

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2000

**DEPARTMENT OF
ADMINISTRATIVE AND
FINANCIAL SERVICES
TOTAL**

\$719,935

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 25, 2000.

CHAPTER 733

H.P. 940 - L.D. 1337

An Act Regarding Taxation of Low-energy Fuels

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

Sec. 1. 36 MRSA §3202, sub-§5-B is enacted to read:

5-B. Retailer. "Retailer" means any person purchasing low-energy fuel principally for resale directly into the fuel tank of a motor vehicle.

Sec. 2. 36 MRSA §3202, sub-§7, as enacted by PL 1983, c. 94, Pt. D, §6, is amended to read:

7. Supplier. "Supplier" means any person importing distillates into the State, exporting distillates from the State or producing, refining, manufacturing or compounding distillates within the State or purchasing distillates within the State, principally for resale to others in bulk, ~~special fuel.~~

Sec. 3. 36 MRSA §3202, sub-§§7-A and 10, as enacted by PL 1997, c. 738, §9, are amended to read:

7-A. Terminal. "Terminal" means a storage and distribution facility for ~~special fuel~~ distillates supplied by a pipeline or marine vessel, or both, that has been registered as a qualified terminal by the Internal Revenue Service.

10. Wholesaler. "Wholesaler" means a person that owns, operates or otherwise controls a terminal or a person that holds ~~the special fuel~~ a distillate inventory position in a terminal when that person has a contract with the terminal operator for the use of storage facilities and terminal services for fuel at the terminal.

Sec. 4. 36 MRSA §3203, sub-§1, as amended by PL 1999, c. 473, Pt. B, §3 and affected by §5, is further amended to read:

1. Generally. Except as provided in section 3204-A, an excise tax is levied and imposed on all suppliers of special fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rate of 23¢ per gallon and for each gallon of low-energy fuel ~~at the rate of 21¢ per gallon~~ based on the British Thermal Unit, referred to in this subsection as "BTU," energy content for each fuel as compared to gasoline. These values are as follows.

<u>Fuel type</u>	<u>BTU content per gallon</u>	<u>Formula (BTU value fuel/ BTU value gasoline) x tax rate gasoline</u>	<u>Tax rate</u>
Gasoline	115,000	$\frac{100\%}{22¢} \times$	<u>22¢ per gallon as authorized in section 2903</u>
Methanol (M85)	65,530	$57\% \times 22¢$	<u>12.5¢ per gallon</u>
Ethanol (E85)	81,850	$71\% \times 22¢$	<u>15.6¢ per gallon</u>
Propane	84,500	$73\% \times 22¢$	<u>16¢ per gallon</u>
Compressed Natural Gas	100,000 (BTU per 100 standard cubic feet)	$87\% \times 22¢$	<u>19.1¢ per 100 standard cubic feet</u>

Sec. 5. 36 MRSA §3203, sub-§§2 and 3, as enacted by PL 1997, c. 738, §10, are amended to read:

2. Legal incidence of tax. Special fuel may be taxed only once under this section. The tax imposed by this section is declared to be a levy and assessment on the ultimate consumer and other persons levied and assessed pursuant to this chapter are agents of the State for the collection of the tax. ~~The supplier is and retailer are primarily responsible for paying the tax except when the fuel is sold and delivered to a licensed exporter wholly for exportation from the State or to another supplier in the State, in which case the purchasing supplier is primarily responsible for paying the tax.~~ When a supplier sells and delivers to a licensed exporter wholly for exportation from the State or to another supplier in the State, the purchasing supplier is primarily responsible for paying the tax.

3. Consignment sales. When ~~special fuel is~~ distillates are delivered by a supplier on a consignment basis to a consumer or to a retail outlet, whether or not the retail outlet is wholly owned by the supplier, it is considered to have been sold within the meaning of this chapter.

