

# MAINE STATE LEGISLATURE

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**Report on the  
Percentage of Gasoline and Special Fuel  
Related to Boating Use**

**1991**

**Submitted to the  
Joint Standing Committee on Taxation**

**First Regular Session of the  
115th Legislature**

**Bureau of Parks and Recreation  
MAINE DEPARTMENT OF CONSERVATION**

**February 1991**



John R. McKernan, Jr.  
Governor

C. Edwin Meadows, Jr.  
Commissioner

DEPARTMENT OF CONSERVATION

February 1, 1991

Senator Stephen M. Bost  
Representative John A. Cashman  
Members, Committee on Taxation  
Maine State Legislature  
Augusta, Maine 04333

Dear Senator Bost, Representative Cashman, Members of the Committee:

In 1989, Title 36 MRSA, Section 2903-A, was amended to require that:

1. (a) the Bureau of Parks and Recreation, and the Departments of Marine Resources, Inland Fisheries & Wildlife, and Transportation develop a system for determining the percentage of the gasoline and special fuel (diesel) taxes that result from fuel purchases for boating uses and; (b) whether those uses are for fresh or salt water boating and; (c) whether those uses are for pleasure or commercial boating.

2. Beginning February 1, 1991, and every three years after, the Bureau of Parks and Recreation provide a report based on the above system to the Legislature's Taxation Committee .

Existing data sources have been found insufficient to make the calculations which would enable the Bureau of Parks and Recreation to report to your committee as required by 36 MRSA, Section 2903-A.

Representatives of the Bureau of Parks and Recreation and the Departments of Marine Resources, Inland Fisheries & Wildlife and Transportation have agreed upon a system which would allow the Bureau to collect the data needed to provide this information. For this to be accomplished, legislation would be needed to require that vessels "documented", by the U.S. Coast Guard, but not currently registered in Maine, be registered with the Department of Inland Fisheries & Wildlife.

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Senator Stephen M. Bost  
Representative John A. Cashman  
Members, Committee on Taxation

The attached report provides a description of how this information on fuel consumption by boaters could be determined and an assessment of existing data sources.

If legislation which would allow us to provide the information required by 36 MRSA, Section 2903-A, is not enacted, we recommend that the Bureau's reporting requirements be deleted from the statute.

Sincerely,



Herb Hartman  
Director

/nd  
Enclosure

## EXECUTIVE SUMMARY

In 1989, Title 36 MRSA, Section 2903-A, was amended to require that:

1. (a) the Bureau of Parks and Recreation, Department of Marine Resources, Department of Inland Fisheries & Wildlife, and the Department of Transportation develop a system for determining the percentage of the gasoline and special fuel (diesel) taxes that result from fuel purchases for boating uses and; (b) whether those uses are for fresh or salt water boating and; (c) whether those uses are for pleasure or commercial boating.

2. Beginning February 1, 1991, and every 3 years thereafter, the Bureau of Parks and Recreation provide to the Legislature's Taxation Committee a report based on the above system.

Representatives of the agencies cited above have met and agreed upon a system which could provide the information sought by the Legislature for boats whose owners are Maine residents. However, this system cannot be implemented relying exclusively on existing data sources. Legislation would have to be enacted which would require registration of all vessels belonging to owners with residence in Maine which are now only "documented" by the Coast Guard.

If such legislation is not enacted, the information needed for the Bureau to provide the report required by 36 MRSA, Section 2903-A, as amended in 1989, is not available and the Bureau recommends that this reporting requirement be deleted from the statutes.

This report stems from the report of the Commission on Coastal Search & Rescue regarding organization, staffing and funding for coastal law enforcement and search and rescue activities, which was submitted to the Legislature in November 1988.

