

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
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Chapters 1-452

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

issued for delivery, renewed, modified or amended in this State after its effective date.

Effective September 23, 1983.

CHAPTER 92

H.P. 1041 - L.D. 1343

AN ACT to Provide a Uniform Excise Tax on Watercraft.

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

Whereas, the tax assessment date for personal property tax is April 1st of each calendar year; and

Whereas, legislative action is necessary before that date in order to address this year the imbalances in the property tax which are causing difficulty for the commercial fishing fleet with the danger that some vessels may leave the State if action is not taken before April 1st; 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:

PART A

Sec. 1. 36 MRS A §655, sub-§1, ¶Q is enacted to read:

Q. All commercial fishing vessels subject to the excise tax imposed under chapter 109-A.

Sec. 2. 36 MRS A c. 109-A is enacted to read:

CHAPTER 109-A

COMMERCIAL FISHING VESSELS

§1441. Definitions

As used in this chapter, unless the context indi-

cates otherwise, the following terms have the following meanings.

1. Commercial fishing vessel. "Commercial fishing vessel" means any type of motorboat, as defined in Title 12, section 7792, over 10 net tons, exclusively engaged in commercial fishing, which is documented under the laws of the United States and which maintains an established base of operations within this State. It includes all motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, which are customarily used in the operations of the vessel. It does not include a vessel exclusively engaged in the transportation of fish.

2. Established base of operations. An "established base of operations" means the location where a commercial fishing vessel has its primary relationship with a municipality. Among the factors identifying a primary relationship are the locations at which a vessel is customarily moored or docked when not at sea, and at which it customarily prepares for expeditions and hires a crew, and to which it customarily returns for repairs, supplies and the disposition of its catch. The fact that a vessel carries on one or more of the activities, mentioned in this subsection, at more than one location within this State shall not prevent it from being deemed to have an established base of operations within this State. The fact that a vessel carries on one or more of the activities, mentioned in this section, at a location or locations outside this State shall not prevent it from being deemed to have an established base of operations within the State, if a substantial portion of these activities are carried on at a location or locations within this State such that, in the judgment of the State Tax Assessor, the vessel's owner has availed himself of the opportunities and benefits of conducting business in this State.

§1442. Annual excise tax

1. Assessment. An annual excise tax shall be assessed by the State Tax Assessor on July 1st of each year on every owner of a commercial fishing vessel for the privilege of maintaining within this State an established base of operations for that vessel.

2. Amount. The amount of the tax is \$10 per foot for vessels which are less than 15 net tons and \$20 for vessels which are 15 or more net tons, based on the registered length of the vessel as set forth in the document issued to its owner by the United States Coast Guard.

3. Partial year. If the owner of a commercial fishing vessel establishes in this State a base of operations for the vessel after July 1st of any year, but prior to June 30th of the succeeding year, the owner shall be subject to assessment of the tax imposed by this chapter immediately upon establishing a base of operations within this State, subject to the partial abatement permitted under section 1445.

4. Due date. The tax is due on or before the 90th day following assessment.

5. Lien. If any tax imposed by this chapter is not paid when due, the State Tax Assessor may file in the office of the registry of deeds of the county where the vessel has its established base of operations or in the office in which a security or financial statement or notice with respect to personal property would be filed, a certificate of lien specifying the amount of the tax, addition to tax, penalty and interest due, the name and last known address of the taxpayer liable for the amount and the fact that the State Tax Assessor has complied with this chapter in the assessment of the tax. From the time of the filing, the amount set forth in the notice constitutes a lien upon all property of the taxpayer in the county then owned by him or thereafter acquired by him in the period before the expiration of the lien. In the case of any prior mortgage on any real or personal property so written as to secure a present debt and also future advances by the mortgagee to the mortgagor, the lien, as provided in this subsection, when notice has been filed in the proper office, shall be subject to the prior mortgage, unless the assessor also notifies the mortgagee of the recording of the lien in writing, in which case any indebtedness thereafter created from the mortgagor to the mortgagee shall be junior to the lien provided in this subsection. The lien, as provided in this subsection, has the same force, effect and priority as a judgment lien and shall continue for 5 years from the date of recording, unless sooner released or otherwise discharged. The lien may, within the 5-year period or within 5 years from the date of the last extension of the lien in the manner provided in this section, be extended by filing for record in the appropriate office a copy of the notice and from the time of the filing, the lien shall be extended for 5 years, unless sooner released or otherwise discharged.

