

MAINE STATE LEGISLATURE

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1 (EMERGENCY)

2 SECOND REGULAR SESSION

3
4 ONE HUNDRED AND ELEVENTH LEGISLATURE

5
6 Legislative Document

No. 1922

7
8 H.P. 1470

House of Representatives, January 10, 1984

9 Approved for introduction by the Legislative Council pursuant to Joint
10 Rule 26.

11 Reference to the Committee on Taxation is suggested and ordered
printed.

EDWIN H. PERT, Clerk

Presented by Representative Vose of Eastport.

12 Cosponsors: Representative Scarpiono of St. George, Representative
Crowley of Stockton Springs and Senator Erwin of Oxford.

13 STATE OF MAINE

14
15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FOUR
17

18 AN ACT to Establish the Maritime
19 Territory of the State of Maine and
20 to Amend the Law Relating to the
21 Taxation of Watercraft.
22

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

26 Whereas, the watercraft excise tax scheduled to
27 become effective on March 1, 1984, envisioned the
28 passage of an amendment to the Constitution of Maine;
29 and

30 Whereas, that proposed amendment was not approved
31 by the people; and

32 Whereas, changes in the watercraft excise law are
33 necessary to ensure the equitable taxation of water-
34 craft without the necessity of state reimbursement

1 required under the Constitution of Maine, Article IV,
2 Part 3, Section 23; and

3 Whereas, these changes must be made before March
4 1, 1984; and

5 Whereas, in the judgment of the Legislature,
6 these facts create an emergency within the meaning of
7 the Constitution of Maine and require the following
8 legislation as immediately necessary for the preser-
9 vation of the public peace, health and safety; now,
10 therefore,

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

13 Sec. 1. 1 MRSA §7 is amended to read:

14 §7. Division of State

15 The State is divided into counties, districts,
16 towns, plantations, maritime territory and unorga-
17 nized territory.

18 Sec. 2. 12 MRSA §7794, sub-§3, ¶C, as enacted by
19 PL 1983, c. 572, §2, is amended to read:

20 C. At the time of issuance of a certificate of
21 number, the commissioner shall provide a written
22 notice that a ~~local~~ excise tax must be paid and
23 that a tax decal must be displayed beside the
24 number on the watercraft. ~~Where~~ When the certif-
25 icate of number is issued ~~to a resident of this~~
26 State, the commissioner shall send notice of is-
27 suance to the ~~tax assessor of the municipality~~
28 where the holder of the certificate of number
29 resides State Tax Assessor. ~~If a certificate of~~
30 number is issued to a nonresident individual or
31 to a partnership or corporation, domestic or for-
32 ign, the copy of the certificate shall be sent
33 to the assessor of the municipality where the wa-
34 tercraft is principally moored, docked or located
35 or has its established base of operations.

36 Sec. 3. 12 MRSA §7801, sub-§28, as enacted by PL
37 1983, c. 572, §4, is amended to read:

1 28. Failure to display an excise tax decal. In
2 all cases where a person fails to display an excise
3 tax decal as required under Title 36, chapter 112,
4 the law enforcement official discovering the failure
5 shall notify the tax assessor of the owner's resi-
6 dence or, in the case of nonresidents, partnerships
7 or corporations, foreign or domestic, the tax asses-
8 sor of the municipality where the watercraft is prin-
9 cipally moored, docked or located or has its estab-
10 lished base of operations State Tax Assessor.

11 Sec. 4. 30 MRSA Part 5, c. 651 is enacted to
12 read:

13 PART 5

14 MARITIME TERRITORY

15 CHAPTER 651

16 GENERAL PROVISIONS

17 §6501. Maritime territory

18 The maritime territory of the State includes the
19 territory from the line of the margin of water at ordi-
20 nary low tide and extending perpendicularly 3
21 miles. It does not include islands, structures which
22 are permanently or temporarily attached to land or
23 any areas of land which are not ordinarily covered by
24 water during a portion of each day. Except as pro-
25 vided in section 6502, any area described in this
26 section which was formerly part of a municipality is
27 removed from the jurisdiction of the municipality.
28 The Commissioner of Marine Resources, Commissioner of
29 Finance and Administration and Commissioner of Con-
30 servation shall serve as municipal officials of the
31 maritime territory.

32 §6502. Residents

33 For purposes of voting, education, welfare and
34 licensing, residents of the maritime territory shall
35 be considered residents of the jurisdiction that they
36 declare as their home port under Title 36, chapter
37 112.

1 Sec. 5. 36 MRSA §1503, sub-§4, as enacted by PL
2 1983, c. 92, Pt. B, §9, is amended to read:

3 4. Established base of operations. An "estab-
4 lished base of operations" means the location where a
5 commercial vessel has its primary relationship with a
6 municipality. Among the factors identifying a primary
7 relationship are the locations at which the vessel is
8 primarily moored or docked, where it prepares for
9 expeditions and hires a crew and to which it regular-
10 ly returns for repairs, supplies and activities re-
11 lating to its business or trade. The fact that a
12 commercial vessel carries on one or more of the ac-
13 tivities, as mentioned in this subsection, at more
14 than one location within this State or carries on one
15 or more of the activities, enumerated in this subsec-
16 tion, at a location or locations outside this State
17 shall not prevent it from being deemed to have an es-
18 tablished base of operations within the State, if a
19 substantial portion of these activities are carried
20 on at a location or locations within this State.

