

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-1997

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Legislative Document

No. 1748

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S.P. 585

In Senate, April 7, 1997

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**An Act to Modernize Maine's Fuel Tax Laws.**

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Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator RUHLIN of Penobscot.  
Cosponsored by Representative DRISCOLL of Calais and  
Senators: MILLS of Somerset, O'GARA of Cumberland, PARADIS of Aroostook,  
Representatives: LABRECQUE of Gorham, MORGAN of South Portland, SAVAGE of  
Union, WHEELER of Eliot.

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

2  
4       **Sec. 1. 36 MRSA §177, sub-§1**, as amended by PL 1995, c. 639, §4, is further amended to read:

6           **1. Generally.** All sales and use taxes collected by a  
8 person pursuant to Part 3, all taxes collected by a person under  
10 color of Part 3 that have not been properly returned or credited  
12 to the persons from whom they were collected, all taxes collected  
14 by or imposed on a person pursuant to chapter ~~451-er-459~~ 465, all  
16 fees collected pursuant to chapter 719 and all taxes collected by  
18 a person pursuant to chapter 827 constitute a special fund in  
20 trust for the State Tax Assessor. The liability for the taxes or  
fees and the interest or penalty on taxes or fees is enforceable  
by assessment and collection, in the manner prescribed in this  
Part, against the person and against any officer, director,  
member, agent or employee of that person who, in that capacity,  
is responsible for the control or management of the funds or  
finances of that person or is responsible for the payment of that  
person's taxes.

22       **Sec. 2. 36 MRSA c. 451** is repealed.

24       **Sec. 3. 36 MRSA c. 459** is repealed.

26       **Sec. 4. 36 MRSA c. 461** is repealed.

28       **Sec. 5. 36 MRSA c. 465** is enacted to read:

30                           CHAPTER 465

32                           FUEL TAX

34                           SUBCHAPTER I

36                           GENERAL PROVISIONS

38       §3315. Short title

40           This chapter may be known and cited as the "Maine Fuel Tax  
42 Law."

44       §3316. Definitions

46           As used in this chapter, unless the context otherwise  
48 indicates, the following terms have the following meanings.

50           1. Alternate fuel. "Alternate fuel" means all combustible  
gases and liquids suitable for generation of power for propulsion  
of motor vehicles, other than motor fuel. "Alternate fuel"

2 includes all forms of fuel commonly or commercially known or sold  
3 as butane, propane or compressed natural gas.

4 2. Alternate fuel dealer. "Alternate fuel dealer" means  
5 any person in the business of handling alternate fuel that  
6 delivers the fuel into the fuel supply tank or tanks of a motor  
7 vehicle.

8  
9 3. Alternate fuel user. "Alternate fuel user" means the  
10 owner or other person responsible for the operations of a motor  
11 vehicle at the time alternate fuel is placed in the fuel supply  
12 tank of the motor vehicle while the vehicle is within this State.

13 4. Blend stock. "Blend stock" includes any petroleum  
14 product component of gasoline, such as naphtha, reformat or  
15 toluene, that can be blended for use in a motor fuel. "Blend  
16 stock" does not include any substance that ultimately is used for  
17 consumer nonmotor fuel use and is sold or removed in drum  
18 quantities of 55 gallons or less at the time of the removal or  
19 sale.

20  
21 5. Blended fuel. "Blended fuel" means a mixture composed  
22 of gasoline or diesel fuel and another liquid, other than a de  
23 minimis amount of a product such as carburetor detergent or  
24 oxidation inhibitor, that can be used as a fuel in a highway  
25 vehicle.

26  
27 6. Blending. "Blending" means the mixing of one or more  
28 petroleum products, with or without another product, regardless  
29 of the original character of the product blended, if the product  
30 obtained by the blending is capable of use or otherwise sold for  
31 use in the generation of power for the propulsion of a motor  
32 vehicle, an airplane or a motorboat. "Blending" does not include  
33 blending that occurs in the process of refining by the original  
34 refiner of crude petroleum or the blending of products known as  
35 lubricating oil and greases.

36  
37 7. Bulk plant. "Bulk plant" means a motor fuel storage and  
38 distribution facility that is not a terminal and from which motor  
39 fuel may be removed by a rack.

40  
41 8. Bulk transfer. "Bulk transfer" means a transfer of  
42 motor fuel from one location to another by pipeline tender or  
43 marine delivery within the bulk transfer and terminal system.

44  
45 9. Bulk transfer and terminal system. "Bulk transfer and  
46 terminal system" means the motor fuel distribution system  
47 consisting of refineries, pipelines, vessels and terminals.  
48 Gasoline in a refinery, pipeline, vessel or terminal is in the  
49 bulk transfer and terminal system. Taxable motor fuel in the  
50 fuel supply tank of an engine or in a tank car, rail car,

2 trailer, truck or other equipment suitable for ground  
3 transportation is not in the bulk transfer and terminal system.

4 10. Dead storage. "Dead storage" is the amount of taxable  
5 motor fuel that can not be pumped out of a storage tank because  
6 the motor fuel is below the mouth of the draw pipe. For the  
7 purposes of this chapter, a fuel vendor or supplier may assume  
8 that the amount of motor fuel in dead storage is 200 gallons for  
9 a tank with a capacity of 10,000 gallons or less and 400 gallons  
10 for a tank with a capacity of more than 10,000 gallons.

11 11. Destination state. "Destination state" means the  
12 state, territory or foreign country to which motor fuel is  
13 directed for delivery into a storage facility, a receptacle, a  
14 container or transportation equipment for the purpose of resale  
15 or use.

16 12. Diesel fuel. "Diesel fuel" means a liquid that is  
17 commonly or commercially known or sold as a fuel that is suitable  
18 for use in a diesel-powered highway vehicle. A liquid meets  
19 this requirement if, without further processing or blending, the  
20 liquid has practical and commercial fitness for use in the  
21 propulsion engine of a diesel-powered highway vehicle. However,  
22 a liquid does not possess this practical and commercial fitness  
23 solely by reason of its possible or rare use as a fuel in the  
24 propulsion engine of a diesel-powered highway vehicle. "Diesel  
25 fuel" does not include jet fuel if the buyer is registered to  
26 purchase jet fuel subject to federal taxes applicable to jet fuel  
27 and the seller obtains certification of that fact satisfactory to  
28 the Internal Revenue Service before making the sale.

29 13. Diesel-powered highway vehicle. "Diesel-powered  
30 highway vehicle" means a motor vehicle operated on the public  
31 ways of this State that is propelled by a diesel-powered engine.

32 14. Dyed diesel fuel. "Dyed diesel fuel" means diesel fuel  
33 that is required to be dyed under United States Environmental  
34 Protection Agency and Internal Revenue Service rules or pursuant  
35 to other requirements subsequently set by the United States  
36 Environmental Protection Agency and the Internal Revenue Service  
37 including any invisible marker requirements.

