

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1341

H.P. 942

House of Representatives, March 31, 2009

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### An Act To Reform Maine's Motor Fuel Tax Laws

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Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CROCKETT of Augusta.  
Cosponsored by Senator PERRY of Penobscot and  
Representatives: CAREY of Lewiston, HOGAN of Old Orchard Beach, MAZUREK of  
Rockland, PEOPLES of Westbrook, PILON of Saco, VALENTINO of Saco, WATSON of  
Bath, Senator: DAMON of Hancock.

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

2 **Sec. 1. 36 MRSA §2903, sub-§1**, as amended by PL 2001, c. 688, §1, is further  
3 amended to read:

4 **1. Excise tax imposed.** An excise tax is imposed on internal combustion engine fuel  
5 used or sold within this State, including sales to the State or a political subdivision of the  
6 State, at the rate of ~~22¢~~ 21¢ per gallon, except that the rate is 3.4¢ per gallon on internal  
7 combustion engine fuel, as defined in section 2902, bought or used for the purpose of  
8 propelling jet or turbojet engine aircraft. ~~The tax rate provided by this section is subject~~  
9 ~~to annual inflation adjustment pursuant to section 3321 except with respect to the tax~~  
10 ~~imposed upon fuel bought or used for the purpose of propelling jet or turbojet engine~~  
11 ~~aircraft.~~

12 **Sec. 2. 36 MRSA §2903, sub-§1-D** is enacted to read:

13 **1-D. Price-based component.** Beginning in 2010, and each calendar year  
14 thereafter, the State Tax Assessor shall calculate a price-based component that must be  
15 added to the excise tax imposed pursuant to subsection 1, as determined according to this  
16 subsection.

17 A. The tax imposed pursuant to subsection 1 must be subtracted from the average per  
18 gallon retail price of regular gasoline for New England for the immediately preceding  
19 calendar year as published by the United States Department of Energy, Energy  
20 Information Administration. The result is multiplied by 5% and rounded to the  
21 nearest 1/10 of a cent.

22 B. Except for the initial determination of the price-based component in 2010, the  
23 change in the price-based component may not increase the total excise tax imposed  
24 pursuant to this section by more than 10% per year.

25 C. The price-based component must be added to the excise tax imposed pursuant to  
26 subsection 1 and becomes effective on the July 1st immediately following the  
27 calculation.

28 **Sec. 3. 36 MRSA §2903, sub-§6**, as reallocated by RR 2007, c. 2, §21, is  
29 amended to read:

30 **6. Deposit to trust fund.** Beginning July 1, 2009 and ending June 30, 2010, the  
31 Treasurer of State shall deposit monthly into the TransCap Trust Fund established in Title  
32 30-A, section 6006-G 7.5% of the excise tax after the distribution of taxes pursuant to  
33 section 2903-D imposed under subsection 1. Beginning July 1, 2010, the Treasurer of  
34 State shall deposit monthly into the TransCap Trust Fund, after the distribution of taxes  
35 pursuant to section 2903-D imposed under subsection 1:

36 A. Seven and one-half percent of the excise tax imposed under subsection 1;

37 B. The first 8¢ per gallon of excise tax imposed under subsection 1-D; and

38 C. Seventy percent of the excise tax in excess of 8¢ per gallon imposed under  
39 subsection 1-D.

1           **Sec. 4. 36 MRSA §3203, sub-§1-B**, as enacted by PL 2007, c. 650, §2, is  
2 amended to read:

3           **1-B. Generally; rates beginning July 1, 2008 and ending June 30, 2010.** Except  
4 as provided in section 3204-A, beginning July 1, 2008 and ending June 30, 2010, an  
5 excise tax is levied and imposed on all suppliers of distillates sold, on all retailers of low-  
6 energy fuel sold and on all users of special fuel used in this State for each gallon of  
7 distillate at the rates provided in this subsection. Tax rates for each gallon of low-energy  
8 fuel are based on the British Thermal Unit, referred to in this subsection as "BTU,"  
9 energy content for each fuel as based on gasoline gallon equivalents or the comparable  
10 measure for distillates. The gasoline gallon equivalent is the amount of alternative fuel  
11 that equals the BTU energy content of one gallon of gasoline. In the case of distillates,  
12 the tax rate provided by this section is subject to annual inflation adjustment pursuant to  
13 section 3321. For purposes of this subsection, "base rate" means the rate in effect for  
14 gasoline or diesel on July 1st of each year as indexed under section 3321.

15           A. This paragraph establishes the applicable BTU values and tax rates based on  
16 gasoline gallon equivalents.

