

MAINE STATE LEGISLATURE

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(EMERGENCY)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1116

H.P. 868

House of Representatives, March 8, 1983

Submitted by the Department of Transportation pursuant to Joint Rule
24.

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

EDWIN H. PERT, Clerk

Presented by Representative Higgins of Portland.

Cosponsors: Senator Emerson of Penobscot, Senator Wood of York and
Representative Carroll of Limerick.

STATE OF MAINE

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

AN ACT Adjusting Certain Motor Vehicle
Registration Fees, Increasing Motor Fuel
Taxes and Establishing a Special
Fuel Tax Suppliers Law.

Emergency preamble. Whereas, Acts of the Legis-
lature do not become effective until 90 days after
adjournment unless enacted as emergencies; and

Whereas, the 90-day period may not terminate
until after the beginning of the next fiscal year;
and

Whereas, certain obligations and expenses inci-
dent to the operation of state departments and insti-
tutions will become due and payable immediately; and

Whereas, in the judgment of the Legislature,
these facts create an emergency within the meaning of

1 the Constitution of Maine and require the following
2 legislation as immediately necessary for the preser-
3 vation of the public peace, health and safety; now,
4 therefore,

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

7 PART A

8 Sec. 1. 29 MRSA §242, sub-§1, ¶A, as amended by
9 PL 1979, c. 439, §8, is further amended to read:

10 A. Used for the conveyance of passengers, \$20.
11 Vehicles of the station wagon type which are used
12 interchangeably for the conveyance of passengers
13 or property shall pay the above fee. Such vehi-
14 cles shall be designated as "convertibles".
15 Motor vehicles, used for the conveyance of
16 passengers, which are operated exclusively on
17 islands having no roads maintained or supported
18 by the State shall be registered for a fee of \$2.

19 For the purposes of registration only, a pickup
20 truck may be registered as provided herein for
21 automobiles provided that at no time shall the
22 gross weight of a pickup truck so registered
23 exceed 6,000 pounds when used as a motor truck or
24 truck tractor. The owner of such a pickup truck
25 desiring a gross weight in excess of 6,000 pounds
26 shall register the same as provided in section
27 246.

28 The registration fee for an electrically powered
29 passenger vehicle with a gross vehicle weight of
30 6,000 pounds or less shall be \$10 greater than
31 the registration fee for a similar vehicle
32 powered by an internal combustion engine.

33 Sec. 2. 29 MRSA §244, 7th ¶, as amended by PL
34 1981, c. 492, Pt. E, §7, is further amended to read:

35 Special mobile equipment, Class B, which is
36 permanently mounted on a traction unit or motor chas-
37 sis, shall be registered and a fee of \$15 shall be
38 paid for such registration in lieu of all other
39 registration fees. Registration under this paragraph

1 shall not include any vehicle which may be used for
2 the conveyance of property except hand tools or parts
3 which are used in connection with the operation of
4 such equipment, except that road construction or
5 maintenance machinery coming under the definition of
6 special mobile equipment may be used for the trans-
7 portation of earth on that portion of the highway ac-
8 tually under construction. Such special mobile equip-
9 ment may be operated unloaded over the highway
10 between construction projects and to or from the
11 place where such vehicles are customarily kept, if a
12 permit for such movement is first obtained in accor-
13 dance with section 1703.

14 Sec. 3. 29 MRSA §244, as amended by PL 1981, c.
15 492, Pt. E, §§3 to 7, is further amended by adding
16 after the 8th paragraph 2 new paragraphs to read:

17 Special mobile equipment, Class A, which is
18 permanently mounted on a traction unit or motor vehi-
19 cle chassis, shall be operated under an annual
20 permit. The fee for such permits for any such equip-
21 ment, the gross weight of which is 54,000 pounds or
22 less, shall be in accordance with the registration
23 fee schedule established by section 246 for farm
24 motor trucks. For any such equipment, the gross
25 weight of which is in excess of 54,000 pounds, the
26 fee shall be in accordance with the following sched-
27 ule:

28	<u>From 54,001 pounds gross weight to 60,000 pounds</u>	
29	<u>gross weight</u>	<u>\$380</u>
30	<u>From 60,001 pounds gross weight to 65,000 pounds</u>	
31	<u>gross weight</u>	<u>\$410</u>
32	<u>From 65,001 pounds gross weight to 70,000 pounds</u>	
33	<u>gross weight</u>	<u>\$440</u>
34	<u>From 70,001 pounds gross weight to 75,000 pounds</u>	
35	<u>gross weight</u>	<u>\$470</u>
36	<u>From 75,001 pounds gross weight to 80,000 pounds</u>	
37	<u>gross weight</u>	<u>\$500</u>

38 The movement over the highways of any special
39 mobile equipment, the weight of which is in excess of

1 the gross or axle weight limits set forth in section
2 1652, shall be subject to section 1703, and permits
3 to move the equipment shall be obtained accordingly.

4 Sec. 4. 29 MRSA §246, first ¶, as repealed and
5 replaced by PL 1979, c. 439, §11, is amended to read:

6 With each application for registration of a motor
7 ~~truck~~ trucks, tractors and truck tractors shall be
8 paid an annual registration fee graduated as follows
9 when equipped with pneumatic tires:

10	From 0 pounds gross weight to 6,000 pounds gross	
11	weight	\$ 20 <u>\$ 21</u>
12	From 6,001 pounds gross weight to 9,000 pounds	
13	gross weight	\$ 25 <u>\$ 26</u>
14	From 9,001 pounds gross weight to 11,000 pounds	
15	gross weight	\$ 40 <u>\$ 43</u>
16	From 11,001 pounds gross weight to 14,000 pounds	
17	gross weight	\$ 70 <u>\$ 76</u>
18	From 14,001 pounds gross weight to 16,000 pounds	
19	gross weight	\$ 92 <u>\$100</u>
20	From 16,001 pounds gross weight to 18,000 pounds	
21	gross weight	\$115 <u>\$125</u>
22	From 18,001 pounds gross weight to 20,000 pounds	
23	gross weight	\$144 <u>\$156</u>
24	From 20,001 pounds gross weight to 23,000 pounds	
25	gross weight	\$173 <u>\$188</u>
26	From 23,001 pounds gross weight to 26,000 pounds	
27	gross weight	\$201 <u>\$220</u>
28	From 26,001 pounds gross weight to 29,000 pounds	
29	gross weight	\$246 <u>\$270</u>
30	From 29,001 pounds gross weight to 32,000 pounds	
31	gross weight	\$277 <u>\$306</u>
32	From 32,001 pounds gross weight to 35,000 pounds	
33	gross weight	\$308 <u>\$341</u>

1	From 35,001 pounds gross weight to 38,000 pounds	
2	gross weight	\$338 <u>\$377</u>
3	From 38,001 pounds gross weight to 42,000 pounds	
4	gross weight	\$370 <u>\$424</u>
5	From 42,001 pounds gross weight to 46,000 pounds	
6	gross weight	\$400 <u>\$472</u>
7	From 46,001 pounds gross weight to 50,000 pounds	
8	gross weight	\$431 <u>\$519</u>
9	From 50,001 pounds gross weight to 55,000 pounds	
10	gross weight	\$471 <u>\$578</u>
11	From 55,001 pounds gross weight to 60,000 pounds	
12	gross weight	\$523 <u>\$638</u>
13	From 60,001 pounds gross weight to 65,000 pounds	
14	gross weight	\$570 <u>\$697</u>
15	From 65,001 pounds gross weight to 70,550 pounds	
16	gross weight	\$627 <u>\$763</u>
17	From 70,551 pounds gross weight to 73,280 pounds	
18	gross weight	\$690 <u>\$795</u>
19	<u>From 73,281 pounds gross weight to 74,280 pounds</u>	
20	<u>gross weight</u>	<u>\$807</u>
21	<u>From 74,281 pounds gross weight to 75,280 pounds</u>	
22	<u>gross weight</u>	<u>\$819</u>
23	<u>From 75,281 pounds gross weight to 76,280 pounds</u>	
24	<u>gross weight</u>	<u>\$831</u>
25	<u>From 76,281 pounds gross weight to 77,280 pounds</u>	
26	<u>gross weight</u>	<u>\$843</u>
27	<u>From 77,281 pounds gross weight to 78,280 pounds</u>	
28	<u>gross weight</u>	<u>\$855</u>
29	<u>From 78,281 pounds gross weight to 79,280 pounds</u>	
30	<u>gross weight</u>	<u>\$866</u>
31	<u>From 79,281 pounds gross weight to 80,000 pounds</u>	
32	<u>gross weight</u>	<u>\$875</u>

1 Sec. 5. 29 MRSA §246, 2nd ¶, as repealed and
2 replaced by PL 1979, c. 439, §11, is repealed and the
3 following enacted in its place:

4 For such owners of commercial vehicles, which are
5 registered for a gross weight of 23,001 pounds or
6 more, that attest their vehicle is and shall only be
7 operated in the power unit semitrailer configuration
8 a credit of \$40 shall be allowed for the original
9 annual registration.

