

# MAINE STATE LEGISLATURE

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New Draft: H. P. 1883, L. D. 1937  
SECOND REGULAR SESSION

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 2134

H. P. 2084

House of Representatives, February 7, 1978.

Reported by a Majority from the Committee on Taxation and printed under  
Joint Rules No. 2.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

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**AN ACT to Require Certain Out-of State Sellers to Register Under the Maine Sales  
and Use Tax Law.**

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

Sec. 1. 36 MRSA § 1754, sub-§§ 8 and 9 are enacted to read:

8. **Advertising tax avoidance.** Every seller of tangible personal property who solicits retail sales of that property for use within this State by means of advertising, whether or not originating within this State, which specifically refers to or implies a sales tax advantage to potential purchasers in this State; and

9. **Other presence in State.** Every seller of tangible personal property who maintains a continuing presence of a nonsoliciting employee within the State or who makes regular or frequent deliveries in this State of that property by means of its own employees or agents.

Sec. 2. **Appropriation.** The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

1978-79

FINANCE AND ADMINISTRATION,  
DEPARTMENT OF

Bureau of Taxation

Personal Services	(1)	\$14,000
All Other		2,000
Capital Expenditures		1,000
		<hr/>
		\$17,000

STATEMENT OF FACT

This bill is designed to require out-of-state sellers who engage in certain activities which either take place in Maine or adversely affect Maine to register under the Maine sales and use tax and collect use tax on their sales to Maine residents. The continuing presence of an employee in the taxing state was recently held by the United States Supreme Court to constitute sufficient nexus or connection between the out-of-state seller/employer and the taxing state to require the seller to collect the taxing state's use tax on sales to residents of the taxing state, even when the employee was present in the taxing state for purposes other than solicitation of the sales on which the tax was levied. Constitutional requirements also appear to be met by extension of the registration requirement to out-of-state sellers who make regular deliveries into the taxing state by other than common carrier or the postal service or who, through advertising, promise or suggest to potential Maine purchasers that the Maine sales tax can be avoided by buying in a state which has no sales tax or a lower sales tax.