

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ACTS AND RESOLVES

AS PASSED BY THE

Eighty-sixth Legislature

OF THE

STATE OF MAINE

From April 4, 1931, to March 31, 1933

AND MISCELLANEOUS STATE PAPERS

Published by the Secretary of State in conjunction with the Revisor of Statutes in accordance with the Resolves of the Legislature approved June 28, 1820, March 18, 1840, March 16, 1842, and an Act approved April 2, 1931.

KENNEBEC JOURNAL COMPANY
AUGUSTA, MAINE

1933

PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Eighty-Fifth Legislature

AT THE
SPECIAL SESSION, APRIL 1

1932

Supplementary to Public Laws of the Regular Session

[supplied from page XXXV of volume]

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

Sec. 1. Publications of primary expenses limited. Section twenty-two of chapter seven of the revised statutes as amended by chapter two hundred sixty-three of the public laws of nineteen hundred thirty-one is hereby further amended by inserting a new paragraph to follow the second paragraph of said section, which new paragraph shall read as follows:

'Such publications shall in the weekly papers be limited to those candidates whose names are to appear on the primary ballots used within the county where each such paper is published.'

Sec. 2. Emergency Clause. In view of the emergency cited in the preamble this act shall take effect when approved.

Approved April 1, 1932.

Chapter 283.

AN ACT Relating to the Gasoline Tax.

Emergency Preamble: Whereas certain changes in the law imposing a tax on internal combustion engine fuel have been made necessary by a recent decision of the supreme judicial court of Maine in order to prevent a prospective loss of revenue that will seriously affect the appropriations for highway purposes, and

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

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

Sec. 1. R. S., c. 12, § 79, amended. Section seventy-nine of chapter twelve of the revised statutes as amended by chapter one hundred fifteen of the public laws of nineteen hundred thirty-one is hereby further amended to read as follows:

'**Sec. 79. Terms defined.** The terms used in sections seventy-nine to eighty-nine-B shall be construed as follows: "Internal combustion engine" shall mean any engine operated by explosion or quick burning therein of gasoline, benzol or other product except kerosene.

"Internal combustion engine fuel" shall mean: first, gasoline; secondly, benzol; and thirdly, other products when sold or used for motor fuel in the operation of an internal combustion engine, except kerosene and fuel oil, commonly called crude oil. "Distributor" shall mean any person, association of persons, firm or corporation, wherever resident or located,

importing or causing to be imported for sale or for use in this state (with the exceptions hereinafter set forth), any internal combustion engine fuel as herein defined; or producing, refining, manufacturing or compounding within the state any internal combustion engine fuel as herein defined; or purchasing within the state in lots of five thousand gallons or more, internal combustion engine fuel as herein defined, for the purpose of sale or use within the state; and also the persons, associations, firms and corporations described in section eighty-five.'

Sec. 2. R. S., c. 12, § 80, amended. Section eighty of chapter twelve of the revised statutes as amended by chapter one hundred ninety of the public laws of nineteen hundred thirty-one is hereby further amended to read as follows:

'**Sec. 80. Tax levied; rebates.** There is hereby levied and imposed an excise tax of four cents per gallon upon internal combustion engine fuel sold or used within this state 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 lots of five thousand gallons or more 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 three cents 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. 3. R. S., c. 12, § 81, amended. Section eighty-one of chapter twelve of the revised statutes is hereby amended to read as follows:

'**Sec. 81. Distributors' certificates.** Every distributor of such internal combustion engine fuel in the state, except distributors described in section eighty-five, shall file a duly acknowledged certificate with the state tax assessor on forms prescribed and furnished by him, which shall contain the name under which such distributor is transacting business within the state, the place or places of business, and location of distributing stations, and agencies of the distributor, the names and addresses of the several

persons constituting the firm or partnership, and if a corporation its corporate name, and the names and addresses of its principal officers and agents within the state. No such distributor shall sell or distribute any such internal combustion engine fuel until such certificate is furnished and displayed as required by this section. One copy of each such certificate, certified by the state tax assessor shall be displayed in each place of business of such distributor. The state tax assessor having reasonable cause to believe that the distributor has ceased to do business, or that he has violated any of the provisions of this chapter or of the rules and regulations made thereunder, may on reasonable notice to the distributor suspend the distributor's certificate until satisfied to the contrary. In such case the distributor shall not act as a distributor until his certificate is restored by the state tax assessor either of his own initiative or at the request of the distributor and upon the state tax assessor's being satisfied that cause for suspension no longer exists, or upon order of court as hereinafter provided. In case of such suspension all certificates shall at once be surrendered to the state tax assessor upon his request. Notices shall be sufficient if sent by mail addressed to the distributor at the address designated in the certificate, and appeals may be taken in the same manner as provided in section one hundred seventy-three of chapter fifty-seven for appeals from decisions of the bank commissioner.'

