

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2374

H.P. 1694

House of Representatives, February 20, 1992

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative LORD of Waterboro.

Cosponsored by Representative DONNELLY of Presque Isle and Senator TITCOMB of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-TWO

An Act to Amend the Fuel Use Tax to Provide Regulatory Oversight of
Over-the-road Transportation of Hazardous Materials.



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

2 Sec. 1. 29 MRSA §246-D, as amended by PL 1991, c. 499, §§4 to
4 6, is repealed.

6 Sec. 2. 29 MRSA §246-E is enacted to read:

8 §246-E. Hazardous materials transport license

10 Any motor vehicle transporting materials required to be
12 placarded in accordance with 49 Code of Federal Regulations,
14 Section 177.823 must be licensed under this section and is
16 subject to Title 36, section 4841.

18 1. Form of application. An applicant must complete a form
20 in the manner prescribed by the Secretary of State.

22 2. Issuance; display; expiration. The Secretary of State
24 shall issue a cab card and a decal to be completed and carried in
26 every vehicle required to be licensed under this section. The
28 decal must be displayed externally on the vehicle in a manner
30 prescribed by the Secretary of State. Cab cards must be
32 displayed to any law enforcement officer on demand. Cab cards
34 and decals expire annually on December 31st. Cab cards and
36 decals may be displayed on the first of December preceding their
38 effective date.

40 3. Suspension. Upon notification by the State Tax
42 Assessor, the Secretary of State shall suspend the license of an
44 owner or operator who fails to make any report or return, or who
46 fails to pay any taxes, interest or penalties when due. In
48 addition to any other penalties, the Secretary of State may
 require a \$25 reinstatement fee prior to license restoration.

4. Failure to display. Failure to display a valid
 hazardous materials transport decal and cab card or trip permit
 is a traffic infraction. Notwithstanding section 2303, the
 minimum fine for the violation of this section is \$250. This
 fine may not be reduced.

5. Falsification. An owner or operator who causes or
 permits to be displayed a false cab card, or causes or permits to
 be displayed a cab card issued for another motor vehicle commits
 a Class D crime.

6. Trip permits. In lieu of licensing and filing tax
 reports, the owner or operator of a motor vehicle required to be
 licensed under this section may apply to the Secretary of State
 for a 3-day trip permit. The fee for a trip permit is \$20. A

2 trip permit must identify and accompany the specific vehicle for
3 which it is issued.

4 7. Fees and fines. Fees and fines collected under this
5 section must be deposited in the Maine Hazardous Waste Fund.

6
7 8. Apportionment of funds. Trip permit fees collected by
8 the Secretary of State pursuant to subsection 6 and funds
9 collected pursuant to Title 36, section 4841, subsection 1,
10 deposited in the Maine Hazardous Waste Fund, must be used as
11 follows by:

12
13 A. The Department of Environmental Protection for personnel
14 and other costs associated with response to spills of
15 hazardous materials;

16
17 B. The Secretary of State for costs of administering this
18 section;

19
20 C. The Department of Public Safety for costs related to
21 motor vehicle inspection and enforcement of this section;

22
23 D. The State Emergency Response Commission, Title 37-B,
24 section 792, for hazardous materials training of local and
25 state officials; and

26
27 E. The Bureau of Taxation for costs associated with the
28 processing of returns under Title 36, section 4841,
29 subsection 1 and auditing returns.

30
31 9. Enforcement. Every state police officer or any member
32 of the Department of Public Safety designated by the Commissioner
33 of Public Safety shall enforce this section.

34
35 10. Rules. The Department of the Secretary of State and
36 the Department of Public Safety may adopt rules necessary to
37 administer and enforce this section.

38
39 11. Exemptions. The following motor vehicles are exempt
40 from this section and from the provisions of Title 36, section
41 4841:

42
43 A. Any motor vehicle owned or operated by the Federal
44 Government or any political subdivision of the Federal
45 Government;

46
47 B. Any properly registered agricultural motor vehicle used
48 in a bona fide farming operation;

2 C. Any motor vehicle used during an emergency with the
3 specific approval of a police officer, fire chief or
4 designated official for the Department of Environmental
5 Protection or the Department of Public Safety;

6 D. Any motor vehicle that has a valid license issued by the
7 Department of Environmental Protection for the
8 transportation of hazardous waste or waste oil pursuant to
9 Title 38, section 1319-O; or

10 E. Any motor vehicle used exclusively to transport oil as
11 defined in Title 38, section 542, subsection 6.

12
13 **Sec. 3. 36 MRSA c. 720 is enacted to read:**

14
15 **CHAPTER 720**

16
17 **MAINE HAZARDOUS MATERIALS TRANSPORT TAX**

18
19 **§4841. Hazardous materials transport tax; mileage tax levied**

20
21 **1. Mileage tax levied.** A mileage tax is levied at the rate
22 of 3.5¢ per mile traveled in this State on every motor vehicle
23 subject to Title 29, section 246-E.

24
25 Except as provided in this subsection, the tax must be paid
26 quarterly by the last day of April, July, October and January.
27 Every person licensed by the Secretary of State pursuant to Title
28 29, section 246-E shall report all miles traveled in this State
29 by vehicles required to be placarded pursuant to 49 Code of
30 Federal Regulations, Section 177.823. Reports must be made on
31 forms prescribed by the State Tax Assessor.

32
33 Notwithstanding the quarterly reporting requirements, the owner
34 or operator of a motor vehicle required to be licensed under
35 Title 29, section 246-E with an expected tax liability of less
36 than \$100 per year may make annual tax reports and payments.

37
38 **2. Deposit of funds.** The State Tax Assessor or a designee
39 shall deposit taxes, interest or penalties collected pursuant to
40 this section into the Maine Hazardous Waste Fund established
41 under Title 38, section 1319-D.

42
43 **3. Failure to file or pay taxes; false statement.** Any
44 owner or operator who refuses or neglects to make any statement,
45 report, payment or return required by this section is subject to
46 a penalty of \$50 or 10% of the tax due, whichever is greater.
47 The State Tax Assessor shall notify the Secretary of State of any
48 such violation. The Secretary of State shall suspend the owner's

2 or operator's account until all reports are made and taxes,
3 interest and penalties are paid.

4 An owner or operator who knowingly makes a false statement in a
5 return or report to the State Tax Assessor commits a Class E
6 crime.

7 In addition to any penalties, the State Tax Assessor shall assess
8 interest on any balance due. The interest rate must be the same
9 rate assessed for unpaid fuel taxes.

10
11
12 4. Rules. The State Tax Assessor may make rules necessary
13 to implement this section.

14
15 **Sec. 4. Effective date.** This Act takes effect January 1, 1993.

16
17 **STATEMENT OF FACT**

18
19 Public Law 1989, chapter 845 created an annual hazardous
20 materials transportation license and fee. The fee was to be used
21 to enhance hazardous materials spill response capabilities, to
22 enforce hazardous materials transportation standards and to
23 provide training for first responders. In May of 1991, the Maine
24 Supreme Court found that the fee violated the Commerce Clause of
25 the United States Constitution as a flat tax not based on use.

26
27
28 This bill reestablishes a funding mechanism through a per
mile tax on trucks carrying hazardous materials.