

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1751

H. P. 1393

House of Representatives, April 7, 1975

On Motion of Mr. Drigotas of Auburn, referred to Committee on Taxation.
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. LaPointe of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT to Levy a Sales Tax on the Rental of Motor Vehicles for Operation by Consumers.

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

Sec. 1. 36 MRSA § 1752, sub-§ 10, as amended by PL 1965, c. 362, § 1, is further amended to read:

10. Retailer. "Retailer" means every person engaged in the business of making sales at retail, **renting motor vehicles for operation by the consumer**, 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. 36 MRSA § 1752, sub-§ 11, first sentence, as last amended by PL 1965, c. 362, § 2, is further amended to read:

"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 **any rental of motor vehicles for operation by the consumer**, any rental of living quarters in any hotel, rooming house, tourist or trailer camp, and the sale of telephone or telegraph service.

Sec. 3. 36 MRSA § 1752, sub-§ 11, as last amended by PL 1965, c. 362, § 2, is further amended by adding at the end a new sentence to read:

"Retail sale" or "sale at retail" does not include rental or motor vehicles 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, nor does the term include rental of motor vehicles for operation by the consumer as a replacement during the servicing of the consumer's motor vehicle by the retailer.

Sec. 4. 36 MRSA § 1753 is amended to read:

§ 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. 5. 36 MRSA § 1754, sub-§ 1, is amended to read:

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;

Sec. 6. 36 MRSA § 1754, sub-§ 2, is amended to read:

2. **Makes 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. 36 MRSA § 1754, sub-§ 7 is enacted to read:

7. **Renting motor vehicles.** Every person renting motor vehicles for operation by the consumer, except persons only renting such motor vehicles as a replacement during the servicing of the consumer's motor vehicle by that same person.

Sec. 8. 36 MRSA § 1756, first sentence, is amended to read:

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. 36 MRSA § 1758, is amended by adding at the end a new sentence to read:

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. 36 MRSA § 1811, first sentence, as last amended by PL 1969, c. 295, § 2, is further amended to read:

A tax is imposed at the rate of 5% on the value of all tangible personal property and telephone and telegraph service sold at retail in this State, **and upon the rental charged for motor vehicles to be operated by the consumer, except such rentals that replace the consumer's motor vehicle during servicing by the retailer**, 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.

Sec. 11. 36 MRSA § 1861, first sentence, as last amended by PL 1969, c. 295, § 4, is further amended to read:

A tax is imposed on the storage, use or other consumption in this State of tangible personal property, purchased at retail sale, **and on motor vehicles to be operated by the consumer, rented at retail sale, except such motor vehicles that replace the consumer's motor vehicle during servicing by the retailer**, at the rate of 5% of the sale price.

Sec. 12. 36 MRSA § 1861, 2nd sentence, is amended to read:

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**, there-to 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.

FISCAL NOTE

Enactment of this bill would result in an increase of revenue of \$450,000 for the first year of the biennium and \$600,000 for the 2nd year.

STATEMENT OF FACT

The purpose of this Act is to levy sales and use taxes on the rental of motor vehicles, both automobiles and trucks, that are to be operated by the consumer. This Act excepts from such taxes the rental of a motor vehicle that is to be a replacement for a vehicle being serviced by the retailer renting the vehicle.