

# MAINE STATE LEGISLATURE

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L.D. 1918

STATE OF MAINE  
HOUSE OF REPRESENTATIVES (Filing No. H-911)  
109TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H. P. 1793, L.D. 1918, Bill,  
Law  
"AN ACT to Reorganize the Sales and Use Tax and to Encourage  
Conversion to Coal through Treatment of Coal as Oil for Sales  
Tax Purposes."

Amend the bill by striking out everything after the  
enacting clause and inserting in its place the following:

'Sec. 1. 36 MRSA §1752, sub-§11, 7th sentence, as repealed  
and replaced by PL 1977, c. 477, §9, is amended to read:  
"Retail sale" and "sale at retail" do not include the sale of  
tangible personal property which becomes an ingredient or  
component part of, or which is consumed or destroyed or loses  
its identity in the manufacture of, tangible personal property  
for later sale or lease, other than lease for use in this State,  
but shall include fuel and electricity but shall not include  
electricity separately metered and consumed in any electrolytic  
process for the manufacture of tangible personal property for  
later / sale, nor any fuel oil/ or coal, the by-products from the burning  
of which become an ingredient or component part of tangible  
personal property for later sale.

Sec. 2. 36 MRSA §1760, sub-§41 is enacted to read:

§41. Certain instrumentalities of interstate or foreign commerce. The sale of a vehicle, railroad rolling stock, aircraft or watercraft which is placed in use by the purchaser as an instrumentality of interstate or foreign commerce within 10 days after that sale and which is used by the purchaser not less than 80% of the time for the next 2 years as an instrumentality of interstate or foreign commerce. For purposes of this subsection, property is "placed in use as an instrumentality of interstate or foreign commerce" by its carrying of, or providing the motive power for the carrying of, a bona fide payload in interstate or foreign commerce, or by being dispatched to a specific location at which it will be loaded upon arrival with, or will be used as motive power for the carrying of, a payload in interstate or foreign commerce. For purposes of this subsection, "bona fide payload" means a cargo of persons or property transported by a contract or common carrier for compensation which exceeds the direct cost of carrying that cargo or pursuant to a legal obligation to provide service as a public utility or a cargo of property transported in the reasonable conduct of the purchaser's own non transportation business in interstate commerce.'

#### Statement of Fact

This amendment deletes the section of the bill which relates to the reorganization of the Sales and Use Tax Law and retains the provision exempting coal from the sales tax when the by-products

of burning coal become an ingredient or component part of tangible personal property for later sale.

It also adds a sales tax exemption for certain instrumentalities of interstate or foreign commerce. Most Maine persons engaged in interstate transportation presently avoid sales or use taxation of their rolling stock by taking delivery of the rolling stock in a non-sales-tax state and placing the rolling stock into use as an instrumentality of interstate commerce prior to its initial entry into Maine. This amendment allows those persons to avoid taxation without having to take delivery out of state and would prevent the imposition of sales or use tax on similarly situated carriers who are not aware of the technicalities of avoiding those taxes.

Reported by the Committee on Taxation  
Reproduced and distributed under the direction of the Clerk of the  
House  
3/14/80 (Filing No. H-911)