

MAINE STATE LEGISLATURE

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(New Draft of H.P. 1704, L.D. 2231)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2468

H.P. 1864

House of Representatives, April 12, 1984

Reported by the Majority from the Committee on Taxation and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT to Promote the Distillation of
Ethanol for Use as an Internal Combustion
Engine Fuel.

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

Sec. 1. 10 MRS §1457 is enacted to read:

§1457. Ethanol enhanced motor fuel

1. Prohibition. No distributor, franchisor or refiner may impose any condition, restriction, agreement or understanding that unreasonably discriminates against or unreasonably limits the sale, resale, transfer or purchase of ethanol or other synthetic motor fuel of equivalent usability in any case in which synthetic or conventional motor fuel is sold for use, consumption or resale.

1 2. Exception. This section does not apply to
2 any distributor, franchisor or refiner which makes
3 available sufficient supplies of ethanol or other
4 synthetic motor fuels of equivalent usability to sat-
5 isfy its customers' needs for those products, if
6 those synthetic motor fuels are made available on
7 terms and conditions which are equivalent to the
8 terms and conditions on which conventional motor fuel
9 products are made available.

10 3. Reasonable conditions. A motor fuel distrib-
11 utor, franchisor or refiner which does not make
12 available sufficient supplies of ethanol or other
13 synthetic motor fuels of equivalent usability may:

14 A. Require reasonable labeling of pumps dispens-
15 ing the ethanol or other synthetic motor fuels to
16 indicate, as appropriate, that the ethanol or
17 other synthetic motor fuel was not manufactured,
18 distributed or sold by that distributor,
19 franchisor or refiner;

20 B. Issue disclaimers, as appropriate, of product
21 liability for damage from use of ethanol or other
22 synthetic motor fuels;

23 C. Refuse to provide advertising support for
24 ethanol or other synthetic motor fuels; or

25 D. Refuse to furnish or provide any additional
26 pumps, tanks or other related facilities required
27 for the sale of ethanol or other synthetic motor
28 fuels.

29 Sec. 2. 36 MRSA §1760, sub-§8, ¶¶A and B, as en-
30 acted by PL 1981, c. 702, Pt. V, §1, are amended to
31 read:

32 A. Motor fuels upon which a tax at the maximum
33 rate for highway use has been paid pursuant to
34 Part 5 or a comparable tax of any other state or
35 province; and

36 B. Internal combustion engine fuel, as defined
37 in section 2902, bought and used for the purpose
38 of propelling jet or turbojet engine aircraft in
39 international flights; and

1 Sec. 3. 36 MRSA §1760, sub-§8, ¶C is enacted to
2 read:

3 C. Internal combustion engine fuel containing at
4 least 10% ethanol and taxed at the rate provided
5 in section 2903, subsection 2.

6 Sec. 4. 36 MRSA §2903, as repealed and replaced
7 by PL 1983, c. 438, §1, is repealed and the following
8 enacted in its place:

9 §2903. Tax levied; rebates

10 1. Excise tax levied. Except as provided in
11 subsection 2, an excise tax is levied and imposed at
12 the rate of 14¢ per gallon upon internal combustion
13 engine fuel sold or used within this State, including
14 these sales when made to the State or any political
15 subdivision thereof, for any purpose whatsoever, ex-
16 cept the internal combustion engine fuel sold or used
17 in such form and under such circumstances as shall
18 preclude the collection of this tax by reason of the
19 laws of the United States, or sold wholly for expor-
20 tation from the State, or brought into the State in
21 the ordinary standardized equipment fuel tank at-
22 tached to and forming a part of a motor vehicle and
23 used in the operation of that vehicle within the
24 State, except that no tax may be levied upon internal
25 combustion engine fuel, as defined in section 2902,
26 bought or used by any person, association of persons,
27 firm or corporation for the purpose of propelling jet
28 or turbojet engine aircraft, or sold wholly for ex-
29 portation from the State, or brought into the State
30 in the fuel tanks of an aircraft, or on or after July
31 1, 1983, sold in bulk to any political subdivision of
32 the State. On the same fuel only one tax shall be
33 paid to the State, for which tax the distributor
34 first receiving the fuel in the State shall be pri-
35 marily liable to the State, except when that fuel has
36 been sold and delivered to a licensed exporter wholly
37 for exportation from the State, or to another dis-
38 tributor in the State, in which case the purchasing
39 distributor shall be primarily liable to the State
40 for the tax.