10 Sec. 6. 29 MRSA §246, 3rd ¶, as amended by PL
11 1979, c. 247, is amended to read:

12 The annual fee for registration of farm motor
13 trucks, having 2 or 3 axles other than so-called
14 dolly axles falling under section 1652, subsection 4,
15 paragraph A, subparagraph (6), when such trucks are
16 used primarily for transportation of agricultural
17 commodities, supplies or equipment to be used in con-
18 nection with the operation of a farm or farms owned,
19 operated or occupied by the registrant, shall be as
20 follows:

21	From 0 pounds gross weight to 6,000 pounds gross	
22	weight	\$ 15 <u>\$ 16</u>
23	From 6,001 pounds gross weight to 9,000 pounds	
24	gross weight	\$ 18 <u>\$ 19</u>
25	From 9,001 pounds gross weight to 11,000 pounds	
26	gross weight	\$ 21 <u>\$ 22</u>
27	From 11,001 pounds gross weight to 14,000 pounds	
28	gross weight	\$ 32 <u>\$ 34</u>
29	From 14,001 pounds gross weight to 16,000 pounds	
30	gross weight	\$ 43 <u>\$ 45</u>
31	From 16,001 pounds gross weight to 18,000 pounds	
32	gross weight	\$ 64 <u>\$ 67</u>
33	From 18,001 pounds gross weight to 20,000 pounds	
34	gross weight	\$ 75 <u>\$ 79</u>
35	From 20,001 pounds gross weight to 23,000 pounds	
36	gross weight	\$ 90 <u>\$ 96</u>

1	From 23,001 pounds gross weight to 26,000 pounds
2	gross weight \$105 <u>\$114</u>
3	From 26,001 pounds gross weight to 29,000 pounds
4	gross weight \$125 <u>\$139</u>
5	From 29,001 pounds gross weight to 32,000 pounds
6	gross weight \$140 <u>\$159</u>
7	From 32,001 pounds gross weight to 35,000 pounds
8	gross weight \$200 <u>\$235</u>
9	From 35,001 pounds gross weight to 38,000 pounds
10	gross weight \$220 <u>\$258</u>
11	From 38,001 pounds gross weight to 42,000 pounds
12	gross weight \$240 <u>\$281</u>
13	From 42,001 pounds gross weight to 46,000 pounds
14	gross weight \$260 <u>\$304</u>
15	From 46,001 pounds gross weight to 50,000 pounds
16	gross weight \$280 <u>\$327</u>
17	From 50,001 pounds gross weight to 54,000 pounds
18	gross weight \$300 <u>\$350</u>

19 Sec. 7. 29 MRSA §246, as amended by PL 1981, c.
20 492, Pt. A, §5, is further amended by adding at the
21 end 2 new paragraphs to read:

22 The annual fee for registration of motor homes
23 shall be in accordance with the fee schedule estab-
24 lished by this section for farm motor trucks.

25 The Secretary of State may select and issue a
26 special distinguishing letter, mark or design for
27 number plates issued to registrants of motor homes.

28 Sec. 8. 36 MRSA §2903, as amended by PL 1981, c.
29 702, Pt. V, §2, is further amended to read:

30 §2903. Tax levied; rebates

31 An excise tax is levied and imposed at the rate
32 of 9¢ 14¢ per gallon upon internal combustion engine
33 fuel sold or used within this State, including such

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

26 Sec. 9. 36 MRSA §2905, as amended by PL 1971, c.
27 529, §2, is further amended to read:

28 §2905. Distributor or importer; rate of collection

29 Each distributor or importer paying or becoming
30 liable to pay the tax imposed by this chapter shall
31 be entitled to charge and collect 9¢ at the rate per
32 gallon set forth in section 2903 only as a part of
33 the selling price of the internal combustion engine
34 fuels subject to the tax.

35 Sec. 10. 36 MRSA §2906, first ¶, as amended by
36 PL 1981, c. 364, §33, is further amended to read:

37 Every distributor, importer, or exporter, holding
38 a valid certificate as such, shall on or before the
39 last day of each month render a report to the State
40 Tax Assessor stating the number of gallons of
41 internal combustion engine fuel received, sold and
42 used in the State by him during the preceding calen-

1 dar month, on forms to be furnished by the State Tax
2 Assessor. Such reports shall contain such further
3 information pertinent thereto as the State Tax Asses-
4 sor shall prescribe and the State Tax Assessor may
5 make such other reasonable rules and regulations
6 regarding the administration and enforcement of the
7 Gasoline Tax Act as he may deem necessary or expedi-
8 ent, copies of which shall be sent to such certifi-
9 cate holders. He or his duly authorized agent shall
10 have access during reasonable business hours to the
11 books, invoices and vouchers of such certificate
12 holders which may show the fuel handled by the cer-
13 tificate holder. At the time of the filing of the
14 report, each distributor and importer shall pay to
15 the State Tax Assessor a tax of 9¢ at the rate set
16 forth in section 2903 upon each gallon so reported as
17 sold, distributed or used. An allowance of not more
18 than 1% from the amount of fuel received by the dis-
19 tributor, plus 1% on all transfers in vessels, tank
20 cars or full tank truck loads by a distributor in the
21 regular course of his business from one of his places
22 of business to another within the State, may be
23 allowed by the Tax Assessor to cover the loss through
24 shrinkage, evaporation or handling sustained by the
25 distributor. The total allowance for such losses
26 shall not exceed 2% of the receipts by such distribu-
27 tor and no further deduction shall be allowed unless
28 the State Tax Assessor is satisfied on definite proof
29 submitted to him that a further deduction should be
30 allowed by him for a loss sustained through fire, ac-
31 cident or some unavoidable calamity.

32 Sec. 11. 36 MRSA §2908, as amended by PL 1979,
33 c. 549, is further amended to read:

34 §2908. Refund of tax less 1¢ per gallon in certain
35 cases; time limit

36 Any person, association of persons, firm or cor-
37 poration who shall buy and use any internal combus-
38 tion engine fuel as defined in this chapter for the
39 purpose of operating or propelling commercial motor
40 boats, tractors used for agricultural purposes not
41 operating on public ways, or vehicles owned or oper-
42 ated by railroad companies while operating on rails
43 or tracks, or in stationary engines, or in the
44 mechanical or industrial arts, or for any other com-

1 merchial use except in nonrailroad motor vehicles
2 operated or intended to be operated upon any of the
3 public highways of this State, or turnpikes operated
4 and maintained by the Maine Turnpike Authority, or
5 except as provided in section 2910, in the operation
6 of aircraft, and who shall have paid any tax on
7 internal combustion engine fuel levied or directed to
8 be paid as provided by this chapter, either directly
9 by the collection of the tax by the vendor from the
10 consumer, or indirectly by adding the amount of that
11 tax to the price of that fuel and paid by that consumer,
12 shall be reimbursed and repaid ~~to the extent~~
13 of ~~8/9~~ of the amount of the tax paid by him less 1¢
14 per gallon upon presenting to the State Tax Assessor
15 a sworn statement accompanied by the original
16 invoices or other evidence as the State Tax Assessor
17 may require showing those purchases, which statement
18 shall show the total amount of the fuel so purchased
19 and used by that consumer other than in nonrailroad
20 motor vehicles operated or intended to be operated
21 upon any of the public highways of the State and in
22 the operation of aircraft. Applications for refunds
23 shall be filed with the State Tax Assessor within 15
24 months from the date of purchase.

25 Sec. 12. 36 MRSA §2910, as amended by PL 1971,
26 c. 529, §6, is further amended to read:

27 §2910. Refund of tax less 4¢ per gallon to users of
28 aircraft

29 Any person, association of persons, firm or cor-
30 poration who shall buy and use any internal combus-
31 tion engine fuel as defined in section 2902, for the
32 purpose of propelling piston engine aircraft and who
33 shall have paid any tax on internal combustion engine
34 fuel levied or directed to be paid as provided by
35 this chapter, either directly by the collection of
36 such tax by the vendor from such consumer, or indi-
37 rectly by adding the amount of such tax to the price
38 of such fuel and paid by such consumer, shall be
39 reimbursed and repaid ~~to the extent~~ of ~~5/9~~ of the
40 amount of such tax paid by him less 4¢ per gallon
41 upon presenting to the State Tax Assessor a statement
42 accompanied by the original invoices showing such
43 purchases. Applications for refunds must be filed
44 with the State Tax Assessor within 12 months from the
45 date of purchase.