38 15. Ethanol. "Ethanol" means fuel-grade ethanol.

39 16. Export. "Export" means to obtain motor fuel in this  
40 State for sale or other distribution in another state. In  
41 applying this definition, motor fuel delivered out of state by or  
42 for the seller constitutes an export by the seller and motor fuel  
43 delivered out of state by or for the purchaser constitutes an  
44 export by the purchaser.

2           17. Exporter. "Exporter" means a person, other than a  
3           supplier, who purchases taxable motor fuel in this State for the  
4           purpose of transporting or delivering the fuel to another state  
5           or country.

6           18. Fuel. "Fuel" means motor fuel, alternate fuel or any  
7           blends of motor fuel and alternate fuel.

8           19. Fuel-grade ethanol. "Fuel-grade ethanol" means ethanol  
9           that meets the American Society for Testing and Materials D-4806  
10           standard in effect January 1, 1995 or any successor standard  
11           adopted by the American Society for Testing and Materials for  
12           denatured fuel-grade ethanol for blending with gasoline for use  
13           as automatic spark-ignition engine fuels.

14           20. Fuel vendor. "Fuel vendor" means a supplier, an  
15           ultimate vendor or any other person that purchases and sells  
16           motor fuel in this State.

17           21. Gasoline. "Gasoline" means all products commonly or  
18           commercially known or sold as gasoline that are suitable for use  
19           as a motor fuel. "Gasoline" does not include a product sold as a  
20           product other than gasoline and that has an American Society for  
21           Testing Materials octane number of less than 75 as determined by  
22           the motor method and does not include aviation gasoline if the  
23           buyer is registered to purchase aviation gasoline free of tax and  
24           the seller obtains certification of that fact satisfactory to the  
25           Bureau of Taxation before making the sale.

26           22. Gasoline-blend stocks. "Gasoline-blend stocks"  
27           includes any petroleum product component of gasoline, such as  
28           naphtha, reformat or toluene, that can be blended for use in a  
29           motor fuel. "Gasoline-blend stocks" do not include any substance  
30           that ultimately is used for consumer nonmotor fuel use and is  
31           sold or removed in drum quantities of 55 gallons or less at the  
32           time of the removal or sale.

33           23. Import. "Import" means to bring motor fuel into this  
34           State for sale, use or storage by any means of conveyance other  
35           than in the fuel supply tank of a motor vehicle. Motor fuel  
36           delivered into this State by or for the seller constitutes an  
37           import by the seller and motor fuel delivered into this State by  
38           or for the purchaser constitutes an import by the purchaser.

39           24. Importer. "Importer" means a person who imports motor  
40           fuel into this State.

41           25. Invoiced gallons. "Invoiced gallons" means the gallons  
42           billed on an invoice in payment to a supplier.

2           26. Liquid. "Liquid" means a substance that is liquid in  
excess of 60 degrees Fahrenheit and a pressure of 14.7 pounds per  
square inch absolute.

4  
6           27. Motor fuel. "Motor fuel" means gasoline, diesel fuel  
or blended fuel.

8           28. Motor vehicle. "Motor vehicle" means a vehicle that is  
propelled by an internal combustion engine or motor and is  
10 designed to permit the vehicle's mobile use on highways. "Motor  
vehicle" does not include:

12           A. Farm machinery including machinery designed for off-road  
14 use but capable of movement on roads at low speeds;

16           B. A vehicle operated on rails; or

18           C. Machinery designed principally for off-road use.

20           29. Net gallons. "Net gallons" means the remaining  
product, after all considerations and deductions have been made,  
22 measured in United States gallons, corrected to a temperature of  
60 degrees Fahrenheit, 13 degrees Celsius and a pressure of 14.7  
24 pounds per square inch.

26           30. Position holder. "Position holder" means the person  
who holds the motor fuel inventory position in a terminal, as  
28 reflected on the records of the terminal operator. A person  
holds the motor fuel inventory position when that person has a  
30 contract with the terminal operator for the use of storage  
facilities and terminal services for fuel at the terminal.  
32 "Position holder" includes a terminal operator who owns fuel in  
the terminal.

34           31. Public way. "Public way" has the same meaning as  
36 provided in Title 29-A, section 101, but also includes ways  
operated and maintained by the Maine Turnpike Authority.

38           32. Qualified terminal. "Qualified terminal" means a  
40 terminal defined as a qualified terminal under federal law or  
regulations that has been assigned a terminal control number by  
42 the Internal Revenue Service.

44           33. Rack. "Rack" means a mechanism for delivering motor  
fuel from a refinery, a terminal or a bulk plant into a railroad  
46 tank car, a transport truck or another means of bulk transfer  
outside of the bulk transfer and terminal system.

48           34. Refiner. "Refiner" means a person who owns, operates  
50 or otherwise controls a refinery within the United States.

2           35. Refinery. "Refinery" means a facility used to produce  
taxable motor fuel from crude oil, unfinished oils, natural gas  
liquids or other hydrocarbons and from which taxable motor fuel  
4 may be removed by pipeline, by vessel or by a rack.

6           36. Removal. "Removal" means a physical transfer other  
than by evaporation, loss or destruction of taxable motor fuel  
8 from customs custody or a terminal, manufacturing plant,  
pipeline, marine vessel including barges and tankers, refinery or  
10 any receptacle that stores taxable motor fuel.

12           37. Retailer. "Retailer" means a person who engages in the  
business of selling or distributing taxable motor fuel to the end  
14 user within this State.

16           38. Supplier. "Supplier" means a person who is:

18           A. Subject to the general taxing jurisdiction of this State;

20           B. Registered under Section 4101 of the Code for  
22 transactions in taxable motor fuels in the bulk transfer and  
terminal distribution system; and

24           C. One of the following:

26                   (1) The position holder in a terminal or refinery in  
28 this State;

30                   (2) A person who imports taxable motor fuel into this  
State from a foreign country;

32                   (3) A person who acquires taxable motor fuel from a  
34 terminal or refinery in this State from a position  
holder pursuant to a 2-party exchange; or

36                   (4) The position holder in a terminal or refinery  
38 outside this State with respect to taxable motor fuel  
that the position holder imports into this State on the  
position holder's own account.

40           39. Taxable motor fuel. "Taxable motor fuel" means  
42 gasoline, diesel fuel other than dyed diesel fuel, kerosene or  
blends of these or any other substance blended with any of these.  
44

46           40. Terminal. "Terminal" means a storage and distribution  
facility for taxable motor fuel supplied by a pipeline or marine  
vessel or both that has been registered as a qualified terminal  
48 by the Internal Revenue Service.

50           41. Terminal operator. "Terminal operator" means a person  
that owns, operates or otherwise controls a terminal and does not  
52 use a substantial portion of the taxable motor fuel that is



2 transferred through or stored in the terminal for its own use.  
3 "For its own use" means for its own consumption or in the  
4 manufacture of products other than motor fuel. A terminal  
5 operator may own the taxable motor fuel that is transferred  
6 through or stored in the terminal.

