

MAINE STATE LEGISLATURE

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April 29, 1946

To David H. Stevens, State Assessor
Re: Taxation of gasoline in auxiliary tanks

I have your memo of April 24th, relating to the provisions of Section 160, Chapter 14, R. S. 1944, which provides that gasoline brought into the State of Maine in the ordinary standardized-equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of such motor vehicle within the State is exempt from the gasoline tax levied by the State of Maine.

You state . . . that representatives of your department have made a survey of gasoline tanks attached to trucks entering this State, by stopping all trucks crossing the New Hampshire-Maine border during two different 12-hour periods, and that the owners of many of these trucks were found to be purchasing a large part of the gasoline used in their trucks in the State of Maine. . . . but that other trucks were found to be operating on gasoline purchased in Massachusetts and that these trucks in most instances had a considerable gallonage capacity above that which would ordinarily be considered as the standardized equipment of such trucks. I also acknowledge receipt of copies of the reports made on such trucks and the description of what the manufacturers state in regard to standardized equipment in the line of fuel tanks.

After a perusal of these reports. . . it appears that these trucks are using our Maine roads without paying their share of the maintenance of same, by paying a tax on the gasoline which they are using on our highways, by reason of the auxiliary tanks which are additional to the standardized equipment of fuel tanks of the particular makes of trucks which they are operating on the highways. This practice by out-of-State trucking companies is unfair to the State of Maine.

The only manner in which we could bring the truck drivers into court would be for one of your inspectors to ascertain how much gasoline was brought into the State in auxiliary tanks and how much was left in said tanks when they left the State of Maine, and deduct what was left from what was brought in and see on how much gasoline the particular driver had evaded the payment of the excise tax. This would be almost impossible to ascertain with the limited number of inspectors you have in your department; and besides a truck may come into the State over one route and leave by another, which would frustrate your plans of checking when the truck left the borders of the State of Maine on the return trip.

In view of this difficulty. . . I feel that the proper manner of handling this problem would be to take the matter up with the Trucking Association and have some understanding with them and see if they cannot straighten the matter out among themselves; but it would be well before approaching the Association, to ascertain if Maine trucking companies are doing the same thing when going into Massachusetts, that is, buying gas and storing the same in auxiliary tanks, when going on trips through Massachusetts and other New England State.

The difficulty in prosecuting these cases enumerated in your memo would be that the State would have the burden of proof beyond a reasonable doubt: First, that these particular auxiliary tanks are not standardized equipment; second, that the gasoline in these auxiliary tanks was used to operate the truck on the Maine highways, because if the gasoline was not used thus, we would be running into the Interstate Commerce clause of the Constitution. We would want to be pretty sure of our ground before we made a test case in our municipal courts.

Ralph W. Farris
Attorney General

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