

## CHAPTER 459

### SPECIAL FUEL TAX ACT

#### §3201. Short title

This chapter shall be known as the "Special Fuel Tax Act" and the tax imposed in this chapter shall be known as the "special fuel tax." [PL 1983, c. 94, Pt. D, §6 (NEW).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD).

#### §3202. Definitions

**1. Distillates.** "Distillates" means all combustible gases and liquids used in an internal combustion engine, including biodiesel fuel, except the fuel subject to the tax imposed by chapter 451 and low-energy fuel.

[PL 2003, c. 266, §1 (AMD).]

**1-A. Biodiesel fuel.** "Biodiesel fuel" means renewable fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats that is registered with the United States Environmental Protection Agency as a fuel and a fuel additive under the federal Clean Air Act, Section 211(b), 42 United States Code, Section 7545 and as otherwise specified in the American Society for Testing Materials Standard D6751-02a or its subsequent Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

[PL 2003, c. 266, §2 (NEW).]

**2. Duly licensed user.** "Duly licensed user" means any user holding an unrevoked license issued by this State.

[PL 1983, c. 94, Pt. D, §6 (NEW).]

**2-A. Dyed fuel.** "Dyed fuel" means a distillate that is dyed pursuant to the requirements of the Federal Government.

[PL 1995, c. 271, §1 (NEW).]

**2-B. IFTA.** "IFTA" means the International Fuel Tax Agreement administered by the International Fuel Tax Association, Inc., a nonprofit corporation organized under the laws of the State of Arizona.

[PL 2001, c. 396, §27 (NEW).]

**2-C. IFTA governing documents.** "IFTA governing documents" means the IFTA Articles of Agreement, the IFTA Audit Manual and the IFTA Procedures Manual, as amended as of July 15, 2015.

[PL 2015, c. 473, §20 (AMD).]

**2-D. Gross gallons.** "Gross gallons" means actual measured gallons of special fuel received, sold or used, without adjustment for temperature or barometric pressure.

[PL 2007, c. 627, §79 (NEW).]

**2-E. Licensed supplier.** "Licensed supplier" means a supplier that is not a registered supplier.

[PL 2009, c. 434, §47 (NEW).]

**3. Low-energy fuel.** "Low-energy fuel" means, for the purpose of this section, any fuel used to propel vehicles powered by internal combustion engines that has 90% or less of the energy potential of an equivalent volume of gasoline. Energy potential will be determined by the number of British Thermal Units in a standard volume. Low-energy fuels include, but are not limited to, liquefied natural gas, liquefied petroleum gas, propane, methane, butane, other light petroleum gasses, alcohol fuels and other fuels that meet the criteria in this subsection.

[PL 1983, c. 94, Pt. D, §6 (NEW).]

**4. Motor vehicle.** "Motor vehicle" means any vehicle, engine, machine or mechanical contrivance that is propelled by an internal combustion engine or motor.

[PL 1995, c. 271, §2 (RPR).]

**5. Person.**

[PL 1995, c. 271, §3 (RP).]

**5-A. Public way.** "Public way" has the same meaning as provided in Title 29-A, section 101.

[PL 1995, c. 271, §4 (NEW).]

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

[PL 1999, c. 733, §1 (NEW); PL 1999, c. 733, §17 (AFF).]

**5-C. Retail dealer.** "Retail dealer" means a person that operates in this State a place of business from which special fuel is sold at retail and delivered directly into the fuel tanks of motor vehicles or watercraft. A retailer or supplier is a retail dealer only with respect to special fuel delivered into a retail storage tank operated by that retailer or supplier or into a retail storage tank of a consignee or commission agent.

[PL 2007, c. 627, §80 (NEW).]

**5-D. Registered supplier.** "Registered supplier" means a supplier that purchases or imports only distillates on which the tax imposed by this chapter has been paid to a licensed supplier and that makes sales of distillates only to retail dealers or directly into the fuel tanks of motor vehicles. A registered supplier may also purchase and sell dyed fuel.

[PL 2009, c. 434, §48 (NEW).]

**6. Special fuel.** "Special fuel" means distillates and low-energy fuel.

[PL 1983, c. 94, Pt. D, §6 (NEW).]

**7. Supplier.** "Supplier" means a person that imports distillates into the State, exports distillates from the State, produces, refines, manufactures or compounds distillates in the State or purchases distillates in the State, principally for resale to others in bulk. "Supplier" includes licensed suppliers and registered suppliers.

[PL 2009, c. 434, §49 (RPR).]

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

[PL 1999, c. 733, §3 (AMD); PL 1999, c. 733, §17 (AFF).]

**8. Use.** "Use" means, in addition to its original meaning, the receipt of special fuel by any person into a motor vehicle or into a receptacle from which special fuel is supplied by that person to his own or other motor vehicles.

[PL 1983, c. 94, Pt. D, §6 (NEW).]

**9. User.** "User" means any person who is the registered owner or who causes the operation in the State of any motor vehicle that uses special fuel in an internal combustion engine and that:

A. Has a gross vehicle weight or combined gross vehicle weight of more than 26,000 pounds; [PL 1995, c. 482, Pt. B, §21 (NEW); PL 1995, c. 482, Pt. B, §22 (AFF).]

B. Has 3 or more axles on the power unit regardless of gross weight; or [PL 1995, c. 482, Pt. B, §21 (NEW); PL 1995, c. 482, Pt. B, §22 (AFF).]

