

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND SPECIAL SESSION-2004

Legislative Document

No. 1918

S.P. 757

In Senate, March 9, 2004

An Act To Improve the Viability of Railroads Operating in Maine

Reported by Senator STANLEY of Penobscot for the Joint Standing Committee on Taxation pursuant to Public Law 2003, chapter 498, section 11 and Resolve 2003, chapter 101, section 3.

Reference to the Committee on Taxation suggested and ordered printed under Joint Rule 218.

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

JOY J. O'BRIEN
Secretary of the Senate

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

2
4 **Sec. 1. 36 MRSA §1760, sub-§8, ¶D** is enacted to read:

6 D. Motor fuel purchased and used for the purpose of
8 powering railroad locomotives.

10 **Sec. 2. 36 MRSA §1760, sub-§41**, as amended by PL 1999, c. 759,
12 §3 and affected by §4, is further amended to read:

14 **41. Certain instrumentalities of interstate or foreign**
16 **commerce.** The sale of a vehicle, ~~railroad-rolling-stock~~, aircraft
18 or watercraft that is placed in use by the purchaser as an
20 instrumentality of interstate or foreign commerce within 30 days
22 after that sale and that is used by the purchaser not less than
24 80% of the time for the next 2 years as an instrumentality of
26 interstate or foreign commerce. The State Tax Assessor may for
28 good cause extend for not more than 60 days the time for placing
30 the instrumentality in use in interstate or foreign commerce. For
32 purposes of this subsection, property is "placed in use as an
34 instrumentality of interstate or foreign commerce" by its
36 carrying of, or providing the motive power for the carrying of, a
38 bona fide payload in interstate or foreign commerce, or by being
40 dispatched to a specific location at which it will be loaded upon
42 arrival with, or will be used as motive power for the carrying
44 of, a payload in interstate or foreign commerce. For purposes of
46 this subsection, "bona fide payload" means a cargo of persons or
48 property transported by a contract or common carrier for
50 compensation that exceeds the direct cost of carrying that cargo
 or pursuant to a legal obligation to provide service as a public
 utility or a cargo of property transported in the reasonable
 conduct of the purchaser's own nontransportation business in
 interstate commerce.

34 **Sec. 3. 36 MRSA §1760, sub-§41-A** is enacted to read:

36 **41-A. Certain railroad rolling stock used in interstate or**
38 **foreign commerce.** The sale of:

40 A. Railroad rolling stock that is placed in use by the
42 purchaser, or by a lessee, as an instrumentality of
44 interstate or foreign commerce within 30 days after that
46 sale, or within 30 days after the commencement of the lease,
48 and that is used by the purchaser or by the lessee not less
50 than 80% of the time for the next 2 years as an
 instrumentality of interstate or foreign commerce. The
 State Tax Assessor may for good cause extend for not more
 than 60 days the time for placing the instrumentality in use
 in interstate or foreign commerce. For purposes of this
 subsection, property is "placed in use as an instrumentality

2 of interstate or foreign commerce" by its carrying of, or
3 providing the motive power for the carrying of, a bona fide
4 payload in interstate or foreign commerce, or by being
5 dispatched to a specific location at which it will be loaded
6 upon arrival with, or will be used as motive power for the
7 carrying of, a payload in interstate or foreign commerce.
8 For purposes of this subsection, "bona fide payload" means a
9 cargo of persons or property transported by a contract or
10 common carrier for compensation that exceeds the direct cost
11 of carrying that cargo or pursuant to a legal obligation to
12 provide service as a public utility or a cargo of property
13 transported in the reasonable conduct of the purchaser's own
14 nontransportation business in interstate commerce; and

15 B. Parts and attachments that are intended to become
16 attached to or part of railroad rolling stock described in
17 paragraph A and that are attached to or installed on the
18 railroad rolling stock in the State, regardless of when the
19 railroad rolling stock was acquired.

20 **Sec. 4. Effective date.** This Act takes effect July 1, 2005.
21

22 SUMMARY

23 This bill is reported out by the Joint Standing Committee on
24 Taxation pursuant to Public Law 2003, chapter 498. The bill
25 proposes to amend the sales and use tax laws applicable to
26 railroads to exempt from sales and use tax motor fuel used for
27 powering railroad locomotives and parts and attachments for
28 otherwise exempt railroad rolling stock. The bill also extends
29 the exemption for railroad rolling stock used in interstate and
30 foreign commerce to include leases of railroad rolling stock.
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