

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 689

H.P. 2279 - L.D. 2125

AN ACT to Provide for Fuel Use Identification Decals.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, legislation was passed at the last regular session of the Legislature requiring a highway use permit; and

Whereas, a basic objective of this legislation was to improve enforcement of collecting motor fuel taxes; and

Whereas, certain aspects of this legislation were determined to be unconstitutional; and

Whereas, fuel use identification decals will help enforcement officials collect motor fuel taxes; 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. 29 MRSA §246-A, as enacted by PL 1981, c. 492, Pt. E, §9, is repealed and the following enacted in its place:

§246-A. Fuel use identification decal

1. Application. Notwithstanding any other provision of law, a person owning, operating or causing operation of a vehicle on the highways of this State, subject to Title 36, chapter 453, 455 or 457, shall apply to the Secretary of State for a fuel use identification decal for each vehicle covered by such reports or licensing requirement.

2. Vehicles requiring a fuel use identification decal. The following vehicles require a fuel use identifi-

cation decal:

A. Gasoline powered motor vehicles used for the transportation of property or passengers for hire as a contract or common carrier;

B. All other gasoline powered motor vehicles or combinations of vehicles which are registered for a load of over 10,000 pounds or for a gross weight of over 20,000 pounds;

C. All motor vehicles propelled by an internal combustion engine powered by other than gasoline, except:

(1) Noncommercial vehicles owned by nonresidents of this State, having a fuel capacity of 30 gallons or less, not requiring Maine registration; or

(2) Noncommercial vehicles having a fuel tank capacity of 30 gallons or less owned by residents of this State who purchase only fuel upon which the tax imposed by Title 36, section 3035, has been paid by the user; and

D. Interstate bus operators shall be required to obtain this decal on the same prorated basis as is used to determine fuel used within this State. The number of buses that the Maine mileage factor represents of the entire fleet mileage shall be required to display the fuel use identification decal.

3. Form of application. Application shall be made upon a form and in a manner prescribed by the Secretary of State and shall set forth such information as the Secretary of State may require. The application shall be accompanied by a fee of \$10 for each vehicle listed in the application.

4. Credit for highway use permit fee. Every person who has paid a \$3 highway use permit fee for the current or preceding calendar year shall, on application for a decal under this section, receive credit for each such \$3 fee paid toward the fee required by this section for a 1982 decal.

5. Issuance; display; expiration. The Secretary of State shall issue an identification decal of such size and design as he shall prescribe, which shall be permanently affixed to the exterior of the vehicle in a location the Secretary of State shall specify and such decal shall at all times be visible and legible. The decal shall become void on February 1st next following the date of issue.

Effective February 1, 1983, the Secretary of State shall

also issue a fuel use certificate to be carried in the vehicle at all times.

6. Trip permits. The Secretary of State may issue, by telegram or otherwise, a trip permit which identifies a specific vehicle and such vehicle may operate without a fuel use identification decal being displayed for a period not to exceed 5 consecutive days. Such a trip permit shall accompany the vehicle at all times while being operated on the highways of this State. The fee for a 5-day trip permit is \$5.

7. Enforcement. Every state police officer or any member of the Department of Public Safety designated by the Commissioner of Public Safety is authorized and directed to enforce the provisions of this section.

Any owner or operator stopped for a violation of this section and against whom enforcement action has been taken, shall not be guilty of a subsequent violation of this section involving the same vehicle until after the close of business on the next business day following the date of the violation.

Any owner or operator in noncompliance with the laws regarding reporting and payments of the gasoline road taxes or the fuel use taxes under Title 36 may be required to come into full compliance with those statutes and rules before being allowed to proceed.

A violation of this section is a Class E crime, except that any operator or owner who displays, causes or permits to be displayed, a fictitious decal or permit or a decal or permit issued to another firm, corporation or person shall be guilty of a Class D crime.

All fees, fines and forfeitures shall accrue to the Highway Fund.

8. Grace period. As a grace period to allow compliance with this section, no action for violation of this section may occur during the first 30 days following the effective date.

9. Suspension. On certification by the State Tax Assessor to the Secretary of State that a vehicle owner is not in compliance with Title 36, chapter 453, 455 or 457, the Secretary of State shall suspend all fuel use identification decals issued to that owner. Until the State Tax Assessor certifies to the Secretary of State that an owner is in full compliance, an owner who has had his fuel use identification decals revoked shall not operate or cause

operation of vehicles registered to him which require decals to operate on Maine highways.

