

OFFICE OF FISCAL AND PROGRAM REVIEW

Work Session Date: March 18, 2013

To: Members, Joint Standing Committee on Taxation

From: Elizabeth Cooper, Legislative Analyst

LD 631, An Act To Change the Taxes on Fuel Purchased for Use Other Than on the Highways

Summary: This bill changes the taxes on fuel purchased for use other than for vehicles used on the highways of this State from 1¢ per gallon plus 5% use tax to 5¢ per gallon with no use tax.

Public Hearing:

Proponents

- The sponsor presented the bill.
- A representative of the Professional Logging Contractors of Maine testified in support of the bill.
- *Major points:* the change would make tax obligation more predictable for businesses by basing it on number of gallons purchased rather than a percentage of the price.

Opposed - None

NFNA

- A representative of the Maine Snowmobile Association testified “neither for nor against” the bill.
- *Information provided:* same rules apply to snowmobiles.

Additional information: Excerpts from the Compendium of State Fiscal Information.

Fiscal Information: The preliminary fiscal impact statement was not available at the time this analysis was finalized. The most current fiscal information can be found online at: www.mainelegislature.org/LawMakerWeb/search.asp.

GASOLINE TAX – 36 M.R.S.A. c. 451¹

An excise tax is imposed upon internal combustion engine fuel sold or used within Maine. Beginning July 1, 2003, the rate is indexed annually for inflation. Tax rates are provided in Table II-5 on page 53. Refund of the gasoline tax paid (less 1¢ per gallon) is provided for fuel used in commercial motor boats, tractors used for agricultural purposes, vehicles used on rail and tracks or in stationary engines or in mechanical or industrial arts. Fuel used for these purposes is subject to the 5% use tax if the gasoline tax is refunded. Full refund is provided for certain common carrier passenger service vehicles.

Gasoline Tax

Fiscal Year	General Fund	Highway Fund	Other Special Revenue Funds	Total All Funds
2003	\$77,594	\$151,498,395	\$3,020,328	\$154,596,316
2004	\$317,783	\$172,209,713	\$3,443,270	\$175,970,766
2005	\$212,660	\$175,084,215	\$3,548,393	\$178,845,268
2006	\$246,235	\$176,769,409	\$4,313,539	\$181,329,183
2007	\$251,616	\$181,018,162	\$4,407,799	\$185,677,576
2008	\$249,174	\$179,096,254	\$4,365,030	\$183,710,458
2009	\$246,072	\$174,404,167	\$4,310,679	\$178,960,918
2010	\$262,696	\$177,377,553	\$18,819,231	\$196,459,480
2011	\$262,326	\$175,802,947	\$18,792,746	\$194,858,019
2012	\$265,353	\$177,043,901	\$19,009,646	\$196,318,900

Revenue Notes – Gasoline Tax

Revenue collected from the Gasoline Tax accrues primarily to the Highway Fund. The General Fund and Other Special Revenue Funds amounts represent the amounts of gasoline tax revenue that accrues to the Department of Agriculture, Conservation and Forestry, the Department of Marine Resources, the Department of Inland Fisheries and Wildlife and the TransCap Trust Fund at the Maine Municipal Bond Bank. Year-end accruals of gasoline tax revenue began in fiscal year 1999.

History – Gasoline Tax

Effective date of change	Rate in cents per gallon
7/6/23 enacted	1
7/10/25	3
7/15/27	4
6/1/47	6
6/1/55	7
7/1/69	8

Effective date of change	Rate in cents per gallon
6/1/71	9
4/1/83	14
5/1/88	16
4/1/89	17
7/19/91	19
8/1/99	22

*Beginning 7/1/03 the gasoline tax was increased to 24.6 cents per gallon and is adjusted on July 1 annually by the percentage increase in the Consumer Price Index. See Table II-5 on page 53.