§1443. Annual statement by owner

1. When due. The owner of a commercial fishing vessel shall by June 15th, annually, file a sworn statement with the State Tax Assessor. If the vessel

has not maintained an established base of operations within this State on or before June 15th, the statement shall be filed within 30 days of the date that a base of operations is established in this State.

2. Contents. The statement shall contain at least the following information:

A. The name of the vessel's owner and a designation of the owner's status as either an individual, corporation, partnership or other business entity;

B. The owner's mailing address;

C. The municipality where the vessel has an established base of operations;

D. The registered length of the vessel as set forth in its document;

E. The owner's statement of the fair market value of the vessel as of the date the statement is made; and

F. The official number of the vessel as set forth in its document.

3. Forms mailed. On or before May 15th of each year, the State Tax Assessor shall make available forms which may be used by persons filing the statement required by this section.

§1444. Proceedings for abatement

Assessment by the State Tax Assessor of the excise tax imposed by this chapter is a determination of the State Tax Assessor for purposes of section 151. Except as provided in section 1445, proceedings for abatement shall be governed by section 151 and by other applicable provisions of this Title.

§1445. Partial abatement for vessels changing base of operations during calendar year

If a commercial fishing vessel maintains an established base of operations in another taxing jurisdiction during a portion of the excise tax year, the owner shall, upon presentation of evidence satisfactory to the State Tax Assessor within 30 days from the end of the tax year, be entitled to a partial abatement of the tax imposed by this chapter in proportion to the period of time during which the vessel has maintained an established base of operations in such other jurisdiction and not in this State.

§1446. Enforcement

The provisions of chapters 7 and 835 shall apply with like effect to collecting the tax and enforcing this chapter.

§1447. Reimbursement to municipalities

Reimbursement to municipalities as required by the Constitution of Maine, Article IV, Part 3, Section 23, shall be made according to procedures specified in section 661, except that claims for reimbursement shall be made by the municipality, no later than January 1st of the following year.

PART B

Sec. 1. 12 MRSA §7794, sub-§1, as amended by PL 1979, c. 543, §69, is further amended to read:

1. Motorboats requiring. The owner of every motorboat, including airmobiles, used on the waters of the State as the state of principal use shall obtain a certificate of number for the motorboat from the commissioner. No certificate of number may be issued unless the owner submits proof that the watercraft excise tax, assessed under Title 36, chapter 112, has been paid. The following motorboats are exempt from this section:

A. A watercraft which has or is required to have a valid marine document as a watercraft of the United States;

B. A motorboat already covered by a current certificate of number issued under a federally approved numbering system of another state or a federal law, provided that the number so issued is displayed on the motorboat and provided that the motorboat has not been within this State for a period in excess of 60 consecutive days after the state of principal use has been changed;

C. Military or public watercraft, except recreational type watercraft of the United States;

D. A motorboat whose owner is the United States, a state or subdivision thereof which is used for governmental purposes and which is clearly identifiable as such;

E. A ship's lifeboat;

F. Motorboats from a country other than the United States, provided the motorboat has not been within this State for a period in excess of 60 consecutive days; and

G. Motorboats used exclusively for racing purposes which display on their hulls in a prominent manner a valid boat number issued by a recognized racing association.

Sec. 2. 12 MRSA §7794, sub-§4, ¶A, as amended by PL 1979, c. 720, §1, is further amended to read:

A. All watercraft requiring or requesting certificate of number § 9 § 6

Sec. 3. 12 MRSA §7794, sub-§9, as enacted by PL 1979, c. 420, §1, is amended to read:

9. Expiration. Every certificate of number awarded under this subchapter continues in force until December 31st of the 2nd complete calendar year after the year of issuance.

Sec. 4. 36 MRSA §609 is repealed.

Sec. 5. 36 MRSA §610 is repealed.

Sec. 6. 36 MRSA §610-A, as enacted by PL 1981, c. 357, is repealed.

Sec. 7. 36 MRSA §655, sub-§1, ¶P, as amended by PL 1977, c. 456, is repealed.

Sec. 8. 36 MRSA §655, sub-§1, ¶R, is enacted to read:

R. All watercraft, including motors, electronic and mechanical equipment and other machinery, whether or not the motors, electronic and mechanical equipment and other machinery are permanently or temporarily attached, and customarily used in the operation of the watercraft. "Watercraft" does not include a vessel, boat or craft located and intended to be permanently docked in one location and not used as a means of transportation on water.

