

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. 1110

H. P. 1521

House of Representatives, February 26, 1947.

Transmitted by revisor of statutes pursuant to joint order

Referred to Committee on Taxation. Sent up for concurrence and 1,000 ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Sleeper of Rockland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT Providing for a Gross Receipt Tax on Motor Carriers.

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

Sec. 1. R. S., c. 14, §§ 244-254, additional. Chapter 14 of the revised statutes is hereby amended by adding thereto 11 new sections, to be numbered 244 to 254, inclusive, to read as follows:

'Sec. 244. Definition. "Motor carrier" as used in sections 245 to 254, inclusive, shall include any person, corporation, or association operating one or more motor vehicles through, into, or out of this state for the transportation of persons or property for compensation, when a certificate or permit is required under the provisions of chapter 44 for the operation of such vehicle or vehicles.

Sec. 245. Exceptions. Express companies subject to taxation under the provisions of sections 127 to 130, inclusive, of chapter 14 shall be exempt from the provisions of sections 244 to 254, inclusive.

Sec. 246. License tax; determining gross receipts. In addition to all other taxes and fees every motor carrier shall pay to the state tax assessor, on or before the last secular day of each month, a license tax of 2% of the gross receipts from his operations within this state for the next preceding calendar month, as such carrier.

When any motor carrier shall operate partly within and partly without this state, the gross receipts of such motor carrier within this state shall be deemed to be all receipts of business between points within this state, and such proportion of the receipts of such motor carrier from all business passing through, into, or out of this state as the mileage operated by such motor carrier in such business in this state bears to the total mileage operated by such motor carrier in such business.

Sec. 247. Public utilities commission to furnish names of certificate and permit holders. The public utilities commission shall, within 7 days after issuing a certificate or permit to a motor carrier under the provisions of chapter 44, furnish to the state tax assessor the name of each such motor carrier, together with such other information relative to such motor carrier as the state tax assessor may require.

Sec. 248. Bond required of motor carrier. The state tax assessor shall require every motor carrier to furnish a bond on a form to be approved by him and with a surety company authorized to transact business in this state as surety thereon, and upon which such motor carrier shall be the principal obligor and the state of Maine shall be obligee, conditioned upon the prompt filing of true reports and the payment by such motor carrier to the state tax assessor of any and all taxes imposed hereunder, and generally upon faithful compliance with the provisions of sections 244 to 254, inclusive. The total amount of the bond required of any motor carrier shall be fixed by the state tax assessor and may be increased or reduced by him at any time. In fixing the total amount of such bond the state tax assessor shall require a bond equivalent in total amount to not less than $1\frac{1}{2}$ times his estimate of the motor carrier's monthly gross receipts tax, determined in such manner as the state tax assessor may deem proper; any motor carrier may in lieu of giving the bond required herein deposit with the state tax assessor lawful money of the United States in the total amount of the bond directed to be furnished. The public utilities commission shall cancel any certificate or permit to any motor carrier if such carrier shall fail to file with the state tax assessor, within 15 days after receiving such certificate or permit, and at such subsequent times as the state tax assessor shall specify, the bond required under the provisions of this section.

Sec. 249. Motor carrier to make returns. Such motor carriers shall monthly, by the 20th of the month, return to the state tax assessor, signed by its treasurer or its chief accounting officer if a corporation, or by the owner or owners, or by the members of an association, or one of them, if a person or association, on forms prescribed by the state tax assessor, a statement for the last preceding calendar month, of:

- I. The gross receipts, from the transportation of persons or property, on business between points within this state;
- II. The gross receipts from all business passing through, into or out of this state;
- III. The total mileage operated in this state in all business passing through, into or out of this state and the entire mileage operated in such business; and
- IV. Such other information as the state tax assessor may require.

If any motor carrier shall operate both as a carrier of property and of passengers, separate reports shall be filed on each of said operations.

Every motor carrier shall also file with the state tax assessor within 10 days from the date any return or report is filed by such motor carrier with any officer or agency of any other state or province, or with any agency of the United States, on operations of such motor carrier through, into or out of this state, a copy of such return or report.

