

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1197

H. P. 843

House of Representatives, March 7, 1957.

Referred to Committee on Taxation. Sent up for concurrence and 1500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Turner of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Establishing a Highway Use Tax.

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

Sec. 1. R. S., c. 16, §§ 168-A - 168-Q, additional. Chapter 16 of the Revised Statutes is hereby amended by adding thereto 17 new sections to be numbered 168-A to 168-Q, inclusive, to read as follows:

'Highway Use Tax Act.

Sec. 168-A. Short title. Sections 168-A to 168-Q, inclusive, shall be known and cited as the "Highway Use Tax Act."

Sec. 168-B. Definitions. The following words, terms and phrases as used in sections 168-A to 168-Q, inclusive, are for the purposes thereof defined as follows:

"Assessor" shall mean the State Tax Assessor.

"Carrier" shall include any person having the lawful use or control, or the right to the use or control of any motor vehicle.

"Gross weight" shall mean the weight of the motor vehicle plus the weight of the maximum load, exclusive of the weight of the driver and his helper, to be carried by such motor vehicle.

"Person" shall include an individual, co-partner, society, association, corporation, joint stock company, lessee and any combinations of individuals; an executor, administrator, receiver, trustee or other fiduciary.

“Public highway” shall include any public highway, street, avenue, road, public place, public driveway or any other public way; the term “public highway” as used in section 168-D shall not include any portion of the Maine Turnpike for which a fee, rental or charge for the use thereof, has been made by the Maine Turnpike Authority.

“Motor vehicle” shall include any automobile, truck, tractor or other self-propelled device used upon the public highways, otherwise than upon fixed rails or tracks, and having a gross weight, alone, or in combination with any other motor vehicle, in excess of 18,000 pounds, and any trailer, semi-trailer, dolly or other device drawn thereby and having a gross weight, alone, or in combination with any other motor vehicle, in excess of 18,000 pounds. “Motor vehicle” shall not include an omnibus, road roller, tractor crane, truck crane, power shovel, road building machine, snow plow, road sweeper, sand spreader or well driller.

“Vehicular unit” shall mean a motor vehicle or any combination of motor vehicles operated as a unit.

Sec. 168-C. Highway use permit. Each carrier shall apply to the State Tax Assessor for a permit for each motor vehicle operated or to be operated by him on the public highways in this State. Application shall be made upon a form prescribed by such Assessor and shall set forth the gross weight of each motor vehicle and such other information as the Assessor may require. Such gross weight shall be subject to audit and approval by the Assessor. The application shall be accompanied by a permit fee of \$5 for each motor vehicle listed in the application. The Assessor shall issue without further charge a permit and a tag, plate or sticker for each motor vehicle which shall be of such size and design and contain such information as the Assessor shall prescribe. In the case of the loss, mutilation or destruction of a permit, the Assessor shall issue a duplicate thereof upon proof of the facts and payment of a fee of \$1. In the case of the loss, mutilation or destruction of a tag, plate or sticker, the Assessor shall issue a new tag, plate or sticker with a new permit upon proof of the facts and payment of a fee of \$2. Any such permit and tag, plate or sticker shall not be transferable and shall be valid until revoked, suspended or surrendered. Such permit shall be carried in the motor vehicle and the tag, plate or sticker shall be firmly and conspicuously affixed upon the motor vehicle for which it is issued as closely as practical to the registration or license plates and shall at all times be visible and legible. In the event of an increase in the gross weight of any motor vehicle subject to the provisions of sections 168-A to 168-Q, inclusive, application for a corrected permit shall be made upon a form prescribed by such Assessor setting forth the previous gross weight, the new gross weight and such other information as the Assessor may require. In the event of a decrease in the gross weight of any motor vehicle subject to the provisions of sections 168-A to 168-Q, inclusive, application may be made for a corrected permit in a similar manner, provided any such application or any application to cancel a permit on the basis of a decrease in the gross weight of any motor vehicle may be made only during the month of January. The corrected gross weight shall be subject to audit and approval by the Assessor. Upon surrendering the permit previously issued, the Assessor shall, without further charge, issue a corrected permit.