1 Sec. 13. 36 MRSA §2963, as amended by PL 1973,
2 c. 625, §263, is further amended to read:

3 §2963. Taxes levied

4 Every motor carrier shall pay a road tax equiva-
5 lent to the existing rate of taxation per gallon,
6 calculated on the amount of motor fuel used in its
7 operations within this State. In addition, there
8 shall be imposed on each motor carrier an additional
9 tax at the rate of 2¢ per gallon upon the use of
10 internal combustion engine fuel within this State,
11 when that fuel is used in an internal combustion
12 engine for the generation of power to propel 3-axle
13 truck tractors on the public highways or turnpikes
14 operated and maintained by the Maine Turnpike Author-
15 ity. For the purpose of this paragraph, "truck tractor"
16 means a noncargo carrying power unit that oper-
17 ates in combination with a semitrailer or trailer,
18 except that a truck tractor and semitrailer engaged
19 in the transportation of motor vehicles may transport
20 motor vehicles on part of the power unit. Every
21 motor carrier, subject to the tax imposed, shall be
22 entitled to a credit on such tax equivalent to the
23 existing rate of taxation per gallon on all motor
24 fuel purchased by such carrier within this State for
25 use in its operations, either within or without this
26 State, and upon which motor fuel the tax imposed by
27 the laws of this State has been paid by such carrier.
28 Evidence of the payment of such tax, in such form as
29 may be required by or is satisfactory to the State
30 Tax Assessor, shall be furnished by each such carrier
31 claiming the credit allowed. When the amount of the
32 credit, to which any motor carrier is entitled for
33 any quarter, exceeds the amount of the tax for which
34 such carrier is liable for the same quarter, such
35 excess may, under regulations of the State Tax Asses-
36 sor, be allowed as a credit on the tax for which such
37 carrier would be otherwise liable for another quarter
38 or quarters; or upon application within 90 days from
39 the end of any quarter, duly verified and presented
40 in accordance with regulations promulgated by the
41 State Tax Assessor and supported by such evidence as
42 may be satisfactory to the State Tax Assessor, such
43 excess may be refunded if it shall appear that the
44 applicant has paid to another state or province under
45 a lawful requirement of such jurisdiction a tax,

1 similar in effect to the road tax provided, on the
2 use or consumption of the same motor fuel without
3 this State, to the extent of such payment in such
4 other jurisdiction, but in no case to exceed the rate
5 per gallon of the then current Maine state motor fuel
6 tax. Upon receipt of such application, the State Tax
7 Assessor, if satisfied after investigation that a
8 refund is justified, shall so certify to the State
9 Controller and it shall be paid out of the ~~General~~
10 Highway Fund. Such credit shall lapse at the end of
11 the last quarter of the year following that in which
12 the credit arose.

13 Sec. 14. 36 MRSA §2965 is amended to read:

14 §2965. Reports

15 Every motor carrier, subject to the tax imposed
16 by this chapter, shall on or before the last day of
17 April, July, October and January of each year make to
18 the State Tax Assessor such reports of its opera-
19 tions, including the amount of motor fuel used within
20 and without this State and the total number of miles
21 traveled within and without this State and the make
22 and type of vehicle used, during the quarter ending
23 the last day of the preceding month as the State Tax
24 Assessor may require and such other reports from time
25 to time as the State Tax Assessor may deem necessary.
26 ~~Motor carriers using only motor fuel purchased within~~
27 ~~the State during any quarterly period may, subject to~~
28 ~~the approval of the State Tax Assessor, in lieu of~~
29 ~~filing the quarterly report required by this section,~~
30 ~~file a signed statement certifying that no motor fuel~~
31 ~~used in its operations was purchased without the~~
32 ~~State during the quarter. Motor carriers operating~~
33 ~~exclusively within the State and using only motor~~
34 ~~fuel purchased within the State, upon which the State~~
35 ~~has received the motor fuel tax, may be exempted at~~
36 ~~the discretion of the State Tax Assessor from filing~~
37 ~~reports under this chapter. Motor carriers operating~~
38 ~~vehicles exclusively within this State other than the~~
39 ~~"3-axle truck tractors," as defined in section 2963,~~
40 ~~and using only motor fuel purchased within this~~
41 ~~State, upon which the State has received the motor~~
42 ~~fuel tax, may be exempt, at the discretion of the~~
43 ~~State Tax Assessor, from filing reports under this~~
44 ~~chapter. Any motor carrier requesting exemption from~~

1 filing reports shall file an affidavit as prescribed
2 by the State Tax Assessor. The State Tax Assessor
3 and his authorized agents and representatives shall
4 have the right at any reasonable time to inspect the
5 books and records of any motor carrier subject to the
6 tax imposed by this chapter.

7 Sec. 15. 36 MRSA §3025, as amended by PL 1971,
8 c. 529, §7, is further amended to read:

9 §3025. Levy of tax; exemptions; credit to Highway
10 Fund

11 An excise tax is imposed on all users of fuel
12 upon the use of such fuel by any person within this
13 State, only when such fuel is used in an internal
14 combustion engine for the generation of power to
15 propel motor vehicles of any kind or character on the
16 public highways or turnpikes operated and maintained
17 by the Maine Turnpike Authority, at the rate of 9¢
18 per gallon prescribed in section 2903, plus 2¢, to be
19 computed in the manner set forth in this chapter. No
20 tax is imposed upon the use of any fuel if the Con-
21 stitution of the United States or of this State pre-
22 cludes such tax. All taxes collected under this
23 section shall be credited to the ~~General~~ Highway
24 Fund.

25 Sec. 16. 36 MRSA §3025-B is enacted to read:

26 §3025-B. Three-axle truck tractor; additional tax

27 In addition to the tax imposed by section 3025,
28 there shall be an additional tax at the rate of 2¢
29 per gallon upon the use of that fuel within this
30 State, when that fuel is used in an internal combus-
31 tion engine for the generation of power to propel
32 3-axle truck tractors on the public highways or turn-
33 pikes operated and maintained by the Maine Turnpike
34 Authority. For the purpose of this section, "truck
35 tractor" means a noncargo carrying power unit that
36 operates in combination with a semitrailer or
37 trailer, except that a truck tractor and semitrailer
38 engaged in the transportation of motor vehicles may
39 transport motor vehicles on part of the power unit.

40 Sec. 17. 36 MRSA §3035, 3rd ¶, as amended by PL
41 1981, c. 698, §184, is further amended to read:

1 At the time of the filing of the report each use
2 fuel dealer shall pay to the State Tax Assessor a tax
3 of 9¢ at the rate provided for in section 3025 upon
4 each gallon so reported as sold or used.

5 Sec. 18. 36 MRSA §3035, last ¶, as amended by PL
6 1971, c. 529, §8, is further amended to read:

7 Each dealer paying or becoming liable to pay the
8 tax imposed by this section shall be entitled to
9 charge and collect 9¢ the amount of tax per gallon
10 set forth in section 3025 only as a part of the
11 selling price of the fuels subject to the tax.

12 Sec. 19. Effective date. Sections 1 through 7
13 of Part A shall become effective on January 1, 1984.
14 Sections 8 through 18 of Part A shall become effec-
15 tive April 1, 1983.

16 Part B

17 Sec. 1. 36 MRSA §2913, as amended by PL 1977, c.
18 696, §281, is repealed and the following enacted in
19 its place:

20 §2913. Failure to file statement; false statement

21 Any person who refuses or neglects to make any
22 statement, report, payment or return required by
23 this chapter, or who knowingly makes, aids or assists
24 any other person in making a false statement in a
25 return or report to the State Tax Assessor, or in
26 connection with an application for refund of any tax,
27 or who knowingly collects, attempts to collect or
28 causes to be paid to him or to any other person,
29 either directly or indirectly, any refund of that tax
30 without being entitled to the same, or is in viola-
31 tion of the affidavit as prescribed for registered
32 sellers in section 3205, is guilty of a Class E
33 crime.

34 Sec. 2. 36 MRSA §§2961-A and 2961-B are enacted
35 to read:

36 §2961-A. Application for license; contents; licens- 37 ing of motor carriers

1 It is unlawful for any motor carrier to use or
2 consume any motor fuel within this State, unless that
3 motor carrier is the holder of an uncanceled license
4 issued by the State Tax Assessor. To procure the li-
5 cence, every motor carrier shall file with the State
6 Tax Assessor an application in such form as the the
7 State Tax Assessor may prescribe, setting forth the
8 name and address of the motor carrier.

