

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 256

S. P. 127

In Senate, January 19, 1967

Referred to Committee on Taxation. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Farley of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT Relating to Gasoline Distributors, Importers and Exporters.

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

Sec. 1. R. S., T. 36, § 2902, sub-§ 1, repealed and replaced. Subsection 1 of section 2902 of Title 36 of the Revised Statutes is repealed and the following enacted in place thereof:

1. **Distributor.** "Distributor" means any person, as defined, importing into the State, or producing, refining, manufacturing or compounding within the State, or purchasing within the State, principally for resale to others in bulk, internal combustion engine fuel as defined.

Sec. 2. R. S., T. 36, § 2902, sub-§ 1-A, additional. Section 2902 of Title 36 of the Revised Statutes is amended by adding a new subsection 1-A, to read as follows:

1-A. **Exporter.** "Exporter" means any person, as defined, other than a licensed distributor, who purchases internal combustion engine fuel in this State and exports, or causes to be exported such fuel other than in fuel tanks attached to and forming a part of a motor vehicle and used in the engine of said motor vehicle.

Sec. 3. R. S., T. 36, § 2902, sub-§ 1-B, additional. Section 2902 of Title 36 of the Revised Statutes is amended by adding a new subsection 1-B, to read as follows:

1-B. **Importer.** "Importer" means any person, as defined, other than a licensed distributor, wherever resident or located, importing or causing to be imported for sale or for use in this State, with the exception set forth, any internal combustion engine fuel as defined.

Sec. 4. R. S., T. 36, § 2902, sub-§ 4, additional. Section 2902 of Title 36 of the Revised Statutes is amended by adding a new subsection 4, to read as follows:

4. Person. "Person" means and includes every natural person, singular or plural, including partnerships, firms, associations, corporations, joint stock companies, receiver or trustee wherever resident or located and the State of Maine or any political subdivision thereof.

Sec. 5. R. S., T. 36, § 2903, amended. The 2nd sentence of section 2903 of Title 36 of the Revised Statutes is amended to read as follows:

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 a **licensed exporter wholly for exportation from the State, or to** another distributor in the State, in which case the purchasing distributor shall be primarily liable to the State for the tax.

Sec. 6. R. S., T. 36, § 2904, amended. Section 2904 of Title 36 of the Revised Statutes is amended by adding a new sentence to read as follows:

This section shall apply to importers and to exporters.

Sec. 7. R. S., T. 36, § 2905, amended. Section 2905 of Title 36 of the Revised Statutes is amended to read as follows:

§ 2905. Distributor or importer collects 7c additional

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

Sec. 8. R. S., T. 36, § 2906, amended. The first 6 sentences of section 2906 of Title 36 of the Revised Statutes are amended to read as follows:

Every distributor, **importer, or exporter, holding a valid certificate as such,** 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 reports~~ 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~~ **such certificate holders.** He or his duly authorized agent shall have access during reasonable business hours to the books, invoices and vouchers of ~~the distributor~~ **such certificate holders** which may show the fuel handled by the ~~distributor~~ **certificate holder.** At the time of the filing of said report each distributor **and importer** shall pay to the State Tax Assessor a tax of 7c 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~~ **certificate holder** 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 certificate holder~~ shall, within 15 days after demand made on him by the State Tax Assessor, pay a tax of 7c 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 certificate holder~~ and not properly accounted for in a ~~distributor's~~ report or in accordance with law. **A licensed exporter shall be liable for tax plus penalty of 25% of tax for any fuel purchased tax-free for export but not in fact exported from this State.**

Sec. 9. R. S., T. 36, § 2913, amended. Section 2913 of Title 36 of the Revised Statutes is amended to read as follows:

§ 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, **importer or exporter** 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 person~~ 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, **or the number of gallons imported by an importer**, 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.

Sec. 10. Limitation of effective date. Distributor's licenses now held by those who would qualify only as importers or exporters in accordance with this Act shall terminate on December 31, 1967.