21 Sec. 6. 36 MRSA §1504, sub-§1, ¶B, as repealed
22 and replaced by PL 1983, c. 572, §9, is repealed and
23 the following enacted in its place:

24 B. Motor tax. In addition to the length tax,
25 the owner of any watercraft, other than a canoe,
26 with an overall length greater than 12 feet and
27 less than 23 feet shall pay a tax on the total
28 motor horsepower as shown on the watercraft's
29 registration in accordance with the following
30 schedule:

- 31 (1) Horsepower of 20 or less.....\$ 2
32 (2) Horsepower over 20 but not over 70.....\$ 5
33 (3) Horsepower over 70.....\$10

34 Sec. 7. 36 MRSA §1504, sub-§§3 and 6, as enacted
35 by PL 1983, c. 92, Pt. B, §9, are repealed and the
36 following enacted in their place:

37 3. Payment of tax. The excise tax shall be paid
38 to the State Tax Assessor. If 2 or more jurisdic-
39 tions disagree over the location of a particular wa-

1 tercraft, the State Tax Assessor shall determine a
2 watercraft's established base of operations or the
3 place where it is principally moored, docked or lo-
4 cated.

5 6. Watercraft not required to register. An an-
6 ual statement shall be required as follows.

7 A. The owner of any watercraft not required to
8 register under Title 12, section 7794, and sub-
9 ject to the excise tax established by this chap-
10 ter, shall annually file a sworn statement with
11 the State Tax Assessor.

12 B. The statement shall be filed on or before
13 January 31st of each year, unless the watercraft
14 is not subject to the excise tax on January 1st,
15 in which case the statement shall be filed within
16 10 days after the date that the watercraft does
17 become subject to the excise tax.

18 C. The sworn statement of the owner shall con-
19 tain such information as the State Tax Assessor
20 may reasonably require, which shall include at a
21 minimum the following:

22 (1) The name of the watercraft's owner and
23 a designation of the owner's status as ei-
24 ther an individual, corporation, partnership
25 or other business entity;

26 (2) The owner's mailing address;

27 (3) The jurisdiction where the watercraft
28 is principally moored, docked or located or
29 has its primary base of operations;

30 (4) If the watercraft is located in the
31 maritime territory, the home port of the wa-
32 tercraft which is the jurisdiction that us-
33 ers of the watercraft ordinarily enter first
34 when leaving the maritime territory;

35 (5) The jurisdiction in which the water-
36 craft is registered or documented and the
37 watercraft's registration or documentation
38 number, if any;

1 (6) The watercraft's serial number, if any;
2 and

3 (7) The registered length of the watercraft
4 as set forth in its document, if any, and
5 the age of the watercraft.

6 D. Intentional failure to make the statement re-
7 quired by this section shall be a civil violation
8 punishable by a fine of not less than \$1,000 for
9 each year in which a statement was not filed.

10 Sec. 8. 36 MRSA §1505-A is enacted to read:

11 §1505-A. Use of revenues

12 The revenues received from the watercraft excise
13 tax shall be deposited in a separate account and
14 shall be used and are appropriated for the following
15 purposes and in the following order of priority:

16 1. Administrative expenses. Administrative ex-
17 penditures of the Bureau of Taxation;

18 2. Reimbursement. Reimbursement to municipali-
19 ties, as provided in section 661, for 50% of the
20 property tax revenue loss resulting from the exemp-
21 tion of watercraft from property taxation;

22 3. Service payments. Payments to municipalities
23 for services provided to watercraft taxed in the mar-
24 itime territory as provided in section 1507; and

25 4. Remainder. Any remaining funds shall be di-
26 vided between the Department of Marine Resources and
27 the Department of Inland Fisheries and Wildlife in
28 proportion to the amount of watercraft excise tax
29 revenue received from the maritime territory compared
30 to elsewhere.

31 Sec. 9. 36 MRSA §1506, as enacted by PL 1983, c.
32 92, Pt. B, §9, is amended to read:

33 §1506. Rulemaking

34 The ~~Commissioner~~ of Marine Resources State Tax
35 Assessor, after consultation with the Commissioner of

1 Marine Resources, the Commissioner of Inland Fisher-
 2 ies and Wildlife and the Director of the Division of
 3 Recreational Safety and Registration may adopt rules
 4 and establish such forms and procedures as are neces-
 5 sary for the efficient administration and enforcement
 6 of the excise tax established by this chapter. The
 7 State Tax Assessor shall annually update the Maine
 8 vessels documented by the United States Coast Guard.

9 Sec. 10. 36 MRS §1507 is enacted to read:

10 §1507. Services to municipalities

11 Municipalities may request payment from the State
 12 Tax Assessor for municipal services provided to resi-
 13 dents of the maritime territory and to watercraft lo-
 14 cated in the maritime territory. Requests shall be
 15 made by November 1st of each year. The State Tax As-
 16 essor shall review the requests and make payments by
 17 December 15th from funds available from excise tax
 18 revenues.

19 Emergency clause. In view of the emergency cited
 20 in the preamble, this Act shall take effect March 1,
 21 1984.

22 STATEMENT OF FACT

23 This bill establishes the maritime territory of
 24 the State in recognition that the territory is owned
 25 by and should be subject to the complete jurisdiction
 26 of the State. This bill amends the watercraft excise
 27 tax to require that payment be made to the State Tax
 28 Assessor rather than to municipalities, because mu-
 29 nicipalities are entitled to reimbursement for 50% of
 30 the property tax revenue loss resulting from the
 31 property tax exemption for watercraft. The State Tax
 32 Assessor will use the revenues from the excise tax
 33 for administrative expenses, reimbursement to muni-
 34 cipalities and service payments to municipalities pro-
 35 viding services to watercraft in the maritime terri-
 36 tory. The remaining revenues will be shared by the
 37 Department of Marine Resources and the Department of
 38 Inland Fisheries and Wildlife.

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