7 42. Transmix. "Transmix" means the buffer or interface  
8 between 2 different products in a pipeline shipment or a mix of 2  
9 different products within a refinery or terminal that results in  
10 an off-grade mixture.

11 43. Transport truck. "Transport truck" means a semitrailer  
12 combination rig designed or used to transport liquid motor fuel  
13 over the highways.

14 44. Two-party exchange. "Two-party exchange" or "2-party  
15 exchange" means a transaction in which a product is transferred  
16 from a certified supplier to another pursuant to an exchange  
17 agreement. An exchange agreement means an agreement between a  
18 certified supplier and another certified supplier when one is a  
19 position holder in a terminal who agrees to deliver taxable motor  
20 fuel to the other party or the other party's customer at the  
21 loading rack of the terminal where the delivering party holds an  
22 inventory position.

23 45. Ultimate purchaser. "Ultimate purchaser" means a  
24 person that is the end user or consumer of motor fuel.

25 46. Ultimate vendor. "Ultimate vendor" means a person that  
26 sells motor fuel to the ultimate purchaser. A supplier may be an  
27 ultimate vendor.

28 47. Use. "Use" means the receipt, delivery or placing of  
29 alternate fuel into the fuel supply tank or tanks of a motor  
30 vehicle in this State by an alternate fuel user.

31 48. User. "User" means any person that is the registered  
32 owner of, or who causes the operation in this State of, any motor  
33 vehicle that uses diesel fuel or alternate fuel in an internal  
34 combustion engine and that:

35 A. Has a gross vehicle weight or combined gross vehicle  
36 weight of more than 26,000 pounds;

37 B. Has 3 or more axles on the power unit regardless of  
38 gross weight; or

39 C. Is a bus designed to carry 20 or more passengers.

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**SUBCHAPTER II**

IMPOSITION AND MEASUREMENT OF TAX; GENERAL  
PROHIBITION ON UNLAWFUL USE

2  
4  
6 **§3318. Tax on gasoline and diesel fuel**

8 Subject to the exemptions provided in this chapter, an  
10 excise tax is imposed on all gasoline and on all diesel fuel used  
12 or consumed in this State in producing or generating power for  
14 propelling motor vehicles. The tax is imposed on gasoline at the  
16 rate of 19¢ per gallon and on diesel fuel at the rate of 20¢ per  
18 gallon. The tax imposed on motor fuel by this section is a levy  
and assessment on the consumer and other persons levied and  
assessed pursuant to this chapter are agents of the State for the  
collection of the tax. This section does not affect the method  
of collecting the tax as provided in this chapter. The tax  
imposed by this section must be collected and paid at the times,  
in the manner and by the persons specified in this chapter.

20 **§3319. Measurement of tax on motor fuel; tax complemented by**  
22 **tax measured annually at each terminal**

24 1. Generally. Except as provided in subsection 3, the tax  
26 imposed by this chapter is measured by invoiced gallons of  
taxable motor fuel removed, other than by a bulk transfer, by a  
certified supplier:

28 A. From a qualified terminal or refinery within this State;  
30 or

32 B. From a qualified terminal or refinery outside this State  
34 for delivery to a location in this State as represented on  
the shipping papers if the supplier imports the taxable  
motor fuel for its own account or the supplier has  
precollected the tax imposed by section 3318.

36 This tax otherwise generally is determined in the same manner as  
38 the tax imposed by Section 4081 of the Code and by the Code of  
Federal Regulations.

40 2. Addition to tax. A tax measured annually at each  
42 terminal in this State by the amount by which net gallons lost or  
unaccounted for, including transmix, within each terminal exceeds  
44 the sum of net gallon gains plus 1/2 of one percent times the  
46 number of all net gallons removed from the terminal across the  
rack or in bulk must be added to the tax imposed by this chapter  
48 as measured by gallons removed by a supplier or terminal operator  
from terminals in this State.

50 3. Importation of motor fuel. The tax imposed by this  
52 chapter on motor fuel that was imported into this State by a  
certified importer, other than by bulk transfer, accrues at the

2 time the product enters into the State and is measured by  
3 invoiced gallons received outside this State at a refinery,  
4 terminal or a bulk plant for delivery to a destination in this  
5 State.

6 **§3320. Increases in tax rate**

8 **1. Generally.** On the effective date of any increase in the  
9 rate of the tax imposed by this chapter, the tax at the increased  
10 rate is applicable to previously taxed motor fuel in excess of  
11 1,000 gallons held in storage by an end user and to inventory  
12 held for sale by a fuel vendor.

14 **2. Persons outside the bulk transfer system.** The tax  
15 imposed by this chapter is applicable to nonexempt inventory held  
16 by a person outside of the bulk transfer system in this State in  
17 quantities that in the aggregate with respect to that person  
18 exceed one thousand gallons, to the extent the inventory  
19 previously has not been subject to a motor fuel tax imposed by  
20 this State. However, no tax is payable with respect to taxable  
21 motor fuel that is dyed diesel fuel or held for an exempt use,  
22 including by government entities described in sections 3322 and  
23 3323.

24 **3. Requirements.** Persons possessing taxable motor fuel  
25 subject to this section shall:

28 A. Take an inventory to determine the gallons in storage  
29 for purposes of determining the tax on inventory;

30 B. Deduct the amount of taxable motor fuel in dead storage;

31 C. Deduct those gallons on which tax at the new rate  
32 previously has been paid;

33 D. Take a deduction for gallons of dyed diesel fuel  
34 included in paragraph A, if appropriate; and

35 E. Report the gallons listed in paragraph A on forms  
36 provided by the State Tax Assessor.

37 **4. Calculation of inventory tax.** The amount of inventory  
38 tax is equal to the inventory tax rate times the gallons in  
39 storage as determined under subsection 3. The inventory tax rate  
40 is equal to the difference between the increased tax rate minus  
41 the previous tax rate to which those gallons were previously  
42 subjected to tax.

43 **§3321. Unlawful sale, use, delivery or storage of taxable motor**  
44 **fuel prohibited; exceptions**

1. Generally. Except as otherwise provided in this chapter, no person may sell, use, deliver or store in this State or import for sale, use, delivery or storage in this State taxable motor fuel unless the tax imposed under section 3318 has been paid.

2. Penalties. A person who commits or knowingly aids and abets another in committing any act described in subsection 1 is guilty of a Class E crime.

### SUBCHAPTER III

#### EXEMPTIONS AND REFUNDS

##### §3322. Exemptions for gasoline sold by suppliers

Subject to the procedural requirements and conditions set out in this chapter, sales of gasoline are exempt from the tax imposed by this chapter in the following circumstances.

