

HOUSE No. 1436

By Mr. Tynan of Boston, petition of John J. Curry and another that governmental bodies be exempt 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 Sixty-Four.

AN ACT EXEMPTING GOVERNMENTAL BODIES 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 hereby
2 amended by inserting therein, after section 7, the following
3 section:—

4 *Section 7A. Exemption of certain Governmental Bodies.*—
5 Notwithstanding any other provisions of this chapter no excise
6 hereunder shall be payable on sales on fuel to the commonwealth
7 or any political subdivision thereof. If such sale should be made
8 directly by a distributor, no excise on account thereof shall be
9 payable by the distributor under the provisions of section four.
10 If such sale shall be made by a person other than a distributor,
11 the excise paid by the purchaser shall be reimbursed to it in the
12 same manner and under the same conditions as are set forth in
13 section seven.

1 SECTION 2. Section 4 of said chapter 64 is hereby further
2 amended by adding after the word "return" at the end of the
3 first paragraph the following:—except as such sales are ex-
4 empted from payment of such excise by section seven A,—
5 so that said first paragraph of section 4 will read as follows:—
6 Every distributor shall, on or before the last day of each month,
7 file with the commissioner a return under oath, on a form to be

8 approved by the state tax commission and furnished by the
9 commissioner, stating the number of gallons of fuel sold by him
10 in the commonwealth during the preceding calendar month,
11 and such return shall contain or be accompanied by such further
12 information as the commissioner shall require. At the time of
13 filing such return, every distributor shall pay for the account of
14 the purchaser an excise of five and one half cents on each gallon
15 of fuel sold by him in the commonwealth during the calendar
16 month, covered by the return, except as such sales are exempted
17 from payment of such excise by section seven A.

1 SECTION 3. Section 9 of said chapter 64 is hereby further
2 amended by inserting, in line 1, after the word "seven" the
3 words: — and section seven A, — so that said section 9 will
4 read as follows: — Except as otherwise provided in section seven,
5 and section seven A, the tax in every instance shall be borne by
6 the purchaser, and no person offering fuel for sale shall sell,
7 advertise or offer for sale said fuel separately from the tax im-
8 posed by this chapter. For the violation of this section, the
9 license to keep and sell crude petroleum or any of its products,
10 issued by the licensing authority under chapter one hundred
11 and forty-eight, shall be suspended by the said authority on
12 request of the state tax commission for such time as said state
13 tax commission deems proper.

1 SECTION 4. Section 12 of said chapter 64A is hereby further
2 amended by inserting, in line 3, after the words "United States"
3 the words: — or by section seven A of this chapter, — so that
4 said section 12 will read as follows: — The supreme judicial
5 or the superior court shall have jurisdiction in equity to restrain
6 the collection, upon any sale exempted by the constitution and
7 laws of the United States, or by section seven A of this chapter,
8 of the excise imposed by this chapter. The bill shall be brought
9 against the commissioner, whether the question of the collection
10 of the excise is in the hands of the attorney general or pending
11 before the appellate tax boards or is still in the hands of the
12 commissioner.