C. Is a bus designed to carry 20 or more passengers. [PL 1995, c. 482, Pt. B, §21 (NEW); PL 1995, c. 482, Pt. B, §22 (AFF).]

[PL 1995, c. 482, Pt. B, §21 (RPR); PL 1995, c. 482, Pt. B, §22 (AFF).]

**10. Wholesaler.** "Wholesaler" means a person that owns, operates or otherwise controls a terminal or a person that holds 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.

[PL 1999, c. 733, §3 (AMD); PL 1999, c. 733, §17 (AFF).]

**SECTION HISTORY**

PL 1983, c. 94, §§D6,9 (NEW). PL 1983, c. 817, §6 (AMD). PL 1983, c. 828, §7 (AMD). PL 1983, c. 862, §88 (AMD). PL 1985, c. 127, §1 (AMD). PL 1987, c. 472, §§2,4 (AMD). PL 1987, c. 549, §5 (AMD). PL 1995, c. 271, §§1-4 (AMD). PL 1995, c. 482, §B21 (AMD). PL 1995, c. 482, §B22 (AFF). PL 1997, c. 738, §9 (AMD). PL 1999, c. 733, §§1-3 (AMD). PL 1999, c. 733, §17 (AFF). PL 2001, c. 396, §27 (AMD). PL 2003, c. 266, §§1,2 (AMD). PL 2007, c. 627, §§79, 80 (AMD). PL 2009, c. 434, §§47-49 (AMD). PL 2011, c. 644, §11 (AMD). PL 2015, c. 473, §20 (AMD).

**§3203. Tax levied; consignment sales; credited to Highway Fund; allowance for losses**

**1. Generally.**

[PL 2009, c. 496, §18 (RP).]

**1-A. Special biodiesel rate.**

[PL 2005, c. 677, Pt. A, §1 (NEW); MRSA T. 36 §3203, sub-§1-A (RP).]

**1-B. Generally; rates.** Except as provided in section 3204-A, an excise tax is levied and imposed on all suppliers of distillates sold, on all retailers of low-energy fuel sold and on all users of special fuel used in this State for each gallon of distillate at the rate of 31.2¢ per gallon. Tax rates for each gallon of low-energy fuel are based on the British Thermal Unit, referred to in this subsection as "BTU," energy content for each fuel as based on gasoline gallon equivalents or the comparable measure for distillates. The gasoline gallon equivalent is the amount of alternative fuel that equals the BTU energy content of one gallon of gasoline. For purposes of this subsection, "base rate" means the rate in effect for gasoline or diesel on July 1st of each year. A biodiesel blend containing less than 90% biodiesel fuel is subject to the rate of tax imposed on diesel.

A. This paragraph establishes the applicable BTU values and tax rates based on gasoline gallon equivalents.

Fuel type based on	BTU content per gallon or gasoline gallon equivalent	Tax rate formula (BTU value fuel/BTU value gasoline) x base rate gasoline
Gasoline	115,000	100% x base rate
Propane	84,500	73% x base rate
Compressed Natural Gas (CNG)	115,000	100% x base rate
Methanol	56,800	49% x base rate
Ethanol	76,000	66% x base rate
Hydrogen	115,000	100% x base rate
Hydrogen Compressed Natural Gas	115,000	100% x base rate

[PL 2007, c. 650, §2 (NEW).]

B. This paragraph establishes the applicable BTU values and tax rates based on distillate gallon equivalents.

Fuel type based on	BTU content per gallon or gallon equivalent	Tax rate formula (BTU value fuel/BTU value diesel) x base rate diesel
Diesel	128,400	100% x base rate

Liquefied Natural Gas 73,500 (LNG)	57% x base rate
Biodiesel 118,300	92% x base rate

[PL 2011, c. 240, §25 (AMD).]

C. The conversion factors established in this paragraph must be used in converting to gasoline gallon equivalents.

- (1) For compressed natural gas, BTUs per 100 standard cubic feet is 93,000, and there are 123.66 standard cubic feet per gasoline gallon equivalent.
- (2) For hydrogen, BTUs per 100 standard cubic feet is 27,000, and there are 425.93 standard cubic feet per gasoline gallon equivalent.
- (3) For hydrogen compressed natural gas, BTUs per 100 standard cubic feet is 79,800, and there are 144.11 standard cubic feet per gasoline gallon equivalent. [PL 2007, c. 650, §2 (NEW).]

[PL 2019, c. 379, Pt. B, §8 (AMD).]

**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 and retailer are 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. If a supplier or retailer includes the tax on a bill to a customer, it must be shown as a separate line item and identified as "Maine special fuel tax."

[PL 2007, c. 693, §23 (AMD).]

**3. Delivery by supplier or retailer.** When distillates are delivered by a supplier to a consumer or to a retail outlet, those distillates are deemed to have been sold within the meaning of this chapter, even if the retail outlet is owned in whole or in part by the supplier.

[PL 2007, c. 438, §75 (AMD).]

**4. Highway Fund.** All taxes and fines collected under this chapter must be credited to the Highway Fund, except that beginning July 1, 2009 and ending June 30, 2023, the Treasurer of State shall deposit monthly into the TransCap Trust Fund established in Title 30-A, section 6006-G 7.5% of the excise tax imposed under subsection 1-B, and beginning July 1, 2023, the Treasurer of State shall deposit monthly into the TransCap Trust Fund established in Title 30-A, section 6006-G 10.25% of the excise tax imposed under subsection 1-B.