9 In the event that any application for a license
10 to use motor fuel as a motor carrier in this State is
11 filed by any person whose license has at any time
12 been canceled for cause by the State Tax Assessor, or
13 in case the State Tax Assessor is of the opinion that
14 the application is not filed in good faith or that
15 the application is filed by some person as a subter-
16 refuge for the real person in interest whose license or
17 registration has been canceled for cause by the State
18 Tax Assessor, then and in any of such events the
19 State Tax Assessor, after a hearing of which the
20 applicant has been given 5 days' notice in writing
21 and the applicant has the right to appear in person
22 or by counsel and present testimony, has the right
23 and authority to refuse to issue to the person a li-
24 cence certificate in this State.

25 The application in proper form having been ac-
26 cepted for filing and the other conditions and re-
27 quirements of this section having been complied with,
28 the State Tax Assessor shall issue to the motor car-
29 rier a license certificate and that license shall
30 remain in full force and effect until canceled, as
31 provided in this chapter.

32 The license certificate so issued by the State
33 Tax Assessor shall not be assignable and shall be
34 valid only for the motor carrier in whose name issued
35 and shall be displayed conspicuously by the motor
36 carrier.

37 Any person violating this section commits a Class
38 E crime.

39 §2961-B. Discontinuance as a licensed motor carrier

40 Whenever a motor carrier ceases to engage in
41 business as a motor carrier within this State, it

1 shall be the duty of the motor carrier to notify the
2 State Tax Assessor in writing within 15 days after
3 discontinuance. All taxes, penalties and interest
4 under this chapter, not yet due and payable under
5 this chapter shall, together with any and all inter-
6 est accruing or penalties imposed under this chapter,
7 notwithstanding any provisions thereof, become due
8 and payable concurrently with the discontinuance.
9 It is the duty of the motor carrier to make a report
10 and pay all such taxes, interest and penalties and to
11 surrender to the State Tax Assessor the license cer-
12 tificate issued to the motor carrier by the State Tax
13 Assessor.

14 Any person violating this section commits a Class
15 E crime.

16 Sec. 3. 36 MRSA §2966, as amended by PL 1979, c.
17 378, §24, is further amended to read:

18 §2966. Collection of tax

19 If any motor carrier fails to pay on demand a tax
20 assessed under section 141, subsection 2, paragraph
21 C, the State Tax Assessor may commence a ~~civil~~ crimi-
22 nal action in the name of the State for the recovery
23 of the tax and may recommend to the Public Utilities
24 Commission that the certificate or permit of that
25 motor carrier be suspended or revoked.

26 Sec. 4. 36 MRSA c. 455, as amended, is repealed.

27 Sec. 5. 36 MRSA c. 459 is enacted to read:

28 CHAPTER 459

29 SPECIAL FUEL TAX ACT

30 §3201. Short title

31 This chapter shall be known as the "Special Fuel
32 Tax Act" and the tax imposed in this chapter shall be
33 known as the "special fuel tax."

34 §3202. Definitions

1 1. Distillates. "Distillates" means all combus-
2 tible gases and liquids used in an internal combus-
3 tion engine, except the fuel subject to the tax
4 imposed by chapter 451 and low-energy fuel.

5 2. Duly licensed user. "Duly licensed user"
6 means any user holding an unrevoked license issued by
7 this State.

8 3. Low-energy fuel. "Low-energy fuel" means,
9 for the purpose of this section, any fuel used to
10 propel vehicles powered by internal combustion
11 engines that has 90% or less of the energy potential
12 of an equivalent volume of gasoline. Energy poten-
13 tial will be determined by the number of British
14 Thermal Units in a standard volume. Low-energy fuels
15 include, but are not limited to, liquefied natural
16 gas, liquefied petroleum gas, propane, methane,
17 butane, other light petroleum gasses, alcohol fuels
18 and other fuels that meet the criteria in this sub-
19 section.

20 4. Motor vehicles. "Motor vehicles" means all
21 vehicles, engines, machines or mechanical contriv-
22 ances which are propelled by internal combustion
23 engines or motors.

24 5. Person. "Person" means every natural person,
25 singular or plural, including partnerships, firms,
26 associations, corporations, joint stock companies,
27 receivers or trustees wherever resident or located,
28 and the State or any subdivision.

29 6. Special fuel. "Special fuel" means distil-
30 lates and low-energy fuel.

31 7. Supplier. "Supplier" means any person
32 importing into the State, exporting from the State or
33 producing, refining, manufacturing or compounding
34 within the State or purchasing within the State,
35 principally for resale to others in bulk, special
36 fuel.

37 8. Use. "Use" means, in addition to its orig-
38 inal meaning, the receipt of special fuel by any
39 person into a motor vehicle or into a receptacle from
40 which special fuel is supplied by that person to his
41 own or other motor vehicles.

1 9. User. "User" means any person who is the
2 registered owner of a motor vehicle who uses and con-
3 sumes special fuel within this State in an internal
4 combustion engine for the generation of power to
5 propel vehicles of any kind or character, except in
6 noncommercial vehicles having a fuel tank capacity of
7 30 gallons or less which are owned by nonresidents of
8 this State and are not required to be registered in
9 this State, and except in noncommercial vehicles hav-
10 ing a fuel tank capacity of 30 gallons or less owned
11 by residents of this State who purchase only special
12 fuel upon which the tax imposed by section 3203 has
13 been paid by the user.

14 §3203. Tax levied

15 An excise tax is levied and imposed upon all sup-
16 pliers of special fuel sold or used in this State on
17 each gallon of distillates at the rate prescribed in
18 section 2903, plus 2¢ and on each gallon of
19 low-energy fuel at the rate prescribed in section
20 2903, less 1¢, except sales of special fuel made to
21 the State or any political subdivision thereof; such
22 special fuel sold or used in such form and under such
23 circumstances as shall preclude the collection of
24 this tax by reasons of the laws of the United States;
25 sold only for exportation from this State; brought
26 into the State in a noncommercial vehicle having a
27 standard fuel tank capacity of 30 gallons or less
28 owned by a nonresident; delivered into a tank used
29 solely for heating purposes, sold for resale to a li-
30 censed supplier; and sold to a person for the gener-
31 ation of power for resale or manufacturing. Where
32 special fuel is delivered by a supplier on a consign-
33 ment basis to a consumer or to a retail outlet,
34 whether the retail outlet is wholly owned by the sup-
35 plier or not, it shall be considered to have been
36 "sold" within the meaning of the Special Fuel Tax
37 Act. All taxes collected under this section shall be
38 credited to the Highway Fund.

39 §3204. Licenses; supplier

40 Every supplier of special fuel in the State,
41 other than those who qualify under section 3205,
42 shall file an application for certificate with the
43 State Tax Assessor on forms prescribed and furnished

1 by him, which shall contain the name under which the
2 supplier is transacting business within the State,
3 the place or places of business, location of distrib-
4 uting stations, agencies of the supplier, the names
5 and addresses of the several persons constituting the
6 firm or partnership, and, if a corporation, its cor-
7 porate name and the names and addresses of its prin-
8 cipal officers and agents within the State. No such
9 supplier may sell or distribute any special fuel
10 until the certificate is furnished by the State Tax
11 Assessor and displayed as required by this section.
12 One copy of each such certificate, certified by the
13 State Tax Assessor, shall be displayed in each place
14 of business of the supplier. The State Tax Assessor,
15 having reasonable cause to believe that the supplier
16 has ceased to do business or that he has violated
17 this chapter or the rules made thereunder or failed
18 to appear in court for any violation of this chapter,
19 may on reasonable notice to the supplier suspend the
20 supplier's certificate until satisfied to the con-
21 trary. In such case, the supplier shall not act as a
22 supplier until his certificate is restored by the
23 State Tax Assessor, either of his own initiative or
24 at the request of the supplier, and upon the State
25 Tax Assessor being satisfied that cause for suspen-
26 sion no longer exists, or upon order of court. In
27 case of that suspension, all certificates shall at
28 once be surrendered to the State Tax Assessor upon
29 his request. This revocation shall be reviewable in
30 accordance with section 151.

31 §3205. Registered supplier

32 Every supplier of special fuel solely making
33 sales of special fuel, not subject to the special
34 fuel tax in accordance to section 3203, shall file an
35 affidavit to that effect with the State Tax Assessor
36 on forms prescribed and supplied to him. A copy of
37 the affidavit shall be displayed in each place of
38 business of that supplier.

