

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to H.P. 940, L.D. 1337, Bill, "An Act Regarding Taxation of Clean Vehicle Fuels"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding Taxation of Low-energy Fuels'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 36 MRSA §3202, sub-§5-B is enacted to read:

5-B. Retailer. "Retailer" means any person purchasing low-energy fuel principally for resale directly into the fuel tank of a motor vehicle.

Sec. 2. 36 MRSA §3202, sub-§7, as enacted by PL 1983, c. 94, Pt. D, §6, is amended to read:

7. Supplier. "Supplier" means any person importing distillates into the State, exporting distillates from the State or producing, refining, manufacturing or compounding distillates within the State or purchasing distillates within the State, principally for resale to others in bulk, ~~special-fuel~~.

Sec. 3. 36 MRSA §3202, sub-§§7-A and 10, as enacted by PL 1997, c. 738, §9, are amended to read:

7-A. Terminal. "Terminal" means a storage and distribution facility for ~~special-fuel~~ distillates supplied by a pipeline or

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COMMITTEE AMENDMENT "B" to H.P. 940, L.D. 1337

marine vessel, or both, that has been registered as a qualified terminal by the Internal Revenue Service.

10. Wholesaler. "Wholesaler" means a person that owns, operates or otherwise controls a terminal or a person that holds ~~the special-fuel~~ a distillate 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. 4. 36 MRSA §3203, sub-§1, as amended by PL 1999, c. 473, Pt. B, §3 and affected by §5, is further amended to read:

1. Generally. Except as provided in section 3204-A, an excise tax is levied and imposed on all suppliers of special fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rate of 23¢ per gallon and for each gallon of low-energy fuel ~~at the rate of 21¢ per gallon~~ based on the British Thermal Unit, referred to in this subsection as "BTU," energy content for each fuel as compared to gasoline. These values are as follows.

<u>Fuel type</u>	<u>BTU content per gallon</u>	<u>Formula (BTU value fuel/ BTU value gasoline) x tax rate gasoline</u>	<u>Tax rate</u>
<u>Gasoline</u>	<u>115,000</u>	<u>100% x 22¢</u>	<u>22¢ per gallon as authorized in section 2903</u>
<u>Methanol (M85)</u>	<u>65,530</u>	<u>57% x 22¢</u>	<u>12.5¢ per gallon</u>
<u>Ethanol (E85)</u>	<u>81,850</u>	<u>71% x 22¢</u>	<u>15.6¢ per gallon</u>
<u>Propane</u>	<u>84,500</u>	<u>73% x 22¢</u>	<u>16¢ per gallon</u>
<u>Compressed Natural Gas</u>	<u>100,000 (BTU per 100 standard cubic feet)</u>	<u>87% x 22¢</u>	<u>19.1¢ per 100 standard cubic feet</u>

COMMITTEE AMENDMENT

2           **Sec. 5. 36 MRSA §3203, sub-§§2 and 3**, as enacted by PL 1997, c.  
738, §10, are amended to read:

4           **2. Legal incidence of tax.** Special fuel may be taxed only  
6 once under this section. The tax imposed by this section is  
declared to be a levy and assessment on the ultimate consumer and  
8 other persons levied and assessed pursuant to this chapter are  
agents of the State for the collection of the tax. The supplier  
10 is and retailer are primarily responsible for paying the tax  
except when the fuel is sold and delivered to a licensed exporter  
12 wholly for exportation from the State or to another supplier in  
the State, in which case the purchasing supplier is primarily  
14 responsible for paying the tax. When a supplier sells and  
delivers to a licensed exporter wholly for exportation from the  
16 State or to another supplier in the State, the purchasing  
supplier is primarily responsible for paying the tax.

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

24           **Sec. 6. 36 MRSA §3203, sub-§6**, as amended by PL 1999, c. 414,  
26 §27, is further amended to read:

28           **6. Allowance for certain losses of propane.** An allowance  
of not more than 1% from the amount of propane received by a  
30 supplier, plus 1% on all transfers in vessels, tank cars or full  
tank truck loads by the supplier in the regular course of  
32 business from one of the supplier's places of business to another  
of the supplier's places of business within the State, the  
34 retailer may be allowed by the assessor to cover the loss through  
shrinkage, evaporation or handling sustained by the supplier  
36 retailer. The total allowance for these losses must be supported  
by documentation satisfactory to the assessor and may not exceed  
38 2% of the receipts by the distributor. A further deduction may  
not be allowed unless the assessor is satisfied upon definite  
40 proof submitted to the assessor that a further deduction should  
be allowed for a loss sustained through fire, accident or some  
42 unavoidable calamity.

