

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2286

H. P. 1806

House of Representatives, January 3, 1974

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Morton of Farmington.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT to Provide for a Temporary Increase in the Motor Fuel Tax and to Create a Task Force to Evaluate the Financing of Transportation Programs in the State of Maine.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the existing national energy crisis is significantly affecting the amount of motor vehicle travel in the State of Maine and the amount of motor fuel consumed; and

Whereas, the highway program in the State of Maine is largely supported from revenues derived from the sale of motor fuel; and

Whereas, the highway industry in the State of Maine provides employment and sustains the livelihood of a significant number of persons in this State; and

Whereas, the financing of transportation programs at the national level has been revised by the 93rd Congress of the United States; and

Whereas, the present highway financing requires immediate additional funds to carry out necessary highway programs; and

Whereas, such highway programs should be started immediately to preserve the roads and furnish transportation for necessities to the people; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 36, § 2903, amended. The first sentence of section 2903 of Title 36 of the Revised Statutes, as amended, is further amended to read as follows:

An excise tax is levied and imposed at the rate of ~~9¢~~ 11¢ per gallon upon internal combustion engine fuel sold or used within this State including such sales when made to the State or any political subdivision thereof, for any purpose whatsoever, excepting such internal combustion engine fuel sold or used in such form and under such circumstances as shall preclude the collection of this tax by reason of the laws of the United States, or sold, wholly for exportation from the State, or brought into the State in the ordinary standardized equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of such vehicle within the State, except that the rate shall be 1¢ per gallon upon internal combustion engine fuel as defined in section 2902 bought or used by any person, association of persons, firm or corporation for the purpose of propelling jet or turbojet engine aircraft, including such sales when made to the State or any political subdivision thereof, excepting such fuel sold or used under such circumstances as shall preclude the collection of this tax by reason of the laws of the United States, or sold wholly for exportation from the State, or brought into the State in the fuel tanks of an aircraft.

Sec. 2. R. S., T. 36, § 2905, amended. Section 2905 of Title 36 of the Revised Statutes, as amended, is further amended to read as follows:

§ 2905. Distributor or importer collects 11¢ additional

Each distributor or importer paying or becoming liable to pay the tax imposed by this chapter shall be entitled to charge and collect ~~9¢~~ 11¢ per gallon only as a part of the selling price of the internal combustion engine fuels subject to the tax.

Sec. 3. R. S., T. 36, § 2906, amended. The 4th sentence of section 2906 of Title 36 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 7 of the public laws of 1973, is amended to read as follows:

At the time of the filing of said report, each distributor and importer shall pay to the State Tax Assessor a tax of ~~9¢~~ 11¢ 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.

Sec. 4. R. S., T. 36, § 2906, amended. The 7th sentence of section 2906 of Title 36 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 7 of the public laws of 1973, is amended to read as follows:

Each certificate holder shall, within 15 days after demand made on him by the State Tax Assessor, pay a tax of ~~9¢~~ 11¢ 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.

Sec. 5. R. S., T. 36, § 2908, amended. Section 2908 of Title 36 of the Revised Statutes, as last amended by section 5 of chapter 529 of the public laws of 1971, is further amended to read as follows:

§ 2908. Refund of $\frac{10}{11}$ of tax in certain cases; time limit

Any person, association of persons, firm or corporation who shall buy and use any internal combustion engine fuel as defined in this chapter for the purpose of operating or propelling commercial motor boats, tractors used for agricultural purposes not operating on public ways, or in such vehicles as run only on rails or tracks, or in stationary engines, or in the mechanical or industrial arts, or for any other commercial use except in motor vehicles operated or intended to be operated upon any of the public highways of this State, or turnpikes operated and maintained by the Maine Turnpike Authority, or except as provided in sections 2910 and 2911, in the operation of aircraft, and who shall have paid any tax on internal combustion engine fuel levied or directed to be paid as provided by this chapter, either directly by the collection of such tax by the vendor from such consumer, or indirectly by adding the amount of such tax to the price of such fuel and paid by such consumer, shall be reimbursed and repaid to the extent of ~~$\frac{8}{9}$~~ $\frac{10}{11}$ of the amount of such tax paid by him upon presenting to the State Tax Assessor a sworn statement accompanied by the original invoices showing such purchases, which statement shall show the total amount of such fuel so purchased and used by such consumer other than in motor vehicles operated or intended to be operated upon any of the public highways of the State and in the operation of aircraft. Applications for refunds must be filed with the State Tax Assessor within 12 months from the date of purchase.

Sec. 6. R. S., T. 36, § 2910, amended. Section 2910 of Title 36 of the Revised Statutes, as last amended by section 6 of chapter 529 of the public laws of 1971, is further amended to read as follows:

§ 2910. Refund of $\frac{7}{11}$ of tax to users of aircraft

Any person, association of persons, firm or corporation who shall buy and use any internal combustion engine fuel as defined in section 2902, for the purpose of propelling piston engine aircraft and who shall have paid any tax on internal combustion engine fuel levied or directed to be paid as provided by this chapter, either directly by the collection of such tax by the vendor from such consumer, or indirectly by adding the amount of such tax to the price of such fuel and paid by such consumer, shall be reimbursed and repaid to the extent of ~~$\frac{5}{9}$~~ $\frac{7}{11}$ of the amount of such tax paid by him upon presenting to the State Tax Assessor a statement accompanied by the original invoices showing such purchases. Applications for refunds must be filed with the State Tax Assessor within 12 months from the date of purchase.