The Assessor, for cause, may deny a permit and suspend or revoke any permit issued by him, after an opportunity for a hearing has been afforded the carrier. A permit may be denied, suspended or revoked for failure to file a return as required by section 168-F or for nonpayment of any moneys due under the provisions of sections 168-A to 168-Q, inclusive, without a hearing. Such denial, suspension or revocation of a permit for any motor vehicle of any carrier shall automatically result in suspension or revocation of all permits issued to such carrier, unless otherwise specified by the Assessor. A violation of any of the provisions of sections 168-A to 168-Q, inclusive, or of any rule or regulation of the Assessor promulgated under the provisions of sections 168-A to 168-Q, inclusive, shall constitute sufficient cause for the denial, suspension or revocation of a permit. The suspension or revocation of a permit shall be deemed to include any tag, plate or sticker issued in conjunction therewith. Any person aggrieved because of any action or decision of the Assessor under the provisions of sections 168-A to 168-Q, inclusive, may appeal therefrom to the Superior Court. Any person desiring to appeal from any such action or decision shall furnish a bond or recognizance to the State of Maine with sureties to prosecute the appeal to effect and comply with the order and decrees of the Court in the premises. The said Superior Court shall issue a citation to the Assessor or his duly authorized representative to appear before said Court at the return day of the case. The appeal shall be returnable at the same time and service and return shall be made in the same manner as is provided for civil actions in the Superior Court.

If the permit of any motor vehicle has been suspended or revoked under this section the Secretary of State shall not thereafter re-register the motor vehicle or transfer the registration of ownership thereof upon the records of the Bureau until the Assessor issues to the Bureau a certificate to the effect that such person has fully complied with the provisions of sections 168-A to 168-Q, inclusive. On and after January 1, 1958, the Secretary of State shall not re-register or transfer the registered ownership of any motor vehicle for which a permit has been issued under the provisions of sections 168-A to 168-Q, inclusive, until there is furnished to it a certificate of tax clearance issued by the Assessor. Such certificate shall be issued after the payment of all moneys due under the provisions of sections 168-A to 168-Q, inclusive, or after the payment of any such amount is secured to the satisfaction of the Assessor.

Nothing herein contained shall be construed as authorizing motor vehicle weight limits in excess of those permitted by the vehicle and traffic law.

Sec. 168-D. Imposition of tax. In addition to any other tax or fee imposed by law, there is hereby levied and imposed a highway use tax for the privilege of operating any vehicular unit upon the public highways of this State. Such tax shall be upon the carrier except that where the carrier is not the owner of such vehicular unit, the tax shall be a joint and several liability upon both. Such tax shall be based upon the gross weight of each vehicular unit and the number of miles it is operated on the public highways in this State. The tax for each such vehicular unit shall be computed by multiplying the number of

miles operated on the public highways in this State by the appropriate weight group tax rate as it appears in the following table.

Gross Weight of Vehicle	Weight Group Tax Rate (in mills)
1. 18,001 to 20,000 inclusive	6.0
2. 20,001 to 22,000 inclusive	7.0
3. 22,001 to 24,000 inclusive	8.0
4. 24,001 to 26,000 inclusive	9.0
5. 26,001 to 28,000 inclusive	9.5
6. 28,001 to 30,000 inclusive	10.0
7. 30,001 to 32,000 inclusive	10.5
8. 32,001 to 34,000 inclusive	11.0
9. 34,001 to 36,000 inclusive	11.5
10. 36,001 to 38,000 inclusive	12.0
11. 38,001 to 40,000 inclusive	12.5
12. 40,001 to 42,000 inclusive	13.0
13. 42,001 to 44,000 inclusive	14.0
14. 44,001 to 46,000 inclusive	15.0
15. 46,001 to 48,000 inclusive	16.0
16. 48,001 to 50,000 inclusive	17.0
17. 50,001 to 52,000 inclusive	18.0
18. 52,001 to 54,000 inclusive	19.0
19. 54,001 to 56,000 inclusive	20.0
20. 56,001 to 58,000 inclusive	21.0
21. 58,001 to 60,000 inclusive	22.0
22. 60,001 to 62,000 inclusive	23.0
23. 62,001 to 64,000 inclusive	24.0
24. 64,001 to 66,000 inclusive	25.5
25. 66,001 to 68,000 inclusive	27.0
26. 68,001 to 70,000 inclusive	28.5
27. 70,001 to 72,000 inclusive	30.0
28. 72,001 to 74,000 inclusive	32.5
29. 74,001 to 76,000 inclusive	35.0
30. 76,001 and over	add 2 mills per ton and fraction thereof.

