

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 2040

H. P. 2054

House of Representatives, April 3, 1980

The Committee on Taxation suggested and ordered printed. Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27.

EDWIN H. PERT, Clerk of the House

Presented by Mr. Carroll of Limerick.

Cosponsors: Mr. Brown of Mexico, Mrs. Hutchings of Lincolnville, and Mr. McPherson of Eliot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Reduce the Per Gallon Tax on Motor Fuels from 9¢ to 7¢ and to Assess a 5% Sales Tax on the Wholesale Price Subject to Public Approval at Referendum.

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

Sec. 1. 29 MRSA § 532, 4th ¶, as amended, is repealed and the following enacted in its place:

The fee for a motorcycle or motor driven cycle learner's permit shall be \$5 which shall include the first road test. The fee for all subsequent examinations shall be \$3.

Sec. 2. 29 MRSA § 542, first ¶, last sentence, as amended, is repealed and the following enacted in its place:

The fee for such license shall be \$10

Sec. 3. 29 MRSA § 542, 2nd ¶, last sentence, as amended, is repealed and the following enacted in its place:

The fee for such license shall be \$5.

Sec. 4. 29 MRSA § 542, last sentence, as amended, is repealed and the following enacted in its place:

The fee for all 2-year licenses shall be \$5.

Sec. 5. 29 MRSA § 582, sub-§§ 1 and 2, as amended, is repealed and the following enacted in their place:

1. **Class 1 or 2 license. The examination fee shall be \$8, which shall include the first road test. All subsequent examination fees shall be \$5.**

2. **Class 3 license. The examination fee shall be \$5, which shall include the first road test. All subsequent examination fees shall be \$3.**

Sec. 6. 29 MRSA § 2352, sub-§ 1, ¶ A, first line, as amended, is repealed and the following enacted in its place:

A. \$5

Sec. 7. 29 MRSA § 2352, sub-§ 1, first line, as amended, is repealed and the following enacted in its place:

B. \$4

Sec. 8. 29 MRSA § 2352, sub-§ 1, ¶ C, first line, as amended, is repealed and the following enacted in its place:

C. \$3

Sec. 9. 29 MRSA § 2352, sub-§ 1, ¶ D, first line, as amended, is repealed and the following enacted in its place:

D. \$1

Sec. 10. 36 MRSA § 111, sub-§ 7, is enacted to read:

7. **Weighted average per gallon price. “Weighted average per gallon price” means the total sales price of taxable sales in Maine of internal combustion engine fuel as reported pursuant to section 2906, exclusive of federal and state excise taxes, divided by the total number of gallons of taxable sales in Maine of internal combustion engine fuel as reported pursuant to section 2906.**

Sec. 11. 36 MRSA § 2903, first sentence, as last amended by PL 1977, c. 572, § 2, is further amended to read:

An excise tax is levied and imposed at ~~the rate an effective rate computed by the State Tax Assessor to the nearest .1¢ consisting of 9¢ 7¢ per gallon plus 5% of the weighted average per gallon price~~ 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, not for international flights, including such sales when made to the State or any political subdivision thereof, and except that the rate shall be 2¢ 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 for international flights 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. 12. 36 MRSA § 2905, as last amended by PL 1971, c. 529, § 2, is further amended to read:

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

Sec. 13. 36 MRSA § 2905-A is enacted to read:

§ 2905-A. Computation and implementation of effective rate

1. Computation of effective rates. The State Tax Assessor shall compute the effective rate of the excise tax per gallon effective January 1st and July 1st of each year. The weighted average per gallon price effective January 1st of each year shall be based on price and gallonage information reported pursuant to section 2906 by each distributor with a distribution in Maine in excess of 50,000,000 gallons of internal combustion engine fuel for the period from April 1st through September 30th of the preceding calendar year. The weighted average per gallon price effective July 1st of each year shall be based on price and gallonage information reported pursuant to section 2906 by each distributor with a distribution in Maine in excess of 50,000,000 gallons of internal combustion engine fuel for the period from the preceding October 1st through March 31st.

2. Notice of rates. The State Tax Assessor shall on or before June 1st of each calendar year commencing in 1981 give notice to each distributor of the effective rate to be imposed on July 1st of the same calendar year. The State Tax Assessor shall on or before December 1st of each calendar year commencing in 1981 give notice to each distributor of the effective rate to be imposed on January 1st of the next calendar year.

Sec. 14. 36 MRSA § 2906, first ¶, as last amended by PL 1979, c. 378, § 22, is further amended to read:

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 receiving, 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 each distributor of internal combustion engine fuel shall furnish in his reports the total sales price of all his taxable sales of internal combustion engine fuel in Maine, exclusive of federal and state excise taxes**, 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¢~~ **at the effective rate** 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. 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. 15. 36 MRSA § 2908, as last amended by PL 1979, c. 549 is further amended to read:

§ 2908. Refund 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 vehicles owned or operated by railroad companies while operating on rails or tracks, or in stationary engines, or in the mechanical or industrial arts, or for any other commercial use except in nonrailroad 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 section 2910, 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 the tax by the vendor from the consumer, or indirectly by adding the amount of that tax to the price of that fuel and paid by that consumer, shall be reimbursed

and repaid to the extent of ~~8/9~~ of the amount of the tax paid by him **reduced by 1¢ per gallon** upon presenting to the State Tax Assessor a sworn statement accompanied by the original invoices or other evidence as the State Tax Assessor may require showing those purchases, which statement shall show the total amount of the fuel so purchased and used by that consumer other than in nonrailroad 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 shall be filed with the State Tax Assessor within 15 months from the date of purchase.