41 Internal combustion fuel, as defined in section 2902,
42 which is held by retailers at the close of March 31,

1 1983, shall be subject to the 14¢ per gallon tax
2 rate. Retailers, as defined in section 1752, subsection
3 10, shall be liable for the difference between
4 the 14¢ per gallon tax rate and the 9¢ per gallon tax
5 rate in effect prior to April 1, 1983. Payment shall
6 be made to the State Tax Assessor before May 15,
7 1983, and it shall be accompanied by the appropriate
8 completed form described by the State Tax Assessor.

9 2. Ethanol blended fuel. Notwithstanding subsection
10 1, beginning January 1, 1986, internal combustion
11 engine fuel blended in the State containing
12 at least 10% ethanol distilled in the State shall be
13 subject to tax as set forth in this subsection, except
14 as provided in section 2914.

15 A. From January 1, 1986, to December 31, 1986,
16 the tax shall be at the rate prescribed in sub-
17 section 1, less 4¢.

18 B. From January 1, 1987, to December 31, 1987,
19 the tax shall be at the rate prescribed in sub-
20 section 1, less 3¢.

21 C. From January 1, 1988, to December 31, 1988,
22 the tax shall be at the rate prescribed in sub-
23 section 1, less 2¢.

24 D. From January 1, 1989, to December 31, 1989,
25 the tax shall be at the rate prescribed in sub-
26 section 1, less 1¢.

27 E. On and after January 1, 1990, the tax shall
28 be at the rate prescribed in subsection 1.

29 The tax prescribed in this section shall apply to in-
30 ternal combustion engine fuel, sold in Maine, con-
31 taining at least 10% ethanol distilled in another
32 state, provided that the State affords at least equal
33 tax exemptions for internal combustion engine fuel,
34 sold or used in that state, containing at least 10%
35 ethanol distilled in Maine.

36 The reduction in tax authorized by this subsection
37 shall be reduced by an amount equivalent to any in-
38 crease in the federal tax exemption for
39 ethanol-blended fuels effective prior to January 1,
40 1990.

1 Sec. 5. 36 MRSA §§2914 and 2915 are enacted to
2 read:

3 §2914. Limitation; reimbursement from General Fund

4 1. Limitation. The tax exemption provided under
5 section 2903, subsection 2, shall be reimbursed from
6 the General Fund and shall not exceed a total of
7 \$5,000,000 from 1986 to 1990. The amount of the ex-
8 emption shall not exceed \$1,250,000 annually, ad-
9 justed as follows.

10 A. If, at the beginning of a month, the amount
11 of the exemption used previously during that year
12 does not exceed 95% of the annual limitation, the
13 exemption shall remain in effect for the remain-
14 der of the month.

15 B. If, at the beginning of a month, the amount
16 of exemption used previously during that year ex-
17 ceeds 95% of the annual limitation, the exemption
18 shall be suspended for the remainder of that
19 year.

20 C. If, as a result of the adjustments provided
21 in this subsection, the amount of exemptions
22 granted during a year exceeds \$1,250,000, the
23 amount of the excess shall be used to reduce the
24 annual limitation for the succeeding year.

25 D. If, as a result of the adjustments provided
26 in this subsection, the amount of exemptions
27 granted during a year is less than \$1,250,000,
28 the amount of unused exemption shall be added to
29 the annual limitation for the succeeding year.

