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Legislative Document

No. 1481

S.P. 579

In Senate, December 18, 2015

**An Act To Protect Maine's Natural Resources Jobs by Exempting
from Sales Tax Petroleum Products Used in Commercial Farming,
Fishing and Forestry**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 18, 2015. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator DAVIS of Piscataquis.
Cosponsored by Representative BLACK of Wilton and
Senators: DIAMOND of Cumberland, KATZ of Kennebec, WHITTEMORE of Somerset,
Representatives: LOCKMAN of Amherst, McCABE of Skowhegan, SIROCKI of
Scarborough, TIMBERLAKE of Turner, VACHON of Scarborough.

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

2 **Sec. 1. 36 MRSA §2013**, as corrected by RR 2011, c. 2, §41 and amended by PL
3 2011, c. 657, Pt. N, §2 and affected by §3, is further amended to read:

4 **§2013. Refund of sales tax on depreciable machinery and equipment purchases and**
5 **petroleum products**

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

8 A. "Commercial agricultural production" means commercial production of crops,
9 plants, trees, compost and livestock.

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

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

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

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

23 B-1. "Commercial wood harvesting" means the commercial severance and yarding of
24 trees for sale or for processing into logs, pulpwood, bolt wood, wood chips, stud
25 wood, poles, pilings, biomass or fuel wood or other products commonly known as
26 forest products.

27 C. "Depreciable machinery and equipment" means, except as otherwise provided by
28 this paragraph, that part of the following machinery and equipment for which
29 depreciation is allowable under the Code and repair parts for that machinery and
30 equipment:

31 (1) New or used machinery and equipment for use directly and primarily in
32 commercial agricultural production, including self-propelled vehicles;
33 attachments and equipment for the production of field and orchard crops; new or
34 used machinery and equipment for use directly and primarily in production of
35 milk, animal husbandry and production of livestock, including poultry; new or
36 used machinery and equipment used in the removal and storage of manure; and
37 new or used machinery and equipment not used directly and primarily in
38 commercial agricultural production, but used to transport potatoes from a truck
39 into a storage location;

1 (2) New or used watercraft, nets, traps, cables, tackle and related equipment
2 necessary to and used directly and primarily in commercial fishing;

3 (3) New or used watercraft, machinery or equipment used directly and primarily
4 for commercial aquacultural production, including, but not limited to: nets; ropes;
5 cables; anchors and anchor weights; shackles and other hardware; buoys; fish
6 tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating
7 systems; boilers and related pumping systems; diving equipment; feeders and
8 related equipment; power-generating equipment; tank water-level sensors;
9 aboveground piping; water-oxygenating systems; fish-grading equipment; safety
10 equipment; and sea cage systems, including walkways and frames, lights, netting,
11 buoys, shackles, ropes, cables, anchors and anchor weights; and

12 (4) New or used machinery and equipment for use directly and primarily in
13 commercial wood harvesting, including, but not limited to, chain saws, skidders,
14 delimiters, forwarders, slashers, feller bunchers and wood chippers.

15 "Depreciable machinery and equipment" does not include a motor vehicle as defined
16 in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

17 D. "Petroleum products" means any substance or combination of substances that is
18 intended to be or is capable of being used for the purpose of propelling or running by
19 combustion any internal combustion engine that is sold or used for that purpose and
20 includes fuel and any lubricating oil or other lubricant that is classified for use in an
21 internal combustion engine or the transmission, gear box, hydraulic system,
22 compressor or differential for a motor vehicle or vessel, including but not limited to
23 natural, synthetic and rerefined motor oils, whether or not in retail containers.

24 **2. Refund authorized.** Any person, association of persons, firm or corporation that
25 purchases electricity, or that purchases or leases depreciable machinery or equipment, or
26 that purchases petroleum products, for use in commercial agricultural production,
27 commercial fishing, commercial aquacultural production or commercial wood harvesting
28 ~~or that purchases fuel for use in a commercial fishing vessel~~ must be refunded the amount
29 of sales tax paid upon presenting to the State Tax Assessor evidence that the purchase is
30 eligible for refund under this section.

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

37 In the event that any piece of machinery or equipment is only partially depreciable under
38 the United States Internal Revenue Code, any reimbursement of the sales tax must be
39 prorated accordingly. In the event that electricity or ~~fuel for a commercial fishing vessel~~
40 petroleum products is used in qualifying and nonqualifying activities, any reimbursement
41 of the sales tax must be prorated accordingly.

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

