

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

**'An Act To Provide a Sales Tax Refund for Fuel  
Used in Commercial Agricultural Production'**

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'**Sec. 1. 36 MRSA §2013**, as amended by PL 2007, c. 649, §8, is further amended to read:

**§ 2013. Refund of sales tax on depreciable machinery and equipment purchases and on internal combustion fuel**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following words have the following meanings.

A. "Commercial agricultural production" means commercial production of crops for human and animal consumption, including the commercial production of sod, an agricultural composting operation as defined in Title 7, section 152, subsection 1, the commercial production of seed to be used primarily to raise crops for nourishment of humans or animals and the production of livestock, including the removal and storage of manure from that livestock.

A-1. "Commercial aquacultural production" means the commercial production of cultured fish, shellfish, seaweed or other marine plants for human and animal consumption, including:

(1) All cultivating activities occurring at hatcheries or nurseries, from the egg, larval or spore stages to the transfer of the product to a growing site; and

(2) All cultivating activities occurring on water, from the receipt of fish, shellfish, seaweed or other marine plants from onshore facilities to the delivery of harvested products to onshore facilities for processing.

B. "Commercial fishing" means attempting to catch fish or any other marine animals or organisms with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport anglers to available fishing grounds.

C. "Depreciable machinery and equipment" means that part of the following machinery and equipment for which depreciation is allowable under the Code and repair parts for that machinery and equipment:

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles, but excluding motor vehicles as defined in section 1752, subsection 7; attachments and equipment for the production of field and orchard crops; new or used machinery and equipment for use directly and primarily in production of milk, animal husbandry and production of livestock, including poultry; and new or used machinery and equipment not used directly and primarily in commercial agricultural production, but used to transport potatoes from a truck into a storage location;

(2) New or used watercraft, nets, traps, cables, tackle and related equipment necessary to and used directly and primarily in the operation of a commercial fishing venture, but excluding motor vehicles as defined in section 1752, subsection 7; or

(3) New or used watercraft, machinery or equipment used directly and primarily for commercial aquacultural production, including, but not limited to: nets; ropes; cables; anchors and anchor weights; shackles and other hardware; buoys; fish tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating systems; boilers and related pumping systems; diving equipment; feeders and related equipment; power-generating equipment; tank water-level sensors; aboveground piping; water-oxygenating systems; fish-grading equipment; safety equipment; and sea cage systems, including walkways and frames, lights, netting, buoys, shackles, ropes, cables, anchors and anchor weights; but excluding motor vehicles as defined in section 1752, subsection 7.

**2. Refund authorized.** Any person, association of persons, firm or corporation that purchases electricity, or that purchases or leases depreciable machinery or equipment, for use in commercial agricultural production, commercial fishing or commercial aquacultural production must be refunded the amount of sales tax paid upon presenting to the State Tax Assessor evidence that the purchase is eligible for refund under this section.

Evidence required by the assessor may include a copy or copies of that portion of the purchaser's or lessee's most recent filing under the United States Internal Revenue Code that indicates that the purchaser or lessee is engaged in commercial agricultural production, commercial fishing or commercial aquacultural production and that the purchased machinery or equipment is depreciable for those purposes or would be depreciable for those purposes if owned by the lessee.

In the event that any piece of machinery or equipment is only partially depreciable under the United States Internal Revenue Code, any reimbursement of the sales tax must be prorated accordingly. In the event that electricity is used in qualifying and nonqualifying activities, any reimbursement of the sales tax must be prorated accordingly.

Application for refunds must be filed with the assessor within 36 months of the date of purchase or execution of the lease.

**3. Purchases made free of tax with certificate.** Sales tax need not be paid on the purchase of electricity or of a single item of machinery or equipment if the purchaser has obtained a certificate from the assessor stating that the purchaser is engaged in commercial agricultural production, commercial fishing or commercial aquacultural production and authorizing the purchaser to purchase electricity or depreciable machinery and equipment without paying Maine sales tax. The seller is required to obtain a copy of the certificate together with an affidavit as prescribed by the assessor, to be maintained in the seller's records, attesting to the qualification of the purchase for exemption pursuant to this section. In order to qualify for this exemption, the electricity or depreciable machinery or equipment must be used directly in commercial agricultural production, commercial fishing or commercial aquacultural production. In order to qualify for this exemption, the electricity must be used in qualifying activities, including support operations.

Sales tax may be reduced on the purchase of dyed fuel, as defined in section 3202, subsection 2-A, if the purchaser has obtained a certificate from the assessor stating that the purchaser is engaged in commercial agricultural production. The reduced sales tax amount is equal to the portion of the sales tax attributable to the sale price of dyed fuel that exceeds \$3 for sales from October 1, 2009 to June 30, 2010 and \$3.50 for sales after June 30, 2010.

**4. Internal combustion fuel for commercial agricultural production.** Any person that purchases internal combustion fuel for the purpose of commercial agricultural production must be refunded a portion of sales tax paid upon presenting to the State Tax Assessor evidence that the purchase is eligible for refund under this section. The amount of the refund is equal to the portion of the sales tax attributable to the sale price of internal combustion fuel that exceeds \$3 for sales from July 1, 2009 to June 30, 2010 and \$3.50 for sales after June 30, 2010. Applications for refund must be filed with the assessor within 36 months of the date of purchase. By January 15th, annually, the State Tax Assessor shall report to the joint standing committee of the Legislature with jurisdiction over taxation matters the number of persons granted refunds under this subsection and the amount of refunds paid during the previous calendar year.

**Sec. 2. Effective date.** This Act takes effect October 1, 2009.'

## SUMMARY

This amendment expands the application of the sales tax refund to fuel used for commercial agricultural production and provides that the refund applies only to the sales tax on the portion of the sale price that exceeds \$3 from July 1, 2009 to June 30, 2010 and \$3.50 thereafter. The amendment also permits a person with a certificate stating that the person is engaged in commercial agricultural production to purchase dyed fuel with the sales tax reduced. The amendment also requires the State Tax Assessor to report on the number of persons granted refunds and the amount of refunds paid during the previous calendar year.