Sec. 168-E. Exemptions. The provisions of sections 168-A to 168-Q, inclusive, shall not apply to any vehicular unit:

I. Operating over a rural route and engaged exclusively in the transportation of United States mail under contract;

II. Owned and operated by the United States, the State or any other state or any county or municipality in this State, or any other state or by any agency or department thereof;

III. Owned and operated by a farmer and used exclusively by such farmer in transporting his own agricultural commodities and products, pulpwood or livestock, including the packed, processed or manufactured products thereof,

that were originally grown or raised on his farm, lands or orchard, or when used to transport supplies to his farm or orchard that are consumed and used thereon or when operated by a farmer in transporting farm products from a farm contiguous to his own.

Sec. 168-F. Returns. Every carrier subject to the provisions of sections 168-A to 168-Q, inclusive, and every carrier to whom a permit was issued shall file on or before the 20th day of each month a return for the preceding calendar month. If the Assessor consents thereto in writing, any carrier may file a return on a quarterly basis or on or before the 20th day after the close of any different period, if the carrier's books are regularly kept on a periodic basis other than a calendar month. Returns shall be filed with the Assessor on forms to be furnished by him for such purpose and shall contain such data, information or matter as the Assessor may require to be included therein. The Assessor may grant a reasonable extension of time for filing returns whenever good cause exists and may waive the filing of returns if a carrier is not subject to the tax imposed by the provisions of sections 168-A to 168-Q, inclusive, for the period covered by the return. Every return shall have annexed thereto a certification to the effect that the statements contained therein are true.

Sec. 168-G. Payment of tax. At the time of filing a return, as required by the provisions of sections 168-A to 168-Q, inclusive, each carrier shall pay to the Assessor the tax imposed by the provisions of sections 168-A to 168-Q, inclusive, for the period covered by such return. Such tax shall be due and payable at the time of filing the return, or, if a return is not filed when due, on the last day on which the return is required to be filed. The Assessor may grant a reasonable extension of time for paying the tax whenever good cause exists.

The fees, taxes, penalties and interest accruing under the provisions of sections 168-A to 168-Q, inclusive, shall constitute a lien upon all motor vehicles and vehicular units of such carrier. The lien shall attach at the time of operation of any motor vehicle or vehicular unit of such carrier within this State and shall remain effective until the fees, taxes, penalties and interest are paid, or the motor vehicle or vehicular unit is sold for the payment thereof. Such liens shall be paramount to all prior liens or encumbrances of any character and to the rights of any holder of the legal title in or to any such motor vehicle or vehicular unit.

Sec. 168-H. Records. Every carrier subject to the provisions of sections 168-A to 168-Q, inclusive, and every carrier to whom a permit was issued shall keep a complete and accurate daily record which shall show the miles traveled in this State by each vehicular unit and such other information as the Assessor may require. Such records shall be kept in this State unless the Assessor consents to their removal and shall be preserved for a period of 2 years and be open for inspection at any reasonable time upon the demand of the Assessor.

Sec. 168-I. Responsibility of owner. In those instances where the carrier is not the owner of the vehicular unit, the owner may file the return and maintain the record required by sections 168-F and 168-H, and shall be jointly and severally liable with the carrier for the payment of tax required under section 168-G.

