

MAINE STATE LEGISLATURE

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N I N E T Y - T H I R D L E G I S L A T U R E

Legislative Document

No. 414

H. P. 634

House of Representatives, January 31, 1947.

Referred to Committee on Taxation. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Burgess of Limestone.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

**AN ACT Reducing Real Estate Taxes, and Providing Additional Highway
Funds.**

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

Sec. 1. R. S., c. 14, § 160, amended. Section 160 of chapter 14 of the revised statutes is hereby amended to read as follows:

'Sec. 160. Tax levied; rebates. An excise tax is levied and imposed at the rate of ~~4c~~ 6c per gallon upon internal combustion engine fuel sold or used within this state, including such sales when made to the state or any political subdivision thereof, for any purpose whatsoever, excepting, however, such internal combustion engine fuel sold or used in such form and under such circumstances as shall preclude the collection of this tax by reason of the provisions of the laws of the United States, or sold wholly for exportation from the state, or brought into the state in the ordinary standardized equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of such vehicle within the state; provided, however, that on the same fuel only one tax shall be paid to the state, for which tax the distributor first receiving the fuel in the state shall be primarily liable to the state, except when such fuel has been sold and delivered in tank car or ship or barge lots to another distributor in the state, in which case the purchasing distributor shall be primarily liable to

the state for the tax; and provided further, that 3c of the tax so paid, and no more, upon such internal combustion fuel used in motor boats, in tractors used for agricultural purposes not operating on public ways, or in such vehicles as run only on rails or tracks, or in stationary engines, or in the mechanical or industrial arts, shall be refunded as hereinafter provided.'

Sec. 2. R. S., c. 14, § 162, amended. Section 162 of chapter 14 of the revised statutes is hereby amended to read as follows :

'Sec. 162. Distributor entitled to collect 6c additional. Each distributor paying or becoming liable to pay the tax imposed by sections 159 to 168, inclusive, shall be entitled to charge and collect ~~4c~~ **6c** per gallon only as a part of the selling price of the internal combustion engine fuels subject to the tax.'

Sec. 3. R. S., c. 14, § 163, amended. Section 163 of chapter 14 of the revised statutes, as amended by section 2 of chapter 31 of the public laws of 1945, is hereby further amended to read as follows :

'Sec. 163. Rules and regulations; reports; assessment of tax. Every distributor shall on or before the last day of each month render a report to the state tax assessor stating the number of gallons of internal combustion engine fuel received, sold, and used in the state by him during the preceding calendar month, on forms to be furnished by the state tax assessor. Such report shall contain such further information pertinent thereto as the state tax assessor shall prescribe, and the state tax assessor may make such other reasonable rules and regulations regarding the administration and enforcement of the provisions of the gasoline tax act as he may deem necessary or expedient, copies of which shall be sent to distributors, and he or his duly authorized agent shall have access during reasonable business hours to the books, invoices and vouchers of the distributor which may show the fuel handled by the distributor. At the time of the filing of said report each distributor shall pay to the state tax assessor a tax of ~~4c~~ **6c** upon each gallon so reported as sold, distributed or used, and the state tax assessor shall pay over all receipts from such tax to the treasurer of state daily. And if such report is not filed by the last day of the month such distributor shall be liable to a penalty of \$5 a day for each day in arrears, due on demand by the state tax assessor and recoverable in an action of debt. Each distributor shall, within 15 days after demand made on him by the state tax assessor, pay a tax of ~~4c~~ **6c** per gallon upon each gallon of such fuel upon which the tax has not been paid, which upon an audit the state tax assessor may find to have been received into the state during the preceding year by the distributor and not properly accounted for in a dis-

tributor's report or in accordance with law. An allowance of not more than 1% from the amount of fuel received by the distributor into the state, plus 1% on all transfers in vessels or tank cars by a distributor in the regular course of his business from one of his places of business to another within the state may be allowed by the tax assessor to cover the loss through shrinkage, evaporation, or handling sustained by the distributor; but the state tax assessor shall make additional allowances for losses sustained by the distributor if the same are necessary to save the distributor from paying the above tax on gasoline neither sold nor used by such distributor within the state.'