44           **Sec. 7. 36 MRSA §3204**, as amended by PL 1985, c. 127, §1, is  
further amended to read:

46           **§3204. Licenses**

48           Every supplier of special fuel person operating as a  
50 supplier or retailer in the State, other than those who qualify  
under section 3205, shall file an application for certificate

with the State Tax Assessor on forms prescribed and furnished by  
 2 him ~~the assessor~~, which shall contain the name under which the  
 4 supplier person is transacting business within the State, the  
 place or places of business, location of distributing stations,  
 6 agencies of the supplier person, the names and addresses of the  
 several persons constituting the firm or partnership, and, if a  
 8 corporation, its corporate name and the names and addresses of  
 its principal officers and agents within the State. No--such  
 10 ~~supplier~~ A person may not sell or distribute any special fuel  
 until the certificate is furnished by the State Tax Assessor and  
 12 displayed as required by this section. One copy of each such  
 certificate, certified by the State Tax Assessor, shall must be  
 14 displayed in each place of business of the supplier person. The  
 State Tax Assessor, having reasonable cause to believe that the  
 16 supplier person has ceased to do business or that he the person  
 has violated this chapter or the rules ~~made thereunder~~ adopted  
under this chapter or failed to appear in court for any violation  
 18 of this chapter, may on reasonable notice to the supplier person  
 suspend the supplier's person's certificate until satisfied to  
 20 the contrary. In such case, the ~~supplier shall~~ person may not  
 act as a supplier or retailer until ~~his~~ the certificate is  
 22 restored by the State Tax Assessor, either of ~~his~~ the assessor's  
 own initiative or at the person's request ~~of the supplier~~, and  
 24 upon the State Tax Assessor being satisfied that cause for  
 suspension no longer exists, or upon order of court. In case of  
 26 that suspension, all certificates shall must at once be  
 surrendered to the State Tax Assessor upon ~~his~~ request. This  
 28 revocation ~~shall be~~ is reviewable in accordance with section 151.

30 **Sec. 8. 36 MRSA §3204-A, sub-§2-A**, as enacted by PL 1999, c.  
 414, §29, is amended to read:

32 **2-A. Sales for resale.** Special fuel sold for resale to a  
 34 licensed supplier, or low-energy fuel sold for resale to a  
licensed retailer;

36 **Sec. 9. 36 MRSA §3207, first ¶**, as enacted by PL 1983, c. 94,  
 38 Pt. D, §6, is amended to read:

40 Every supplier and retailer paying or becoming liable to pay  
 the tax imposed by this chapter shall charge and collect the tax  
 42 at the applicable rate.

44 **Sec. 10. 36 MRSA §3208, first ¶**, as amended by PL 1995, c. 271,  
 §8, is further amended to read:

46 Every user subject to the tax imposed by section 3203 is  
 48 entitled to a credit on the tax equivalent to the existing rate  
 of taxation per gallon on all fuels purchased by that user from a  
 50 supplier or retailer licensed in accordance with section 3204

upon which fuel the tax is imposed by section 3203 has been paid by that user. Evidence of the payment of that tax, in such form as may be required by or is satisfactory to the State Tax Assessor, must be furnished by each user claiming the credit allowed. When the amount of the credit to which any user is entitled for any quarter exceeds the amount of the tax for which that user is liable for the same quarter, the excess may, under rules of the State Tax Assessor, be allowed as a credit on the tax for which that user would be otherwise liable for another quarter or quarters, or upon application within 3 months from the end of any quarter, duly verified and presented in accordance with rules adopted by the State Tax Assessor and supported by such evidence as may be satisfactory to the State Tax Assessor, such excess may be refunded if it appears that the applicant has paid to another state or province under a lawful requirement of such jurisdiction a tax similar in effect to the tax levied in section 3203, on the use or consumption of the same fuel outside the State, at the same rate per gallon that such tax was paid in this State on that number of gallons used in and a tax paid on in such other jurisdiction, but in no case to exceed the rate per gallon of the then current Maine state fuel tax. Upon receipt of the application, the State Tax Assessor, if satisfied after investigation that a refund is justified, shall so certify to the State Controller and it must be paid out of the Highway Fund. This credit lapses at the end of the last quarter of the year following that in which the credit arose.

**Sec. 11. 36 MRSA §3209, sub-§1-A is enacted to read:**

**1-A. Retailers.** Every licensed retailer 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 retailer 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 retailer shall pay to the assessor a tax as prescribed in section 3203 upon each gallon reported as a taxable sale or as taxable gallons used.

**Sec. 12. 36 MRSA §3209, sub-§5, as enacted by PL 1997, c. 738, §12, is amended to read:**

**5. Monthly reports from wholesalers.** Each wholesaler shall submit on or before the last day of each month on a form prescribed and furnished by the assessor a report stating the number of gross gallons sold by that wholesaler to each distributor supplier, importer, exporter or any other person that purchased special fuel from that wholesaler during the preceding month. The report must clearly identify each purchaser and

2 indicate the number of gallons that each purchaser received from  
the wholesaler. The report must also contain any other  
4 information reasonably required by the assessor.

