

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

SECOND SPECIAL SESSION

September 25, 1981

AND

THIRD SPECIAL SESSION

December 9, 1981

AND

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

AND AT THE

FOURTH SPECIAL SESSION

April 28, 1982 to April 29, 1982

AND AT THE

FIFTH SPECIAL SESSION

May 13, 1982

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co.
Augusta, Maine
1981

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND AND THIRD SPECIAL SESSIONS

and

SECOND REGULAR SESSION

and

FOURTH AND FIFTH SPECIAL SESSIONS

of the

ONE HUNDRED AND TENTH LEGISLATURE

1981

CHAPTER 664

H.P. 2088 - L.D. 2022

AN ACT to Create a State Set-aside System for Petroleum Products.

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

5 MRSA §5011 is enacted to read:

§5011. State petroleum set-aside

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms having the following meanings.

A. "Assignment" means an action taken by the Office of Energy Resources, designating that a prime supplier of petroleum products supply them to an authorized consumer, wholesale purchaser-consumer or wholesale purchaser-reseller to facilitate relief of emergency and hardship needs, pursuant to subsection 2.

B. "Consumer" means any individual, trustee, agency, partnership, association, corporation, company, municipality, political subdivision or other legal entity which purchases petroleum products for ultimate consumption in Maine.

C. "Director" means the director of the Office of Energy Resources.

D. "Firm" means any association, company, corporation, estate, individual, joint venture, partnership or sole proprietorship or any entity however organized, including charitable, educational or eleemosynary institutions and the Federal Government, including federal corporations, departments and agencies and state and local governments.

E. "Petroleum products" means propane, gasoline, unleaded gasoline, gasohol, kerosene, #2 heating oil, diesel fuel, kerosene base jet fuel, aviation gasoline, #4, #5 and #6 residual oil for utility and nonutility uses, and Bunker C.

F. "Prime supplier" means the supplier which makes the first sale of any petroleum product subject to the state set-aside into the state distribution system for consumption within the State.

G. "Purchaser" means a wholesale purchaser and end-user, or both.

H. "Set-aside" means, with respect to a particular prime supplier, the amount of a petroleum product, subject to the provisions of this section, which is made available from the total supply of a prime supplier pursuant to subsection 2 for utilization by the Office of Energy Resources to resolve emergencies and hardships due to fuel shortages or dislocations in distribution systems.

I. "Supplier" means any firm or any part or subsidiary of any firm, other than the Department of Defense, which presently supplies, sells, transfers or otherwise furnishes, as by consignment, any product subject to the state set-aside to wholesale purchasers or end-users, including refiners, natural gas processing plants or fractionating plants, importers, resellers, jobbers and retailers.

J. "Wholesale purchaser" means a wholesale purchaser-reseller or wholesale purchaser-consumer, or both.

K. "Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains a product subject to the state set-aside from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location.

L. "Wholesale purchaser-reseller" means any firm which purchases, receives through transfers or otherwise obtains, as by consignment, a product subject to the state set-aside and resells or otherwise transfers it to other purchasers without substantially changing its form.

2. General provisions. The general provisions of this section are as follows.

A. The director shall promulgate rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, establishing a set-aside system for petroleum products. These rules shall direct prime sup-

pliers to set aside a percentage of the amount of petroleum products they expect to deliver to consumers in the State for distribution by the Office of Energy Resources to meet emergency and hardship needs. These rules shall meet the requirements of this section.

B. The set-aside system established pursuant to this section shall not be implemented unless:

(1) The Federal Government terminates, suspends or fails to implement a national set-aside program; and

(2) The Governor finds that a set-aside system is necessary to manage an energy shortage within the State which threatens the continuation of essential services and the needs of priority users.

The Governor will direct the Office of Energy Resources to implement only that portion of the state set-aside program necessary to prevent and alleviate any energy hardships or shortages.

C. The director shall notify each prime supplier of the monthly set-aside percentage, not to exceed 5%, applicable to each product subject to the set-aside program.

D. The set-aside volume available to the Office of Energy Resources for a particular month shall be the sum of the amounts calculated by multiplying the state set-aside percentage level by each prime supplier's estimated portion of its total supply for that month which will be sold into the state's distribution system for consumption within the State. The set-aside for a particular month may not be accumulated or deferred, but shall be made available from stocks of prime supplies whether directly or through their wholesale purchaser-resellers.

E. The director shall calculate the set-aside volume for a particular month from the supplier's monthly report or in accordance with section 5010.

F. The director shall establish as part of the rules promulgated in accordance with paragraph A, procedures governing applications for assignment and assignments by the Office of Energy Resources under the state set-aside system. Such procedures shall include criteria for approving and disapproving applications and an appeal process.

G. The release of set-aside shall be as follows.

(1) At any time during the month, the director may order the release of part or all of the prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.

(2) The Office of Energy Resources shall release set-aside to meet the emergency and hardship requirements of all purchaser-consumers and consumers within the State. In order to facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and consumers, the Office of Energy Resources may direct that a wholesale purchaser-reseller supply the wholesale purchaser-consumers and consumers experiencing the hardship or emergency.

(3) From time to time, the director may designate certain geographical areas within the State as suffering from an intrastate supply imbalance. At any time during the month, the director may order some or all of the prime suppliers with purchasers within such geographical areas to release part or all of their set-aside volume through their normal distribution systems to increase the allocations of all the supplier's purchasers located within such areas.

(4) Orders issued pursuant to this section shall be in writing and effective immediately upon presentation to the prime supplier's designated state representative. Those orders shall represent a call on the prime supplier's set-aside volumes for the month of issuance notwithstanding that delivery cannot be made until the following month.

H. Each prime supplier shall designate a representative within the State to act for and in behalf of the prime supplier with respect to the state set-aside program. Each prime supplier for a state shall notify in writing the Office of Energy Resources of that designation.

I. Any assignments or order made under this section shall specify that the product be made available to the consumer, wholesale purchaser-consumer or wholesale purchaser-reseller at prices prevailing for similar classes of purchasers in the locality of the consumer, wholesale purchaser-consumer or wholesale purchaser-reseller at the time of the sale of the product.

J. The set-aside program shall remain in effect no longer than 180 days without approval from the Legislature. In the event that the Governor finds that the set-aside system is no longer necessary to manage an energy shortage, he shall terminate the program.

3. Violations; penalties. Violations and penalties of this section are as follows.

A. Any person who violates any provision of this section or any rule or order issued pursuant to this section shall be subject to a civil penalty of not more than \$10,000 for each violation.

B. The penalty provided for in paragraph A shall be recovered in an action or special proceeding brought by the Attorney General.

C. Alternatively, or in addition to the action or proceeding to recover the civil penalty provided by paragraph A, the Attorney General may institute an action or proceeding to enjoin any violation of or to enforce any provision of this section or any rule or order issued under this section.

Effective July 13, 1982.

CHAPTER 665

H.P. 1838 - L.D. 1835

AN ACT to Provide that Procedures Covered by the Maine Medical Assistance Program (Catastrophic Illness) Shall Be Reimbursable Whether Performed by a Physician or Dentist.

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

Sec. 1. 22 MRSA §3185, first ¶, first sentence, as enacted by PL 1977, c. 714, §5, is amended to read:

The Department of Human Services is authorized to provide financial assistance to, or on behalf of, families or individuals residing in Maine whose costs, wherever incur-