

HOUSE No. 789

By Mr. Lindstrom of Cambridge, petition of John B. Atkinson and another that the Commonwealth and subdivisions thereof be exempted from payment of the excise tax on gasoline and other motor vehicle fuel. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Nine.

AN ACT EXEMPTING GOVERNMENTAL BODIES AND CERTAIN GOVERNMENTAL AGENCIES FROM PAYMENT OF EXCISE TAX ON GASOLINE AND OTHER MOTOR VEHICLE FUEL.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 64A of the General Laws is
2 hereby amended by inserting therein after section 7
3 the following section: —

4 *Section 7A. Exemption of Certain Governmental*
5 *Bodies and Agencies.* — Notwithstanding any other
6 provisions of this chapter, no excise hereunder shall
7 be payable on sales of fuel to the commonwealth or
8 any agency thereof, to any county, to any city or
9 town in the commonwealth, or to any publicly owned
10 system for the transportation of passengers. If
11 such sale should be made directly by a distributor,
12 no excise on account thereof shall be payable by the
13 distributor under the provisions of section four.

14 If such sale shall be made by a person other than a
15 distributor, the excise paid by the purchaser shall be
16 reimbursed to it in the same manner and under the
17 same conditions as are set forth in section seven.

1 SECTION 2. Chapter 64A of the General Laws is
2 hereby further amended by adding to section 4 thereof
3 the following words:—except as such sales are
4 exempted from payment of excise by section seven A,
5 — so that said section 4 will read:—*Section 4.*
6 *Monthly Returns and Payment of Excise; Compensation*
7 *allowed Distributor.*—Every distributor shall, on or
8 before the last day of each month, file with the com-
9 missioner a return under oath, on a form to be fur-
10 nished by the commissioner, stating the number of
11 gallons of fuel sold by him in the commonwealth
12 during the preceding calendar month, and such return
13 shall contain or be accompanied by such further
14 information as the commissioner shall require. At
15 the time of filing such return, every distributor shall
16 pay to the commissioner for the account of the pur-
17 chaser an excise of two cents on each gallon of fuel
18 sold by him in the commonwealth during the calendar
19 month covered by the return.

20 The commissioner is hereby authorized to allow
21 distributors making returns and payments to the
22 commissioner as aforesaid, as compensation for
23 services rendered by such distributors in compliance
24 with the provisions of this chapter, an amount equal
25 to the actual cost of collecting the excise, but not
26 exceeding one per cent of the excise so collected and
27 paid to the commissioner; provided, that no dis-
28 tributor shall be entitled to receive any payment as
29 compensation or otherwise as aforesaid except in

30 accordance with such classification and regulations
31 as the commissioner may prescribe, and unless such
32 distributor shall, in addition to the return herein-
33 above referred to, have furnished to the commis-
34 sioner any further information required by him
35 respecting said return, to be set forth in such form
36 and with such verification as he may require and
37 approve, except as such sales are exempted from
38 payment of excise by section seven A.

1 SECTION 3. Chapter sixty-four A of the General
2 Laws is hereby further amended by inserting in section
3 9 thereof, after the words "section seven," the words:
4 — and section seven A, — so that said section shall
5 read as follows:— *Section 9. Purchaser to bear Tax;*
6 *Sales separate from Tax forbidden; Penalty.* — Except
7 as otherwise provided in section seven and section
8 seven A, the tax in every instance shall be borne by
9 the purchaser, and no person offering fuel for sale
10 shall sell, advertise or offer for sale said fuel separately
11 from the tax imposed by this chapter. For any vio-
12 lation of this section, the license to keep and sell crude
13 petroleum or any of its products, issued by the licens-
14 ing authority under chapter one hundred and forty-
15 eight, shall be suspended by the said authority on
16 request of the commissioner for such time as said
17 commissioner deems proper.

1 SECTION 4. Chapter 64A of the General Laws is
2 hereby further amended by inserting in section
3 twelve thereof, after the words "of the United States",
4 the following words:— or by section seven A of this
5 chapter, — so that said section will read as fol-
6 lows:— *Section 12. Federal Law, Sales exempted by.*

7 *Restraining Collection of Excise on.* — The supreme
8 judicial or the superior court shall have jurisdiction
9 in equity to restrain the collection, upon any sale
10 exempted by the constitution and laws of the United
11 States or by section seven A of this chapter of the
12 excise imposed by this chapter. The bill shall be
13 brought against the commissioner, whether the ques-
14 tion of the collection of the excise is in the hands of
15 the attorney general or pending before the appellate
16 tax board or is still in the hands of the commissioner.