

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

Effect of amendment.—The 1963 amendment deleted “the provisions of” preceding “said sections” near the beginning of the last sentence in the section, deleted “herein” following “time limited” in such sentence and substituted “the district court in the division” for “a municipal court in the county” near the end of that sentence.

Application of 1963 act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

Sec. 301. Appropriation and use of moneys received.—Money received under the provisions of sections 294 to 301 by the treasurer of state shall be appropriated and used for the following purposes:

- I. For the collection of the tax provided for by section 296 and for the enforcement of all the provisions of sections 294 to 301.
- II. The balance in such amounts as shall from time to time be determined by the commissioner of sea and shore fisheries:
 - A. For the purpose of buying, maintaining and operating boats and equipment to transplant seed quahogs to flats and waters of the state.
 - B. To carry on scientific and management work deemed necessary for the benefit of the quahog industry. Any unexpended balance from the above apportionment shall not lapse, but shall be carried forward to the same fund for the next fiscal year. (1957, c. 355; c. 429, §§ 21, 22.)

Chapter 16-A.

Compact on Taxation of Motor Fuels Consumed by Interstate Buses.

Sec. 1. Compact enacted into law; enumeration.—The compact on taxation of motor fuels consumed by interstate buses is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

Compact on Taxation of Motor Fuels Consumed by Interstate Buses

Article I. Purposes. The purposes of this agreement are to:

- I. **Avoid multiple taxation.** Avoid multiple taxation of motor fuels consumed by interstate buses and to assure each state of its fair share of motor fuel taxes;
- II. **Administration.** Establish and facilitate the administration of a criterion of motor fuel taxation for interstate buses which is reasonably related to the use of highway and related facilities and services in each of the party states;
- III. **Encourage intrastate service.** Encourage the availability of a maximum number of buses for intrastate service by removing motor fuel taxation as a deterrent in the routing of interstate buses.

Article II. Definitions.

- I. **Administrator.** Administrator shall mean the official or agency of a state administering the motor fuel taxes involved.
- II. **Bus.** Bus shall mean any motor vehicle of a bus type engaged in the interstate transportation of passengers and subject to the jurisdiction of the Interstate Commerce Commission, or any agency successor thereto, or one or more state regulatory agencies concerned with the regulation of passenger transport.
- III. **Contracting state.** Contracting state shall mean a state which is a party to this agreement.
- IV. **Gallon.** Gallon shall mean the liquid measure containing 231 cubic inches.
- V. **Person.** Person shall include any individual, firm, co-partnership, joint

venture, association, corporation, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit.

VI. State. State shall include the States of the United States, the District of Columbia, the territories of the United States, the Provinces of Canada, and the States, Territories and Federal District of Mexico.

Article III. Governing principle. For purposes of this compact, the primary principle for the imposition of motor fuel taxes shall be consumption of such fuel within the State. Motor fuel consumed by buses shall be taxed on the existing basis, as it may be from time to time, and under the procedures for collection of such taxes by each party state, except that to the extent that this compact makes provision therefore [therefor], or for any matter connected therewith, such provision shall govern.

Article IV. How fuel consumed to be ascertained. The amount of fuel used in the operation of any bus within this State shall be conclusively presumed to be the number of miles operated by such bus within the State divided by the average mileage per gallon obtained by the bus during the tax period in all operations, whether within or without the party state. Any owner or operator of 2 or more buses shall calculate average mileage within the meaning of this article by computing single average figures covering all buses owned or operated by him.

Article V. Imposition of tax. Every owner or operator of buses shall pay to the party state taxes equivalent to the amount of tax per gallon multiplied by the number of gallons used in its operations in the party state.

Article VI. Reports. On or before the last business day of the month following the month being reported upon, each bus owner or operator subject to the payment of fuel taxes pursuant to this compact shall make such reports of its operations as the state administrator of motor fuel taxes may require and shall furnish the state administrator in each other party state wherein his buses operate a copy of such report.

