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Date: (Filing No. H-)

TAXATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 162, L.D. 185, Bill, “An Act To Refund the Sales Tax Paid on Fuel Used in Commercial Fishing Vessels”

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

'An Act To Refund the Sales Tax Paid on Fuel Used in Commercial Groundfishing Boats'

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

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, fuel costs are increasing rapidly and putting Maine commercial groundfishing businesses in financial jeopardy; and

Whereas, it is necessary to enact this legislation as early as possible in the fishing season to alleviate the burden on those businesses; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 36 MRSA §2013, sub-§1, ¶B-1 is enacted to read:

B-1. "Commercial groundfishing boat" has the same meaning as in section 1752, subsection 1-H.

Sec. 2. 36 MRSA §2013, sub-§2, as amended by PL 2001, c. 396, §24, is further amended to read:

2. Refund authorized. Any person, association of persons, firm or corporation that purchases electricity, or that purchases or leases depreciable machinery or equipment, for

COMMITTEE AMENDMENT

1 use in commercial agricultural production, commercial fishing or commercial
2 aquacultural production or that purchases fuel for use in a commercial groundfishing boat
3 must be refunded the amount of sales tax paid upon presenting to the State Tax Assessor
4 evidence that the purchase is eligible for refund under this section.

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

11 In the event that any piece of machinery or equipment is only partially depreciable under
12 the United States Internal Revenue Code, any reimbursement of the sales tax must be
13 prorated accordingly. In the event that electricity or fuel for a commercial groundfishing
14 boat is used in qualifying and nonqualifying activities, any reimbursement of the sales tax
15 must be prorated accordingly.

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

18 **Sec. 3. 36 MRSA §2013, sub-§3**, as amended by PL 2001, c. 396, §24, is further
19 amended to read:

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

34 **Sec. 4. 36 MRSA §3218, 3rd ¶**, as repealed and replaced by PL 2003, c. 390,
35 §17, is amended to read:

36 ~~All~~ Except for fuel that qualifies for a refund or exemption under section 2013, all
37 fuel qualifying for a refund under this section is subject to the use tax imposed by chapter
38 215.

39 **Sec. 5. Application.** This Act applies to purchases of fuel for use in a commercial
40 groundfishing boat as defined in the Maine Revised Statutes, Title 36, section 1752,
41 subsection 1-H on or after October 1, 2011.

42 **Emergency clause.** In view of the emergency cited in the preamble, this
43 legislation takes effect when approved.'

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SUMMARY

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This amendment limits the tax refund proposed in the bill to the tax paid on fuel for commercial groundfishing boats. It also adds a section to exclude this type of purchase from the use tax as well.

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