Sec. 6. 36 MRSA §3203, sub-§6, as amended by PL 1999, c. 414, §27, is further amended to read:

6. Allowance for certain losses of propane. An allowance of not more than 1% from the amount of propane received by ~~a supplier, plus 1% on all transfers in vessels, tank cars or full tank truck loads by the supplier in the regular course of business from one of the supplier's places of business to another of the supplier's places of business within the State, the~~ retailer may be allowed by the assessor to cover the loss through shrinkage, evaporation or handling sustained by the ~~supplier~~ retailer. The total allowance for these losses must be supported by documentation satisfactory to the assessor ~~and may not exceed 2% of the receipts by the distributor.~~ A further deduction may not be allowed unless the assessor is satisfied upon definite proof submitted to the assessor that a further deduction should be allowed for a loss sustained through fire, accident or some unavoidable calamity.

Sec. 7. 36 MRSA §3204, as amended by PL 1985, c. 127, §1, is further amended to read:

§3204. Licenses

Every ~~supplier of special fuel~~ person operating as a supplier or retailer in the State, other than those who qualify under section 3205, shall file an application for certificate with the State Tax Assessor on forms prescribed and furnished by ~~him~~ the assessor, which ~~shall~~ contain the name under which the ~~supplier~~ person is transacting business within the State, the place or places of business, location of distributing stations, agencies of the ~~supplier person~~, 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 supplier~~ A person may not sell or distribute any special fuel until the certificate is furnished by the State Tax Assessor and displayed as required by this section. One copy of each such certificate, certified by the State Tax Assessor, ~~shall~~ must be displayed in each place of business of the ~~supplier person~~. The State Tax Assessor, having reasonable cause to believe that the ~~supplier person~~ has ceased to do business or that ~~he~~ the person has violated this chapter or the rules ~~made thereunder~~ adopted under this chapter or failed to appear in court for any violation of this chapter, may on reasonable notice to the ~~supplier person~~ suspend

the ~~supplier's~~ person's certificate until satisfied to the contrary. In such case, the ~~supplier shall~~ person may not act as a supplier or retailer until ~~his~~ the certificate is restored by the State Tax Assessor, either of ~~his~~ the assessor's own initiative or at the person's request ~~of the supplier~~, and upon the State Tax Assessor being satisfied that cause for suspension no longer exists, or upon order of court. In case of that suspension, all certificates ~~shall~~ must at once be surrendered to the State Tax Assessor upon ~~his~~ the request. This revocation ~~shall be~~ is reviewable in accordance with section 151.

Sec. 8. 36 MRSA §3204-A, sub-§2-A, as enacted by PL 1999, c. 414, §29, is amended to read:

2-A. Sales for resale. Special fuel sold for resale to a licensed supplier or low-energy fuel sold for resale to a licensed retailer;

Sec. 9. 36 MRSA §3207, first ¶, as enacted by PL 1983, c. 94, Pt. D, §6, is amended to read:

Every supplier and retailer paying or becoming liable to pay the tax imposed by this chapter shall charge and collect the tax at the applicable rate.

Sec. 10. 36 MRSA §3208, first ¶, as amended by PL 1995, c. 271, §8, is further amended to read:

Every user subject to the tax imposed by section 3203 is entitled to a credit on the tax equivalent to the existing rate of taxation per gallon on all fuels purchased by that user from a supplier or retailer licensed in accordance with section 3204 upon which fuel the tax is imposed by section 3203 has been paid by that user. Evidence of the payment of that tax, in such form as may be required by or is satisfactory to the State Tax Assessor, must be furnished by each user claiming the credit allowed. When the amount of the credit to which any user is entitled for any quarter exceeds the amount of the tax for which that user is liable for the same quarter, the excess may, under rules of the State Tax Assessor, be allowed as a credit on the tax for which that user would be otherwise liable for another quarter or quarters, or upon application within 3 months from the end of any quarter, duly verified and presented in accordance with rules adopted by the State Tax Assessor and supported by such evidence as may be satisfactory to the State Tax Assessor, such excess may be refunded if it appears that the applicant has paid to another state or province under a lawful requirement of such jurisdiction a tax similar in effect to the tax levied in section 3203, on the use or consumption of the same fuel outside the State, at the same rate per gallon that such tax was paid in this State on that number of gallons used in and a tax paid on in such other jurisdiction, but in no case to exceed the rate per gallon of the then current Maine state fuel tax. Upon receipt of the application, the State

Tax Assessor, if satisfied after investigation that a refund is justified, shall so certify to the State Controller and it must be paid out of the Highway Fund. This credit lapses at the end of the last quarter of the year following that in which the credit arose.

