



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **GASOLINE TAX ACT**

## 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 King's Printer for the province should be consulted to determine the authoritative statement of the law.

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## GASOLINE TAX ACT

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## GASOLINE TAX ACT

### CHAPTER G-3

#### 1. Definitions

In this Act

- (a) **“agricultural operations”** means the operations of cultivating soil, harvesting crops, including crops grown in greenhouses and market gardens, and raising livestock for commercial purposes, including all the stages of production and uses of farm machinery and farm trucks that are incidental to those purposes, except as specified in the regulations;
- (a.1) **“aquaculture operations”** means the commercial production by an aquaculturist of aquatic plants or animals or both, and includes the use of a boat or other equipment by an aquaculturist for that purpose, except as specified in the regulations;
- (a.2) **“aquaculturist”** means an aquaculturist as defined in the *Climate Leadership Act* R.S.P.E.I. 1988, Cap. C-9.1;
- (a.3) **“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 as aviation fuel by the regulations;
- (a.4) **“commercial fishing operations”** means the practice of commercial fishing by a fisher and includes the use of a boat by a fisher for that purpose, except as specified in the regulations;
- (b) **“Commissioner”** means the Provincial Tax Commissioner appointed under the *Revenue Administration Act* R.S.P.E.I. 1988, Cap. R-13.2;
- (c) **“consumer”** means any person who within the province consumes or uses gasoline or diesel, 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 is consumed;
- (c.1) **“custom agricultural contracting operations”** means the carrying out of agricultural operations by a custom agricultural contractor on a farm on behalf of a farmer and includes the use of farm machinery by the custom agricultural contractor for that purpose, except as specified in the regulations;
- (c.2) **“custom agricultural contractor”** means a custom agricultural contractor as defined in the *Climate Leadership Act*;
- (d) **“diesel”** 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, semi-diesel oil or fuel oil and includes furnace oil and any other products determined by the Minister to be diesel;
- (d.1) **“farm truck”** means a farm truck as defined in the Farm Truck Registration Regulations (EC356/74) made under the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5;

- (d.2) “**farmer**” means a farmer as defined in the *Climate Leadership Act*;
- (d.3) “**fisher**” means a fisher as defined in the *Climate Leadership Act*;
- (d.4) “**fuel**” means gasoline or diesel;
- (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, and includes aviation fuel and any other product determined by the Minister to be gasoline, but does not include propane;
- (e.1) “**marked diesel**” means diesel to which a dye or chemical marker has been added in accordance with the regulations and includes diesel to which the dye or marker has not been added if the tax has not been paid on that diesel;
- (e.2) “**marked fuel**” means marked gasoline or marked diesel;
- (e.3) “**marked gasoline**” means gasoline to which a dye or chemical marker has been added in accordance with the regulations and includes gasoline to which the dye or marker has not been added if the tax has not been paid on that gasoline;
- (f) “**Minister**” means the Minister of Finance;
- (f.1) “**motor vehicle**” means a motor vehicle registered or required to be registered pursuant to the *Highway Traffic Act*, but does not include a farm truck;
- (g) repealed by 2013,c.29,s.1;
- (h) “**person**” in addition to the meaning ascribed to it by the *Interpretation Act* R.S.P.E.I. 1988, Cap. I-8.1, includes a municipal corporation or any other board, commission, committee or authority established for public or local purposes;
- (i) repealed by 1990,c.54,s.29;
- (j) “**purchaser**” means any person who acquires gasoline or diesel in Prince Edward Island for himself, his family, agent, employee, partner or in connection with any motor vehicle, vehicle or equipment owned or operated by him or any business in which he has any interest;
- (k) “**regulations**” means regulations made under the authority of this Act;
- (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; 2008,c.15,s.1; 2010,c.31,s.3; 2012,c.17,s.2; 2013,c.29,s.1; 2015,c.28,s.3; 2020,c.47,s.1, 2(1); 2021,c.10,s.51.

## 2. Administration of Act

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

## 3. Tax payable on gasoline

- (1) Every purchaser shall pay a tax on all gasoline, other than aviation fuel, purchased by or delivered to the purchaser at the rate set out in the Table in the Schedule to this Act.

### Tax payable by consumer

- (2) Every consumer shall pay a tax at the rate set out in the Table in the Schedule to this Act 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.

**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.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; 2008,c.15,s.2; 2013,c.29,s.2; 2018,c.46,s.1.*

**4. Tax payable, aviation fuel**

Every purchaser of aviation fuel shall pay a tax at the rate set out in the Table in the Schedule to this Act on all aviation fuel purchased by or delivered to him. *1979,c.6,s.3; 2018,c.46,s.2.*

**4.1 Propane tax**

Repealed by *2008,c.15,s.3. 2005,c.37,s.2; 2008,c.15,s.3.*

**5. Prohibition**

Except as may be provided by this Act or 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; 2020,c.47,s.3.*

**6. Tax payable on diesel**

- (1) Every purchaser shall pay a tax on all diesel purchased by or delivered to the purchaser at the rate set out in the Table in the Schedule to this Act.

