

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 42

H.P. 35

House of Representatives, January 11, 2011

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

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Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative EDGECOMB of Caribou.  
Cosponsored by Senator SHERMAN of Aroostook and  
Representatives: BLACK of Wilton, GIFFORD of Lincoln, TIMBERLAKE of Turner,  
WILLETTE of Mapleton, WOOD of Sabattus.

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2 **Sec. 1. 36 MRSA §2908**, as amended by PL 2007, c. 438, §70, is repealed and the  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. 36 MRSA §3218**, as amended by PL 2007, c. 438, §§86 and 87, is repealed  
35 and the following enacted in its place:

36 **§3218. Refund of tax in certain cases; time limit**

37 **1. Commercial forestry, agriculture and fishing.** A person who purchases and  
38 uses special fuel for commercial forestry, agriculture or fishing, other than in the  
39 operation of a registered motor vehicle on the highways of this State, and who has paid  
40 the tax imposed by this chapter on that fuel is entitled to reimbursement in the amount of

1 the tax paid, less 5¢ per gallon, upon presenting to the State Tax Assessor a sworn  
2 statement accompanied by evidence as the assessor may require. The statement must  
3 show the total amount of special fuel so purchased and used by that person for a  
4 commercial forestry, agriculture or fishing use other than in the operation of registered  
5 motor vehicles on the highways of this State.

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

8 **2. Other commercial use.** A person who purchases and uses special fuel for a  
9 commercial use other than those provided in subsection 1, in the operation of a registered  
10 motor vehicle on the highways of this State, and who has paid the tax imposed by this  
11 chapter on that fuel is entitled to reimbursement in the amount of the tax paid, less 1¢ per  
12 gallon, upon presenting to the State Tax Assessor a sworn statement accompanied by  
13 evidence as the assessor may require. The statement must show the total amount of  
14 special fuel so purchased and used by that person for a commercial use other than those  
15 specified in subsection 1 in the operation of registered motor vehicles on the highways of  
16 this State.

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

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

24 **Sec. 3. Application.** This Act applies to sales of fuel on or after October 1, 2011.

## 25 SUMMARY

26 Current law allows a person who purchases and uses fuel for any commercial use,  
27 other than in a motor vehicle on the highways of the State or for aircraft, to apply for a  
28 refund of the excise tax paid on that fuel, less 1¢ per gallon. Any fuel that qualifies for a  
29 refund is then subject to the state use tax of 5%.

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