

MAINE STATE LEGISLATURE

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L.D. 1748

DATE: *March 17, 1998*

(Filing No. S- 537)

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STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 585, L.D. 1748, Bill, "An Act to Modernize Maine's Fuel Tax Laws"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

Sec. 1. 36 MRSA §2902, sub-§§5 and 6 are enacted to read:

5. Terminal. "Terminal" means a storage and distribution facility for internal combustion engine fuel supplied by a pipeline or marine vessel, or both, that has been registered as a qualified terminal by the Internal Revenue Service.

6. Wholesaler. "Wholesaler" means a person that owns, operates or otherwise controls a terminal or a person that holds the internal combustion engine fuel inventory position in a terminal when that person has a contract with the terminal operator for the use of storage facilities and terminal services for fuel at the terminal.

Sec. 2. 36 MRSA §2903, sub-§1, as amended by PL 1993, c. 414, Pt. E, §1, is repealed and the following enacted in its place:

1. Excise tax imposed. An excise tax is imposed on internal combustion engine fuel used or sold within this State, including sales to the State or a political subdivision of the State, at the rate of 19¢ per gallon, except that the rate is 3.4¢ per gallon on internal combustion engine fuel, as defined in section 2902, bought or used for the purpose of propelling jet or turbojet engine aircraft.

2 Sec. 3. 36 MRSA §2903, sub-§2, as enacted by PL 1983, c. 852,
4 §4, is repealed.

6 Sec. 4. 36 MRSA §2903, sub-§§3 and 4 are enacted to read:

8 3. Legal incidence of tax. Internal combustion engine fuel
10 may be taxed only once under this section. The tax imposed by
12 this section is declared to be a levy and assessment on the
14 ultimate consumer and other persons levied and assessed pursuant
16 to this chapter are agents of the State for the collection of the
18 tax. The distributor that first receives the fuel in this State
 is primarily responsible for paying the tax except when the fuel
 is sold and delivered to a licensed exporter wholly for
 exportation from the State or to another distributor in the
 State, in which case the purchasing distributor is primarily
 responsible for paying the tax.

20 4. Exemptions. This subsection does not apply to internal
 combustion engine fuel:

22 A. Sold wholly for exportation from this State;

24 B. Brought into this State in the ordinary standardized
26 equipment fuel tank attached to and a part of a motor
 vehicle and used in the operation of that vehicle in this
 State;

28 C. Sold in bulk to any political subdivision of this State;

30 D. Bought or used by any person to propel jet or turbojet
32 engine aircraft in international flight;

34 E. Brought into this State in the fuel tanks of an
 aircraft; or

36 F. On which the collection of the tax imposed by this
38 section is precluded by federal law or regulation.

40 Sec. 5. 36 MRSA §2906, as amended by PL 1991, c. 846, §34, is
42 repealed and the following enacted in its place:

44 §2906. Reports; payment of tax; allowance for losses

46 1. Monthly reports from distributors, importers and
48 exporters. Every licensed distributor, importer and exporter
50 shall file with the assessor on or before the 21st day of each
 month a report stating the number of gross gallons of internal
 combustion engine fuel received, sold and used in the State by
 that distributor, importer or exporter during the preceding
 calendar month. The report must be filed on a form prescribed

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2 and furnished by the assessor and must contain any other
information reasonably required by the assessor.

4 2. Payment of tax. At the time of filing the report
required by this section, each distributor and importer shall pay
6 to the assessor the tax imposed by section 2903 on each gallon
reported as sold, distributed or used.

8
10 3. Allowance for certain losses. An allowance of not more
than 1/2 of 1% from the amount of fuel received by a distributor,
12 plus 1/2 of 1% on all transfers in vessels, tank cars or full
tank truck loads by a distributor in the regular course of the
14 distributor's business from one of the distributor's places of
business to another within the State, may be granted by the
16 assessor to cover losses sustained by the distributor through
shrinkage, evaporation or handling. The total allowance for
18 these losses must be supported by documentation satisfactory to
the assessor and may not exceed 1% of the receipts by the
20 distributor. The allowance must be calculated on an annual
basis. A further deduction may not be allowed unless the
22 assessor is satisfied upon definite proof submitted to the
assessor that a further deduction should be allowed for a loss
sustained through fire, accident or some unavoidable calamity.

24
26 4. Refunds to retailers. A retail dealer is entitled to a
refund for tax paid on account of shrinkage or loss by
28 evaporation of motor fuel in an amount no greater than 1/2 of 1%
of the tax paid on gross purchases. The procedure for such a
refund is as follows.

30
32 A. All applications for refunds must be made under
penalties of perjury and must be made semiannually within 90
days after June 30th and December 31st respectively.

34
36 B. The application must be made on a form prescribed and
furnished by the assessor and must be accompanied by a
38 statement from the distributor, supplier or wholesaler of
the gross purchases of motor fuel made by the retail dealer
during the relevant 6-month period.

