

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 2301

6  
7 H.P. 1747

House of Representatives, March 19, 1984

8 Submitted by the Department of Finance and Administration pursuant to  
Joint Rule 24.

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

EDWIN H. PERT, Clerk

Presented by Representative Higgins of Portland.

Cosponsor: Senator Wood of York.

11  
12 STATE OF MAINE  
13

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

17 AN ACT Providing for Administrative  
18 Changes in Maine Tax Laws.  
19

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

22 Sec. 1. 36 MRSA §1760, sub-§43, as enacted by PL  
23 1983, c. 560, §§3 and 6, is amended to read:

24 43. Nursery schools and day-care centers. Sales  
25 to licensed, incorporated nonprofit nursery schools  
26 and day-care centers.

27 Sec. 2. 36 MRSA §3202, sub-§9, as enacted by PL  
28 1983, c. 94, Pt. D, §§6 and 9, is amended to read:

29 9. User. "User" means any person who is the reg-  
30 istered owner of a motor vehicle who uses and con-  
31 sumes special fuel within this State in an internal  
32 combustion engine for the generation of power to  
33 propel vehicles of any kind or character, except in

1 noncommercial vehicles having a fuel tank capacity of  
2 30 gallons or less which are owned by nonresidents of  
3 this State and are not required to be registered in  
4 this State, and except in noncommercial vehicles hav-  
5 ing a fuel tank capacity of 30 gallons or less owned  
6 by residents of this State who purchase only special  
7 fuel upon which the tax imposed by section 3203 has  
8 been paid by the user.

9 If the registered owner of a motor vehicle which uses  
10 and consumes special fuel within this State fails to  
11 secure a user's license, or report, or pay the tax  
12 due, any person who operates or causes to be operated  
13 that vehicle in this State shall be deemed to be a  
14 "user" required to be licensed, report and pay the  
15 tax due.

16 Sec. 3. 36 MRSA §3203, as enacted by PL 1983, c.  
17 94, Pt. D, §§6 and 9, is amended to read:

18 §3203. Tax levied

19 An excise tax is levied and imposed upon all sup-  
20 pliers of special fuel sold or used in this State on  
21 each gallon of distillates at the rate prescribed in  
22 section 2903 and on each gallon of low-energy fuel at  
23 the rate prescribed in section 2903, less 1¢, except  
24 sales of special fuel made to the State or any polit-  
25 ical subdivision thereof; such special fuel sold or  
26 used in such form and under such circumstances as  
27 shall preclude the collection of this tax by reasons  
28 of the laws of the United States; sold only for ex-  
29 portation from this State; brought into the State in  
30 a noncommercial vehicle having a standard fuel tank  
31 capacity of 30 gallons or less owned by a nonresi-  
32 dent; delivered into a tank used solely for heating  
33 or cooking purposes, sold for resale to a licensed  
34 supplier; and sold to a person for the generation of  
35 power for resale or manufacturing. Where special fu-  
36 el is delivered by a supplier on a consignment basis  
37 to a consumer or to a retail outlet, whether the re-  
38 tail outlet is wholly owned by the supplier or not,  
39 it shall be considered to have been "sold" within the  
40 meaning of the Special Fuel Tax Act. All taxes col-  
41 lected under this section shall be credited to the  
42 Highway Fund. Where kerosene is delivered into a  
43 separate tank for retail sale, the excise tax is not

1 to be collected by the supplier, rather licensed users  
2 shall remit the tax in accordance with section  
3 3207.

4 Sec. 4. 36 MRSA §3209, first ¶, as enacted by PL  
5 1983, c. 94, Pt. D, §§6 and 9, is amended to read:

6 Every licensed supplier shall file on or before  
7 the last day of each month a report with the State  
8 Tax Assessor stating the gallons of special fuel re-  
9 ceived, taxable gallons sold, exempt gallons sold,  
10 taxable gallons used and exempt gallons used in this  
11 State by him during the preceding calendar month, on  
12 forms to be furnished by the State Tax Assessor. The  
13 report shall contain any further information perti-  
14 nent thereto as the State Tax Assessor shall pre-  
15 scribe. The State Tax Assessor may make such other  
16 rules regarding the enforcement of the special fuel  
17 tax as he may deem necessary, including provision for  
18 a certificate of exemption for certain purchases of  
19 special fuels for nonhighway use. At the time of  
20 filing his report, each supplier shall pay to the  
21 State Tax Assessor a tax as prescribed in sections  
22 2903 and 3203 upon each gallon reported as a taxable  
23 sale or as taxable gallons used.

24 Sec. 5. 36 MRSA §3218, first ¶, as enacted by PL  
25 1983, c. 94, Pt. D, §§6 and 9, is amended to read:

26 Any person, association of persons, firm or cor-  
27 poration who shall buy and use an internal combustion  
28 engine fuel, as defined in this chapter, for the pur-  
29 pose of operating or propelling motor boats, tractors  
30 used for agricultural purposes not operating on pub-  
31 lic ways, or in such vehicles as run only on rails or  
32 tracks, in stationary engines, in the mechanical or  
33 industrial arts, for registered vehicles operating  
34 off the highways of this State, or for any other  
35 ~~commercial~~ use except in registered motor vehicles  
36 operated on the highways of this State, and who shall  
37 have paid any tax on internal combustion engine fuel  
38 levied or directed to be paid as provided by this  
39 chapter, either directly by the collection of the tax  
40 by the vendor from the consumer, or indirectly by  
41 adding the amount of that tax to the price of that  
42 fuel and paid by that consumer, shall be reimbursed  
43 and repaid, less 1¢, upon presenting to the State Tax

1 Assessor a sworn statement accompanied by the origi-  
2 nal invoices or other evidence as the State Tax As-  
3 sessor may require showing those purchases, which  
4 statement shall show the total amount of the fuel so  
5 purchased and used by that consumer other than in  
6 registered motor vehicles operated on the highways of  
7 this State, and in the operation of aircraft. Appli-  
8 cations for refunds shall be filed with the State Tax  
9 Assessor within 15 months from the date of purchase.

#### 10 STATEMENT OF FACT

11 Section 1 conforms a newly granted sales tax ex-  
12emption with others of its type by requiring that the  
13 agencies be incorporated as nonprofit.

14 Section 2 clarifies the definition of user of  
15 special fuel. The current definition is deficient  
16 with respect to lessee's who may register or operate  
17 on Maine highways.

18 Section 3 provides for an exemption for fuel used  
19 for cooking purposes, generally propane. Section 3  
20 also provides for the retail sale of kerosene without  
21 the application of the excise tax. Since most pur-  
22 chases of kerosene from a retail tank are for heating  
23 purposes, it seems reasonable to provide an up front  
24 exclusion. The kerosene used on the highway by li-  
25 censed users would be subject to the payment of tax,  
26 thus no revenue loss is expected.

27 Section 4 clarifies the authority of the State  
28 Tax Assessor to provide exemption certificates to  
29 certain purchasers of special fuel if in his opinion  
30 such sales would not be vulnerable to on-road use.  
31 For example, fuel delivered into the tanks of fishing  
32 vessels would not be subject to the 14¢ per gallon  
33 road tax, but to the 5% sales tax. This would re-  
34 lieve such users from the requirement to pay the road  
35 tax and then file for a refund.

1       . Section 5 makes it clear that all nonhighway uses  
2 of special fuel are eligible for refund. Current law  
3 does not provide the refund for heating oil used in  
4 home heating if the excise tax was paid.

5

6169030984