

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 (EMERGENCY)
2 FIRST SPECIAL SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1661

7
8 H.P. 1163

House of Representatives, October 30, 1985

9 Received by the Clerk of the House on October 30, 1985. Referred to the
10 Committee on Taxation and 1,800 ordered printed pursuant to Joint Rule 14.

11 EDWIN H. PERT, Clerk

Presented by Representative Cashman of Old Town.

12 Cosponsored by Senator Twitchell of Oxford and Representative
Masterman of Milo.

13 STATE OF MAINE
14

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

18 AN ACT Establishing a Commercial Forestry
19 Excise Tax and Providing an
20 Appropriation for Refunding Maine
21 Forest Fire Suppression Taxes Paid.
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 Maine Supreme Judicial Court's deci-
27 sion affirming the Superior Court's order to develop
28 a plan for refunding taxes collected under color of
29 the Forest Fire Suppression Tax creates an obligation
30 to provide a reasonably prompt refund program; and

31 Whereas, the Maine Supreme Judicial Court's find-
32 ing that the Forest Fire Suppression Act is unconsti-
33 tutional stops the levy of the 1985 Forest Fire Sup-
34 pression Tax; and

1 Whereas, taxpayers are entitled to a prompt
2 redefinition of the Maine tax structure in the light
3 of the court's findings; and

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

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

12 Sec. 1. 36 MRSA c. 366, as amended, is repealed.

13 Sec. 2. 36 MRSA c. 367 is enacted to read:

14 CHAPTER 367

15 COMMERCIAL FORESTRY EXCISE TAX

16 §2720. Determination of tax

17 1. Annual tax. An excise tax is imposed upon
18 the privilege of using one's land in commercial for-
19 estry enterprise in this State. Owners of forest
20 land which is used for growth of trees to be har-
21 vested for commercial use shall be liable for this
22 tax. The tax shall be levied upon the owners of that
23 forest land and shall be apportioned equally based on
24 a rate rounded to the nearest 1/10 of a cent by tax-
25 able acreage of forest land among the owners. For
26 the year 1985, the amount of excise tax to be as-
27 essed and collected shall be \$9,770,000. For the
28 year 1986, the amount of excise tax to be assessed
29 and collected shall be \$3,000,000. The State, munic-
30 ipalities and the Federal Government are not subject
31 to this tax.

32 2. Definition of forest land. "Forest land"
33 means that land which is classified as forest land
34 pursuant to the Tree Growth Tax Law, sections 571 to
35 583 and shall also include all other land which is
36 used primarily for the growth of trees to be har-
37 vested for commercial use, but does not include

1 ledge, marsh, open swamp, bog, water, blueberry bar-
2 ren and similar areas which are unsuitable for grow-
3 ing a forest product or for harvesting for commercial
4 use even though these areas may exist within forest
5 land. Forest land does not include land which is de-
6 scribed in section 573, subsection 3, paragraph B, C
7 or D.

8 3. Exemption. Each owner of forest land shall
9 be liable for this excise tax only to the extent that
10 the total area of the land owned throughout the State
11 exceeds 500 acres. The tax shall be computed on the
12 basis of an owner's total statewide forest land acre-
13 age in excess of 500 acres. Cotenants of property,
14 whether joint tenants or tenants in common, shall be
15 treated as one person and shall collectively be enti-
16 tled to only one exemption.

17 4. Date of ownership. The ownership and use of
18 forest land for purposes of this chapter shall be de-
19 termined as of April 1st, immediately preceding the
20 required tax return date.

21 5. Presumptions. In determining whether land
22 not classified under the Tree Growth Tax Law is for-
23 est land, all facts and circumstances shall be con-
24 sidered, including, but not limited to, whether:

25 A. The landowner is engaged in the forest
26 products business and the land is being used in
27 that business;

28 B. There is a forest management plan for commer-
29 cial use of the land; or

30 C. A particular parcel of land has been har-
31 vested for commercial purposes within the past 5
32 years.

33 §2721. Tax returns

34 The State Tax Assessor shall prescribe and make
35 reasonably available the required tax return. All
36 landowners with more than 500 acres of forested land,
37 whether or not that forest land is commercial, shall
38 complete the returns as required. These returns are
39 to be filed with the State Tax Assessor no later than
40 February 1st of the year in which the tax is due.