[PL 2023, c. 189, Pt. G, §2 (AMD).]

**5. Allowance for certain losses of undyed distillates.** An allowance of not more than 1/4 of 1% from the amount of undyed distillates received by a licensed supplier, plus 1/4 of 1% on all transfers in vessels, tank cars or full tank vehicle loads by the licensed supplier in the regular course of business from one of the licensed supplier's places of business to another of the licensed supplier's places of business within the State, may be allowed by the assessor to cover the loss through shrinkage, evaporation or handling sustained by the licensed supplier. The total allowance for these losses must be supported by documentation satisfactory to the assessor and may not exceed 1/2 of 1% of the receipts by the licensed supplier. The allowance must be calculated on an annual basis. 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.

[PL 2013, c. 381, Pt. B, §33 (AMD).]

**6. Allowance for certain losses of propane.** An allowance of not more than 1% from the amount of propane received by the retailer may be allowed by the assessor to cover the loss through shrinkage, evaporation or handling sustained by the retailer. The total allowance for these losses must be supported by documentation satisfactory to the assessor. The allowance must be calculated on an annual basis. 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.

[PL 2007, c. 438, §76 (AMD).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1983, c. 817, §7 (RPR). PL 1983, c. 828, §8 (AMD). PL 1987, c. 402, §A185 (RPR). PL 1987, c. 793, §A12 (AMD). PL 1991, c. 529, §D5 (AMD). PL 1991, c. 529, §E (AFF). PL 1991, c. 592, §D5 (AMD). PL 1995, c. 271, §5 (RPR). PL 1997, c. 262, §1 (AMD). PL 1997, c. 738, §10 (RPR). PL 1999, c. 414, §27 (AMD). PL 1999, c. 473, §B3 (AMD). PL 1999, c. 473, §B5 (AFF). PL 1999, c. 733, §§4-6 (AMD). PL 1999, c. 733, §17 (AFF). PL 2001, c. 396, §28 (AMD). PL 2001, c. 688, §5 (AMD). PL 2005, c. 677, §A1 (AMD). PL 2007, c. 438, §§75, 76 (AMD). PL 2007, c. 470, Pt. E, §2 (AMD). PL 2007, c. 538, Pt. L, §2 (AMD). PL 2007, c. 627, §81 (AMD). PL 2007, c. 650, §§1, 2 (AMD). PL 2007, c. 693, §23 (AMD). PL 2009, c. 413, Pt. W, §2 (AMD). PL 2009, c. 413, Pt. W, §6 (AFF). PL 2009, c. 434, §50 (AMD). PL 2009, c. 496, §§18, 19 (AMD). PL 2011, c. 240, §25 (AMD). PL 2013, c. 381, Pt. B, §33 (AMD). PL 2019, c. 379, Pt. B, §8 (AMD). PL 2023, c. 189, Pt. G, §2 (AMD).

#### §3203-A. Special fuel; exemption

**(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 740 (NEW). PL 1991, c. 529, §D6 (AMD). PL 1991, c. 529, §E (AFF). PL 1991, c. 592, §D6 (AMD). PL 1995, c. 271, §6 (RP).

#### §3203-B. Inventory tax

**(REPEALED)**

#### SECTION HISTORY

PL 1999, c. 473, §B4 (NEW). PL 2001, c. 688, §6 (RP).

#### §3203-C. Inventory tax

On the date that any increase in the rate of tax imposed under this chapter takes effect, an inventory tax is imposed upon all distillates that are held in inventory by a supplier, wholesaler or retail dealer as of the end of the day prior to that date on which the tax imposed by section 3203, subsection 1-B has been paid. The inventory tax is computed by multiplying the number of gallons of tax-paid fuel held in inventory by the difference between the tax rate already paid and the new tax rate. Suppliers, wholesalers and retail dealers that hold such tax-paid inventory shall make payment of the inventory tax on or before the 15th day of the next calendar month, accompanied by a form prescribed and furnished by the State Tax Assessor. In the event of a decrease in the tax rate, the supplier, wholesaler or retail dealer is entitled to a refund or credit, which must be claimed on a form designed and furnished by the assessor. [PL 2009, c. 652, Pt. B, §8 (AMD); PL 2009, c. 652, Pt. B, §9 (AFF).]

#### SECTION HISTORY

PL 2001, c. 688, §7 (NEW). PL 2003, c. 390, §15 (AMD). PL 2009, c. 413, Pt. W, §3 (AMD). PL 2009, c. 413, Pt. W, §6 (AFF). PL 2009, c. 434, §51 (AMD). PL 2009, c. 434, §84 (AFF). PL 2009, c. 496, §20 (RPR). PL 2009, c. 652, Pt. B, §8 (AMD). PL 2009, c. 652, Pt. B, §9 (AFF).

**§3204. Licenses**

Every person operating as a supplier, wholesaler or retailer in the State shall file an application for a certificate with the State Tax Assessor on forms prescribed and furnished by the assessor. A person may not sell or distribute special fuel until the certificate is furnished by the assessor and displayed as required by this section. One copy of the certificate, certified by the assessor, must be displayed in each place of business of the person. If the assessor has reasonable cause to believe that the person has ceased to do business or that the person has violated this chapter or rules adopted under this chapter or has failed to appear in court for any violation of this chapter, the assessor may on reasonable notice to the person suspend the person's certificate until satisfied to the contrary. A person whose certificate has been suspended may not act as a supplier, wholesaler or retailer until the certificate is restored by the assessor. Suspended certificates must be surrendered to the assessor upon request. The suspension is reviewable in accordance with section 151. [PL 2009, c. 434, §52 (AMD).]