Sec. 168-J. Powers of State Tax Assessor. In addition to any other power conferred by this chapter, the Assessor shall have the following powers:

I. To prescribe such methods and means as the Assessor determines to be necessary for checking, verifying and ascertaining the number of miles traveled by, and the weight of, each vehicular unit on the public highways in this State;

II. To prescribe the method of accounts and the type of records to be kept by any carrier to the extent necessary to determine liability under the provisions of sections 168-A to 168-Q, inclusive;

III. To cause to be weighed by the Maine State Police at reasonably frequent intervals any vehicular unit or any vehicle operating on the public highways in this State if the Assessor has reasonable grounds to believe that such vehicle may be subject to the provisions of sections 168-A to 168-Q, inclusive;

IV. To require any carrier subject to tax under the provisions of sections 168-A to 168-Q, inclusive, to file with the Assessor a bond issued by a surety company approved by the Assessor as to solvency and responsibility and authorized to transact business in this State in such amount as the Assessor may fix, to secure the payment of any moneys which may become due from such carrier pursuant to the provisions of sections 168-A to 168-Q, inclusive. In lieu of such bond any such carrier may deposit securities approved by the Assessor in such amount as he may prescribe, which securities shall be kept in the custody of the Treasurer of State and may be sold by the Assessor if it becomes necessary to do so in order to recover any sums due from such carrier pursuant to the provisions of sections 168-A to 168-Q, inclusive; but no such sale shall be had until after such carrier shall have had an opportunity to litigate the validity of any tax if it elects to do so. Upon such sale the surplus, if any, above the sums due under the provisions of sections 168-A to 168-Q, inclusive, shall be returned to said carrier. The amount of the bond or securities required shall be reasonably related to the probable liability of the carrier under the provisions of sections 168-A to 168-Q, inclusive;

V. To request the State Police, the Public Utilities Commission and other public officials to cooperate in enforcing the provisions of sections 168-A to 168-Q, inclusive;

VI. To take possession of any permit which has been suspended or revoked under the provisions of sections 168-A to 168-Q, inclusive, and any tag, plate or sticker issued in conjunction therewith, and any permit which is being carried in a motor vehicle other than the one for which it was issued and any tag, plate or sticker which is in or on a motor vehicle other than the one for which it was issued, or to direct any State Police Officer to take possession thereof and return the same to the Assessor;

VII. To release any property from the lien of any fees, taxes, penalties or interest imposed by the provisions of sections 168-A to 168-Q, inclusive, upon application made to it and the payment of a fee of \$1 provided payment be made of such a sum as the Assessor shall deem adequate consideration for such release or after payment of any such amount is secured to the satisfaction of the Assessor;

VIII. To make reasonable rules and regulations to effectuate the purposes of sections 168-A to 168-Q, inclusive;

IX. To issue replacement permits and tags, plates or stickers at such time as the Assessor may deem necessary for the proper and efficient enforcement of the provisions of sections 168-A to 168-Q, inclusive, but not more often than once every 3 years and to require the surrender of the then outstanding permits and tags, plates or stickers. All of the provisions of sections 168-A to 168-Q, inclusive, with respect to permits and tags, plates or stickers shall be applicable to replacement permits and tags, plates or stickers issued hereunder, except that the replacement permit shall be issued upon payment of a fee of \$2 and the tag, plate or sticker shall be issued without further charge;

X. To examine or cause to be examined any books, papers or records with respect to the operations on the public highways of this State of any vehicular unit or any vehicle, if the Assessor has reasonable grounds to believe that such vehicle may be subject to the provisions of sections 168-A to 168-Q, inclusive, to require the attendance of any person having knowledge thereof and to take testimony and require proof under oath material for its information, for the purpose of ascertaining the correctness of any return filed with respect thereto or for the purpose of determining tax liability under the provisions of sections 168-A to 168-Q, inclusive.

Sec. 168-K. Determination of tax. In case any return filed pursuant to the provisions of sections 168-A to 168-Q, inclusive, shall be insufficient or unsatisfactory to the Assessor, or if no return is made for any period, the Assessor shall determine the amount of tax due from such information as is available to the Assessor. Such determination shall be made within 2 years from the time the return was filed or if no return was filed or in the case of a willfully false or fraudulent return with intent to evade the tax such determination may be made at any time. The Assessor shall give notice of such determination to the person liable for such tax. Such determination shall finally and conclusively fix such tax, unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply in writing to the Assessor for a hearing, or unless the Assessor himself shall reduce the same. After such hearing, the Assessor shall give notice of his decision to the person liable for the tax. The decision of the Assessor may be reviewed by a proceeding as set forth in section 168-C, if application therefor is made within 30 days after the giving of notice of such decision.