Sec. 7. R. S., T. 36, § 3025, amended. The first sentence of section 3025 of Title 36 of the Revised Statutes, as amended by section 9 of chapter 426 of the public laws of 1969 and by section 7 of chapter 529 of the public laws of 1971, is further amended to read as follows:

An excise tax is imposed on all users of fuel upon the use of such fuel by any person within this State, only when such fuel is used in an internal combustion engine for the generation of power to propel motor vehicles of any kind or character on the public highways or turnpikes operated and maintained by the Maine Turnpike Authority, at the rate of ~~9¢~~ **11¢** per gallon, to be computed in the manner set forth in this chapter.

Sec. 8. R. S., T. 36, § 3035, amended. The 3rd, 4th and 5th paragraphs of section 3035 of Title 36 of the Revised Statutes, as amended, are further amended to read as follows:

At the time of the filing of said report each use fuel dealer shall pay to the State Tax Assessor a tax of ~~9¢~~ **11¢** upon each gallon so reported as sold 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 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.

Each dealer shall, within 15 days after demand made on him by the State Tax Assessor, pay a tax of ~~9¢~~ **11¢** per gallon upon each gallon of such fuels 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 dealer and not properly accounted for in a dealer's report or in accordance with law. The tax so assessed shall bear interest at the rate of $\frac{1}{2}\%$ per month or fraction thereof, and a penalty of 10% **per month or fraction thereof**, and a penalty shall be imposed for negligent failure to pay tax when due.

Each dealer paying or becoming liable to pay the tax imposed by this section shall be entitled to charge and collect ~~9¢~~ **11¢** per gallon only as a part of the selling price of the fuels subject to the tax.

Sec. 9. Task Force created. A special Task Force shall be constituted and appointed to evaluate the financing of transportation programs in the State of Maine.

It is the purpose and intent hereof to provide such Task Force with sufficient funds to enable it to present to the regular session of the 107th Maine Legislature, convening after January 1, 1975, recommendations for the financing of future transportation programs under the direction of the Maine Department of Transportation.

The Maine Department of Transportation shall provide such administrative assistance as is required by the Task Force.

Sec. 9-A. Membership. The membership of the Task Force shall consist of 11 persons. Members of the Task Force shall include 2 members from the Senate, appointed by the President of the Senate; 2 members from the House of Representatives, appointed by the Speaker of the House; the Commissioner of the Maine Department of Transportation; and 6 persons appointed by the Governor as follows: One member representing the trucking industry in the State; 1 member representing the Maine Good Roads Association; 1 member representing the Maine State Grange and 3 members representing the general public.

Sec. 9-B. Meetings. The said Task Force shall be appointed promptly upon enactment hereof, and the Commissioner of Transportation shall notify all members of the time and place of the first meeting. At that time, the Task Force shall organize, elect a chairman and vice-chairman and adopt procedures for future meetings and for the completion of the objectives of this statute.

Sec. 9-C. Reimbursement of expenses. The members of the Task Force shall serve without compensation, but may be reimbursed for their reasonable expenses in attending meetings, procuring supplies, correspondence and other related and necessary expenditures.

Sec. 9-D. There is allocated from the Unappropriated Surplus of the General Highway Fund the sum of \$1,500 for the fiscal year ending June 30, 1974 to carry out the purposes of sections 9 through 9-C of this Act. This allocation shall not lapse but shall remain a continuing carrying account until the purposes of sections 9 through 9-C of this Act have been accomplished.

Sec. 10. Allocation. Income to the General Highway Fund resulting from the temporary increase in the motor fuel tax as established by this Act shall be segregated, apportioned and expended to maintain the level of allocations made from the General Highway Fund by the 106th Legislature. If revenues derived from this Act exceed the amounts necessary to carry out the allocation provisions of the General Highway Fund as established by the 106th Legislature, said excess funds, if any, shall be allocated to Highway Construction, State-Federal.

Sec. 11. Effective date. Sections 1 through 8 of this Act to temporarily increase the Motor Fuel Tax shall become effective May 1, 1974 and remain in full force and effect through June 30, 1975, at which time sections 1 through 8 of this Act shall become null and void. This provision for terminating the increased tax rate shall not be construed to cancel or exempt payment of the tax liability at the increased rate accrued and unpaid as of June 30, 1975.

Sections 9 through 9-D of this Act shall take effect when approved.

Emergency clause. In view of the emergency cited in the preamble, sections 1 through 8 of this Act shall take effect May 1, 1974 and sections 9 through 9-D shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is to temporarily increase the Motor Fuel Tax to 11 cents and restore the 9-cent tax on July 1, 1975. Further it is the intent

of the Act to maintain a level of revenue during a period when decreasing sales can be anticipated which would otherwise cause a drop in revenue. Also, the Act provides for the creation of a Task Force to evaluate the financing of transportation programs in the State of Maine.