

MAINE STATE LEGISLATURE

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Date: 5/8/19

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 720, L.D. 1045, Bill, "An Act Regarding the Purchase of Fuel for Off-road Use"

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

'An Act To Provide a Sales Tax Refund for Fuel Used in Commercial Agricultural Production'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 36 MRSA §2013, as amended by PL 2007, c. 649, §8, is further amended to read:

§2013. Refund of sales tax on depreciable machinery and equipment purchases and on internal combustion fuel

1. Definitions. As used in this section, unless the context otherwise indicates, the following words have the following meanings.

A. "Commercial agricultural production" means commercial production of crops for human and animal consumption, including the commercial production of sod, an agricultural composting operation as defined in Title 7, section 152, subsection 1, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and the production of livestock, including the removal and storage of manure from that livestock.

A-1. "Commercial aquacultural production" means the commercial production of cultured fish, shellfish, seaweed or other marine plants for human and animal consumption, including:

- (1) All cultivating activities occurring at hatcheries or nurseries, from the egg, larval or spore stages to the transfer of the product to a growing site; and

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1 (2) All cultivating activities occurring on water, from the receipt of fish,
2 shellfish, seaweed or other marine plants from onshore facilities to the delivery of
3 harvested products to onshore facilities for processing.

4 B. "Commercial fishing" means attempting to catch fish or any other marine
5 animals or organisms with the intent of disposing of them for profit or trade in
6 commercial channels and does not include subsistence fishing for personal use, sport
7 fishing or charter boat fishing where the vessel is used for carrying sport anglers to
8 available fishing grounds.

9 C. "Depreciable machinery and equipment" means that part of the following
10 machinery and equipment for which depreciation is allowable under the Code and
11 repair parts for that machinery and equipment:

12 (1) New or used machinery and equipment for use directly and primarily in
13 commercial agricultural production, including self-propelled vehicles, but
14 excluding motor vehicles as defined in section 1752, subsection 7; attachments
15 and equipment for the production of field and orchard crops; new or used
16 machinery and equipment for use directly and primarily in production of milk,
17 animal husbandry and production of livestock, including poultry; and new or
18 used machinery and equipment not used directly and primarily in commercial
19 agricultural production, but used to transport potatoes from a truck into a storage
20 location;

21 (2) New or used watercraft, nets, traps, cables, tackle and related equipment
22 necessary to and used directly and primarily in the operation of a commercial
23 fishing venture, but excluding motor vehicles as defined in section 1752,
24 subsection 7; or

25 (3) New or used watercraft, machinery or equipment used directly and primarily
26 for commercial aquacultural production, including, but not limited to: nets; ropes;
27 cables; anchors and anchor weights; shackles and other hardware; buoys; fish
28 tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating
29 systems; boilers and related pumping systems; diving equipment; feeders and
30 related equipment; power-generating equipment; tank water-level sensors;
31 aboveground piping; water-oxygenating systems; fish-grading equipment; safety
32 equipment; and sea cage systems, including walkways and frames, lights, netting,
33 buoys, shackles, ropes, cables, anchors and anchor weights; but excluding motor
34 vehicles as defined in section 1752, subsection 7.

35 **2. Refund authorized.** Any person, association of persons, firm or corporation that
36 purchases electricity, or that purchases or leases depreciable machinery or equipment, for
37 use in commercial agricultural production, commercial fishing or commercial
38 aquacultural production must be refunded the amount of sales tax paid upon presenting to
39 the State Tax Assessor evidence that the purchase is eligible for refund under this section.

40 Evidence required by the assessor may include a copy or copies of that portion of the
41 purchaser's or lessee's most recent filing under the United States Internal Revenue Code
42 that indicates that the purchaser or lessee is engaged in commercial agricultural
43 production, commercial fishing or commercial aquacultural production and that the

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1 purchased machinery or equipment is depreciable for those purposes or would be
2 depreciable for those purposes if owned by the lessee.

3 In the event that any piece of machinery or equipment is only partially depreciable under
4 the United States Internal Revenue Code, any reimbursement of the sales tax must be
5 prorated accordingly. In the event that electricity is used in qualifying and nonqualifying
6 activities, any reimbursement of the sales tax must be prorated accordingly.