1. Export. Gasoline sold wholly for exportation from this State is exempt from tax imposed by this chapter only when the supplier that is otherwise responsible for tax on removal of the product from a terminal in this State takes a deduction for the exported fuel on the report filed pursuant to section 3328.

2. Political subdivisions of State. Gasoline sold in bulk to any political subdivision of this State is exempt from the tax imposed by this chapter.

3. International flight. Gasoline sold for use in propelling jet or turbojet engine aircraft in international flight is exempt from the tax imposed by this chapter.

4. Federal Government. Gasoline sold to the Federal Government or its agencies or instrumentalities and any other gasoline on which the collection of the tax imposed by this chapter is precluded by federal law or regulation are exempt from the tax imposed by this chapter.

##### §3323. Exemptions for diesel fuel sold by suppliers

Subject to the procedural requirements and conditions set out in this chapter, sales of diesel fuel are exempt from the tax imposed by this chapter in the following circumstances.

1. Export. Sales of diesel fuel wholly for exportation from this State are exempt from the tax imposed by this chapter only when the supplier that is otherwise responsible for tax on removal of the product from a terminal in this State takes a deduction for the exported fuel on the report filed pursuant to section 3328.

2           2. State of Maine. Sales of diesel fuel to this State or  
to any political subdivision of this State are exempt from the  
4 tax imposed by this chapter.

6           3. Dyed diesel fuel. Sales of dyed diesel fuel are exempt  
from the tax imposed by this chapter.

8           4. Federal Government. Sales of diesel fuel to the Federal  
10 Government or its agencies or instrumentalities and any other  
sales of diesel fuel on which the collection of the tax imposed  
12 by this chapter is precluded by federal law or regulation are  
exempt from the tax imposed by this chapter.

14 **§3324. Refunds and credits for federal government sales**

16           Refunds and credits with respect to sales of motor fuel to  
18 the Federal Government are administered as provided in this  
section.

20           1. Generally. The ultimate vendor that makes a sale of  
22 tax-paid motor fuel to an exempt government user may apply for a  
refund or credit on behalf of the exempt user. The claim must be  
24 made directly to the State Tax Assessor pursuant to rules and  
procedures adopted by, and on forms provided by, the assessor.  
26 In the event of a claim for refund, the assessor shall issue a  
refund within 30 days of receipt of the claim for refund from the  
28 certified vendor. Rules adopted pursuant to this subsection are  
routine technical rules as defined in Title 5, chapter 375,  
30 subchapter II-A.

32           2. Sales at retail pump. If the sale to an exempt  
government entity of taxable motor fuel occurs at a fixed retail  
34 pump available to the general public, refunds may be applied for  
as follows.

36           A. The ultimate vendor may apply for a refund from the  
38 assessor by submitting an application on a form prescribed  
by the assessor, along with supporting documentation.

40           B. The ultimate vendor may apply for a refund or credit  
42 against its liabilities otherwise arising under this  
chapter, if:

44                   (1) The purchase is charged to a credit card issued to  
46 an eligible government entity;

48                   (2) The issuer of the card elects to be the ultimate  
50 vendor; and

52                   (3) The federal agency is billed without the tax.

2 C. The government entity may, if the sale to that entity  
4 includes the tax levied by this chapter, apply for a refund  
6 from the assessor by submitting an application accompanied  
8 by such supporting documentation as the assessor reasonably  
10 requires.

12 **§3325. Refunds to ultimate purchasers**

14 **1. Generally.** Subject to the requirements of subsection 7  
16 and except as provided in subsections 2 through 5, an ultimate  
18 purchaser that purchases and uses motor fuel anywhere other than  
20 on a public way of this State and who has paid the tax imposed by  
22 this chapter on that fuel is entitled to reimbursement of the  
24 tax, less 1¢ per gallon.

26 **2. Aircraft.** An ultimate purchaser that purchases and uses  
28 gasoline for the purpose of propelling piston engine aircraft and  
30 that has paid the tax imposed by this chapter on that fuel is  
32 entitled to reimbursement of the tax, less 4¢ per gallon.

34 **3. Certain purchases by State.** The State and any of its  
36 agencies that purchase and use any diesel fuel and that have paid  
38 the tax imposed by this chapter on that fuel are entitled to  
40 reimbursement of the tax.

42 **4. Political subdivisions.** Any political subdivision of  
44 the State that purchases and uses any motor fuel and that has  
46 paid the tax imposed by this chapter on that fuel is entitled to  
48 reimbursement of the tax.

50 **5. Jet and turbojet aircraft.** An ultimate purchaser that  
52 purchases and uses gasoline for the purpose of propelling jet and  
54 turbojet aircraft in international flight and that has paid the  
56 tax imposed by this chapter on that fuel is entitled to  
58 reimbursement of the tax.

60 **6. Certain common carriers.** An ultimate purchaser engaged  
62 in furnishing common carrier passenger service under a  
64 certificate issued by the Public Utilities Commission that  
66 purchases and uses motor fuel and that has paid the tax imposed  
68 by this chapter on that fuel is entitled to reimbursement of the  
70 tax paid upon that proportion of the fuel used in an internal  
72 combustion engine used in locally encouraged vehicles operated by  
74 the ultimate purchaser, that the tax-exempt passenger fare  
76 revenue derived from that service bears to the total passenger  
78 fare revenue. For the purposes of this subsection, "tax-exempt  
80 passenger fare revenue" means revenue attributable to fares that  
82 were exempt from the federal tax upon transportation of persons  
84 imposed by Section 4261 of the Code, pursuant to the Section 4262  
86 or 4263 of the Code. "Total passenger fare revenue" means all  
88 revenue attributable to the claimant's passenger operations,  
90 whether or not pursuant to the certificate issued by the Public

2 Utilities Commission. "Locally encouraged vehicles" means buses  
3 upon which no excise tax is collected under section 1483,  
4 subsection 13. The refund provided for in this section may be  
5 made only if the claimant's tax-exempt passenger fare revenue is  
6 at least 60% of the claimant's total passenger fare revenue  
7 derived during the calendar quarter for which that refund is  
8 claimed.

9  
10 7. Refund claims. Applications for refunds must be filed  
11 with the State Tax Assessor within 15 months from the date of  
12 purchase. A monthly refund application on a form prescribed by  
13 the assessor may be filed at the close of any month to claim the  
14 refunds. The application must be processed and approved for  
15 payment promptly. Interest must be paid at the same rate as is  
16 computed under section 186 calculated from the date of receipt of  
17 the monthly claim for all proper claims not paid within 30 days  
18 of receipt.

19  
20 8. Use tax. All fuel qualifying for a refund under this  
21 section is subject to use tax levy in accordance with chapter 215.