40
42 C. The assessor shall calculate the amount of the refund
due on all properly completed applications and shall certify
44 that amount and the name of the person entitled to the
refund to the Treasurer of State. The Treasurer of State
46 shall make a certified refund from taxes imposed by this
chapter.

48 5. Monthly reports from wholesalers. Each wholesaler shall
submit on or before the last day of each month on a form
50 prescribed and furnished by the assessor a report stating the
number of gross gallons sold by that wholesaler to each
52 distributor, importer, exporter or any other person that

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2 purchased internal combustion engine fuel from that wholesaler
3 during the preceding month. The report must clearly identify
4 each purchaser and indicate the number of gallons that each
5 purchaser received from the wholesaler. The report must also
6 contain any other information reasonably required by the assessor.

7 **Sec. 6. 36 MRSA §2914**, as enacted by PL 1983, c. 852, §5, is
8 repealed.

9 **Sec. 7. 36 MRSA §2915**, as amended by PL 1989, c. 501, Pt. DD,
10 §45, is repealed.

11 **Sec. 8. 36 MRSA §2916-A**, as enacted by PL 1987, c. 793, Pt.
12 B, §2, is repealed.

13 **Sec. 9. 36 MRSA §3202, sub-§§7-A and 10** are enacted to read:

14 **7-A. Terminal.** "Terminal" means a storage and distribution
15 facility for special fuel supplied by a pipeline or marine
16 vessel, or both, that has been registered as a qualified terminal
17 by the Internal Revenue Service.

18 **10. Wholesaler.** "Wholesaler" means a person that owns,
19 operates or otherwise controls a terminal or a person that holds
20 the special fuel inventory position in a terminal when that
21 person has a contract with the terminal operator for the use of
22 storage facilities and terminal services for fuel at the terminal.

23 **Sec. 10. 36 MRSA §3203**, as amended by PL 1997, c. 262, §1, is
24 repealed and the following enacted in its place:

25 **§3203. Tax levied; consignment sales; credited to Highway Fund;**
26 **allowance for losses**

27 **1. Generally.** Except as provided in section 3204-A, an
28 excise tax is levied and imposed on all suppliers of special fuel
29 sold and on all users of special fuel used in this State for each
30 gallon of distillate at the rate of 20¢ per gallon and for each
31 gallon of low-energy fuel at the rate of 18¢ per gallon.

32 **2. Legal incidence of tax.** Special fuel may be taxed only
33 once under this section. The tax imposed by this section is
34 declared to be a levy and assessment on the ultimate consumer and
35 other persons levied and assessed pursuant to this chapter are
36 agents of the State for the collection of the tax. The supplier
37 is primarily responsible for paying the tax except when the fuel
38 is sold and delivered to a licensed exporter wholly for
39 exportation from the State or to another supplier in the State,
40 in which case the purchasing supplier is primarily responsible
41 for paying the tax.

3. Consignment sales. When special fuel is delivered by a supplier on a consignment basis to a consumer or to a retail outlet, whether or not the retail outlet is wholly owned by the supplier, it is considered to have been sold within the meaning of this chapter.

4. Highway Fund. All taxes and fines collected under this chapter must be credited to the Highway Fund.

5. Allowance for certain losses of undyed diesel fuel. An allowance of not more than 1/4 of 1% from the amount of undyed diesel fuel received by the distributor, plus 1/4 of 1% on all transfers in vessels, tank cars or full tank truck loads by a distributor in the regular course of business from one of the distributor's places of business to another of the distributor's places of business within the State, may be allowed by the assessor to cover the loss through shrinkage, evaporation or handling sustained by the distributor. The total allowance for these losses must be supported by documentation satisfactory to the assessor and may not exceed 1/2 of 1% of the receipts by the distributor. The allowance must be calculated on an annual basis. A further deduction may not be allowed unless the assessor is satisfied upon definite proof submitted to the assessor that a further deduction should be allowed for a loss sustained through fire, accident or some unavoidable calamity.

6. Allowance for certain losses of propane. An allowance of not more than 1% from the amount of propane received by the distributor, plus 1% on all transfers in vessels, tank cars or full tank truck loads by a distributor in the regular course of business from one of the distributor's places of business to another of the distributor's places of business within the State, may be allowed by the assessor to cover the loss through shrinkage, evaporation or handling sustained by the distributor. The total allowance for these losses must be supported by documentation satisfactory to the assessor and may not exceed 2% of the receipts by the distributor. A further deduction may not be allowed unless the assessor is satisfied upon definite proof submitted to the assessor that a further deduction should be allowed for a loss sustained through fire, accident or some unavoidable calamity.

