

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1942

H. P. 1838

House of Representatives, February 12, 1980

Reported by Mr. Dow from the Joint Select Committee on Fisheries and Wildlife pursuant to Joint Order H. P. 1517 and ordered printed under Joint Rules No. 17.

EDWIN H. PERT, Clerk of the House

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Create a Severance Tax on Minerals to Help Finance the Department of Inland Fisheries and Wildlife.

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

36 MRSA c. 719 is enacted to read:

CHAPTER 719

TAX ON SEVERANCE OF MINERALS

§ 4901. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. **Mineral.** "Mineral" means all minerals, including, but not limited to, gas, oil, semiprecious stones and crystals, lime, stone and any rare earths which have heretofore been discovered or may be discovered in the future, which are contained in the soils or waters of this State. The term does not include sand and gravel.

2. **Point of severance.** "Point of severance" means that point at which the mineral being severed is identifiable as to kind and quality and is capable of being transported for use or further processing.

3. **Producer.** "Producer" means any person severing minerals from the soils and waters of this State.

4. **Production.** "Production," for measuring minerals, means the total gross amount severed from the soils and waters of this State from any type of production unit, including, but not limited to, mines, quarries, pits or other sites of extraction.

5. **Severed.** "Severed" means the extradition or withdrawal of any minerals from the soil or water of this State, either on or below the surface.

6. **Site of severance.** "Site of severance" means the mine, quarry, pit or other geographical location at which a mineral is actually being severed from the soils and waters of this State.

7. **Taxable year.** "Taxable year" means calendar year.

8. **Value.** "Value" means the sales price or true market price of the mineral at the point of severance. The true market price shall be determined by the average market price per ton of the mineral at the point of severance for the year for which the tax is being paid. This shall be determined by the assessor after notice and hearing to the taxpayers affected. In calculating or determining the true market price at the point of severance, it is the intent of the Legislature not to include any shipping, handling, processing or other charges arising between the point of severance and point of sale.

§ 4902. Levy of tax on severance of minerals

There is levied an excise tax on every person engaged in the business of severing minerals from the soils and waters of this State for commercial use. This tax shall be 2% of the value at the point of severance of the identifiable minerals severed. The proceeds of this tax, excluding the expenses of administering this chapter, shall be paid into the State Treasury and credited to the Inland Fisheries and Wildlife Fund.

§ 4903. Administration

1. **Taxes due.** The taxes imposed by this chapter shall be due on April 15, 1981, for minerals severed in the prior taxable year and annually thereafter. The annual return shall be signed by the taxpayer or his duly authorized agent and shall be verified by oath. The return shall be filed on or before April 15th for the preceding taxable year and shall include the following:

- A. The location of each site of severance operated or controlled by the taxpayer during the taxable period and the total number of acres in each site;
- B. The kind and quantity of the minerals severed;
- C. The value of the severed resources at the point of severance; and
- D. Other information as the department may require.

2. **Estimated tax.** For the taxable year commencing January 1, 1981, and all subsequent taxable years, every taxpayer shall make a declaration of estimated tax for the taxable year, in such form as the bureau shall prescribe. The term "estimated tax" means the amount the taxpayer estimates to be his tax under this chapter for the taxable year. A taxpayer may amend a declaration under regulations prescribed by the bureau.

The declaration shall be filed on or before the first day of the 5th month of the taxable year. The estimated tax shall be paid in 4 equal installments. The first installment shall be paid at the time of the required filing of the declaration; the 2nd and 3rd installments shall be paid on or before the first day of the 7th and 10th months of the taxable year, respectively; and the 4th installment shall be paid on or before the first day of the next taxable year.

If an amended declaration is filed, the remaining installments, if any, shall be ratably increased to reflect the increase or decrease in the estimated tax occasioned by the amendment.

Any amount paid as estimated tax shall be deemed assessed upon the due date for the taxpayer's return for the taxable year.

3. **Interest and penalties.** The taxpayer shall be liable for interest at the rate of 12% per year and for a penalty in an amount determined at the rate of 10% per year upon the amount of any underpayment of estimated tax.

For purposes of this subsection, the amount of any underpayment of estimated tax shall be the excess of:

A. The amount of the installment which would be required to be paid if the estimated tax were equal to 80% of the tax shown on the return for the taxable year or, if no return were filed, 80% of the tax for such year, over

B. The amount, if any, of the installment paid on or before the last date prescribed for payment.

The period of the underpayment for which interest and penalties shall apply shall commence on the date the installment was required to be paid and shall terminate on the date on which the amount of underpayment is paid. For the purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent this payment exceeds the amount of the installment determined under subsection 2.

No penalty or interest for underpayment of any installment of estimated tax may be imposed if the total amount of all payments made on or before the last date prescribed for the payment of that installment equals or exceeds the amount which would have been required to be paid on or before this date if the estimated tax were the lesser of an amount equal to 80% of the tax finally due for the taxable year, or an amount equal to the tax shown on the taxpayer's return for the preceding taxable year, if a return showing a liability for tax was filed by the taxpayer for the preceding year.

4. Confidentiality. The information contained in any tax return or declaration of any estimated taxes shall be confidential. This confidentiality shall not be construed to prohibit the publication of statistics so classified as to prevent the identification of particular returns when more than one return is made by a particular segment of the industry and identification would adversely affect competitive conditions.

STATEMENT OF FACT

This bill creates a 2% severance tax on mineral extraction. Revenues from this assessment are to go to the Inland Fisheries and Wildlife Fund. While the bill would not raise appreciable revenues at the present time, it may be important as mineral exploration expands in the future.