

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND THIRD LEGISLATURE

Legislative Document

No. 149

H. P. 123 House of Representatives, January 18, 1967
Referred to Committee on Taxation. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Scribner of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SEVEN

AN ACT to Remove Sales Tax Exemptions on Rentals, Repairs, Installation and Servicing of Tangible Personal Property.

Emergency preamble. Whereas, the essential needs of State Government require that additional revenue be raised by this Legislature; and

Whereas, the revenue to be collected under this Act may not be sufficient to provide for our needs during the next biennium unless this Act becomes effective on and after the date of the beginning of the next fiscal year, namely, July 1, 1967; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine, and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 36, § 1752, sub-§10, amended. Subsection 10 of section 1752 of Title 36 of the Revised Statutes, as amended by section 1 of chapter 362 of the public laws of 1965, is further amended to read as follows:

10. Retailer. "Retailer" means every person engaged in the business of making sales at retail, **renting tangible personal property, making sales of service,** renting any living quarters in any hotel, rooming house, tourist or trailer camp, or furnishing telephone or telegraph service, and every person required to register by section 1754 or registered under section 1756.

Sec. 2. R. S., T. 36, § 1752, sub-§ 11, amended. Subsection 11 of section 1752 of Title 36 of the Revised Statutes, as amended by section 2 of chapter 362 of the

public laws of 1965, is further amended by adding at the end the following sentences:

“Retail sale” or “sale at retail” also means any sale of “service” or any rental of tangible personal property. “Retail sale” or “sale at retail” does not include rental of tangible personal property purchased by a person for his own use when such person is not engaged in the business of renting such property unless the rental is by a registered seller and is related to the business of the registered seller, or unless the rental receipts of such person are estimated to exceed \$150 per year.

Sec. 3. R. S., T. 36, § 1752, sub-§ 13-A, additional. Section 1752 of Title 36 of the Revised Statutes, as amended, is further amended by adding a new subsection 13-A, to read as follows:

13-A. Service. “Service” means the fabricating, repairing and installing of tangible personal property, including by way of illustration and not of limitation, printing, imprinting, restoring, finishing, refinishing, painting, altering, reconditioning, maintaining and applying, except such services as are rendered in the construction of real estate.

Sec. 4. R. S., T. 36, § 1752, sub-§ 14, amended. The 3rd sentence of subsection 14 of section 1752 of Title 36 of the Revised Statutes is amended to read as follows:

“Sale price” shall not include allowances in cash or by credit made upon the return of merchandise pursuant to warranty, or the price of property returned by customers when the full price thereof is refunded either in cash or by credit nor shall “sale price” include the price received for labor or services used in installing or applying or repairing the property sold, if separately charged or stated.

Sec. 5. R. S., T. 36, § 1753, amended. Section 1753 of Title 36 of the Revised Statutes is amended to read as follows:

§ 1753. Tax is a levy on consumer

The liability for, or the incidence of, the tax on ~~tangible personal property~~ **a retail sale** as provided by chapters 211 to 225 is declared to be a levy on the consumer. The retailer shall add the amount of the tax on such **tangible personal** property and may state the amount of the taxes separately from the price of such property on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of such property. This section shall in no way affect the method of collection of such taxes on such property as now provided by law.

Sec. 6. R. S., T. 36, § 1754, sub-§ § 1, 2, amended. Subsections 1 and 2 of section 1754 of Title 36 of the Revised Statutes are amended to read as follows:

1. Maintains place of business. Every **retailer and every** seller of tangible personal property, whether or not at retail, maintaining within this State any office, place of manufacture, place of distribution, sales or sample room or place, warehouse or storage place or other place of business.

2. Make sales or solicits orders. Every **retailer and every** seller of tangible personal property not maintaining such a place who makes retail sales within this State or who solicits orders by means of salesmen within the State for retail sales for use, storage or other consumption within the State.

Sec. 7. R. S., T. 36, § 1754, sub-§ § 7, 8, additional. Section 1754 of Title 36 of the Revised Statutes, as amended, is further amended by adding 2 new subsections 7 and 8, to read as follows:

7. Making sales of service. Every person making sales of service.

8. Renting tangible personal property. Every person renting tangible personal property to others.

Sec. 8. R. S., T. 36, § 1756, amended. The first sentence of section 1756 of Title 36 of the Revised Statutes is amended to read as follows:

Every **retailer and every** seller of tangible personal property, not required by section 1754 to register, may register upon such terms as the Tax Assessor may prescribe.

Sec. 9. R. S., T. 36, § 1758, amended. Section 1758 of Title 36 of the Revised Statutes is amended by adding at the end, a new sentence, as follows:

When the rentals received on an article of tangible personal property as to which such certificate has been filed exceed the cost of the property, it will be conclusively presumed that the property was purchased for rental purposes and the purchaser will be liable for a use tax based on the purchase price without any credit for the tax paid on the rentals.

Sec. 10. R. S., T. 36, § 1811, amended. The first paragraph of section 1811 of Title 36 of the Revised Statutes, as amended by section 6 of chapter 362 of the public laws of 1965, is further amended to read as follows:

A tax is imposed at the rate of 4% on the value of all tangible personal property and telephone and telegraph service sold at retail in this State, **on rentals of tangible personal property, on sales of service** and upon the rental charged for living quarters in hotels, rooming houses, tourist or trailer camps, measured by the sale price, except as in chapters 211 to 225 provided. Retailers shall pay such tax at the time and in the manner provided, and it shall be in addition to all other taxes.

Sec. 11. R. S., T. 36, § 1861, amended. Section 1861 of Title 36 of the Revised Statutes, as amended by chapter 136 of the public laws of 1965, is further amended to read as follows:

§ 1861. Purchase of tangible personal property

A tax is imposed on the storage, use or other consumption in this State of tangible personal property, **rented or** purchased at retail sale ~~on and after July 1, 1965~~ **or as to which service has been rendered**, at the rate of 4% of the sale price. Every person so storing, using or otherwise consuming is liable for the tax until he has paid the same or has taken a receipt from his ~~seller~~ **retailer**, thereto duly authorized by the Tax Assessor, showing that the ~~seller~~ **retailer** has collected the sales or use tax, in which case the ~~seller~~ **retailer** shall be liable

for it. Retailers registered under section 1754 or 1756 shall collect such tax and make remittance to the Tax Assessor. The amount of such tax payable by the purchaser shall be that provided in the case of sales taxes by section 1812. When tangible personal property purchased for resale is withdrawn from inventory by the retailer for his own use, use tax liability accrues at the date of withdrawal.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect as to rentals and charges of services accruing on and after July 1, 1967 pursuant to contracts entered into prior thereto.

STATEMENT OF FACTS

It is estimated that this Act will increase revenues to the State of about \$1,-270,000 per year.