



## **PLEASE NOTE**

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the [\*Table of Public Acts\*](#).

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## CHAPTER G-3

### GASOLINE TAX ACT

#### 1. In this Act

#### Definitions

- (a) “aviation fuel” means any gas or liquid that is sold to be used or is used to create power to propel an aircraft and includes any product that is designated to be aviation fuel by the regulations; aviation fuel
- (b) “Commissioner” means the Provincial Tax Commissioner appointed under the *Revenue Administration Act* R.S.P.E.I. 1988, Cap. R-13.2; Commissioner
- (c) “consumer” means any person who within the province consumes or uses gasoline or diesel oil, himself or as an agent, employee, partner, or part-owner of a business enterprise or who owns or operates a motor vehicle, vehicle or equipment, in which diesel oil is consumed; consumer
- (d) “diesel oil” means the products distilled from petroleum that are capable of developing the power required for operating internal combustion engines and that are commonly known as diesel oil, semi-diesel oil or fuel oil and includes furnace oil and any other products determined by the Minister to be diesel oil; diesel oil
- (e) “gasoline” means the product distilled from petroleum which by combustion develops the power required for operating internal combustion engines, and also means every other liquid product that fulfills the same purpose by the same means and for the same end, except diesel oil, and includes aviation fuel and any other product determined by the Minister to be gasoline; gasoline
- (f) “Minister” means the Provincial Treasurer; Minister
- (g) “normal retail price” means the normal retail price as determined in accordance with the regulations; normal retail price
- (h) “person” in addition to the meaning ascribed to it by the *Interpretation Act* R.S.P.E.I. 1988, Cap. I-8 includes a municipal corporation or any other board, commission, committee or authority established for public or local purposes; person
- (i) repealed by 1990,c.54,s.29; province
- (j) “purchaser” means any person who acquires gasoline or diesel oil in Prince Edward Island for himself, his family, agent, employee, partner or in connection with any motor vehicle, vehicle or purchaser

	equipment owned or operated by him or any business in which he has any interest;
regulations	(k) “regulations” means regulations made under the authority of this Act;
tax	(l) “tax” means the tax imposed under the authority of this Act. R.S.P.E.I.1974, Cap.G-3,s.2; 1979,c.6,s.1; 1983,c.1,s.6; 1986,c.5,s.2; 1987,c.29,s.1; 1990,c.54,s.29; 1993,c.29,s.4; 2006,c.31,s.1.
Administration of Act	<b>2.</b> Repealed by 1990,c.54,s.29.
Tax payable on gasoline	<b>3.</b> (1) Every purchaser shall pay a tax on all gasoline, other than aviation fuel or propane, purchased by or delivered to the purchaser between April 8, 2005 and April 30, 2005 inclusive at the rate of 19.5 cents per litre.
<i>Idem</i>	(1.1) Every purchaser shall pay a tax on all gasoline, other than aviation fuel or propane, purchased by or delivered to the purchaser after April 30, 2005 at the rate per litre equal to the sum of <ul style="list-style-type: none"> <li>(a) 7.1 cents; and</li> <li>(b) 10.7 per cent of the average wholesale price of gasoline per litre, to a maximum of 8.7 cents.</li> </ul>
Average to be determined by Minister	(1.2) The average wholesale price of gasoline per litre shall be determined by the Minister in accordance with this section on or before the last day of each month, and the price so determined by the Minister shall be the average wholesale price of gasoline per litre for the next following month.
Calculation of average wholesale price	(1.3) The average wholesale price of gasoline per litre shall be determined as the average of all of the wholesale prices for all grades of gasoline per litre, as determined by the Minister, that will be in effect on the first day of the next following month after the date on which the Minister determines the average wholesale price under subsection (1.2).
Wholesale price of gasoline	(1.4) The wholesale price of a grade of gasoline shall be calculated as the sum of <ul style="list-style-type: none"> <li>(a) the base price of a grade of gasoline per litre for the first day of the next following month, as determined by the Island Regulatory and Appeals Commission under the <i>Petroleum Products Act</i> R.S.P.E.I. 1988, Cap. P-5.1 and set out in the Dealer Petroleum Prices Schedule,</li> <li>(b) the applicable tax levied under Part III of the <i>Excise Tax Act</i> (Canada); and</li> <li>(c) the tax payable under clause (1.1)(a).</li> </ul>

(2) Every consumer shall pay a tax at the rate set out in subsection (1) or (1.1), as the case may be, on all gasoline used or consumed by him or her within Prince Edward Island and in respect of which the tax has not been paid.