Sec. 9. 36 MRSA c. 112 is enacted to read:

CHAPTER 112

WATERCRAFT EXCISE TAX

§1501. Purpose

The purpose of this chapter is to levy an excise tax upon the owner of any watercraft, not otherwise exempt, for the privilege of operating a watercraft upon the waters of this State.

§1502. Excise tax in lieu of property taxes

The excise tax imposed by this chapter is in lieu of all property taxes on watercraft.

§1503. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Commercial vessel. "Commercial vessel" means any type of watercraft used exclusively in a business or trade:

A. Is required to be registered under Title 12, section 7794; or

B. Is documented under the laws of the United States.

2. Commissioner. "Commissioner" means the Commissioner of Marine Resources.

3. Director. "Director" means the Director of the Division of Recreational Safety and Registration, Department of Inland Fisheries and Wildlife.

4. Established base of operations. An "established base of operations" means the location where a commercial vessel has its primary relationship with a municipality. Among the factors identifying a primary relationship are the locations at which the vessel is primarily moored or docked, where it prepares for expeditions and hires a crew and to which it regularly returns for repairs, supplies and activities relating to its business or trade. The fact that a commercial vessel carries on one or more of the activities, as mentioned in this subsection, at more than one location within this State or carries on one or more of the activities, enumerated in this subsection, at a location or locations outside this State shall not prevent it from being deemed to have an established base of operations within the State, if a substantial portion of these activities are carried on at a location or locations within this State.

5. Overall length. "Overall length" means the horizontal distance stated in feet and defined as the straight line measurement over the deck, excluding sheer, from the foremost part of the watercraft to the aftermost part, measured parallel to the centerline, excluding outboard motors, brackets, bowsprits, rudders and similar attachments. For any watercraft documented under the laws of the United States, overall length means the registered length of the vessel

as set forth in the document issued to its owner by the United States Coast Guard.

6. Owner. "Owner" means a person or persons claiming lawful possession of a watercraft by virtue of legal title, equitable interest or a leasehold interest in the watercraft.

7. Principally moored, docked or located. "Principally moored, docked or located" means the place where a watercraft, other than a commercial vessel, is usually moored, docked, anchored or located during the period from June 1st to August 31st.

8. Registration period. "Registration period" means that period commencing upon the issuance of a certificate of number pursuant to Title 12, section 7794 and continuing until December 31st of the 2nd calendar year after the year of issuance.

9. Taxable year. "Taxable year" for purposes of section 1504, subsection 5, means from January 1st to December 31st.

10. Watercraft. "Watercraft" means any type of vessel, boat or craft capable of being used as a means of transportation on water, other than a seaplane, including motors, electronic and mechanical equipment and other machinery, whether permanently or temporarily attached, and which are customarily used in the operations of the watercraft. Watercraft does not include a vessel, boat or craft located and intended to be permanently docked in one location and not used as a means of transportation on water.

§1504. Excise tax

1. Payment schedule. An excise tax shall be payable annually by the owner of each watercraft located in this State, except those exempt under subsection 4, with 10 days of operation upon the waters of this State, or prior to obtaining a certificate of number pursuant to Title 12, section 7794, or prior to July 1st, whichever event first occurs, based on the overall length of the watercraft in accordance with the following schedule.

<u>Overall Length of Watercraft</u>	<u>Amount of Excise Tax</u>
<u>A. For any watercraft less than 12 feet</u>	<u>\$8.</u>
<u>B. For any watercraft 12 feet or over, but less than 16 feet</u>	<u>\$8 plus \$1 for each foot over 12 feet.</u>