The Commission, among other considerations, addressed the levels of fuel tax revenue attributable to watercraft and the apportioning of these revenues between the Boating Facilities Fund and the Department of Marine Resources. (36 MRSA Section 2903-A)

The Commission examined the gasoline tax and several options that would have involved transferring funds from other agencies to fund an increase the Commission recommended in the number of wardens in the Bureau of Marine Patrol. It was the Commission's conclusion that the needs of the Department of Transportation and the Boating Facilities Fund were such that a transfer of funds from these sources through adjustments to the apportionment of the gasoline tax was not warranted. The Commission recommended, therefore, that new funds, rather than transferals, would be needed for additional staffing for search and rescue.

The Commission also recommended that the Bureau of Parks & Recreation, using the Boating Facilities Fund, conduct periodic reviews of the amount of gasoline and diesel fuel (special fuels) tax that results from fuel purchases for commercial and pleasure boat use and report the findings to the Taxation Committee every three years. Further, the Bureau was directed to develop a methodology for these reviews in conjunction with the Departments of Marine Resources, Inland Fisheries & Wildlife, and Transportation. The Legislature adopted the Commission's recommendations in 1989 by amending 36 MRSA, Section 2903-A. At the time this amendment was enacted, neither the Legislature nor any of the agencies involved realized that the data necessary to make these determinations could not be obtained without legislation to require the registration of "documented"<sup>1</sup> vessels.

Representatives of the Bureau of Parks and Recreation and the Departments of Marine Resources, Inland Fisheries & Wildlife and Transportation met and agreed that the reviews should be built upon existing state systems, with modifications if

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<sup>1</sup> "Documented" refers to a vessel, of over 5 net tons, used on navigable waters, with a Certificate of Documentation from the United States Coast Guard, whose owner has a domicile in Maine. At present, documented vessels do not have to be registered with the Department of Inland Fisheries & Wildlife.

necessary, rather than by creating an entirely new system(s). The group also agreed that sampling-based surveys could be used, if necessary.

The system, as envisioned by the agencies, would provide information to track, estimate, forecast, assess or quantify the use of gasoline and special fuels in the several categories required by 36 MRSA, Section 2903-A, as amended in 1989. The system is designed to gather data on motorboats registered in Maine or vessels owned by a Maine resident and at present only documented by the U.S. Coast Guard. Because there is no way to determine the amount of fuel used by motorboats and vessels registered or documented by owners from other states, it will be impossible to collect this data.

The system would require amending 12 MRSA, Sub.Sec. 7794, so that documented vessels, with an owner with a domicile in Maine, would be required to display a Maine registration decal. Until such legislation is enacted, the information needed to conduct and assess sample-based surveys, which could provide a reasonable estimate of the percentages of gasoline and special fuels purchased for boating uses, cannot be collected. This being the case, the Bureau of Parks and Recreation is unable to provide the reports to the Legislature required by 36 MRSA, Section 2903-A, as amended in 1989.

#### Data Needs

To provide the information needed for the assessment and subsequent reports on the percentage of gasoline and special fuels purchased for boating uses, five categories of data are needed:

- 1) the number of motorboats registered by the DIF&W and the number of vessels documented by the U.S. Coast Guard having an owner with a domicile in Maine;
- 2) the kind of fuel used by the motorboats and vessels;
- 3) whether the motorboats and vessels are used for pleasure or commerce;
- 4) whether the vessels are used in fresh or salt water or both;
- 5) the estimated amount of fuel used by the motorboats and vessels (requires random sample-based surveys).

The State Tax Division, Bureau of Taxation has indicated that although some pleasure and commercial boaters using diesel fuel are eligible for tax rebates, and that the amount of the rebates made to pleasure/commercial boaters can be provided, a breakdown of pleasure boater rebates and commercial boater rebates is not available. Also, some marinas are allowed to sell diesel fuel with a sales tax rather than a diesel fuel tax. Therefore, data on diesel tax rebates is insufficient for the purposes of determining the percentages of diesel fuel purchased for boating uses.

Information currently available from the Department of Inland Fisheries & Wildlife's computer data system includes:

- the number of motorboats registered annually in Maine;
- the kind of fuel used by motorboats;
- whether the motorboats are for pleasure or commercial use;
- whether the motorboats are used in fresh or salt water or both.