Reinstatement of the fuel use decal requires, in addition to meeting the requirements of this law, the payment of a fee of \$20 to the Secretary of State, section 2241-D.

The Secretary of State shall promptly notify the Department of Public Safety of any suspension, revocation and reinstatement under provisions of this section. Every owner transferring ownership of a vehicle bearing a valid fuel use identification decal shall disfigure any such decal and no person acquiring a vehicle with an unexpired fuel use identification decal may operate or cause operation of such vehicle without a valid trip permit or bearing a decal issued to him.

10. Cooperation in issuance; enforcement; information. The State Tax Assessor, Department of Public Safety and Secretary of State shall cooperate in the issuance of the fuel use identification decals and temporary permits, the enforcement of this section and in an effort to insure that timely information of the status of those in noncompliance with the gasoline road tax and fuel use tax laws, intrastate and interstate for hire operating authority permit requirements and motor vehicle registration laws, is readily available to all enforcement personnel.

Sec. 2. 29 MRSA §2241, as last amended by PL 1981, c. 253, §3, is repealed and the following enacted in its place:

§2241. Suspension or revocation of license, registration or fuel use decal

1. Suspension. The Secretary of State or any deputy secretary of state may suspend any certificate of registration, certificate of title or any license issued to any person to operate a motor vehicle or right to operate a motor vehicle or right to obtain an operator's license after hearing for any cause which he deems sufficient. He is also authorized to suspend any certificate of registration, certificate of title or any license fuel use decal issued to any person without preliminary hearing upon showing by his records or other sufficient evidence that the driver:

A. Has committed an offense for which mandatory suspension or revocation of license or registration is required upon conviction or adjudication;

B. Has been convicted or adjudicated with such frequency of offenses against traffic regulations governing the movement of vehicles as to indicate a disre-

spect for traffic laws and disregard for the safety of other persons on the highways;

C. Is an habitually reckless or negligent driver of a motor vehicle, such fact being established by the point system, by a record of accidents or by other evidence;

D. Is incompetent to drive a motor vehicle;

E. Has permitted an unlawful or fraudulent use of such license;

F. Has committed an offense in another state which, if committed in this State, would be grounds for suspension or revocation;

G. Has been convicted of failing to stop for a police officer;

H. Has been convicted of reckless driving or driving to endanger;

I. Has failed to appear in court on the day specified, either in person or by counsel, after being ordered to do so to answer any violation of Title 35, chapters 91 to 97;

J. Has failed to provide sufficient proof of ownership or other documentation in support of his title claim;

K. Is subject to action of the Secretary of State pursuant to section 2378, subsection 1; or

L. Has failed to comply with the payment and reporting sections of the laws related to gasoline road taxes or fuel use taxes, under Title 36, chapter 453, 455 or 457.

He is also authorized to suspend any certificate of registration, certificate of title or any license issued to any person without preliminary hearing upon showing by his records or other sufficient evidence that the owner of a vehicle or holder of a title certificate fails to deliver or assign the certificate of title upon the request of the Secretary of State.

2. Regulations. For the purpose of identifying habitually reckless or negligent drivers and habitual or frequent violators of traffic regulations governing the movement of vehicles, the Secretary of State shall adopt regulations establishing a uniform system of assigning demerit points for convictions or adjudications of violations of statutes

or regulations governing the operation of motor vehicles, including violations of Title 17-A, section 360, subsection 1, paragraphs A and B and Title 28, section 1002. The regulations adopted by the Secretary of State shall include a designated level of point accumulation which so identifies drivers. The Secretary of State may assess points for convictions or adjudications in other states of offenses which, if committed in this State, would be grounds for such assessment. Notice of assessment of points shall be given when the point accumulation reaches 50% of the number at which suspension is authorized. No points may be assessed for violating a provision of this Title or municipal ordinance regulating standing, parking, equipment, size or weight.