Sec. 250. Failure to file report or pay tax. If any motor carrier shall fail or refuse to pay the tax or to file any report provided for or required under the provisions of sections 244 to 254, inclusive, within 10 days from the date when such tax or report is due, the state tax assessor shall so notify the public utilities commission who will cancel the certificate or permit issued to such carrier. Upon the failure of any motor carrier to pay said gross receipts tax, the state tax assessor shall inform himself as best he may, and fix the amount of such gross receipts tax due the state from such motor carrier for such calendar month, and such tax so fixed by him shall be the tax due to the state from such motor carrier; provided that when said state tax assessor upon such failure or refusal shall have fixed the amount of such tax, he shall notify the affected motor carrier of the action and direct such motor carrier to be and appear before him on a day not less than 10 days from such notice, and then and there to be heard, if such motor carrier so desires, in the matter of such assessment. In the event any false or erroneous report shall be filed with said state tax assessor or in the event that any tax paid to said tax assessor shall not be correct and proper in amount, he shall proceed in determining the true amount of such tax as though no report whatsoever had been filed or no tax paid.

Sec. 251. Receipts from tax to be credited to general highway fund. The state tax assessor shall pay over all receipts from such tax to the treasurer of state daily, who shall credit such taxes to the general high-

way fund to be shared by the state highway department and the towns and cities of the state with a population of more than 5,000 people. The distribution of the funds available from this source shall be made annually and shall be in the ratio of $\frac{2}{3}$ to the highway fund and $\frac{1}{3}$ to the said towns and cities. The basis of the distribution of said funds to the towns and cities entitled to share therein shall be determined by the state highway commission and shall bear direct relationship to the miles of accepted streets contained in the compact section of said towns and cities. The funds thus distributed to the respective towns and cities shall be expended, in a manner satisfactory to the state highway commission, by each such town and city in the maintenance and reconstruction of accepted streets.

Sec. 252. Tax to be a debt due from carrier. The tax assessed under the provisions of sections 244 to 254, inclusive, shall be a debt due from such motor carrier to the state, for which an action of debt may be maintained after the same shall have been in arrears for the period of 1 month.

Sec. 253. Books of motor carriers to be opened to assessor; penalty for refusing to make returns. The state tax assessor, or his duly authorized agent, shall have access to the books of any motor carrier operating in this state, to ascertain if the required returns are correctly made; and any motor carrier refusing or neglecting to make the returns required by law or refusing to exhibit to the said assessor, or to his duly authorized agent, his books for the purpose aforesaid, or making returns which the president, clerk, treasurer, or other person certifying such returns knows to be false, shall forfeit not less than \$1,000, nor more than \$10,000, to be recovered by indictment or by an action of debt in any county in which the said motor carrier operates.

Sec. 254. Rules and regulations for enforcement. The state tax assessor is empowered to promulgate such rules and regulations as are consistent with and will aid in carrying out the provisions of sections 244 to 253, inclusive.'

Sec. 2. R. S., c. 44, § 1-A, additional. Chapter 44 of the revised statutes is hereby amended by adding thereto a new section to be numbered 1-A, to read as follows:

'Sec. 1-A. Interstate busses; permit to operate. In order that there may be proper supervision and control of the use of the highways of this state, every person, firm, or corporation regularly engaged in transporting passengers for hire by motor vehicle upon the public highways between points within and points without the state is required to obtain a permit

for such operation from the commission. Whether or not any person is so regularly engaged shall be a question of fact to be determined by the commission, the supreme judicial court, the superior court, or a municipal court. Application for such permits shall be made in the manner and form to be prescribed by the commission in its regulations, and such permits shall issue as a matter of right upon compliance with such regulations and payment of fees, unless the commission shall find that the condition of the highways to be used is such that the operation proposed would be unsafe, or the safety of other users thereof would be endangered thereby.'

Sec. 3. R. S., c. 44, § 22, amended. Section 22 of chapter 44 of the revised statutes is hereby amended to read as follows:

'Sec. 22. Interstate carriers; permit to operate. In order that there may be proper supervision and control of the use of the highways of this state, every person, firm, or corporation regularly engaged in transporting freight or merchandise for hire by motor vehicle upon the public highways between points within and points without the state ~~(and all persons making 2 or more such trips in any 30 day period shall be deemed to be so regularly engaged)~~ is required to obtain a permit for such operation from the commission. Whether or not any person is so regularly engaged shall be a question of fact to be determined by the commission, the supreme judicial court, the superior court, or a municipal court. Application for such permits shall be made in the manner and form to be prescribed by the commission in its regulations, and such permits shall issue as a matter of right upon compliance with such regulations and payment of fees, unless the commission shall find that the condition of the highways to be used is such that the operation proposed would be unsafe, or the safety of other users thereof would be endangered thereby.'