39 §3206. Licenses; users

40 It shall be unlawful for any user to use or con-
41 sume any special fuel within this State, unless that
42 user is the holder of an uncanceled license issued by
43 the State Tax Assessor. To produce that license,

1 every user shall file with the State Tax Assessor an
2 application in such form as the State Tax Assessor
3 may prescribe, setting forth the name and address of
4 the user. Any unlicensed user who purchases a fuel
5 use identification decal, as required by Title 29,
6 section 246-A, will be registered by the State Tax
7 Assessor and subject to this chapter and chapter 461.

8 In the event that any application for a license
9 to use special fuel as a user in this State shall be
10 filed by any person whose license shall at any time
11 theretofore have been canceled for cause by the State
12 Tax Assessor, or in the case the State Tax Assessor
13 shall be of the opinion that the application is not
14 filed in good faith or that the application is filed
15 by some person as a subterfuge for the real person in
16 interest whose license or registration shall there-
17 tofore have been canceled for cause by the State Tax
18 Assessor or in the case where the taxpayer failed to
19 appear in court for any violation of this chapter,
20 then and in any of those events the State Tax Asses-
21 sor, after a hearing of which the applicant shall
22 have been given 5 days' notice in writing and in
23 which the applicant shall have the right to appear in
24 person or by counsel and present testimony, shall
25 have the right and authority to refuse to issue to
26 the person a license certificate in this State.

27 The application in proper form having been ac-
28 cepted for filing, and the other conditions and re-
29 quirements of this section having been complied with,
30 the State Tax Assessor shall issue to that user a li-
31 cence certificate and the license shall remain in
32 full force and effect until canceled as provided in
33 this chapter.

34 The license certificate so issued by the State
35 Tax Assessor shall not be assignable and shall be
36 valid only for the user in whose name issued.

37 §3207. Collection of tax

38 Every supplier paying or becoming liable to pay
39 the tax imposed by this chapter shall charge and col-
40 lect the tax at the applicable rate.

1 Every licensed user shall remit tax on all special
2 fuels purchased and not used for heating or
3 industrial use when the special fuel has not been
4 subjected to the special fuel tax.

5 In addition to the tax imposed by section 3203,
6 there shall be imposed on each licensed user an additional
7 tax at the rate of 2¢ per gallon upon the use
8 of that fuel within this State, when that fuel is
9 used in an internal combustion engine for the gener-
10 ation of power to propel 3-axle truck tractors on the
11 public highway or turnpikes operated and maintained
12 by the Maine Turnpike Authority. For the purpose of
13 this paragraph, "truck tractor" means a noncargo
14 carrying power unit that operates in combination with
15 a semitrailer or trailer, except that a truck tractor
16 and semitrailer engaged in the transportation of
17 motor vehicles may transport motor vehicles on part
18 of the power unit.

19 §3208. Credit; users

20 Every user subject to the tax imposed by section
21 3203 shall be entitled to a credit on the tax equiva-
22 lent to the existing rate of taxation per gallon on
23 all fuels purchased by that user from a supplier li-
24 censed in accordance with section 3204 upon which
25 fuel the tax is imposed by section 3203 has been paid
26 by that user. Evidence of the payment of that tax,
27 in such form as may be required by or is satisfactory
28 to the State Tax Assessor, shall be furnished by each
29 user claiming the credit allowed. When the amount of
30 the credit to which any user is entitled for any
31 quarter exceeds the amount of the tax for which that
32 user is liable for the same quarter, the excess may,
33 under rules of the State Tax Assessor, be allowed as
34 a credit on the tax for which that user would be
35 otherwise liable for another quarter or quarters, or
36 upon application within 3 months from the end of any
37 quarter, duly verified and presented in accordance
38 with regulations promulgated by the State Tax Asses-
39 sor and supported by such evidence as may be satis-
40 factory to the State Tax Assessor, such excess may be
41 refunded if it shall appear that the applicant has
42 paid to another state or province under a lawful re-
43 quirement of such jurisdiction a tax similar in
44 effect to the tax levied in section 3203, on the use

1 or consumption of the same fuel without the State, to
2 the extent of the payment in such other jurisdiction,
3 but in no case to exceed the rate per gallon of the
4 then current Maine state fuel tax. Upon receipt of
5 the application, the State Tax Assessor, if satisfied
6 after investigation that a refund is justified, shall
7 so certify to the State Controller and it shall be
8 paid out of the Highway Fund. This credit shall
9 lapse at the end of the last quarter of the year fol-
10 lowing that in which the credit arose.

11 §3209. Rules; reports; assessment of taxes

12 Every licensed supplier shall file on or before
13 the last day of each month a report with the State
14 Tax Assessor stating the gallons of special fuel
15 received, taxable gallons sold, exempt gallons sold,
16 taxable gallons used and exempt gallons used in this
17 State by him during the preceding calendar month, on
18 forms to be furnished by the State Tax Assessor. The
19 report shall contain any further information perti-
20 nent thereto as the State Tax Assessor shall pre-
21 scribe. The State Tax Assessor may make such other
22 rules regarding the enforcement of the special fuel
23 tax as he may deem necessary. At the time of filing
24 his report, each supplier shall pay to the State Tax
25 Assessor a tax as prescribed in sections 2903 and
26 3203 upon each gallon reported as a taxable sale or
27 as taxable gallons used.

28 For the purpose of determining the amount of tax
29 imposed, each user shall, not later than the last day
30 of each April, July, October and January, file with
31 the State Tax Assessor, on forms prescribed by the
32 State Tax Assessor, a report which shall include the
33 total gallonage of fuels used within this State
34 during the quarter ending the last day of the pre-
35 ceding month. The report shall contain any further
36 information pertinent thereto as the State Tax Asses-
37 sor shall prescribe.

38 At the time of filing his report, each user shall
39 pay to the State Tax Assessor a tax as prescribed in
40 sections 2903 and 3203 upon each gallon reported as a
41 taxable use or as taxable gallons used, which has not
42 been subjected to the special fuel tax.

1 §3210. Application of tax in special cases

2 Whoever shall receive any special fuel in such
3 form and under such circumstances as shall preclude
4 the collection of this tax by the supplier by reason
5 of the laws of the United States, and shall there-
6 after sell or use any special fuel in a manner and
7 under circumstances as may subject the sale or use to
8 the taxing power of this State, shall be considered
9 as a supplier and shall make the same reports, pay
10 the same taxes and be subject to all other provisions
11 of this chapter relating to suppliers of special
12 fuel. No person may be considered as a supplier with
13 respect to special fuel brought into the State in the
14 ordinary standardized equipment fuel tank attached to
15 and forming a part of a motor vehicle and used in the
16 operation of a vehicle within the State.

17 §3211. Cancellation of licenses, registrations

18 If a supplier or user shall at any time file a
19 false report of the data or information required by
20 this chapter, or shall fail, refuse or neglect to
21 file the report required by this chapter, or to pay
22 the full amount of the tax as required by this chap-
23 ter or is in violation of the affidavit as prescribed
24 in section 3205, the State Tax Assessor may forthwith
25 cancel the license or registration of the supplier or
26 user and notify that supplier or user in writing of
27 the cancellation by registered mail to the last known
28 address of that supplier or user appearing on the
29 file of the State Tax Assessor.

30 Upon receipt of a written request from any sup-
31 plier or user licensed or registered under this chap-
32 ter to cancel the license of registration to that
33 supplier or user, the State Tax Assessor shall have
34 the power to cancel that license or registration
35 effective 30 days from the date of the written
36 request, but no such license or registration may be
37 canceled upon the request of any supplier or user
38 until and unless the supplier or user shall, prior to
39 the date of that cancellation, have paid to this
40 State all excise taxes payable under the laws of this
41 State, together with any and all penalties, interest
42 and fines accruing under any of the provisions of
43 this chapter, and until and unless the supplier or

1 user shall have surrendered to the State Tax Assessor
2 the license or registration certificate theretofore
3 issued to that supplier or user. If, upon investiga-
4 tion, the State Tax Assessor shall ascertain and find
5 that any person to whom a license has been issued
6 under this chapter is no longer engaged in the sale
7 or use of special fuel and has not been so engaged
8 for a period of 6 months, the State Tax Assessor
9 shall have power to cancel that license by giving
10 that person 30 days' notice of the cancellation
11 mailed to the last known address of that person, in
12 which event the license certificate theretofore
13 issued to that person shall be surrendered to the
14 State Tax Assessor.

15 §3212. Discontinuance as licensed user and supplier

16 Whenever a supplier or user ceases to engage in
17 business as a supplier or user of fuel within this
18 State, it shall be the duty of that supplier or user
19 to notify the State Tax Assessor in writing within 15
20 days after discontinuance. All taxes, penalties and
21 interest under this chapter, not yet due and payable
22 under this chapter, shall, together with any and all
23 interest accruing or penalties imposed under this
24 chapter, notwithstanding any provisions thereof,
25 become due and payable concurrently with that discon-
26 tinuance. It shall be the duty of the supplier or
27 user to make a report and pay all such taxes, inter-
28 est and penalties and to surrender to the State Tax
29 Assessor the license certificate theretofore issued
30 to that user by the State Tax Assessor.