Tax payable by consumer

(3) The tax shall be paid to the Minister or an agent of the province at the time and in the manner prescribed by the regulations. R.S.P.E.I. 1974, Cap.G-3,s.4; 1978,c.8,s.1; 1979,c.6,s.2; 1980,c.23,s.2; 1985,c.17,s.1; 1990,c.18,s.1; 1993,c.7,s.1; 1994,c.21,s.1; 1997,c.19,s.1; 2002,c.28,s.1; 2004,c.35,s.1; 2005,c.37,s.1; 2007,c.6,s.1.

To whom payable

4. Every purchaser of aviation fuel shall pay a tax at the rate of three cents per gallon or point seven cents per litre on all aviation fuel purchased by or delivered to him. 1979,c.6,s.3.

Tax payable, aviation fuel

4.1 Every purchaser shall pay a tax on all propane purchased by or delivered to the purchaser at the rate of 17 cents per litre. 2005,c.37,s.2.

Propane tax

5. Except as may be provided by the regulations, no person shall  
 (a) sell or deliver gasoline to any person unless the tax is paid; or  
 (b) use or consume gasoline unless the tax is paid. R.S.P.E.I. 1974, Cap.G-3,s.5.

Prohibition

6. (1) Every purchaser shall pay a tax on all diesel oil purchased by or delivered to the purchaser between April 8, 2005 and April 30, 2005 inclusive at the rate of 19.5 cents per litre.

Tax payable on diesel oil

(1.1) Every purchaser shall pay a tax on all diesel oil purchased by or delivered to the purchaser after April 30, 2005 at the rate per litre equal to the sum of

*Idem*

- (a) 11.5 cents; and
- (b) 10.7 per cent of the average wholesale price of diesel oil per litre, to a maximum of 8.7 cents.

(1.2) The average wholesale price of diesel oil per litre shall be determined by the Minister in accordance with this section on or before the last day of each month, and the price so determined by the Minister shall be the average wholesale price of diesel oil per litre for the next following month.

Average to be determined by Minister

(1.3) The average wholesale price of diesel oil per litre shall be determined as the average of all of the wholesale prices for diesel oil per litre, as determined by the Minister, that will be in effect on the first day of the next following month after the date on which the Minister determines the average wholesale price under subsection (1.2).

Calculation of average wholesale price

(1.4) The wholesale price of diesel oil shall be calculated as the sum of

Wholesale price of diesel oil

	<p>(a) the base price of diesel oil per litre for the first day of the next following month, as determined by the Island Regulatory and Appeals Commission under the <i>Petroleum Products Act</i> and set out in the Dealer Petroleum Prices Schedule;</p> <p>(b) the applicable tax levied under Part III of the <i>Excise Tax Act</i> (Canada), and</p> <p>(c) the tax payable under clause (1.1)(a).</p>
Tax payable by consumer	(2) Every consumer shall pay a tax at the rate set out in subsection (1) or (1.1), as the case may be, on all diesel oil used or consumed by him or her within Prince Edward Island and in respect of which the tax has not been paid.
To whom payable	(3) The tax shall be paid to the Minister or an agent of the province at the time and in the manner prescribed by the regulations. R.S.P.E.I. 1974, Cap.G-3,s.6; 1978,c.8,s.2; 1980,c.23,s.3; 1985,c.17,s.2; 1990,c.18,s.2; 1993,c.7,s.2; 1994,c.21,s.2; 1997,c.19,s.2; 2004,c.35,s.2; 2005,c.37,s.3; 2007,c.6,s.2.
Prohibition	<b>7.</b> Except as may be provided by the regulations, no person shall <p>(a) sell or deliver diesel oil to any person unless the tax is paid; or</p> <p>(b) use or consume diesel oil unless the tax is paid. R.S.P.E.I. 1974, Cap. G-3,s.7.</p>
Provisional collection on announcement	<b>7.1</b> Repealed by 2006,c.31,s.2. 1994,c.21,s.3; 2006,c.31,s.2.
Agreement on apportionment of tax	<b>7.2</b> (1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with <p>(a) any province or territory of Canada;</p> <p>(b) the District of Columbia or any state of the United States; or</p> <p>(c) any state of the United States of Mexico,</p> to collect and apportion gasoline and diesel oil tax on commercial vehicles engaged in inter-provincial or international travel, based on the distance travelled by such vehicles within each jurisdiction that is a party to the agreement.
Details of agreement	(2) An agreement entered into pursuant to subsection (1) may contain provisions respecting the payment, collection, division or apportionment of tax on gasoline and diesel oil, licensing, motor vehicle identification, records requirements, reporting, base jurisdiction accounting, auditing assessment and appeal procedures, credits and refunds, penalties and interest, membership and exclusion and any other provisions necessary for the administration of the agreement.

