

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1363

S. P. 448

In Senate, March 22, 1979

Referred to the Committee on Taxation. Sent down for concurrence and ordered printed.

Presented by Senator Clark of Cumberland.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

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

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

36 MRSA § 1754, sub-§ 8 is enacted to read:

8. 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 delivery in this State of that property by means of its own employees or agents.

STATEMENT OF FACT

This bill is designed to require out-of-state sellers who engage in certain activities which take place in Maine to register under the Maine Sales and Use Tax Law 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 or 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. 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 also appears to meet constitutional requirements.

It is estimated that enactment of this bill will result in an increased sales and use tax revenue in the amount of \$130,000 for the 1979-80 fiscal year and \$140,000 for the 1980-81 fiscal year. Ninety-six percent of this would be attributable to the General Fund and 4% to the local revenue sharing fund.