Sec. 11. 36 MRSA §3204-A, as enacted by PL 1995, c. 271, §7, is amended to read:

§3204-A. Exemptions

The following fuels are exempt from the tax imposed by section 3203:

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1. ~~Single lot.~~ Special fuel purchased in a single lot of no more than 275 gallons and used solely for heating or cooking purposes;

2. **Delivered into tank.** Special fuel delivered into a tank used solely for heating or cooking purposes, sold for resale to a licensed or registered supplier;

3. **Political subdivision.** Special fuel sold to this State or any political subdivision of this State;

4. **Preclusion by federal law.** Special fuel sold or used in such form or under such circumstances as precludes the collection of tax by reasons of federal law;

5. **Exportation.** Special fuel sold only for exportation from this State;

6. **Generation.** Special fuel sold to a person for the generation of power for resale or manufacturing; and

7. **Kerosene for retail sale.** Kerosene delivered into a separate tank for retail sale, in which case the excise tax must be remitted by licensed users pursuant to section 3207, rather than by the supplier; and

8. **Dyed fuel.** Dyed fuel.

~~The purchaser of special fuel that qualifies for one of the above exemptions must sign and provide to the seller a sworn statement indicating that the fuel will be used for the exempt purpose. The State Tax Assessor shall make forms available to suppliers for this purpose. The signed form must be retained by the supplier for at least 3 years.~~

Sec. 12. 36 MRSA §3209, as amended by PL 1987, c. 200, §2 and affected by §3, is repealed and the following enacted in its place:

§3209. Reports; payment of tax; allowance for losses

1. **Suppliers.** Every licensed supplier shall file on or before the last day of each month a report with the assessor stating the gross gallons of special fuel received, sold and used in this State by that supplier during the preceding calendar month, on a form prescribed and furnished by the assessor. The report must contain any further information reasonably required by the assessor. At the time of filing the report required by this subsection, each supplier must pay to the assessor a tax as prescribed in section 3203 upon each gallon reported as a taxable sale or as taxable gallons used.

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2	Positions - Legislative Count	(2,000)
	Personal Services	\$65,725
4	All Other	28,455

6 Provides funds for a Principal Revenue Agent
 position and a Revenue Agent position and
 8 related administrative expenses to perform
 desk audits of fuel tax reports.

10 **DEPARTMENT OF ADMINISTRATIVE AND**
 12 **FINANCIAL SERVICES**
TOTAL

 \$94,180'

14 Further amend the bill by inserting at the end before the
 16 summary the following:

18 **FISCAL NOTE**

20 **1998-99**

22 **APPROPRIATIONS/ALLOCATIONS**

24	Highway Fund	\$94,180
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26 **REVENUES**

28	Highway Fund	\$299,334
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30 This bill will increase fuel tax collections through
 32 additional reporting requirements and audit assessments. The
 estimated increases of Highway Fund revenue will be \$299,334 in
 34 fiscal year 1998-99, \$1,205,906 in fiscal year 1999-2000 and
 \$1,217,964 in fiscal year 2000-01. This bill will also increase
 36 undedicated General Fund revenue, General Fund revenue collected
 by the Department of Inland Fisheries and Wildlife and dedicated
 38 revenue collected by the Department of Conservation by minor
 amounts.

40 The Bureau of Revenue Services will require 2 additional
 42 positions, a Principal Revenue Agent position and a Revenue Agent
 position, to perform desk audits. In addition to the
 44 position-related costs, estimated to be \$94,180 in fiscal year
 1998-99 and approximately \$90,100 annually beginning in fiscal
 46 year 1999-2000, the bureau will require a new information system
 to produce the amount of revenue projected above. The estimated
 48 cost of this information system may be as much as \$350,000 in
 fiscal year 1998-99. This bill includes a Highway Fund
 allocation of \$94,180 in fiscal year 1998-99 to fund these

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2 additional positions and related administrative expenses. The
 4 Bureau of Revenue Services plans to use its authority under the
 6 Maine Revised Statutes, Title 36, section 113 to fund the cost of
 8 the information system out of the additional revenue generated as
 a result of a contract to implement the information system. The
 revenue estimate in fiscal year 1998-99 is adjusted downward to
 reflect the netting-out of the cost of the information system.'

10 **SUMMARY**

12 This amendment replaces the original bill. The amendment
 14 replaces several provisions in Maine's gasoline and special fuel
 16 tax laws to improve readability and to make the following
 18 changes. Diesel fuel that is dyed pursuant to the requirements
 of the Federal Government is made exempt from excise tax,
 therefore decreasing refund-related paperwork for the industry
 and for the State. The statutory provisions relating to stock
 loss allowances are amended. The allowance for gasoline is
 20 changed to 1/2 of 1% on an annual basis and a new allowance for
 22 special fuel is provided at 1/4 of 1% on an annual basis. A new
 monthly reporting requirement is imposed on motor fuel
 wholesalers in order to provide the Bureau of Revenue Services
 24 within the Department of Administrative and Financial Services
 with additional audit tools for identifying noncompliance.

26 The amendment also adds an allocation section and a fiscal
 28 note to the bill.

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