**SECTION HISTORY**

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 1999, c. 733, §7 (AMD). PL 1999, c. 733, §17 (AFF). PL 2009, c. 434, §52 (AMD).

**§3204-A. Exemptions**

The following fuels are exempt from the tax imposed by section 3203: [PL 1995, c. 271, §7 (NEW).]

**1. Single lot.**

[PL 1997, c. 738, §11 (RP).]

**2. Heating and cooking.** Special fuel delivered into a tank used solely for heating or cooking purposes;

[PL 1999, c. 414, §28 (AMD).]

**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;

[PL 1999, c. 733, §8 (AMD); PL 1999, c. 733, §17 (AFF).]

**3. Political subdivision.** Special fuel sold in bulk to this State or any political subdivision of this State;

[PL 2007, c. 438, §77 (AMD).]

**4. Preclusion by federal law.** Special fuel sold or used in such form or under such circumstances as precludes the collection of tax by reasons of federal law;

[PL 1997, c. 738, §11 (AMD).]

**5. Exportation.** Special fuel sold only for exportation from this State by a licensed supplier;

[PL 2009, c. 625, §11 (AMD).]

**6. Generation.** Special fuel sold to a person for the generation of power for resale or manufacturing;

[PL 1997, c. 738, §11 (AMD).]

**7. Kerosene for retail sale.** Kerosene prepackaged for home use or delivered into a separate tank for retail sale, in which case the excise tax must be remitted by licensed users pursuant to section 3207, rather than by the supplier;

[PL 2009, c. 288, §1 (AMD); PL 2009, c. 288, §4 (AFF).]

**8. Dyed fuel.** Dyed fuel; and

[PL 2009, c. 288, §2 (AMD); PL 2009, c. 288, §4 (AFF).]

**9. Self-produced biodiesel fuel.** Biodiesel fuel that is produced by an individual and used by that same individual or a member of that individual's immediate family.

[PL 2009, c. 288, §3 (NEW); PL 2009, c. 288, §4 (AFF).]

#### SECTION HISTORY

PL 1995, c. 271, §7 (NEW). PL 1997, c. 738, §11 (AMD). PL 1999, c. 414, §§28,29 (AMD). PL 1999, c. 733, §8 (AMD). PL 1999, c. 733, §17 (AFF). PL 2003, c. 588, §13 (AMD). PL 2007, c. 438, §77 (AMD). PL 2009, c. 288, §§1-3 (AMD). PL 2009, c. 288, §4 (AFF). PL 2009, c. 625, §11 (AMD).

#### **§3204-B. Dyed fuel; prohibition on highway use**

**1. Generally.** Except as provided in subsection 2, a person may not operate a motor vehicle on the public ways of this State or allow a motor vehicle to be operated on the public ways of this State if the fuel supply tanks of the vehicle contain dyed fuel or other fuel on which the tax imposed by section 3203 has not been paid. For purposes of this subsection, there is a rebuttable presumption that the owner of a motor vehicle has operated the motor vehicle or allowed the motor vehicle to be operated on the public ways of this State with dyed fuel or other fuel when the tax imposed by section 3203 has not been paid by the owner of the motor vehicle.

[PL 1995, c. 639, §10 (AMD).]

**2. Exceptions.** The following motor vehicles are not subject to the prohibition provided in subsection 1:

A. Motor vehicles owned and operated by this State or any political subdivision of this State; and  
[PL 1995, c. 271, §7 (NEW).]

B. Motor vehicles authorized to use dyed fuel on the public ways of this State under the provisions of the Code, section 4082 or rules adopted under the Code. [PL 1995, c. 271, §7 (NEW).]

[PL 1995, c. 271, §7 (NEW).]

**3. Penalty.** A person who violates the prohibition provided in subsection 1 commits a Class D crime and is subject to a fine of not less than \$1,000, which may not be reduced. Refusal to permit inspection pursuant to section 3219-A in order to enforce the provisions of this section constitutes prima facie evidence that the tank or container in question contains dyed fuel.

[PL 1995, c. 271, §7 (NEW).]

**4. Venue.** A violation of this section is deemed to have been committed in part at the principal office of the assessor. Prosecution under this section may be in the county where the act to which the proceeding relates occurred or in Kennebec County.

[PL 2005, c. 622, §13 (NEW).]

#### SECTION HISTORY

PL 1995, c. 271, §7 (NEW). PL 1995, c. 639, §10 (AMD). PL 2005, c. 622, §14 (AMD).

#### **§3205. Registered supplier**

**(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 1999, c. 414, §30 (AMD). PL 2001, c. 396, §29 (AMD). PL 2009, c. 434, §53 (RP).

#### **§3206. Licenses; users**

It is unlawful for any user to use or consume any special fuel within this State, unless that user is the holder of an uncanceled license issued by the State Tax Assessor. To produce that license, every user shall file with the State Tax Assessor an application in such form as the State Tax Assessor may prescribe, setting forth the name and address of the user. Any unlicensed user who purchases a fuel use identification decal, as required by Title 29-A, section 525, must be registered by the State Tax

Assessor and subject to this chapter and chapter 461. [PL 1995, c. 65, Pt. A, §147 (AMD); PL 1995, c. 65, Pt. A, §153 (AFF); PL 1995, c. 65, Pt. C, §15 (AFF).]

