

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 383

H.P. 309

House of Representatives, February 8, 2011

### An Act To Eliminate the Annual Indexing of Fuel Tax Rates

(EMERGENCY)

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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 CEBRA of Naples.  
Cosponsored by Senator THOMAS of Somerset and  
Senator: COLLINS of York.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** indexing of the motor fuel tax rate will occur July 1, 2011 unless this bill  
4 takes effect before that date; and

5           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
6 the meaning of the Constitution of Maine and require the following legislation as  
7 immediately necessary for the preservation of the public peace, health and safety; now,  
8 therefore,

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

10           **Sec. 1. 36 MRSA §3203, sub-§1-B,** as amended by PL 2009, c. 413, Pt. W, §2  
11 and affected by §6, is further amended to read:

12           **1-B. Generally; rates.** Except as provided in section 3204-A, beginning July 1,  
13 2008 and ending June 30, 2009, an excise tax is levied and imposed on all suppliers of  
14 distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel  
15 used in this State for each gallon of distillate at the rate of 29.6¢ per gallon. Beginning  
16 July 1, 2009, an excise tax is levied and imposed on all suppliers of distillates sold, on all  
17 retailers of low-energy fuel sold and on all users of special fuel used in this State for each  
18 gallon of distillate at the rate of 30.7¢ per gallon. Tax rates for each gallon of low-energy  
19 fuel are based on the British Thermal Unit, referred to in this subsection as "BTU,"  
20 energy content for each fuel as based on gasoline gallon equivalents or the comparable  
21 measure for distillates. The gasoline gallon equivalent is the amount of alternative fuel  
22 that equals the BTU energy content of one gallon of gasoline. ~~In the case of distillates,~~  
23 ~~the tax rate provided by this section is subject to annual inflation adjustment pursuant to~~  
24 ~~section 3321.~~ For purposes of this subsection, "base rate" means the rate in effect for  
25 gasoline or diesel on July 1st of each year ~~as indexed under section 3321.~~ A biodiesel  
26 blend containing less than 90% biodiesel fuel is subject to the rate of tax imposed on  
27 diesel.

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

Fuel type based on gasoline	BTU content per gallon or gasoline gallon equivalent	Tax rate formula (BTU value fuel/BTU value gasoline) x base rate
Gasoline	115,000	100% x base rate
Propane	84,500	73% x base rate
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

1	Hydrogen Compressed	115,000	100% x base rate
2	Natural Gas		

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

5	Fuel type based on diesel	BTU content per gallon or	Tax rate formula (BTU
6		gallon equivalent	value fuel/BTU value
7			diesel) x base rate diesel
8			
9	Diesel	128,400	100% x base rate
10	<del>Liquefied</del> Liquefied Natural	73,500	57% x base rate
11	Gas (LNG)		
12	Biodiesel	118,300	92% x base rate

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

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

17 (2) For hydrogen, BTUs per 100 standard cubic feet is 27,000, and there are  
18 425.93 standard cubic feet per gasoline gallon equivalent.

19 (3) For hydrogen compressed natural gas, BTUs per 100 standard cubic feet is  
20 79,800, and there are 144.11 standard cubic feet per gasoline gallon equivalent.

21 **Sec. 2. 36 MRSA §3208, first ¶**, as amended by PL 2007, c. 438, §78, is further  
22 amended to read:

23 Every user subject to the tax imposed by section 3203 is entitled to a credit on the  
24 tax, equivalent to the then current rate of taxation per gallon imposed by section 3203 ~~as~~  
25 ~~adjusted pursuant to section 3321~~, on all special fuel purchased by that user from a  
26 supplier or retailer licensed in accordance with section 3204 upon which the tax imposed  
27 by section 3203 has been paid. Evidence of the payment of that tax, in a form required by  
28 or satisfactory to the State Tax Assessor, must be furnished by each user claiming the  
29 credit. When the amount of the credit to which any user is entitled for any quarter  
30 exceeds the amount of the tax for which that user is liable for the same quarter, the excess  
31 may be allowed as a credit on the tax for which that user would be otherwise liable for  
32 another quarter or quarters. Upon application to the assessor, the excess may be refunded  
33 if the applicant has paid to another state or province under a lawful requirement of that  
34 jurisdiction a tax similar in effect to the tax imposed by section 3203 on the use or  
35 consumption of that fuel outside the State, at the same rate per gallon that tax was paid in  
36 this State, but in no case to exceed the then current rate per gallon of the tax imposed by  
37 section 3203 ~~as adjusted pursuant to section 3321~~. Upon receipt of the application the  
38 assessor, if satisfied after investigation that a refund is justified, shall so certify to the  
39 State Controller. The refund must be paid out of the Highway Fund. This credit lapses at  
40 the end of the last quarter of the year following that in which the credit arose.