30 2. Final year. If, during the final year of the
31 exemption, it becomes apparent that the \$5,000,000
32 limit will be reached during the year, the State Tax
33 Assessor may promulgate rules or issue warnings to
34 alleviate the possibility of loss to motor fuel dis-
35 tributors or retailers resulting from exhaustion of
36 the total limitation on exemptions.

37 3. Reimbursement. The Highway Fund shall be re-
38 imbursed from the General Fund each month for the
39 loss of revenue resulting from the exemption provided

1 under section 2903, subsection 2. The State Tax As-
2 essor shall certify to the State Controller, on or
3 before the 15th day of each month, the amount to be
4 reimbursed for the previous month.

5 §2915. Report to the Legislature

6 The State Tax Assessor shall report to the Legis-
7 lature by January 31, 1987, and each subsequent year
8 until 1990 on the amount of revenue losses due to the
9 ethanol tax exemption provided in section 2903, sub-
10 section 2. The report shall also include information
11 provided by the Office of Energy Resources on ethanol
12 sales in other states, revenue losses to those states
13 from similar ethanol tax exemption and any other rel-
14 evant information on the market for ethanol blended
15 gasoline requested by the Legislature.

16 Sec. 6. Legislative findings. The Legislature
17 finds that the distillation of ethanol in the State
18 for use in motor fuels is in the economic and envi-
19 ronmental interest of all of the citizens of the
20 State. The availability of ethanol will reduce the
21 use of lead in gasoline and will, thereby, decrease
22 the lead in the environment. The Legislature also
23 finds that, due to the economic obstacle to market
24 penetration by alternative motor fuels, the distilla-
25 tion of ethanol in Maine is unlikely to occur without
26 the adoption of a gasoline tax exemption for ethanol
27 enhanced gasoline similar to those adopted by 33 oth-
28 er states and the Federal Government. Further, the
29 Legislature finds that an ethanol plant in the State
30 will also produce significant amounts of distillers
31 dry grain for use by farmers, carbon dioxide for use
32 by industry and electricity for use by electric con-
33 sumers. Finally, the Legislature finds that unit
34 trains, hauling grain to an ethanol facility in the
35 State, will lower grain freight rates for Maine far-
36 mers and may permit backhauling of other Maine
37 products to the midwest.

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STATEMENT OF FACT

This new draft is the result of the findings and recommendations of the Ethanol Study Committee that was established by the First Regular Session of the 111th Legislature to evaluate the costs and benefits of an ethanol tax exemption.

New England Ethanol, Inc., proposes to build a \$94,000,000 plant in Maine that would produce 25,000,000 gallons of ethanol per year. The committee found that the project would not be economically feasible without an excise tax exemption and that the long-term benefits to the State from the project outweigh the loss of revenues due to the exemption.

Roughly 120 jobs will be created at the ethanol and carbon dioxide plants, approximately 75 jobs will be created in rail and trucking industries and 200 jobs in the consumer goods and services sector. Construction jobs would range from 200 to 300 over the construction period.

The positive economic benefit of roughly \$10,000,000 per year in increased personal income will be obtained by the local economy. State tax revenues will increase roughly \$700,000 per year. If 20% of the plant's output was sold in Maine, the loss of state revenue would be about \$5,000,000 over the 4-year exemption period. It would take approximately 7 to 8 years for the total tax revenue gains to outweigh the tax revenue losses. There is uncertainty as to how much ethanol would be sold in Maine. If only 10% of the plant's output was sold in Maine, revenue losses would also be cut in half.

Another less quantifiable benefit will be unit trains hauling grain to the plant and possibly backhauling other Maine products to the midwest. This concept, if implemented, would enable Maine farmers to achieve cheaper grain freight rates. Also, the willingness of New England Ethanol, Inc. to serve as a grain terminal for Maine poultry farmers is an important benefit, eliminating the need for a \$3,500,000 grain facility.