Article VII. Credit for payment of fuel taxes. Each bus owner or operator shall be entitled to a credit equivalent to the amount of tax per gallon on all motor fuel purchased by such operator within the party state for use in operations either within or without the party state, and upon which the motor fuel tax imposed by the laws of such party state has been paid.

Article VIII. Additional tax or refund. If the bus owner or operator's monthly report shows a debit balance after taking credit pursuant to article VII, a remittance in such net amount due shall be made with the report. If the report shows a credit balance, after taking credit as herein provided, a refund in such net amount as has been overpaid shall be made by the party state to such owner or operator.

Article IX. Entry into force and withdrawal. This compact shall enter into force when enacted into law by any 2 states. Thereafter it shall enter into force and become binding upon any state subsequently joining when such state has enacted the compact into law. Withdrawal from the compact shall be by act of the legislature of a party state, but shall not take effect until one year after the governor of the withdrawing state has notified the governor of each other party state, in writing, of the withdrawal.

Article X. Construction and severability. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phase [phrase], clause, sentence or provision of this compact is declared to be contrary to the Constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the

applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. (1963, c. 276.)

Sec. 2. Administrator defined.—As used in the compact, with reference to this state, the term “administrator” shall mean the state tax assessor. (1963, c. 276.)

Sec. 3. Limitation.—The provisions of chapter 16 shall, to the extent that they are inconsistent with the compact, be inapplicable to the taxation of buses as that term is defined in the compact. (1963, c. 276.)

Chapter 17.

Sales and Use Tax Law.

Construction. — Where a tax statute is susceptible of more than one interpretation, the court will incline to the interpretation most favorable to the citizen. *Hanbro, Inc. v. Johnson*, 158 Me. 180, 181 A. (2d) 249.

Law imposes tax on retailer.

In accord with original. See *State v. Hancock*, 150 Me. 147, 107 A. (2d) 421.

And does not violate constitutional principles.—The sales and use tax law imposes a tax upon the retailer rather than the consumer and thus does not violate constitutional principles by imposing upon the retailer the duty of collecting the tax without compensation therefor. *State v. Hancock*, 150 Me. 147, 107 A. (2d) 421.

Sec. 2. Definitions.

“Hotel” means every building or other structure kept, used, maintained, advertised as or held out to the public to be a place where living quarters are supplied for pay to transient or permanent guests and tenants.

“Living quarters” means sleeping rooms, sleeping or housekeeping accommodations, and tent or trailer space.

“Retailer” means every person engaged in the business of making sales at retail or renting any living quarters in any hotel, rooming house, tourist or trailer camp and every person required to register by section 6 or registered under section 8.

“Retail sale” or “sale at retail” means any sale of tangible personal property, in the ordinary course of business, for consumption or use, or for any purpose other than for resale, except resale as a casual sale, in the form of tangible personal property, and any rental of living quarters in any hotel, rooming house, tourist or trailer camp. The term “retail sale” or “sale at retail” includes conditional sales, installment lease sales and any other transfer of tangible personal property when the title is retained as security for the payment of the purchase price and is intended to be transferred later. The term “retail sale” or “sale at retail” does not include any sale by an executor or administrator in the settlement of an estate, unless such sale is made through a retailer, or unless such sale is made in the continuation or operation of a business; nor does the term include any other isolated transaction in which any tangible personal property is sold, transferred, offered for sale or delivered by the owner thereof, such sale, transfer, offer for sale, or delivery not being made in the ordinary course of repeated and successive transactions of a like character by such owner, such transactions being elsewhere sometimes referred to as “casual sales”; provided, however, that “casual sale” shall not include any transaction in which tangible personal property is sold, transferred or offered for sale by a representative for the owner’s account when such representative is a registered retailer, in which event such registered retailer shall have the same duties respecting such sale as if he had sold on his own account. “Retail sale” and “sale at retail” do not include the sale of tangible personal property which