in excess of 20 gallons, shall file with the State Tax Assessor a bond as follows:

1. Amounts. In the minimum amount of \$200 and a maximum amount of \$10,000 on a form to be approved by the State Tax Assessor;

1961, c. 62, § 2.

2. Surety company. With a surety company authorized to do business within the State as surety thereon;

3. Obligor and obligee. Upon which such user shall be the principal obligor and this State shall be the obligee; and

4. Conditions. Conditioned upon the prompt filing of true reports and the payment by such user to the State Tax Assessor of any and all fuel excise taxes which are now or which are hereafter levied or imposed by this State, together with any and all penalties and interest thereon and generally upon faithful compliance with this chapter.

In the event that the liability upon the bond thus filed by the user with the State Tax Assessor shall be discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the State Tax Assessor any surety on the bond theretofore given shall have become unsatisfactory or unacceptable, then the State Tax Assessor may require the user to file a new bond with satisfactory sureties in the same form and amount, failing which the State Tax Assessor shall forthwith cancel the license certificate of said user. If such new bond shall be furnished by such user, the State Tax Assessor shall cancel and surrender the bond of said user for which such new bond shall be substituted.

In the event that upon hearing, of which the user shall be given 5 days' notice in writing, the State Tax Assessor shall decide that the amount of the existing bond is insufficient to insure payment to this State of the amount of the tax and any penalties and interest for which said user is or may at any time become liable, then the user shall forthwith upon the written demand of the State Tax Assessor file an additional bond in the same manner and form with a surety company thereon approved by the State Tax Assessor in any amount determined by the State Tax Assessor to be necessary to secure at all times the payment by such user to this State of all taxes, penalties and interest due under this chapter, failing which, the State Tax Assessor shall forthwith cancel the license certificate of said user.

Any surety on any bond furnished by any user shall be released and discharged from any and all liability to this State accruing on such bond after the expiration of 60 days from the date upon which such surety shall have lodged with the State Tax Assessor a written request to be released and discharged. Such request shall not operate to relieve, release or discharge such surety from any liability already accrued or which shall accrue before the expiration of said 60-day period. The State Tax Assessor shall promptly, on receipt of notice of such request, notify the user to furnish such bond and unless such user shall, on or before the expiration of such 60-day period, file with the State Tax Assessor a new bond with a surety company satisfactory to the State Tax Assessor in the amount and form provided in this section, the State Tax Assessor shall forthwith cancel the license of said user. If such new bond shall be furnished by said user, the State Tax Assessor shall cancel and surrender the bond of said user for which such new bond shall be substituted.

In lieu of furnishing a bond executed by a surety company, as surety, any user may furnish his bond not so executed, provid-

ed he shall concurrently therewith deposit and pledge with the State Tax Assessor direct obligations of the United States, or obligations of any agency of the United States fully guaranteed by it, or bonds of the State of Maine of equal full amount to the amount of the bond required by this section, as collateral security for the payment of such bond.

R.S.1954, c. 16, § 174; 1955, c. 368, § 2; 1961, c. 62, § 2.

§ 3028. Reports; computation and payment of tax

For the purpose of determining the amount of tax imposed, each user shall, not later than the 25th day of each calendar month, file with the State Tax Assessor on forms prescribed by said State Tax Assessor, monthly reports which shall include the total gallonage of fuels used within this State during the next preceding calendar month, together with the gallonage of such fuels purchased from retail dealers licensed in accordance with section 3035.

At the time of filing of each monthly report, each user shall pay to the State Tax Assessor the full amount of the fuel tax for the next preceding calendar month at the same rate as provided for in section 3025. The State Tax Assessor shall pay over all receipts from such tax to the Treasurer of State daily.

Users operating only noncommercial vehicles, including station wagons, none of which has a fuel tank capacity in excess of 20 gallons, and who use only fuel purchased within the State and delivered directly by a licensed use fuel dealer into the fuel tanks of such vehicles, may be exempted at the discretion of the State Tax Assessor from filing reports under this section.

R.S.1954, c. 16, § 175; 1961, c. 62, § 3.

§ 3029. Cancellation of licenses; bond surrendered

If a user shall at any time file a false monthly report of the data or information required by this chapter, or shall fail, refuse or neglect to file the monthly report required by this chapter, or to pay the full amount of the tax as required by this chapter, the State Tax Assessor may forthwith cancel the license of said user and notify such user in writing of such cancellation by registered mail to the last known address of such user appearing on the file of the State Tax Assessor.