In the event that any application for a license to use special fuel as a user in this State shall be filed by any person whose license shall at any time theretofore have been canceled for cause by the State Tax Assessor, or in the case the State Tax Assessor shall be of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license or registration shall theretofore have been canceled for cause by the State Tax Assessor or in the case where the taxpayer failed to appear in court for any violation of this chapter, then and in any of those events the State Tax Assessor, after a hearing of which the applicant shall have been given 5 days' notice in writing and in which the applicant shall have the right to appear in person or by counsel and present testimony, shall have the right and authority to refuse to issue to the person a license certificate in this State. [PL 1983, c. 94, Pt. D, §6 (NEW).]

The application in proper form having been accepted for filing, and the other conditions and requirements of this section having been complied with, the State Tax Assessor shall issue to that user a license certificate and the license shall remain in full force and effect until canceled as provided in this chapter. [PL 1983, c. 94, Pt. D, §6 (NEW).]

The license certificate so issued by the State Tax Assessor shall not be assignable and shall be valid only for the user in whose name issued. [PL 1983, c. 94, Pt. D, §6 (NEW).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 1995, c. 65, §A147 (AMD). PL 1995, c. 65, §A153,C15 (AFF).

#### **§3207. Collection of tax**

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. [PL 1999, c. 733, §9 (AMD); PL 1999, c. 733, §17 (AFF).]

Every licensed user shall remit tax on all special fuels purchased and not used for heating, industrial use or for off-highway use, when the special fuel has not been subjected to the special fuel tax. [PL 1983, c. 94, Pt. D, §6 (NEW).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 1993, c. 670, §7 (AMD). PL 1999, c. 414, §31 (AMD). PL 1999, c. 733, §9 (AMD). PL 1999, c. 733, §17 (AFF).

#### **§3208. Credit; users**

Every user subject to the tax imposed by section 3203 is entitled to a credit on the tax, equivalent to the then current rate of taxation per gallon imposed by section 3203, on all special fuel purchased by that user from a supplier or retailer licensed in accordance with section 3204 upon which the tax imposed by section 3203 has been paid. Evidence of the payment of that tax, in a form required by or satisfactory to the State Tax Assessor, must be furnished by each user claiming the credit. 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 be allowed as a credit on the tax for which that user would be otherwise liable for another quarter or quarters. Upon application to the assessor, the excess may be refunded if the applicant has paid to another state or province under a lawful requirement of that jurisdiction a tax similar in effect to the tax imposed by section 3203 on the use or consumption of that fuel outside the State, at the same rate per gallon that tax was paid in this State, but in no case to exceed the then current rate per gallon of the tax imposed by section 3203. Upon receipt of the application the assessor, if satisfied after investigation that a refund is justified, shall so certify to the State Controller. The refund 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. [PL 2019, c. 379, Pt. B, §9 (AMD).]

Interest is paid at the rate established pursuant to section 186, calculated from the date of receipt of the claim for all valid refund claims that are not paid within 30 days of receipt of the claim. [PL 2007, c. 438, §78 (AMD).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1983, c. 808, §3 (AMD). PL 1985, c. 127, §1 (AMD). PL 1995, c. 271, §8 (AMD). PL 1999, c. 733, §10 (AMD). PL 1999, c. 733, §17 (AFF). PL 2007, c. 438, §78 (AMD). PL 2019, c. 379, Pt. B, §9 (AMD).

#### **§3208-A. Refund to government agencies and political subdivisions**

Any government agency that buys and uses special fuel and that has paid a tax as provided by this chapter on that fuel is eligible for reimbursement in the amount of the tax paid. By contractual agreement, a government agency may assign to another person its right to receive funds under this section. A refund application on a form prescribed by the State Tax Assessor must be filed to claim a refund pursuant to this section. Applications for refunds must be filed with the assessor within 12 months from the date of purchase. For the purposes of this section, "government agency" means the State, or any political subdivision of the State, or the Federal Government. [PL 2017, c. 211, Pt. B, §8 (AMD).]

#### SECTION HISTORY

PL 1983, c. 438, §5 (NEW). PL 1987, c. 456, §2 (AMD). PL 2005, c. 664, §M1 (AMD). PL 2007, c. 438, §79 (AMD). PL 2017, c. 211, Pt. B, §8 (AMD).

#### **§3209. Reports; International Fuel Tax Agreement; payment of tax; allowance for losses**

**1. Suppliers and wholesalers.** Every licensed supplier and wholesaler shall file on or before the last day of each month a return with the State Tax Assessor stating the gross gallons of distillates received, sold and used in this State by that licensed supplier or wholesaler during the preceding calendar month, on a form prescribed and furnished by the assessor. The return must include any further information reasonably required by the assessor. At the time of filing the return required by this subsection, each licensed supplier or wholesaler must pay to the assessor a tax as prescribed in section 3203 upon each gallon reported as a taxable sale or as taxable gallons used. [PL 2009, c. 434, §54 (AMD).]

**1-A. Retailers.** Every licensed retailer shall file on or before the last day of each month a return with the assessor stating the gross gallons of low-energy 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 return must include any further information reasonably required by the assessor. At the time of filing the return 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. [PL 2007, c. 438, §80 (AMD).]