Amended in 1965 to provide full refund to certain common passenger carriers and to provide shrinkage allowance for retail gasoline dealers. Amended in 1963 to add a refund provision for gasoline used in pleasure boats. Amended in 1965 to eliminate refunds for pleasure boat use and to set aside 1.25% of gasoline tax revenue for refunds to commercial motor boat users; 80% of balance credited to Boating Facilities Fund in the Dept. of Agriculture, Conservation and Forestry and 20% of balance to Dept. of Marine Resources; set-aside increased effective May 1, 1988, to 2.00% up to \$2 million. Amended in 1973 to set aside .5% of gasoline tax revenue; 90% to Snowmobile Trail Fund in the Dept. of Agriculture, Conservation and Forestry and 10% to Dept. of Inland Fisheries & Wildlife. Amended in 1995 to set aside an additional .17% for the Snowmobile Trail Fund and .045% for the ATV Recreational Management Fund. PL 2001, c. 693 effective July 1, 2003 increased and modified the distribution of gasoline taxes for non-highway recreational vehicle programs. Beginning in fiscal year 2004, 1.443% of total gasoline tax revenue designated as motorboat usage is dedicated to the Department of Marine Resources (24.6%) and the Boating Facilities Fund (75.4%). Revenue designated to be from snowmobile use set at 0.9045% of total gasoline revenue is dedicated for snowmobile purposes of the Department of Inland Fisheries and Wildlife (14.93%) and the Department of Agriculture, Conservation and Forestry (85.07%). Revenue designated to be from ATVs is set at 0.1525% and is dedicated to ATV purposes split equally between the Department of Inland Fisheries and Wildlife and the Department of Agriculture, Conservation and Forestry. PL 2007, c. 470 dedicated 7.5% of the tax, beginning July 1, 2009, to the TransCap Trust Fund at the Maine Municipal Bond Bank. PL 2009, c. 413 Part W amended the indexing provisions so that the inflation index may not be less than one. It also changed the tax rate for fuels containing at least 10% internal combustion engine fuel to impose the rate of tax imposed on gasoline on these fuels. PL 2011, c. 392 Part C eliminated annual indexing effective with fiscal years beginning on or after July 1, 2012.

¹ Source: STATE OF MAINE Compendium of State Fiscal Information, Through Fiscal Year Ending June 30, 2012
PREPARED BY: Maine State Legislature, Office of Fiscal and Program Review, Pub. #44, January 2013

SPECIAL FUEL AND ROAD USE TAXES - 36 M.R.S.A. c. 459²

An excise tax is imposed on the sale or use of distillates (diesel fuel) and on low energy fuel (such as propane, methane and butane) at rates based on British Thermal Unit rating compared to gasoline when such fuel is used in an internal combustion engine for the generation of power to propel motor vehicles of any kind or character on the public highways or turnpikes of Maine. The tax is normally paid by the supplier and is refundable to the user (less one cent per gallon) when special fuel is purchased for off-highway use. Fuel used for these purposes is subject to the 5% use tax if the fuel tax is refunded. Full refunds are provided for certain common carrier passenger service vehicles. Beginning July 1, 2003, the rate of tax on distillates is indexed for inflation. (Tax rates are provided in Table II-5 on page 53.)

Motor carriers using special fuel in interstate or intrastate commerce within Maine are liable for a road use tax equivalent to the Maine tax on motor fuels. Maine is a member of the International Fuel Tax Agreement (IFTA), which is a compact among the states and Canadian provinces for the reporting and payment of motor carrier fuel taxes. Motor carriers make a single quarterly fuel tax report covering travel in all IFTA jurisdictions. The carriers receive credit for motor fuel taxes paid in any IFTA jurisdiction and pay, or are refunded, the net difference for all jurisdictions between fuel taxes owed and those paid. The carrier’s home (or base) state transmits the appropriate data and tax payments monthly to all IFTA jurisdictions.

Special Fuel and Road Use Taxes

Fiscal Year	Highway Fund	Other Special Revenue Funds	Total All Funds
2003	\$36,402,613	\$0	\$36,402,613
2004	\$40,391,130	\$0	\$40,391,130
2005	\$45,400,514	\$0	\$45,400,514
2006	\$44,805,900	\$0	\$44,805,900
2007	\$45,805,856	\$0	\$45,805,856
2008	\$46,139,086	\$0	\$46,139,086
2009	\$41,811,377	\$0	\$41,811,377
2010	\$41,813,153	\$3,414,550	\$45,227,703
2011	\$41,230,945	\$3,357,494	\$44,588,438
2012	\$42,419,217	\$3,385,501	\$45,804,718

Revenue Notes – Special Fuel and Road Use Taxes

As of July 1, 2009, 7.5% of the revenue collected from the special fuel tax was deposited to the TransCap Trust Fund at the Maine Municipal Bond Bank; the remaining revenue accrues to the Highway Fund. Year-end accruals of the Special Fuel Tax began in fiscal year 1999.