Upon receipt of a written request from any user licensed under this chapter, to cancel the license issued to such user, the State Tax Assessor shall have the power to cancel such license

effective 60 days from the date of such written request, but no such license shall be canceled upon the request of any user until and unless the user shall, prior to the date of such cancellation, have paid to this State all excise taxes payable under the laws of this State, together with any and all penalties, interest and fines accruing under any of the provisions of this chapter, and until and unless the user shall have surrendered to the State Tax Assessor the license certificate theretofore issued to such user. If upon investigation, the State Tax Assessor shall ascertain and find that any person to whom a license has been issued under this chapter is no longer engaged in the use of fuel and has not been so engaged for a period of 6 months, the State Tax Assessor shall have the power to cancel such license by giving such person 60 days' notice of such cancellation mailed to the last known address of such person, in which event the license certificate theretofore issued to such person shall be surrendered to the State Tax Assessor.

In the event that the license of any user shall be canceled by the State Tax Assessor and in the further event that said user shall have paid to this State all excise taxes due and payable by said user under this chapter, together with any and all penalties accruing under any of the provisions of this chapter, then the State Tax Assessor shall cancel and surrender the bond and any collateral security theretofore filed by said user.

R.S.1954, c. 16, § 176.

§ 3030. Failure to report and pay taxes

When any user shall fail to file the monthly report with the State Tax Assessor on or before the time fixed for the filing thereof, or when such user fails to submit data outlined in section 3028 in such monthly report, or when such user shall fail to pay to the State Tax Assessor the amount of excise taxes due this State when the same shall be paid, a penalty of 10% shall be added to the amount of the tax due, and such penalty of 10% shall immediately accrue and thereafter said tax and penalty shall bear interest at the rate of 1% per month or fraction thereof until the same is paid.

R.S.1954, c. 16, § 177; 1961, c. 62, § 4.

§ 3031. Tax Assessor may estimate fuel used

Whenever any user shall neglect or refuse to make and file any report for any calendar month as required by this chapter,

or shall file an incorrect or fraudulent report, the State Tax Assessor shall determine after an investigation, the number of gallons of fuel with respect to which the user has incurred liability under this chapter for any particular month or months and fix the amount of taxes and penalties payable by the user under this chapter accordingly. The State Tax Assessor shall forthwith proceed to collect the amount so fixed.

In any action or proceeding for the collection of the use fuel tax and any penalties or interest imposed in connection therewith, an assessment by the State Tax Assessor of the amount of the tax due and the interest or penalties due to the State shall constitute prima facie evidence of the claim of the State and the burden of proof shall be upon the user to show the assessment was incorrect and contrary to law.

R.S.1954, c. 16, § 178.

§ 3032. Retention of records by users

Each user shall maintain and keep for a period of 2 years such record or records of fuel used within this State by such user, together with invoices, bills of lading and other pertinent records and papers as may be required by the State Tax Assessor for the reasonable administration of this chapter. Any person willfully violating any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be sentenced to pay a fine of not more than \$2,000.

R.S.1954, c. 16, § 179.

§ 3033. Inspection of records; civil action for tax; forms; rules and regulations

The State Tax Assessor or any deputy, employee or agent authorized shall have authority to examine the records, books, papers and any other equipment of the user pertaining to fuel used, to verify the truth and accuracy of any statement, report or return, or to ascertain whether or not the tax imposed by this chapter has been paid, and further to examine the records, books, papers and any other equipment of the user to determine the financial responsibility of the user for the payment of the taxes imposed by said chapter.

The State Tax Assessor shall have the power to institute legal proceedings by the Attorney General in a court of appropriate jurisdiction for the purpose of ascertaining the amount due and enforcing the collection thereof, with penalties and in-

terest thereon and for the purpose of enjoining the business of the delinquent. The claims of the State for sums due under this chapter shall be preferred and priority claims in the event of the assignment, receivership or bankruptcy of any user.

The State Tax Assessor shall have the authority to prescribe all forms upon which reports shall be made to the State Tax Assessor and any other forms required for the proper administration of this chapter, and shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

R.S.1954, c. 16, § 180.