<u>C. For any watercraft 16 feet or over, but less than 18 feet</u>	<u>\$15 plus \$1 for each foot over 16 feet.</u>
<u>D. For any watercraft 18 feet or over, but less than 22 feet</u>	<u>\$25 plus \$2 for each foot over 18 feet.</u>
<u>E. For any watercraft 22 feet or over, but less than 26 feet</u>	<u>\$40 plus \$2 for each foot over 22 feet.</u>
<u>F. For any watercraft 26 feet or over, but less than 30 feet</u>	<u>\$60 plus \$4 for each foot over 26 feet.</u>
<u>G. For any watercraft 30 feet or over, but less than 34 feet</u>	<u>\$100 plus \$4 for each foot over 30 feet.</u>
<u>H. For any watercraft 34 feet or over, but less than 38 feet</u>	<u>\$125 plus \$6 for each foot over 34 feet.</u>
<u>I. For any watercraft 38 feet or over, but less than 41 feet</u>	<u>\$150 plus \$6 for each foot over 38 feet.</u>
<u>J. For any watercraft 41 feet or over, but less than 45 feet</u>	<u>\$190 plus \$8 for each foot over 41 feet.</u>
<u>K. For any watercraft 45 feet or over, but less than 50 feet</u>	<u>\$215 plus \$8 for each foot over 45 feet.</u>
<u>L. For any watercraft 50 feet or over, but less than 55 feet</u>	<u>\$275 plus \$10 for each foot over 50 feet.</u>
<u>M. For any watercraft 55 feet or over, but less than 60 feet</u>	<u>\$325 plus \$10 for each foot over 55 feet.</u>

N. For any watercraft 60 feet or over, but less than 65 feet \$375 plus \$15 for each foot over 60 feet.

O. For any water craft 65 feet or over \$450 plus \$15 for each foot over 65 feet.

2. Reduction in tax. The amount of excise tax payable shall be reduced as follows.

A. For any commercial vessel, the tax payable shall be 50% of the value due under subsection 1.

B. For all other watercraft, the tax payable shall be reduced 20% when the watercraft is over 10 years of age and shall be reduced 40% when the watercraft is over 20 years of age.

3. Payment of tax. The excise tax shall be paid as follows.

A. If the watercraft is owned by an individual resident of this State, the excise tax shall be paid to the municipality where the owner resides. The excise tax for watercraft owned by residents of Indian reservations shall be paid to the tribal clerks.

B. If the watercraft is owned by an individual who is a nonresident of this State or by a partnership or corporation, domestic or foreign, the excise tax shall be paid to the municipality where the watercraft is principally moored, docked or located or has its established base of operations.

C. The commissioner shall determine a vessel's established base of operation if 2 or more municipalities disagree over which taxing jurisdiction has the right to tax a particular vessel. The commissioner's decision shall be final.

4. Exemptions. The following shall be exempt from the tax imposed by this section:

A. Lifeboats or life rafts customarily carried or required to be carried by a watercraft for purposes of rescuing the occupants of the watercraft in case of danger;

B. Watercraft held by registered retailers as demonstrators of stock-in-trade;

C. Watercraft which were exempt from taxation under Title 36, chapter 105 on April 1, 1983;

D. Commercial vessels without an established base of operations in this State and all other watercraft which are not within this State more than 75 days during the year; and

E. Watercraft 20 feet or less in length which are not required to be registered under Title 12, section 7794.

5. Credits. Any owner who has paid the excise tax for a watercraft which is subsequently totally lost by fire, theft or accident in the same year, shall be entitled to a pro rata credit for the tax previously paid in that period for any one watercraft toward the tax for any number of watercraft.

A. The credit shall be allowed in any place in which the excise tax is payable.

B. No portion of any excise tax once paid may be repaid to any person by reason of the loss of a watercraft.

C. For purposes of this subsection, the term "owner" includes the surviving spouse.

6. Watercraft not required to register. An annual statement shall be required as follows.

A. The owner of any watercraft not required to register under Title 12, section 7794, and subject to the excise tax established by this chapter, shall annually file a sworn statement with the director to be made on forms provided by the director.

B. The statement shall be filed on or before January 31st of each year, unless the watercraft is not subject to the excise tax on January 1st of that year, in which case the statement shall be filed within 10 days of the date that that watercraft does become subject to the excise tax.

C. The sworn statement of the owner shall contain such information as the director may reasonably require, which shall include at a minimum the following:

(1) The name of the watercraft's owner and a designation of the owner's status as either an individual, corporation, partnership or other business entity;

(2) The owner's mailing address;

(3) The municipality where the watercraft is principally moored, docked or located or has its established base of operations;

(4) The name of the jurisdiction in which the vessel is registered or documented and the watercraft's registration or documentation number, if any;

(5) The watercraft's serial number, if any; and

(6) The registered length of the vessel as set forth in its document, if any, and the age of the vessel.

D. On or before January 1st of each year, the director shall mail a blank form to the owner of each watercraft who filed a statement the preceding year, at the last known address of that owner. The director shall make blank forms available to all persons requesting them and shall promptly mail the forms upon written request.