(3) The following rules apply for the purposes of reporting and remitting gasoline tax or diesel oil tax on fuel consumed by commercial vehicles engaged in inter-provincial or international travel:

Rules for reporting and remittance

(a) the quarterly gasoline tax rate, for the purpose of the quarterly reports required under the International Fuel Tax Agreement, shall be the weighted average of the gasoline tax rates, pursuant to section 3, set for the month commencing the quarter for which the rate is being set and the two months immediately following; and

(b) the quarterly diesel oil tax rate, for the purpose of the quarterly reports required under the International Fuel Tax Agreement, shall be the weighted average of the diesel oil tax rates, pursuant to section 6, set for the month commencing the quarter for which the rate is being set and the two months immediately following. 1995,c.16,s.1; 2006,c.31,s.3.

**8.** Repealed by 1990,c.54,s.29.

Agreement re collection of tax

**8.1** (1) In this section

Definitions

(a) “commercial vehicle” means a commercial vehicle as defined in clause 1(b.2) of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5 that has a gross mass exceeding 11,797 kg;

commercial vehicle

(b) “fuel permit” means a gasoline motor vehicle permit or a diesel motor vehicle permit authorizing the holder to operate in the province the commercial vehicle described in the permit.

fuel permit

(2) No person shall operate or cause to be operated a commercial vehicle in the province unless he holds

Requirement of permit to operate commercial vehicle

(a) a fuel permit; or

(b) a single trip fuel permit.

(3) Upon payment of such fee as the Lieutenant Governor in Council may determine, the Minister or a person authorized by the Minister may issue a single trip fuel permit to a person carrying on business outside the province authorizing that person to operate a commercial vehicle on a single trip within the province.

Single trip permit

(4) A single trip fuel permit issued under subsection (3) shall be valid for such period as may be specified therein and may be issued subject to conditions.

Conditions

(5) The holder of a single trip fuel permit under this section is exempt from the payment of tax on gasoline or diesel oil purchased outside the province but consumed within the province. 1992,c.29,s.1; 1996,c.17,s.1.

Exemption

**9.** The Lieutenant Governor in Council may make regulations

Regulations

- (a) respecting the collection of the tax and the control and remuneration of persons who are constituted agents or sub-agents for the collection of the tax;
- (b) respecting the accounting for and paying over of the tax collected and the time and manner of the accounting and paying;
- (c) prescribing the returns, reports and statements to be made by importers, manufacturers, transporters, vendors, consumers and purchasers of gasoline or diesel oil in the Province of Prince Edward Island and the records and accounts to be kept by them;
- (d) rebating to any consumer or purchaser or class of consumers or purchasers the tax or any portion thereof and prescribing the method by which the consumer or purchaser or class of consumers or purchasers may obtain the rebate;
- (e) exempting any consumer or purchaser or class of consumers or purchasers from payment of the tax or any portion thereof and prescribing the methods by which the consumer or purchaser or class of consumers or purchasers may obtain the exemption;
- (f) providing for the marking or dyeing of gasoline or diesel oil, or both of them, and regulating or prohibiting, or both, the dealing with, possession, handling, sale, purchase, use and consumption of gasoline or diesel oil so marked or dyed;
- (g) prescribing fees for the issue of any permit or other document authorized under this Act;
- (h) prohibiting the sale, purchase, use, consumption, transportation, delivery, storing, manufacture or importation of gasoline or diesel oil or any class, type or grade thereof without a permit;
- (i) providing for the issue, suspension and cancellation of permits to importers, manufacturers, transporters, vendors, consumers, and purchasers of gasoline or diesel oil, or any class, type or grade thereof;
- (j) for holding inquiries as to the operation of this Act and into any charge or complaint that any consumer or purchaser has evaded payment of the tax or has made any false return or statement and as to any other matter arising in the administration of this Act and providing that the person holding the inquiry shall have all the powers which may be conferred upon a commissioner appointed under the *Public Inquiries Act* R.S.P.E.I. 1988, Cap. P-31 including the power to take evidence under oath;
- (k) prescribing the formulas by which the normal retail price of, and the rate of tax on, gasoline and diesel oil is to be determined for the purposes of sections 3 and 6;
- (l) providing for the publication of the rate of tax on gasoline and diesel oil;