The remedy provided by this section for review of a decision of the Assessor shall be the exclusive remedy available to judicially determine the liability of any person for taxes under the provisions of sections 168-A to 168-Q, inclusive.

Any notice authorized or required under the provisions of sections 168-A to 168-Q, inclusive, may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the application for a permit or in the last return filed by him under the provisions of sections 168-A to 168-Q, inclusive, or, if no application or return has been filed then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of same by the

person to whom addressed. Any period of time, which is determined according to the provisions of sections 168-A to 168-Q, inclusive, for the giving of notice shall commence to run from the date of mailing of such notice.

Sec. 168-L. Proceedings to recover tax. Whenever any person shall fail to pay, within the time limited herein, any tax, interest or penalties, which he is required to pay under the provisions of sections 168-A to 168-Q, inclusive, the Attorney General shall, upon the request of the Assessor, enforce payment of such tax, interest or penalties by civil action, in the name of the people of the State, against such person for the amount of such tax, interest or penalties. The proceeds of the judgment, if any, shall be paid to the Assessor.

Whenever any person is delinquent in the payment of any amount due under the provisions of sections 168-A to 168-Q, inclusive, the Assessor may forthwith collect such amount from such person by seizing any motor vehicle or vehicular unit subject to the lien of the tax, which is owned by him or of which he has the lawful use or control and may thereafter sell it at public auction in the county in which it was seized to pay the fees, taxes, interest and penalties and any costs incurred on account of the seizure and sale, after giving 10 days' notice of the sale in writing to such person and, where such person is not the owner of such motor vehicle or vehicular unit, to the owner thereof provided that he has filed with the Assessor a statement of his ownership of the motor vehicle or vehicular unit subject to the lien. Public notice of the time and place of the sale of the property to be sold shall be given by posting same in at least 6 public places in the county where the sale is to be made, at least 6 days prior thereto. A copy of such notice shall be filed at least 6 days prior to the sale in an office of the Assessor in Augusta to be designated by the Assessor and shall be available for public inspection. The proceeds of such sale shall be paid into the State Treasury to the credit of the highway fund. Any excess received upon the sale over the amount of the fees, taxes, interest and penalties and any costs incurred on account of the seizure and sale shall be refunded to such person or owner.

In addition to the foregoing proceedings, in case of default of any person to pay, within the time limited, any fees, taxes, penalties or interest which he is required to pay under the provisions of sections 168-A to 168-Q, inclusive, or to file a bond or a return as required by the provisions of sections 168-A to 168-Q, inclusive, or by the Assessor, the Assessor may forward a written statement of the facts showing such default to the Secretary of State who shall revoke all registration plates of all motor vehicles of such person on account of such default, which revocation shall be cancelled if the Assessor certifies that such persons have paid or secured the above amounts, or filed the required bond.

The operation by a nonresident of a motor vehicle in this State or the operation in this State of a motor vehicle owned by a nonresident shall be deemed equivalent to an appointment by such nonresident of the Secretary of State to be his true and lawful attorney upon whom may be served the process in any action or proceeding against him growing out of any liability for fees, taxes, penalties or interest under the provisions of sections 168-A to 168-Q, inclusive, and such operation shall be deemed a signification of his agreement that any such process against him which is so served shall be of the same legal force

and validity as if served on him personally within the State and within the territorial jurisdiction of the court from which the process issues. Service of process shall be made by either personally delivering to and leaving with the Secretary of State or Deputy Secretary of State duplicate copies thereof at the office of the Secretary of State in Augusta, in which event the Secretary of State shall forthwith send by registered mail one of such copies to the person at the address designated by him in his application for a permit under the provisions of sections 168-A to 168-Q, inclusive, or in the last return filed by him under the provisions of sections 168-A to 168-Q, inclusive, or as shown on the records of the Assessor, or if no application has been filed, at his last known office address within or without the State; or personally delivering to and leaving with the Secretary of State or Deputy Secretary of State a copy thereof at the office of the Secretary of State in Augusta and by delivering a copy thereof to the person, personally, without the State. Proof of such personal service without the State shall be filed with the clerk of the court in which the process is pending within 30 days after such service and such service shall be complete 10 days after proof thereof is filed.

