

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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Legislative Document

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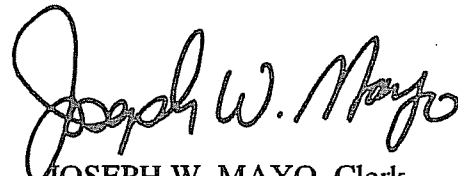
H.P. 878

House of Representatives, April 6, 1993

**An Act to Provide Funding for Response to Spills of Hazardous Materials.**

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Reference to the Committee on Transportation suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative COLES of Harpswell.  
Cosponsored by Representative: MITCHELL of Freeport.

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

2  
4        **Sec. 1. 29 MRSA §246-D**, as amended by PL 1991, c. 499, §§4 to 6, is repealed.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 placarded in accordance with 49 Code of Federal Regulations, Section 177.823 must be licensed under this section and is subject to Title 36, section 4861.

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

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

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

26        **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.

30        **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.

34        **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. Expenditure of funds. Trip permit fees collected by the  
8 Secretary of State pursuant to subsection 6 and funds collected  
9 pursuant to Title 36, section 4861, subsection 1, deposited in  
10 the Maine Hazardous Waste Fund, must be used by:

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

14  
15 B. The Secretary of State for costs of administering this  
16 section; and

17  
18 C. The Bureau of Taxation for costs associated with the  
19 processing of returns under Title 36, section 4861 and  
20 auditing returns.

21  
22 9. Enforcement. Every state police officer or any member  
23 of the Department of Public Safety designated by the Commissioner  
24 of Public Safety shall enforce this section.

25  
26 10. Rules. The Department of the Secretary of State and  
27 the Department of Public Safety may adopt rules necessary to  
28 administer and enforce this section.

29  
30 11. Exemptions. The following motor vehicles are exempt  
31 from this section and from the provisions of Title 36, section  
32 4861:

33  
34 A. Any motor vehicle owned or operated by the Federal  
35 Government or any political subdivision of the Federal  
36 Government;

37  
38 B. Any properly registered agricultural motor vehicle used  
39 in a bona fide farming operation;

40  
41 C. Any motor vehicle used during an emergency with the  
42 specific approval of a police officer, fire chief or  
43 designated official of the Department of Environmental  
44 Protection or the Department of Public Safety;

45  
46 D. Any motor vehicle that has a valid license issued by the  
47 Department of Environmental Protection for the  
48 transportation of hazardous waste or waste oil pursuant to  
49 Title 38, section 1319-O; and  
50

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

6           Sec. 3. 36 MRSA c. 723 is enacted to read:

8                           **CHAPTER 723**

10                           **MAINE HAZARDOUS MATERIALS TRANSPORT TAX**

12           **§4861. Hazardous materials transport tax; mileage tax levied**

14           1. Mileage tax levied. A mileage tax is levied at the rate  
16           of 2¢ per mile traveled in this State on every motor vehicle  
18           subject to Title 29, section 246-E.

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

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

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

50           3. Failure to file or pay taxes; false statement. Any  
owner or operator who refuses or neglects to make any statement,  
report, payment or return required by this section is subject to  
a penalty of \$50 or 10% of the tax due, whichever is greater.  
The State Tax Assessor shall notify the Secretary of State of any  
violation. The Secretary of State shall suspend the owner's or  
operator's account until all reports are made and taxes, interest  
and penalties paid.

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

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

2        4. Rules. The State Tax Assessor may make rules necessary  
4        to implement this section.

6        **Sec. 4. Effective date.** This Act takes effect January 1, 1994.

8     **STATEMENT OF FACT**

10        Public Law 1989, chapter 845 created an annual hazardous  
12        materials transportation license and fee. The major portion of  
14        the fee was to be used to support hazardous materials spill  
16        response activities. In May of 1991, the Maine Supreme Court  
found that the fee violated the Commerce Clause of the United  
States Constitution as a flat tax not based on use.

18        This bill reestablishes a funding mechanism to support  
hazardous materials incident response through a per-mile tax on  
trucks carrying hazardous materials.