22 §3326. Refunds to ultimate vendors

23  
24 1. Generally. Subject to the provisions of subsection 2,  
25 an ultimate vendor is entitled to a refund or credit on behalf of  
26 the exempt user for:

27 A. Sales of tax-paid motor fuel to the Federal Government  
28 or any of its agencies or instrumentalities;

29  
30 B. Sales of tax-paid diesel fuel to this State or any of  
31 its agencies;

32  
33 C. Sales of tax-paid motor fuel to any political  
34 subdivision of this State; or

35  
36  
37 D. Sales of tax-paid gasoline used to propel jet or  
38 turbojet aircraft in international flight.

39  
40 2. Refund claims. An application for refund pursuant to  
41 this section must be filed with the State Tax Assessor within 15  
42 months from the date of purchase. A monthly refund application  
43 on a form prescribed by the assessor may be filed at the close of  
44 any month to claim the refund. The application must be processed  
45 and approved for payment promptly. Interest must be paid at the  
46 same rate as is computed under section 186 calculated from the  
47 date of receipt of the monthly claim for all proper claims not  
48 paid within 30 days of receipt.

49  
50 3. Use tax. All fuel qualifying for a refund under this  
51 section is subject to appropriate sales and use tax levy in  
52 accordance with chapter 215.

2 §3327. Refund claims; affidavits

4 1. Generally. To claim any refund authorized by this  
6 chapter, a person shall present to the State Tax Assessor a  
8 statement that contains an affidavit stating the claim that the  
10 person understands the penalties for perjury and listing the  
12 total amount of taxable motor fuel purchased and used for exempt  
14 purposes. The statement must show that payment for the purchase  
16 has been made and that the amount of tax paid on the purchase has  
18 been remitted to the seller.

20 2. Investigations. The assessor may make any necessary  
22 investigations before refunding motor fuel tax and may  
24 investigate a refund after the refund has been issued and within  
26 the time frame for making adjustments to tax under this Title.

28 3. Suppliers. When a refund is payable to a supplier, the  
30 supplier may claim a credit in lieu of the refund.

32 SUBCHAPTER IV

34 REPORTS AND PAYMENTS; ENFORCEMENT; PENALTIES

36 §3328. Reports required; tax collected and remitted; due date;  
38 late taxes

40 1. Generally. Every certified supplier shall file on or  
42 before the last day of each month a report with the State Tax  
44 Assessor stating the number of gallons of fuel received, sold and  
46 used by it in this State during the previous calendar month on  
48 forms prescribed and furnished by the assessor. The report must  
50 contain any additional information reasonably required by the  
52 assessor.

2. Payment. At the time of making the report required by  
subsection 1, the supplier shall pay to the assessor the tax  
imposed by section 3318.

3. Tax listed as separate line item. The supplier and  
each reseller shall list the amount of tax as a separate line  
item on all invoices or billings.

§3329. Liability of terminal operator for motor fuel tax; report  
and payment of tax in certain circumstances

1. Generally. The terminal operator of a terminal in this  
State and a supplier are jointly and severally liable for the tax  
imposed under section 3318 and shall jointly remit payment to the  
State Tax Assessor upon discovery by the assessor of either of  
the following conditions:



2           A. The supplier with respect to the taxable motor fuel is a  
4           person other than the terminal operator and is not a  
6           certified supplier. In this case, the terminal operator is  
8           relieved of liability if it establishes all of the following:

10                   (1) The terminal operator has a valid terminal  
12                   operator's certificate issued for the facility from  
14                   which the motor fuel is withdrawn;

16                   (2) The terminal operator has an unexpired  
18                   notification certificate from the supplier as required  
20                   by the assessor or the Internal Revenue Service; and

22                   (3) The terminal operator has no reason to believe  
24                   that any information on the certificate is false; or

26           B. In connection with the removal of diesel fuel other than  
28           dyed diesel fuel, the terminal operator provides a person  
30           with a bill of lading, shipping paper or similar document  
32           indicating that the diesel fuel is dyed diesel fuel.

34           2. Gallonage not allocable to a supplier. The terminal  
36           operator is severally liable for the tax imposed by this chapter  
38           for taxable motor fuel that is not allocable to a certified  
40           supplier and shall remit the tax due with a report filed with the  
42           assessor on a form prescribed and furnished by, and at times  
44           required by, the assessor. No tax is due if the terminal  
46           operator can establish by substantial evidence that the gallons  
48           lost were diesel fuel dyed before receipt by that terminal  
50           operator. No deductions are allowed with respect to payment of  
52           this tax. If the gallons lost or unaccounted for exceed 5% of  
              the gallons removed from that terminal across the rack, a penalty  
              of 100% of the tax otherwise due must be paid by the terminal  
              operator together with the tax due.

34           §3330. Fuel vendor reports; blend stocks

36                   Each fuel vendor not subject to the reporting requirement  
38                   set forth in section 3328 that makes sales of blend stocks for  
40                   use as taxable motor fuel shall remit to the State Tax Assessor  
42                   monthly on or before the last day of the following month and  
44                   remit with the report any tax payable pursuant to this chapter.

46           §3331. Refund or credit for uncollectible tax

48                   1. Generally. A fuel vendor may file a claim with the  
50                   State Tax Assessor for a refund or credit for a portion of the  
52                   excise tax paid to a supplier. The portion of the tax for which  
              there is a refund entitlement is represented by tax paid on  
              accounts of the fuel vendor found to be worthless and actually  
              charged off by the fuel vendor, but if any such accounts are

2 collected by the fuel vendor the tax recovered must be paid to  
3 the assessor within 30 days of that recovery.

4 2. Application. An application for refund or credit  
5 pursuant to this section is made annually, on or before April  
6 1st, on a form prescribed and furnished by the assessor. The  
7 application must be made under penalty of perjury and must detail  
8 all accounts found to be worthless and charged off during the  
9 previous calendar year.

10 **§3332. Shrinkage allowance for gasoline**

11  
12  
13 1. Generally. An allowance of not more than 1% from the  
14 amount of fuel received by the supplier plus 1% on all transfers  
15 in vessels, tank cars or full tank truck loads by a supplier in  
16 the regular course of the supplier's business from one of the  
17 supplier's places of business to another within this State may be  
18 granted by the State Tax Assessor to cover losses sustained by  
19 the supplier through thermal shrinkage, evaporation and  
20 handling. The total amount of the allowance for these losses may  
21 not exceed 2% of the receipts by the supplier, and no further  
22 deduction may be allowed unless the assessor is satisfied upon  
23 definite proof submitted to the State that a further deduction  
24 should be allowed for a loss sustained through fire, accident or  
25 some unavoidable calamity.

26  
27 2. Application for allowance. An application for the  
28 allowance provided by subsection 1 is made on a refund  
29 application on a form prescribed and furnished by the assessor.  
30 The application must be made under penalty of perjury and must be  
31 submitted semiannually within 90 days after June 30th and  
32 December 31st respectively.