Sec. 4. R. S., c. 14, § 166, amended. Section 166 of chapter 14 of the revised statutes, as amended by section 3 of chapter 31 of the public laws of 1945, is hereby further amended to read as follows:

'Sec. 166. Provision for refund of $\frac{1}{2}$ of tax collected in certain instances; procedure for obtaining refund; time limit for filing application for refund. Any person, association of persons, firm or corporation who shall buy and use any internal combustion engine fuel as defined in sections 159 to 168, inclusive, for the purpose of operating or propelling motor boats, tractors used for agricultural purposes not operating on public ways, or in such vehicles as run only on rails or tracks, or in stationary engines, or in the mechanical or industrial arts, or for any other commercial use except in motor vehicles operated or intended to be operated upon any of the public highways of this state, or except for the use in the operation of aircraft, and who shall have paid any tax on internal combustion engine fuel levied or directed to be paid as provided by sections 159 to 168, inclusive, either directly by the collection of such tax by the vendor from such consumer, or indirectly by adding the amount of such tax to the price of such fuel and paid by such consumer, shall be reimbursed and repaid to the extent of $\frac{3}{4}$ $\frac{1}{2}$ of the amount of such tax paid by him upon presenting to the state tax assessor a statement accompanied by the original invoices showing such purchases, which statement shall show the total amount of such fuel so purchased and used by such consumer other than in motor vehicles operated or intended to be operated upon any of the public highways of the state and in the operation of aircraft.

Provided that applications for refunds as provided herein must be filed with the state tax assessor within 9 months from the date of purchase.'

Sec. 5. R. S., c. 14, § 172, amended. Section 172 of chapter 14 of the revised statutes is hereby amended to read as follows:

'Sec. 172. Levy of tax and exemptions. An excise tax is imposed on all

users of fuel upon the use of such fuel by any person within this state, only when such fuel is used in an internal combustion engine for the generation of power to propel motor vehicles of any kind or character on the public highways, at the rate of ~~4c~~ 6c per gallon, to be computed in the manner set forth in sections 173 to 185, inclusive; provided, however, that no tax is imposed upon the use of any fuel if the constitution of the United States or of this state precludes such tax.'

Sec. 6. R. S., c. 20, § 43, amended. Section 43 of chapter 20 of the revised statutes, as amended by chapter 127 of the public laws of 1945, is hereby further amended to read as follows:

'Sec. 43. Commission to provide system of maintenance. The commission shall provide a system of maintenance for all state highways to which section 46 may apply and for all state aid highways to which sections 50 and 51 may apply so that all sections of such highways may be effectually and economically preserved and maintained, in accordance with the best maintenance practice in so far as funds will permit. ~~The provisions of this section do not include snow removal work on state aid highways, 3rd class highways, or town ways.~~

Whenever it is deemed necessary by an abutter on an improved state highway or state aid highway, that a culvert be installed to provide an entrance to his property, he shall petition the commission for such an installation, and the commission may install the same, provided that the abutter, at his own expense, furnish a culvert satisfactory to the commission. Such culvert shall be thereafter maintained by the commission.'

Sec. 7. R. S., c. 20, § 45, amended. Section 45 of chapter 20 of the revised statutes is hereby amended to read as follows:

'Sec. 45. Failure of town to pay its portion of maintenance. If any town fails to pay its portion of the cost of the maintenance ~~and snow removal work~~ on its state highways or ~~maintenance work on its~~ state aid highways on or before the 1st day of January of the following year, the same shall be collected and paid in the manner provided in section 31, and the amount so collected from such town shall be added to the fund for maintenance.'