**1-B. International Fuel Tax Agreement.** The State Tax Assessor shall enforce the IFTA governing documents and take all steps necessary to maintain the State's membership in the IFTA, in order to:

- A. Facilitate the administration of this chapter; [PL 2001, c. 396, §30 (NEW).]
- B. Promote the fullest and most efficient possible use of the highway system; and [PL 2001, c. 396, §30 (NEW).]
- C. Make uniform the administration, collection and enforcement of special fuel use taxation laws with respect to motor vehicles operated in multiple jurisdictions by ensuring this State's full

participation in the single-base jurisdiction system embodied in the IFTA governing documents. [PL 2011, c. 644, §12 (AMD).]

If a provision of chapter 7 or this chapter is inconsistent with the IFTA governing documents, the IFTA governing documents prevail for purposes of this chapter except when prohibited by the Constitution of Maine or the United States Constitution. The assessor is authorized to ratify amendments to the IFTA governing documents on behalf of this State, except that the assessor may not ratify any provision that infringes on the substantive taxation authority of the Legislature, including the power to impose taxes, set tax rates and determine exemptions. The assessor may by mutual agreement with the Secretary of State delegate to the Secretary of State the assessor's responsibilities under this subsection, as well as the responsibility for the audit, assessment and processing of IFTA special fuel tax returns, IFTA special fuel tax collection, the administrative appeal of IFTA special fuel tax assessments and compliance with IFTA administrative requirements. Notwithstanding section 151, if the administrative appeal of IFTA special fuel tax assessments has been delegated to the Secretary of State, such appeals must be taken under Title 29-A, section 111 and the Maine Administrative Procedure Act. For purposes of this Title and Title 29-A, an IFTA special fuel tax assessment is considered final and subject to demand and enforced collection under this Title and Title 29-A if the tax assessed has not been paid by its due date and no further administrative or judicial review is available pursuant to this Title or Title 29-A.

[PL 2011, c. 644, §12 (AMD).]

**2. Users generally.** Except as provided by subsection 4, each user, not later than the last day of April, July, October and January of each year, shall file with the assessor a return that must include the total gallonage of fuels used within this State during the quarter ending the last day of the preceding month. The return must include any further information reasonably required by the assessor. At the time of filing the return required by this subsection, each user shall pay to the assessor the tax imposed by section 3203 upon each gallon reported as a taxable use or as taxable gallons used, which has not been subjected to the special fuel tax.

[PL 2007, c. 438, §80 (AMD).]

**3. Exempt users.** Any user of special fuel operating exclusively within this State and using only special fuel purchased within this State upon which the State has received the special fuel tax, may be exempted, at the discretion of the assessor, from filing returns under this chapter. Any user of special fuel requesting exemption from filing returns shall submit an affidavit as prescribed by the assessor.

[PL 2007, c. 438, §80 (AMD).]

**4. Annual returns in certain circumstances.** Notwithstanding any other provisions of this section, a user may file an annual return with payment on or before January 31st of each year covering the prior year when the annual tax liability is expected to be \$100 or less or when allowed by the IFTA governing documents.

[PL 2001, c. 396, §30 (AMD).]

**5. Monthly reports from wholesalers.**

[PL 2009, c. 434, §55 (RP).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1983, c. 828, §9 (AMD). PL 1985, c. 127, §1 (AMD). PL 1987, c. 200, §§2,3 (AMD). PL 1997, c. 738, §12 (RPR). PL 1999, c. 733, §§11,12 (AMD). PL 1999, c. 733, §17 (AFF). PL 2001, c. 396, §30 (AMD). PL 2007, c. 438, §80 (AMD). PL 2009, c. 434, §§54, 55 (AMD). PL 2011, c. 644, §12 (AMD).

#### §3210. Application of tax in special cases

A person that receives special fuel under circumstances that preclude the collection of this tax by the supplier or retailer and that sells or uses that special fuel in this State is considered a supplier or

retailer and shall file a quarterly return on a form prescribed by the State Tax Assessor and is subject to the same taxes and all other provisions of this chapter relating to suppliers and retailers. A person may not be considered a supplier or retailer with respect to special fuel brought into the State in the ordinary standard equipment fuel tank attached to and forming a part of a motor vehicle and used in the operation of that vehicle within the State. [PL 2007, c. 438, §81 (AMD).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 1999, c. 733, §13 (AMD). PL 1999, c. 733, §17 (AFF). PL 2007, c. 438, §81 (AMD).

#### **§3211. Cancellation of licenses, registrations**

If a person licensed or registered under this chapter files a false report of the information required by this chapter, or fails, refuses or neglects to file a return required by this chapter or to pay the full amount of the tax as required by this chapter, the State Tax Assessor may cancel the license or registration and give notice to that person of the cancellation. [PL 2009, c. 434, §56 (AMD).]

Upon receipt of a written request from a person licensed or registered under this chapter to cancel the license or registration issued to that person, the assessor may cancel that license or registration effective 30 days from the date of the written request, in which event the license or registration certificate issued to that person must be surrendered to the assessor. If the assessor determines that a person to whom a license or registration 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 assessor may cancel that license or registration by giving that person 30 days' notice of the cancellation, in which event the license or registration certificate issued to that person must be surrendered to the assessor. [PL 2009, c. 434, §56 (AMD).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 1999, c. 733, §14 (AMD). PL 1999, c. 733, §17 (AFF). PL 2007, c. 438, §82 (AMD). PL 2009, c. 434, §56 (AMD).