(m) requiring licensed vendors to indicate on gasoline and diesel oil pumps the rate of tax payable under this Act that is included in the price;

(n) generally for the more effective carrying out of this Act;

(o) defining the term “motor vehicle” as used in this Act.

No regulations made under this Act shall have any force or effect until published in the Gazette. R.S.P.E.I. 1974, Cap.G-3,s.9; 1980,c.23,s.4; 1990,c.54,s.29; 1995,c.16,s.2.

Sections **10** to **14** repealed by 1990,c.54,s.29.

**15.** When in a prosecution under this Act or the regulations for using gasoline or diesel oil upon which the tax has not been paid, evidence is given that gasoline or diesel oil found in the tank or fuel system of a motor vehicle contains a dye or marker of the type prescribed by the regulations to identify gasoline or diesel oil that is purchased without payment of the tax, the evidence is *prima facie* proof that the owner of that motor vehicle used gasoline or diesel oil upon which the tax had not been paid for the purpose of operating the said motor vehicle. R.S.P.E.I. 1974, Cap. G-3,s.14. *Prima facie proof of use*

**16.** In any prosecution under this Act or the regulations the production by an inspector, peace officer or constable of a certificate or report signed or purporting to be signed by a provincial analyst appointed by the Minister as to the analysis or ingredients of any gasoline or diesel oil is *prima facie* proof of the facts stated in the certificate or report and of the authority of the person giving or making the same without any proof of appointment or signature. R.S.P.E.I. 1974, Cap. G-3,s.15. *Prima facie proof of analysis*

Section **17** and **18** repealed by 1990,c.54,s.29.

**19.** (1) Upon receipt of a report of the conviction of a person who has been issued a permit of any kind under this Act, the Commissioner shall suspend the permit in so far as it relates to premises, facilities, vehicles or an activity in relation to which the violation occurred for a period of sixty days for the first conviction, six months for the second conviction and one year for any subsequent conviction. *Suspension of permit*

(2) Upon receipt of a report of the conviction of a person who does not hold a permit under this Act but should have had one, the offender shall not have the right to obtain the permit for a period of sixty days after the date of the first conviction, or for six months after the date of the second conviction and for one year for any subsequent conviction. R.S.P.E.I. 1974, Cap. G-3,s.18. *Restriction on issue of permit*

**20.** Repealed by 1990,c.54,s.29.

*Personnel*



Inspections

**21.** (1) The Minister may authorize any person to make inspections of premises and audits of records and, when he has reason to suspect or believe that this Act or the regulations is or has been violated, to make searches of premises or vehicles, and may authorize any such person to seize any documents, records or property of any kind which the person has reason to believe may in any way relate to a violation of this Act or the regulations.

Minister may search

(2) If any person authorized by the Minister pursuant to this Act has reason to believe or to suspect that any person has in his possession or is using gasoline or diesel oil with respect to which the tax has not been paid or is violating this Act or the regulations, he may search the premises and any vehicle in the charge or possession of the person suspected and may seize any documents, records, or property found therein which he has reason to believe may in any way be, in his opinion, evidence of a violation of this Act or the regulations; in carrying out the search, the person authorized by the Minister may open any storage tank or the supply system of any such vehicle and extract therefrom such quantity of gasoline or diesel oil as he considers necessary for the purpose of his investigation. R.S.P.E.I. 1974, Cap. G-3,s.20.