Sec. 11. 36 MRSA §3209, sub-§1-A is enacted to read:

1-A. Retailers. Every licensed retailer shall file on or before the last day of each month a report with the assessor stating the gross gallons of special fuel received, sold and used in this State by that retailer during the preceding calendar month on a form prescribed and furnished by the assessor. The report must contain any further information reasonably required by the assessor. At the time of filing the report required by this subsection, each retailer shall pay to the assessor a tax as prescribed in section 3203 upon each gallon reported as a taxable sale or as taxable gallons used.

Sec. 12. 36 MRSA §3209, sub-§5, as enacted by PL 1997, c. 738, §12, is amended to read:

5. Monthly reports from wholesalers. Each wholesaler shall submit on or before the last day of each month on a form prescribed and furnished by the assessor a report stating the number of gross gallons sold by that wholesaler to each distributor, supplier, importer, exporter or any other person that purchased special fuel from that wholesaler during the preceding month. The report must clearly identify each purchaser and indicate the number of gallons that each purchaser received from the wholesaler. The report must also contain any other information reasonably required by the assessor.

Sec. 13. 36 MRSA §3210, as amended by PL 1985, c. 127, §1, is further amended to read:

§3210. Application of tax in special cases

~~Whoever shall receive~~ A person who receives any special fuel in such form and under such circumstances as ~~shall preclude~~ precludes the collection of this tax by the supplier or retailer by reason of the laws of the United States; and ~~shall thereafter sell~~ who sells or ~~use~~ uses any special fuel in a manner and under circumstances as may subject the sale or use to the taxing power of this State, ~~shall be~~ is considered as a supplier or retailer and shall make the same reports; and shall pay the same taxes and ~~be~~ is subject to all other provisions of this chapter relating to suppliers of special fuel and retailers. ~~No~~ A person may not be considered as a supplier or retailer with respect to special 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 a vehicle within the State.

Sec. 14. 36 MRSA §3211, as amended by PL 1985, c. 127, §1, is further amended to read:

§3211. Cancellation of licenses, registrations

If a ~~supplier or user shall at any time file~~ any person licensed or registered under this chapter files a false report of the data or information required by this chapter, or ~~shall fail, refuse or neglect~~ fails, refuses or neglects to file the report required by this chapter, or to pay the full amount of the tax as required by this chapter or is in violation of the affidavit registration certificate as prescribed in section 3205, the State Tax Assessor may ~~forthwith~~ cancel the license or registration of the ~~supplier or user~~ and notify that ~~supplier or user~~ person in writing of the cancellation by registered mail to the last known address of that ~~supplier or user~~ person appearing on the file of the State Tax Assessor.

Upon receipt of a written request from any ~~supplier or user~~ person licensed or registered under this chapter to cancel the license of registration to that ~~supplier or user~~ person, the State Tax Assessor ~~shall have the power to~~ may cancel that license or registration effective 30 days from the date of the written request, but no such license or registration may be canceled upon the request of any ~~supplier or user~~ person until and unless the ~~supplier or user~~ person, prior to the date of that cancellation, ~~have~~ has paid to this State all excise taxes payable under the laws of this State, together with any and all penalties, interest and fines accruing under any of the provisions of this chapter, and until and unless the ~~supplier or user~~ person ~~shall have~~ person has surrendered to the State Tax Assessor the license or registration certificate ~~theretofore~~ issued to that ~~supplier or user~~ person. If, upon investigation, the State Tax Assessor ~~shall ascertain~~ and ~~find~~ finds that any person to whom a license has been issued under this chapter is no longer engaged in the sale or use of special fuel and has not been so engaged for a period of 6 months, the State Tax Assessor ~~shall have power to~~ may cancel that license by giving that person 30 days' notice of the cancellation mailed to the last known address of that person, in which event the license certificate ~~theretofore~~ issued to that person ~~shall~~ must be surrendered to the State Tax Assessor.