Sec. 4. R. S., c. 12, § 84, amended. Section eighty-four of chapter twelve of the revised statutes as amended by chapter one hundred ninety of the public laws of nineteen hundred thirty-one is hereby further amended to read as follows:

'Sec. 84. Reports; assessment of tax. Every distributor shall on or before the fifteenth 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, and 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. On or before the first day of the calendar month succeeding the filing of said report each distributor shall pay to the treasurer of state a tax of four cents upon each gallon so reported as sold, distributed or used; and if said report is not filed by the fifteenth day of the month such distributor shall be liable to a penalty of five dollars 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 pay within fifteen days after demand made on him by the state tax assessor a tax of four cents 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 by the distributor and not properly accounted for in a distributor's report or in accordance with law; provided, however, that an allowance of not more than one per cent from the amount of fuel received by a distributor may be allowed by the state tax assessor in accordance with the facts as he finds them to be, if he is satisfied that there has been a loss through shrinkage, evaporation or handling, and provided that no further deduction shall be allowed unless the state tax assessor is satisfied on definite proof submitted to him that a further deduction should be allowed by him for a loss sustained through fire, accident or some unavoidable calamity. On or before the first day of each calendar month the state tax assessor shall transmit to the treasurer of state such information as shall show all taxes due from each distributor under the provisions of sections seventy-nine to eighty-nine-B.'

Sec. 5. R. S., c. 12, § 85, amended. Section eighty-five of chapter twelve of the revised statutes is hereby amended to read as follows:

'**Sec. 85. Application of the tax in certain special cases.** Whoever shall receive any such internal combustion engine fuel in such form and under such circumstances as shall preclude the collection of this tax from the distributors by reason of the provisions of the laws of the United States, and shall thereafter sell or use any such internal combustion engine fuel in such manner and under such circumstances as may subject such sale or use to the taxing power of this state, shall be considered as a distributor and shall make the same reports, pay the same taxes, and be subject to all other provisions of sections seventy-nine to eighty-nine-B relating to distributors of internal combustion engine fuel; provided, however, that no person shall be considered as a distributor with respect to internal combustion engine fuel 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.'

Sec. 6. R. S., c. 12, § 88, amended. Section eighty-eight of chapter twelve of the revised statutes is hereby amended to read as follows:

'**Sec. 88. Penalties; civil action for tax.** Any distributor or other person who shall wilfully make any false or fraudulent report or return required by sections seventy-nine to eighty-nine-B, or who shall make any false statement in any claim or invoice presented to the state tax assessor, or who shall knowingly present to the state tax assessor any claim or in-

voice containing any false statement or who shall knowingly and fraudulently collect or cause to be paid to him or to any other person any refund provided for by the provisions of the Gasoline Tax Act without being entitled thereto, or who shall with intent to defraud, evade or violate any of the provisions of said sections, or any rules or regulations duly made thereunder, shall be guilty of a misdemeanor and punished by a fine of not more than two thousand dollars. Whenever any distributor shall fail to pay any tax or penalty due under the provisions of said sections within the time limited herein, the attorney-general shall enforce payment thereof against such distributor in a court of appropriate jurisdiction. In any civil action either the number of gallons of internal combustion engine fuel reported by the distributor as sold, distributed or used by him, or the number of gallons held by the distributor at the beginning of the period covered by the state tax assessor's audit, plus the number of gallons received by such distributor during the period, less the number of gallons on hand at the close of the period shall be prima facie evidence of the number of gallons sold, distributed or used by the distributor during the period covered by the distributor's report or the state tax assessor's audit, on which the tax with interest from the date when it was due shall be computed and collected and for which amount with costs judgment shall be computed. The claim of the state for sums due from the distributor under the provisions of the Gasoline Tax Act shall be preferred and priority claims in the event of the assignment, receivership or bankruptcy of the distributor.'

Sec. 7. "Gasoline Tax Act" and "gasoline tax" defined. Chapter twelve of the revised statutes is hereby amended by adding thereto the following section:

'Sec. 89-B. Short title. Sections seventy-nine to eighty-nine-B inclusive of chapter twelve of the revised statutes as amended shall be known as the "Gasoline Tax Act", and the tax therein imposed shall be known as the "gasoline tax".'

Sec. 8. Conditional five-cent tax. Sections seventy-nine to eighty-nine-A inclusive of chapter twelve of the revised statutes as amended by chapters forty-four, one hundred fifteen, one hundred ninety, two hundred twenty-five, two hundred thirty-nine and two hundred fifty-one of the public laws of nineteen hundred thirty-one, and by the previous sections of the present act, are hereby further amended by striking out the words "four cents" wherever they occur, and inserting in place thereof the words 'five cents', and by striking out the words "three cents" wherever they occur, and inserting in place thereof the words 'four cents', and by striking out the words "three-fourths", wherever they occur, and inserting in place thereof

the words 'four-fifths'; provided, however, that this section shall take effect only in the event of and at the time of the coming into effect of chapter two hundred thirty-six of the public laws of nineteen hundred thirty-one, which is now suspended under Article XXXI of the constitution of Maine, and is to be submitted to the people at the general election on September twelfth, nineteen hundred thirty-two.

The object of this section is to extend the five-cent tax to internal combustion engine fuel used as well as sold, in the event that the people of the state adopt the pending five-cent tax; provided, however, that except as herein set forth the pending referendum to the people of the said five-cent tax shall be in no way affected by the present act.

Sec. 9. Emergency Clause. In view of the emergency cited in the preamble hereof, this act shall take effect when approved.

Approved April 1, 1932.