

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. 1394

H. P. 1678

House of Representatives, April 11, 1947

Reported by Mr. Burgess from Committee on Taxation. On motion of same gentleman tabled pending acceptance of report and new draft ordered printed.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-SEVEN

AN ACT Providing Additional Highway Funds.

Emergency preamble. Whereas, the present highway program requires immediate funds in order to match federal funds for the construction of highways and to carry out necessary maintenance of highways; and

Whereas, such construction and maintenance should be started immediately to preserve the roads and furnish transportation for necessities to the people; and

Whereas, in the judgment of the legislature, these facts create an emergency within the meaning of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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 ~~4e~~ 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~~ **5c** 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; and provided, further, that the 8 mills of the tax so paid on fuel used in motor boats which is not refunded under the provisions of section 166, shall be paid to the treasurer of state, to be made available to the commissioner of sea and shore fisheries for the purpose of conducting research, development and propagation activities by that department.

It is the responsibility of said commissioner to select activities and projects that will be most beneficial to the commercial fisheries of the state.'

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 ~~4e~~ 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 ~~4e~~ 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 distributor'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 5/6 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, **as provided in section 166-A**, 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 ~~3/4~~ **5/6** 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, § 166-A, additional. Chapter 14 of the revised statutes is hereby amended by adding thereto a new section to be numbered 166-A, to read as follows :

'Sec. 166-A. Provision for refund of 1/3 of tax collected by users of aircraft. 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 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 1/3 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. **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. 6. 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 ~~40~~ **60** 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. 7. R. S., c. 20, § 107, amended. Section 107 of chapter 20 of the revised statutes is hereby amended by adding at the end thereof a new paragraph, to read as follows:

'There shall be paid by the state from the general highway fund to the towns annually and commencing June 1, 1948, \$1,000,000 from the proceeds of the gasoline tax, such payment to be made on the basis of the average of the following 4 factors and shall be expended solely for the cost of construction, reconstruction, maintenance and repair of public highways and bridges under the supervision of the state highway commission:

I. The total number of miles of highways, streets and ways in each town in relation to the total number of miles of highways, streets and ways in the state;

II. The total number of vehicles for which each town has collected an excise tax in relation to the total number of vehicles registered by the state motor vehicle registry for the last calendar year;

III. The total valuation in each town in relation to the total valuation in the state, both valuation determinations to be those as established by the board of equalization;

IV. The total population of each town in relation to the total population of the state, according to the last available official federal census.'

Sec. 8. Constitutionality. If any part of this act be decided by the court to be unconstitutional or invalid, the same shall not affect the validity of the act as a whole or any part thereof which can be given effect without the part so decided to be unconstitutional or invalid.

Sec. 9. Collection of taxes. No tax imposed by the provisions of this act shall be levied prior to June 1, 1947.

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.