31 Any person violating any of the provisions of
32 this section commits a Class E crime.

33 §3213. Refunds of taxes erroneously or illegally
34 collected

35 In the event it shall appear to the State Tax
36 Assessor that any taxes or penalties imposed by this
37 chapter have been erroneously or illegally collected
38 from any user, the State Tax Assessor shall certify
39 the amount thereof to the State Controller, who shall
40 thereupon draw his warrant for that certified amount
41 on the Treasurer of State to that user. The refund
42 shall be paid by the Treasurer of State to that user
43 forthwith from the Highway Fund.

1 No refunds may be made under this section unless
2 a written claim therefor setting forth the circum-
3 stances by reason of which the refund shall be
4 allowed, which claim shall be in such form as the
5 State Tax Assessor shall prescribe and shall be filed
6 with the State Tax Assessor within 3 years from the
7 date of the payment of the taxes erroneously or ille-
8 gally collected.

9 §3214. Credit for tax paid on worthless accounts

10 The tax paid on sales made on credit and reported
11 by a supplier pursuant to section 3209 found to be
12 worthless and actually charged off may be credited
13 upon the tax due to a subsequent report, but if any
14 such accounts are thereafter collected by the sup-
15 plier, a tax shall be paid upon the amounts so col-
16 lected. The credit shall be considered as being re-
17 quired to be reported on the return for the month in
18 which the charge-off occurred.

19 §3215. Refund of taxes for certain common carriers

20 Any person, firm or corporation engaged in fur-
21 nishing common carrier passenger service under a cer-
22 tificate issued by the Public Utilities Commission
23 shall be reimbursed and repaid to the extent of the
24 entire amount of that tax paid by him upon that pro-
25 portion of the combustible gases and liquids used in
26 an internal combustion engine used in locally encour-
27 aged vehicles operated by him, which his tax-exempt
28 passenger fare revenue derived from that service
29 bears to his total passenger fare revenue. "Tax-
30 exempt passenger fare revenue" means revenue attrib-
31 utable to fares which were exempt from the federal
32 tax upon transportation of persons imposed by the
33 United States Internal Revenue Code, Section 4261, by
34 reasons of the United States Internal Revenue Code,
35 Section 4262 or 4263. "Total passenger fare revenue"
36 means all revenue attributable to the claimant's
37 passenger operations, whether or not pursuant to the
38 certificate issued by the Public Utilities Commis-
39 sion. The refund provided for in this section shall
40 be made only if the claimant's tax-exempt passenger
41 fare revenue is at least 60% of the claimant's total
42 passenger fare revenue derived during the calendar
43 quarter for which that refund is claimed. "Locally

1 encouraged vehicles" means buses upon which no excise
2 tax is collected, under section 1483, subsection 13.

3 The claimant shall present his claim to the State
4 Tax Assessor in such form and with such information
5 as the State Tax Assessor may prescribe accompanied
6 by original invoices showing those purchases. Appli-
7 cations for refunds must be filed with the State Tax
8 Assessor within 9 months from the date of purchase.

9 §3216. Failure to file statement, false statement

10 Any person who shall refuse or neglect to make
11 any statement, report, payment or return required by
12 this chapter, or who shall knowingly make, or shall
13 aid or assist any other person in making a false
14 statement in a return or report to the State Tax
15 Assessor, or in connection with an application for
16 refund of any tax, or who shall knowingly collect or
17 attempt to collect, or cause to be paid to him or to
18 any other person, either directly or indirectly, any
19 refund of that tax without being entitled to the tax,
20 or is in violation of the affidavit as prescribed for
21 registered sellers in section 3205, shall be guilty
22 of a Class E crime.

23 §3217. Additional violations

24 Any user, or any agent or employee of any user,
25 who shall consume any fuel in a registered motor
26 vehicle within the State, when that user is not the
27 holder of an uncanceled license as required by this
28 chapter, or when that user has failed to file any
29 report or pay tax, penalty or interest as required by
30 this chapter and chapter 7, commits a Class E crime.
31 Each day or part thereof during which any person
32 shall consume any fuel in a registered motor vehicle
33 within the State, when that user is not the holder of
34 an uncanceled license as required by this chapter, or
35 when that user has failed to file any report or pay
36 tax, interest or penalty as required by this chapter
37 and chapter 7, shall constitute a separate violation
38 within the meaning of this section. The state police
39 officer assigned to the Bureau of Taxation pursuant
40 to section 2972 shall also assist in the enforcement
41 of this chapter.

1 §3218. Refund of tax in certain cases, time limit

2 Any person, association of persons, firm or cor-
3 poration who shall buy and use an internal combustion
4 engine fuel as defined in this chapter for the pur-
5 pose of operating or propelling motor boats, tractors
6 used for agricultural purposes not operating on
7 public ways, or in such vehicles as run only on rails
8 or tracks, or in stationary engines, or in the
9 mechanical or industrial arts, or for any other com-
10 mercial use except in registered motor vehicles oper-
11 ated or intended to be operated within the State, and
12 who shall have paid any tax on internal combustion
13 engine fuel levied or directed to be paid as provided
14 by this chapter, either directly by the collection of
15 the tax by the vendor from the consumer, or indi-
16 rectly by adding the amount of that tax to the price
17 of that fuel and paid by that consumer, shall be
18 reimbursed and repaid, less 1¢, upon presenting to
19 the State Tax Assessor a sworn statement accompanied
20 by the original invoices or other evidence as the
21 State Tax Assessor may require showing those pur-
22 chases, which statement shall show the total amount
23 of the fuel so purchased and used by that consumer
24 other than in registered motor vehicles operated or
25 intended to be operated within the State, and in the
26 operation of aircraft. Applications for refunds
27 shall be filed with the State Tax Assessor within 15
28 months from the date of purchase. All fuel qualify-
29 ing for a refund under this section is subject to use
30 tax levy in accordance with chapter 215.

31 §3219. Purpose

32 The tax imposed by this chapter is levied for the
33 purpose of providing revenue to be used by this State
34 to defray in whole or in part the cost of construct-
35 ing, widening, reconstructing, maintaining,
36 resurfacing and repairing the public highways of this
37 State and the cost and expense incurred in the admin-
38 istration and enforcement of this chapter, and for no
39 other purpose whatsoever.

40 Sec. 6. 36 MRSA c. 461 is enacted to read:

41 CHAPTER 461

1 TRUST FUNDS

2 §3231. Taxes held in trust for the State Tax Asses-
3 sor

4 All taxes collected by any supplier from pur-
5 chasers pursuant to chapter 459 and all taxes col-
6 lected by any supplier from purchasers under chapter
7 459 and any tax collected by a distributor or
8 importer pursuant to chapter 451 which have not been
9 properly returned or credited to the purchasers from
10 whom they were collected, shall constitute a special
11 fund in trust for the State Tax Assessor. The lia-
12 bility for the taxes shall be enforceable by assess-
13 ment and collection in the manner prescribed in chap-
14 ters 7, 451 and 459, against:

15 1. Supplier, distributor and importer. The sup-
16 plier, distributor and importer; and

17 2. Officer, director, member, agent or employee
18 of any supplier, distributor or importer. Any offi-
19 cer, director, member, agent or employee of any sup-
20 plier, distributor or importer who, in that capacity,
21 is responsible for the control or management of the
22 funds or finances of that supplier, distributor or
23 importer or is responsible for the payment of the
24 supplier, distributor or importer taxes.

25 §3232. Notice to segregate trust funds

26 Whenever the State Tax Assessor finds that the
27 payment of the trust funds established under section
28 3231 will be jeopardized by delay, neglect or mis-
29 appropriation or whenever any supplier, distributor
30 or importer fails to make payment of taxes or file
31 reports as required by chapters 451 and 459, the
32 State Tax Assessor may give notice to the supplier,
33 distributor or importer that the trust funds shall be
34 segregated from and shall not be commingled with any
35 other funds or assets of the supplier, distributor or
36 importer. Within 5 days after the mailing of that
37 notice, all taxes which thereafter become collectible
38 or are collected shall be deposited daily in a bank
39 approved by the State Tax Assessor, in a separate ac-
40 count, in trust for, and payable to the State Tax
41 Assessor and kept in that account until paid to him.

