

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 290

H. P. 217

House of Representatives, January 18, 1973

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Susi of Pittsfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to Interest and Penalties with Respect to Motor Fuel Taxes.

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

Sec. 1. R. S., T. 36, § 2906, amended. The first paragraph of section 2906 of Title 36 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

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 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 such certificate holders. He or his duly authorized agent shall have access during reasonable business hours to the books, invoices and vouchers of such certificate holders which may show the fuel handled by the 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 9¢ 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 certificate holder shall be liable to a penalty of \$5 a day for each day in arrears, or $\frac{1}{2}$ of 1% of tax liability, whichever is greater, together with interest at the rate of $\frac{1}{2}$ % per month or fraction thereof, due on demand by

the State Tax Assessor and recoverable in a civil action. The State Tax Assessor may waive penalties for cause. Each certificate holder shall, within 15 days after demand made on him by the State Tax Assessor, pay a tax of 9¢ per gallon upon each gallon of such fuel upon which the tax has not been paid, together with interest at the rate of $\frac{1}{2}\%$ per month or fraction thereof, which upon an audit the State Tax Assessor may find to have been received into the State during all or any part of the preceding 2 calendar years by the certificate holder and not properly accounted for in a report or in accordance with law, provided such demand is made within one year of the close of the period covered by such audit. 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. An allowance of not more than 1% from the amount of fuel received by the distributor, plus 1% on all transfers in vessels, tank cars or full tank truck loads by a distributor in the regular course of his business from one of his places of business to another within the State, may be allowed by the Tax Assessor to cover the loss through shrinkage, evaporation or handling sustained by the distributor. The total allowance for such losses shall not exceed 2% of the receipts by such distributor and no further deduction shall be allowed unless the State Tax Assessor is satisfied on definite proof submitted to him that a further deduction should be allowed by him for a loss sustained through fire, accident or some unavoidable calamity.

Sec. 2. R. S., T. 36, §2913, amended. The second sentence of section 2913 of Title 36 of the Revised Statutes, as amended by section 9 of chapter 94 of the public laws of 1967, is further amended to read as follows:

Whenever any person shall fail to pay any tax, interest or penalty due under this chapter within the time limited, the Attorney General shall enforce payment thereof in a court of appropriate jurisdiction.

Sec. 3. R. S., T. 36, § 2964, amended. Section 2964 of Title 36 of the Revised Statutes, is amended by adding 2 new sentences after the 3rd sentence, to read as follows:

If any motor carrier shall fail to pay tax when due, there shall be added to the tax a penalty of 10% and interest at the rate of $\frac{1}{2}\%$ per month or fraction thereof. The State Tax Assessor may waive penalties for cause.

Sec. 4. R. S., T. 36, § 2964, amended. The last sentence of section 2964 of Title 36 of the Revised Statutes, is amended to read as follows:

All taxes, interest and penalties received under this chapter shall be paid by the State Tax Assessor to the Treasurer of State daily and shall be credited to the General Highway Fund.

Sec. 5. R. S., T. 36, § 2966, amended. The first 2 sentences of section 2966 of Title 36 of the Revised Statutes are amended to read as follows:

If any motor carrier, subject to this chapter and not exempted under section 2965, fails to make the returns required, the State Tax Assessor shall make an assessment of the tax, interest and penalties upon such calculation of the amount of motor fuel used by such motor carrier within this State as he thinks just, with such evidence as he may obtain, and such assessment shall

be final. If any motor carrier fails to pay such tax, interest and penalties, the State Tax Assessor may forthwith commence a civil action in the name of the State for the recovery of the tax with interest at the rate of 10% per year thereof.

Sec. 6. R. S., T. 36, § 3030, amended. Section 3030 of Title 36 of the Revised Statutes, as amended by section 77 of chapter 513 of the public laws of 1965, is further amended to read as follows:

§ 3030. Failure to report and pay taxes

When any user shall fail to file the quarterly 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 quarterly 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, interest at the rate of $\frac{1}{2}\%$ per month or fraction thereof together with 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. The State Tax Assessor may waive penalties for cause.

Sec. 7. R. S., T. 36, § 3035, amended. The 2nd sentence of the 3rd paragraph of section 3035 of Title 36 of the Revised Statutes, as amended by section 2 of chapter 21 of the public laws of 1971, is further amended to read as follows:

If such report is not filed or such payment is not rendered by the last day of the month, such dealer shall be liable to interest at the rate of $\frac{1}{2}\%$ per month or fraction thereof together with a penalty of \$1 a day for each day in arrears or 10% of tax liability, whichever is greater, due on demand by the State Tax Assessor and recoverable in a civil action.

Sec. 8. R. S., T. 36, § 3035 amended. The 4th paragraph of section 3035 of Title 36 of the Revised Statutes, as amended, is further amended by adding a new sentence at the end to read as follows:

The tax so assessed shall bear interest at the rate of $\frac{1}{2}\%$ per month or fraction thereof, and a penalty of 10% shall be imposed for negligent failure to pay tax when due.

STATEMENT OF FACT

The purpose of the amendments is to provide for charging interest uniformly in all cases of failure to pay motor fuel taxes when due; and to provide for penalties for failure to report or pay motor fuel taxes except where it can be shown that such failure was neither negligent nor intentional.

Sections 1 and 2 of the bill apply to gasoline taxes.

Sections 3, 4 and 5 of the bill apply to the gasoline road tax (i.e., the so-called "motor carrier" tax).

Section 6 of the bill applies to the Use Fuel Tax, as it relates to users.

Sections 7 and 8 of the bill apply to the Use Fuel Tax, as it relates to dealers.