17 Fuel type based on gasoline	18 BTU content per gallon or 19 gasoline gallon equivalent	20 Tax rate formula (BTU 21 value fuel/BTU value 22 gasoline) x base rate
23 Gasoline	24 115,000	25 100% x base rate
26 Propane	27 84,500	28 73% x base rate
29 Compressed Natural Gas (CNG)	115,000	100% x base rate
Methanol	56,800	49% x base rate
Ethanol	76,000	66% x base rate
Hydrogen	115,000	100% x base rate
Hydrogen Compressed Natural Gas	115,000	100% x base rate

30           B. This paragraph establishes the applicable BTU values and tax rates based on  
31 distillate gallon equivalents.

32 Fuel type based on diesel	33 BTU content per gallon or 34 gallon equivalent	35 Tax rate formula (BTU 36 value fuel/BTU value 37 diesel) x base rate diesel
38 Diesel	39 128,400	100% x base rate
Liquified Natural Gas (LNG)	73,500	57% x base rate
Biodiesel	118,300	92% x base rate

40           C. The conversion factors established in this paragraph must be used in converting to  
41 gasoline gallon equivalents.

42           (1) For compressed natural gas, BTUs per 100 standard cubic feet is 93,000, and  
43 there are 123.66 standard cubic feet per gasoline gallon equivalent.

1 (2) For hydrogen, BTUs per 100 standard cubic feet is 27,000, and there are  
2 425.93 standard cubic feet per gasoline gallon equivalent.

3 (3) For hydrogen compressed natural gas, BTUs per 100 standard cubic feet is  
4 79,800, and there are 144.11 standard cubic feet per gasoline gallon equivalent.

5 **Sec. 5. 36 MRSA §3203, sub-§1-C** is enacted to read:

6 **1-C. Generally; rates beginning July 1, 2010.** Except as provided in section  
7 3204-A, beginning July 1, 2010, an excise tax is levied and imposed on all suppliers of  
8 distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel  
9 used in this State for each gallon of distillate at the rate of 21¢ per gallon plus a price-  
10 based component as provided in subsection 1-D. Tax rates for each gallon of low-energy  
11 fuel are based on the British Thermal Unit, referred to in this subsection as "BTU,"  
12 energy content for each fuel as based on gasoline gallon equivalents or the comparable  
13 measure for distillates. The gasoline gallon equivalent is the amount of alternative fuel  
14 that equals the BTU energy content of one gallon of gasoline. For purposes of this  
15 subsection, "base rate" means the excise tax imposed pursuant to this subsection,  
16 including the price-based component specified in subsection 1-D, in effect on July 1st of  
17 each year.

18 A. This paragraph establishes the applicable BTU values and tax rates based on  
19 gasoline gallon equivalents.

<u>Fuel type based on gasoline</u>	<u>BTU content per gallon or gasoline gallon equivalent</u>	<u>Tax rate formula (BTU value fuel/BTU value gasoline) x base rate</u>
<u>Gasoline</u>	<u>115,000</u>	<u>100% x base rate</u>
<u>Propane</u>	<u>84,500</u>	<u>73% x base rate</u>
<u>Compressed Natural Gas (CNG)</u>	<u>115,000</u>	<u>100% x base rate</u>
<u>Methanol</u>	<u>56,800</u>	<u>49% x base rate</u>
<u>Ethanol</u>	<u>76,000</u>	<u>66% x base rate</u>
<u>Hydrogen</u>	<u>115,000</u>	<u>100% x base rate</u>
<u>Hydrogen Compressed Natural Gas</u>	<u>115,000</u>	<u>100% x base rate</u>

33 B. This paragraph establishes the applicable BTU values and tax rates based on  
34 distillate gallon equivalents.

<u>Fuel type based on diesel</u>	<u>BTU content per gallon or gallon equivalent</u>	<u>Tax rate formula (BTU value fuel/BTU value diesel) x base rate diesel</u>
<u>Diesel</u>	<u>128,400</u>	<u>100% x base rate</u>
<u>Liquified Natural Gas (LNG)</u>	<u>73,500</u>	<u>57% x base rate</u>
<u>Biodiesel</u>	<u>118,300</u>	<u>92% x base rate</u>

1 C. The conversion factors established in this paragraph must be used in converting to  
2 gasoline gallon equivalents.

3 (1) For compressed natural gas, BTUs per 100 standard cubic feet is 93,000, and  
4 there are 123.66 standard cubic feet per gasoline gallon equivalent.

5 (2) For hydrogen, BTUs per 100 standard cubic feet is 27,000, and there are  
6 425.93 standard cubic feet per gasoline gallon equivalent.

7 (3) For hydrogen compressed natural gas, BTUs per 100 standard cubic feet is  
8 79,800, and there are 144.11 standard cubic feet per gasoline gallon equivalent.