Sec. 15. 36 MRSA §3212, as amended by PL 1985, c. 127, §1, is further amended to read:

§3212. Discontinuance as licensed user, retailer and supplier

Whenever a supplier, retailer or user ceases to engage in business as a supplier, retailer or user of fuel within this State, ~~it shall be the duty of~~ that supplier, retailer or user ~~to~~ shall notify the State Tax Assessor in writing within 15 days after discontinuance. All taxes, penalties and interest under this chapter, not yet due

and payable under this chapter, ~~shall~~, together with any and all interest accruing or penalties imposed under this chapter, notwithstanding any provisions thereof, become due and payable concurrently with that discontinuance. ~~It shall be the duty of the~~ The supplier, retailer or user to shall make a report and pay all such taxes, interest and penalties and ~~to~~ surrender to the State Tax Assessor the license certificate ~~theretofore~~ issued to that user by the State Tax Assessor.

Any person violating any of the provisions of this section commits a Class E crime.

Sec. 16. 36 MRSA §3214, as amended by PL 1985, c. 127, §1, is further amended to read:

§3214. Credit for tax paid on worthless accounts

The tax paid on sales made on credit and reported by a supplier or retailer pursuant to section 3209 found to be worthless and actually charged off may be credited upon the tax due ~~to~~ on a subsequent report, but if any such accounts are thereafter collected by the supplier or retailer, a tax ~~shall~~ must be paid upon the amounts so collected. The credit ~~shall be considered as being required to be~~ must be reported on the return for the month in which the charge-off occurred.

Sec. 17. Effective date. This Act takes effect on October 1, 2000.

Effective October 1, 2000.

CHAPTER 734

H.P. 1653 - L.D. 2322

**An Act to Create a Purple Heart
Motorcycle License Plate**

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

Sec. 1. 29-A MRSA §515-B is enacted to read:

**§515-B. Purple Heart medal recipients; special
motorcycle registration plates**

The Secretary of State, on application and upon evidence of payment of the excise tax required by Title 36, section 1482, the registration fee required by section 515 and a one-time additional fee of \$5, shall issue a registration certificate and a set of Purple Heart motorcycle registration plates, to be used in lieu of regular registration plates, to a person who is a Purple Heart medal recipient. The one-time additional fee of \$5 is credited to the Highway Fund for administrative

and production costs. Notwithstanding section 468, the Secretary of State may issue fewer than 2,000 of the plates authorized by this section, and this plate does not require a sponsor.

1. Application. An application for Purple Heart motorcycle registration plates must be accompanied by proof that the applicant has been awarded the Purple Heart medal. The Secretary of State shall verify the documentation presented by the applicant. Misrepresentation of documents is in violation of section 2103, subsection 5.

2. Surviving spouse. The surviving spouse of a Purple Heart recipient issued motorcycle registration plates in accordance with this subsection may retain and display the Purple Heart plates as long as the surviving spouse remains unmarried. Upon remarriage, the surviving spouse may not use the Purple Heart plates on a motorcycle, but may retain them as a keepsake. Upon the death of the surviving spouse, the family may retain the Purple Heart plates, but may not use them on a motorcycle.

3. Design. The Secretary of State shall determine the design of the Purple Heart motorcycle registration plate. Upon request and as provided by section 453, the Secretary of State shall issue Purple Heart motorcycle registration plates that are also vanity plates. Purple Heart vanity plates are issued in accordance with this section and section 453. The annual service fee of \$15 for vanity plates is credited to the Highway Fund.

4. Recognition plates. A Purple Heart recipient or the surviving spouse of a Purple Heart recipient who does not operate a motorcycle or register a motorcycle and who otherwise qualifies for the issuance of special Purple Heart motorcycle registration plates may apply to the Secretary of State for a special single plate recognizing that award. The Secretary of State shall design and identify these special single plates for recognition purposes only. Special single plates may not be attached to a motorcycle. Only one plate may be issued to each recipient and a one-time fee of \$5 charged.

The Secretary of State shall begin issuing Purple Heart motorcycle registration plates in accordance with this section no later than November 1, 2000.

Sec. 2. 29-A MRSA §523, sub-§2-A is enacted to read:

2-A. Disabled veterans motorcycle license plates. The Secretary of State shall issue a registration certificate and special designating plate for a motorcycle to be used in lieu of a registration plate issued in subsection 2 to any 100% disabled veteran if an applicant submits the following together with an application: