

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)

(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2363

S. P. 829

In Senate, January 15, 1974

Referred to the Committee on State Government. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Brennan of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

**AN ACT Providing for Registration and Reporting of Petroleum Product
Suppliers 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, recently recurrent shortages of essential petroleum fuels create uncertainty and an imminent danger to the health, welfare and safety of the people of the State; and

Whereas, detailed information on the volume and manner of supply is critically necessary to enable public officials to avoid calamity; 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. 10, Part 5-B, additional. Title 10 of the Revised Statutes is amended by adding a new Part 5-B to read as follows:

PART 5-B
PETROLEUM DISTRIBUTION
CHAPTER 461

STATE PETROLEUM DISTRIBUTION REGISTRATION ACT

§ 2251. Findings, purpose

The Legislature finds that the availability of adequate supplies at reasonable prices of petroleum fuels is and will continue to be of urgent public interest to the State in promoting its general welfare, preventing disease, promoting health and commerce and providing for the public safety, by virtue of the reliance on petroleum fuels by Maine people for purposes of heating homes, businesses, hospitals, schools and other institutions, public and private, for much of the year, for the production of electricity, for the generation of industrial power used by industry in Maine, for passenger and cargo transportation and for other essential purposes. The Legislature further finds that there have been recurring shortages of petroleum fuels in Maine, marked by unavailability or reduced availability of these petroleum fuels, emergency preparations by state and local government officials, and other events disruptive and inimical to the public welfare, and that the nation as a whole and Maine in particular have entered a period in which demand for petroleum fuels may outstrip supplies from time to time, causing repeated shortages and resulting in harm to the health, welfare and safety of Maine people. The Legislature, therefore, declares that it is essential that the State exercise its police powers to secure current and accurate information concerning the availability, distribution, price and pattern of consumption of petroleum fuels in Maine so that public officials can act in time to alleviate the impact of shortages by alerting consumers to alternative supply sources, by disseminating information about petroleum fuels conservation procedures, by allocating scarce supplies to essential users, by cooperating with federal agencies and by other means.

§ 2252. Definitions

For purposes of this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Commissioner. "Commissioner" shall mean the Commissioner of the Department of Business Regulation.
2. Department. "Department" shall mean the Department of Business Regulation.
3. Distribution. "Distribution," with respect to petroleum fuels shall, consistent with the purpose and intent of this chapter, be broadly construed to refer to each and any portion of the process by which petroleum fuels are brought into Maine for eventual sale to Maine consumers and shall include, without limitation, sale, resale, delivery on consignment, delivery as consignee, storage and transportation of petroleum fuels.

4. Petroleum fuel distributor. "Petroleum fuel distributor" shall mean any person engaged in the business of distributing petroleum fuels in Maine, whether to consumers or to other petroleum fuel distributors, whether at retail or wholesale, including any person owning, operating or controlling the operation of an oil terminal facility.

5. Petroleum fuels. "Petroleum fuels" shall mean propane, butane, gasoline, aviation gasoline, aviation turbine fuels, both naphtha base and kerosene base, kerosene, home heating oil, range oil, stove oil, diesel fuel, No. 4, No. 5 and No. 6 fuel oils, Bunker C and Navy Special Fuel Oil and crude oil. "Petroleum fuels" shall not be construed to apply to paraffin wax, petroleum coke, asphalt, road oil, lubricants, petrochemical feedstocks or other petroleum products not used as combustion fuels.

6. Registration certificate. "Registration certificate" shall mean a document issued by the commissioner certifying that the registration required by this chapter has been effected.

§ 2253. Registration

1. Certificate required. No petroleum fuel distributor may engage in the distribution of petroleum fuel in the State of Maine without a valid registration certificate issued by the commissioner pursuant to subsection 2.

2. Registration. Within 120 days of the enactment of this Act and on or before March 1st of each year commencing with the year 1975, every petroleum fuel distributor shall register with the department by submitting a registration statement containing the following information:

- A. Chief place of business;
- B. All operating locations in Maine in which the distributor holds or owns a controlling interest;
- C. Form of organization, sole proprietorship, partnership or corporation;
- D. Volume of sales in each product subject to this program during the immediately preceding calendar year;
- E. Volume of purchases in each product subject to this program during the immediately preceding calendar year and the identity of the sellers involved;
- F. Storage in Maine by volume and product type;
- G. Such additional information as the commissioner may find necessary in the discharge of the responsibilities imposed by this chapter.

