

MAINE STATE LEGISLATURE

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H.P. 1821

House of Representatives, April 6, 1990

Reported by Representative CASHMAN from the Committee on Taxation pursuant to H.P. 1791 and printed under Joint Rule 2.

Ed Pert

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Provide Funds for the Maine Solid Waste Management Fund.

(EMERGENCY)



2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 Whereas, this bill requires that certain requirements be met
prior to 90 days after adjournment; and

8 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
10 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
12 safety; now, therefore,

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

16 **Sec. 1. 36 MRSA §2526** is enacted to read:

18 **§2526. Solid waste reduction investment tax credit**

20 **1. Definitions.** As used in this section, unless the
context otherwise indicates, the following terms have the
22 following meanings.

24 A. "Employing unit" has the same meaning as in Title 26,
section 1043.

26 B. "Solid waste" has the same meaning as in Title 38,
28 section 1303-C.

30 C. "Waste reduction, reuse or recycling equipment" means
structures, machinery, equipment or devices, singly or in
32 combination, designed and required to separate, process,
modify, convert, treat or repair solid waste generated
34 within the State so that component materials or substances
or recoverable resources may be used as a raw material or
36 for productive use and includes:

38 (1) Vehicles designed and dedicated exclusively for
the collection of source-separated municipal solid
40 waste generated within the State for the purpose of
recycling;

42 (2) Add-ons or trailers designed to modify collection
vehicles and dedicated to sorting, separating and
44 transporting collected wastes generated within the
State that are held for the purpose of recycling; or
46

48 (3) Containers for the source separation and temporary
storage of recyclable wastes generated within the State.

50

2 "Waste reduction, reuse or recycling equipment" does not
3 include structures, machinery, equipment or devices used to
4 burn solid waste.

6 2. Credit allowed. A taxpayer constituting an employing
7 unit that purchases and uses, or purchases and leases to a person
8 for use by that person at a fixed facility that separates,
9 processes, converts or treats solid waste intended for sale by
10 that person, any waste reduction, reuse or recycling equipment,
11 or other equipment used exclusively in the implementation of a
12 solid waste reduction, reuse or recycling program, is entitled to
13 a credit against the tax imposed by this Part equal to 30% of the
14 cost of that equipment. "Cost of the equipment" means the
15 original basis, without adjustment, of the equipment for federal
16 income tax purposes exclusive of all architectural and
17 engineering fees, site survey fees, legal expenses, development
18 fees and insurance premiums that are included in the basis of the
19 equipment for federal income tax purposes.

20 3. Eligible machinery and equipment. Purchases eligible
21 for the credit allowed under this section include structures,
22 machinery equipment and devices used to reduce, reuse or recycle
23 solid waste, at least 90% of which is generated within the
24 State. A certificate that the structures, machinery, equipment
25 and devices qualify for the credit provided for in this section
26 from the Maine Waste Management Agency is required before the tax
27 credit may be taken. Machinery and equipment associated with the
28 separation of wastes prior to incineration are eligible when the
29 Maine Waste Management Agency certifies that the separated wastes
30 are being recycled.

32 4. Limitation; carry-over; carry-back. The amount of the
33 credit that may be used by a taxpayer for a taxable year may not
34 exceed 50% of the amount of tax otherwise due under this Part for
35 that year. Any unused credit may be carried over to the
36 following year or years for a period not to exceed 15 years or
37 may be carried back for a period not to exceed 3 years.

38 5. Application. The provisions of this section apply to
39 purchases of eligible machinery and equipment made after January
40 1, 1990.

42 Sec. 2. 36 MRS §4831, sub-§1, as enacted by PL 1989, c. 585,
43 Pt. B, is repealed.

44 Sec. 3. 36 MRS §4831, sub-§§2-A and 2-B are enacted to read:

46 2-A. Major appliance. "Major appliance" means any of the
47 following:

48 A. Clothes dryers;
49

- 2 B. Clothes washers;
- 4 C. Dishwashers;
- 6 D. Freezers;
- 8 E. Microwave ovens;
- 10 F. Ovens;
- 12 G. Refrigerators;
- 14 H. Stoves; and
- 16 I. Window air conditioners.

18 2-B. Major furniture. "Major furniture" means any unit of
 20 furniture with a value of \$250 or more. For purposes of this
 22 section, any matched set of table and chairs, such as kitchen
 dinette sets, dining room sets, patio or outdoor furniture sets,
 are considered to be one unit.

24 **Sec. 4. 36 MRSA §4831, sub-§6,** as enacted by PL 1989, c. 585,
 26 Pt. B, is repealed.