1 The notice shall remain in effect until a notice of
2 cancellation is given by the State Tax Assessor.

3 §3233. Revocation of registration

4 Upon the expiration of the 5-day period desig-
5 nated in section 3232, if any supplier, distributor
6 or importer fails to make the deposits required or,
7 after making the deposits, withdraws any portion
8 thereof, the State Tax Assessor may revoke any regis-
9 tration certificate which has been issued to the sup-
10 plier, distributor or importer. The revocation shall
11 be reviewable in accordance with section 151.

12 §3234. Misappropriation of trust funds

13 1. Supplier, distributor or importer. A sup-
14 plier, distributor or importer is guilty of misappro-
15 propriation of trust funds, if:

16 A. He willfully appropriates or converts the tax
17 collected to his own use or to any use other than
18 the payment of tax; and

19 B. The amount of tax required to be collected or
20 paid on the due date prescribed in chapters 451
21 and 459.

22 2. Supplier, distributor or importer; defini-
23 tion. For the purposes of this section, the term
24 supplier, distributor or importer includes, in addi-
25 tion to the persons described in section 3202, sub-
26 section 5, any officer, director, member, agent or
27 employee of any supplier, distributor or importer
28 who, in that capacity, is responsible for the control
29 or management of the funds or finances of that sup-
30 plier, distributor or importer or responsible for
31 either the collection or payment of that supplier,
32 distributor or importer's taxes.

33 3. Misappropriation; Class D crime. Misappro-
34 propriation of trust funds is a Class D crime.

35 §3235. Tax a debt; recovery; preference

36 The taxes, interest and penalties imposed by
37 chapters 7, 451 and 459, from the time the same shall

1 be due, shall be personal debt of the supplier, dis-
2 tributor, importer, motor carrier or user to the
3 State, recoverable in any court of competent juris-
4 isdiction in a civil action in the name of the State,
5 and shall have preference in any distribution of the
6 assets of the taxpayer, whether in bankruptcy, insol-
7 vency or otherwise. The proceeds of any judgment
8 obtained shall be paid to the State Tax Assessor.

9 §3236. Warrant; request for

10 If any amount required to be paid to the State,
11 under chapter 451, 453 or 459, is not paid when due,
12 and no further review of the assessment is available
13 under section 151, the State Tax Assessor may, within
14 3 years after administrative and judicial review has
15 been exhausted, notify the person who according to
16 the records of the State Tax Assessor is liable,
17 specifying the amount required to be paid and inter-
18 est and penalty due, and demanding payment within 12
19 days after the sending of that notice. The notice
20 shall be given, as required by section 111, subsection
21 2, and shall warn the person that if he does not
22 make payment as demanded, the State Tax Assessor may
23 proceed to have the amount due collected by warrant
24 as provided or may certify the amount due to the
25 Attorney General for collection and, in addition, in
26 the case of an amount due in respect to any vehicle,
27 that if he does not make payment as demanded, suspen-
28 sion of the registration certificate and plates
29 issued for that vehicle may result.

30 If the person does not make the payment as
31 demanding within the 12-day period, or the extension
32 thereof as the State Tax Assessor may allow, the
33 State Tax Assessor may file in the office of the
34 clerk of the Superior Court of Kennebec County, or
35 any county, a certificate addressed to the clerk
36 specifying the amount required to be paid, interest
37 and penalty due, the name and address of the person
38 liable as it appears on the records of the State Tax
39 Assessor, the facts whereby the amount has become
40 final as to law and fact, the notice given, and
41 requesting that a warrant be issued against the
42 person in the amount required to be paid, together
43 with interest and penalty as set forth in the certif-
44 icate, and with costs.

1 If the State Tax Assessor thinks there are just
2 grounds to fear that the person may abscond within
3 the 12-day period, he shall not be required to give
4 notice to the person and may, without further notice,
5 file in the office of the clerk of the Superior Court
6 a certificate addressed to the clerk requesting the
7 immediate issuance of a warrant.

8 §3237. Issuance

9 The clerk of the Superior Court, immediately upon
10 the filing of the certificate, shall issue a warrant
11 in favor of the State against the person in the
12 amount to be paid together with interest and penalty
13 as set forth in the certificate, and with costs.

14 The clerk of the Superior Court shall file the
15 certificate in a looseleaf book entitled "Warrants
16 for Special Fuel Tax." These records are not to
17 become a part of the extended record of that court.

18 §3238. Lien of tax

19 If any amount required to be paid to the State,
20 under chapter 7, 451, 453 or 459, is not paid when
21 due, the State Tax Assessor may file in the office of
22 the registry of deeds of the county where that prop-
23 erty is located, with respect to real property or
24 fixtures and in the office in which a security or
25 financing statement or notice with respect to per-
26 sonal property would be filed, a notice of lien
27 specifying the amount of tax, interest, penalty and
28 costs due, the name and last known address of the
29 person liable for the amount and the fact that the
30 State Tax Assessor has complied with all the provi-
31 sions of chapter 7, 451, 453 or 459 in the assessment
32 of the tax. From the time of filing, the amount set
33 forth in the certificate constitutes a lien upon all
34 property of the person liable in the county then
35 owned by him or thereafter acquired by him in the
36 period before the expiration of the lien. In the
37 case of any prior mortgage on any real or personal
38 property so written as to secure a present debt and
39 also future advances by the mortgage to the mort-
40 gagor, the lien provided in this section, when notice
41 of it has been filed in the proper office, shall be
42 subject to the prior mortgage, unless the State Tax

1 Assessor also notifies the mortgagee of the recording
2 of the lien in writing, in which case any indebted-
3 ness thereafter created from the mortgagor to the
4 mortgagee shall be junior to the lien provided in
5 this section. The lien provided in this section has
6 the same force, effect and priority as a judgment
7 lien and shall continue for 5 years from the date of
8 filing unless sooner released or otherwise dis-
9 charged. The lien may, within the 5-year period or
10 within 5 years from the date of the last extension of
11 the lien in the manner provided in this section, be
12 extended by filing for record in the appropriate
13 office a notice of extension of lien and from the
14 time of that filing, the lien shall be extended for 5
15 years unless sooner released or otherwise discharged.

16 §3239. Form and effect

17 The warrant shall have the force and effect of an
18 execution issued upon a judgment in a civil action
19 for taxes and may be directed to the sheriffs of the
20 respective counties, their deputies or to any agent
21 of the State Tax Assessor authorized pursuant to
22 section 112, subsection 6, to collect any tax imposed
23 under this Title.

24 In the execution of the warrant and the collec-
25 tion of the taxes or in supplementary disclosure pro-
26 ceedings in Title 14, chapter 502, an agent of the
27 State Tax Assessor shall have the powers of a sheriff
28 and shall be entitled to collect from the debtor the
29 same fees and charges permitted to a sheriff. All
30 fees and charges collected by the agent of the State
31 Tax Assessor shall be promptly remitted to the State.

32 The warrants may be in substantially the follow-
33 ing form.

34 "
35 (Name of County), ss. - To the sheriffs

36 of our respective counties or either of their depu-
37 ties, or any agent of the State Tax Assessor author-
38 ized to collect taxes imposed under the Special Fuel
39 Tax Act;

1 "Whereas, the State Tax Assessor has certified,
2 that, pursuant to the terms of the Revised Statutes,
3 Title 36, section 151, the amount of certain special
4 fuel taxes assessed against _____ of
5 _____ , with interest and penalty,
6 has become final because of exhaustion of administra-
7 tive and judicial review, to wit:

8	<u>Special Fuel Tax</u>	<u>\$.....</u>
9	<u>Penalty</u>	<u>.....</u>
10	<u>Interest</u>	<u>.....</u>
11		<u>_____</u>
12	<u>Total</u>	<u>\$.....</u>

13 and \$ _____ costs of this proceeding
14 _____ and the same is unpaid \$ _____ ;

15 "We command you, therefore, that of the money,
16 goods and chattels of the debtor, in your precinct,
17 or the value thereof in money, you cause to be paid
18 and satisfied unto the State the total and costs, and
19 _____ cents more for this warrant, together with your
20 fees.

21 "Hereof fail not, and make due return of this
22 warrant, with your doings thereon, unto my office
23 within one year from this date.

24 _____,
25 Clerk of Courts, County of _____
26 Date _____ "

27 Warrants shall be returnable within one year.
28 New warrants may be issued on any such certificate
29 within 2 years from the return day of the last pre-
30 ceding warrant for sums remaining unsatisfied.

31 Warrants shall be served by the sheriff of any
32 county or by any of his deputies or by any agent of
33 the State Tax Assessor authorized to collect taxes
34 imposed under the special fuel tax law in the county
35 where the person may be found.