3. Hearing. Upon suspending or revoking a motor vehicle license, permit or privilege to operate, registration or certificate of title of any person without preliminary hearing, the Secretary of State shall notify that person as provided in Title 5, section 9052, subsection 1, that an opportunity for hearing shall be provided without undue delay, after receipt of a request, except where the suspension rests solely upon a conviction in court of any offense which by statute is expressly made grounds for that suspension or revocation.

If a hearing is held to determine whether a person's motor vehicle operator's license, permit or privilege to operate, registration or certificate of title should be restored, the hearing shall be conducted as provided in Title 5, chapter 375, subchapter IV. Upon the hearing, the Secretary of State shall either rescind his order of suspension or, for good cause, may continue, modify or extend the suspension of the license, permit or privilege to operate, registration or certificate of title.

Notice shall be given as provided in section 54. The date of birth and name on the notification of suspension or revocation document shall be prima facie evidence that the named person is the same person as the defendant of the same name and birthday.

Any person who, after notice of suspension or revocation, fails or refuses to obey any order of the Secretary of State under this section or fails or refuses to surrender to the Secretary of State upon demand any motor vehicle license, permit, registration or certificate of title, issued in this State or any other state which has been suspended, canceled or revoked by proper authority in this State or any other state, as provided by law shall be guilty of a Class E crime.

Sec. 3. 36 MRSA §2962 is repealed and the following enacted in its place:

§2962. Names of certificate and permit holders furnished to State Tax Assessor

The State Police shall, within 7 days after issuing a certificate or permit to a motor carrier under Title 29, chapter 25, 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. 4. 36 MRSA §2967, as repealed and replaced by PL 1977, c. 696, §282, is amended to read:

§2967. Violations

Any motor carrier subject to this chapter that knowingly fails to file the reports required commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged for each failure Class E crime.

Any motor carrier, or any private carrier included within section 2971, or any agent or employee of either of them, who shall operate a motor vehicle which operation renders that motor carrier or private carrier liable to this chapter at any time when that motor carrier or private carrier has failed to file any report or pay tax, penalty or interest as required by this chapter commits a civil violation for which a forfeiture of not less than \$10 nor more than \$300 shall be adjudged Class E crime.

Sec. 5. 36 MRSA §3026, last ¶, as enacted by PL 1981, c. 492, Pt. E, §20, is repealed.

Sec. 6. 36 MRSA §3038, as repealed and replaced by PL 1977, c. 696, §285, is amended to read:

§3038. Failure to file statement; false statement

Any person who shall refuse or neglect to make any statement, report, payment or return required by this chapter, or who shall knowingly make, or shall aid or assist any other person in making a false statement in a return or report to the State Tax Assessor, or in connection with an application for refund of any tax, or who shall knowingly collect or attempt to collect, or cause to be paid to him or to any other person, either directly or indirectly, any refund of that tax without being entitled to the same, shall be subject to a civil penalty of not more than \$2,000 payable to the State to be recovered in a civil action guilty

of a Class E crime.

Sec. 7. 36 MRSA §3039, first sentence, as amended by PL 1979, c. 541, Pt. B, §48, is further amended to read:

§3039. Additional violations

Any user, or any agent or employee of any user, who shall consume any fuel in a motor vehicle on a public highway or on a turnpike operated and maintained by the Maine Turnpike Authority, when that user is not the holder of an uncanceled license as required by this chapter, or when that user has failed to file any report or pay tax, penalty or interest as required by this chapter and chapter 7, commits a civil violation for which a forfeiture of not less than \$10 nor more than \$300 shall be adjudged Class E crime.

Sec. 8. Committee to study the administration of truck-related permits and licenses. There is established a committee to study and, if appropriate, to recommend proposed legislation dealing with the simplification and improvement of the several laws dealing with permits, fees and licenses which apply to the trucking industry in Maine. Of particular concern is the centralization of administration to improve efficiency and simplify the task truckers face in complying with the law. The committee shall be composed of the Commissioner of Transportation as chairman, the Commissioner of Public Safety, the Commissioner of Finance and Administration, the Secretary of State, the President of the Maine Motor Transport Association, one Legislator appointed by the Speaker of the House and one Legislator appointed by the President of the Senate.

The committee shall report its findings and any proposed legislation to the Legislative Council no later than January 31, 1983.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved, except sections 1, 2 and 3 shall take effect on April 1, 1982.

Effective April 15, 1982, unless otherwise indicated.