33 **§3333. Diversion and export of taxable motor fuel**

34  
35 1. Generally. If an exporter diverts taxable motor fuel  
36 removed from a terminal in this State from an intended  
37 destination outside of this State, as shown on the  
38 terminal-issued shipping papers, to a destination within this  
39 State, the exporter, in addition to compliance with any  
40 notification requirements provided for in this chapter, shall  
41 notify and pay the tax imposed by section 3318 to the State Tax  
42 Assessor upon the same terms and conditions as if the exporter  
43 were an importer certified under this chapter without deduction  
44 for the allowance provided by section 3332. The supplier and  
45 exporter by mutual agreement may permit the supplier to assume  
46 the exporter's liability and adjust the exporter's taxes payable  
47 to the supplier.

48  
49 2. Removal of tax-paid fuel from bulk plant; refunds. If  
50 an exporter removes from a bulk plant in this State taxable motor  
51 fuel as to which the tax imposed by this chapter previously has  
52

2 been paid or accrued, the exporter may apply for and the assessor  
3 shall issue a refund of the tax upon a showing of proof of export  
4 satisfactory to the assessor, net of the allowance provided for  
5 in section 3332.

6 **3. Diversion by uncertified importer.** If an uncertified  
7 importer diverts taxable motor fuel from a destination outside  
8 this State to a destination inside this State after having  
9 removed the product from a terminal outside this State, the  
10 importer, in addition to compliance with any notification  
11 requirements provided by this chapter, shall notify the State and  
12 shall pay the tax imposed by this chapter to the assessor upon  
13 the same terms and conditions as if the uncertified importer were  
14 a certified importer, without deduction for the allowance  
15 provided for in section 3332. An importer that has purchased the  
16 product from a certified supplier, by mutual agreement with the  
17 supplier, may permit the supplier to assume the importer's  
18 liability and adjust the importer's taxes payable to the supplier.

19 **4. Diversion by certified importer.** All certified  
20 importers shall report and pay tax on diversions into this State  
21 of imported taxable motor fuel. No shrinkage allowances may be  
22 deducted with respect to diverted shipments. An importer that  
23 has purchased the product from a certified supplier, by mutual  
24 agreement with the supplier, may permit the supplier to assume  
25 the importer's liability and adjust the importer's taxes payable  
26 to the supplier.

27 **5. Refunds.** If there is a legal diversion from a  
28 destination in this State to another state, an uncertified  
29 exporter diverting the product may apply for a refund from the  
30 assessor, less the shrinkage allowance provided by section 3332,  
31 except that a supplier may take a credit for diversions directed  
32 by that supplier for its own account, and the exporter, by mutual  
33 agreement with its supplier, may assign its claim to the supplier  
34 for which the supplier may take a credit. In either case,  
35 evidence of tax payment to another jurisdiction satisfactory to  
36 the assessor must be submitted.

37 **§3334. Enforcement; penalties**

38 **1. Enforcement.** The State Tax Assessor shall notify the  
39 Secretary of State and the Bureau of State Police of any person  
40 that has failed to comply with the provisions of this chapter.  
41 In order to enforce the provisions of this chapter, any duly  
42 authorized and designated agent or officer of the assessor, the  
43 Secretary of State or the Commissioner of Public Safety may:

44 A. Inspect any fuel tank or container that can or may be  
45 used for the production, storage or transportation of motor  
46 fuel;

2 B. Inspect any equipment that can or may be used for, or in  
connection with, the production, storage or transportation  
4 of motor fuel;

6 C. Inspect the books and records of any fuel importer,  
exporter, terminal operator, fuel vendor or user;

8 D. Detain any motor vehicle for the purpose of inspecting  
its fuel tanks. Detainment may continue for a reasonable  
10 period of time as necessary to determine the amount and  
composition of the fuel. Designated agents and officers may  
12 take and remove samples of fuel in reasonable quantities in  
order to determine compliance with the provisions of this  
14 chapter;

16 E. Suspend vehicle registrations in the name of any person  
that has violated the provisions of this chapter and the  
18 right to operate as provided in Title 29-A, section 2458; and

20 F. Refuse to issue or reissue any authority required by  
Title 29-A, section 552 or any certificate issued by the  
22 assessor pursuant to this chapter.

24 **2. Penalties.** A person who commits one of the following  
acts is guilty of a Class E crime and is subject to a fine of not  
26 less than \$250, which may not be reduced:

28 A. Selling diesel fuel without collecting tax on the fuel  
when the seller knows or has reason to believe that the fuel  
30 will not be used for an exempt purpose;

32 B. Refusing or failing to make any statement, report,  
payment or return required by this chapter;

34 C. Refusing or failing to pay interest or penalties arising  
36 from the nonpayment of taxes required by this chapter;

38 D. Knowingly collecting or attempting to collect, directly  
or indirectly, a refund of tax without being entitled to  
40 that refund; or

42 E. Knowingly making or aiding or abetting another in making  
a materially false statement on any return or report  
44 submitted to the assessor in any application for refund of  
tax or in any other application or affidavit submitted to  
46 the assessor pursuant to this chapter.

48 **§3335. Penalties not exclusive**

50 Each fine and each penalty provided by this chapter is in  
addition to any interest and other penalties provided by this  
52 chapter, by this Title and by other law, except as otherwise

2 provided by this chapter. Each penalty imposed by this chapter  
is recoverable by the State Tax Assessor in the same manner as if  
4 it were a tax assessed under this chapter.

6 **SUBCHAPTER V**

8 **MOTOR FUEL CERTIFICATES**

10 **§3336. Certificates required**

12 Each application for a certificate issued under this section  
14 is made upon a form prepared and furnished by the State Tax  
Assessor. The application must be subscribed to by the applicant  
16 and must contain the information the assessor reasonably may  
require for the administration of this chapter, including the  
18 applicant's federal identification number and, with respect to  
the applicant for an exporter's certificate, a copy of the  
20 applicant's certificate to purchase or handle taxable motor fuel  
tax-free in the specified destination state for which the export  
22 certificate is to be issued. Certificates issued pursuant to  
this section are not deemed to be a "license" within the meaning  
24 of that term in Title 5, chapter 375. The following certificates  
are issued by the State Tax Assessor.

26 **1. Supplier's certificate.** Each supplier engaged in  
business in this State as a supplier shall first obtain a  
28 supplier's certificate from the State Tax Assessor.

30 **2. Terminal operator's certificate.** Each terminal operator  
other than a supplier certified under subsection 1 that is  
32 engaged in business in this State as a terminal operator shall  
first obtain from the State Tax Assessor a separate terminal  
34 operator's certificate for each terminal site.

36 **3. Importer's certificate.** Each person that is engaged in  
the business of importing taxable motor fuel into this State  
38 shall first obtain an importer's certificate from the State Tax  
Assessor.

40 **4. Exporter's certificate.** The State Tax Assessor may  
42 require an exporter to obtain an exporter's certificate if the  
exporter exports products to another state without first paying  
44 that destination state's motor fuel tax to the supplier.