The shortcoming of the DIF&W computer data system for purposes of the report required by 36 MRSA, Section 2903-A is that it does not include<sup>2</sup> any information on the approximately 3,000 documented vessels<sup>2</sup> having owners with domiciles in Maine, because documented vessels do not have to be registered in Maine. These vessels would represent fuel consumption large enough to significantly affect the percentages of gasoline and special fuels purchased for boating uses.

The Department of Marine Resources indicated that while some information on documented boats is obtainable from data collected in conjunction with the licensing of commercial fishermen, it does not provide information on boats other than those operated by commercial fishermen, and does not provide information on gasoline or diesel fuel purchases by individual boat.

Information on U.S. Coast Guard documented vessels is not directly available from the Coast Guard, but can be obtained, for a fee, from the National Technical Information Services. However, this information will not provide the data needed on the types of fuel used or categories of water use.

If documented vessels having owners with domiciles in Maine were required to be registered with the DIF&W, the information needed for sample-based surveys and assessment and subsequent reports on the percentage of gasoline and special fuels purchased for boating uses through a state-based system, would be available.

#### Data Analysis

Once sufficient data has been collected through registration of all motorboats and documented vessels in Maine, the data base maintained by the DIF&W can be queried to provide information in the categories needed: number and owners of motorboats/vessels using gasoline on inland waters and whether the use is for pleasure or commerce; number and owners of motorboats/vessels using diesel on salt water and whether the use is for pleasure or commerce, etc. Random sample-based surveys of boat owners in each of the categories can then be conducted to arrive at an

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<sup>2</sup>. Estimate provided by the Bureau of Taxation.

estimation of the amount of fuel used by motorboats and vessels. The estimation can then be used to extrapolate the percentage of gasoline and special fuels purchased for boating use in the required categories.

A methodology for a random sample-based survey was developed in 1987 by a private consultant working with the BPR. The agencies agreed that the same methodology could be used in the future, unless a more satisfactory one can be developed.

Because the computer data regarding boats registered in Maine is maintained by the Department of Inland Fisheries and Wildlife, the DIF&W computer data system would be used for data analysis.

Data on documented vessels with an owner with a domicile in Maine needs to be included on the DIF&W computer data system. This is best accomplished by amending 12 MRSA, Sub Section 7794, to provide that watercraft, with an owner with a domicile in Maine, which has or is required to have a valid document as a watercraft of the United States, would also be required to display a Maine registration decal. Sixteen other states currently have similar requirements.

If legislation is to be formulated to amend 12 MRSA, Sub.Sec. 7794, it should be done in consultation with the United States Coast Guard to assure that Federal and State Regulations are not violated.

The Department of Inland Fisheries and Wildlife indicated that the fiscal impact of legislation to require the registration of documented boats would be: a one time cost of \$10,000 to add a category (documented boats registered) to the computer data system; an annual cost of \$2,700 to provide eight weeks total personnel time for a Clerk Typist II; and an annual cost of \$1,500 for postage, printing, etc. It is estimated that the additional registration fee revenue would nearly cover the first year's costs and exceed following yearly costs.

If legislation is enacted to amend 12 MRSA, Sub.Sec. 7794, the Bureau of Parks and Recreation would obtain a listing of documented vessels, with an owner with domicile in Maine, from the National Technical Information Services, to know the number of vessels in this category and the names and addresses of the vessel owners. This list can then be used as a mailing list for the DIF&W to notify the vessel owners that they will be required to display a Maine registration decal.

If legislation were enacted in 1991 to require registration of documented vessels, the information from these registrations would have to be collected for at least one year prior to conducting surveys on fuel consumption. The Bureau of Parks and Recreation would be able to furnish a report on the percentages of gasoline and special fuels purchased for boating uses by

February 1, 1994. If legislation requiring registration of documented vessels is enacted later than 1991, the Bureau of Parks and Recreation would have to delay its report accordingly.

