

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 72

H.P. 61

House of Representatives, January 7, 2009

**An Act Regarding the Tax on Fuel Used for Commercial
Agriculture, Fishing and Forestry**

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative EDGECOMB of Caribou.
Cosponsored by Senator JACKSON of Aroostook and
Representative: PERCY of Phippsburg.

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

2 **Sec. 1. 36 MRSA §2908**, as amended by PL 2007, c. 438, §70, is repealed and the
3 following enacted in its place:

4 **§2908. Refund of tax in certain cases; time limit**

5 **1. Commercial forestry, agriculture and fishing.** A person who purchases and
6 uses internal combustion engine fuel for commercial forestry, agriculture or fishing, other
7 than in the operation of a registered motor vehicle on the highways of this State or, except
8 as provided in section 2910, in the operation of an aircraft, and who has paid the tax
9 imposed by this chapter on that fuel is entitled to reimbursement in the amount of the tax
10 paid, less 5¢ per gallon, upon presenting to the State Tax Assessor a sworn statement
11 accompanied by evidence as the assessor may require. The statement must show the total
12 amount of internal combustion engine fuel so purchased and used by that person for a
13 commercial forestry, agriculture or fishing use other than in the operation of registered
14 motor vehicles on the highways of this State or in the operation of aircraft.

15 Fuel that qualifies for a refund under this subsection is exempt from the use tax imposed
16 by chapter 215.

17 **2. Other commercial use.** A person who purchases and uses internal combustion
18 engine fuel for a commercial use other than those provided in subsection 1, in the
19 operation of a registered motor vehicle on the highways of this State or, except as
20 provided in section 2910, in the operation of an aircraft and who has paid the tax imposed
21 by this chapter on that fuel is entitled to reimbursement in the amount of the tax paid, less
22 1¢ per gallon, upon presenting to the State Tax Assessor a sworn statement accompanied
23 by evidence as the assessor may require. The statement must show the total amount of
24 internal combustion engine fuel so purchased and used by that person for a commercial
25 use other than those specified in subsection 1, in the operation of registered motor
26 vehicles on the highways of this State or in the operation of aircraft.

27 Fuel that qualifies for a refund under this subsection is subject to the use tax imposed by
28 chapter 215.

29 **3. Refund application; time limit.** A refund application on a form prescribed by
30 the State Tax Assessor must be filed to claim a refund pursuant to this section. Interest
31 must be paid at the rate determined pursuant to section 186, calculated from the date of
32 receipt of the claim, for all proper claims not paid within 30 days of receipt. Applications
33 for refunds must be filed with the assessor within 12 months from the date of purchase.

34 **Sec. 2. Application.** This Act applies to sales of internal combustion engine fuel
35 on or after October 1, 2009.

36 **SUMMARY**

37 Current law allows a person who purchases and uses internal combustion engine fuel
38 for any commercial use, other than in a motor vehicle on the highways of the State or for

1 aircraft, to apply for a refund of the excise tax paid on that fuel, less 1¢ per gallon. Any
2 fuel that qualifies for a refund is then subject to the state use tax of 5%.

3 This bill allows a person who purchases and uses internal combustion fuel for
4 commercial fishing, forestry or agriculture purposes to apply for a refund of the excise
5 tax paid, less 5¢ per gallon; such fuel is also exempt from the use tax. All fuel used for
6 other commercial purposes remains eligible for a refund of the excise tax, less 1¢ per
7 gallon, and subject to the use tax.