46 **§3337. Investigation of applicants and certificate holders**

48 The State Tax Assessor shall investigate each applicant for  
a certificate under this chapter and may conduct further  
50 investigations of any person holding a certificate issued under  
this chapter. If the assessor determines that one or more of the  
52 following exists, the assessor shall refuse to issue a

2 certificate or may suspend or revoke a certificate that has  
3 previously been issued.

4 1. Bad faith. The application is not filed in good faith.

6 2. Party in interest. The applicant is not the real party  
7 in interest.

8  
9 3. Revoked certificate. The certificate of the real party  
10 in interest is revoked for cause.

12 4. Not certified in state of destination. With respect to  
13 an exporter's certificate the applicant is not certificated in  
14 the intended specific state of destination.

16 5. Prior conviction. The applicant has a prior conviction  
17 for motor fuel tax evasion.

18  
19 6. Reasonable cause. Other reasonable cause for  
20 nonissuance exists.

22 **§3338. Notice of denial of application, suspension or**  
23 **revocation; hearing**

26 The State Tax Assessor shall provide an applicant with  
27 timely notice of a denial of an application filed pursuant to  
28 this chapter and of any suspension or revocation of a fuel  
29 certificate. The notice must include the reasons for the denial,  
30 suspension or revocation. In the case of a suspension or  
31 revocation of a certificate, the assessor shall provide 30 days'  
32 written notice to the certificate holder. Denial of a  
33 certificate is a final agency action as defined in Title 5,  
34 section 8002. An aggrieved applicant or certificate holder may  
35 appeal a denial of a certificate application pursuant to section  
36 151 and Title 5, chapter 375, subchapter VII.

38 **§3339. Issuance of certificate; display; validity;**  
39 **nontransferability; surrender; sale of business**

40  
41 1. Issuance of certificate; display. If the person  
42 submitting an application for a certificate pursuant to this  
43 chapter is approved, the State Tax Assessor shall issue the  
44 appropriate certificate and as many copies as the certificate  
45 holder has places of business for which a certificate is  
46 required. Each certificate must be preserved and conspicuously  
47 displayed at the place of business for which it is issued.

48  
49 2. Validity. Any certificate issued by the assessor  
50 pursuant to this chapter is valid until suspended, revoked for  
51 cause or cancelled.

2       3. Nontransferability. No certificate is transferable to  
another person or to another place of business. For purposes of  
4       this chapter, a transfer means transfer of a majority interest in  
any business entity to another person. A substantial change in  
6       ownership of a business association other than a publicly held  
corporation must be reported to the assessor.

8       4. Surrender. Upon the discontinuance of the business or  
relocation, the certificate issued for the location must be  
10       surrendered immediately to the assessor.

12       **§3340. Notice that certificate holder has discontinued, sold or**  
**transferred business**

14       Whenever a person certified to do business under this  
16       chapter discontinues, sells or transfers the business, the  
certificate holder immediately shall notify the State Tax  
18       Assessor in writing of the discontinuance, sale or transfer. The  
notice must give the date of discontinuance, sale or transfer and  
20       in the case of a sale or transfer of the business the name and  
address of the purchaser or transferee. The certificate holder  
22       is liable for all taxes, interest and penalties that accrue  
before issuance of the notice.

24       **§3341. Doing business without certificate prohibited**

26       1. Generally. No person may engage in a business activity  
28       in this State as to which a certificate is required by this  
chapter without possessing a valid certificate issued by the  
30       State Tax Assessor.

32       2. Penalties. A person who knowingly engages in activity  
described in subsection 1 or knowingly aids and abets another in  
34       that activity is guilty of a Class C crime. The person is also  
subject to a \$1,000 civil penalty.

36       **§3342. Final report and payment by certificate holder**

38       1. Generally. Every certificate holder, upon the  
40       discontinuance, sale or transfer of the business or upon the  
cancellation, revocation or termination by law of a certificate  
42       issued by the State Tax Assessor pursuant to this chapter, shall  
within 30 days make a final report to the assessor and shall pay  
44       all motor fuel taxes and penalties that may be due except as  
otherwise provided by law. The payment must be made to the  
46       assessor in accordance with the provisions of this chapter.

48       2. Deemed revocation. For purposes of this section, a  
person that was certified to remit motor fuel taxes before the  
50       effective date of this chapter and that is not certified as a  
supplier under this chapter is deemed to have the certificate

2 terminated under this section as of the effective date of this  
3 chapter.

4 **SUBCHAPTER VI**

6 **ALTERNATE FUEL TAX**

8  
10 **§3343. Tax imposed; collected; exceptions**

12 1. Imposition of tax. An excise tax at the rate of 18¢ per  
13 gallon is imposed on the use of alternate fuel. The tax with  
14 respect to all alternate fuel delivered by an alternate fuel  
15 dealer into supply tanks of motor vehicles in this State is  
16 imposed at the time of delivery and must be collected by the  
17 dealer from the alternate fuel user and paid to the State Tax  
18 Assessor. The tax with respect to alternate fuel acquired by any  
19 alternate fuel user other than by delivery by an alternate fuel  
20 dealer into a fuel supply tank of a motor vehicle attaches at the  
21 time of the use of the fuel and must be paid to the assessor by  
22 the user. The assessor may permit any supplier that deals in  
23 alternate fuel to act as an alternate fuel dealer and to report  
24 and pay the tax on alternate fuel delivered into the storage  
25 facility of an alternate fuel user or retailer that will be  
26 consumed for alternate fuel tax purposes or sold at retail.

28 2. Exceptions. No tax under this section is imposed upon  
29 or with respect to alternate fuels sold to the Federal Government  
30 or any agency or instrumentality of the Federal Government.

32 **§3344. Alternate fuel dealer certificate**

34 No person may act as an alternate fuel dealer in this State  
35 unless the person holds a valid alternate fuel dealer certificate  
36 issued by the State Tax Assessor. Except for alternate fuel that  
37 is delivered by an alternate fuel dealer into a fuel supply tank  
38 of a motor vehicle in this State, no person may use an alternate  
39 fuel in this State unless the person holds a valid alternate fuel  
40 dealer certificate issued by the assessor or unless the alternate  
41 fuel has been delivered by a supplier that is authorized to  
42 report and pay tax on behalf of the user or retailer.

44 **§3345. Application**

46 Forms for application as an alternate fuel dealer are be  
47 prescribed and furnished by the State Tax Assessor. For each  
48 place of business, the State Tax Assessor shall issue a separate  
49 certificate, which must be conspicuously displayed at each place  
50 of business. Alternate fuel dealer certificates are not  
assignable or transferable. A certificate issued pursuant to



2 this section is not a "license" for the purposes of the Maine  
3 Administrative Procedure Act.

