

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 418

H.P. 360

House of Representatives, February 1, 1983

On Motion of Representative Higgins of Portland referred to the Committee on Taxation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Higgins of Portland.

Cosponsors: Representative Michael of Auburn, Senator Trafton of Androscoggin and Representative Murray of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-THREE

AN ACT Temporarily Reducing the Excise
Tax on Internal Combustion Engine Fuel
Enhanced with Ethanol.

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

Sec. 1. 36 MRSA §2903, as amended by PL 1981, c. 702, Pt. V, §2, is repealed and the following enacted in its place:

§2903. Tax levied; rebates

1. Excise tax levied. Except as provided in subsection 2, an excise tax is levied and imposed at the rate of 9¢ per gallon upon internal combustion engine fuel sold or used within this State, including sales when made to the State or any political subdivision thereof, for any purpose whatsoever, except internal combustion engine fuel sold or used in such form and

1 under such circumstances as shall preclude the col-
2 lection of this tax by reason of the laws of the
3 United States, or sold wholly for exportation from
4 the State, or brought into the State in the ordinary
5 standardized equipment fuel tank attached to and
6 forming a part of a motor vehicle and used in the
7 operation of the vehicle within the State, except
8 that no tax may be levied upon internal combustion
9 engine fuel as defined in section 2902, bought or
10 used by any person, association of persons, firm or
11 corporation for the purpose of propelling jet or
12 turbojet engine aircraft, or sold wholly for exporta-
13 tion from the State, or brought into the State in the
14 fuel tanks of an aircraft. On the same fuel, only
15 one tax shall be paid to the State, for which tax the
16 distributor first receiving the fuel in the State
17 shall be primarily liable to the State, except when
18 the fuel has been sold and delivered to a licensed
19 exporter wholly for exportation from the State, or to
20 another distributor in the State, in which case the
21 purchasing distributor shall be primarily liable to
22 the State for the tax.

23 2. Internal combustion engine fuel; distilled in
24 the State. Notwithstanding subsection 1, beginning
25 January 1, 1985, internal combustion engine fuel
26 blended in the State containing at least 10% ethanol
27 distilled in the State shall be subject to tax as set
28 forth in this subsection:

29 A. From January 1, 1985, to January 1, 1986, the
30 tax shall be at the rate prescribed in subsection
31 1, less 4¢;

32 B. From January 1, 1986, to January 1, 1987, the
33 tax shall be at the rate prescribed in subsection
34 1, less 3¢;

35 C. From January 1, 1987, to January 1, 1988, the
36 tax shall be at the rate prescribed in subsection
37 1, less 2¢;

38 D. From January 1, 1988, to January 1, 1989, the
39 tax shall be at the rate prescribed in subsection
40 1, less 1¢; and

41 E. On and after January 1, 1989, the tax shall be
42 at the rate prescribed in subsection 1.

1 3. Internal combustion engine fuel; distilled in
2 another state. The tax prescribed in subsection 2
3 shall apply to internal combustion engine fuel, sold
4 or used in Maine, containing at least 10% ethanol
5 distilled in another New England state, provided that
6 the New England state affords equal tax subsidies for
7 internal combustion engine fuel, sold or used in that
8 state, containing at least 10% ethanol distilled in
9 Maine.

10 Sec. 2. 36 MRSA §2905, as amended by PL 1971, c.
11 529, §2, is further amended to read:

12 §2905. Distributor or importer collects 9¢ addition-
13 al

14 Each distributor or importer paying or becoming
15 liable to pay the tax imposed by ~~this chapter~~ section
16 2903, subsection 1, shall be entitled to charge and
17 collect 9¢ per gallon only as a part of the selling
18 price of the internal combustion engine fuels subject
19 to the tax.

20 Each distributor or importer paying or becoming
21 liable to pay the tax imposed by section 2903, sub-
22 section 2, shall be entitled to charge and collect
23 the amount of tax per gallon set forth in section
24 2903, subsection 2, only as a part of the selling
25 price of the internal combustion engine fuels subject
26 to the tax.

27 Sec. 3. 36 MRSA §2906, first ¶, as amended by PL
28 1981, c. 364, §33, is further amended to read:

29 Every distributor, importer or exporter, holding
30 a valid certificate as such, shall on or before the
31 last day of each month render a report to the State
32 Tax Assessor stating the number of gallons of
33 internal combustion engine fuel received, sold and
34 used in the State by him during the preceding calendar
35 month, on forms to be furnished by the State Tax
36 Assessor. Such reports shall contain such further
37 information pertinent thereto as the State Tax Assessor
38 shall prescribe and the State Tax Assessor may
39 make such other reasonable rules and regulations
40 regarding the administration and enforcement of the
41 Gasoline Tax Act as he may deem necessary or expedi-

1 ent, copies of which shall be sent to such certifi-
2 cate holders. He or his duly authorized agent shall
3 have access during reasonable business hours to the
4 books, invoices and vouchers of such certificate
5 holders which may show the fuel handled by the cer-
6 tificate holder. At the time of the filing of the
7 report, each distributor and importer shall pay to
8 the State Tax Assessor a tax of 9¢ or the amount of
9 tax set forth in section 2903, subsection 2, which-
10 ever is applicable, upon each gallon so reported as
11 sold, distributed or used. An allowance of not more
12 than 1% from the amount of fuel received by the dis-
13 tributor, plus 1% on all transfers in vessels, tank
14 cars or full tank truck loads by a distributor in the
15 regular course of his business from one of his places
16 of business to another within the State, may be
17 allowed by the State Tax Assessor to cover the loss
18 through shrinkage, evaporation or handling sustained
19 by the distributor. The total allowance for such
20 losses shall not exceed 2% of the receipts by such
21 distributor and no further deduction shall be allowed
22 unless the State Tax Assessor is satisfied on defi-
23 nite proof submitted to him that a further deduction
24 should be allowed by him for a loss sustained through
25 fire, accident or some unavoidable calamity.