The cost of collecting data, conducting random sampling surveys, extrapolating fuel consumption and determining the percentage of fuel taxes paid by boaters in sixteen various required categories is estimated to be \$10,000.00 annually, funds for which would be available from the Boating Facilities Fund as stipulated in 36 MRSA, Sub.Sec. 2903-A, as amended.

If legislation requiring the registration of all documented vessels is not enacted, the Bureau cannot comply with the legislature's reporting requirement and recommends that the requirement be deleted from 36 MRSA, Section 2903-A.

## **Appendix**

## STATE OF MAINE

## APPENDIX A

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

H. P. 669 - L. D. 917

An Act to Require Periodic Reports on the Percentage of  
the Gasoline Tax That Is Due to Boating Use

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

Sec. 1. 36 MRSA §2903-A, as amended by PL 1987, c. 793, Pt. A, §10, is further amended to read:

§2903-A. Finding of fact

The Legislature makes a finding of fact that the percentage relationship of "gasoline tax" paid by that segment of the nonhighway gasoline user, the motorboat user, is not less than 2.00% of the total "gasoline tax" revenue. Based on this legislative "finding of fact" there is set aside 2.00% of the total excise tax, not to exceed \$2,000,000, on internal combustion engine fuel sold or used within the State, but not including internal combustion engine fuel sold for use in the propulsion of aircraft. From this 2.00% allocation shall be deducted the refunds paid out under section 2908 to purchasers and users of internal combustion engine fuel for commercial motorboats; 20% of the balance of 2.00% after paying out such refunds shall be paid to the Treasurer of State to be made available to the Commissioner of Marine Resources for the purpose of conducting research, development and propagation activities by the department, and it is the responsibility of the Commissioner of Marine Resources to select activities and projects that will be most beneficial to the commercial fisheries of the State as well as the development of sports fisheries activities in the State; the remaining 80% of the balance of 2.00% after paying out such refunds shall be credited to the Boating Facilities Fund, established under Title 38, section 322, within the Maine State Bureau of Parks and Recreation. The State Tax Assessor shall

certify to the State Controller, on or before the 15th day of each month, the amounts to be credited under the previous sentence, as of the close of the State Controller's records for the previous month. When refunds paid to purchasers and users of internal combustion engine fuel for commercial motorboats in any month exceed 2.00% of gasoline tax revenues for that month, such excess shall be carried forward in computing amounts to be credited to the Department of Marine Resources and to the Boating Facilities Fund under this section for the succeeding month or months. Funds credited to the Department of Marine Resources shall be allocated by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. The Bureau of Parks and Recreation, the Department of Marine Resources, the Department of Inland Fisheries and Wildlife and the Department of Transportation shall devise and agree to a system for determining the percentage of the gasoline tax and special fuels tax that results from fuel purchases for boating uses and whether those uses are for pleasure or commerce and for salt or fresh water boating. The Bureau of Parks and Recreation shall assure that proper records are kept to provide input for this system. Beginning February 1, 1991, and every 3 years thereafter on February 1st, the Bureau of Parks and Recreation shall issue to the joint standing committee of the Legislature having jurisdiction over taxation matters a report based on an analysis of data according to this section. The Boating Facilities Fund shall be used to fund the costs of this activity.

Sec. 2. 38 MRSA §321, as amended by PL 1987, c. 674, §1, is further amended by adding at the end a new paragraph to read:

The Director of the Bureau of Parks and Recreation shall conduct the periodic studies of the State's gasoline tax as specified in Title 36, section 2903-A. The director shall seek the advice of the Department of Inland Fisheries and Wildlife, the Department of Marine Resources and the Department of Transportation relative to these studies and these departments shall cooperate in the design and conduct of these studies.

Sec. 3. Allocation. The following funds are allocated from Boating Facilities Fund to carry out the purposes of this Act.

1990-91

## CONSERVATION, DEPARTMENT OF

### Boating Facilities Fund

All Other

\$30,000

Provides funds for contractual services to

conduct a study for the purpose of  
establishing a system to determine the  
percentage of the gasoline tax that is  
attributable to boating usage.