History – Special Fuel and Road Use Taxes

Enacted effective October 1, 1983 at the rate of 14¢ per gallon on distillates and 13¢ per gallon on low energy fuels. Increased on July 1, 1988 to 19¢ per gallon on distillates and 15¢ per gallon on low energy fuels. Increased on April 1, 1989 to 20¢ per gallon on distillates and 16¢ per gallon on low energy fuels. The special fuel tax replaces the “Use Fuel Tax” that was adopted in 1941. The tax on low-energy fuel increased from 16¢ to 18¢ per gallon effective July 17, 1991 and temporarily on July 8, 9, and 10, 1991. The tax on distillates and low energy fuel was increased to 23¢ and 21¢ per gallon, respectively, effective August 1, 1999. Effective October 1, 2000, the tax on low energy fuels was decreased to rates ranging from 12.5¢ and 19.1¢ per gallon depending on the fuels BTU rating compared to gasoline. PL 2001, c. 688 provided for indexing the tax rate on distillates beginning July 1, 2003. PL 2005, c. 677 established that the tax rate for distillates containing 2% or more of biodiesel fuel is 20¢ and that that rate would be repealed 90 days after the adjournment of the First Regular Session of the 123rd Legislature. PL 2007, c. 470 dedicated 7.5% of the tax, beginning July 1, 2009, to the TransCap Trust Fund at the Maine Municipal Bond Bank. PL 2009, c. 413 Part W amended the indexing provisions so that the inflation index may not be less than one. It also changed the tax rate for biodiesel blended fuels containing less than 90% biodiesel fuel to impose the rate of tax imposed on diesel on these fuels. PL 2011, c. 392 Part C eliminated annual indexing effective with fiscal years beginning on or after July 1, 2012.

² Source: STATE OF MAINE Compendium of State Fiscal Information, Through Fiscal Year Ending June 30, 2012
PREPARED BY: Maine State Legislature, Office of Fiscal and Program Review, Pub. #44, January 2013

TABLE II-5 Motor Fuel Tax Rates¹ (cents per gallon)

Fuel Type	Rate on 6/30/03	Effective 7/1/03	Effective 7/1/04	Effective 7/1/05	Effective 7/1/06	Effective 7/1/07	Effective 7/1/08	Effective 7/1/09²	Effective 7/1/11³
Gasoline	22	24.6	25.2	25.9	26.8	27.6	28.4	29.5	30.0
Diesel ⁴	23	25.7	26.3	27.0	27.9	28.8	29.6	30.7	31.2
Propane	16	17.9	18.3	18.8	19.4	20.1	20.6	21.5	21.9
Methanol	12.5	14	14.3	14.7	15.2	15.7	13.9	14.5	14.7
Ethanol	15.6	17.4	17.8	18.3	18.9	19.6	18.7	19.5	19.8
CNG ⁵	19.1	21.4	21.8	22.4	23.2	23.9	23.0	23.9	24.3

¹ Inflation factor is determined by the prior year's inflation rate. The inflation factor for July 1, 2003 was 1.118, for July 1, 2004 it was 1.023, for July 1, 2005, it was 1.027, for July 1, 2006 it was 1.034, for July 1, 2007 it was 1.032, for July 1, 2008 it was 1.028, for July 1, 2009 it was 1.038, for July 1, 2010 it was 1.00 and for July 1, 2011 it was 1.016.

² Rates were unchanged on July 1, 2010 so July 1, 2009 rates remain in effect through June 30, 2011.

³ Indexing was eliminated effective January 1, 2012 so that the rates in effect on July 1, 2011 remain in effect.

⁴ For reporting periods beginning on September 1, 2006 through September 19, 2007, the tax rate for diesel fuel containing at least 2% biological component is 0.200.

⁵ CNG (Compressed Natural Gas). The tax rate is applied to every 100 cubic feet. The tax rate on all other fuels is based on each gallon.