Sec. 8. R. S., c. 20, § 46, amended. Section 46 of chapter 20 of the revised statutes, as amended by section 2 of chapter 334 of the public laws of 1945, is hereby further amended to read as follows:

'Sec. 46. Maintenance on state highways. Improved state highways shall be continually maintained, ~~and the snow removed from such sections~~

of designated state highways as the commission may determine under the direction and control of the commission at the joint expense, as hereinafter provided, of the state and the town in which the same are located. The charge against such town for maintenance and snow removal work on its state highways shall be a fixed sum of ~~\$110~~ \$70 per mile per year, ~~excepting on such sections from which the commission deems it inadvisable to remove the snow therefrom, the charge against the town shall be a fixed sum of \$70 per mile per year for maintenance.~~

The snow removal work mentioned in this section shall include the plowing of these highways; the erection, maintenance, dismantling, and rental of snow fences; and the sanding of icy road surfaces. It shall not include loading and hauling snow from any compact section. The state shall not be liable for accidents while the road surface is covered with snow and ice.

To carry out the provisions of the preceding paragraph the commission is authorized to hire equipment, preferably town owned, arrange contracts, and erect or hire buildings for storage purposes. Purchases of necessary equipment or materials shall be made as provided in section 8.

The maintenance provisions of sections 43, ~~44~~, 45, 46, and 58, ~~59, 61, and 66~~ shall not apply to those sections of state highway where houses are nearer than 200 feet apart for a distance of $\frac{1}{4}$ of a mile in cities or towns whose population according to the last U. S. census exceeds 5,000 inhabitants, except as hereinafter provided for maintenance of secondary federal aid projects and the snow removal provisions shall not apply to those sections of state highway where houses are nearer than 200 feet apart for a distance of $\frac{1}{4}$ of a mile in cities or towns whose population according to the last U. S. census exceeds 2,000 inhabitants.'

Sec. 9. R. S., c. 20, § 47, amended. Section 47 of chapter 20 of the revised statutes is hereby amended to read as follows:

'Sec. 47. Secondary federal aid projects on state highways to be maintained. Secondary federal aid projects constructed on the state highway system with funds provided under the provisions of section 7 of the federal act approved June 16, 1936 (Public No. 686—74th Congress), and all acts amendatory thereof and supplementary thereto, shall be maintained by the state highway commission under the same provisions and conditions stated in section 43 for the maintenance of improved state highways; provided, however, that ~~with the exception of snow removal~~ the provisions and requirements of section 46 shall also apply to secondary federal aid pro-

jects constructed on designated state highways within the compact sections of all towns regardless of population.'

Sec. 10. R. S., c. 20, § 58, amended. Section 58 of chapter 20 of the revised statutes is hereby repealed and the following enacted in place thereof:

'**Sec. 58. Snow removal; powers and duties of state highway commission.** The state highway commission, by its own employees or agents, or by making the necessary contracts with cities and towns, or available contractors, shall continually remove the snow from such sections of designated state highways, state aid highways, and 3rd and 4th class highways in the state as were cleared of snow by the state or any political sub-division thereof during the winter season of 1946-47; and from such further sections of designated state highways, state aid highways, and 3rd and 4th class highways as hereafter become advisable or necessary to serve the needs of the various communities in the state. The provisions of this section shall not apply to such "compact" sections, so called, where houses are nearer than 200 feet apart for a distance of $\frac{1}{4}$ of a mile in cities whose population according to the last U. S. census exceeds 2000 population.

The snow removal work mentioned in this section shall include the plowing of these highways; the erection, maintenance, dismantling, and rental of snow fences; and the sanding of icy road surfaces. It shall not include loading and hauling snow from any compact section. The state or the city or town shall not be liable for accidents while the road surface is covered with snow and ice.

To carry out the provisions of this section the commission is authorized to purchase equipment and to hire equipment, preferably town owned, arrange such contracts as seem advisable, purchase land, and purchase, erect or hire buildings for storage and other purposes. Purchases of necessary equipment or materials shall be made as provided in section 8. Cities and towns are hereby authorized to enter into snow removal contracts with the state or independent contractors to carry out the provisions of this section.'

Sec. 11. R. S., c. 20, § 61, amended. Section 61 of chapter 20 of the revised statutes, as amended by section 2 of chapter 332 of the public laws of 1945, is hereby amended to read as follows:

'**Sec. 61. Snow fences.** ~~Towns, organized plantations, and unincorporated townships, having a population of \$200,000 or more which clear 2nd and 3th class highways and town ways to the satisfaction of the commission and when necessary apply sand, gravel, or other materials~~

to a width of not less than 7 feet through the center of road within a reasonable length of time after surface of the road becomes slippery, shall be reimbursed for the cost thereof to the extent of 50% of said cost, but not exceeding \$50 per mile on the highways or town ways designated as provided in section 58.

