

MAINE STATE LEGISLATURE

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rec. of
State

EIGHTY-FIRST LEGISLATURE

SENATE

NO. 5

In Senate, Jan. 22, 1923.

Referred to Committee on Judiciary and one thousand copies ordered printed. Sent down for concurrence.

L. ERNEST THORNTON, Secretary.

Presented by Senator Wadsworth of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-THREE

AN ACT Providing for a Tax upon Gasoline and Other
Products Used in Propelling Motor Vehicles.

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

Section 1. The terms used in this act shall be construed
2 as follows: "Motor vehicle" shall mean any vehicle pro-
3 pelled or drawn upon the public ways of this state by any
4 power other than muscular, except motor boats, tractors
5 used for agricultural purposes not operating on public ways,
6 and such vehicles as run only on rails or tracks, or are
7 owned and operated by the United States or the state.
8 "Motor vehicle fuels" shall mean gasoline, benzol or other
9 products to be used in the propelling of motor vehicles

10 using combustible type engines over the public ways of this
11 state. "Distributor" shall mean any person, association of
12 persons, firm or corporation, wherever resident or located,
13 who imports or causes to be imported for sale fuels as
14 herein defined, into the state for use as herein defined in
15 and after the same reaches the state; and also any person,
16 association of persons, firm or corporation who produces,
17 refines, manufactures or compounds fuels as herein defined
18 within the state.

Sect. 2. There is hereby levied and imposed an excise
2 tax of two cents per gallon upon said motor vehicle fuels
3 sold in this state for the uses defined in this act; excepting,
4 however, such fuels as are imported into the state and sold
5 in original packages, in the same form and condition as
6 when so imported, as international or interstate commerce
7 sales; or purchased outside the state and brought into the
8 state in original packages by the consumer for his own use;
9 or sold wholly for exportation from the state.

Sect. 3. Every distributor of such fuels in the state shall
2 file a duly acknowledged certificate with the state auditor
3 on forms prescribed and furnished by the auditor, which
4 shall contain the name under which such distributor is trans-
5 acting business within the state, the place or places of busi-
6 ness and location of distributing stations and agencies of
7 the distributor, the names and addresses of the several per-
8 sons constituting the firm or partnership, and if a corpo-
9 ration its corporate name, and the names and addresses of

10 its principal officers and agents in the state. No distributor
11 as herein defined shall sell or distribute any such fuels until
12 such certificate is furnished as required by this act.

Sect. 4. All fuels as defined in this act distributed by
2 distributors to their branch agencies throughout the state
3 shall be deemed to have been sold and shall be subject to
4 the requirements of this act the same as if sold to the pub-
5 lic at large.

Sect. 5. Each distributor paying or becoming liable to
2 pay the tax imposed by this act shall be entitled to charge
3 and collect two cents per gallon only as a part of the sell-
4 ing price of the fuels subject to the tax.

Sect. 6. Every such distributor shall keep a record of all
2 sales and distribution of such fuels which shall include the
3 number of gallons sold and distributed, and the date of the
4 sale and delivery. Every such distributor shall also deliver
5 with every consignment of such fuel to a purchaser within
6 this state a written statement containing the date and the
7 number of gallons delivered, and the names of purchaser
8 and seller. Said records and said written statement shall
9 be preserved by said distributors and said purchasers re-
10 spectively for the period of one year and shall be offered
11 for inspection upon verbal or written demand of the state
12 auditor or his agents; but any information so gained shall
13 be confidential and shall not be divulged except when re-
14 quired in a court of law.

Sect. 7. Every distributor shall, on or before the fifteenth

2 day of each month, render a report to the state auditor
3 stating the number of gallons of motor vehicle fuel received,
4 sold and used in the state by him during the preceding calen-
5 dar month, on forms to be furnished by said auditor; and
6 said report shall contain such further information pertinent
7 thereto as said auditor shall prescribe. On or before the
8 first day of the calendar month succeeding the filing of said
9 report each distributor shall pay to the treasurer of state
10 a tax of two cents per gallon upon each gallon so reported
11 as sold or distributed. On or before the first day of each
12 calendar month the state auditor shall transmit to the treas-
13 urer of state such information as shall show all taxes due
14 from each distributor under the provisions of this act.

Sect. 8. Whenever any distributor shall make any dis-
2 tribution of fuels to any person, firm or corporation, upon
3 representation that the same is to be used only for manu-
4 facturing purposes or for any other purpose for which such
5 fuel is not taxable under this act, the distributor shall cer-
6 tify such sale to the state auditor on a form provided for
7 such purpose. The state auditor may require such pur-
8 chaser to certify to him under oath on forms furnished for
9 such purpose, both directly and through the distributor, the
10 use which is to be made of such fuels, and whether any
11 portion or the whole of such fuels so purchased is to be
12 used in the operation of motor vehicles. If any portion
13 or the whole of such fuels so purchased is taxable under
14 this act, then the purchaser shall be charged with the tax

15 provided in this act and shall pay the same in accordance
16 with the provisions hereof.

Sect. 9. Whoever shall buy and use any fuel as defined
2 in this act for purposes for which such fuel is not taxable
3 under this act, and shall have paid any tax on such fuel
4 levied or directed to be paid as provided by this act, either
5 directly by the collection of such tax by the vendor from
6 the consumer, or indirectly by adding the amount of such
7 tax to the price of such fuel and paid by such consumer,
8 shall be reimbursed and repaid the amount of such tax paid
9 by him upon filing with the state auditor a petition under
10 oath, accompanied by the original invoices showing such
11 purchase, which petition shall state the total amount of the
12 fuel so purchased and used and the purpose for which it
13 was used. The state auditor upon approval of said petition
14 shall transmit the same to the treasurer of state, who shall
15 repay to such consumer from the taxes collected on motor
16 vehicle fuels the taxes so paid by said consumer; provided
17 the petition for a refund as herein provided shall be filed
18 with the state auditor within ninety days from the date of
19 purchase or invoice, or not at all.

The treasurer of state is hereby authorized to create a
2 special fund out of moneys received under this act suffi-
3 cient in his judgment to enable him to promptly pay all
4 claims for refunds duly allowed.

Sect. 10. Whoever shall receive any such fuels in such
2 form and under such circumstances as shall preclude the

3 collection of this tax from the distributor by reason of the
4 provisions of the laws of the United States, and shall there-
5 after sell any such fuels in such manner and under such
6 circumstances as may subject such sale to the taxing power
7 of this state, such person shall be considered as a distributor
8 and shall make the same reports, pay the same taxes, and
9 be subject to all other provisions of this act relating to dis-
10 tributors of fuels.

Sect. 11. All moneys received by the treasurer of state
2 under this act shall be appropriated and used for the main-
3 tenance of state and state aid highways under the direction
4 of the state highway commission as now provided by statute.

Sect. 12. In case any section or provision of this act shall
2 be questioned in any court and shall be held unconstitu-
3 tional or invalid, the same shall not be held to effect any
4 other provision or section of this act.

Sect. 13. Any distributor or purchaser of such fuels who
2 shall make any false or fraudulent report or return required
3 by this act, or who shall evade or violate any other provision
4 of this act, shall be fined not more than two thousand dol-
5 lars. Whenever any distributor or purchaser shall fail to
6 pay any tax due under the provisions of this act within the
7 time limited herein, the attorney general shall enforce pay-
8 ment of such tax by civil action against such distributor
9 or purchaser for the amount of such tax, in a court of
10 appropriate jurisdiction.