1 §2722. Assessment

2 The State Tax Assessor shall notify all landown-
3 ers subject to this tax of the tax assessed against
4 them. The notice shall be mailed no later than March
5 1st. Supplemental assessments shall be made subse-
6 quent to this assessment in accordance with section
7 141.

8 If the amount calculated for assessment under
9 this chapter is less than \$5, the amount assessed
10 shall be \$5.

11 §2723. Due date

12 The due date for this tax shall be April 1st sub-
13 sequent to the date of assessment. Taxes paid after
14 this date are subject to interest and penalty as pro-
15 vided in chapter 7.

16 It is the intent of the Legislature that where
17 practicable, landowners entitled to a refund because
18 of the unconstitutionality of chapter 366 will be
19 provided a credit on the tax bills arising under this
20 chapter for payments made by a landowner under chap-
21 ter 366. Those amounts collected under chapter 366
22 for which a credit on the tax bill is not provided
23 shall be refunded to the landowners on approximately
24 April 1, 1986. Interest shall be paid in accordance
25 with section 186.

26 §2724. Lien of tax

27 If the tax imposed by this chapter is not paid
28 when due, the State Tax Assessor may file in the of-
29 ice of the Registry of Deeds in the county where
30 that property is located with respect to real proper-
31 ty or fixtures and in the office in which a security
32 or financing statement or notice with respect to per-
33 sonal property would be filed a notice of lien speci-
34 fying the amount of the tax, addition to tax, penalty
35 and interest due, the name and last known address of
36 the taxpayer liable for the amount and the fact that
37 the State Tax Assessor complied with this chapter in
38 the assessment of the excise tax. From the time of
39 the filing, the amount set forth in the certificate
40 constitutes a lien on all property of the taxpayer in

1 the county then owned by him or thereafter acquired
2 by him in the period before the expiration of the
3 lien. In the case of any prior mortgage on any real
4 or personal property so written as to secure a
5 present debt and also future advances by the mortga-
6 gee to the mortgagor, the lien provided in this sec-
7 tion, when notice has been filed in the proper of-
8 fice, shall be subject to the prior mortgage unless
9 the State Tax Assessor also notifies the mortgagee of
10 the recording of the lien in writing, in which case
11 any indebtedness thereafter created from the mortga-
12 gor to the mortgagee shall be junior to the lien pro-
13 vided for in this section. The lien provided for in
14 this section has the same force, effect and priority
15 as a judgment lien and shall continue for 5 years
16 from the date of recording unless sooner released or
17 otherwise discharged. The lien may, within the
18 5-year period, or within 5 years from the date of the
19 last extension of the lien in the manner provided in
20 this section, be extended by filing in the appropri-
21 ate office a copy of the notice, and from the time of
22 the filing, the lien shall be extended for 5 addi-
23 tional years, unless sooner released or otherwise
24 discharged.

25 §2725. Enforcement of lien and collection of tax

26 The tax imposed by this chapter is subject to the
27 same collection and enforcement procedures as those
28 provided for income taxes as set forth in sections
29 5311 to 5322.

30 Sec. 3. Appropriation. The following funds are
31 appropriated from the General Fund to carry out the
32 purposes of this Act.

33 1985-86

34 FINANCE AND ADMINISTRATION,
35 DEPARTMENT OF

36 Bureau of Taxation

37 All Other \$6,000

38 Provides funds
39 for Fire Sup-

1 The Commercial Forestry Excise Tax is an excise
2 tax for the privilege of utilizing forest land in the
3 business of producing commercial forest products.
4 The tax applies to business enterprises so utilizing
5 land and is levied against owners with more than 500
6 commercial forest land acres within Maine.

7 This bill also appropriates the funds necessary
8 to provide the 1983 and 1984 Maine Forest Fire Sup-
9 pression Tax refunds.

10

5228102985