28 **Sec. 5. 36 MRSA §§4832 and 4833,** as enacted by PL 1989, c.
 30 585, Pt. B, are amended to read:

30 **§4832. Fee imposed**

32 **1. Imposition.** A fee is imposed on the retail sale in this
 34 State of new tires, new lead-acid batteries, new ~~white-goods~~
 major appliances, new major furniture items, new bathtubs and new
 36 ~~brown-goods~~ mattresses. The fee is in the amount of \$1 per tire
 or lead lead-acid battery and ~~\$15-per-white-good-or-brown-good~~
 38 ~~whether--sold--separately--or--incorporated--with--other--tangible~~
 ~~personal-property~~ \$5 for major appliances, major furniture items,
 bathtubs and mattresses. Additionally, fees in the same amounts
 40 are imposed on the storage, use or other consumption in this
 State of tires, lead lead-acid batteries, ~~white-goods~~ major
 42 appliances, major furniture items, bathtubs and ~~brown-goods~~
 mattresses purchased new in this State by the user or purchased
 44 out of State by the user unless either of the fees imposed by
 this section has been paid.

46 **2. Exemption.** Transactions which that, under the laws of
 48 ~~the-United-States~~ this State, may are not be-subjected subject to
 ~~taxation by this State and sales for immediate removal from this~~
 50 State in accordance with Part 3 are exempt from the fee imposed

2 by subsection 1. Sales of tires and lead-acid batteries that
3 occur as part of a sale of any motorized vehicle are exempt from
4 the fee imposed by subsection 1.

6 **§4833. Administration**

8 The fee imposed by this chapter shall ~~be~~ is administered as
9 provided in chapter 7 and Part 3, with the fee imposed pursuant
10 to this chapter to be considered as imposed under Part 3 ~~except~~
11 ~~that exclusions, exemptions and credits provided under Part 3 and~~
12 ~~any other provision inconsistent with this chapter shall not~~
13 ~~apply.~~

14 The ~~Maine Waste Management Agency~~ State Tax Assessor shall
15 by rule identify in specific detail those items subject to fee
16 under this chapter. The purpose of the rule is to assist retail
17 sellers, consumers and fee administrators in understanding the
18 application of the fee to specific purchases.

20 The revenue derived from the fee imposed by this chapter
21 shall must be deposited in the Maine Solid Waste Management Fund
22 established under Title 38, chapter 24, which shall must
23 reimburse the General Fund for the administrative costs of the
24 fee as certified by the Bureau of Taxation.

26 **Sec. 6. 36 MRSA §5219-D** is enacted to read:

28 **§5219-D. Solid waste reduction investment tax credit**

30 **1. Definitions.** As used in this section, unless the
31 context otherwise indicates, the following terms have the
32 following meanings.

34 A. "Employing unit" has the same meaning as in Title 26,
35 section 1043.

36 B. "Solid waste" has the same meaning as in Title 38,
37 section 1303-C.

38 C. "Waste reduction, reuse or recycling equipment" means
39 structures, machinery, equipment or devices, singly or in
40 combination, designed and required to separate, process,
41 modify, convert, treat or repair solid waste generated
42 within the State so that component materials or substances
43 or recoverable resources may be used as a raw material or
44 for productive use and includes:

46 (1) Vehicles designed and dedicated exclusively for
47 the collection of source-separated municipal solid
48 waste generated within the State for the purpose of
49 recycling;

2 (2) Add-ons or trailers designed to modify collection
3 vehicles and dedicated to sorting, separating and
4 transporting collected wastes generated within the
5 State that are held for the purpose of recycling; or

6 (3) Containers for the source separation and temporary
7 storage of recyclable wastes generated within the State.

8 "Waste reduction, reuse or recycling equipment" does not
9 include structures, machinery, equipment or devices used to
10 burn solid waste.

11
12 2. Credit allowed. A taxpayer constituting an employing
13 unit that purchases and uses, or purchases and leases to a person
14 for use by that person at a fixed facility that separates,
15 processes, converts or treats solid waste intended for sale by
16 that person, any waste reduction, reuse or recycling equipment,
17 or other equipment used exclusively in the implementation of a
18 solid waste reduction, reuse or recycling program, is entitled to
19 a credit against the tax imposed by this Part equal to 30% of the
20 cost of that equipment. "Cost of the equipment" means the
21 original basis, without adjustment, of the equipment for federal
22 income tax purposes exclusive of all architectural and
23 engineering fees, site survey fees, legal expenses, development
24 fees and insurance premiums that are included in the basis of the
25 equipment for federal income tax purposes.

26
27 3. Eligible machinery and equipment. Purchases eligible
28 for the credit allowed under this section include structures,
29 machinery equipment and devices used to reduce, reuse or recycle
30 solid waste, at least 90% of which is generated within the
31 State. A certificate that the structures, machinery, equipment
32 and devices qualify for the credit provided for in this section
33 from the Maine Waste Management Agency is required before the tax
34 credit may be taken. Machinery and equipment associated with the
35 separation of wastes prior to incineration are eligible when the
36 Maine Waste Management Agency certifies that the separated wastes
37 are being recycled.