§ 3034. Discontinuance as a licensed user

Whenever a user ceases to engage in business as a user of fuel within this State, it shall be the duty of such user to notify the State Tax Assessor in writing within 15 days after discontinuance. All taxes, penalties and interest under this chapter, not yet due and payable under this chapter shall, together with any and all interest accruing or penalties imposed under this chapter, notwithstanding any provisions thereof, become due and payable concurrently with such discontinuance. It shall be the duty of said user to make a report and pay all such taxes, interest and penalties and to surrender to the State Tax Assessor the license certificate theretofore issued to such user by the State Tax Assessor.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall upon conviction thereof be sentenced to pay a fine of not less than \$50 nor more than \$300.

R.S.1954, c. 16, § 181.

§ 3035. Use fuel dealer license; reports; tax

Every person selling at retail and delivering fuels directly into the fuel tanks of motor vehicles shall, before selling or delivering such fuels, first obtain a license as a "use fuel dealer" from the State Tax Assessor.

Such use fuel dealer shall on or before the last day of each month render a report to the State Tax Assessor stating the number of gallons of fuels received, sold and used in the State by him during the preceding calendar month with respect to each retail outlet delivering fuels directly into the fuel tanks of motor vehicles, on forms to be furnished by the State Tax Assessor. Such report shall contain such further information per-

minent 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 this section as he may deem necessary or expedient, copies of which shall be sent to licensed use fuel dealers. The State Tax Assessor or his duly authorized agent shall have access during reasonable business hours to the books, invoices and vouchers of the use fuel dealer which may show the fuels handled by the dealer.

At the time of the filing of said report each use fuel dealer shall pay to the State Tax Assessor a tax of 7¢ upon each gallon so reported as sold 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 dealer shall be liable to a penalty of \$1 a day for each day in arrears, due on demand by the State Tax Assessor and recoverable in a civil action.

Each dealer 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 fuels 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 dealer and not properly accounted for in a dealer's report or in accordance with law.

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

R.S.1954, c. 16, § 182; 1955, c. 436, § 5-A; 1957, c. 54; 1961, c. 317, § 19.

§ 3036. Refunds of taxes erroneously or illegally collected

In the event it shall appear to the State Tax Assessor that any taxes or penalties imposed by this chapter have been erroneously or illegally collected from any user, the State Tax Assessor shall certify the amount thereof to the State Controller, who shall thereupon draw his warrant for such certified amount on the Treasurer of State to such user. Such refund shall be paid by the Treasurer of State to such user forthwith from the General Highway Fund.

No refunds shall be made under this section unless a written claim therefor setting forth the circumstances by reason of which

such refund shall be allowed, which claim shall be in such form as the State Tax Assessor shall prescribe and shall be filed with the State Tax Assessor within 9 months from the date of the payment of the taxes erroneously or illegally collected.

R.S.1954, c. 16, § 183.

§ 3037. Refund of taxes for 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 $\frac{3}{4}$ of the amount of such tax paid by him upon that proportion of the combustible gases and liquids used in an internal combustion engine 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 reasons of section 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 issued 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 must be filed with the State Tax Assessor within 9 months from the date of purchase.

1959, c. 329, § 3; c. 378, § 4.

§ 3038. Failure to file statement; false statement

Any person who shall refuse or neglect to make any statement, report or return required by this chapter, or who shall knowingly make, or shall aid or assist any other person in making a false statement in a return or report to the State Tax Assessor, or in connection with an application for refund of any tax,

or who shall knowingly collect or attempt to collect, or cause to be paid to him or to any other person, either directly or indirectly, any refund of such tax without being entitled to the same, or who shall use fuel without being the holder of an uncanceled license, shall be guilty of a misdemeanor and upon conviction thereof be punished by a fine of not more than \$2,000. Each day or part thereof during which any person shall engage in business as a user without being the holder of an uncanceled license shall constitute a separate offense within the meaning of this section.

R.S.1954, c. 16, § 184.

§ 3039. Additional penalty

Any user, or any agent or employee of any user, who shall consume any fuel in a motor vehicle on a public highway or on a turnpike operated and maintained by the Maine Turnpike Authority, when such user is not the holder of an uncanceled license as required by this chapter, or when such user has failed to file any report required by this chapter, shall be punished by a fine of not less than \$10 nor more than \$300.

R.S.1954, c. 16, § 185.