Sec. 168-M. Penalties. It shall be unlawful for any person to do any of the following:

I. Use, or cause or permit to be used, any public highway in this State for the operation of a motor vehicle subject to the provisions of sections 168-A to 168-Q, inclusive, without first obtaining the permit and tag, plate or sticker required under the provisions of sections 168-A to 168-Q, inclusive, or to carry or cause or permit to be carried upon any motor vehicle a permit or a tag, plate or sticker which has been suspended or revoked or which was issued for a motor vehicle other than the one on which carried. The operation of any motor vehicle on any public highway of this State without carrying thereon the permit or the tag, plate or sticker required under the provisions of sections 168-A to 168-Q, inclusive, shall be presumptive evidence that a permit or a tag, plate or sticker has not been obtained for such motor vehicle;

II. Operate, or cause or permit to be operated, on any public highway any such motor vehicle having an actual gross weight in excess of the gross weight set forth on the permit issued for such motor vehicle;

III. Fail to make any return required under the provisions of sections 168-A to 168-Q, inclusive;

IV. Make any false return;

V. Fail to keep records of operations as the Assessor shall prescribe;

VI. Fail to deliver or surrender, pursuant to the provisions of sections 168-A to 168-Q, inclusive, or any reasonable rule or regulation promulgated by the Assessor, a permit or a tag, plate or sticker to such Assessor, or any person directed by such Assessor to take possession thereof;

VII. Violate any other provision of sections 168-A to 168-Q, inclusive, or any reasonable rule or regulation promulgated by the Assessor.

Any person failing to file a return or corrected return or to pay any tax within the time required by sections 168-A to 168-Q, inclusive, shall be subject to a

penalty of 5% of the amount of tax due plus interest of 1% of such amount for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax became due. Any person filing a false or fraudulent return or willfully failing to file a return with intent to evade the tax shall be subject to a penalty of 100% of the amount of tax due plus interest of 1% of such amount for each month of delay or fraction thereof after the expiration of the first month after such return was required to be filed or such tax became due. The Assessor, in his discretion upon making a record of its reasons, may remit all or any part of such penalty or interest.

The certificate of the Assessor to the effect that a tax has not been paid, that a return has not been filed or that information has not been supplied as required by or under the provisions of sections 168-A to 168-Q, inclusive, shall be prima facie evidence that such tax has not been paid, that such return has not been filed or that such information has not been supplied.

Upon the conviction of any person for a violation of any of the provisions of sections 168-A to 168-Q, inclusive, the trial court or the clerk thereof shall within 48 hours certify the facts of the case to the Assessor and such certificate shall be presumptive evidence of the facts recited therein. If any such conviction shall be reversed upon appeal therefrom the person whose conviction has been so reversed may serve upon the Assessor a certified copy of the order of reversal and the Assessor shall thereupon record the same.

The term "person" as used in this section shall include an officer, director, stockholder or employee of a corporation, or a member of a partnership, who as such officer, director, stockholder, employee or member is under the duty to perform the act in respect of which the violation occurs.

Any person who violates any provision of this section, upon a first conviction shall be punished by a fine of not less than \$100 nor more than \$250; and upon a second or subsequent conviction by a fine of not less than \$250 nor more than \$500 or by imprisonment for not more than 10 days.

Sec. 168-N. Admission of truck weight records in court proceedings. An official weight slip or ticket issued and certified by any truck weigher in the employ of the State of Maine shall constitute prima facie evidence of the information therein set forth and of the operation of the vehicle therein described upon a public highway and shall be admissible before any court in any civil or criminal proceeding.

Sec. 168-O. Refunds. Whenever the Assessor shall determine that any moneys received under the provisions of sections 168-A to 168-Q, inclusive, were paid in error, he may cause the same to be refunded or credited, without interest, in accordance with such rules and regulations as he may prescribe.