26 Sec. 4. 36 MRSA §2908, as amended by PL 1979, c.
27 549, is further amended by adding at the end a new
28 paragraph to read:

29 No refund allowed under this section for internal
30 combustion engine fuel containing at least 10%
31 ethanol may exceed the amount of tax imposed on the
32 fuel, reduced by 1¢.

33 Sec. 5. 36 MRSA §2910, as amended by PL 1971, c.
34 529, §6, is further amended by adding at the end a
35 new paragraph to read:

36 No refund allowed under this section for internal
37 combustion engine fuel containing at least 10%
38 ethanol may exceed the amount of tax imposed on the
39 fuel, reduced by 4¢.

40 Sec. 6. 36 MRSA §2914 is enacted to read:

41 §2914. Finding of fact

1 The Legislature makes a finding of fact that the
2 distillation of ethanol, in the State, for use in
3 internal combustion engine fuel to be in the economic
4 interest of all the citizens of the State. In addi-
5 tion, the process will also produce a high protein
6 animal feed, carbon dioxide and electric power. The
7 enonomic subsidy provided under section 2903, subsec-
8 tion 2, should be provided ultimately from the Gen-
9 eral Fund. Based on this legislative finding of
10 fact, the Highway Fund shall be reimbursed from the
11 General Fund each month for the loss of revenue due
12 to the economic subsidy. The State Tax Assessor
13 shall certify to the State Controller on or before
14 the 15th day of each month the amount to be reim-
15 bursed as of the close of the State Controller's
16 records for the previous month.

17

STATEMENT OF FACT

18 This bill provides for a 4-year phased-out exemp-
19 tion from the gasoline tax on alcohol blended gaso-
20 line. This exemption is consistent with the final
21 report of the Maine Alcohol Fuels Task Force. The
22 task force was established by Governor Brennan in the
23 fall of 1979 and was coordinated by the Office of
24 Energy Resources. Highway Fund revenue losses
25 resulting from this phased-out exemption shall be
26 reimbursed from the General Fund. Because of revenue
27 to the General Fund due to this project, the net
28 impact on the General Fund will be positive. The
29 experience of 24 states which have enacted similar
30 provisions indicates that these exemptions are the
31 cornerstone of viability for an ethanol manufacturing
32 plant, as they enable the facility to stimulate local
33 market demand for alcohol blended fuel during the
34 critical first few years of the plant's operation.

35 New England Ethanol, Inc., proposes to build a
36 \$100,000,000 production plant in Maine, to be opera-
37 tional in 1985, the effective date for these exemp-
38 tions. During construction, approximately 450 con-
39 struction jobs will be created and approximately 100
40 permanent jobs will be created upon completion. In
41 addition, as many as 200 indirect jobs for suppliers
42 are contemplated. The total direct and indirect
43 annual impact of the project on the Maine economy is
44 projected to be \$11,030,000.

1 Once in operation, the facility will produce
2 25,000,000 gallons of ethanol a year, some of which
3 will be marketed in the State. By encouraging con-
4 sumers to purchase the plant's output through use of
5 the exemptions proposed, an important step will have
6 been made toward the state's goal of self-sufficiency
7 in energy. A valuable by-product of the plant, dis-
8 tillers' dried grains, will be made available to the
9 local dairy and poultry industries, thereby consider-
10 ably lowering their transportation costs for feed.
11 Carbon dioxide and electricity will also be produced
12 by the facility.

13 Without the assistance provided by these exemp-
14 tions, the ability of an ethanol plant to succeed in
15 Maine is in jeopardy. Unless assistance is provided
16 to Maine's young ethanol industry, potentially
17 sizable long term economic and energy benefits to the
18 State may well be lost.

19 Federal figures indicate that, nationally, pene-
20 tration into the market for alcohol blended fuel is
21 approximately 3 1/2%. If an economic subsidy on this
22 fuel produced and sold in Maine is provided, and the
23 fuel should become price competitive with unleaded
24 gas, then sales figures approaching 3 1/2% of the
25 market can be expected in Maine.

26 Based on the above assumptions, it is estimated
27 that the loss in tax revenue to the Highway Fund, to
28 be reimbursed by the General Fund, as a result of the
29 economic subsidy provided by this bill, amounts to
30 approximately \$700,000 in 1985; \$525,000 in 1986;
31 \$350,000 in 1987 and \$175,000 in 1988 for a total of
32 \$1,750,000 for the 4-year period. The projected rev-
33 enue to the General Fund for the years 1983 to 1988
34 would be \$2,496,000, thus producing a net gain of
35 \$746,000 to the General Fund.

36 It has been estimated that the direct annual
37 impact on the Maine economy as a result of the pro-
38 posed New England Ethanol facility will amount to
39 \$6,830,000. The total direct and indirect annual
40 impact of the project on the Maine economy is pro-
41 jected to be \$11,030,000.