7 Application for refunds must be filed with the assessor within 36 months of the date of
8 purchase or execution of the lease.

9 **3. Purchases made free of tax with certificate.** Sales tax need not be paid on the
10 purchase of electricity or of a single item of machinery or equipment if the purchaser has
11 obtained a certificate from the assessor stating that the purchaser is engaged in
12 commercial agricultural production, commercial fishing or commercial aquacultural
13 production and authorizing the purchaser to purchase electricity or depreciable machinery
14 and equipment without paying Maine sales tax. The seller is required to obtain a copy of
15 the certificate together with an affidavit as prescribed by the assessor, to be maintained in
16 the seller's records, attesting to the qualification of the purchase for exemption pursuant to
17 this section. In order to qualify for this exemption, the electricity or depreciable
18 machinery or equipment must be used directly in commercial agricultural production,
19 commercial fishing or commercial aquacultural production. In order to qualify for this
20 exemption, the electricity must be used in qualifying activities, including support
21 operations.

22 Sales tax may be reduced on the purchase of dyed fuel, as defined in section 3202,
23 subsection 2-A, if the purchaser has obtained a certificate from the assessor stating that
24 the purchaser is engaged in commercial agricultural production. The reduced sales tax
25 amount is equal to the portion of the sales tax attributable to the sale price of dyed fuel
26 that exceeds \$3 for sales from October 1, 2009 to June 30, 2010 and \$3.50 for sales after
27 June 30, 2010.

28 **4. Internal combustion fuel for commercial agricultural production.** Any person
29 that purchases internal combustion fuel for the purpose of commercial agricultural
30 production must be refunded a portion of sales tax paid upon presenting to the State Tax
31 Assessor evidence that the purchase is eligible for refund under this section. The amount
32 of the refund is equal to the portion of the sales tax attributable to the sale price of
33 internal combustion fuel that exceeds \$3 for sales from July 1, 2009 to June 30, 2010 and
34 \$3.50 for sales after June 30, 2010. Applications for refund must be filed with the
35 assessor within 36 months of the date of purchase. By January 15th, annually, the State
36 Tax Assessor shall report to the joint standing committee of the Legislature with
37 jurisdiction over taxation matters the number of persons granted refunds under this
38 subsection and the amount of refunds paid during the previous calendar year.

39 **Sec. 2. Effective date.** This Act takes effect October 1, 2009.'

40 **SUMMARY**

41 This amendment expands the application of the sales tax refund to fuel used for
42 commercial agricultural production and provides that the refund applies only to the sales
43 tax on the portion of the sale price that exceeds \$3 from July 1, 2009 to June 30, 2010 and

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1 \$3.50 thereafter. The amendment also permits a person with a certificate stating that the
2 person is engaged in commercial agricultural production to purchase dyed fuel with the
3 sales tax reduced. The amendment also requires the State Tax Assessor to report on the
4 number of persons granted refunds and the amount of refunds paid during the previous
5 calendar year.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



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LD 1045

LR 433(02)

An Act Regarding the Purchase of Fuel for Off-road Use

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

| | 2009-10 | 2010-11 | Projections 2011-12 | Projections 2012-13 |
|-----------------------------|---------|---------|------------------------|------------------------|
| Net Cost (Savings) | | | | |
| General Fund | \$0 | \$0 | \$201,144 | \$428,359 |
| Revenue | | | | |
| General Fund | \$0 | \$0 | (\$201,144) | (\$428,359) |
| Other Special Revenue Funds | \$0 | \$0 | (\$11,033) | (\$23,497) |

Fiscal Detail and Notes

The bills refunds a portion of the sales tax paid on the purchase fuel for commercial agriculture production. The sales tax refund applies only to the portion of the sales when the cost exceeds \$3.00 per gallon from July 1, 2009 to June 30, 2010 and \$3.50 thereafter. The sales tax refund results in a loss of revenue to the General Fund of \$201,144 in FY 2011-12 and \$428,359 in FY 2012-13. There will also be a loss of revenue to the Local Government Fund of \$11,033 in FY 2010-12 and \$23,497 in FY 2011-13. Additional costs to Maine Revenue Service in refunding the sales tax can be absorbed within existing resources.