

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
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FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
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Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 498

S.P. 208 - L.D. 599

**An Act To Implement the
Recommendations of the Task Force
on Rail Transportation and Correct
an Inconsistency**

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

Sec. 1. 5 MRSA §13058, sub-§19 is enacted to read:

19. Coordinate assessment of transportation needs related to economic development projects. The commissioner shall coordinate the activities of the department, the State Planning Office within the Executive Department, the Department of Transportation and regional planning and economic development organizations to ensure that the location of rail lines, potential use of passenger and freight rail and costs of transportation improvements related to development are considered during initial planning and locating of projects reviewed by the commissioner in administering economic development programs under this chapter.

Sec. 2. 23 MRSA §74 is enacted to read:

§74. Freight transportation advisory council

1. Purpose; membership. The Commissioner of Transportation shall establish a freight transportation advisory council to facilitate discussion and provide insight into issues pertaining to freight transportation in the State. The commissioner shall invite no fewer than 20 people from the private sector to participate as members of the council. Membership must include representatives of various geographic areas of the State. Membership must include at least one person with experience in each of the following:

- A. Commercial trucking;
- B. Rail freight;
- C. Waterborne freight;
- D. Manufacturing forest products;
- E. Shipping forest products;
- F. Shipping agricultural products; and
- G. Distributing petroleum products.

2. Meetings; chair. The Commissioner of Transportation or the commissioner's designee shall serve as chair of the council established in subsection 1. The Department of Transportation shall provide

staff support to the council. The council shall meet at the call of the chair but not less than 4 times during a calendar year. Members of the council serve without compensation.

Sec. 3. 23 MRSA §7103, sub-§1, as repealed and replaced by PL 1989, c. 398, §7, is amended to read:

1. Fund created. There is created the "Railroad Preservation and Assistance Fund," which ~~shall receive~~ receives all revenue derived from the tax levied pursuant to Title 36, chapter 361, ~~except that no more than \$150,000 from this revenue shall be deposited in the fund in any fiscal year and taxes paid under Title 36, section 1865.~~ The fund ~~shall~~ is also ~~be~~ eligible to receive grants from other sources. The Treasurer of State shall receive and deposit all revenue to the fund in a separate account to be known as the Railroad Preservation and Assistance Fund.

Sec. 4. 23 MRSA §7107 is enacted to read:

§7107. Dismantling of state-owned track

Except as provided in this section, the Department of Transportation may not dismantle or contract with a state agency or private entity for the dismantling of state-owned track. When the department, in consultation with a regional economic planning entity and a regional transportation advisory committee established in accordance with rules adopted under section 73, subsection 4, determines that removal of a specific length of rail owned by the State will not have a negative impact on a region or on future economic opportunities for that region, the Commissioner of Transportation shall seek review by the joint standing committee of the Legislature having jurisdiction over transportation matters prior to removal.

Sec. 5. 23 MRSA §7230, 3rd ¶, as enacted by PL 1989, c. 398, §8, is amended to read:

The State may provide annually each railroad corporation with a reimbursement payment. For at-grade crossings, the payment ~~shall~~ must be determined based on each railroad corporation's verified average cost for crossing maintenance multiplied by the number of eligible crossings, with a maximum payment of ~~\$1,500~~ \$2,500 per crossing. ~~For grade separation bridges, the payment shall be determined based on each railroad corporation's verified average maintenance cost for grade separation bridges multiplied by the number of eligible structures, with a maximum payment of \$2,500 per structure.~~

Sec. 6. 29-A MRSA §2602, sub-§4, ¶¶B and C, as enacted by PL 1997, c. 750, Pt. A, §3, are amended to read:

B. Of the fines and forfeitures collected for traffic infractions under sections 511, 2354, 2356, 2360, 2380, 2387 and 2388, 7% accrues to the General Fund, 6% accrues to the Law Enforcement Agency Reimbursement Fund and the balance accrues to the General Highway Fund; and

C. Of the fines and forfeitures collected for violations other than traffic infractions under sections 511, 2354, 2356, 2360, 2380, 2387 and 2388, only \$5 or 13%, whichever is greater, accrues to the General Fund and the balance accrues to the Highway Fund.

Sec. 7. 36 MRSA §1865 is enacted to read:

§1865. Deposit of use taxes paid on certain fuels

The Treasurer of State shall deposit all use taxes received for fuel consumed by vehicles operating on rails and qualifying for a fuel tax refund under section 3218 and taxed under this chapter into the Rail Preservation and Assistance Fund established in Title 23, section 7103.

Sec. 8. 36 MRSA §2621-A, sub-§3, ¶F, as enacted by PL 1991, c. 591, Pt. N, §3 and affected by §4, is repealed.

Sec. 9. 36 MRSA §2625, as repealed and replaced by PL 1983, c. 571, §8, is amended to read:

§2625. Return and payment

Every railroad company incorporated under the laws of this State or doing business in this State shall file with the State Tax Assessor annually, on or before April 15th, a railroad excise tax return, on a form prescribed by the State Tax Assessor. The tax ~~shall~~ **must** be paid in equal installments on the next June 15th, September 15th and December 15th. The Treasurer of State shall deposit all taxes paid under this chapter into the Railroad Preservation and Assistance Fund established under Title 23, section 7103.

Sec. 10. 36 MRSA §3218-A is enacted to read:

§3218-A. Refunds of tax for fuel used by railroads

Beginning July 1, 2004, the assessor shall monitor the amount of refunds paid under section 3218 for fuel consumed by vehicles operating on rails and monitor the amount of use tax paid on fuel consumed by vehicles operating on rails under chapter 215.

Sec. 11. Review of taxes imposed on railroads; legislation. The Joint Standing Committee on Taxation shall review statutory provisions for taxes that apply to companies operating railroads in the State, consider the impact of these provisions and

recommend revisions to the tax statutes to improve the viability of railroads operating in the State. The committee shall conduct the review and develop recommendations during interim meetings authorized by the presiding officers of the Legislature. The committee may report out a bill to the Second Regular Session of the 121st Legislature pertaining to taxation of companies operating railroads in Maine.

Sec. 12. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 23, section 7103, subsection 1; Title 29-A, section 2602, subsection 4, paragraphs B and C; and Title 36, section 2625 take effect July 1, 2005. That section of this Act that enacts Title 36, section 1865 takes effect July 1, 2005. That section of this Act that repeals Title 36, section 2621-A, subsection 3, paragraph F takes effect July 1, 2005.

See title page for effective date, unless otherwise indicated.

CHAPTER 499

S.P. 326 - L.D. 985

**An Act To Improve the State's
Returnable Bottle Law and Adjust
Handling Fees**

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

Sec. 1. 32 MRSA §1862, sub-§2-A is enacted to read:

2-A. Commingling agreement. "Commingling agreement" means an agreement between 2 or more initiators of deposit allowing the beverage containers for which they have initiated deposits to be commingled by dealers and redemption centers, as described in section 1866-D.

Sec. 2. 32 MRSA §1862, sub-§8-A, as enacted by PL 2001, c. 661, §2, is amended to read:

8-A. Initiator of deposit or initiator. "Initiator of deposit" or "initiator" means a manufacturer, distributor or other person who initiates a deposit on a beverage container under section 1863-A.

Sec. 3. 32 MRSA §1862, sub-§12-E is enacted to read:

12-E. Reverse vending machine. "Reverse vending machine" means an automated device that uses a laser scanner and microprocessor to accurately recognize the universal product code on containers and to accumulate information regarding containers redeemed, enabling the reverse vending machine to