9 **Sec. 6. 36 MRSA §3203, sub-§1-D** is enacted to read:

10 **1-D. Price-based component.** Beginning in 2010, and each calendar year  
11 thereafter, the State Tax Assessor shall calculate a price-based component that must be  
12 added to the excise tax imposed pursuant to subsection 1-C, as determined according to  
13 this subsection.

14 A. The tax imposed pursuant to subsection 1-C must be subtracted from the average  
15 per gallon retail price of diesel fuel for New England for the immediately preceding  
16 calendar year as published by the United States Department of Energy, Energy  
17 Information Administration. The result is multiplied by 5% and rounded to the  
18 nearest 1/10 of a cent.

19 B. Except for the initial determination of the price-based component in 2010, the  
20 change in the price-based component may not increase the total excise tax imposed  
21 pursuant to this section by more than 10% per year.

22 C. The price-based component must be added to the excise tax imposed pursuant to  
23 subsection 1-C and becomes effective on the July 1st immediately following the  
24 calculation.

25 **Sec. 7. 36 MRSA §3203, sub-§4**, as amended by PL 2007, c. 538, Pt. L, §2, is  
26 repealed and the following enacted in its place:

27 **4. Highway Fund.** All taxes and fines collected under this chapter must be credited  
28 to the Highway Fund, except that:

29 A. Beginning July 1, 2009 and ending June 30, 2010, the Treasurer of State shall  
30 deposit monthly into the TransCap Trust Fund established in Title 30-A, section  
31 6006-G 7.5% of the excise tax imposed under subsection 1-B; and

32 B. Beginning July 1, 2010, the Treasurer of State shall deposit monthly into the  
33 TransCap Trust Fund 7.5% of the excise tax imposed under subsection 1-B plus the  
34 first 8¢ per gallon of the excise tax imposed pursuant to subsection 1-D and 70% of  
35 the excise tax in excess of 8¢ per gallon of the excise tax imposed pursuant to  
36 subsection 1-D.

37 **Sec. 8. 36 MRSA §3208, first ¶**, as amended by PL 2007, c. 438, §78, is further  
38 amended to read:

1 Every user subject to the tax imposed by section 3203 is entitled to a credit on the  
2 tax, equivalent to the then current rate of taxation per gallon imposed by section 3203 as  
3 ~~adjusted pursuant to section 3321~~, on all special fuel purchased by that user from a  
4 supplier or retailer licensed in accordance with section 3204 upon which the tax imposed  
5 by section 3203 has been paid. Evidence of the payment of that tax, in a form required by  
6 or satisfactory to the State Tax Assessor, must be furnished by each user claiming the  
7 credit. When the amount of the credit to which any user is entitled for any quarter  
8 exceeds the amount of the tax for which that user is liable for the same quarter, the excess  
9 may be allowed as a credit on the tax for which that user would be otherwise liable for  
10 another quarter or quarters. Upon application to the assessor, the excess may be refunded  
11 if the applicant has paid to another state or province under a lawful requirement of that  
12 jurisdiction a tax similar in effect to the tax imposed by section 3203 on the use or  
13 consumption of that fuel outside the State, at the same rate per gallon that tax was paid in  
14 this State, but in no case to exceed the then current rate per gallon of the tax imposed by  
15 section 3203 ~~as adjusted pursuant to section 3321~~. Upon receipt of the application the  
16 assessor, if satisfied after investigation that a refund is justified, shall so certify to the  
17 State Controller. The refund must be paid out of the Highway Fund. This credit lapses at  
18 the end of the last quarter of the year following that in which the credit arose.

19 **Sec. 9. 36 MRSA c. 465**, as amended, is repealed.

## 20 SUMMARY

21 This bill restructures the excise tax imposed on motor fuels by:

22 1. Reducing the motor fuel excise tax imposed on gasoline from the current inflation  
23 adjusted rate of 28.4¢ per gallon to 21¢ per gallon and on diesel fuel from the current  
24 inflation adjusted rate of 29.6¢ per gallon to 21¢ per gallon;

25 2. Creating a price-based excise tax component to be added to the excise tax on  
26 gasoline and diesel fuel. The new component is determined annually beginning in 2010  
27 and is based on the average retail price of gasoline or diesel fuel for New England for the  
28 previous year. The maximum increase in the overall excise tax is limited to 10%  
29 annually, except for the first year of implementation;

30 3. Repealing the annual indexing of motor fuels to the rate of inflation; and

31 4. Transferring 8¢ per gallon and 70% of the amount in excess of 8¢ of the price-  
32 based excise tax component to the TransCap Trust Fund.