

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 1332**

H. P. 1055

House of Representatives, March 21, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. Fraser of Mexico.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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**AN ACT Increasing the State Gasoline Tax.**

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; 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 present highway program requires immediate funds in order to match federal funds for the construction of highways and to carry out necessary maintenance of highways; and

Whereas, such construction and maintenance 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. 36 MRSA § 2903, first sentence, as last amended by PL 1969, c. 426, § 1, is further amended to read:

An excise tax is levied and imposed at the rate of ~~9¢~~ 10¢ 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.** 36 MRSA § 2905, as last amended by PL 1971, c. 529, § 2, is further amended to read:

§ 2905. Distributor or importer collects 10¢ 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¢~~ 10¢ per gallon only as a part of the selling price of the internal combustion engine fuels subject to the tax.

**Sec. 3.** 36 MRSA § 2906, 4th sentence, as last repealed and replaced by PL 1973, c. 7, § 1, is amended to read:

At the time of the filing of said report, each distributor and importer shall pay to the State Tax Assessor a tax of ~~9¢~~ 10¢ 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.** 36 MRSA § 2906, 7th sentence, as last repealed and replaced by PL 1973, c. 7, § 1, is amended to read:

Each certificate holder shall, within 15 days after demand made on him by the State Tax Assessor, pay a tax of ~~9¢~~ 10¢ per gallon upon each gallon of such fuel upon which the tax has not been paid, together with interest at the rate of ½% 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.** 36 MRSA § 2908, as last amended by PL 1971, c. 529, § 5, is further amended to read:

§ 2908. Refund of 9/10 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 ~~8/10~~ 9/10 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.** 36 MRSA § 2910, as last amended by PL 1971, c. 529, § 6, is further amended to read:

**§ 2910. Refund of 6/10 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 ~~5/10~~ 6/10 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.** 36 MRSA § 3025, first sentence, as last amended by PL 1971, c. 529, § 7, is further amended to read:

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¢~~ 10¢ per gallon, to be computed in the manner set forth in this chapter.

**Sec. 8.** 36 MRSA § 3035, 3rd, 4th and 5th ¶¶, as amended, are further amended to read:

At the time of the filing of said report each use fuel dealer shall pay to the State Tax Assessor a tax of ~~9¢~~ 10¢ 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¢~~ 10¢ 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% 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¢~~ 10¢ per gallon only as a part of the selling price of the fuels subject to the tax.

**Sec. 9. Collection of taxes.** No tax imposed by this Act shall be levied prior to June 1, 1975. With respect to internal combustion engine fuel as defined in the Revised Statutes, Title 36, section 2902, this Act shall apply only to such fuel which the distributor shall sell, distribute or use on and after June 1, 1975.

**Sec. 10. Allocation of General Highway Fund.** Receipts to the General Highway Fund for the next 2 fiscal years—from July 1, 1975 to June 30, 1976 and from July 1, 1976 to June 30, 1977—shall be segregated, apportioned and expended as follows:

	1975-76	1976-77
HIGHWAY CONSTRUCTION		
State Highway and Federal Systems	\$5,489,000	\$5,489,000

**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 Act is reflected in the emergency preamble.