E. The director, at least annually, shall send a list of all watercraft not required to be registered under Title 12, section 7794, and subject to the excise tax to that municipality in which the watercraft is principally moored, docked or located or has its established base of operations. The list shall contain the information contained on the sworn statement.

7. Display of decal. Each watercraft, required to pay the excise tax established by this chapter, shall display a current excise tax decal as directed by the commissioner. A current excise tax decal shall be issued upon the payment of all excise taxes due under this chapter.

8. Lien. If the tax imposed by this chapter is not paid when due, the tax collector may file in the office of the registry of deeds of the county where the owner of the watercraft resides or in the case of a nonresident owner or partnership or corporation, either domestic or foreign, where the watercraft is principally moored, docked or located or has its established base of operations, or in the office in which a security or financial statement or notice with respect to personal property would be filed, a notice of lien specifying the amount of the tax, addition to tax, penalty and interest due, the name and last known address of the taxpayer liable for the

amount and the fact that the tax collector has complied with this chapter in the assessment of the tax. From the time of the filing, the amount set forth in the certificate constitutes a lien upon all property of the taxpayer, in the county then owned by him or thereafter acquired by him in the period before the expiration of the lien. In the case of any prior mortgage on any real or personal property so written as to secure a present debt and also future advances by the mortgagee to the mortgagor, the lien, as provided in this subsection, when notice thereof has been filed in the proper office, shall be subject to the prior mortgage, unless the assessor also notifies the mortgagee of the recording of the lien in writing, in which case any indebtedness thereafter created from the mortgagor to the mortgagee shall be junior to the lien provided in this subsection. The lien, provided in this subsection, has the same force, effect and priority as a judgment lien and shall continue for 5 years from the date of recording, unless sooner released or otherwise discharged. The lien may, within the 5-year period or within 5 years from the date of the last extension of the lien in the manner provided in this section, be extended by filing for record in the appropriate office, a copy of the notice and from the time of that filing the lien shall be extended for 5 years, unless sooner released or otherwise discharged.

9. Enforcement. General enforcement provisions are as follows.

A. Payment of the excise tax is a prerequisite for obtaining a certificate of number of a watercraft under Title 12, section 7794, and no registration may be renewed until all excise taxes with respect to the watercraft have been paid in accordance with this chapter.

B. The provisions of chapters 7 and 835 shall apply with like effect to collecting the tax and enforcing this chapter.

§1505. Unorganized territory

For the purposes of this chapter, the unorganized territory shall be treated as a municipality. All excise tax payments for watercraft owned by residents of the unorganized territory, nonresidents or a partnership or corporation, domestic or foreign, and principally moored, docked or located or with an established base of operations in the unorganized territory shall be collected in the manner the motor vehicle excise tax is collected and paid to the Unorganized Territory Education and Services Fund established in chapter 115, or such similar fund as

from time to time is in existence. Moneys paid to the Unorganized Territory Education and Services Fund shall be used to reduce the amount to be collected in the subsequent year through the Unorganized Territory Educational and Services Tax.

§1506. Rulemaking

The Commissioner of Marine Resources, after consultation with the Commissioner of Inland Fisheries and Wildlife and the Director of the Division of Recreational Safety and Registration may adopt rules and establish such forms and procedures as are necessary for the efficient administration and enforcement of the excise tax established by this chapter.

Emergency clause. In view of the emergency cited in the preamble, Part A shall take effect on April 1, 1983, and shall expire and be repealed on March 1, 1984. Part B shall take effect on March 1, 1984.

Effective April 1, 1983, unless otherwise indicated.

CHAPTER 93

H.P. 1020 - L.D. 1320

AN ACT to Apportion the Maine Senate,
House of Representatives and Congressional
Districts.

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

Sec. 1. Replace the apportionment of the Senate. This Act replaces the apportionment of the Senate as ordered by the Supreme Judicial Court of Maine on February 1, 1972.

Sec. 2. Replace the apportionment of the House of Representatives. This Act replaces the apportionment of the House of Representatives as ordered by the Supreme Judicial Court of Maine on February 14, 1977, and amended by the Supreme Judicial Court on March 5, 1977.

Sec. 3. Resolves, 1977, c. 10, as amended, is repealed.

Sec. 4. 21 MRSA §1571-A, as enacted by PL 1981, c. 410, §2, is repealed.