1 §3240. Priority of tax

2 Whenever any person liable for any tax levied is
3 insolvent, whenever any such person makes a voluntary
4 assignment of his assets, whenever the estate of a
5 deceased person liable in the hands of the executors,
6 administrators or heirs is insufficient to pay all
7 the debts due from the deceased or whenever estate
8 and effects of an absconding, concealed or absent
9 person liable are levied upon by process of law, the
10 tax, together with interest attaching thereto, shall
11 be first settled. This section shall not be con-
12 strued to give the State a preference over any
13 recorded lien which attached prior to the date when
14 the tax became due.

15 §3241. Enforcement of lien

16 The lien provided for by section 3238 may be
17 enforced at any time after the tax liability with
18 respect to which the lien arose becomes collectible
19 under section 3236 by a civil action brought by the
20 Attorney General in the name of the State in the
21 Superior Court of the county in which the property is
22 located to subject any property, of whatever nature,
23 of the person liable, or in which he has any right,
24 title or interest, to the payment of that tax or lia-
25 bility. The court shall, after the parties have been
26 duly notified of the action, proceed to adjudicate
27 all matters involved therein and finally determine
28 the merits of all claims to and liens upon the prop-
29 erty and, in all cases where a claim or interest of
30 the State therein is established, may decree a sale
31 of that property, by the proper officer of the court,
32 and a distribution of the proceeds of that sale ac-
33 cording to the findings of the court. If the prop-
34 erty is sold to satisfy a lien held by the State, the
35 State may bid at the sale such sum, not exceeding the
36 amount of the lien with expenses of sale, as the
37 State Tax Assessor directs.

38 §3242. Injunctions

39 The State Tax Assessor may, by filing a com-
40 plaint, apply for the revocation of registration, and
41 injunction from doing business, of any person re-
42 quired to register by this Part or any rule promul-

1 gated pursuant thereto, who has omitted to register
2 within 15 days after the State Tax Assessor has made
3 demand, as provided by section 111, subsection 2; or
4 has omitted to file with the State Tax Assessor any
5 overdue report within 15 days after the State Tax
6 Assessor has made demand therefor as provided by
7 section 111, subsection 2; or has knowingly filed a
8 false report; or has omitted to pay any tax required
9 by him by this Part when the tax is shown to be due
10 on a report filed by the taxpayer or admitted to be
11 due by the taxpayer, or has been determined to be due
12 and that determination has become final under this
13 Part. The existence of other civil or criminal reme-
14 dies shall be no defense to this proceeding.

15 The complaint shall be deemed adequate as to form
16 if it sets forth the name and the address of the
17 defendant as stated in his last return filed with the
18 State Tax Assessor, or if no return was filed, the
19 address, if any, known to the State Tax Assessor; the
20 breach of the law or ruling or rule committed by the
21 defendant; and the State Tax Assessor's prayer for
22 relief. The paragraphs of the complaint shall be
23 numbered. The complaint need not be verified.

24 The complaint may be presented to the Superior
25 Court in any county where the defendant has a regular
26 place of business, or, if he has no regular place,
27 then in Kennebec County. The court shall forthwith
28 fix a time and place for hearing and cause notice
29 thereof to be given the defendant. The defendant
30 shall serve upon the State Tax Assessor a copy of his
31 answer to the complaint at least 3 days before the
32 day of hearing. The answer shall be paragraphed and
33 numbered to conform with the numbering of the para-
34 graphs in the complaint so far as may be. Any alle-
35 gation of fact in the complaint which is not denied
36 shall be taken as true.

37 Jurisdiction is granted to the Superior Court to
38 hear and determine these matters, and to enter and
39 change such orders and decrees from time to time as
40 the nature of the case may require and, if necessary,
41 to appoint a receiver. From any final decree of the
42 Superior Court, an appeal lies to the Law Court. The
43 appeal shall be heard by the Law Court in the same
44 manner as in other actions.

1 **Sec. 7. Appropriation.** The following funds are
2 appropriated from the General Fund to carry out the
3 purposes of this Act.

	<u>1983-84</u>	<u>1984-85</u>
5	<u>FINANCE AND ADMINISTRATION,</u>	
6	<u>DEPARTMENT OF</u>	
7	Positions	(6) (6)
8	Personal Services	\$65,000 \$85,000
9	All Other	35,000 35,000
10	Capital Expenditures	9,000 5,000
11		<hr/>
12	Total	\$109,000 \$125,000

13 Pursuant to Title 36, section 3219, the Depart-
14 ment of Transportation will reimburse the General
15 Fund for the cost incurred in the administration of
16 chapter 459.

17 **Sec. 8. Effective date.** Part B of this Act
18 shall take effect on October 1, 1983.

19 **Emergency clause.** In view of the emergency
20 cited in the preamble, this Act shall take effect
21 when approved, except that in Part A, sections 1 to 7
22 shall become effective on January 1, 1984; sections 8
23 to 18 shall become effective on April 1, 1983; and
24 Part B shall become effective on October 1, 1983.

25 STATEMENT OF FACT

26 Part A provides additional revenue to the Highway
27 Fund by implementing those recommendations contained
28 in the Highway Cost Allocation Study associated with
29 vehicle registrations and from an increase in the
30 motor fuel tax, effective April 1, 1983.

31 Section 1 establishes an equitable registration
32 fee for electric vehicles at a rate of \$10 greater
33 than the registration fee for similar vehicles
34 powered by internal combustion engines.

35 Sections 2 and 3 establish an equitable annual

1 fee schedule for special mobile equipment.

2 Sections 4 and 5 establish an equitable vehicle
3 registration schedule for commercial vehicles.

4 Section 6 establishes an equitable vehicle regis-
5 tration schedule for farm trucks.

6 Section 7 establishes an equitable vehicle regis-
7 tration schedule for motor homes.

8 Section 8 establishes the motor fuel tax at the
9 rate of 14¢ per gallon effective April 1, 1983.

10 Sections 9 to 12 adjust motor fuel rebate provi-
11 sions and make other necessary adjustments consistent
12 with the 14¢ per gallon tax.

13 Sections 13 and 14 establish a 2¢ per gallon
14 surcharge for fuel consumed in Maine by large trucks
15 propelled by 3-axle truck tractors, in accordance
16 with the recommendations contained in the Highway
17 Cost Allocation Study.

18 Sections 15 to 18 establish a 2¢ per gallon
19 increase over the basic motor fuel rate for motor
20 vehicles using diesel fuel, as recommended by the
21 Highway Cost Allocation Study.

22 The fuel tax increases are to be effective April
23 1, 1983, and the adjustments in registrations are to
24 be effective January 1, 1984. The total additional
25 revenue is estimated to be \$64,582,000 from these
26 sources.

27 Part B accomplishes the following:

28 1. The adoption of a supplier-type law which
29 places the responsibility of reporting special fuel
30 taxes on the wholesaler which would make the special
31 fuel tax consistent with gasoline. Adoption of a
32 supplier tax is recommended by the Highway Cost Allo-
33 cation Study (see appendix E of the 1982 final
34 report);

35 2. A tax on distillates that is 2¢ a gallon
36 greater than the tax on gasoline and a tax on

1 low-energy fuel that is one cent less than gasoline;

2 3. A clear definition of the user that is
3 responsible for reporting the use tax;

4 4. Aligning the refund provision of special fuel
5 to that of gasoline; and

6 5. Exempts the State and its instrumentalities
7 from the special fuel tax.

8 Title 36, section 2961-A, calls for licensing of
9 motor carriers (gasoline users) with the Bureau of
10 Taxation. It gives the State Tax Assessor the
11 authority to refuse licensing a motor carrier for
12 fraudulent application or one under suspension.
13 Presently, there is no violation for operating with-
14 out a motor carrier fuel license. This section makes
15 a violation a Class E crime.

16 Title 36, section 2961-B, requires motor carriers
17 terminating their businesses to notify the State Tax
18 Assessor within 15 days and pay any accrued taxes,
19 penalties and interest. Violation of this section is
20 a Class E crime.

21 In Title 36, section 2966, violation of collec-
22 tion procedures are changed from a civil action to a
23 criminal action.

24 Title 36, chapter 461 calls for:

25 1. Making special fuel taxes and gasoline taxes
26 trust funds of the State; and

27 2. Making the assessment and collection proce-
28 dures of the special fuel and gasoline taxes consist-
29 ent with the procedures applicable to the sales use
30 and income taxes.

31 It is estimated in Part A that additional revenue
32 in the amount of \$64,582,000 will be generated by
33 this part of the bill.

1 It is estimated in Part B that in addition to the
2 revenue generated by Part A of this bill, revenue in
3 the amount of \$2,204,000 will be generated by this
4 part of the bill.

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