

# MAINE STATE LEGISLATURE

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JK

December 17, 1947

To Raymond G. Mudge, Commissioner of Finance  
Re: 2¢ Increase in Gasoline Tax

Referring to your memo of November 5th relating to the 1947 Act which increased the gasoline tax from 4¢ to 6¢ per gallon, this tax becoming effective on June 1, 1947:-

You state that Mr. Berry, the State Auditor, feels that many filling station operators arranged to have their tanks filled in the last few days of May, so that they did not pay the 2¢ increase in taxes which became effective on June 1st. You further state that it is Mr. Berry's thought that there is an obligation on the part of the Finance Commissioner to take steps to collect for the State from each of the filling station operators in the State the 2¢ that they may have charged during the early days of June and failed to return to the State.

In answer to your memo I will say that this matter was brought to my attention early in May by former State Tax Assessor Stevens, and I advised him that there was no retroactive provision in the 1947 Act authorizing the State Tax Assessor to collect the additional tax prior to June 1st on the inventories which they might have on hand on June 1st, the effective date of the tax. Therefore it would be illegal to assess the 2¢ tax on purchases made in May, when the statute required only a 4¢ tax.

This is a matter that should have been taken care of by the legislature, as it was when the gasoline tax was increased in 1927. That Act provided as follows:

"The increased tax provided hereby shall be due and payable on all internal combustion fuel held in the hands of distributors and dealers at the time this act shall become effective."

I find no such provision in the 1947 Act which increases the tax from 4¢ to 6¢. Therefore it would be not only improper but illegal to attempt to collect any money from distributors and dealers who had gasoline on hand on June 1st and had already paid the required statutory tax during the month of May. . .

Ralph W. Farris  
Attorney General

RWF:c