4 **§3346. Tax collected and remitted by supplier; due date**

6 Every alternate fuel dealer shall file on or before the last  
7 day of each month a report with the State Tax Assessor on forms  
8 prescribed and furnished by the assessor stating the amount of  
9 taxable gallons of alternate fuel sold and tax collected on  
10 taxable sales made during the preceding calendar month. The  
11 report must contain any other information that the assessor may  
12 reasonably require.

14 **§3347. Refunds to ultimate purchasers**

16 **1. Generally.** Alternate fuel users are entitled to excise  
17 tax refunds in the following cases.

18 A. An ultimate purchaser that purchases and uses alternate  
19 fuel anywhere other than on a public way of this State and  
20 has paid the tax imposed by this chapter on that fuel is  
21 entitled to reimbursement of the tax, less 1¢ per gallon.

24 B. The State and any political subdivision of the State  
25 that purchases and uses alternate fuel and that has paid the  
26 tax imposed by this chapter on that fuel is entitled to  
27 reimbursement of the tax.

28 C. An ultimate purchaser engaged in furnishing common  
29 carrier passenger service under a certificate issued by the  
30 Public Utilities Commission that purchases and uses  
31 alternate fuel and that has paid the tax imposed by this  
32 chapter on that fuel is entitled to reimbursement of the tax  
33 paid upon that proportion of the fuel used in an internal  
34 combustion engine used in locally encouraged vehicles  
35 operated by the ultimate purchaser that the tax-exempt  
36 passenger fare revenue derived from that service bears to  
37 the total passenger fare revenue. For the purposes of this  
38 paragraph, "tax-exempt passenger fare revenue" means revenue  
39 attributable to fares that were exempt from the federal tax  
40 upon transportation of persons imposed by Section 4261 of  
41 the Code, pursuant to Section 4262 or 4263 of the Code.  
42 "Total passenger fare revenue" means all revenue  
43 attributable to the claimant's passenger operations, whether  
44 or not pursuant to the certificate issued by the Public  
45 Utilities Commission. "Locally encouraged vehicles" means  
46 buses upon which no excise tax is collected under section  
47 1483, subsection 13. The refund provided for in this  
48 section may be made only if the claimant's tax-exempt  
49 passenger fare revenue is at least 60% of the claimant's  
50 total passenger fare revenue derived during the calendar  
51 quarter for which that refund is claimed.



2 prior conviction must precede by no more than 10 years the  
3 commission of the offense being enhanced. The date of conviction  
4 is deemed the date that sentence is imposed. Refusal to permit  
5 inspection pursuant to section 3334 in order to enforce the  
6 provisions of this section constitutes prima facie evidence that  
7 the tank or container in question contains dyed fuel.

8 **SUBCHAPTER VIII**

10 **DEPOSITS AND DISTRIBUTIONS**

12 **§3350. Allocation and deposit of fuel tax revenues**

14 1. Generally. Except as provided in subsections 2 to 4,  
15 all tax revenues collected by the State Tax Assessor pursuant to  
16 this chapter must be deposited in the Highway Fund.

18 2. Motorboats. The State Tax Assessor shall set aside 2%  
19 of the total excise tax on gasoline sold or used within the  
20 State, excluding gasoline sold for use in the propulsion of  
21 aircraft up to a maximum of \$2,000,000. From the set aside under  
22 this subsection, the State Tax Assessor shall deduct the refunds  
23 paid out by the assessor pursuant to this chapter with respect to  
24 gasoline used in commercial motorboats. Twenty percent of the  
25 balance of the amount set aside after paying out refunds must be  
26 paid to the Treasurer of State to be made available to the  
27 Department of Marine Resources. The remaining 80% of the balance  
28 of the amount set aside must be credited to the Boating  
29 Facilities Fund, established under Title 38, section 322, within  
30 the Bureau of Parks and Lands. The State Tax Assessor shall  
31 certify to the State Controller, on or before the 15th day of  
32 each month, the amount to be credited under this subsection as of  
33 the close of the State Controller's records for the previous  
34 month. When the refunds paid out by the assessor pursuant to  
35 this chapter with respect to gasoline used in commercial  
36 motorboats in any month exceed 2% of gasoline tax revenues for  
37 that month, the excess must be carried forward in computing the  
38 amount to be credited to the Department of Marine Resources and  
39 to the Boating Facilities Fund under this section for the  
40 succeeding month or months.

42 3. Snowmobiles. The State Tax Assessor shall set aside .5%  
43 of the total excise tax on gasoline sold or used within the  
44 State, excluding gasoline sold for use in the propulsion of  
45 aircraft. From this .5% set aside, the State Tax Assessor shall  
46 pay 10% to the Treasurer of State to be made available to the  
47 Department of Inland Fisheries and Wildlife. The remaining 90%  
48 of the .5% must be credited to the Snowmobile Trail Fund of the  
49 Bureau of Parks and Lands, established under Title 12, section  
50 7824. The State Tax Assessor shall certify to the State  
51 Controller, on or before the 15th day of each month, the amount  
52 to be credited under this subsection as of the close of the State

2 Controller's records for the previous month. The State Tax  
4 Assessor shall set aside an additional .17% of the total excise  
6 tax on gasoline sold or used within the State excluding gasoline  
8 sold for use in the propulsion of aircraft and shall pay this  
10 amount to the Treasurer of State to be made available to the  
12 Snowmobile Trail Fund of the Department of Conservation, Bureau  
14 of Parks and Lands, established under Title 12, section 7824.

16 4. All-terrain vehicles. The State Tax Assessor shall set  
18 aside .045% of the total excise tax on gasoline sold or used  
20 within the State, excluding gasoline sold for use in the  
22 propulsion of aircraft. This .045% allocation must be expended  
24 for the purposes required by Title 12, section 7854, subsection  
26 4, paragraph B. The State Tax Assessor shall certify to the  
28 State Controller, on or before the 15th day of each month, the  
30 amount to be credited under this subsection as of the close of  
32 the State Controller's records for the previous month.

34 **Sec. 6. Effective date.** This Act takes effect January 1, 1998.

## 36 SUMMARY

38 This bill repeals Maine's existing fuel tax laws and  
40 replaces them with a single statute that closely conforms with  
federal tax treatment of motor fuels. This bill establishes a  
modern, efficient and effective fuel tax collection and  
enforcement system adequate to substantially deter fuel tax  
evasion emanating from sources within and outside of this State.  
The Legislature has determined that 2 key elements necessary to  
achieve this objective are increased conformity with federal law  
concerning the imposition of tax on motor fuels and increased  
reliance on highway enforcement systems. This bill is intended  
to conform this State's method of imposing an excise tax on motor  
fuel to the Internal Revenue Code and regulations issued pursuant  
to it, as well as to create a framework for immediate highway  
enforcement of anti-smuggling provisions, without materially  
altering existing petroleum marketing practices, economics or  
relationships.