**Tax payable by consumer**

- (2) Every consumer shall pay a tax at the rate set out in the Table in the Schedule to this Act on all diesel 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; 2008,c.15,s.4; 2013,c.29,s.3; 2018,c.46,s.3; 2020,c.47,s.2(1).*

**6.1 Tax payable for farm truck use**

A purchaser who purchases marked fuel and who subsequently uses or permits that fuel to be used in a farm truck for any use other than agricultural operations shall, in accordance with the regulations,

- (a) report the use to the Commissioner; and
- (b) pay to the Minister the tax on the marked fuel used in an amount equal to the tax the purchaser would have been required to pay had the fuel not been purchased as marked fuel. *2020,c.47,s.4.*

**6.2 Exemptions**

- (1) Subject to the regulations, no tax shall be payable by the purchaser or consumer in respect of

- (a) the purchase or consumption of marked gasoline or marked diesel in accordance with this Act or the regulations; and
- (b) the purchase or consumption of naphtha gasoline.

**Marked fuel**

- (2) Marked fuel may be purchased, stored and used only
- (a) by a person who holds a permit issued under the regulations that authorizes the holder to purchase or use marked fuel;
  - (b) by the Government or an agency or department of the Government, where the marked fuel is used solely for government purposes;
  - (c) by a person who requires marked fuel for use in a marine craft that is registered outside Prince Edward Island and is being actually employed in fishing operations;
  - (d) by a person who requires marked fuel for use in a commercial vessel used for
    - (i) the carriage of passengers or freight from Prince Edward Island to another province, territory or country, or
    - (ii) the dredging of the ocean bed in extra-territorial waters; and
  - (e) by the Public Schools Branch or the Commission scolaire de langue française, where the marked fuel is used solely in school buses for the transportation of students.

**Prohibited use of marked fuel**

- (3) A person who holds a permit issued under the regulations that authorizes the holder to purchase or use marked fuel shall not use marked fuel in the operation of a motor vehicle or any equipment affixed to a motor vehicle where the equipment is powered by the same engine that powers the motor vehicle.

**Permitted use of marked fuel**

- (4) A person who holds a permit issued under the regulations that authorizes the holder to purchase or use marked fuel may use the marked fuel
- (a) to furnish power for agricultural operations undertaken by a farmer on a farm, excluding the use of a motor vehicle or a farm truck being used for hire, personal use or the transportation of agricultural products, inputs, or machines for the purpose of sales or marketing;
  - (b) to furnish power for a boat, only when the boat is being used by a fisher in commercial fishing operations;
  - (c) to furnish power for a boat and equipment, only when the boat and equipment are being used by an aquaculturist in aquaculture operations;
  - (d) in a stationary engine, solely and only when it is operated for manufacturing or industrial purposes;
  - (e) in a ski-tow operated in the province;
  - (f) in operating a curling, skating or hockey rink owned or operated by a municipality or non-profit organization;
  - (g) in operating golf courses located in the province;
  - (h) in equipment used in a sawmill operation;
  - (i) in equipment used solely and only in a plant for the production of fertilizer, lime or feed grains;
  - (j) in equipment used for commercial forestry operations;
  - (k) in equipment used in a custom potato grading operation;



- (l) in equipment designed for grooming snowmobile trails;
- (m) to furnish power for a boat used to provide water tours, where the operator of the boat holds a valid inspection certificate issued by the federal government;
- (n) to furnish power for a boat used in the piloting of ships;
- (o) in equipment used in a peat moss operation;
- (p) in motorized equipment for use in agricultural and aquaculture operations owned and operated by AVC Incorporated; and
- (q) in equipment used by a custom agricultural contractor to provide custom agriculture operations for farmers and for no other commercial purpose. *2020,c.47,s.4.*

## 7. Prohibition

Except as may be provided by this Act or the regulations, no person shall

- (a) sell or deliver diesel to any person unless the tax is paid; or
- (b) use or consume diesel unless the tax is paid. *R.S.P.E.I. 1974, Cap. G-3, s.7; 2020, c.47, s.2(1), 5;.*

### 7.1 Provisional collection on announcement

Repealed by *2006, c.31, s.2. 1994, c.21, s.3; 2006, c.31, s.2.*

### 7.2 Agreement on apportionment of tax

- (1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with
  - (a) any province or territory of Canada;
  - (b) the District of Columbia or any state of the United States; or
  - (c) any state of the United States of Mexico,

to collect and apportion gasoline and diesel 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, 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.