Sec. 168-P. Secrecy of returns. Except in accordance with proper judicial order or as in this section or otherwise provided by law, it shall be unlawful for the Assessor, any officer or employee of the Assessor or any officer or person who, pursuant to this section, is permitted to inspect any return or report or to whom a copy, an abstract or a portion of any return or report is furnished, or to whom any information contained in any return or report is furnished, to divulge or make known in any manner the contents or any other information

relating to the business of a carrier or other person contained in any return or report required under the provisions of sections 168-A to 168-Q, inclusive. The officers charged with the custody of such returns or reports shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the State, or the Assessor, in an action or proceeding under the provisions of sections 168-A to 168-Q, inclusive, or the vehicle and traffic law when the returns or the reports or the facts shown thereby are directly involved in such action or proceeding or on behalf of officers to whom information shall have been supplied as provided in the 2nd paragraph of this section, in any of which events the court may require the production of, and may admit in evidence so much of said returns or reports or of the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the Assessor, in his discretion, from allowing the inspection or delivery of a certified copy of any return or report filed under the provisions of sections 168-A to 168-Q, inclusive, or of any information contained in any such return or report by or to a duly authorized officer or employee of the Secretary of State, or by or to the Attorney General or other legal representatives of the State when an action shall have been commenced pursuant to the provisions of sections 168-A to 168-Q, inclusive, the vehicle and traffic law in which such returns or reports or the facts shown thereby are directly involved; or the inspection of the returns or reports required under the provisions of sections 168-A to 168-Q, inclusive, by the Controller or duly designated officer or employee of the State, for purposes of the audit of a refund of any tax paid by any person under the provisions of sections 168-A to 168-Q, inclusive; nor to prohibit the delivery to any person, or a duly authorized representative of such person of a certified copy of any return or report filed by such person pursuant to the provisions of sections 168-A to 168-Q, inclusive, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof; nor to prohibit the publication of delinquent lists showing the names of taxpayers who have failed to pay their taxes at the time and in the manner provided by section 168-G, together with any relevant information which in the opinion of the Assessor may assist in the collection of such delinquent taxes. Returns and reports shall be preserved for 5 years, and thereafter until the Assessor orders them to be destroyed.

The Assessor in his discretion and pursuant to such rules and regulations as he may adopt, may permit the Commissioner of Internal Revenue of the United States, or the appropriate officers of any other state which imposes a similar highway use tax, or the duly authorized representatives of such Commissioner or of any such officers, to inspect returns or reports made pursuant to the provisions of sections 168-A to 168-Q, inclusive, or may furnish to such Commissioner or other officers, or duly authorized representatives, a copy of any such return or report or an abstract of the information therein contained, or any portion thereof, or may supply such Commissioner or any such officers or such representatives with information relating to the business of any person making returns or reports hereunder. The Assessor may refuse to supply information pursuant to this paragraph to the Commissioner of Internal Revenue of the United States or to the officers of any other state if the statutes of the United States, or of the state represented by such officers, do not grant substantially similar priv-

ileges to the Assessor of this State, but such refusal shall not be mandatory. Information shall not be supplied to the Commissioner of Internal Revenue of the United States or the appropriate officers of any other state which imposes a similar highway use tax, or the duly authorized representatives of such Commissioner or of any of such officers, unless such Commissioner, officer or other representatives shall agree not to divulge or make known in any manner the information so supplied, but such officers may transmit such information to their employees or legal representatives when necessary, who in turn shall be subject to the same restrictions as those hereby imposed upon such Assessor, officer or other representatives.

Any offense against the provisions of this section shall be punished by a fine not exceeding \$1,000 or by imprisonment for not exceeding 1 year, or by both, at the discretion of the court and if the offender be an officer or employee of the State, he shall be dismissed from office and be barred from holding any public office in this State for a period of 5 years thereafter.

Sec. 168-Q. Disposition of revenues. The amount of all fees, taxes, penalties and interest received pursuant to the provisions of sections 168-A to 168-Q, inclusive, shall be paid over to the Treasurer of State daily and shall be credited only to the state highway fund.'

Sec. 2. R. S., c. 16, §§ 169-187, repealed. Sections 169 to 187 of chapter 16 of the Revised Statutes, as amended, are hereby repealed.