6 **Sec. 13. 36 MRSA §3210**, as amended by PL 1985, c. 127, §1, is  
further amended to read:

8 **§3210. Application of tax in special cases**

10 ~~Whoever shall receive~~ A person who receives any special fuel  
in such form and under such circumstances as ~~shall preclude~~  
12 precludes the collection of this tax by the supplier or retailer  
by reason of the laws of the United States, and ~~shall thereafter~~  
14 sell who sells or use uses any special fuel in a manner and under  
circumstances as may subject the sale or use to the taxing power  
16 of this State, ~~shall be~~ is considered as a supplier or retailer  
and shall make the same reports, and shall pay the same taxes and  
18 be is subject to all other provisions of this chapter relating to  
suppliers ~~of special fuel~~ and retailers. No A person may not be  
20 considered as a supplier or retailer with respect to special fuel  
brought into the State in the ordinary standardized equipment  
22 fuel tank attached to and forming a part of a motor vehicle and  
used in the operation of a vehicle within the State.

24 **Sec. 14. 36 MRSA §3211**, as amended by PL 1985, c. 127, §1, is  
26 further amended to read:

28 **§3211. Cancellation of licenses, registrations**

30 ~~If a supplier or user shall at any time file~~ any person  
licensed or registered under this chapter files a false report of  
32 the data or information required by this chapter, or ~~shall fail,~~  
~~refuse or neglect~~ fails, refuses or neglects to file the report  
34 required by this chapter, or to pay the full amount of the tax as  
required by this chapter or is in violation of the affidavit  
36 registration certificate as prescribed in section 3205, the State  
Tax Assessor may ~~forthwith~~ cancel the license or registration of  
38 ~~the supplier or user~~ and notify that supplier or user person in  
writing of the cancellation by registered mail to the last known  
40 address of that supplier or user person appearing on the file of  
the State Tax Assessor.

42  
44 Upon receipt of a written request from any supplier or user  
person licensed or registered under this chapter to cancel the  
license of registration to that supplier or user person, the  
46 State Tax Assessor ~~shall have the power to~~ may cancel that  
license or registration effective 30 days from the date of the  
48 written request, but no such license or registration may be  
canceled upon the request of any supplier or user person until  
50 and unless the supplier or user shall person, prior to the date

of that cancellation, have has paid to this State all excise taxes payable under the laws of this State, together with any and all penalties, interest and fines accruing under any of the provisions of this chapter, and until and unless the ~~supplier-or user-shall-have~~ person has surrendered to the State Tax Assessor the license or registration certificate ~~theretefere~~ issued to that ~~supplier-or-user~~ person. If, upon investigation, the State Tax Assessor ~~shall-ascertain-and-find~~ finds that any person to whom a license has been issued under this chapter is no longer engaged in the sale or use of special fuel and has not been so engaged for a period of 6 months, the State Tax Assessor ~~shall~~ may cancel that license by giving that person 30 days' notice of the cancellation mailed to the last known address of that person, in which event the license certificate ~~theretefere~~ issued to that person shall must be surrendered to the State Tax Assessor.

**Sec. 15. 36 MRSA §3212**, as amended by PL 1985, c. 127, §1, is further amended to read:

**§3212. Discontinuance as licensed user, retailer and supplier**

Whenever a supplier, retailer or user ceases to engage in business as a supplier, retailer or user of fuel within this State, ~~it-shall-be-the-duty-of~~ that supplier, retailer or user ~~to~~ shall notify the State Tax Assessor in writing within 15 days after discontinuance. All taxes, penalties and interest under this chapter, not yet due and payable under this chapter, ~~shall,~~ together with any and all interest accruing or penalties imposed under this chapter, notwithstanding any provisions thereof, become due and payable concurrently with that discontinuance. ~~It shall-be-the-duty-of-the~~ The supplier, retailer or user ~~to~~ shall make a report and pay all such taxes, interest and penalties and ~~to~~ surrender to the State Tax Assessor the license certificate ~~theretefere~~ issued to that user by the State Tax Assessor.

Any person violating any of the provisions of this section commits a Class E crime.

**Sec. 16. 36 MRSA §3214**, as amended by PL 1985, c. 127, §1, is further amended to read:

**§3214. Credit for tax paid on worthless accounts**

The tax paid on sales made on credit and reported by a supplier or retailer pursuant to section 3209 found to be worthless and actually charged off may be credited upon the tax due ~~to~~ on a subsequent report, but if any such accounts are thereafter collected by the supplier or retailer, a tax ~~shall~~ must be paid upon the amounts so collected. The credit ~~shall-be~~



~~considered-as-being-required-to-be~~ must be reported on the return for the month in which the charge-off occurred.

**Sec. 17. Effective date.** This Act takes effect on October 1, 2000.'

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

**FISCAL NOTE**

**2000-01**

**REVENUES**

Highway Fund (\$40,653)

The reduction of the rate of the special fuel tax on low-energy fuels will decrease Highway Fund revenue by \$40,653, \$51,042 and \$52,063 in fiscal years 2000-01, 2001-02 and 2002-03, respectively.

The Bureau of Revenue Services will incur some minor additional costs to implement the tax changes in this bill. These costs can be absorbed within the bureau's existing budgeted resources.'

**SUMMARY**

This amendment replaces the original bill. It lowers the special fuel tax on low-energy fuels so that the tax on a particular fuel is based on the relationship of its BTU value to the BTU value of gasoline. The amendment also moves the place of payment of the tax to the sale at the pump. The bill takes effect on October 1, 2000. The amendment also adds a fiscal note.