#### Rules for reporting and remittance

- (3) Repealed by *2013, c.29, s.4. 1995, c.16, s.1; 2006, c.31, s.3; 2013, c.29, s.4.*

### 7.3 Administration and enforcement of levy

Subject to the regulations under the *Climate Leadership Act* R.S.P.E.I. 1988, Cap. C-9.1, the levy payable by an interjurisdictional road carrier under the *Climate Leadership Act* shall be administered and enforced in accordance with this Act and the regulations as if the levy were a tax imposed under this Act. *2018, c.46, s.4.*

#### 7.4 Adjustment of levy

Subject to the regulations under the *Climate Leadership Act*, any levy paid by an interjurisdictional road carrier under the *Climate Leadership Act* shall be adjusted by the Commissioner in accordance with the terms and conditions of the International Fuel Tax Agreement and any resolutions made pursuant to that Agreement. *2018,c.46,s.4.*

#### 7.5 Refund of tax

- (1) The Commissioner may, in accordance with the regulations, on application by a person who has paid a tax under this Act, pay a refund to the applicant in respect of the tax paid on fuel used for an exempt purpose or use under this Act.

##### Refund of tax - vendor

- (2) The Commissioner may, in accordance with the regulations, on application by a vendor, authorize a credit or a refund of the tax or any portion of it to the vendor.

##### Notice of disallowance

- (3) Where the Commissioner refuses an application for a refund under subsection (1) or (2), in whole or in part, the Commissioner shall give to the applicant a notice of disallowance specifying the amount of the disallowance and the reasons for it. *2020,c.47,s.6.*

#### 8. Agreement re collection of tax

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

#### 8.1 Definitions

- (1) In this section
  - (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;
  - (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.

##### Requirement of permit to operate commercial vehicle

- (2) No person shall operate or cause to be operated a commercial vehicle in the province unless he holds
  - (a) a fuel permit; or
  - (b) a single trip fuel permit.

##### Single trip 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.

##### Conditions

- (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.

**Exemption**

- (5) The holder of a single trip fuel permit under this section is exempt from the payment of tax on gasoline or diesel purchased outside the province but consumed within the province.  
*1992,c.29,s.1; 1996,c.17,s.1; 2020,c.47,s.2(1).*

**9. Regulations**

- (1) The Lieutenant Governor in Council may make regulations
- (a) respecting the collection of the tax and the control 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 in the Province of Prince Edward Island and the records and accounts to be kept by them;
  - (d) refunding 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 refund;
  - (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, or both of them, and regulating or prohibiting, or both, the dealing with, possession, handling, sale, purchase, use and consumption of gasoline or diesel 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 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, 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) repealed by *2013,c.29,s.5*;
  - (l) repealed by *2013,c.29,s.5*;
  - (m) requiring licensed vendors to indicate on gasoline and diesel 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) repealed by *2020,c.47,s.7(b)*.

**Royal Gazette**

- (2) 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; 2012, c.16, s.1; 2013, c.29, s.5; 2015, c.36, s.29; 2020, c.47, s.2(1); 2020, c.47, s.7.*

**10. Sections 10 to 14 repealed by 1990, c.54, s.29.****15. Prima facie proof of use**

When in a prosecution under this Act or the regulations for using gasoline or diesel upon which the tax has not been paid, evidence is given that gasoline or diesel 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 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 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; 2020, c.47, s.2(1).*

**16. Prima facie proof of analysis**

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 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; 2020, c.47, s.2(1).*

**16.1 Enforcement**

Evidence that a person has contravened the *Climate Leadership Act* by failing to pay the levy on fuel under that Act may be deemed to be evidence that the person has contravened this Act or the regulations by failing to pay tax on fuel under this Act or the regulations. *2018, c.46, s.5.*

**17. Section 17 and 18 repealed by 1990, c.54, s.29.****19. Suspension of permit**

- (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.

**Restriction on issue 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.*

**20. Personnel**

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

**21. Inspections**

- (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 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 as he considers necessary for the purpose of his investigation. *R.S.P.E.I. 1974, Cap. G-3,s.20; 2020,c.47,s.2(1).*

**22. Schedule adopted**

The Schedule to this Act is adopted and forms part of this Act. *2018,c.46,s.6.*

**Schedule****Table - Rates of Tax**

	UNIT	January 1, 2019	January 1, 2020
AVIATION FUEL	¢/L	.70	.70
GASOLINE	¢/L	9.68	8.47
DIESEL	¢/L	15.83	14.15

*2018,c.46,s.7; 2020,c.47,s.2(2), 8.*