Sec. 16. 36 MRSA § 2910 as last amended by PL 1971, c. 529, § 6, is further amended to read:

§ 2910. Refund 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 ~~5/9~~ of the amount of such tax paid by him **reduced by 4¢ per gallon** 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. 17. 36 MRSA § 3025, first sentence, as 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 an effective rate computed by the State Tax Assessor to the nearest .1¢ consisting of 9¢ 7¢ per gallon, plus 5% of the weighted average per gallon price, to be computed reported~~ in the manner set forth in this

Sec. 18. 36 MRSA § 3027-A is enacted to read:

§ 3027-A. Computation and implementation of effective rate

1. Computation of effective rates. The State Tax Assessor shall compute the effective rate of the excise tax per gallon effective January 1st and July 1st of each year. The weighted average per gallon price effective January 1st of each year shall be based on price and gallonage information reported pursuant to section 2906 by each distributor with a distribution in Maine in excess of 50,000,000 gallons of internal combustion engine fuel for the period from April 1st through September 30th of the preceding calendar year. The weighted average per gallon

price effective July 1st of each year shall be based on price and gallonage information reported pursuant to section 2906 by each distributor with a distribution in Maine in excess of 50,000,000 gallons of internal combustion engine fuel for the period from the preceding October 1st through March 31st.

2. **Notice of rates.** The State Tax Assessor commencing in 1981 shall include with the report for the 2nd quarter of the calendar year sent to users required to report under section 3028 the effective rate to be imposed on July 1st of the same calendar year. The State Tax Assessor commencing in 1981 shall include with the report for the 4th quarter of the calendar year sent to users required to report under section 3028 the effective rate to be imposed on January 1st of the next calendar year.

The State Tax Assessor shall on or before June 1st of each calendar year commencing in 1981 give notice to each use fuel dealer of the effective rate to be imposed on July 1st of the same calendar year. The State Tax Assessor shall on or before December 1st of each calendar year commencing in 1981 give notice to each use fuel dealer of the effective rate to be imposed on January 1st of the next calendar year.

Sec. 19. 36 MRSA § 3035, 3rd and 4th paragraphs, as last amended by PL 1971, c. 529, § 8, 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¢~~ **at the effective rate** 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.

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

Sec. 20. Disposition of surplus revenues. In the event that the revenues derived from the excise taxes established in this Act provide revenues in excess of the revenues required to fund the Highway Allocation Act, the excess up to \$8,200,000 shall be allocated to the State Aid Construction Account. It is the intent of the Legislature to use any excess revenues to fully restore the allocation to the State Aid Construction Account that was reduced for the fiscal years of July 1, 1979 to June 30, 1981.

Sec. 21. Review of excise tax rates. The Governor shall review the revenues derived from the excise taxes as established in this Act in conjunction with fees and other income necessary to fund the Department of Transportation.

Notwithstanding the provisions of this Act, the Governor shall recommend to the Legislature every 2 years, excise tax rates including the cent per gallon rate and the percentage rate, not to exceed 5%, as is necessary to fund the Highway Allocation Act.

Sec. 22. Effective date of section 14. The effective date of section 14 of this Act shall be October 1, 1980.

Sec. 23. Allocation. The following funds are allocated from the Highway Fund to carry out the purposes of this Act.

1980-81

FINANCE AND ADMINISTRATION,
DEPARTMENT OF

Bureau of Taxation

Positions	(2)
Personal Services	\$21,428
All Other	5,000
Capital Expenditures	3,000
	<hr/>
Total	\$29,428

Sec. 24. Statutory referendum procedure; submission at general election; form of question; effective date. This Act, except sections 14 and 22, shall be submitted to the legal voters of the State of Maine at the next general election in the month of November following passage of this Act. The city aldermen, town selectmen and plantation assessors of this State shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of this Act, except sections 14 and 22, by voting on the following question:

“Shall the per gallon tax on motor fuel be reduced from 9¢ to 7¢ and a 5% sales tax on the wholesale price be assessed on July 1, 1981?”

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within a corresponding square below the words “Yes” or “No.” The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns, and, if it appears that a majority of the legal votes are in favor of the Act, the Governor shall proclaim that fact without delay, and the Act, except sections 14 and 22, shall become effective July 1, 1981.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purposes of this referendum.

FISCAL NOTE

Assuming that the revised excise taxes are approved at public referendum and that the average wholesale price of motor fuels is \$1 per gallon, this bill would generate an additional \$16,500,000 in the fiscal year 1981-82.

STATEMENT OF FACT

This bill proposes, with the approval of the general public at a referendum to be held in November 1980, to reduce the excise tax from 9 cents to 7 cents and to impose a percentage tax not to exceed 5 percent of the average per gallon wholesale price of internal combustion engine fuel and use fuel. In the event that the revised fuel taxes are approved, these fuel taxes will become **effective on July 1, 1981**. In addition, increases in the license fees, driver examination fees and certificate of title fees will terminate and **revert to the former rates**.

The Governor is required to review every 2 years, the revised excise tax rates on internal combustion engine fuel and use fuel in conjunction with other revenues to the Highway Fund and recommend any necessary changes in these rates to the Legislature. Any excess excise tax revenues will be used to fully restore funding of the State-Aid Construction account, not to exceed \$8,200,000, that was reduced for the fiscal years from July 1, 1979 to June 30, 1981.