38
39 4. Limitation; carry-over; carry-back. The amount of the
40 credit that may be used by a taxpayer for a taxable year may not
41 exceed 50% of the amount of tax otherwise due under this Part for
42 that year. Any unused credit may be carried over to the
43 following year or years for a period not to exceed 15 years or
44 may be carried back for a period not to exceed 3 years.

45
46 5. Application. The provisions of this section apply to
47 purchases of eligible machinery and equipment made after January
48 1, 1990.

2 **Sec. 7. 38 MRSA §2201, 3rd ¶**, as enacted by PL 1989, c. 585,
Pt. A, §7, and as amended by PL 1989, c. 596, Pt. H, is further
amended by to read:

4
6 Funds related to administration may only be expended in
accordance with allocations approved by the Legislature for
administrative expenses directly related to the agency's and the
8 department's programs. Funds related to operations may only be
expended in accordance with allocations approved by the
10 Legislature and solely for the development and operation of
publicly owned facilities owned or approved by the agency and for
12 the repayment of any obligations of the agency incurred under
article 3. These allocations shall must be based on estimates of
14 the actual costs necessary for the agency and the department to
administer their programs, to provide financial assistance to
16 regional associations and to provide other financial assistance
necessary to accomplish the purposes of this chapter. Beginning
18 in the fiscal year ending on June 30, 1991 and thereafter, the
fund shall annually transfer to the General Fund an amount
20 necessary to reimburse the costs of the Bureau of Taxation
incurred in the administration of Title 36, section 5219-C 5219-D
22 and Title 36, chapter 719 and an amount equal to the General Fund
revenues lost as the result of Title 36, ~~section-5219-C~~ sections
24 2526 and 5219-D. Allowable expenditures include "Personal
Services," "All Other" and "Capital Expenditures" associated with
26 all agency activities other than those included in the operations
account.

28 **Sec. 8. 38 MRSA §2201-A** is enacted to read:

30 **§2201-A. Sunset; legislative intent**

32 The Maine Solid Waste Management Fund, as established in
34 section 2201, is repealed effective June 30, 1993. It is the
intent of the Legislature that all fees, interest or other
36 revenue previously going into the Maine Solid Waste Management
Fund on that date accrue to the General Fund effective July 1,
38 1993. It is also the intent of the Legislature that all
expenditures of the Maine Waste Management Agency be made
40 appropriations from the General Fund effective July 1, 1993. The
Maine Waste Management Agency must prepare a plan, including any
42 necessary implementing legislation, to accomplish legislative
intent. This plan must be submitted to the committee of the
44 Legislature responsible for appropriations and financial affairs
by December 1, 1992, to be incorporated into the fiscal year
46 1993-94 and fiscal year 1994-95 biennial budget.

48 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect July 1, 1990.

50

FISCAL NOTE

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4 This bill replaces a \$15 "brown good-white good" fee enacted
6 last year with a \$5 major appliance-large item fee. Due to the
8 definition of the types of items subject to the fee, the new fee
10 is estimated to raise approximately \$5,700,000, or \$300,000 more
12 than the old fee. However, the bill also expands the eligibility
14 for the solid waste reduction investment tax credit, at an
16 estimated cost of \$300,000. Since any loss of General Fund
18 revenue is reimbursed by the dedicated funds of the Maine Waste
20 Management Agency, there is no immediate net fiscal impact to
22 either the General Fund or the Maine Solid Waste Management Fund
24 as a result of this legislation. There is a potential future
26 impact to both funds due to the undedication language in section
28 8 of the bill. The precise amount or type of impact on either
30 fund can not be determined at this time.

STATEMENT OF FACT

32 This bill does the following.

34 1. It allows certain corporations to take a tax credit
36 against business taxes due other than the corporate income tax.

38 2. It repeals the definition of brown good.

40 3. It enacts new definitions of items subject to the waste
42 management fee.

44 4. It repeals the definition of white good.

46 5. It replaces the \$15 white good-brown good fee enacted
48 last year with a \$5 major appliance-large item fee. It ensures
that any transaction not subject to the sales tax is exempt from
the waste management fee, and exempts tires and batteries "sold"
as part of a motorized vehicle.

6. It amends certain administrative procedures.

7. It expands the number of potential eligible applicants
for the solid waste reduction investment tax credit.

8. It also undedicates the Maine Solid Waste Management
Fund effective June 30, 1993, and requires the Maine Waste
Management Agency to develop a plan to become a General Fund unit
prior to that time.