Towns, organized plantations, and unincorporated townships having a valuation of less than \$200,000 which clear said highways and town ways to the satisfaction of said commission, and when necessary apply sand, gravel, or other materials to a width of not less than 7 feet through the center of road within a reasonable length of time after surface of the road becomes slippery, on the highways and town ways designated as provided in section 58 shall bear 50% of the cost thereof not to exceed \$35 per mile and reimbursement shall be made to said towns, plantations, and townships accordingly.

The state or the town shall not be liable for accidents while the road surface is covered with snow or ice.

All pay rolls for the season's snow removal work, on routes designated in section 58, are to be received at the office of the commission monthly on or before the 15th day of each month and a final pay roll on or before May 1st, following the winter in which this work is done.

The commission, the county commissioners, or the municipal officers of any city or town may provide snow guards or snow fences along any state highways, state aid highways, 3rd class highways, or town ways for the prevention of snow from encumbering such highways or town ways.

Said officials likewise shall have authority also to erect such snow guards or fences upon private property adjacent to such highways or town ways; if they do not agree with the owner of such property with relation to the location of such guards or fences, the compensation to be paid such owner, or the time the same shall be maintained, then such officials, before erecting such snow guards or snow fences upon such private property, shall give written notice of their intentions to be posted for 7 days in 2 public places in the city or town in the vicinity of the location proposed for the erection of the same, describing such location and the time intended for the maintenance of such snow guards or fences, with such definiteness that such location may be understood readily.

Within 5 days after a hearing thereon, such officials shall make a written return of their proceedings and findings to the registry of deeds in the county in which such location is situated, provided they have therein decreed that such snow guards or snow fences shall be maintained thereon

permanently, or to the clerk of such city or town in which such location is situated, provided they have therein decreed that such snow guards or snow fences shall be maintained during the winter season only for which they propose to erect same; in said return they shall state the amount of damages awarded such owner and the same shall be paid within 30 days after said return, by the state, city, or town whose officials have authorized the construction or erection of such guards or fences.

In case the owner of such property is aggrieved with the award of damages so made, or with any part of such decrees, within 20 days after the filing of said return, he may take an appeal therefrom by filing in the superior court in the county where such guard or fence is located a petition requesting a new award or assessment of damages, and the court, after ordering such notice as it sees fit, shall thereupon determine the amount of damages sustained by said owners. The court may make any other change in the decree deemed proper. An appeal to the superior court vacates the original award.

If said officials determine that such fences are to remain for the winter season only, and not permanently, then the same shall be erected not before the 15th day of November nor remain occupying such private property later than April 1st next following; particular regard shall be exercised in the location of said fences so that the owners of private property shall be accommodated as to view and otherwise to as small a degree as possible.'

Sec. 12. R. S., c. 80, § 90, amended. Section 90 of chapter 80 of the revised statutes is hereby amended to read as follows:

'Sec. 90. Money may be raised for certain purposes. The voters, at a legal town meeting, may raise the necessary sums for the support of schools and the poor; making and repairing highways, town ways, and bridges; **removal of snow from ways**; and sprinkling streets; acquiring, improving, and repairing land for use as public parking places for motor and other vehicles; acquiring by purchase or otherwise suitable sites, or suitable sites and buildings, or erecting buildings for free public libraries; repairing and constructing buildings for academies, seminaries, or institutes with which the town has a contract as provided in section 96 of chapter 37; purchasing and fencing burying-grounds; maintaining private burying-grounds established before 1880; purchasing or building and repairing a hearse and hearse-house for the exclusive use of its citizens; and for other necessary town charges.'

Sec. 13. Repealing clause. Section 2 of chapter 332 of the public laws of 1945, and sections 59, 60, 62, 63, 64, 65, 66, and 67 of chapter 20, as amended, of the revised statutes are hereby repealed.