#### **§3212. Discontinuance**

When a person ceases to engage in business as a supplier, wholesaler, retailer or user of special fuel within this State, that person shall notify the State Tax Assessor in writing within 15 days after discontinuance. All taxes, penalties and interest under this chapter become due and payable concurrently with that discontinuance. The person shall file a return and pay all the taxes, interest and penalties and surrender to the assessor the license or registration certificate issued to that person by the assessor. [PL 2009, c. 434, §57 (AMD).]

A person that violates any of the provisions of this section commits a Class E crime. [PL 2009, c. 434, §57 (AMD).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 1999, c. 733, §15 (AMD). PL 1999, c. 733, §17 (AFF). PL 2007, c. 438, §83 (AMD). PL 2009, c. 434, §57 (AMD).

#### **§3213. Refunds of taxes erroneously or illegally collected**

If the State Tax Assessor determines that a tax or penalty imposed by this chapter has been erroneously or illegally collected from a user, that user is entitled to a refund of the amount that was erroneously or illegally collected. The refund must be paid to that user from the Highway Fund. [PL 2011, c. 240, §26 (AMD).]

A refund may not be made under this section unless a written claim stating the grounds upon which the refund is claimed in a form prescribed by the assessor is filed with the assessor within 3 years from

the date of the payment of the amount that was erroneously or illegally collected. [PL 2011, c. 240, §26 (AMD).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 2011, c. 240, §26 (AMD).

#### **§3214. Credit for tax paid on worthless accounts**

The tax paid on sales made on credit and reported by a licensed supplier, wholesaler or retailer pursuant to section 3209 that are found to be worthless and actually charged off may be credited upon the tax due on a subsequent return. If those accounts are subsequently collected by the licensed supplier, wholesaler or retailer, a tax must be paid upon the amounts so collected. The credit must be reported on the return for the month in which the charge-off occurred. [PL 2009, c. 434, §58 (AMD).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 1999, c. 733, §16 (AMD). PL 1999, c. 733, §17 (AFF). PL 2007, c. 438, §84 (AMD). PL 2009, c. 434, §58 (AMD).

#### **§3215. Refund of taxes for certain common carriers**

A person engaged in furnishing common carrier passenger service is entitled to reimbursement of the tax paid on special fuel used by that person in locally encouraged vehicles. For purposes of calculating reimbursement due pursuant to this section, special fuel used in a person's locally encouraged vehicles is presumed to bear the same proportional relationship to special fuel used in all of the person's passenger vehicles that the person's commutation fare revenue derived from service provided by locally encouraged vehicles bears to the person's total passenger fare revenue. "Commutation fare revenue" means revenue attributable to fares of 60¢ or less and fares paid for commutation or season tickets for single trips of less than 30 miles or for commutation tickets for one month or less. "Total passenger fare revenue" means all revenue attributable to the claimant's passenger operations. "Locally encouraged vehicles" means buses upon which no excise tax is collected under section 1483, subsection 13. [PL 2009, c. 598, §48 (AMD).]

Applications for refunds must be filed with the State Tax Assessor, on a form prescribed by the assessor, within 12 months from the date of purchase. A refund may not be issued under this section unless the claimant's commutation fare revenue derived during the period for which the refund is claimed is at least 60% of the claimant's total passenger fare revenue derived during that period. [PL 2007, c. 438, §85 (AMD).]

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 2003, c. 390, §16 (RPR). PL 2005, c. 332, §18 (AMD). PL 2007, c. 438, §85 (AMD). PL 2009, c. 598, §48 (AMD).

#### **§3216. Failure to file statement; false statement**

**(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD). PL 1989, c. 878, §B33 (RPR). PL 1991, c. 529, §D7 (AMD). PL 1991, c. 529, §E (AFF). PL 1991, c. 592, §D7 (AMD). PL 1995, c. 65, §A148 (AMD). PL 1995, c. 65, §A153,C15 (AFF). PL 1995, c. 271, §9 (RP).

#### **§3217. Additional violations**

**(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 94, §D6 (NEW). PL 1985, c. 127, §1 (AMD). PL 1987, c. 772, §30 (AMD). PL 1989, c. 878, §G6 (AMD). PL 1991, c. 529, §D8 (AMD). PL 1991, c. 529, §E (AFF). PL 1991, c. 592, §D8 (AMD). PL 1995, c. 271, §10 (RP).

**§3218. Refund of tax in certain cases, time limit**

A person who purchases and uses special fuel for any use other than operation of a registered motor vehicle on the highways of this State, and who has paid the tax imposed by this chapter on that fuel, is entitled to reimbursement in the amount of the tax paid, less 1¢ per gallon, upon presenting to the State Tax Assessor a sworn statement accompanied by evidence as the assessor may require. The statement must show the total amount of special fuel so purchased and used by that person other than in the operation of registered motor vehicles on the highways of this State. [PL 2007, c. 438, §86 (AMD).]

A refund application on a form prescribed by the assessor must be filed to claim a refund pursuant to this section. Interest must be paid at the rate determined pursuant to section 186, calculated from the date of receipt of the claim, for all valid claims not paid within 30 days of receipt. Applications for refunds must be filed with the assessor within 18 months from the date of purchase. [PL 2015, c. 9, §2 (AMD).]

All fuel qualifying for a refund under this section is subject to the use tax imposed by chapter 215. [PL 2003, c. 390, §17 (RPR).]

SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1983, c. 438, §6 (AMD). PL 1983, c. 828, §10 (AMD). PL 1985, c. 127, §1 (AMD). PL 2003, c. 390, §17 (RPR). PL 2005, c. 332, §19 (AMD). PL 2007, c. 438, §§86,87 (AMD). PL 2015, c. 9, §2 (AMD).

**§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. [PL 2003, c. 498, §10 (NEW).]

SECTION HISTORY

PL 2003, c. 498, §10 (NEW).

**§3219. Purpose**

The tax imposed by this chapter is levied for the purpose of providing revenue to be used by this State to defray in whole or in part the cost of constructing, widening, reconstructing, maintaining, resurfacing and repairing the public highways of this State and the cost and expense incurred in the administration and enforcement of this chapter, and for no other purpose whatsoever. [PL 1983, c. 94, Pt. D, §6 (NEW).]

SECTION HISTORY

PL 1983, c. 94, §§D6,9 (NEW). PL 1985, c. 127, §1 (AMD).

**§3219-A. Enforcement; penalties**

**1. Enforcement.** The State Tax Assessor shall notify the Secretary of State and the Bureau of State Police of any carrier who has failed to comply with the provisions of this chapter. In order to enforce the provisions of this chapter, any duly authorized and designated agent or officer of the assessor, the Secretary of State or the Commissioner of Public Safety may:

- A. Inspect any fuel tank or container that can or may be used for the production, storage or transportation of special fuel; [PL 1995, c. 271, §11 (NEW).]
- B. Inspect any equipment that can or may be used for, or in connection with, the production, storage or transportation of special fuel; [PL 1995, c. 271, §11 (NEW).]

C. Inspect the books and records of any supplier, user, retailer or importer; [PL 2003, c. 390, §18 (AMD).]

D. Detain any motor vehicle for the purpose of inspecting its fuel tanks. Detainment may continue for a reasonable period of time as necessary to determine the amount and composition of the fuel. Designated agents and officers may take and remove samples of fuel in reasonable quantities in order to determine compliance with the provisions of this chapter; and [PL 2009, c. 598, §49 (AMD).]

E. Suspend vehicle registrations in the name of any carrier that has violated the provisions of this chapter and the right to operate as provided in Title 29-A, section 2458. [PL 2009, c. 598, §50 (AMD).]

F. [PL 2009, c. 598, §51 (RP).]  
[PL 2009, c. 598, §§49-51 (AMD).]

**2. Penalties.** A person who commits one of the following acts is guilty of a Class E crime and is subject to a fine of not less than \$250, which may not be reduced:

A. If the person is a supplier, selling special fuel without collecting tax on the fuel when the supplier knows or has reason to believe that the fuel will not be used for an exempt purpose; [PL 1995, c. 271, §11 (NEW).]

B. Refusing or failing to make any statement, report, payment or return required by this chapter; [PL 1995, c. 271, §11 (NEW).]

C. Refusing or failing to pay interest or penalties arising from the nonpayment of taxes required by this chapter; [PL 1995, c. 271, §11 (NEW).]

D. Knowingly collecting or attempting to collect, directly or indirectly, a refund of tax without being entitled to that refund; [PL 1995, c. 271, §11 (NEW).]

E. Knowingly making, or aiding or assisting any other person in making, a materially false statement in any return or report submitted to the State Tax Assessor, in any application for refund of tax, in any other application or affidavit submitted to the State Tax Assessor pursuant to this chapter or in any affidavit of exempt use submitted to a supplier pursuant to section 3204-A; [PL 1995, c. 271, §11 (NEW).]

F. Refusing or failing to permit an inspection pursuant to subsection 1; or [PL 1995, c. 271, §11 (NEW).]

G. If the person is a user or an agent or employee of a user, consuming special fuel in a motor vehicle when the user does not have a valid license issued pursuant to section 3206. Each day or part of a day during which this paragraph is violated constitutes a separate violation within the meaning of this section. [PL 1995, c. 639, §11 (AMD).]

The fine provided by this subsection is in addition to any other applicable penalty or tax.  
[PL 1995, c. 639, §11 (AMD).]

#### SECTION HISTORY

PL 1995, c. 271, §11 (NEW). PL 1995, c. 639, §11 (AMD). PL 2003, c. 390, §18 (AMD). PL 2009, c. 598, §§49-51 (AMD).

#### §3220. Fuel use tax; compact

**(REPEALED)**

#### SECTION HISTORY

PL 1983, c. 817, §8 (NEW). PL 1983, c. 863, §D1 (RP).

**§3221. Tax levied****(REPEALED)**

## SECTION HISTORY

PL 1983, c. 817, §8 (NEW). PL 1983, c. 863, §D1 (RP).

**§3222. Reporting and remitting tax****(REPEALED)**

## SECTION HISTORY

PL 1983, c. 817, §8 (NEW). PL 1983, c. 863, §D1 (RP).

**§3223. Enforcement****(REPEALED)**

## SECTION HISTORY

PL 1987, c. 772, §31 (NEW). PL 1987, c. 793, §A13 (NEW). PL 1989, c. 502, §A134 (RPR).  
PL 1995, c. 639, §12 (RP).**§3223-A. Inventory tax; special fuel****(REPEALED)**

## SECTION HISTORY

PL 1987, c. 793, §B3 (NEW). PL 1991, c. 824, §A74 (RP).

**§3224. Inventory tax; special fuel****(REPEALED)**

## SECTION HISTORY

PL 1989, c. 502, §A135 (NEW). PL 1991, c. 824, §A75 (RP).

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