3. An annual fee of \$5 shall be paid to the department by each registrant prior to issuance of a registration certificate. The funds so received by the department shall be used to defray the expenses of the department in connection therewith.

§ 2254. Powers and duties of the department

The powers and duties conferred by this chapter shall be deemed to be an essential governmental function in the exercise of the police power of the State.

1. **Registration.** The commissioner shall notify each petroleum fuel distributor of the registration requirements of this chapter, provide uniform registration forms, and issue, upon submission of all required information, a registration certificate to the registrant. Registration certificates shall not be transferable, except upon prior approval by the commissioner.

The commissioner shall require each petroleum fuel distributor to notify the department of any changes in information supplied upon registration and may require, periodically or otherwise, filing of supplementary information material for the purposes and intent of this chapter.

2. **Revocation of registration certificate.** After notice to the registrant and after the lapse of 5 business days from the date of such notice, the commissioner may revoke a registration certificate which he finds to contain false or misleading information or which omits to state required information or which has not been supplemented as required by the commissioner pursuant to subsection 1 and which is not amended or supplemented as required by the commissioner within 5 business days after such notice has been issued. The commissioner shall rescind any revocation upon submission by the registrant of the required additional or corrective information but such rescission shall not affect the registrant's liability to prosecution under sections 2256 and 2257.

3. **Energy information maintenance.** The commissioner shall maintain and preserve all information submitted by fuel oil dealers pursuant to this chapter, and shall make such information available to other state agencies, federal agencies and, subject to the restrictions set forth in section 2255, the public.

4. **Studies.** The department may perform such studies and research as it deems appropriate to the purposes and intent of this chapter as set forth in section 2251 and may employ independent contractors for this purpose.

5. **Rules, regulations; compliance orders.** The commissioner may from time to time promulgate reasonable rules and regulations to carry out the intent of this chapter as set forth in section 2251 following public notice and public hearing thereon and may order compliance with any provision of this chapter or such rules and regulations, or both. Rules and regulations promulgated pursuant to this chapter shall have the force and effect of law.

§ 2255. Confidentiality of competitive information

Information filed with the department pursuant to this chapter, which the commissioner determines would, if made public, be susceptible of use, by those in competition with the person filing such information, in such a way as to cause material harm to his business, shall be held confidential by the department and its employees and agents and shall be available for inspec-

tion only to the Governor or his authorized representative, in addition to members of the department, its employees and authorized agents.

§ 2256. Penalties

Any person, corporation or other legal entity who violates this chapter or who fails, neglects or refuses to obey any order or regulation of the department shall be punished by a fine of not less than \$50 nor more than \$500 for each day of such violation, failure, neglect or refusal.

§ 2257. Injunctions, civil and criminal actions

In the event of any violation of any of the provisions of this chapter or of any order or rule or regulation, the commissioner in the name of the department or the Attorney General in the name of the State may institute injunction proceedings to enjoin the further violation thereof and to compel compliance with this chapter or any order, rule or regulation of the commissioner and may institute any other appropriate civil action or criminal action or any combination thereof. In the event that the court determines there was a violation of this chapter or order, rule or regulation of the department, it may award the complainant costs including a reasonable amount for administrative and attorneys' costs.

Sec. 2. Appropriation. There is appropriated from the General Fund to the Department of Business Regulation the sum of \$25,000 for the fiscal year ending June 30, 1974 and the sum of \$58,000 for the fiscal year ending June 30, 1975 to carry out the purposes of this Act. The breakdown shall be as follows:

	1973-74	1974-75
BUSINESS REGULATION, DEPARTMENT OF		
Oil Reporting		
Personal Services	(1) \$ 4,000	(4) \$45,000
All Other	20,000	12,000
Capital Expenditures	1,000	1,000
	\$25,000	\$58,000

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is to empower an agency of State Government to identify all businesses trading in petroleum fuel products in the State and to accumulate and maintain information about their operations, including storage capacity, source of supply and prior year volumes of supply, which may be necessary to enable public officials in Maine to deal with fuel shortages presently and in the future.