

**TESTIMONY OF
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DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation
Hearing Date: *Wednesday, April 30, 2025*

LD 1781 – “*An Act to Exempt from the Gasoline Tax Act Ethanol-free Gasoline
Used by Vehicles Off-road*”

Senator Grohoski, Representative Cloutier, and members of the Taxation Committee – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Against LD 1781, “*An Act to Exempt from the Gasoline Tax Act Ethanol-free Gasoline Used by Vehicles Off-road.*”

LD 1781 would provide an exemption from the tax imposed on internal combustion engine fuel, commonly known as “gasoline,” that does not contain any ethanol and is purchased for use by vehicles that are used exclusively off-road.

The excise tax on gasoline is declared to be a levy and assessment on the ultimate consumer, but the distributor that first receives the fuel in Maine is primarily responsible for paying the tax, at the rate of 30¢ per gallon, regardless of ethanol content.

LD 1781 is currently drafted as providing the exemption on ethanol-free gasoline at the level of the distributor, who may be at least two steps removed from the ultimate purchaser of the fuel and may not know at the time of its distribution to the retailer whether the fuel will be purchased for use in vehicles used exclusively off-road.

If the intent is to provide the exemption at the distributor level, there are important tax administration and compliance issues to ensure the ethanol-free fuel is delivered directly to a bulk tank of a customer or a retail tank dedicated for vehicles used exclusively off-road. There would also need to be a new line on the Gasoline Tax Return.

If instead the intent of the bill is to exempt the ethanol-free gasoline at the purchaser level, a refund approach should be considered for compliance purposes. Currently, a person who purchases and uses gasoline for any *commercial* use other than in the operation of a registered motor vehicle on the highway may apply for a refund of the excise tax paid on that fuel via the Off-Highway Refund Application. All fuel that qualifies for the Off-Highway Refund is subject to use tax. If the bill is attempting to provide an exemption from the Gasoline Tax to a purchaser of ethanol-free gasoline used for *noncommercial* purposes in an exclusively off-road vehicle, the bill should instead amend the refund provision in Title 36, Section 2908. Please note that this would extend the exemption to an individual taxpayer's use of ethanol-free fuel in home and garden equipment as well as recreational vehicles, which would result in a substantial increase in refund applications, imposing significant administrative burdens on both the taxpayer and Maine Revenue Services.

Title 36, Section 1760, subsection 8 provides an exemption from sales and use tax for motor fuels "upon which a tax at the maximum rate for highway use" has been paid. Fully exempting ethanol-free gasoline from the Gasoline Tax would subject that fuel to sales and use tax.

It's important to note that a percentage of all Gasoline Tax revenues that are attributable to snowmobile, all-terrain vehicle, and motorboat gasoline purchases are equally distributed among the appropriate state agencies for the administration

of programs and the enforcement of laws relating to the use of those recreational vehicles (see Title 36, Section 2903-D). If the exemption is intended to include purchases of ethanol-free gasoline used in motorboats, snowmobiles, and all-terrain vehicles, the exemption would consequently reduce the amount of revenue distributed to those funds. For context, in FY2024, approximately \$3 million was transferred to the Dept. of Marine Resources and the Boating Facilities Fund, approximately \$1.8 million was transferred to the Dept. of Inland Fisheries & Wildlife and the Snowmobile Trail Fund, and approximately \$300,000 was transferred to the ATV Enforcement Grant and Aid Program and the ATV Recreational Management Fund.

MRS has some technical concerns if the Committee chooses to move forward with the bill as drafted. Neither “vehicle” nor “off-road” are currently defined within the Gasoline Tax Act. Title 29-A provides definitions for both “public way” and “vehicle” (Title 29-A, Section 101, subsections 59 and 91, respectively). If the Title 29-A definition of “public way” is meant to control the understanding of “off-road,” this bill could be interpreted to exclude use of a vehicle on a private road from the exemption. If the Title 29-A definition of “vehicle” controls, ethanol-free gas purchased for use in a snowmobile would remain subject to the Gasoline Tax, as “vehicle” in Title 29-A specifically excludes “snowmobiles.” “Watercraft” is also not considered a “vehicle” under Title 29-A. Finally, Line 13 of the bill should be amended to read that the State Tax Assessor *may* adopt rules, rather than *shall* adopt rules.

The complexity of addressing the proposed exemption, the assumed policy justification, and incremental revenue loss does not warrant moving forward with the changes proposed by LD 1781.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee's questions.